

**State of California**

**California Department of Corrections and Rehabilitation  
Adult Institutions, Programs, and Parole**

# **Operations Manual**



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**Updated Through  
January 1, 2023**

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## ACRONYMS AND CROSSWALK

<b>A</b>	
<b>AB:</b>	Administrative Bulletin
<b>ABE:</b>	Adult Basic Education
<b>ACA:</b>	American Correctional Association
<b>ADA:</b>	Americans with Disabilities Act
<b>AD-SEG:</b>	Administrative Segregation
<b>AG:</b>	Attorney General
<b>AIDS:</b>	Acquired Immune Deficiency Syndrome
<b>AISA:</b>	Associate Information Systems Analyst
<b>AOD:</b>	Administrative Officer of the Day
<b>AOJ:</b>	Abstract Of Judgment
<b>APA:</b>	Administrative Procedure Act
<b>APB:</b>	All Points Bulletin
<b>AR:</b>	Activity Report
<b>ARC:</b>	AIDs Related Condition
<b>AS:</b>	Accounting Services (see ASB)
<b>ASB:</b>	Accounting Services Branch The offices identified as: ASB Bakersfield ASB Corcoran ASB El Centro ASB Paso Robles ASB Rancho Cucamonga ASB Sacramento ASB Stockton
<b>ASD:</b>	See Division of Administrative Services (DAS) (see ASB)
<b>ASH:</b>	Atascadero State Hospital
<b>ASP:</b>	Avenal State Prison
<b>ATO:</b>	Administrative Time Off
<b>AUS:</b>	Assistant Unit Supervisor
<b>AW:</b>	Associate Warden
<b>AWOL:</b>	Absent Without Leave
<b>B</b>	
<b>B&amp;PC:</b>	Business and Professions Code
<b>BCP:</b>	Budget Change Proposal
<b>BCS:</b>	Budget Concept Statement
<b>BMB:</b>	Budget Management Branch
<b>BOC:</b>	See Victims Compensation and Government Claims Board (VCGCB)
<b>BOE:</b>	Board Of Equalization
<b>BPH:</b>	Board of Parole Hearings (formerly Board of Prison Terms)
<b>BSB:</b>	Business Services Branch (see Office of Business Services OBS)
<b>C</b>	
<b>C&amp;PR:</b>	Classification & Parole Representative
<b>CA:</b>	Correctional Administrators

<b>CAC:</b>	Commission on Accreditation for Corrections
<b>CAL:</b>	Calipatria State Prison
<b>CalHR</b>	California Department of Human Resources (formerly DPA and SPB)
<b>CALPIA:</b>	California Prison Industry Authority (formerly PIA)
<b>CAL-OSHA:</b>	California Occupational Safety and Health Act
<b>CALSTARS:</b>	California Statewide Accounting and Reporting Systems
<b>CAP:</b>	Corrective Action Plan
<b>CC:</b>	Correctional Counselor
<b>CCC:</b>	California Correctional Center
<b>CCF:</b>	Community Correctional Facilities
<b>CCI:</b>	California Correctional Institution
<b>CCCMS:</b>	Correctional Clinical Case Management System
<b>CCP:</b>	Code of Civil Procedure
<b>CCR:</b>	California Code of Regulations
<b>CCRA:</b>	Correctional Case Records Administrator
<b>CCRC:</b>	Community Correctional Reentry Centers
<b>CCRM:</b>	Correctional Case Records Manager
<b>CCRS:</b>	Correctional Case Records Supervisor
<b>CCWF:</b>	Central California Women's Facility
<b>CDCR:</b>	California Department of Corrections and Rehabilitation (formally CDC)
<b>CDD:</b>	Controlling Discharge Date
<b>CDO:</b>	Chief Disciplinary Officer
<b>CEA:</b>	Career Executive Assignment
<b>CEN:</b>	Centinela State Prison
<b>CHP:</b>	California Highway Patrol
<b>CI:</b>	Confidential Informant
<b>CI&amp;I:</b>	Criminal Identification and Information
<b>CIM:</b>	California Institution for Men
<b>CIW:</b>	California Institution for Women
<b>CLETS:</b>	California Law Enforcement Telecommunications System
<b>CLLR:</b>	County of Last Legal Residence
<b>CMB:</b>	See Office of Business Services (OBS)
<b>CMC:</b>	California Men's Colony
<b>CMF:</b>	California Medical Facility
<b>CMO:</b>	Chief Medical Officer
<b>CO-BCP:</b>	Capitol Outlay Budget Concept Proposal

<b>COC:</b>	County Of Commitment
<b>COP:</b>	Continue On Parole
<b>COR:</b>	California State Prison, Corcoran
<b>CPU:</b>	Central Processing Unit
<b>CRC:</b>	California Rehabilitation Center
<b>CRM:</b>	Community Resource Manager
<b>CPR:</b>	Cardiopulmonary Resuscitation
<b>CRS:</b>	Correctional Case Records Specialist
<b>CRT:</b>	Crisis Response Team
<b>Crt Ret TFT:</b>	Court-Return To Finish Term
<b>Crt Ret WNT:</b>	Court-Return With New Term
<b>CRU:</b>	Case Records Unit
<b>CS:</b>	Control Services
<b>CSR:</b>	Classification Staff Representative
<b>CSU:</b>	Classification Services Unit
<b>CTB:</b>	Catastrophic Time Bank
<b>CTF:</b>	Correctional Training Facility
<b>CTQ:</b>	Confinement To Quarters
<b>CTS:</b>	Classification Tracking System
<b>CVSP:</b>	Chuckawalla Valley State Prison
<b>CYA:</b>	See Division of Juvenile Justice (DJJ)
<b>D</b>	
<b>DAC:</b>	Disabled Advisory Committee
<b>DADP:</b>	Departmental Alcohol and Drug Programs
<b>DAI:</b>	Division of Adult Institutions (formerly Institutions Division)
<b>DAPO:</b>	Division of Adult Parole Operations (formerly P&CSD)
<b>DARS:</b>	Division of Addictions & Recovery Services (see Division of Rehabilitative Programs)
<b>DAS:</b>	Division of Administrative Services (see ASB)
<b>DHCS:</b>	Division of Health Care Services (Formerly Division of Correctional Health Care Services, DCHCS)
<b>DCP:</b>	Division of Community Partnerships (see DAI)
<b>DDPS:</b>	Distributed Data Processing System
<b>DEVOP:</b>	Division of Education, Vocation, and Offender Programs (see Division of Rehabilitative Programs)
<b>DFA:</b>	Department Food Administrator
<b>DFEH:</b>	Department of Fair Employment and Housing
<b>DGS:</b>	Department of General Services

## ACRONYMS AND CROSSWALK

<b>DHS:</b>	Department of Health Services
<b>DIR:</b>	Department of Industrial Relations
<b>DIS:</b>	Division of Industrial Safety
<b>DJJ:</b>	Division of Juvenile Justice (formerly CYA)
<b>DMH:</b>	Department of Mental Health (see Department of State Hospitals DSH)
<b>DMS:</b>	Daily Movement Sheet
<b>DMV:</b>	Department of Motor Vehicles
<b>DSH:</b>	Department of State Hospitals (formerly DMH)
<b>DOB:</b>	Date Of Birth
<b>DOF:</b>	Department Of Finance
<b>DOJ:</b>	Department Of Justice
<b>DOM:</b>	Department Operations Manual
<b>DOR:</b>	Department Of Rehabilitation
<b>DOT:</b>	Labor Dictionary of Occupational Titles
<b>DPA:</b>	Department of Personnel Administration (see CalHR)
<b>DPP:</b>	Disability Placement Plan
<b>DPU:</b>	Detention Processing Units
<b>DRAD:</b>	Daily Report of Arrivals and Departures
<b>DRB:</b>	Departmental Review Board
<b>DRD:</b>	Discharge Review Date
<b>DROA:</b>	Departmental Restrictions Of Appointment
<b>DRP:</b>	Division of Rehabilitative Programs
<b>DRPA:</b>	Deputy Regional Parole Administrator
<b>DSL:</b>	Determinate Sentence Law
<b>DTC:</b>	Drug Testing Coordinator
<b>DVBE:</b>	Disabled Veteran Business Enterprises
<b>DVI:</b>	Deuel Vocational Institution
<b><i>E</i></b>	
<b>E&amp;E:</b>	Education and Experience
<b>EAP:</b>	Employee Assistance Program
<b>EAR:</b>	Employee Action Request
<b>EC:</b>	Evidence Code
<b>Ed. C:</b>	Education Code
<b>EDD:</b>	Employment Development Department
<b>EDP:</b>	Electronic Data Processing (see IT)
<b>EPTP:</b>	Employee Post Trauma Program
<b>EEO:</b>	Equal Employment Opportunity Office (see Office of Internal Affairs)
<b>EEOC:</b>	U.S. Equal Employment

Opportunity Commission	
<b>EI:</b>	Early Intervention
<b>EIDL:</b>	Enhanced Industrial Disability Leave
<b>EIS:</b>	Enterprise Information Services (formerly Information Services Division)
<b>EKG:</b>	Electrocardiogram
<b>EOP:</b>	Enhanced Outpatient Program
<b>EPA:</b>	Environmental Protection Agency
<b>EPRD:</b>	Earliest Possible Release Date
<b>ERMS:</b>	Electronic Records Management System
<b>ERO:</b>	Employee Relations Officer
<b>ESL:</b>	English as a Second Language
<b>ETO:</b>	Excused Time Off
<b><i>F</i></b>	
<b>F&amp;BMAU:</b>	Fiscal and Business Management Audits Unit (see Office of Audits and Court Compliance)
<b>FB:</b>	Fiscal Bulletin
<b>FBI:</b>	Federal Bureau of Investigation
<b>FBP:</b>	Federal Bureau of Prisons
<b>FC:</b>	Family Code
<b>FCC:</b>	Federal Communications Commission
<b>FLSA:</b>	Fair Labor Standards Act
<b>FPCM:</b>	Facility Planning, Construction, and Management
<b>FPR:</b>	Formal Project Review
<b>FSB:</b>	Fiscal Services Branch (see Office of Fiscal Services)
<b>FSP:</b>	Folsom State Prison
<b>FSR:</b>	Feasibility Study Reports
<b><i>G</i></b>	
<b>GC:</b>	Government Code
<b>GED:</b>	General Education Development
<b>GF:</b>	General Fund
<b>GFE:</b>	Good Faith Effort
<b>GLU:</b>	General Legal User
<b>GPS:</b>	Global Positioning System
<b>GSOP:</b>	General Services Office of Procurement
<b>GUME:</b>	General Use Mobile Equipment
<b><i>H</i></b>	
<b>H&amp;SC:</b>	Health and Safety Code
<b>HAM:</b>	Hiring-Above-Minimum
<b>HASS:</b>	Headquarters Accounting Services Section (see ASB)
<b>HC:</b>	High Control

<b>HCSD:</b>	Health Care Services Division (see DCHCS)
<b>HDSP:</b>	High Desert State Prison
<b>HIV:</b>	Human Immunodeficiency Virus
<b>HO:</b>	Hearing Officer
<b>HR:</b>	Human Resources
<b>HWD:</b>	Holds/Wants/Detainer
<b><i>I</i></b>	
<b>IAB:</b>	Inmate Appeals Branch (see Office of Appeals OOA)
<b>IAC:</b>	Institution Advisory Counsel
<b>IB:</b>	Informational Bulletin
<b>ICC:</b>	Institution Classification Committee
<b>ICS:</b>	Institution Contracts Section (see OBS)
<b>ID:</b>	Institutions Division (see DAI)
<b>IDL:</b>	Industrial Disability Leave
<b>IDL:</b>	Inmate Day Labor
<b>IFB:</b>	Invitation For Bids
<b>IGI:</b>	Institution Gang Investigator (see STG Investigator)
<b>IM:</b>	Instructional Memorandum
<b>IMAP:</b>	Information Management Annual Plan
<b>IPA:</b>	Information Practices Act
<b>IPO:</b>	Institutional Personnel Officer
<b>IPTS:</b>	Interim Parolee Tracking System
<b>IQSS:</b>	Information Quality Support Section
<b>IRS:</b>	Internal Revenue Service
<b>IS:</b>	Information Systems
<b>ISA:</b>	Information Systems Analyst
<b>ISC:</b>	Information Security Coordinators
<b>ISD:</b>	Information Services Division (see EIS)
<b>ISL:</b>	Indeterminate Sentence Law
<b>ISO:</b>	Information Security Officer
<b>ISP:</b>	Ironwood State Prison
<b>ISRS:</b>	Institutional Staff Recommendation Summary
<b>IST:</b>	In-Service Training
<b>ISTS:</b>	In-Service Training Section
<b>ISU:</b>	Institution Services Unit
<b>IT:</b>	Information Technology
<b>IV:</b>	Intravenous
<b>IWF:</b>	Inmate Welfare Fund
<b>IWTIP:</b>	Inmate Work Incentive/Training Incentive Program
<b><i>J</i></b>	
<b>JVP:</b>	Joint Venture Program

## ACRONYMS AND CROSSWALK

<b>K</b>	
<b>K-9:</b>	Canine
<b>KVSP:</b>	Kern Valley State Prison
<b>L</b>	
<b>LAC:</b>	California State Prison, Los Angeles County
<b>LAD:</b>	Legal Affairs Division (see OLA)
<b>LAN:</b>	Local Area Network
<b>LC:</b>	Labor Code
<b>LEAA:</b>	Law Enforcement Assistance Administration
<b>LEAP:</b>	Limited Examination and Appointment Program
<b>LEIU:</b>	Law Enforcement and Investigation Unit (see OCS)
<b>LLO:</b>	Legislative Liaison (see OOL)
<b>LPS:</b>	Lanterman-Petris-Short Act
<b>LPU:</b>	Legal Processing Unit
<b>LRB:</b>	Labor Relations Branch (see OLR)
<b>LSS:</b>	Legal Status Sheet
<b>LT:</b>	Limited Term
<b>LTO:</b>	Local Testing Offices
<b>LTOP:</b>	Long Term Offender Program
<b>LVN:</b>	Licensed Vocational Nurse
<b>LWOP:</b>	Life Without Possibility Of Parole
<b>M</b>	
<b>M&amp;VC:</b>	Military and Veterans Code
<b>MAC:</b>	Men's Advisory Council
<b>MAR:</b>	Master Assignment Roster
<b>Max:</b>	Maximum
<b>MBE:</b>	Minority Business Enterprises
<b>MCSP:</b>	Mule Creek State Prison
<b>MDO:</b>	Mentally Disordered Offender
<b>MERD:</b>	Minimum Eligible Release Date
<b>MH:</b>	Mental Health
<b>MIA:</b>	Missing In Action
<b>MIN:</b>	Minimum
<b>MIRS:</b>	Management Information Retrieval System
<b>MIS:</b>	Management Information Systems
<b>MOD:</b>	Medical Officer of the Day
<b>MOU:</b>	Memorandum Of Understanding
<b>MQ:</b>	Minimum Qualifications
<b>MRA:</b>	Master Rental Agreement
<b>MRD:</b>	Max Release Date
<b>MRDT:</b>	Mandatory Random Drug Testing
<b>MS:</b>	Minimum Supervision
<b>MSA:</b>	Merit Salary Adjustment

<b>MSAO:</b>	Master Service Agreement Order
<b>MSDS:</b>	Material Safety Data Sheets
<b>MSH:</b>	Metropolitan State Hospital
<b>MSS:</b>	Material Services Section
<b>N</b>	
<b>NAEA:</b>	Narcotic Addiction Evaluation Authority
<b>NC:</b>	New Charge
<b>NCDOM:</b>	Notice of Change to Department Operations Manual
<b>NCIC:</b>	National Crime Information Center
<b>NCR:</b>	Notice of Change to Regulations
<b>NDI:</b>	Non-Industrial Disability Insurance
<b>NFPA:</b>	National Fire Protection Association
<b>NIC:</b>	National Institute of Corrections
<b>NICC:</b>	Not In Custody Case
<b>NKSP:</b>	North Kern State Prison
<b>NLI:</b>	No Longer Interested Notification
<b>NMT:</b>	Negotiations Management Team
<b>O</b>	
<b>OA:</b>	Office Assistant
<b>OACC:</b>	Office of Audits and Court Compliance
<b>OAG:</b>	Office of the Attorney General
<b>OAL:</b>	Office of Administrative Law
<b>OBIS:</b>	Offender Based Information System
<b>OBM:</b>	Office of Budget Management (see OFS)
<b>OBS:</b>	Office of Business Services
<b>OCE:</b>	Office of Correctional Education (see DRP)
<b>OCR:</b>	Office of Civil Rights (see OIA)
<b>OCS:</b>	Office of Correctional Safety
<b>OD:</b>	Officer of the Day
<b>OFEP:</b>	Office of Fair Employment Practices
<b>OFM:</b>	Office of Facilities Management (see FPCM)
<b>OFS:</b>	Office of Fiscal Services
<b>OHRD:</b>	Office of Human Resources Development
<b>OIA:</b>	Office of Internal Affairs
<b>OIG:</b>	Office of the Inspector General
<b>OIP:</b>	Office of Information Practices
<b>OISB:</b>	Offender Information Services Branch

<b>OIT:</b>	Office of Information Technology
<b>OJT:</b>	On-the-Job Training
<b>OLA:</b>	Office of Legal Affairs
<b>OLR:</b>	Office of Labor Relations
<b>OOA:</b>	Office of Appeals
<b>OOC:</b>	Office Of Compliance (see OACC)
<b>OOL:</b>	Office Of Legislation
<b>OPEC:</b>	Office of Public and Employee Communications
<b>OPD:</b>	Outpatient Dental Record
<b>OPF:</b>	Official Personnel File
<b>OPM:</b>	Office of Personnel Management
<b>OPS:</b>	Outpatient Status
<b>OR:</b>	Office of Research
<b>ORC:</b>	Organizational Review Committee
<b>ORP:</b>	Operation Recovery Plan
<b>OSWA:</b>	Off-Site Work Assignment
<b>OSWD:</b>	Off-Site Work Detail
<b>OSAP/ DARS:</b>	Office of Substance Abuse Programs (see DRS)
<b>OSP:</b>	Office of State Publishing
<b>OT:</b>	Overtime
<b>OTC:</b>	Out To Court
<b>OTCP:</b>	Out-To-Confidential Placements
<b>OVSR&amp;S:</b>	Office of Victim and Survivors Rights and Services
<b>P</b>	
<b>P&amp;CD:</b>	Planning and Construction Division (see FPCM)
<b>P&amp;CSD:</b>	Parole & Community Services Division (see DAPO)
<b>PA:</b>	Program Administrator
<b>PAI:</b>	Parole Agent I
<b>PAII:</b>	Parole Agent II
<b>PAIII:</b>	Parole Agent III
<b>PAL:</b>	Parolee-At-Large
<b>PAR:</b>	Personnel Action Request
<b>PAR AD:</b>	Parole Administrator
<b>PBSP:</b>	Pelican Bay State Prison
<b>PC:</b>	Penal Code
<b>PCC:</b>	Public Contract Code
<b>PDA:</b>	Parole District Administrator
<b>PERB:</b>	Public Employment Representative Board
<b>PERS:</b>	Public Employees Retirement System
<b>PFAB:</b>	Program and Fiscal Audits Branch (see OACC)

## ACRONYMS AND CROSSWALK

<b>PH:</b>	Parole Hold
<b>PHU:</b>	Protective Housing Unit
<b>PI:</b>	Permanent Intermittent
<b>PIA:</b>	Prison Industry Authority (see CALPIA)
<b>PIB:</b>	Prison Industry Board
<b>PIC:</b>	Public Interest Case
<b>PIE:</b>	Permanent Intermittent Employees
<b>PIER:</b>	Post Implementation Evaluation Report
<b>PIO:</b>	Public Information Officer
<b>PIU:</b>	Project Initiation Unit
<b>PMP:</b>	Preventive Maintenance Program
<b>PO:</b>	Purchase Order
<b>POC:</b>	Parole Outpatient Clinics
<b>POR:</b>	Probation Officer Report
<b>POS:</b>	Personnel Operations Section
<b>POSED:</b>	Peace Officer Selection and Development
<b>PRA:</b>	Public Records Act
<b>PRRD:</b>	Projected Revocation Release Date
<b>PRTC:</b>	Parole Regional Training Coordinator
<b>PSA:</b>	Parole Services Associate
<b>PSC:</b>	Parole Services Center
<b>PSU:</b>	Psychiatric Services Unit
<b>PU:</b>	Parole Unit
<b>PV:</b>	Parole Violator
<b>PVRTC:</b>	Parole Violator Return To Custody
<b>PVSP:</b>	Pleasant Valley State Prison
<b>PVWNT:</b>	Parole Violator Returned With New Term
<b>PY:</b>	Personnel Year
<b><i>Q</i></b>	
<b>QA:</b>	Quality Assurance
<b>QAP:</b>	Qualification Appraisal
<b>QC:</b>	Quality Control
<b><i>R</i></b>	
<b>R&amp;R:</b>	Receiving and Release
<b>RAL:</b>	Release-At-Large
<b>RAO:</b>	Regional Accounting Offices (see ASB)
<b>RC:</b>	Reception Centers
<b>RDO:</b>	Regular Day Off
<b>RFP:</b>	Request For Proposal
<b>RFQ:</b>	Request For Quotations

<b>RJD:</b>	Richard J. Donovan Correctional Facility at Rock Mountain
<b>RN:</b>	Registered Nurse
<b>RO:</b>	Reporting Officer
<b>RPA:</b>	Regional Parole Administrator
<b>RPMB:</b>	Regulation and Policy Management Branch
<b>RPS:</b>	Release Program Study
<b>RRD:</b>	Revocation Release Date
<b>RRS:</b>	Records Retention Schedule
<b>RTC:</b>	Return To Custody
<b>RTO:</b>	Released To a Hold
<b>RTQ:</b>	Restricted To Quarters
<b>RTW:</b>	Return To Work
<b>RTWC:</b>	Return To Work Coordinator
<b><i>S</i></b>	
<b>SAC:</b>	California State Prison, Sacramento
<b>SACCO:</b>	Sacramento Control Office Unit, Reg. I
<b>SAM:</b>	State Administrative Manual
<b>SATF:</b>	California Substance Abuse Treatment Facility & State Prison, Corcoran
<b>SCC:</b>	Sierra Conservation Center
<b>SCEP:</b>	Supervisors of Correctional Education Programs
<b>SCIF:</b>	State Compensation Insurance Form
<b>SCO:</b>	State Controller's Office
<b>SCS:</b>	Services Contracts Section
<b>SDLC:</b>	Systems Development Life Cycle
<b>SDP:</b>	Step Down Program
<b>SDS:</b>	Safety Data Sheet
<b>SEERA:</b>	State Employer Employee Relations Act
<b>SFM:</b>	State Fire Marshall
<b>SHO:</b>	Senior Hearing Officer
<b>SHU:</b>	Security Housing Unit
<b>SISP:</b>	Strategic Information Systems Plan
<b>SKELLY:</b>	SPB Rule 61
<b>SOL:</b>	California State Prison, Solano
<b>SOMS:</b>	Strategic Offender Management System
<b>SPB:</b>	State Personnel Board (see CalHR)
<b>SPR:</b>	Special Project Reports
<b>SPS:</b>	State Price Schedule
<b>SQ:</b>	California State Prison, San Quentin

<b>SRC:</b>	State Records Center
<b>SRN:</b>	Supervising Registered Nurse
<b>SROA:</b>	State Restrictions Of Appointment
<b>SSCH:</b>	State Summary - Criminal History
<b>SSI:</b>	Supplemental Security Income
<b>SSM:</b>	Staff Services Manager
<b>SSS:</b>	Selection Support Section
<b>SSU:</b>	Special Services Unit
<b>STD:</b>	Standard Form (DGS)
<b>STG:</b>	Security Threat Group
<b>STG Investigator:</b>	
<b>SVP:</b>	Sexually Violent Predator
<b>SVSP:</b>	Salinas Valley State Prison
<b><i>T</i></b>	
<b>T&amp;D:</b>	Training and Development
<b>TAC:</b>	Trade Advisory Committee
<b>TAU:</b>	Temporary Authorization
<b>TB:</b>	Tuberculosis
<b>TCL:</b>	Temporary Community Leave
<b>TCR:</b>	Temporary Community Release
<b>TD:</b>	Temporary Disability
<b>TDC:</b>	Teale Data Center
<b>TDD:</b>	Telecommunications Device for the Deaf
<b>TEA:</b>	Travel Expense Advance
<b>TEC:</b>	Travel Expense Claim
<b>TSB:</b>	Training Services Branch
<b>TTC:</b>	Technology Transfer Committee
<b><i>U</i></b>	
<b>U.S.:</b>	United States
<b>UA:</b>	Urinalysis
<b>US:</b>	Under Supervisor
<b>UCC:</b>	Unit Classification Committee
<b>USICE:</b>	United States Immigration and Customs Enforcement
<b>USINS:</b>	United States Immigration and Naturalization Service (see USICE)
<b>USPS:</b>	United States Postal Service
<b><i>V</i></b>	
<b>VC:</b>	Vehicle Code
<b>VCGCB:</b>	Victim Compensation and Government Claims Board (formerly Board of Control)
<b>VEA:</b>	Vocational Education Act
<b>VR:</b>	Vacation Relief
<b>VSP:</b>	Valley State Prison

## ACRONYMS AND CROSSWALK

<b><i>W</i></b>	
<b>W&amp;IC:</b>	Welfare and Institutions Code
<b>WAC:</b>	Women’s Advisory Council
<b>WBE:</b>	Women Business Enterprises
<b>WCAB:</b>	Workers’ Compensation Appeals Board
<b>WCC:</b>	Workgroup Computing Coordinator
<b>WCTD:</b>	Workers’ Compensation Temporary Disability
<b>WICC:</b>	Western Interstate Corrections Compact
<b>WLC:</b>	Women’s Liaison Council
<b>WNT:</b>	With a New Term
<b>WPS:</b>	Wanted Persons System
<b>WSP:</b>	Wasco State Prison
<b><i>Y</i></b>	
<b>YOPB:</b>	Youthful Offender Parole Board (see BPH)

## CHAPTER 1 — GENERAL ADMINISTRATION

### ARTICLE 1 — OFFICE OF THE SECRETARY

*Revised June 17, 2015*

#### 11010.1 Policy

The Secretary of the California Department of Corrections and Rehabilitation (CDCR) has established an organizational structure which provides for the efficient and effective management of all facets of the correctional system for all inmates, wards and parolees to include custody, care, treatment, discipline, training, rehabilitation, and employment.

#### 11010.2 Purpose

This Article outlines the administrative organization of the Office of the Secretary, CDCR.

#### 11010.3 Chain Of Command

The Secretary has line authority over all employees. The Undersecretaries, Executive Officers, Assistant Secretaries, General Counsel, Directors, and Chiefs have line authority over their respective divisions or offices.

#### 11010.4 Secretary's Cabinet

The following positions have been designated as members of the Secretary's Cabinet:

- Undersecretary, Operations.
- Undersecretary, Administration and Offender Services.
- Undersecretary, Health Care Services.
- Assistant Secretary, General Counsel, Office of Legal Affairs (OLA).
- Assistant Secretary, Office of Public and Employee Communications (OPEC).
- Assistant Secretary, Office of Legislation (OOL).
- Director, Enterprise Information Services (EIS).
- Director, Division of Internal Oversight and Research (DIOR).
- Director, Division of Health Care Services (DHCS).
- Chief, Office of Labor Relations (OLR).
- Director, Division of Adult Institutions (DAI).
- Director, Division of Adult Parole Operations (DAPO).
- Director, Division of Rehabilitative Programs (DRP).
- Director, Division of Juvenile Justice (DJJ).
- Director, Division of Administrative Services (DAS).
- Director, Division of Facility Planning, Construction and Management (FPCM)

#### 11010.5 Executive Staff

The Secretary's executive staff includes members of the Cabinet (above) and the following positions:

- Executive Officer, Board of Parole Hearings (BPH).
- General Manager, California Prison Industry Authority (CalPIA).
- Chief, Office of the Ombudsman (OOTO).
- Chief, Office of Correctional Safety (OCS).
- Chief, Office of Victim and Survivor Rights and Services (OVSRS).

#### 11010.6 Secretary of Corrections and Rehabilitation

The Secretary is the chief executive and administrator of CDCR in the operation of its programs for the management and control of State juvenile and adult correctional facilities and supervision of parolees. The Secretary is also chairman of the Prison Industry Board. The General Manager of CalPIA reports to the Secretary.

#### 11010.7 Office of Legislation

The Office of Legislation provides executive policy advice and assistance on all matters with legislative implications or impact on the CDCR. The Assistant Secretary performs the following:

- Coordinates the development of legislation, including drafting and preparation for the Secretary and the Governor's Office, and introduction in the Legislature.
- Identifies bills of CDCR interest, provides analysis, and recommends the CDCR's position to the Secretary and the Governor's Office.
- Presents CDCR's positions to legislators and provides direct advocacy through appearances before legislative committees.

- Coordinates the compilation and completion of Enrolled Bill Reports, recommending to the Governor whether to sign or to veto enrolled legislation.
- Coordinates and reviews responses to inquiries from State and federal legislators.
- With assistance from Human Resources, coordinates the Senate Confirmation process for Associate Directors, Assistant Secretaries, Undersecretaries and the Secretary.

#### 11010.8 Office of Public and Employee Communications

The Office of Public and Employee Communications:

- Is the central point of contact for all external stakeholders.
- Acts as a liaison for the Department and several of its constituencies and maintains direct contacts with local, State, national, and international print, broadcast and other media.
- Provides functional supervision, training, and guidance to headquarters, facilities, and parole regions on public and community relations issues.
- Prepares and distributes brochures, videos, and other informational materials to legislators, the media, and the general public.
- Prepares and distributes printed and video training materials for headquarters, facilities, and parole regions.
- Coordinates and plans the annual Medal of Valor Awards ceremony.
- Distributes information to department employees.
- Responds to information requests under the Public Records Act and Information Practices Act from the media; prepares talking points for executive and division staff; and compiles the daily report.
- Reviews the content of the Department's website to ensure consistency with departmental policy, and oversees the Department's death row database to provide monthly reports.
- Develops, manages, implements, and evaluates the Department's public information, motion picture, radio and television, and community relations policies.
- Works closely with media representatives to visit the Department's institutions and facilities including conservations camps, community prisoner-mother, and community correctional facilities.
- Encourages print, broadcast and other media to tour and write stories about CDCR programs, activities, staff, and inmates.

#### 11010.9 Revisions

The Secretary, CDCR or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### 11010.10 References

PC §§ 1170, 2085.5, 2962, 3003, 3034, 3058.8, 5001, 5052, 5053, 5054, 5055, 5058, 5075, and 11155.

GC § 12838 et seq.

DOM §§ 11040, 22090.

SEERA.

FLSA.

Public Records Act.

Information Practices Act.

Ralph C. Dills Act.

Prison Inmate Labor Initiative of 1990.

CCR (15) (3).

California Environmental Quality Act.

### ARTICLE 2 — UNASSIGNED

### ARTICLE 3 — STANDING COMMITTEES

*Revised January 24, 2011*

#### 11030.1 Policy

Standing committees are established by the Secretary as necessary, to facilitate the accomplishment of departmental goals and objectives.

#### 11030.2 Purpose

This Article describes the standing committees that have been authorized by the Secretary.

**11030.3 Agency Security Technology Transfer Committee**

Agency Security Technology Transfer Committee (ASTTC) shall coordinate and guide the California Department of Corrections and Rehabilitation (CDCR) in the adaptation of existing and new technology to solve problems and improve institutional security, operation, and management.

**11030.3.1 Responsibility**

The ASTTC shall:

- Serve as a forum for the presentation of potential technological applications.
- Make recommendations to the Secretary on potential technological applications.
- Assure widespread dissemination throughout CDCR of information regarding new technological developments.
- Recommend standards and specifications for use in purchasing equipment items and systems, incorporating technology to facilitate institutional custody, security, and control.

**11030.3.2 Equipment Purchases**

Review of equipment requests:

- All requests for the budgeting and/or acquisition of new equipment items relating to perimeter security systems; contraband detection systems; personal alarms; and equipment items and systems incorporating technology to facilitate institutional custody, security, and control shall be referred to the CDCR's ASTTC for review. Final approval will be required by ASTTC and the Secretary.
- Each Warden is responsible to ensure that requests for approval to purchase new technology are submitted to the Chairman of ASTTC. This will result in a process that ensures standardization at CDCR institutions. No purchases or commitments to purchase shall take place until clearance is received by the Committee Chair of ASTTC.

**11030.3.3 Membership**

The ASTTC is comprised of the following staff:

**Mandatory Participants**

- Committee Chair: Director, Planning, Acquisition, and Design.
- Deputy Director, Facility Planning, Construction, and Management (will serve as Committee Chair in the Director's absence).
- One Associate Director (AD), Division of Adult Institutions,(DAI).
- Five Field Wardens, DAI.
- One Field Superintendent, Department Juvenile Justice(DJJ).
- Office of Correctional Safety.
- Deputy Director, Division of Adult Parole Operations.
- Executive Officer, Technology Management Unit: staff person to the Committee.

**Discretionary Participants**

- Division of Facility Management (Telecom Maintenance).
- Office of Training and Professional Development.
- Office of Fiscal Services.
- Enterprise Information Services.
- Office of Adult Programs.

All Warden's Regional Parole Administrators, and others are encouraged to attend and provide input at all ASTTC meetings and on all issues raised.

**Non-agency Nonvoting Members**

Non-agency nonvoting members include, but are not limited to, representatives from:

- Department of Justice (DOJ).
- Department of General Services (DGS).
- Federal Bureau of Prisons (FBP).
- California Highway Patrol (CHP).
- Sandia National Laboratories.
- National Law Enforcement and Corrections Technology Center.

**Appointments**

Appointments to the ASTTC shall be made through the Committee Chair with final approval by the Secretary of CDCR.

**11030.3.4 Meetings**

The ASTTC will meet quarterly or on an as needed basis. Attendance at scheduled meetings is mandatory; however, an alternate for each member is

allowed at the Captain level or above, and Associate Directors may rotate their attendance at the committee meetings.

**11030.4 Victims Advisory Committee**

Victims Advisory Committee (VAC) provides information and expertise to the Secretary and CDCR concerning the following issues:

- Victim notification.
- Victim restitution.
- Victim allocation.

**11030.4.1 Membership**

The VAC shall consist of 15 to 20 members appointed by the Secretary for an indeterminate period. They shall be a cross-section of staff from headquarters, facilities, and paroles.

The chairperson shall be elected by the membership.

**11030.4.2 Meetings**

Meetings shall be held annually.

**11030.5 Career Technical Education Act Advisory Council**

This is an advisory council on career-technical education and the council's general purpose is to advise CDCR on the programmatic use of the Federal Career-Technical Education Act (CTEA) funds and to advise on the development of strategies for securing employment for vocationally trained inmates.

**11030.5.1 Responsibility**

The council shall meet with appropriate departmental staff on a continuing and formal basis at least twice a year, to advise, analyze, and recommend policies, programs, and distribution of all CTEA funds to CDCR facilities.

- They shall emphasize career-technical education programs that involve business and labor organizations who employ ex-felons in the counties of the patrolling offenders.

**11030.5.2 Membership**

The Superintendent shall appoint 8 members and they shall serve at the Superintendent's pleasure.

The membership shall be governed by the committee's by laws as well as GC 1770.

- The chairperson and vice-chairperson shall be elected by the membership by a nomination committee.

**11030.5.3 Meetings**

The council shall meet a minimum of two times each year and all meetings shall be open to the public.

A special meeting can be called by the chairperson or upon written request of a quorum of the council members.

Fifty percent of the membership plus one member shall constitute a quorum.

**11030.6 Advisory Committee on Correctional Education**

The Advisory Committee on Correctional Education shall advise the Director on the following areas of departmental education:

- Educational program policy and planning.
- Program operations.
- Curriculum development.
- Staff training.
- Program evaluation.

The committee shall have statutory responsibility under the Education Code (Ed.C) 32500.

**11030.6.1 Membership**

The membership shall be appointed by the Director, and include a representative from the Chancellors of the California State University and Colleges, the Chancellor of the California Community Colleges, and the Superintendent of Public Instruction.

They shall serve until replaced.

- There shall be one representative from the California Postsecondary Education Commission and two instructors from a prison based education program.

**11030.6.2 Subcommittees**

There shall be subcommittees made up from the Advisory Committee and they shall be appointed to address specific issues in the following areas or as needed:

- Program policy and program planning.
- Program operations.
- Curriculum philosophy and strategy.

- Program evaluation.

### **11030.6.3 Meetings**

The committee shall meet on a bi-monthly basis or at the call of the chairperson.

### **11030.7 Chaplains Coordinating Committee**

The committee shall advise CDCR on the formation of religious policy, interpretation of religious procedures, the conduct of the religious programs in the institutions and on IST for the chaplains.

#### **11030.7.1 Responsibility**

The committee has the following responsibilities:

- Coordinating and conducting program reviews of the institutional religious programs every three years for each institution.
- Be available to staff chaplains, volunteer community clergy, and religious representatives for pastoral care.
- Coordinating the annual Chaplains' training conference.

#### **11030.7.2 Membership**

The membership shall be selected from nominations provided by each faith group (Protestant, Catholic, Muslim, Native American, and Jewish). The Chaplain selected shall be approved by the Warden of his/her institution. The size of the committee shall be determined by the Director of Adult Institutions and each member shall serve for a term of three years.

Individuals can serve multiple terms if re-elected by the respective faith group. The membership shall include at least one staff chaplain from each of the religious faith groups employed by CDCR and one volunteer representative from the community from each faith group that provides services to a facility. The chairperson shall be appointed by the committee's faith group representatives.

#### **11030.7.3 Meetings**

The committee shall meet on a quarterly basis at a designated facility.

### **11030.8 State Advisory Committee on Institutional Religion**

The State Advisory Committee on Institutional Religion serves to advise the Directors of Juvenile Justice, CDCR, DMH, and Veterans Affairs on the religious programs of the correctional schools, prisons, and mental hospitals.

#### **11030.8.1 Responsibility**

The committee has the responsibility of advising the Directors on such policy matters as chaplaincy, personnel, religious records, operating supplies, buildings, places for worship, selection, recruitment, and training of chaplains, and the standards for chaplaincy work in the several types of facilities.

#### **11030.8.2 Contact/Attendance by Departmental Staff**

Official contacts with this committee are made through the Community Resources Manager, Division of Adult Institutions, who shall serve as the departmental liaison to the committee.

The Director of Adult Institutions may also designate a member of the Chaplains Coordinating Committee or a staff chaplain to attend the meetings of this committee.

### **11030.9 Disability Advisory Committee**

*Revised February 5, 2013*

The Disability Advisory Committee (DAC) shall provide advice and assistance to the Secretary, CDCR, and Deputy Director, Office of Internal Affairs (OIA), on disability issues, such as:

- Developing and maintaining Equal Employment Opportunity programs and activities for persons with disabilities.
- Making recommendations to improve the personnel practices and employment opportunities for persons with disabilities.
- Establishing contact with groups and organizations that are concerned with achieving equitable representation and utilization of persons with disabilities in the CDCR work force.
- Monitoring of disability issues identified by the committee, including but not limited to reasonable accommodation and accessibility, to ensure that necessary actions occur within reasonable time frames.
- Assisting the Department in complying with the Americans with Disabilities Act and other related statutes.

#### **11030.9.1 Membership**

*Revised February 5, 2013*

The Chief, Office of Civil Rights (OCR), OIA, is designated as the DAC chairperson. The DAC shall consist of volunteers selected by the OCR Chief in OIA with input from the Hiring Authority of the candidate and current DAC

members. Every effort will be made to include persons with disabilities and ensure geographic and program representation.

### **11030.9.2 Meetings**

The DAC shall meet as called by the DAC Chairperson, at least annually.

### **11030.9.3 Resources**

Members of the DAC shall be primarily involved with the duties and responsibilities of their specific assignments; local administrators shall make the necessary arrangements to allow members reasonable time to perform committee activities.

### **11030.10 Information Technology Governance Committee**

Enterprise Information Technology (IT) Governance provides a framework for making decisions involving effective, efficient, and acceptable use of IT while ensuring organizational resources are targeted to deliver maximum business value. Enterprise IT Governance implies a process in which all stakeholders have clear accountability for their respective responsibilities in making decisions affecting IT. The ultimate decision making body in the Enterprise IT Governance structure is the CDCR IT Executive Council (CDCR Cabinet). The mission of the Council is to ensure that IT produces and supports solutions in direct alignment with the Agency's strategic direction while moving toward its Vision. Policy specific to Enterprise IT Governance is located in DOM Chapter 4, Information Technology.

### **11030.11 Military Equipment Use Committee**

*Effective December 16, 2022*

Military Equipment Use Committee (MEUC) shall coordinate and guide CDCR in the funding, acquisition, and use of existing and newly requested military equipment.

#### **11030.11.1 Responsibility**

*Effective December 16, 2022*

(a) The MEUC shall:

- (1) Review policies regarding the funding, acquisition, and the use of military equipment.
- (2) Ensure implemented military equipment use policies and procedures are followed.
- (3) Recommend standards and specifications for the funding, acquisition, and use of military equipment.
- (4) Review all CDCR Form 1617 Memorandum requests submitted to the Office of Correctional Safety (OCS), Armory Lieutenant for military equipment funding, acquisition, and use.
- (5) Serve as a forum for the presentation of newly requested military equipment for use within the department.
- (6) Re-evaluate the continued use of previously approved items identified as military equipment annually
- (7) Items approved by the MEUC shall be forwarded to the Military Equipment Use Executive Board (MEUEB) for final approval.

#### **11030.11.2 Membership**

*Effective December 16, 2022*

(a) MEUC shall be comprised of the following representatives:

- (1) Mandatory Participants (shall be considered subject matter experts in relation to the use of military equipment):
  - (A) Committee Chair: OCS Captain, or designee.
  - (B) One representative from the Division of Adult Institutions (DAI).
  - (C) One representative from the Division of Adult Parole Operations (DAPO).
  - (D) One representative from the Office of Training and Professional Development (OTPD).
  - (E) One representative from the Office of Internal Affairs (OIA).
- (2) Discretionary Participants
  - (A) One representative from Enterprise Information Services (EIS).
  - (B) One representative from the Office of Business Services (OBS).
  - (C) OCS Armory Lieutenant

#### **11030.11.3 Meetings**

*Effective December 16, 2022*

(a) Meetings shall be held at least once per quarter, with a minimum of three MEUC members present, when military equipment funding, acquisition, and use are requested. If there are no request for funding, acquisition, and use, the committee shall meet the following quarter.

(b) The MEUC will re-evaluate the continued use of previously approved items identified as military equipment annually.



(c) Each Hiring Authority is responsible for all requests for funding, acquisition, and the use of new military equipment submitted to the MEUC.

(d) Items that have previously been approved by the Secretary or designee may be replenished with approval by the appropriate Hiring Authority.

#### **11030.11.4 Military Equipment Use Executive Board**

*Effective December 16, 2022*

The Military Equipment Use Executive Board (MEUEB) shall review requests submitted by the MEUC for funding, acquisition, and use of new military equipment.

#### **11030.11.5 Responsibility**

*Effective December 16, 2022*

(a) The MEUEB shall review all accepted items for funding, acquisition, and use submitted by the MEUC.

(b) Items approved by the MEUEB shall be forwarded to the CDCR Secretary or designee for approval.

(c) Items not approved by the MEUEB shall be returned to the MEUC with an explanation for the denial, and if warranted, recommendations for resubmittal.

(d) Upon approval by the Secretary or designee, the newly funded, acquired or purchased military equipment shall be included on the military equipment list located on the departmental website, maintained by OCS.

#### **11030.11.6 Membership**

*Effective December 16, 2022*

(a) The MEUEB shall be comprised of the following representatives:

(1) Mandatory Participants:

(A) Committee Chair: Chief of the OCS or designee.

(B) DAI Director or designee.

(C) DAPO Director or designee.

(D) Peace Officer Selection and Employee Development (POSED) Deputy Director or designee.

(E) OIA Deputy Director or designee.

(2) Discretionary Participants:

(A) EIS Deputy Director or designee.

(B) OBS Deputy Director or designee.

(C) OCS Armory Lieutenant

#### **11030.11.7 Meetings**

*Effective December 16, 2022*

(a) The MEUEB shall meet with a minimum of three of the MEUEB committee members present, when the MEUC submits a request for approval.

(1) Equipment Purchases

(A) Review of equipment request:

1. Each Hiring Authority is responsible to ensure requests for funding, acquisition, and the use of newly requested military equipment are submitted to the MEUC. Funding, acquisition, and the use of newly requested military equipment shall not take place until approval by the Secretary or designee.

2. Upon approval by the MEUC, requests shall be forwarded to the MEUEB for review. Items approved by the MEUEB shall be approved by the CDCR Secretary or designee.

3. Items which have previously been approved by the Secretary or designee can be replenished with approval by the appropriate Hiring Authority.

4. The MEUC will conduct annual reviews of previously approved items identified as military equipment.

(2) Military Equipment Defined

(A) Unmanned, remotely piloted, powered aerial or ground vehicles.

1. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.

2. High mobility multipurpose-wheeled vehicles (HMMWV) commonly referred to as Humvees; two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this subdivision.

3. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.

4. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.

5. Weaponized aircraft, vessels, or vehicles of any kind.

6. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a

handheld ram designed to be operated by one person, are specifically excluded from this subdivision.

7. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this subdivision.

8. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this subdivision.

9. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.

10. Any firearm or firearm accessory that is designed to launch explosive projectiles.

11. "Flashbang" grenades and explosive breaching tools, "tear gas", and "pepper balls", excluding standard, service-issued handheld pepper spray.

12. TASER Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device (LRAD).

13. The following projectile launch platforms and their associated munitions: 40 mm projectile launchers, "bean bag", rubber bullet, and specialty impact munition (SIM) weapons.

14. Any other equipment as determined by a governing body or a State agency to require additional oversight.

#### **11030.11.8 Collaborated use of Military Equipment by other Jurisdictions, Law Enforcement, or State Agencies**

*Effective December 16, 2022*

Military equipment used by other jurisdictions, law enforcement or state agencies providing assistance, including collaborated task force or mutual aid assistance shall comply with their respective military equipment use policies.

#### **11030.12 Revisions**

*Revised December 16, 2022*

The Secretary, Office of the Secretary or designee is responsible for ensuring that the contents of this Article are current and accurate.

#### **References**

GC section 1770.

EC section 32500.

Assembly Bill 481

Inmate Apprenticeship Training Law of 1984.

#### **Revision History**

Revised: January 24, 2011.

Established Sections 11030.11-11030.11.8 and revised Section 11030.12: December 16, 2022.

### **ARTICLE 4 — CALIFORNIA PRISON INDUSTRY AUTHORITY**

*Revised October 6, 1993*

#### **11040.1 Policy**

The CALPIA establishes and operates various industrial, manufacturing, service, and agricultural enterprises in the facilities under jurisdiction of the Department.

#### **11040.2 Purpose**

This section delineates the membership of the PIB, outlines the objectives of CALPIA, and describes how CALPIA interfaces with CDCR, specifically within the facilities.

#### **11040.3 Objectives**

Objectives of CALPIA include:

- Reduce inmate idleness.
- Create and maintain working conditions for inmates much like those prevalent in private enterprise.
- Develop work habits and occupational skills in inmates for use upon release.
- Operate a work program for inmates which shall ultimately be self-supporting by generating sufficient funds from the sale of products and services to offset the program's expenses.
- Provide financial support to employed inmates.

**11040.4 PIB**

Policy for CALPIA is directed by a Board of Directors consisting of 11 members under the leadership of the Chairperson. The members are:

- Secretary of Corrections: serves as Chairperson.
- Director of the DGS or designee.
- Director of Commerce or designee.
- Two members from the general public that are appointed by the Speaker of the Assembly.
- Two members from the general public that are appointed by the Senate Rules Committee.
- Two representatives of organized labor that are appointed by the Governor.
- Two representatives of industry that are appointed by the Governor.

**Meetings**

The PIB shall meet regularly (at least four times during each fiscal year), and additionally, as deemed necessary by the Chairperson or majority of the PIB.

**11040.5 Responsibility**

CALPIA operates as a business venture, on a profit and loss basis, and thus extends commitments to deliver its products within specific time frames. As a result, the program demands the fullest cooperation between facility and CALPIA staff.

The shared responsibility of the General Manager for the Prison Industry Revolving Fund and the operation of the various enterprises, and of the Warden for administration of the facility, requires careful attention to the effect of any decisions by either, on the responsibility of the other, thereby making close communication imperative. Other responsibilities include:

**Secretary**

The Secretary shall be the administrative head of the PIB and shall exercise all duties and functions necessary to ensure that the responsibilities of the PIB are successfully discharged.

**General Manager**

CALPIA is headed by a General Manager who functions as the Chief Administrative Officer and has line authority over all facets of CALPIA's operations and activities.

**California Prison Industries Administrators/ Managers**

CALPIA's Prison Industries Administrators/Managers shall:

Assist the General Manager and staff in the study of proposed new enterprises and furnish data, plans, or specifications required for them.

- Establish and maintain procurement controls designed to ensure effective and timely delivery of necessary raw materials, commercial items, and equipment of a quality standard which shall ensure a high grade of finished product.
- Establish and maintain production controls designed to assure timely delivery of quality at a minimum cost.
- Establish and maintain records of inventory, accounting, and cost controls as required by established policies.
- Establish and maintain controls which shall ensure a minimum expenditure of CALPIA funds.
- Inform the Warden of all matters affecting industries.
- Report to the General Manager on events and problems in CALPIA programs, or any changes in plans or deviations from established standards or commitments.
- Establish and oversee the functioning of training programs capable of developing industry employees within their present position as well as for future promotional endeavors.

**11040.6 CALPIA Organizational Structure**

CALPIA consists of several divisions and branches many of which interface directly with, and/or provide assistance to, the facilities.

**11040.7 Executive Office**

The executive office of CALPIA is comprised of the:

- General Manager.
- Chief Assistant General Manager.
- Assistant General Manager, Administration Division.
- Assistant General Manager, Operations Division.
- Assistant General Manager, Waste Management Division.
- Chief, QAU.
- Chief, Marketing Division.

- Chief, Civil Rights and Community Affairs Office.
- Chief, Data Management and Information Systems.

**11040.8 Civil Rights and Community Affairs Office**

The CALPIA's affirmative action program provides for EEO in a discrimination-free work environment. The program is backed with a strong commitment from the General Manager and the Director.

**11040.9 Quality Assurance Office**

The Quality Assurance Office plans, develops, and directs the total quality management program for CALPIA statewide.

**11040.10 Administration Division**

As a service-oriented organization, the Administration Division provides for the fiscal management of CALPIA and the support services necessary for program operations. It works directly with all CALPIA services necessary for program operations. It works directly with all CALPIA offices and relevant outside agencies including:

- State Legislature.
- CDCR.
- All facilities and CALPIA enterprises.
- Outside vendors.
- DGS.
- PIB.
- Other agencies and organizations as needed.

**11040.10.1 Fiscal Services Branch (FSB)**

FSB administers the budgeting, accounting, and financial reporting activities of CALPIA. FSB performs its various tasks and operations through three organizational units as follows:

- **Budget Bureau**--has primary responsibility for development and administration of the annual operating plan (budget); provides both service and control.
- **Accounting Services Bureau**--has primary responsibility for preparation of the quarterly (interim) and annual financial statements, as well as maintenance of the accounts receivable and payable; provides both service and control.
- **System Design Bureau**--has primary responsibilities in conducting the annual physical inventory, accounting systems design, system table maintenance, and providing technical support to the Accounting Services Bureau.

**11040.10.2 Procurement and Business Services Branch**

The Procurement and Business Services Branch serves as the focal point for all purchasing and business services functions within CALPIA field enterprises and headquarters.

**11040.10.3 Human Resources Branch**

The Human Resources Branch provides the full range of personnel and training related services to CALPIA employees. Primary functions include:

- Classification.
- Recruitment.
- Examination and selection.
- Pay, payroll, and transactions for headquarters only.
- Training.
- Labor relations.

**11040.10.4 Management Analysis Unit**

The Management Analysis Unit provides analytical support in the areas of legislation, program analysis, public relations, and other miscellaneous analytical projects as needed.

**11040.11 Operations Division**

The Operations Division provides:

- Direction for the operation of CALPIA production facilities throughout the State and for the development and implementation of new/expanded enterprises.
- Carries out the policies of the PIB.
- Directs and oversees research and analyses of existing operations.
- Maintains positive working relations with Wardens.
- Develops and implements safety and training programs for field operations.

The division works directly with all offices within CALPIA and relevant outside agencies/organizations as listed in the DOM 11040.10.

**11040.11.1 Operations Branches**

The four operations branches provide a headquarters' overview with technical assistance to CALPIA manufacturing, agricultural, and service enterprises in its facilities. The operations branches also ensure consistency of operations between similar factories and operating policies and practices of the factories, with the goals and objectives of CALPIA. The four operations branches provide technical expertise in various areas and exercise a major role in the planning and design of new products, equipment, and facilities. The four branches and their areas of expertise are:

- **Wood/Metal Products Branch.** The branch provides technical expertise in wood and metal products, general fabrication, textile mill, and engineering.
- **Soft Goods Branch.** The branch provides technical expertise in fabric products, knitting mill, shoes, fiberglass, mattress and bedding, and precast concrete products.
- **Service and Consumables Branch.** This branch provides technical expertise in laundry, detergent products, coffee, bakery, poultry, eggs, swine, meat processing, dairy, farm, and transportation.
- **Activation Branch.** This branch coordinates the onsite implementation of new CALPIA enterprises at facilities statewide. The branch also provides technical expertise in optical, dental, printing, bindery, paper products, micrographics, and key data entry.

**11040.11.2 Product Design and Development Unit**

The Product Design and Development Unit works directly with facility production staff, Headquarters Prison Industries Managers, and sales representatives in providing plans and specifications for new and existing products.

**11040.11.3 Master Production Scheduler**

The Master Production Scheduler provides overall production scheduling of CALPIA's manufacturing, agricultural, and service enterprises by managing the master production schedule.

**11040.11.4 Lead Production Staff**

The following levels of staff administer operations at the facilities listed below:

**11040.12. Waste Management Division**

The Waste Management Division plans, researches, designs, constructs, and operates Correctional Resource Recovery Facilities (CRRF) and secondary manufacturing enterprises at various correctional facilities (State prisons, return-to-custody facilities, and local jails) throughout the State.

**11040.12.1 New Products/ Construction Development Unit**

This unit conducts the research and development activities related to determining the feasibility of waste management programs within specific jurisdictions. It plans and designs the physical plant based on customer need, and represents CDCR in educating municipalities on CALPIA's CRRF program.

**11040.12.2 Operations Unit**

Achieves the start up and ongoing operation of the CRRF's and secondary manufacturing through the recruitment and hiring of free staff and inmates, the establishment of operational and management reporting procedures, and negotiation of recyclable commodities contracts.

**11040.13 Marketing Division**

Provides oversight for the Marketing and Sales program including marketing and sales activities, pricing, customer services, promotions, and research.

**11040.13.1 Marketing Services Branch**

The Marketing Services Branch is a service-oriented operation that provides product pricing and related support, promotional materials, and maintenance and market research services.

**11040.13.2 Sales Branch**

The role of the Sales Branch is to generate sales revenue, build market share, increase market base, build volume, develop sales outlets, provide consultation to public agencies for all CALPIA products and services, and promote special buying opportunities and new products.

**11040.13.3 Customer Services Branch**

The Customer Services Branch processes all incoming purchase orders and provides liaison between the customer, CALPIA operations, and the facility factories as well as enhances public relations.

**11040.14 Data Management and Information Systems Division**

The Data Management and Information Systems Division directs the implementation and operation of an automated manufacturing and accounting planning system that provides CALPIA with current information on

manufacturing. The unit also provides EDP services in support of the CALPIA programs and works on the application and development of new projects while maintaining ongoing systems.

**11040.15 Inmate Labor**

Each inmate who is engaged in productive work under a CALPIA program shall receive pay as compensation.

Compensation schedules shall be determined by CALPIA and all compensation shall be credited to inmates' accounts.

All timekeeping shall be the responsibility of work supervisors and shall be in accordance with inmate work incentive policies and departmental procedures.

Inmates new to CALPIA or being assigned to a new job shall be trained on the job by a lead person (inmate) and/or a factory supervisor.

No employee or inmate shall sell or offer for sale any article manufactured by inmates or other prison labor, except sale of articles that is specifically sanctioned by law.

**11040.15.1 Prison Industries Inmate Pay**

Pay schedules, work classifications, position requirements, and other features of the Prison Industry Inmate Pay Plan are provided in DOM 51120.

**11040.16 Purchases**

All divisions and facilities under the Director shall purchase CALPIA standard and custom products in every category and of every type required for departmental use.

CALPIA shall keep the divisions and facilities informed of the availability of new products, and categories of products that can be provided on a special order basis. No purchase estimates shall be drawn to specify commercial products when CALPIA can furnish a product in the commodity category. CALPIA shall be guided, whenever feasible, in the development of new products and redesign of existing products by criteria that shall make them the most suitable for departmental use.

Any unresolved differences between the using division or facility and CALPIA as to the adequacy of a CALPIA product proposed for a given use shall be referred to the General Manager, CALPIA, for decision before any purchase may be made from outside sources.

Divisions and facilities shall keep CALPIA advised of large and unusual requirements far enough in advance, in order to permit production and delivery

Level of Lead	Staff Facility
Superintendent II	SCC
Prison Industries Manager	PBSP
	CVSP
	NCWF
	CCWF
	CAL
	LAC
Prison Industries Administrator	CCI
	CTF
	CIM
	CIW
	DVI
	FSP
	SAC
	CMC
	SOL
	SQ
	RJD
	ASP
	CEN
	COR
	WSP
	MCSP

in time to meet departmental needs.

**11040.17 CALPIA Safety Committee**

Each facility that operates one or more CALPIA enterprises shall establish a CALPIA Safety Committee. It shall be noted that inmates employed by CALPIA are considered "employees" for purposes of the California

Occupational Safety and Health Act (CAL-OSHA) of 1973 and subsequent amendments.

#### **Prison Industries Administrator/ Manager**

Committee membership shall be determined by each facility's Prison Industries Administrator/Manager. Membership shall include inmate workers as well as supervisory employee representation. The size of each committee shall be dependent upon magnitude, complexity, geographic location, and diversity of the industry's operations.

Membership selection process shall be determined by Prison Industries Managers, keeping in mind the necessity of accomplishing objectives by the most effective means.

Any grievances regarding health and safety issues shall be initiated and handled in accordance with DOM 54100.

#### **11040.18 Land Acquisition, Construction, Maintenance, Repairs, and Replacements**

Distribution of costs for buildings, grounds and roads, equipment and machinery, irrigation and water control, utilities, and land acquisition and construction/alterations is shown in.

#### **11040.19 Revisions**

The General Manager, CALPIA, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **11040.20 References**

SAM §§ 3505 and 3672.

PC §§ 2800 - 2818.

ACA Standards 2-4412 - 2-4417.

DOM §§ 51120, 54100.

CAL-OSHA.

### **ARTICLE 5 — EVACUATION AND EMERGENCY MANAGEMENT**

*Effective January 23, 1990*

#### **Headquarters and Parole**

##### **11050.1 Policy**

When emergency situations occur, every reasonable effort shall be made to:

- Ensure the safety and protection of employees.
- Preserve the organizational structure.
- Provide for immediate resumption of essential departmental functions.

##### **11050.2 Purpose**

This section establishes specific steps to be followed in the event of various emergency situations occurring within Headquarters, regional parole offices, and field offices. Provisions for emergency preparedness and employee protection in institutions are found in DOM 55010 of this manual.

##### **11050.3 Emergency Organization**

Once the emergency plan has been activated, all emergency operations shall be directed by a predetermined command center (Command Center for Headquarters is located in the building manager's office).

The Command Center shall be manned by the emergency coordinator and staff who direct the operation of designated emergency floor personnel. These emergency floor personnel may include:

- Floor Wardens and alternates.
- Zone/area monitors and search personnel.
- Stairway monitors.
- Elevator monitors.
- Handicapped persons monitors.
- First-aid personnel.

A complete roster of building emergency personnel is located in building emergency directories that shall be posted on each floor. This directory also includes floor plans and designated evacuation routes.

##### **11050.4 Responsibility**

In the event of an emergency, designated employees have been assigned specific duties to be performed.

##### **11050.4.1 CHP**

SAM 2601 through 2667 outlines procedures to be used by CHP when responding to emergency situations in state facilities. In geographical areas where services of CHP are not available, emergency action shall be coordinated with local law enforcement agencies.

##### **11050.4.2 Managers/ Supervisors**

Managers and supervisors shall:

- Ensure that all employees possess a general knowledge of emergency procedures.
- Assign an emergency coordinator for each facility and office.

##### **11050.4.3 Departmental Emergency Coordinator**

The Chief, Emergency Operations, who serves as the Departmental Emergency Coordinator, shall:

- Prepare emergency plans, to include assisting in the preparation of plans for each subordinate facility and/or field office.
- Ensure the submission of all departmental facilities and/or field office emergency plans to the CHP every two years.
- Submit an emergency plan to the CHP within 60 days upon relocation or occupancy of new departmental facilities/field offices.

##### **11050.4.4 Regional Parole Emergency Coordinators**

Regional parole emergency coordinators shall:

- Assist each RPA in selection of emergency coordinators and alternates for each subordinate facility or field office.
- Ensure that relocated, new, or substantially modified facilities and field offices submit emergency/employee protection plans in a timely manner.
- Ensure that all regional facilities and field offices maintain updated plans.
- Retain one copy of each plan.

##### **11050.4.5 Emergency Coordinators**

Emergency coordinators shall:

- Coordinate the formulation and execution of emergency plans.
- Coordinate the selection, training and organization of adequate staff for conducting emergency operations.
- Direct and supervise the activities of building occupants during an emergency, and immediately following.
- Determine evacuation sites.
- Determine if, and/or when, employees may reenter the building.
- Assure that emergency directories are maintained and available to all employees.

##### **11050.4.6 Alternate Coordinators**

Alternate emergency coordinators shall serve as principal assistants to the emergency coordinators and act in that capacity in the absence of the coordinator.

##### **11050.4.7 Floor Wardens**

The floor Wardens report to the emergency coordinator and are in charge of the zone/area monitors, stairway monitors, handicapped persons monitors, first-aid personnel, and search personnel on their respective floors. They shall ensure:

- The safety of all occupants on their floors.
- Floor emergency personnel are designated and properly trained to perform their function safely and efficiently.

##### **11050.4.8 Alternate Floor Wardens**

Alternate floor Wardens shall serve as principal assistants to the floor Wardens and act in that capacity, in the absence of the floor Wardens.

##### **11050.4.9 Zone/Area Monitors and Search Personnel**

Zone/area and search personnel shall:

- Oversee the occupant search and report the results to the respective floor Wardens.
- Report any unsafe conditions or suspicious findings to the state/local police and emergency coordinator.
- Be the last person to leave their assigned area in the event of evacuation.

##### **11050.4.10 Stairway Monitors**

Stairway monitors shall:

- Regulate and expedite the orderly movement and flow of employees.
- Direct personnel to alternate stairways, if designated stairway is unsafe.

##### **11050.4.11 Elevator Monitors**

Elevator monitors respond to assigned elevators allowing only designated officials (i.e., police and firefighters) to use elevators during an emergency. The elevator monitors shall remain at the elevators until released by the zone/area monitors.

**11050.4.12 Handicapped Persons Monitors**

Handicapped persons monitors assist handicapped employees during emergencies. A monitor shall be assigned to each physically handicapped person.

**11050.4.13 First-Aid Personnel**

Trained first-aid personnel shall administer first aid when necessary.

**11050.5 Emergency Notification**

During all emergency situations, employees shall immediately notify the CHP or local law enforcement agency using the emergency numbers. The CHP, in turn, use their "hot line" for contact with the fire department, ambulance service, etc.

Immediately after reporting the emergency to the CHP, employees shall notify the emergency coordinator.

- This notification shall enable the coordinator to activate the building emergency plan. The employee making contact with the emergency coordinator shall inform the coordinator that the state/local police had been notified.

**11050.6 After Hours/Holiday Notification**

In the event of an emergency during evenings, weekends, or holidays, employees shall notify the state/local police using emergency numbers.

If evacuation becomes necessary during these hours, the state/local police shall act as floor Wardens and shall inform employees to evacuate. Employees shall follow the same designated evacuation routes as outlined in the emergency directory.

**11050.7 Evacuation**

When evacuation is necessary as determined by the state/local police or emergency coordinator:

- Employees shall leave the building immediately by the nearest designated exit.
- Bulletin boards contain maps of these exits.
- Emergency personnel shall be available to direct employees and ensure that all instructions are carried out.
- Evacuation of handicapped personnel shall be given highest priority in any emergency.
- Employees shall walk, remain quiet, use handrails, and follow any other emergency instructions.
- Women shall remove high heels.
- Employees shall gather in designated evacuation sites no less than one-half block from the building unless otherwise instructed.
- Following evacuation, police and other emergency personnel shall prevent entrance to the building.
- When an emergency is over, the emergency coordinator shall advise employees if/when they may return to the building.

**11050.8 Damage Control**

The emergency coordinator shall assess damage and determine if and/or what action is necessary to immediately control dangerous or potentially dangerous areas or situations. These actions may include:

- Fire suppression and standby.
- Disconnection of utilities and business machines.
- Medical standby.
- Protection or removal of flammables.
- Venting of doors and windows.
- Supervision of rescue and first-aid teams.
- Erection of barriers as necessary.
- Protection or removal of records.
- Identification and protection of hazardous substance exposure.

**11050.9 Medical Emergencies**

In the event of serious illness or injury, employees shall:

- Notify the State/local police and emergency coordinator. The CHP are equipped with resuscitator equipment and are trained in its use as well as trained in the area of first-aid procedures and cardio-pulmonary resuscitation. The CHP are not notified in the event of minor injury.
- Request assistance from first-aid personnel. These individual's names shall be posted on the emergency roster located on each floor.
- Not move victims unless absolutely necessary.
- Initiate first-aid action as deemed necessary.

- Arrange for injured employee, if necessary, to report to hospital emergency room.

If physician services are necessary, employees may contact their own doctor.

**11050.10 Fire**

In the event of a fire, employee(s) shall notify the CHP who in turn notify the fire department. Where CHP are not available, the local fire department shall be directly notified.

If fire is easily extinguishable, all attempts shall be made to put it out by using the hand fire extinguishers. Floor Wardens shall be oriented with the fire fighting equipment available on their respective floors.

If deemed necessary, evacuation of the hazardous area shall be initiated and the emergency coordinator advised of the evacuation immediately.

Elevators shall not be used during evacuation.

Employees shall ensure that all doors leading to the main hallways from all offices are closed in order to prevent fire from spreading.

**11050.11 Explosions**

In the event of explosions, employees shall take cover under tables, desks, or other similar objects that will offer protection against flying glass or debris.

After the effects of explosion have subsided, the police and the emergency coordinator shall determine if evacuation is necessary.

**11050.12 Demonstrations**

In the event of demonstration inside or outside, employees shall remain inside the building and conduct business as usual.

Employees shall not get involved in the demonstration, thus becoming a part of the problem.

**11050.13 Earthquakes**

In the event of an earthquake, employees shall:

- Remain in the building.
- Seek shelter under tables, desks, doorways, and similar places.
- Avoid overhead fixtures, windows, skylights, filing cabinets, book cases, or other items which could become falling or flying objects.
- Remain calm and wait for instructions from emergency personnel.

**Ordered Evacuation**

If evacuation is ordered, everyone shall:

- Evacuate as directed.
- Be aware of falling debris or electrical wires.
- Take precautions against possible aftershocks.
- Proceed to evacuation area and follow all instructions.

**11050.14 Bomb Threats**

In the event of a bomb threat, specific actions shall be taken depending upon the type of threat received.

**11050.14.1 Bomb Threats (Phone)**

Employees receiving a bomb threat by phone shall:

- Ask when bomb is scheduled to explode.
- Ask the location of bomb.
- Ask what it looks like.
- Ask reason for placing bomb.
- Keep caller on line as long as possible.
- Record following information:
  - Date and time of call.
  - An estimate of age, sex, race, child, or adult.
  - Exact words of caller.
  - Speech pattern, i.e., accent.
  - Background noises.

**11050.14.2 Bomb Threats (Mail)**

Employees receiving a bomb threat by mail shall:

- Not handle the letter, envelope, or package.
- Notify the emergency coordinator and state/local police.

Emergency coordinator shall preserve the evidence for law enforcement officials.

**11050.14.3 Bomb Search**

The safest method for handling a bomb threat is to institute an immediate and thorough search. During the search, employees are only looking for objects that do not belong in a specific area.

**Occupant Search**

- Occupant search is initiated by the command center and relayed by telephone to floor Wardens. This process involves a search by all building employees of their immediate work areas. Results of search shall be reported to floor Wardens.
- Employees assigned to search teams shall search all public and common use areas to include lobbies, restrooms, hallways, stairwells, storage rooms, and evacuation routes. They too shall report their findings to the respective floor Wardens.
- Floor Wardens shall in turn report findings to the emergency coordinator.
- The CHP or local law enforcement agencies shall assist in all areas of the search as necessary.

**11050.15 Suspicious Objects**

Explosives can be packaged in a variety of containers, but in most cases are camouflaged. The container is likely to be a common article such as a shoe or cigar box, grocery bag, airline flight bag, athletic bag, suitcase, attaché/brief case, etc. Prior to a search, employees shall be informed to look for the unusual, or something that appears out of place.

- It is imperative that someone who is familiar with a specific area assist in the search of that area so that unusual or alien objects are immediately recognized. Anything that does not belong, or whose presence cannot be adequately explained, shall be considered a suspicious object.

Once a suspicious object is located, it shall not be touched, moved, or disturbed. The employee that discovers the object shall:

- Obtain a good description of the object, i.e., floor, room number, area of room.
- Notify emergency coordinator of findings and obtain further instructions.
- Begin clearing all occupants from immediate vicinity and clear area directly above and below the object.
- When feasible, remove flammables from the affected area and ensure that fuel lines are turned off.
- Cordon off the area to prevent reentry.

The emergency coordinator shall notify the bomb squad if the CHP or local police agency is not present to do so.

**11050.16 Nuclear Threat**

In the event of blackmail, threats, or attacks involving radioactive materials or nuclear weapons, employees shall:

- Immediately report these threats to the state/local police who in turn notify the local Federal Bureau of Investigation (FBI) office.
- Notify the emergency coordinator.
- Follow directions contained in any threats in order to assist law enforcement officials in locating objects or materials.

If a suspicious object is located, refer to DOM 11050.15 of this manual.

**11050.17 Enemy Attack**

Signals emitted by civil defense intended as a warning of impending enemy attack are sounded by sirens.

- Alert signal is a steady blast or tone, three to five minutes in length, signifying that essential emergency information is about to be broadcast.
  - If evacuation is necessary, employees shall evacuate according to the instructions of emergency personnel.
  - Employees shall take personal belongings and possessions with them when leaving work stations.
- Attack signal is a wailing tone or a series of short blasts for three to five minutes signifying that an actual attack against the country has been detected. Employees shall:
  - Seek cover under tables, desks, or any large objects which offer protection against flying debris; or
  - Remain against the wall nearest a window for protection,
  - Remain under cover, or in a shelter, until otherwise notified by emergency personnel.

**11050.18 Revisions**

The Deputy Director, Institutions Division, or designee, shall ensure that the content of this section is accurate and current.

**11050.19 References**

GC Title 2, Division 1, Chapter 7.

SAM §§ 2660 - 2667.

CCR (15) (3) § 3302.

ACA Standards 2-4168, 2-2102, 2-4172, 2-2103.

**ARTICLE 6 — REGULATION AND POLICY DIRECTIVES**

*Revised August 21, 2019*

**12010.1 Policy**

(a) The Regulation and Policy Management Branch (RPMB) provides guidance and support to Department staff in order to achieve the Department's regulation and policy goals and comply with statutory requirements.

(b) RPMB does as follows:

(1) On behalf of the Secretary, facilitates and manages the revision, publication, distribution, and archiving of the regulations in California Code of Regulations (CCR), Title 15, Division 3, Chapter 1 (Title 15) and the statewide operational policies in the Department Operations Manual (DOM). Partners with Department programs that have the responsibility for and the subject matter expertise pertaining to the content of proposed regulations and policies, providing advice and assistance to ensure that regulations are adopted in accordance with the Administrative Procedure Act (APA) (Government Code [GC] Section 11340, et seq.), which contains requirements and timeframes for the public adoption of regulations, and that policies have the legal authority to be administratively enforceable.

(2) Ensures that proposed regulations and policies do not conflict with existing laws and are vetted by Department stakeholders that are impacted by the changes proposed.

(3) Acts as custodian of the Restricted Department Operations Manual (R-DOM), which consists of DOM sections within the 55000 sequence and contains the Department's most sensitive tactical and law enforcement policies. All revisions to these policies are managed through the Statewide R-DOM coordinators.

(4) Works with programs to develop Instructional Memorandums (IMs) and Informational Bulletins.

(5) Works with the Office of Administrative Law (OAL) to file rulemaking packages, issues public notices regarding regulation changes that are published in the California Regulatory Notice Register, and manages the public phase of the Department's rulemaking actions.

(6) Manages the development and revision of Department forms to ensure compliance with GC Section 14772 and Department regulations and policies. Maintains the California Department of Corrections and Rehabilitation (CDCR) Forms Portal, acts as the forms liaison with other State agencies, and coordinates the printing of Department forms.

(7) Maintains a Department rulemaking library that includes topical, historical, and background files for past regulation and policy revisions, forms revisions, petitions for determination of underground regulations, and Informational Bulletins.

(8) Maintains Department webpages that include links to pending regulations and recently adopted regulations and policies.

(c) The Health Care Regulations and Policy Section (RPS) of California Correctional Health Care Services (CCHCS) provides guidance and support to Department staff in order to achieve the Department's regulation and policy goals as they pertain to health care. RPS manages the amendment and adoption of the regulations in CCR, Title 15, Division 3, Chapter 2 as well as the statewide operational policies pertaining to health care in the Health Care Department Operations Manual. RPS also manages the development and revision of Department forms pertaining to health care.

(d) All documents submitted to RPMB must be accessible in compliance with the Americans with Disabilities Act. Additionally, RPMB does not accept documents where edits have been made using the "Track Changes" feature in Microsoft Word, or scanned documents.

**12010.2 Purpose**

This article describes RPMB's responsibilities, project processes, and statutory obligations, and provides a systematic approach for collaborative partnerships with Department staff for the purposes of project development, review, approval, and dissemination.

**12010.3 Annual Rulemaking Calendar**

RPMB is responsible for preparing the Annual Rulemaking Calendar, which covers all regulatory actions that may be filed in the upcoming calendar year regarding adult institutions, programs, parole, and health care, in accordance with the requirements of GC Section 11017.6. RPMB ensures the timely submission of the Annual Rulemaking Calendar to OAL.

**12010.4 Regulations – Title 15**

(a) Penal Code (PC) Section 5058 authorizes the Secretary to prescribe and amend regulations for the administration of State prisons and parole.

(b) OAL is the control agency responsible for reviewing Department regulations to ensure compliance with the rulemaking requirements of the

APA. Once regulations are adopted through OAL, they have the force of law.  
(c) RPMB is the point of contact within the Department for advice and assistance regarding the adoption, amendment, or repeal of regulations in the Title 15.

(d) Upon the receipt and acceptance of a regulation project, the assigned RPMB Project Manager provides technical assistance to program staff throughout the rulemaking process.

#### **12010.4.1 Printed and Electronic Versions of the Title 15**

(a) PC Section 2080 states, “A copy of the rules and regulations prescribing the duties and obligations of prisoners shall be furnished to each prisoner in a state prison or other facility under the jurisdiction of the Department of Corrections.”

(b) CCR Section 3002(a) states, “Within 14 days of reception by the Department of Corrections and Rehabilitation or upon return to confinement in a departmental institution or facility, every inmate or parolee shall be issued a copy of the Rules and Regulations of the Secretary of Corrections and Rehabilitation and copies of all rule changes that have occurred since the last complete reprinting and reissue of the rules and regulations.”

(c) To meet the requirements of PC Section 2802 and CCR Section 3002(a), RPMB organizes and oversees the annual publication and distribution of printed copies of the Title 15 to institutions, facilities, and offices, with the distribution being based on the estimated needs for a one-year period.

(d) RPMB posts the electronic version of the Title 15 on the Department’s websites, where it is available to the public and to Department staff.

(e) CCR Section 3002(a)(1) states, “Spanish language copies of the rules and regulations of the Secretary shall be maintained at each reception center, institution and facility where inmates are confined. Notice shall be given in Spanish that a Spanish version of the rules is available for inspection. These rules shall be made available for review by Spanish speaking inmates who cannot read English.”

(f) To meet the requirements of CCR Section 3002(a)(1), RPMB annually distributes 50 printed copies of the Spanish translation of the Title 15 to each institution and facility.

(g) A Rules Coordinator is a staff person at an institution, facility or office who is responsible for the ordering, receipt, storage, and distribution of printed copies of the Title 15.

#### **12010.4.2 Emergency Regulations**

(a) PC Section 5058.3 authorizes the Secretary to adopt emergency regulations by certifying in a written statement that the operational needs of the Department require the adoption, amendment, or repeal of regulations on an emergency basis and filing that statement and the emergency regulations with OAL.

(b) The purpose of emergency regulations is to have regulations that are in place immediately, prior to the commencement of the public comment period. Emergency regulations are effective for 160 days, which permits the Department to complete the rulemaking process, including the public comment and hearing process.

#### **12010.4.3 Underground Regulations**

(a) GC Section 11342.600 defines a “regulation” as “every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.”

(b) GC Section 11340.5(a) states, “No state agency shall issue, utilize, enforce, or attempt to enforce any guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule, which is a regulation as defined in Section 11342.600, unless the guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule has been adopted as a regulation and filed with the Secretary of State...”

(c) A rule, order, or standard of general application of the Department that meets the definition of a regulation and is being enforced by the Department without having been adopted into the CCR is commonly called an “underground regulation” and may be determined to be invalid by a court.

(d) In 1991, the Fifth District Court of Appeals ruled that the DOM was largely comprised of underground regulations. The Court ordered the Department to cease enforcing those DOM provisions that were regulatory and to adopt them properly as regulations pursuant to the APA.

(e) RPMB was tasked with reviewing the entire DOM for regulatory impact, and as a result, most of the sections therein had to either be rewritten to make them non-regulatory or be properly adopted through the APA process into the Title 15.

(f) Implicit in the Court’s ruling was that the Department must adhere to the APA when issuing any new or modified directives that are regulatory in nature before those directives are in operational effect.

#### **12010.4.4 Regulatory Tests**

(a) The regulatory tests were established by the Office of Legal Affairs (OLA) as a result of the court ruling noted in Section 12010.4.3 above.

(b) A rule, order, or standard of general application of the Department is considered a regulation if it meets one or more of the following tests:

(1) Implements, interprets, or makes specific the provisions of statutes, case laws, or the regulations of other agencies.

(2) Is a mandate that applies equally to all staff, volunteers, inmates, parolees, or members of the public in similar situations, e.g., classification rules, visiting rules, and conditions of parole.

(3) Imposes a standard of required behavior with stated or implied consequences for noncompliance, e.g., inmate discipline and staff conduct.

(4) Imposes requirements which must be met in order for staff, volunteers, inmates, parolees, or members of the public to qualify for any general entitlement or privilege available to them, e.g., family (overnight) visiting and canteen privileges.

(5) Imposes criteria which govern staff decisions that affect an inmate’s conditions or length of confinement or a parolee’s terms or conditions of parole, e.g., security housing and credit earning and forfeiture.

(6) Requires fair and timely staff response (due process), e.g., classification committees and review of inmate appeals.

(7) Establishes entitlements (rights), e.g., inmates’ access to the courts and to religious programs.

#### **12010.5 Petitions from the Public Regarding Regulations**

There are two types of petitions in the Administrative Procedure Act:

##### **(a) Petition for Rulemaking**

GC Sections 11340.6 and 11340.7 permit a member of the public to submit a petition directly to the Department requesting the adoption, amendment, or repeal of regulations. The Department must formally respond to the petitioner within 30 days and the Department’s response is published in the California Regulatory Notice Register.

##### **(b) Petition Alleging an Underground Regulation**

GC Section 11340.5(b) permits a member of the public to submit a petition to OAL alleging that a Department policy is an underground regulation and must be promulgated in accordance with the APA. OAL conducts a review and makes a determination in accordance with CCR, Title 1, Division 1, Chapter 2, Section 270.

#### **12010.6 Regulation Revisions**

(a) Regulation revisions are the responsibility of the Director, Assistant Secretary, Deputy Director, or other executive whose functional area administers the specific regulation.

(b) Pursuant to Penal Code (PC) section 5058.3, department may implement emergency regulations when the operational necessity is certified by the department’s rulemaking authority. While the emergency regulations are in effect, the department is required to complete the rulemaking process, including the public comment period.

(1) The purpose of emergency regulations is to implement regulations prior to the commencement of the public comment period. Emergency regulations are effective for 160 days, which permits the department to complete the rulemaking process, including the public comment period and hearing process.

(2) An emergency rulemaking project should only be requested when current circumstances justify its use.

#### **12010.6.1 Project Submittal Instructions – Regulations**

*Revised April 14, 2022*

(a) The [Regulation Development Guide](#) provides detailed instructions regarding the development and submittal of regulation projects to RPMB.

(b) Emergency rulemaking projects require approval at the Secretary or Undersecretary level before RPMB will process the project. RPMB’s initial review timeframe of an emergency rulemaking project package is 30-45 calendar days, depending on the scope of work, in order to ensure all Administrative Procedure Act (APA) requirements are met.

(c) In addition to the documents listed in the Regulation Development Guide, the following information and documents shall be submitted to RPMB when requesting assistance with emergency rulemaking projects. For templates and samples of the required documents, visit RPMB’s Program Resources web page.

(1) Written approval from the Secretary or Undersecretary authorizing the emergency request.

(2) Certificate of Operational Necessity.

(3) STD. Form 399, Economic and Fiscal Impact Statement.

(4) A list of stakeholders that shall review the proposed regulations—an exemption from this requirement shall only be authorized by the appropriate

Undersecretary.

(5) Finding of Emergency if the Initial Statement of Reasons has not been completed.

(6) Items incorporated by reference, such as forms, schedules, indexes, or matrices shall be submitted with the emergency regulation package—if a new or revised CDCR form is incorporated, RPMB shall review and approve such forms prior to project submission.

(7) Regulation text in underline (for new text) and strikethrough (for deleted text) format. RPMB does not accept regulation text in track changes.

#### **12010.6.2 Project Timeline for the Regulation and Policy Management Branch**

*Revised April 14, 2022*

(a) The Secretary or Undersecretary shall authorize emergency regulation projects prior to submission of the project.

(b) Within 45 calendar days of receipt of a complete emergency or nonemergency regulation project package, the RPMB project manager shall review the project and provide written feedback to the program project manager, including, if appropriate, suggestions for correcting identified issues.

(c) If an emergency rulemaking action requests a specific effective date, RPMB's involvement in early project development is recommended to avoid late or incomplete project submission.

#### **12010.6.3 Preliminary Review by the Office of Legal Affairs**

*Revised April 14, 2022*

(a) RPMB shall forward the project documents to the Office of Legal Affairs (OLA) for a determination of any legal concerns. OLA's review is concurrent with the RPMB project manager's review.

(b) If OLA identifies any legal issues, RPMB shall suspend further action on the project until OLA specifies the project can move forward.

#### **12010.6.4 Stakeholder Reviews**

*Revised April 14, 2022*

The RPMB project manager shall coordinate stakeholder reviews for regulation and policy projects. Requests for stakeholder reviews are sent to the affected programs with a response due date.

(a) The program project manager shall specify the level of stakeholder review:

(1) Level 1 Priority – One calendar week.

(A) This timeframe shall only be used when the department is required to meet external time constraints (e.g., court deadlines, legislative mandates, or the Governor's executive orders). A justification of such time constraints shall be included in the project submittal.

(B) Emergency regulations are always a Level 1 Priority review.

(2) Level 2 Standard – Two calendar weeks.

##### **12010.6.4.1 Stakeholder Extension Requests**

*Revised April 14, 2022*

(a) Stakeholders shall request an extension and provide a justification for the extension on or prior to the response due date. The program project manager may approve the extension.

(b) Stakeholder extension requests shall not be granted for emergency regulations except for the Office of Legal Affairs (OLA). If the OLA determines additional time is necessary, the program shall approve the request for extension and the appropriate Undersecretary shall be notified.

##### **12010.6.4.2 Resolving Stakeholder Disagreements**

(a) It is the prerogative of the program that initiated the proposed regulations to accept or decline a stakeholder's suggested or recommended changes to the proposed regulations. If necessary, the program shall contact the stakeholder that has suggested or recommended the changes and negotiate an agreed-upon text. If the text cannot be agreed upon, the outstanding issues shall be raised in writing or in a decision meeting with the Undersecretary or equivalent executive over the program.

(b) The Program Project Manager is responsible for providing RPMB with:

(1) Revised text incorporating accepted stakeholder recommendations.

(2) Documentation of the reasons for rejection of any stakeholder suggestions.

##### **12010.6.4.3 Unresponsive Stakeholders and Assumed Concurrence**

(a) If a stakeholder does not submit its response by the due date, the RPMB Project Manager shall provide one courtesy reminder to the stakeholder. If the stakeholder is unresponsive or does not meet the approved extension timeframe, the program may assume concurrence from the unresponsive stakeholder.

(b) If an unresponsive stakeholder subsequently raises an objection after the program has elected to assume concurrence, the stakeholder must raise the

objection with the Director, Assistant Secretary, Deputy Director, or other executive over the program.

#### **12010.6.5 Executive Approval**

(a) The RPMB Project Manager shall assemble an executive approval folder containing the proposed regulations and route the folder through program executives to the Undersecretary over the program for signature approval.

(b) The signature of the Secretary or an authorized rulemaking delegate (one of the Undersecretaries) is required. Signing on behalf of the Secretary or delegate is forbidden by the APA.

#### **12010.6.6 Notices of Action**

(a) GC Section 11346.36(c) states, "...the department shall convene a public hearing or hearings and take public comment on any draft regulation. Representatives from state agencies and the public at large shall be afforded the opportunity to review and comment on the draft regulation before the regulation is adopted in final form."

(b) The RPMB Project Manager does as follows:

(1) Prepares a Notice of Proposed Action (Notice) for the purpose of beginning the public process.

(2) Files the Notice with OAL for publication in the California Regulatory Notice Register.

(3) Ensures the posting of a Notice of Change to Regulations (NCR) on the Department's websites, the emailing of the NCR to Department staff statewide, and the mailing of printed copies of the NCR to persons who have requested to be placed on RPMB and RPS's mailing list pursuant to the APA.

#### **12010.6.7 Notice of Change to Regulations – Institutional Posting**

(a) PC Section 5058(a) establishes a duty for the Department to post copies of proposed regulations in conspicuous places throughout each institution.

(b) The NCR shall be made available for inspection by all inmates and staff by the Rules Coordinator or designee within five calendar days of receipt of the NCR. NCRs shall be posted or provided as follows:

(1) Posted on staff and inmate bulletin boards.

(2) Posted in inmate housing units, corridors, and other areas easily accessible to inmates.

(3) Provided to inmate advisory committees and councils.

(4) Provided to inmate law libraries.

(5) Provided to inmate prison health facilities.

(6) Provided to inmate security housing and specialized housing units.

(c) Within 10 calendar days of receipt, each Rules Coordinator shall complete CDCR Form 621-A, Certification of Posting and ensure that it is forwarded to RPMB. A NCR may be removed at the conclusion of the 45-day public comment period noted in the NCR.

#### **12010.6.8 Public Comments**

(a) Written comments must be received by the close of the public comment period noted in the Notice.

(b) The RPMB Project Manager shall schedule a public hearing at which persons may present verbal comments regarding the proposed regulations. All verbal comments given at the public hearing shall be recorded.

##### **12010.6.8.1 Response to Comments**

(a) The RPMB Project Manager shall summarize all comments received and forward the summaries to the Program Project Manager for response.

(b) The Program Project Manager shall thoughtfully consider the comments and respond to each, while evaluating if the proposed regulations need to be modified as a result of issues raised in a comment.

#### **12010.6.9 Modifications to Proposed Regulations**

(a) A modification to proposed regulations is considered to be "sufficiently related" if the modification is reasonably foreseeable based upon the proposed regulations that were included in the Notice. Sufficiently related modifications require a Notice of Change to Text as Originally Proposed (15-Day Renotice) and an accompanying 15-day public comment period.

(b) If a 15-Day Renotice is necessary, the following shall be provided by the Program Project Manager:

(1) Modifications to the proposed regulations that are clearly specified and shown in strikethrough and underline format.

(2) The reasons that the modifications have been made.

(c) The RPMB Project Manager shall prepare the 15-Day Renotice cover letter.

(d) The RPMB Project Manager shall ensure the publication and posting of the 15-Day Renotice on the Department's websites and shall send printed copies of the 15-Day Renotice to all persons who submitted a comment during the 45-day comment period, in accordance with the APA. Any interested persons may submit comments specifically regarding the modifications for consideration.

(e) If modifications are made to emergency regulations, the modifications are not in emergency effect and will only become effective once OAL files the final



regulations with the Secretary of State.

(f) A public hearing is not required for a 15-Day Renote.

(g) If no further modifications are necessary following the 15-day public comment period, the RPMB Project Manager will prepare the final executive approval folder. If further modifications are necessary, a second 15-Day Renote is required.

#### **12010.6.10 Final Executive Approval**

The RPMB Project Manager shall assemble a final executive approval folder containing the final proposed regulations and route the folder through program executives to the Undersecretary over the program for signature approval.

#### **12010.6.11 Submittal of the Final Rulemaking File to Office of Administrative Law**

(a) The RPMB Project Manager shall submit the final rulemaking file, which contains the final proposed regulations, to OAL.

(b) OAL has 30 working days to review the final rulemaking file for compliance with the provisions of the APA. Prior to the end of the review period, OAL will contact the RPMB Project Manager to either approve the final proposed regulations or to discuss issues that need to be corrected prior to its approval.

(c) If the final proposed regulations are approved, OAL shall file the final regulations with the Secretary of State, whereupon they become permanently adopted. If issues need to be corrected prior to approval, the Program Project Manager can request a formal written disapproval from OAL or withdraw the project. Withdrawn projects can be resubmitted to OAL within one year of the date that the Notice was published in the California Regulatory Notice Register.

(d) If the final regulations are adopted, the RPMB Project Manager shall ensure that the final rulemaking documents are posted on the Department's websites.

#### **12010.7 Authorized Pilot Programs**

(a) PC Section 5058.1 authorizes the Secretary to establish pilot programs on a temporary and limited basis. A pilot program is a program that is tested out on a limited scale for a limited period of time and that includes an evaluation component to discern the efficacy of the program before it is implemented statewide. Although pilot programs are regulatory and are printed in the official [Westlaw](#) version of the Title 15, as published by OAL, pilot programs are exempt from the requirements of the APA.

(b) RPMB coordinates with the initiating program on the development and Department approval of pilot programs and submits the pilot program documents to OAL for certification.

(c) Under PC Section 5058.1, pilot programs may affect no more than 10 percent of the inmate or parolee population (e.g., female inmates, male inmates, or the total inmate population). The Secretary or an authorized rulemaking delegate must certify that the proposed pilot program meets the criteria for adoption as a pilot program as provided in PC Section 5058.1, approve an estimate of the fiscal impact of the proposed pilot program, and approve a description of the methods by which the proposed pilot program will be evaluated.

(d) Pilot programs have a duration of two years and then automatically expire by operation of law. In order for a pilot program to continue beyond the two-year pilot period, regulations must be adopted into the Title 15 in accordance with the APA by the end of the pilot period.

#### **12010.7.1 Project Submittal Instructions – Pilot Programs**

(a) Proposing a pilot program is the responsibility of the Director, Assistant Secretary, Deputy Director, or other executive whose functional area administers the subject matter of the pilot program.

(b) A proposed pilot program must be submitted to the Associate Director, RPMB and must include the following:

(1) The authorization of the Director, Assistant Secretary, Deputy Director, or other executive with the authority to approve the project submission along with a memorandum explaining the need for the proposed pilot program.

(2) An IM, which includes the following:

(A) The purpose of the proposed pilot program.

(B) The requirements for participation in the proposed pilot program.

(C) The location and duration of the proposed pilot program.

(D) The structure and procedures of the proposed pilot program.

(E) The methods by which the proposed pilot program shall be evaluated.

(F) Any new or revised CDCR forms.

(G) The estimated fiscal impact of the proposed pilot program as indicated on the following forms, which must also be completed and submitted to indicate that there is no estimated fiscal impact:

(H) A STD. Form 399.

(I) A CDCR Form 1150.

(J) The name and telephone number of the Program Project Manager.

#### **12010.7.2 Department Review and Approval**

The review and approval process for a proposed pilot program shall be the same as for proposed regulations (see Sections 12010.6.2 through 12010.6.5).

#### **12010.7.3 Submittal of a Proposed Pilot Program to the Office of Administrative Law**

(a) The RPMB Project Manager shall submit the pilot program documents to OAL.

(b) OAL has 30 working days to review the pilot program documents. Once OAL has approved the pilot program, OAL shall file it with the Secretary of State, whereupon it shall become effective for two years.

(c) Once the pilot program is in effect, the RPMB Project Manager shall ensure that the IM and other applicable documents are published on the Department's websites.

#### **12010.8 Policies – Department Operations Manual**

(a) The DOM contains the operational and administrative policies and procedures of the Department that are intended to provide necessary instructions to staff and to establish the standard and consistent statewide application thereof.

(b) DOM policies do not have the force of law; instead, they derive their authority from statutes, court orders, or regulations (the Department's own regulations or the governing regulations of another State agency). Under a narrowly-drawn exemption within the APA, DOM policies pertaining to "internal management" do not need to derive authority from another source.

(c) The legal authorities that are the foundation of a DOM article are cited in the "References" section at the end of that article.

#### **12010.9 Policy Revisions**

(a) Each DOM article has an owner who is responsible for keeping the article current and accurate. The owner is identified in the "Revisions" section at the end of each article.

(b) The owner of a DOM article can initiate changes to that article as needed. If a non-owner wants to recommend that changes be made to the article, he or she must obtain the written approval of the owner.

#### **12010.9.1 Submittal Instructions – Policies**

The [DOM Development Guide](#) provides detailed instructions regarding the development and submittal of policy projects to RPMB.

#### **12010.9.2 Department Review and Approval**

The review process for proposed policies shall be the same as for proposed regulations (see Sections 12010.6.2 through 12010.6.4.3).

#### **12010.9.3 Executive Approval**

The RPMB Project Manager shall assemble an executive approval folder containing the final proposed policy and route the folder through program staff to the article's owner. The owner's signature is required for final proposed policy to be adopted.

#### **12010.9.4 Notice of Change to Department Operations Manual – Publication and Posting**

(a) A Notice of Change to Department Operations Manual (NCDOM) is used to publish approved DOM policy changes and includes both a statement of the owner's approval of the new policy and the text of the new policy.

(b) The RPMB Project Manager shall ensure the publication and posting of the NCDOM on the Department's website and the emailing of the NCDOM to Department staff statewide.

(c) The policy changes that are published in a NCDOM shall be incorporated into the upcoming edition of the DOM.

#### **12010.9.5 Electronic Version of the Department Operations Manual**

The DOM is published electronically on the Department's websites. RPMB does not issue printed copies of the DOM.

#### **12010.10 Forms Management**

(a) The management and maintenance of all functions related to Department forms in the area of adult operations, programs, and parole shall be managed by the Department Form Coordinators. The Department Form Coordinators are responsible for the following:

(1) Overseeing the development and revision of Department forms in order to ensure compliance with applicable laws and regulations.

(2) Determining the impact of a proposed form revision on Title 15 regulations and DOM policies.

(3) Assigning form numbers.

(4) Developing and maintaining the CDCR Forms Catalog and maintaining the CDCR Forms Portal.

(5) Providing assistance and information regarding how to obtain and revise Department forms.

(6) Acting as Department forms liaisons with other State departments.

(b) Contact information for the Department Form Coordinators may be found

on RPMB's [Forms Management](#) webpage.

#### **12010.10.1 Submittal Instructions – Forms**

The [Forms Management Guide](#) provides detailed instructions regarding the development and submittal of form projects to RPMB.

#### **12010.11 Restricted Department Operations Manual**

##### **(a) Statewide Restricted Department Operational Manual Coordinators**

(1) The R-DOM master copy shall be maintained by the Department's R-DOM Coordinators. The Department's R-DOM Coordinators are responsible for overseeing the secure development, review, approval, promulgation, dissemination, and archiving of new and revised policies contained in DOM sections within the 55000 sequence. Any new policy or revision of current policy within the R-DOM shall be coordinated through the Department's R-DOM Coordinators and shall be processed in accordance with the DOM submission, review, and approval procedures set forth in this article.

(2) The Department's R-DOM Coordinators shall maintain a list of the R-DOM copies that have been issued to each institution, parole region, or office, and shall maintain a list of Local R-DOM Coordinators. The Hiring Authority over any entity that is authorized to possess copies of the R-DOM shall designate a Local R-DOM Coordinator to oversee the distribution and maintenance of that entity's copies of the R-DOM. Staff in need of current information or documents pertaining to R-DOM copies in their care shall contact their respective Local R-DOM Coordinators to obtain the information or documents. The Department's R-DOM Coordinators shall be made aware of any Local R-DOM Coordinator staff changes.

##### **(b) Restricted Department Operational Manual Holders and Need-to-Know Staff**

(1) Copies of the R-DOM shall not be issued to individual persons, but to positions with a "need to know," that require the knowledge and use of the restricted contents in order to perform the position's duties and responsibilities. Such positions may include, but are not limited to, Assistant Secretaries, Wardens, Associate Wardens, Parole Administrators, Directors, Armories, and Watch Commanders.

(A) For accountability purposes, post orders and job descriptions for these positions shall reference the responsibility for each position's R-DOM copy.

(B) The individuals occupying these positions shall be considered as having a need-to-know and each individual shall be responsible for the security and proper use of the position's R-DOM copy.

(2) Each R-DOM copy shall remain with the assigned position unless it is reassigned to another position by the Hiring Authority. Prior to vacating a position to which an R-DOM copy has been assigned, an individual shall return the R-DOM copy to the Local R-DOM Coordinator or shall provide the R-DOM copy to the Administrative Assistant to the Warden or Regional Parole Administrator.

(3) The contents of the R-DOM shall not be discussed in the presence of those who do not have a need-to-know.

(4) The R-DOM is a confidential document that is exempt from adoption as regulations (PC 5058(c)(1)(B)) and is subject to the privilege for official information as described in Evidence Code (EC) 1040 and Government Code 6254(f). The R-DOM and its content are accordingly exempt from public disclosure.

(5) Requests for a complete copy of the R-DOM shall be addressed to the Associate Director, RPMB from the Hiring Authority. Each request shall include a justification for the position to be issued a copy of the R-DOM and a statement that the copy of the R-DOM shall be kept current, secured, and properly allocated. The Associate Director, RPMB may deny requests that are not sufficiently justified or that do not include the aforementioned statement.

##### **(c) Maintenance**

(1) R-DOM copies shall be maintained in accordance with the following:

(A) Each R-DOM copy shall be secured in a locked cabinet or a secured office when not being used.

(B) Copies of any portion of the R-DOM shall not be made, emailed, or sent by FAX, unless a specific R-DOM section provides the authorization to do so (see DOM, Chapter 4, Articles 38 and 45).

(C) Each R-DOM copy shall be updated as needed and those updates shall be secured along with the R-DOM copy, within two weeks of receipt.

1. The Revision Record to the R-DOM shall be updated with every new addition or revision to policies contained in the R-DOM.

2. Restricted Administrative Bulletins and Restricted Instructional Bulletins shall be kept in the front of each R-DOM copy in numerical order under the tab identified.

3. Transmittal letters issued via CDCR Form 1189-R, Restricted Transmittal Letter shall be kept in numerical order under the tab that is identified for their filing.

4. R-DOM supplements shall be maintained within each R-DOM copy behind

the appropriately related R-DOM section.

(2) To further ensure that each R-DOM copy is updated and current, each R-DOM copy shall be audited on an annual basis by the individuals occupying the positions that are responsible for the R-DOM copies.

##### **(d) Revisions**

(1) The documents that are sent to the field concerning revisions to the R-DOM will typically consist of the following:

(A) A transmittal letter with an identifying number (REST #) that includes instructions pertaining to the documents sent.

(B) An updated Table of Contents that corresponds to the transmittal letter number.

(C) A copy of the policy revisions that correspond to the transmittal letter number.

(2) CDCR Form 621-R, Employee Certification of Receipt of Confidential Material. Each R-DOM Coordinator shall ensure that the signed CDCR Form 621-R is returned via email to the Statewide R-DOM Coordinators within two weeks upon receipt of the revised documents.

#### **12010.11.1 Access to the R-DOM by the California Correctional Peace Officers Association**

(a) A settlement agreement between the CDCR and the California Correctional Peace Officers Association (CCPOA) allows CCPOA to have access to the R-DOM.

(b) The CDCR and the CCPOA agree that:

(1) CDCR shall retain sole possession of R-DOM.

(2) CCPOA shall have access to the R-DOM, **with the exception of Section 55030, Job Action Contingency Plan.**

(3) The access shall be available to the following CCPOA representatives:

(A) Local Chapter Presidents

(B) Local Chapter Vice-Presidents

(C) Chief Job Stewards

(D) CCPOA Field Representatives

(E) CCPOA Legal Staff

(F) CCPOA Chief Administrative Officer

(G) CCPOA Statewide President

(H) CCPOA Statewide Vice-Presidents

(I) A member of any CCPOA bargaining team

(4) Any Bargaining Unit (BU) 6 member or their designated representative, upon request, may have access to the R-DOM (except Section 55030) when the BU 6 member is being investigated as to matters covered by, or has been disciplined with regard to matters covered by Subchapter 55000.

(5) CDCR shall provide access to CCPOA representatives at both the institutional level and the headquarters level on an appointment basis.

(6) In no event shall more than three of these persons have access at one location at the same time.

(7) Under no circumstances shall access include the right to photocopy any portion of the R-DOM.

(8) CDCR Chief of the Office of Labor Relations shall notify the Chief Administrative Officer of CCPOA in writing of any changes to the R-DOM.

(9) The Associate Director or R-DOM Coordinator of RPMB at CDCR headquarters shall coordinate the inspection of the R-DOM within one hour of receiving the appointment request, and supervise the inspection.

(10) The Employee Relations Officer (ERO) is the representative at the institutional level to coordinate the requests for access to the R-DOM. Any requests to individuals other than the ERO will not be honored and the requestor will be referred to the ERO.

(11) The Warden or Regional Parole Administrator shall ensure that all requests from CCPOA representatives or BU 6 members for inspection of the R-DOM are processed through the ERO.

(12) The ERO shall:

(A) Coordinate the review of a copy of R-DOM within twenty-four hours of receiving the appointment request. The ERO shall ensure, however, that prior to CCPOA reviewing the R-DOM, that Section 55030 has been removed.

(B) Provide or coordinate the supervision of the R-DOM during any inspection by eligible CCPOA representatives or BU 6 members.

(C) Document each time that DOM Subchapter 55000 is reviewed by an eligible CCPOA representative or BU 6 member as outlined above.

#### **12010.12 Revisions**

*Revised April 14, 2022*

The Associate Director, RPMB shall ensure that the contents of this article are current and accurate.

#### **References**

Americans with Disabilities Act of 1990.

California Code of Regulations, edited by Thomson Reuters Westlaw, provided by OAL. CCR, Title 1, Division 1, Sections 1-280.

CCR, Title 15, Division 3, Sections 3002, 3124, and 3260.1.

DOM, Chapter 1, Article 16.

DOM, Chapter 3, Article 22.

DOM, Chapter 4, Articles 38 and 45. Evidence Code Section 1040.

GC Sections 6250-6276.48, 11017.6, 11340-11350.3, and 14770-14775.

PC Sections 2080, 2086, 2930, 5050, 5054, 5055, 5058, 5058.1, and 5058.3.

Settlement Agreement for California Correctional Peace Officers Association v. State of California (Department of Corrections) (December 10, 1991), Public Employment Relations Board Case No. S-CE-491-S.

Tooma v. Rowland (September 9, 1991), California Court of Appeal, Fifth Appellate District, Case No. F015383.

United States Department of Justice, Federal Bureau of Prisons, Directives Management Manual, Program Statement 1221.66.

#### Revision History

Revised: December 21, 2015.

Revised: August 21, 2019.

Revised Section 12010.6.4: April 14, 2020.

Revised Sections 12010.6-12012.6.4.1: April 14, 2022.

### ARTICLE 7 — CONFERENCES AND CONVENTIONS

*Revised July 17, 1996*

#### 12020.1 Policy

Departmental and non-departmental meetings, conferences, and conventions, when sponsored by the Department or other professional organizations, are positive methods to enhance general professional development and further CDC goals.

- Staff are encouraged to participate in authorized departmental and nondepartmental meetings, conferences, and conventions.

#### 12020.2 Purpose

This section designates those responsible for selecting attendees, submitting of required forms, and approving authority for requests to attend meetings, conferences, and conventions.

#### 12020.3 Authorized Meetings, Conferences, and Conventions

All meetings, conferences, and conventions of ten or more people that involve travel, per diem, or other expenditures shall require approval of the appropriate Chief Deputy Director. By June 30 of each year, all Deputy Directors and Assistant Directors shall submit to the Chief, VSRP, a schedule of meetings, conferences, and conventions to be conducted during the following fiscal year. VSRP shall coordinate the final review and approvals by the Chief Deputy Directors.

- The CDC Form 1328, Meeting/Conference Schedule, shall be used for submitting this information.
- These activities shall be considered business meetings or business conferences and expenses incurred shall not be charged to training budgets, but to other appropriate budget allotments (e.g., travel).

The Chief, SPB, shall submit the meeting, conference, and convention schedules to the appropriate Chief Deputy Director for departmental approval. A copy of the approved schedule shall be returned to the submitting Deputy Director or Assistant Director. SPB shall include the meeting, conference, or convention on the departmental master calendar.

No further approvals for departmental meetings, conferences, and conventions are required during the year provided no substantive changes occur in the previously approved schedule and the event is being held at a State facility.

Meetings, conferences, and conventions held at other than State facilities require YACA approval. (See DOM 12020.6.)

Any request requiring YACA approval shall first be approved by the appropriate Chief Deputy Director.

The SPB shall review and coordinate the approvals for submission to the Chief Deputy Directors and YACA.

#### 12020.4 Schedule Changes Requiring Departmental Approval

Changes to approved schedules requiring departmental approval include:

- Any increase in the number of events.
- A location change requiring YACA approval.
- Additional costs exceeding the original estimate by 10 percent or more.

#### 45 Days Prior

Details of the requested amendment shall be submitted to the Chief, SPB, 45 days prior to the meeting, conference, or convention to allow sufficient time for the necessary approvals.

#### 12020.5 Agendas for Conferences, Conventions, and Meetings

With the aim of achieving program goals and objectives, an agenda shall be prepared for each meeting, conference, or convention. Specific benefits to CDC such as increased productivity, problem solving, or other staff improvements should be especially noted.

The agenda shall include the title of the event, the dates, meeting location, and an outline of the major items to be discussed.

#### 30 Days Prior

The Deputy Director or Assistant Director shall submit the agenda to the appropriate Chief Deputy Director at least 30 days prior to the meeting, conference, or convention.

#### 12020.6 Use of Off-Site Facilities

In compliance with criteria established by the Governor's Office, written approval from the Secretary of YACA, or designee, shall be obtained prior to scheduling any state-sponsored meeting, conference, convention, or training session which includes the rental of an off-site facility.

#### Request to Rent

Requests to rent an off-site facility shall include a comparison of costs from various private facilities and explain why it is not feasible to use a State facility.

#### 60 Days Prior

The appropriate Deputy Director or Assistant Director shall submit to the Chief, SPB, a YACA Form 83-9-1, Request to Schedule Conference or Meeting, at least 60 days prior to the scheduled event. The SPB staff shall review the submitted paperwork to confirm that all necessary information is included. The appropriate Chief Deputy Director shall approve or deny the request and SPB shall return the request to the appropriate Deputy Director or Assistant Director.

#### 12020.7 Non-departmental Meetings, Conferences, and Conventions

This section pertains to non-departmental meetings, conferences, and conventions sponsored by professional organizations including "bona fide associations" as defined by the DPA.

- Meetings, conferences, and conventions sponsored by professional organizations are to provide opportunities for general professional development.
- Meetings, conferences, and conventions sponsored by "employee organizations" are excluded from these guidelines per GC 3525.

#### Request and Approval

To achieve consistency and provide guidelines for attendance at the meetings, conferences, and conventions of professional organizations in California, each Deputy Director or Assistant Director is responsible for screening and submitting all non-departmental conference requests to the appropriate Chief Deputy Director for final review and approval.

- Programs involving partisan political speeches or activities or employee organization functions are not eligible for consideration.

#### Maximum of Ten

Normally CDC shall not send more than ten people to individual non-departmental meetings, conferences, and conventions. Attendance by more than ten people shall require separate approval by the appropriate Chief Deputy Director.

#### Upon Approval

Upon approval, a copy of the approval shall be sent by the requesting Deputy Director, Assistant Director, or designee to the Accounting Services Section in headquarters.

*Note:* This procedure applies only to headquarters and P&CSD staff.

- Additional employees participating in a nondepartmental meeting, conference, or convention program as speakers or panel members may be granted time and expenses as required, determined by the duration of their participation. Such expenses shall be paid from local travel budgets.

#### Attendance Without Reimbursement

If the request is to attend a non-departmental meeting without the sponsorship of CDC, the following guidelines apply:

- The attending employee shall pay all expenses including travel, per diem, and registration costs.

- The attending employee shall use vacation or other accrued time off, such as compensatory time off, holiday, etc.
- The employee's attendance at the meeting, conference, or convention shall not result in any cost to the State or create a burden on CDC operations.

#### **Training Credit**

An employee who attends formal training workshops at a conference or convention may request training credit. This credit can be applied toward the 40-hour annual training requirement that each employee is expected to complete.

#### **How to Apply**

In order to receive this credit after attending such an event, the employee must send the IST Manager or Regional Training Coordinator verification of attendance and a copy of the conference agenda detailing the workshops to be considered for credit.

#### **Type of Credit**

Only career-related out-service training credit may be granted.

#### **Amount of Credit**

Credit will be granted on an hour-for-hour basis, not to exceed a maximum of eight hours per year, per employee.

#### **Reimbursement Not Allowed**

The granting of training credit does not entitle an employee any reimbursement of expenses for attending a conference or convention. If an employee has been approved to attend on State time at State expense, no training funds may be used to cover the approved costs.

#### **Restriction on Granting Credit**

Training credits may not be granted for meetings, conferences, or conventions of "employee organizations" as stipulated in GC 3525.

#### **Need Prior Written Approval (100 Miles)**

Prior written approval shall be obtained from YACA when 10 or more employees are required to travel more than 100 miles from their headquarters in order to participate in a meeting, conference, or convention not sponsored by the State.

- This policy applies whether or not such a meeting, conference, or convention is paid in total or in part by State or federal funds.

#### **60 Days Prior**

A YACA Form 83-9-1 shall be prepared for the signature of the appropriate Chief Deputy Director and submitted to YACA 60 days prior to the date of the event by the requesting Deputy Director or Assistant Director.

#### **12020.8 Meetings, Conferences, and Conventions Outside the State**

To attend an out-of-state meeting, conference, or convention not already in the approved out-of-state travel blanket, all requests for attendance shall be submitted through the appropriate Deputy Director or Assistant Director at least 90 days prior to the date of the event. The request (by memorandum) shall include:

- The name of the meeting, conference, or convention.
- Location.
- Date(s).
- Costs.
- A copy of the agenda.
- A justification describing the benefit to the State and the consequences of not attending.
- An assurance that participation shall not interfere with service to the public or operation of CDC's programs.

The memorandum shall have an approved/disapproved signature block for the Deputy Director or Assistant Director.

#### **Final Approval**

Upon initial approval, the request shall be forwarded to Accounting Services Section for verification of funds. Accounting Services Section shall obtain final approval from the appropriate Chief Deputy Director and notify the appropriate staff. Any additional required approval shall be obtained by Accounting Services Section.

#### **12020.9 Recruitment Activity at Conferences and Conventions**

The CDC facility located in the geographic area of the conference or convention shall coordinate the placement of a CDC recruitment booth at that conference or convention. Other CDC facilities or divisions interested in participating in staffing the recruitment booth may do so by contacting the responsible recruitment coordinator.

#### **Limit of Booths**

Normally, there shall be no more than one CDC booth per conference or convention. But if the departmental recruitment manager concurs that a large number of applicants are anticipated for classifications being recruited, another booth and additional staff may be requested.

- The booths shall be placed side by side.
- No more than four recruiters shall be used to staff a booth.
- The recruiters shall not be conference and convention attendees or participants.
- The recruiters' function shall expressly be to staff the booth and respond to employment inquiries.
- The recruiters shall not need to be included in the conference and convention approval process.

#### **Use of Booths**

Recruitment booths shall only be used at those conferences or conventions in which it is reasonable to expect applicants. The appropriate staff shall also be used (i.e., sworn staff used in recruiting peace officers and medical staff used in recruiting medical professionals). The decision to send a recruitment booth team to the annual conferences and conventions of the following groups shall be made by the departmental recruitment manager:

- Asian State Employees Association.
- Association of Black Correctional Workers.
- Black Advocates in State Service.
- CAFE de California.
- Chicano Correctional Workers Association.
- Filipino American State Employees Association.
- Latino Peace Officers Association.
- Mexican American Correctional Association.
- Mexican American Political Association.
- United Black Correctional Workers.

*Note:* At these conferences and conventions, an advertisement in the conference or convention program shall be the extent of our recruitment participation unless it is determined to be in CDC's best interest to also use a booth. Should it be determined that a booth is needed, the responsible facility shall be advised and shall coordinate its placement and staffing.

#### **12020.10 Revisions**

The Assistant Director, OOC, or designee is responsible for ensuring that the contents of this article are kept current and accurate.

#### **12020.11 References**

SAM §§ 0731, 0732, and 0733.

GC § 3525.

DPA Rule 599.866.

### **ARTICLE 8 — CORRESPONDENCE**

*Revised July 19, 1995*

#### **12030.1 Policy**

Employees shall prepare written correspondence in accordance with the provisions of the Secretarial Handbook.

#### **12030.2 Purpose**

This section establishes guidelines for preparing the following types of correspondence:

- Administrative reports.
- Correspondence on behalf of the BPT or NAEA. Correspondence from the Department to BPT or NAEA.
- Inmate correspondence.

#### **12030.3 Preparing Correspondence**

Employees shall properly prepare correspondence and shall follow these general requirements:

- All incoming correspondence shall be answered promptly. Employees who cannot promptly answer correspondence shall acknowledge that they have received it and offer an estimated date for a complete reply.
- All prepared correspondence shall be proofread before being forwarded for approval/signature.

Each outgoing article of correspondence sent by staff from a State correctional facility shall be clearly labeled or stamped with the words State correctional

Facility on the face of the envelope or package. For the purposes of this section only, a State correctional facility also includes the Community Correctional Centers, Community Prison Mother Program facilities, Restitution Center, and Work Furlough Facilities. See DOM 54010.27 for additional details.

#### 12030.4 Administrative Reports

Employees who assign an administrative report shall:

- Explain the project in detail to the designated employee, giving all available information.
- Suggest any known references.
- Carefully outline the scope of the project.

The employee to whom the report is assigned shall:

- Perform necessary research.
- Formulate a tentative plan or solution.
- Check the tentative plan or solution with the affected person and report their concurrences and disagreements in the recommendations section of the report.

#### The Report

The report shall:

- Be prepared on a CDC Form 1617, State of California Memorandum, if a short report. If a lengthy report, the report shall be prepared on plain, white paper and transmitted with a CDC Form 1617 as a cover sheet.
- Be addressed to the employee who gave the assignment.
- Contain date and subject lines.
- Contain an introductory paragraph including a brief statement about the assignment.
- Contain a brief statement of recommendation(s), each followed by a justification.
- Fiscal or legislative implications shall appear in the recommendation and shall be elaborated on in the reasons for the recommendation.
- Documents needed to support the recommendation(s) shall be attached as appendices or exhibits.
- Any forms or directives needed to implement the recommendation(s) shall be attached.

The employee shall submit the completed project to their immediate supervisor for forwarding through administrative channels.

The employee who assigned the report shall notify the employee completing the report of the results.

#### 12030.5 Correspondence Addressed to the BPT or NAEA

Facilities may receive correspondence addressed to the BPT or the NAEA requesting information. Employees shall:

- Answer such correspondence using the appropriate paroling board letterhead if the correspondence regards individual parolees/releasees.
- Include the signature line of the board countersigned by the C&PR of the facility, followed by the name, address, and public telephone number of the facility.

Employees shall forward correspondence addressed to facilities concerning policies and functions of a paroling board to the appropriate paroling board for reply.

Correspondence regarding term-fixing or parole-granting functions of a paroling board received at a facility but which is not addressed to paroling board officials shall be forwarded to the C&PR for reply.

Associate Wardens in charge of reception centers shall sign responses to correspondence addressed to a paroling board but concerning inmates in reception centers. If the request for information concerns the board's actions or functions, the appropriate paroling board letterhead shall be used. The name, address, and public telephone number of the facility where the reception center is located shall follow the signature block.

#### 12030.6 Paroling Boards

Wardens and designated employees within facilities or Headquarters shall communicate with the appropriate paroling board (BPT or the NAEA) regarding scheduling or other problems.

Proposed changes in policy, procedure, or practice of the Department which may affect a paroling board's operations shall be coordinated by the following liaison persons:

Paroling Board	Institutions Division	P&CSD
BPT	Regional Administrator, Central/Operations	PA, Operations
NAEA	Regional Administrator, South/Programs	PA, Operations

#### 12030.7 Inmate Correspondence

Employees may use form letters to respond to inmate correspondence. However, each letter shall be individually typed or printed, not photocopied.

Facilities/ Parole Regions

Appropriate facility and parole region employees shall respond on CDC Form 1617 to incoming correspondence from inmates. Correspondence received from external persons regarding inmates that has been addressed to or referred to their facility, shall be responded to using official Department letterhead.

All employees shall forward correspondence as follows:

IF	THEN
Inmate has been transferred or paroled.	Forward to appropriate facility or parole region.
Inmate has been discharged.	Forward by route slip to the Archives Unit, CMF for reply.
Departmental identification number is known (CDC number).	Use OBIS terminal to determine current location and status, and forward to the appropriate facility, parole region, or Archives Unit for reply.
CDC number is known.	Forward to the Identification not and Warrants Unit Headquarters, which shall identify and route to the appropriate facility, parole region, or Archives Unit for reply.

A copy of the reply shall be sent to the appropriate Warden or parole region for inclusion in the inmate's C-File.

#### Headquarters

Headquarters' replies to correspondence from inmates or regarding inmates shall be prepared on letterhead stationery.

Headquarters employees shall adhere to established due dates (if attached) set by the Business Services Correspondence Control Unit (BSCCU) when responding to correspondence from or regarding inmates. If no due date has been attached, the employee shall respond within 15 working days. A file copy of the reply shall be sent to the inmate's C-File.

If the correspondence was forwarded from BSCCU, the attached CDC Form 972, Correspondence Referral Cover Sheet, shall be returned to the Unit with an indication of the date the response was mailed.

#### 12030.8 BSCCU

Correspondence received at Headquarters is reviewed first by the BSCCU. The BSCCU determines what correspondence will be controlled. Correspondence deemed necessary to control shall be handled as outlined in the DOM 12030.9 of this manual.

The following types of correspondence are not usually controlled by the BSCCU and shall be forwarded as shown:

Type of Correspondence	Forwarded to
Routine correspondence from facilities or parole regions	Mailroom
Correspondence marked "Confidential" or "Private"	Mailroom
Inmate appeal correspondence	Inmate Appeals Branch

#### 12030.9 Controlled Correspondence

The BSCCU divides correspondence it controls into two categories-large and small actions.

Large actions include:

- Governor's Office transmittals.
- Legislative correspondence.

- Correspondence from Directors of other State departments.

Small actions are any other correspondence received by BSCCU that requires a reply from the Department.

The BSCCU assigns due dates to large actions as follows:

- Governor's Office transmittals.
  - Two days before any given due date by the Governor's Office or YACA.
  - Five working days for as-soon-as-possible (ASAP) requests.
  - Ten working days if no due date is requested.

No extensions shall be allowed on Governor's Office transmittals.

- Legislative correspondence and correspondence from other Directors.
  - Two days before any requested due date--no extensions.
  - Five working days for ASAP requests--no extensions.
  - Ten working days if no due date is requested--an extension of up to three working days provided the request is made on or before the due date.

The BSCCU assigns due dates to small actions as follows:

- Two days before given due date (providing the due date is reasonable). No extensions shall be given if a reasonable due date has been requested.
- Fifteen working days for correspondence without a requested due date. An extension of up to five days may be given if requested on or before the due date.

The BSCCU shall:

- Handle Governor's Office transmittals by logging the date received, the information received, and the unit assigned.
- Assign the correspondence or Governor's Office transmittal to the appropriate Deputy Director or Assistant Deputy Director for response.
- Staple the CDC Form 972 to the incoming correspondence.
- Establish the due date and the date of referral on the CDC Form 972.
- Provide Chief Deputy Directors and Director with a weekly listing of overdue controlled correspondence.

#### **12030.10 Revisions**

The Deputy Director, OBS or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **12030.11 References**

SAM § 1641.11.

GC §§ 7525 and 7526.

Secretarial Handbook.

DOM § 54010.

### **ARTICLE 9 — ASSESSMENT OF THREATS AGAINST STAFF**

*Effective January 17, 2018*

#### **12040.1 Policy**

This policy establishes departmental goals and objectives as it relates to the assessment of threats against staff. Pursuant to Penal Code 5004.7 the California Department of Corrections and Rehabilitation (CDCR) shall investigate threats against staff by an inmate, youth offender, parolee, a family member or associate of an inmate, youth offender, or parolee. CDCR has a zero tolerance policy as it relates to threats, acts of aggression, and acts of violence.

#### **12040.2 Purpose**

The purpose of this policy is to establish a procedure when CDCR staff is threatened by inmates, youth offenders, parolees, and/or their families or associates. This policy describes how staff recognize and report such threats and what is required of management when they are alerted. This policy will address employee responsibilities for recognizing and reporting threats made by an inmate, youth offender, parolee, and/or their family or associates. This policy shall also apply to physical attacks on staff, or there is evidence that the threat to staff is ongoing.

#### **12040.3 Responsibility**

The Hiring Authority has overall responsibility for the implementation and maintenance of this procedure and all departmental policies that affect their area of responsibility.

It is the responsibility of all employees to immediately report threats, acts of aggression, or acts of violence to a supervisor and/or designated representatives. Threats must be verbally reported immediately, and must be

followed with a complete written report as soon as practical. The Department shall immediately investigate, assess, and verify the legitimacy of a threat and respond according to procedures described in this article.

#### **12040.4 Threat Definition**

A threat is an act (verbal or non-verbal) which expresses intent of malice, harassment, intimidation, or physical expression of intent to physically injure or harm someone else. Threats can be divided into the following categories:

- Direct Threat
- Hidden/Veiled/Implied Threat
- Conditional Threat
- Ongoing Threat

#### **12040.5 Threat to Staff by an Inmate, Youth Offender, Parolee, and/or Their Family or Associates**

A threat to staff by an inmate, youth offender, parolee, and/or their family or associates is any incident in which an employee receives a threat of abuse, harassment, or of physical harm in circumstances arising out of, or in the course of employment. The threat may be implied and may be received verbally or non-verbally (i.e., threatening gestures, in writing either through the mail or by introduction/discovery of an inmate note ["Kite"]). The threat can be made directly to the identified employee or may be relayed indirectly through a third party.

If a threat is made by a family member or associate of an inmate, youth offender, or parolee, the Hiring Authority or their designee shall notify the employee to take the appropriate action with the local law enforcement agency (i.e., report threat, restraining order, etc.). The Hiring Authority shall refer all threats made from outside an institutional setting and forward all pertinent documents to the Special Agent-In-Charge, Special Services Unit, Office of Correctional Safety (OCS). Should the Hiring Authority or designee determine that the threat investigation will require additional resources the Hiring Authority will contact their appropriate Headquarters supervisor who shall formally request OCS involvement in the threat assessment investigation.

#### **12040.6 Threat Assessment**

When an inmate, youth offender, parolee, and/or their family member or associate threatens a CDCR staff member, or if any staff member becomes aware of a threat to a CDCR staff member that arises out of or has a nexus to the staff member's employment, that staff member shall immediately notify their supervisor. The supervisor shall be responsible for relaying the information to the department head of the affected area and/or Administrative Officer of the Day (AOD). The supervisor shall be responsible for completing the necessary paperwork and immediately initiate a fact finding inquiry. This inquiry, depending on the circumstances, may include an interview of the suspect (if applicable) and any witness (staff/inmates/youth offenders/parolees) who may have been in the area at the time of the threat or who may have knowledge of the threat. If the suspect can be charged with criminal or administrative misconduct, the respective Hiring Authority or their designee shall ensure all safeguards are taken to ensure proper rights are given to the suspect prior to an interrogation. The supervisor shall also discuss the circumstances of the threat with the employee who was threatened and as soon as practical obtain a written report to contain all pertinent information from the employee regarding the threats as well as any background relevant to the investigation.

The purpose of the written report is to determine if the employee has knowledge a threat may exist and if they believe the threat is viable. The report will also be utilized to determine the nature of any interactions with the suspect in question. To determine the validity of the threat, this process shall be completed expeditiously, preferably the same day the threat was discovered. Delays in this process shall be communicated to the Hiring Authority or division head.

#### **12040.7 Anonymous and Non-Specific Staff Threats**

In situations where a threat is discovered anonymously or where no specific employee(s) has been identified, the assigned supervisor shall coordinate and conduct interviews of various inmates/youth offenders at the facility where the threat was discovered. These interviews shall encompass all demographics of the inmate/youth offender population ensuring a quality sampling of interviews is completed.

If a non-specific or anonymous threat is received from outside of an institutional facility and the assigned supervisor determines that the information received could reasonably pose a threat to the safety of staff, OCS shall be notified. The assigned supervisor shall coordinate and conduct interviews with various sources such as, but not limited to, local law enforcement, parolees, or community members in an attempt to validate the threat.



**12040.8 Threat Assessment Response Team**

The Threat Assessment Response Team (TART) shall consist of staff responsible for assessing the validity of, and establishing counter measures to, threats made against staff members. The affected Hiring Authority and division head shall determine whether to assemble a TART. The primary function of the TART should be to assess the seriousness of the threat and to determine what further action to take. The TART shall be comprised at minimum the following:

- Hiring Authority/Chairperson or designee
- Manager or Department Head of affected area
- Supervisor of affected area
- Supervisor of threatened employee
- Other representatives designated by the Hiring Authority

Additional committee members may be selected by the Chairperson's recommendation if the case factors support the need for additional members.

If the threat originates from an adult institutional setting, the on-duty lieutenant shall evaluate the removal of the inmate from the facility for placement in the Administrative Segregation Unit (ASU). If the threat originates from outside an institutional facility the department head, AOD, or designee shall make notification to local law enforcement. Actions such as the imposition of any special condition of parole (i.e., condition of no contact by parolee, parolee being in prohibited areas, etc.), or filing of restraining order shall be taken to ensure the safety of the threatened employee.

The Hiring Authority or designee shall bring all relative documentation to the TART meeting to present the case for review. The TART shall review all data related to the threat, including the inmate's, youth offender's, or parolee's departmental records. All submitted documentation, memorandums, and/or notes from inmate/youth offender/parolee or other involved parties and any other pertinent information which may shed light on the suspect's propensity for violence or ability to commit violence shall also be reviewed.

The TART may delegate assignments, ensure concerns are adequately addressed, and convey recommendations to the Hiring Authority for review and approval. The team shall be responsible for and/or review the following:

- Program review.
- Removal of the involved staff.
- Assignment of specific tasks – The team may recommend further investigation, interviews, and/or referral to the Office of Correctional Safety to ensure the threat is adequately assessed and addressed.
- Results and recommendations made by the TART shall be noted in the meeting minutes and immediately forwarded to the Hiring Authority for review.
- In a case where the investigation is completed by an outside law enforcement agency, the Hiring Authority or designee shall follow up with that agency.
- The Hiring Authority or designee shall notify the employee of the outcome of the investigation as allowed by law once the investigation has been concluded, and notify the employee of any subsequent information pertinent to the threat.

All documents gathered during the fact finding inquiry and the threat assessment review shall be forwarded to the Hiring Authority or designee, who shall be responsible for maintaining all Threat Assessment records and appropriate tracking log(s).

**12040.9 Training**

The department shall provide training pursuant to this section as part of its existing training programs.

**12040.10 Revisions**

The Deputy Director, Facility Operations, Division of Adult Institutions, shall ensure that the content of this section is accurate and current.

**12040.11 References**

PC §§ 76 and 5004.7.

18 USC 871.

CCR § 3382.

Occupational Safety and Health Administration (OSHA) 2001 Workplace Violence, Washington DC: US Department of Labor.

California Department of Corrections and Rehabilitation, Office of Victim Services and Restitution.

**12050.1 Policy**

An effective and efficient flow of written communication shall be maintained throughout Headquarters, institutions, and the parole division.

**12050.2 Purpose**

This section outlines specific requirements for sending and receiving departmental mail throughout the various divisions within the Department. In addition, it outlines steps to be taken to obtain reproduction services for departmental written material.

**12050.3 Mail Distribution (Headquarters)**

The mailroom messengers deliver the mail to each office two times daily as follows:

- Headquarters - 10:00 a.m. and 2:00 p.m..
- Other Sacramento buildings except Region I Headquarters and Parole field offices - 10:30 a.m. and 2:45 p.m..

Outgoing mail is picked up at the same time the mail is delivered.

There are two scheduled mail runs daily between the YACA and the Department at 10:30 a.m. and 2:30 p.m.

A mail tray is available in The Director reception area for mail to the YACA.

**Interagency Mail Service (IMS)**

Interagency mail to be sent to other state departments or facilities throughout the Sacramento area shall be placed in messenger service envelopes. On the envelope the following items shall be placed:

- IMS code number.
  - The use of the code number expedites delivery of mail to state departments, as interagency mail is sorted by these numbers.
- Name of department.
- Name of the person or position title.
- Address (or building).
- Room number (or floor).

This mail is collected on regular departmental mail runs and picked up by IMS at approximately 10:00 a.m. daily. Mail addressed to any location not on the current "IMS Listing of Locations" shall not be delivered by IMS.

Correspondence shall be properly addressed and routed directly to the mailroom from all Headquarters locations within the Sacramento area as all departmental mail is sent out directly from the mailroom. The mailroom uses pre-labeled envelopes for sending routine correspondence; however, large envelopes in excess of 10" x 12" and all packages too large for consolidated mailing shall be packaged and labeled by the sending unit.

All mail sent to the institutions (with a route slip attached or in an envelope) shall be combined in the mailroom into a bulk rate, first class envelope unless otherwise specified.

**Processing Deadline**

Mail received in the mailroom after 4:00 p.m. is processed the following day unless it is classified as an "expedite." Expedite mail shall be accommodated based on mail deadlines set by the Department's private contract carrier and/or the USPS.

**Express Mail**

Express mail shall only be used when it is imperative that delivery be made the following day. The express mail carrier that is specified in the current statewide master service agreement shall be used for mail between locations subject to the master service agreement. For telephone or FAX use refer to DOM 12070.

**Personal Mail**

Mailroom personnel shall pick up personal mail for Headquarters employees during their daily scheduled mail runs. However, this pertains to envelopes and small packages only. Large personal packages and large bulk quantities, such as Christmas mail, shall not be handled by the mailroom. All personal mail shall have proper postage and address ready for delivery. The mailroom does not stock nor sell postage stamps and shall not meter personal mail.

**USPS Delivery**

Outgoing mail is delivered once daily to the USPS, 801 I Street, at approximately 4:20 p.m.

**Re-Use of Envelopes**

For distribution purposes, whenever possible, all sizes of clasp-type manila envelopes shall be saved for re-use if the envelope has not been sealed with tape or damaged.

**ARTICLE 10 — STATE BUSINESS MAIL**

*Revised March 6, 1995*

**12050.4 Institutional Mail (Employee)**

Institution mailroom supervisors shall ensure timely processing and delivery of employee mail on a daily basis.

All intra-institutional mail shall be processed through the mailroom. Inmates shall not be used for delivery of mail. All inter-institutional mail and correspondence with the public shall be handled by the USPS by the institution mailrooms.

Institutions shall also restrict the use of express mail in accordance with the provisions of DOM 12050.3.

Mailrooms shall not meter personal mail.

Employees who have business or private letters which will be mailed by institutional mailrooms shall deliver their mail to the mailroom in person or shall place their title or rank with the return address on the outside of the envelope. Use of institution business mailing address for personal mail, however, is discouraged.

Inmate mail is addressed in DOM 54010 of this manual.

**12050.5 Mail Distribution P&CSD**

All inter-office mail for the P&CSD shall be handled by the USPS or contract courier service.

The restrictions in DOM 12050.3 apply to use of express mail service.

**12050.6 Route Slip Usage**

Various forms designated as route slips are used within the Department for distribution purposes. These forms may be obtained by ordering from supply. A partial list is:

- Message (STD. Form 7).
- Headquarters' Route Slip (CDC Form 271).
- Institution Route/Accounting Services Branch Slip (CDC Form 290).
- Messenger Route Slip (CDC Form 832).
- DAPO Route Slip (CDCR Form 271-B).

**12050.7 Referral Memorandum (CDC Form 982)**

This form, which is often called a "blue referral", is used to forward any type of written communication that requires an action on the part of the recipient (e.g., letters, memorandums, bulletins, manual revisions, reports, etc.) through administrative channels.

Addressee's position or name shall be placed on the line that immediately follows each number. After receipt, addressees shall initial next to their name or position and add the date signed.

- See DOM 12010 of this manual for the routing of policy directives (e.g., bulletins and manual revisions).
- See DOM 12030 of this manual for the routing of correspondence to the Director and Chief Deputy Director.

**12050.8 Incident Reports**

Per DOM 51030, two copies of all incident reports occurring in the institutions are sent to Headquarters (three copies in event of an assault resulting in death).

The incident reports are distributed by the Institutions Division:

- One copy is routed to OISB for entry of necessary data into computerized database maintained by OISB. This copy is then forwarded to archives.
- The second copy is reviewed by the staff of Institutions Division, who route a copy to other Headquarters staff depending on the type of incident.

**12050.9 Institutional Staff Meeting Minutes**

Per DOM 31120, various staff meeting minutes are routed to Headquarters for informational purposes. Three copies are mailed to Headquarters to the following:

Type of Meeting	Mailed to
Warden	Deputy Director Institutions Division
Associate Warden Business Services	Deputy Director Administrative Services Division
Program Services Staff	Deputy Director Institutions Division
Prison Industry's Staff	General Manager CALPIA
Medical and Psychiatric Staff	Assistant Deputy Director HCSD
Trade Advisory Committees (TAC)	Chief, Education and Inmate Program Services

The LAD-PMU, Headquarters, maintains one copy of institution staff meeting minutes.

**12050.10 Reproduction**

Reproduction (other than forms) for institutions and parole units shall be accomplished using local office copiers and/or vocational/industrial printing programs. Large reproduction needs which cannot be handled by the above shall be met by submitting requests directly to the Office of State Publishing (OSP).

All material to be reproduced (other than forms) for Headquarters units shall be submitted to the departmental reproduction center, with a completed STD. Form 51, Reproduction Order.

All material being submitted shall be ready to be reproduced (i.e., no staples, removed from binders, separated from material not being reproduced).

State owned copying and duplicating equipment shall not be used for other than official state business.

**12050.10.1 Departmental Reproduction Center Capability**

The departmental reproduction center is capable of providing the following services:

- One-sided or two-sided copies.
- Copies from originals using paper of weights ranging from 16 pounds to 110 pounds, (i.e., letterhead to cover stock) and from pasted or taped originals.
- Reduction from originals as large as 11" x 17."
- Copies of continuous computer forms.
- Stapling (a maximum of 100 pages) and arranging in sequence (collating).
- Duplication of manuals, reports, etc., as long as the originals provided do not have book binding and are not copyrighted.

All reports of more than one page shall be duplicated on both sides of the paper. This reduces the bulk in handling, mailing, and filing.

**12050.10.2 Completion Schedules**

All jobs shall be completed within five working days. Expedite jobs shall be delivered to, and approved by, the reproduction center supervisor. Very large jobs needing to go to OSP may require additional days.

**12050.10.3 Quantity Limits**

The number of copies to be made from each original determines where the copies shall be made as follows:

No. of Copies Per Original	Equipment
20 copies or less	Office or floor copiers
21 to 350 copies	Departmental Reproduction Center
Over 350 copies	OSP

**12050.10.4 Mass Mail Orders**

All reproduction orders that shall be mass mailed by OSP shall be submitted to the reproduction center supervisor with a completed STD. Form 50.

**12050.11 Revisions**

The Deputy Director, OBS or designee shall ensure that the contents of this article are accurate and current.

**12050.12 References**

SAM §§ 2200 and 2800.

**12050.13 Forms**

CDC Form 271, Headquarters' Route Slip.

CDC Form 290, Institution/Accounting Services Branch Route Slip.



CDC Form 832, Messenger Route Slip.  
 CDCR Form 271-B, DAPO Route Slip.  
 CDC Form 982, Referral Memorandum.  
 STD Form 7, Route Slip.  
 STD Form 51, Reproduction Order.  
 STD Form 50, Mass Mailing.

## ARTICLE 11 — PUBLICATIONS

*Revised March 14, 1995*

### 12060.1 Policy

The United States (U.S.) Copyright Act establishes requirements for publication and reproduction of published material. The Director requires adherence to the Copyright Act in preparing manuals, booklets, leaflets, and other written material.

### 12060.2 Purpose

This section provides guidelines for the printing or reprinting of local procedures, manuals, and other written material to avoid copyright infringement and expense of litigation against the Department and to ensure that their content is consistent with departmental goals and objectives.

### 12060.3 Publications Written By Employees

Any manual, leaflet, book, newsletter, or other publication on a subject related to the Department which would normally qualify as a public record and involve distribution to staff, organizations outside the Department, Legislature, general public, news, media, and/or for submission to an outside professional journal/paper shall require review by the Assistant Director, Communications, and approval in writing by the Director prior to submission, issuance, or distribution.

Any such articles written by employees for submission to professional journals or other outside publications shall be forwarded through administrative channels to the Assistant Director, Communications, who may request comments from interested Deputy or Assistant Directors before the article is forwarded to the Chief Deputy Director.

When any employee prepares a manual, book, leaflet, newsletter, or other publication as part of the employee's official duties, the employee may obtain a copyright on such publication at the employee's own expense. However, that copyright shall be deemed to be held in trust for the Department, as the works copyrighted shall directly or indirectly have pertinence to the Department.

See DOM 14020 for the publication of research reports and findings.

### 12060.4 Production of Publications in the Facility Print Shops

Publications for public distribution may be produced in a vocational graphic arts print shop, but only with the prior approval of the Director. Publication of a sensitive nature (based on the IPA) shall **not** be produced in the CALPIA or Vocational Education print shops as it would allow inmates access to such material.

#### Public Distribution

"Public distribution" means documents that qualify under the Public Record Act, GC 6250 for distribution to the public, exceptions are specified within the Act but generally do not include the types of materials included in this Section. Publications for public use will be printed by OSP, CALPIA, facility vocational education or commercial printer with approval from the Director or designee. These publications may include the annual report of the Department.

#### Local Materials

Booklets and other written material (i.e., IST pamphlet, newsletter, etc.) reviewed by the Assistant Director, Communications, and approved by the Director may be produced within the facility, utilizing the facility vocational graphic arts print shops, and distributed locally upon written approval of the Warden. A copy of this approval shall be forwarded to the Assistant Director, Communications, for filing with the PMU at headquarters.

The vocational graphic arts print shops may print or reprint local procedures and the various IST manuals.

#### Funds

Funds for the printing expenses must be available prior to the production of such books, reports, leaflets, or documents in the vocational graphic arts print shops of the facilities or by OSP, DGS, and CALPIA or a commercial printer. Prior to the submission of any copy to the vocational graphic arts print shop, the provisions of DOM 22040 shall be followed.

### 12060.5 Depository Libraries

Publications produced by Department or at the State Printing Plant shall be sent to each complete depository library in the State.

- Depository libraries are those libraries that apply to contract with the State, through DGS, to maintain all State publications.

SAM 3122.2 et seq., address the distribution of publications outside the Department.

Copies of the CCR are sent to depository libraries by OSP.

### 12060.6 U.S. Copyright Act

#### Rights of Copyright Owner

In the reprinting of copyrighted articles, or duplication of copyrighted films, video, or audio tape recordings, careful review and caution shall be exercised to protect the State and this Department from censure or civil suit. The U.S. Copyright Act states precisely which uses or rights are reserved exclusively to the copyright owner. Employees using or reprinting copyright materials shall have specific knowledge of copyright laws.

#### Exclusive Rights

The Copyright Act gives to the copyright owner of books, periodicals, and all related contributions, the following exclusive rights:

- To print and reprint. To print is not only to print in type but also to multigraph, write, duplicate on video or audiotape, film, or reproduce by any other means.
- To publish. To publish means to reproduce in copies for sale or distribution to staff, inmates, parolees, or the public.
- To copy. To copy includes any wholesale rewriting of the material, whether literal copying or not, and is not confined to literal repetition but includes various methods in which the matter of any publication may be adopted, initiated, or transferred with more or less colorable alteration.
- To vend. To vend refers to the control by the copyright owner not only of the first sale but also of leases, licenses, and assignments.
- To translate or make other versions.
- To deliver or present in public for profit.
- To make any transcription or record by which it can be exhibited, presented, or reproduced.
- To play or perform it for profit, and to exhibit, represent, or reproduce it in any manner or any method whatsoever.

#### Permission

Permission in writing shall be obtained in every case where a copyrighted item is reprinted. The original of the permission to copy shall be filed in the requestor's division.

Permission to use copyrighted works must be granted by the copyright owner or the owner's agent. If the copyright has been assigned, the assignee's permission is needed. If it has been licensed, the copyright owner's permission is needed. With joint owners, one will do, but both are better. Approval of requests to use copyrighted material may be delegated to the publisher.

For any extended reprint or quotation, specific rights that are given (i.e., periodical publication, use in a trade or text book, use of material from a specific edition or any other edition, etc.) should be in writing.

For all practical purposes, "copyright" and "all rights reserved" are one and the same.

### 12060.7 Infringement

Magazine articles, short stories, poems, films, videotapes, audiotapes, television programs, motion pictures, computer software, video games and contributions to periodicals, newspapers, are usually copyrighted as part of the magazine, book, periodical, newspaper, video recording, motion picture, television program, computer software, video game, audio recording, if never before published.

Illustrations, cuts, or pictures in a book are protected by the book copyright.

Pictures that are not attached to the binding, but are in a separate pocket or folder, are protected by the book copyright.

News, as such, is not subject to copyright since it is "fact" and therefore belongs to the public but reproduction of articles and television news segments for distribution may infringe on copyrights. Consult with the Assistant Director, Communications, or Deputy Director, LAD, for guidance in advance of such reproduction.

Material that has previously been copyrighted does not lose its copyright by being included in a government publication that is in the public domain.

The copy does not have to be "sold" to be an infringement of the original.

**12060.8 Use of Material**

A distinction must be made between use for libraries and classrooms and by other entities. Copies may be made by libraries and classrooms in the following situations:

**Libraries and Classrooms**

- To repair damaged printed works already contained in the library.
- No copies of video or audio recordings, films, motion pictures, computer software are permitted without the expressed written permission of the copyright holder or possession of a license from the copyright holder for such reproduction.
- To provide a small number of copies for in-house administrative work in the particular agency.
- To provide attorneys and courts with a single copy for use in litigation.
- To provide copies for library or classroom as long as the portion copied is not a substitute for the entire original work.

**Other Entities and Individuals**

For entities other than libraries and classrooms:

- No quotation over 500 words should be used without permission.
- Use of anthologies, compilations, collections, symposia, digests, reprints, etc., should never occur without a notice which acknowledges the copyright status of borrowed material and without the written permission of the copyright owner.
- Use of copyrighted material from periodicals or newspapers should be done only with written permission of the copyright owner.

Quotations or material under foreign copyright should be handled the same as domestic copyrighted items.

Any extensive, typewritten, multi-graphed, or privately printed copy, abridgment, outline, or digest of copyright material for distribution to a school, church, club, or similar group should be made only with the consent of the copyright owner.

**Department Publications**

When copyrighted material is used in a Department publication, each facility, parole region, and division shall forward the printing request, and the original copy of the material to be printed and of the permission to copy to the Assistant Director, Communications, in headquarters.

The Assistant Director, Communications, shall have the original of the permission to copy filed in LAD-PMU.

**12060.9 Audiovisual Works**

The Department will adhere to all copyright requirements related to audiovisual works.

**12060.10 Employee Association Publications**

The provisions of this section shall not stop any association of employees from publishing an association newspaper or other publication. The provisions of DOM 12060.6 apply to Department employees when they contribute articles for association publications. Such publications shall be at the expense of the associations and shall not be prepared or reproduced, in whole or in part, at any facility vocational graphic arts print shop.

**12060.11 Facility Publications**

For further information, readers are referred to DOM 53100, which covers facility publications.

**12060.12 Revisions**

The Assistant Director, Communications, or designee, shall ensure that the content of this section is accurate and current.

**12060.13 References**

17 USC §§ 101 et seq.

GC §§ 14900 et seq.

SAM§ 3122.2 et seq.

**ARTICLE 12 — TELEPHONE, FACSIMILES, AND CELLULAR TYPE****TELEPHONES**

*Revised April 22, 2005*

**12070.1 Policy**

State issued telephones, facsimile (Fax) machines, and cellular type telephones shall be used for Official State Business only except for emergency situations where no other alternatives are available.

**12070.2 Purpose**

The purpose of this Policy is to establish requirements regarding California Department of Corrections and Rehabilitation (CDCR) employee use of State issued telecommunication equipment and outline boundaries and security measures where this equipment is subject to inmate proximity. This Article refers to cellular telephones to include, but is not limited to, cellular, portable, mobile, etc., as cellular type telephones.

**12070.3 Telephone**

Use of any State issued telephones as defined above shall be limited to conducting CDCR business with exceptions for employee's personal calls provided; however, that such use of State telephones shall not incur additional charges to, or interfere with, the operation of the State and requires advance approval by an employee's supervisor.

**12070.4 Responsibility**

Headquarters', Division of Support Services (DSS), Business Management Branch (BMB) is designated as the coordination point for telephone listings. BMB shall ensure that telephone directories are current.

**Communications Representatives**

Communications representatives at the facilities shall review and sign the Standard (STD) Form 20, Telecommunications Service Request, prior to submission to the Department of General Services (DGS) or service provider. For all other operations, BMB shall serve as the communications representative.

**Supervisors**

Supervisors shall inform employees of expectations and requirements regarding the use of all State issued telephones and shall monitor the use of them. This includes, but is not limited to:

- Ensuring appropriate use of all State issued telephones.
- Determining when permission may be granted for an employee to make a personal call on any State issued telephone.
- Reviewing toll calls made by employees under their supervision (checking for abuses), as requested by Accounting Office personnel, and if deemed appropriate, initiating necessary corrective action, including a recommendation for disciplinary action.
- Arranging for the collection of charges for personal calls made by employees.

**12070.5 Switchboard Placements and Coverage**

Facility switchboards shall be placed in the control room or other location affording protection from the inmate population. Employees assigned to a particular shift, other than regular business hours and trained in the operation of the switchboard, shall provide coverage of the switchboard. A separate telephone operator shall be provided during regular business hours.

**12070.6 Inmate Access to all State Issued Telephones**

Safeguards shall be implemented to ensure that inmates do not have access to any State issued telephones with the capability of placing/receiving outside calls. These safeguards may include, but are not limited to:

- Locking rooms that contain telephones.
- Using locking devices on telephones.
- Unplugging telephones and removing them from inmate accessed locations.
- Disconnecting telephone extensions from switchboards.

State maintained facility telephone lines that have outside capabilities and which are accessible to inmates (to include residences on facility grounds) shall pass through facility switchboards.

- Switchboard operators shall ensure that a State employee is answering at a given location by requesting name identification.
- Inmates shall be required to answer a phone by saying, "inmate (name)."

**12070.7 Emergency Lines (Facility)**

Wardens residing on facility grounds shall be provided with private direct dial telephone systems for emergency use.

**12070.8 Emergency Lines (Camp)**

Based on the necessity for immediate availability of correctional employees in charge of camps, telephone service shall be provided to those camp lieutenants residing in State housing on the grounds. The cost of this telephone service shall be paid by the parent facility.

The employees shall pay any expenses of personal telephone calls made from their residences to the parent facility.

**12070.9 Private Telephone Lines**

Employees who live on facility/camp grounds shall make their own arrangements for personal telephone service directly with the telephone company. This service shall not pass through facility/camp switchboards.

At several facilities there are residence phones that are tied to an inside-the-prison (nonpublic) telephone system. Existing systems shall continue to be used, but those systems shall not be expanded to include additional residences.

**12070.10 Modification**

Facilities primarily own and operate their own telephone systems; however, some facilities may contract for certain telephone related services through local telephone companies. Any major modifications affecting the services rendered by telephone companies shall be submitted to the Telecommunications Division, DGS, through the facility business manager. Modifications to CDCR owned systems are not subject to the above.

**12070.11 Telephone Credit Cards**

Telephone credit cards shall be issued to supervisors and managers and used in lieu of third party or collect telephone calls when possible.

Telephone credit cards shall not be issued to staff except on a "need" basis with approval of the employee's Branch Chief (headquarters employees) or facility business manager (for facility employees). Facilities shall obtain credit cards from their local telephone companies.

Parole field agents, based upon the nature of their duties, shall be issued credit cards upon the approval of their unit supervisor.

**12070.12 Telephone Listings**

The headquarters' telephone directory shall be updated on a regular basis by the BMB.

Off site headquarters' buildings, facilities, and parole offices shall maintain separate telephone/employee information rosters. All changes, additions, or deletions shall be updated and retained locally.

All revisions to State directories shall be directed to the BMB via respective division heads (or designees) for approval and transmittal to the Telecommunications Division, DGS, or the telephone company concerned.

The Telecommunications Division, DGS, submits periodic revisions to the CDCR telephone listing coordinator for current updates of State telephone directories. Changes shall be forwarded to the facility or division's communications representative for review and returned to the BMB with appropriate changes.

**12070.13 Personal Use of Telephone**

When economically feasible for the local telephone company, pay telephones shall be made available for use by State employees and other persons who may need to make a personal call from CDCR facilities.

**Personal long distance calls**

Personal long distance calls shall not be made from State issued telephones (with or without telephone credit card issued by CDCR) unless:

- An employee's supervisor has authorized the call.
- Arrangements have been made for the call to be either:
  - Billed to the caller's home telephone.
  - Placed collect.

**Personal local calls**

Personal local calls shall be made:

- During breaks or lunch periods.
- Never on State issued cellular, portable, and/or mobile telephones, except in emergencies outlined below.

**Emergency phone calls**

Emergency phone calls shall be made when no other alternatives are available. If the emergency is of a personal nature, the employee shall reimburse the State. If the emergency is not personal and the employee uses their own telephone, the employees can be reimbursed using a travel claim.

**12070.14 Privacy of Authorized Calls**

Authorized personal phone calls by an employee shall not be monitored or recorded.

The wiretapping or monitoring of authorized/unauthorized personal calls, confidential or not, by CDCR employees over CDCR or State telephone systems is prohibited except as authorized by an order of a court having jurisdiction over the institution, facility, or office, and obtained under Penal Code (PC) Section 629.50 et seq., or as authorized under PC 633. These exceptions apply only to the investigation of cases involving criminal conduct by employees and/or inmates. In all cases where CDCR investigators request court orders under PC 629.50 et seq., or through local law enforcement

involvement under PC 633, the Deputy Director, Law Enforcement and Investigations Unit will first be notified.

Wiretapping or monitoring of employee telephone calls in cases involving administrative violations is prohibited.

**12070.15 Telephone Etiquette**

When answering the telephone, certain rules of etiquette shall prevail as follows:

- Arrangements shall be made for staff to answer the telephone at all times during working hour (Monday – Friday, 8:00 a.m. – 5:00 p.m.). In noncustody environments, use of voice message systems may be used sparingly in absence of staff and ensuring all messages are responded to in a timely manner.
- Staff answering the telephone shall clearly identify themselves and the office in which they are working. Staff shall be courteous and tactful.
- If staff cannot assist the caller, they shall refer the caller to a knowledgeable source.
- Supervisors and/or staff shall keep employees who answer their telephones informed as to their whereabouts and/or approximate time of return.
- If the supervisors and/or staff requested are unavailable, the caller shall be asked if they wish to leave a message or be transferred to the employee's voice mail (if appropriate).
- Telephone messages shall be accurately recorded on STD Form 7, Message Transmittal.
- If supervisors or their staff want to know who is calling prior to accepting a call, the employee answering the phone shall ask who is calling in a polite manner.
- If it is necessary to place a caller on hold, let the caller know that this is being done. The caller should not be kept on hold for an extensive length of time. Check with the caller periodically to assure the caller that they have not been forgotten.

Office and facility directions should contain instructions for placing long distance calls, conference calls, and other services depending upon the system used.

**12070.16 Transfer of Calls**

If a party is calling from an outside number, the call may be transferred. Before transferring a call, the calling party should be informed of the number to which the call is being transferred in the event of disconnection.

**12070.17 Facsimile**

Numerous fax machines are located throughout the CDCR for transmitting urgent information between field locations and headquarters. These include, but are not limited to:

- Transmissions of all serious Incident Reports.
- Sending and responding to requests for emergency/urgent information needed by headquarters and/or facilities.
- Economic transmission of information.

**General Information**

Because of the nature of operations, the use of Signature stamps by officials and employees in the performance of official duties is prohibited in all facilities of CDCR when transmitting via fax. In order to reduce multiple signing requirements on the part of key personnel, assistants may be extended the authority to sign in their behalf.

Regional parole offices shall transmit emergency incident reports and other urgent information to the fax machine located in the Division of Adult Parole Operations, headquarters.

Incident reports received by the Division of Adult Institutions, Identification and Warrants Unit, shall be delivered to the appropriate employees.

The fax machines shall not be used as a substitute for the mail system unless economically feasible. Monthly reports, operational procedures, and general informational items shall not be transmitted unless specifically requested by a Deputy Director or Associate Director.

- Facilities: Fax machines shall be housed in a secure area, accessible only to staff.
- Regional parole offices and field offices: Fax machines in these locations shall be housed in a secure area, accessible only to staff.

As with telephones and other equipment, fax machines are to be used for official CDCR business only.

### **12070.18 State Issued Cellular (Portable, Mobile, etc.) Type Telephones**

The following outlines classifications/titles and functions that have been designated for assignment of cellular telephones at management discretion:

- Secretary
- Undersecretary
- Executive Director
- Assistant Secretaries
- Chief Deputy Secretaries
- Directors
- Chief Deputy Director
- Regional Administrators
- Parole Regional Administrators
- Ombudsmen
- Chief Medical Officers
- All Case Carrying Parole Agents
- Special Agents
- Wardens
- Chief Deputy Wardens
- Associate Wardens
- Correctional Administrators
- Health Care Managers
- Crisis Response Team Commander
- Tactical Leader
- Negotiation Leader
- Units with staff involved in the transport of inmates and those units that are required to work at locations where there are no communication devices available.
- Staff who are required to travel outside of their office and/or outside of normal business hours. The cellular telephones will be assigned to each unit rather than an individual. The units will assign cellular telephones to individuals on an as need basis.

All requests for purchases of new cellular telephones outside of this policy require the written approval of the appropriate, Director, Deputy Director, Associate Director, or Warden or Chief Deputy Warden.

There will be no personal cellular type telephones, Personal Digital Assistants (PDA), or other equipment with these capabilities allowed within any institution setting with the exception of a true medical condition approved by the Warden accompanied with a doctor's statement with a beginning and ending date.

If staff chooses to bring the above listed devices into an institution setting without prior approval, they may be subject to disciplinary action. Leave personal cellular type telephones, PDAs, or other equipment with these capabilities at home or in personal vehicles.

#### **Purchasing/Replacing a State Issued Cellular (Portable, Mobile, etc.) Telephone**

The Department of General Services has entered into a California Multiple Award Schedules (CMAS) and Western States Contracting Alliance (WSCA) with multiple providers for cellular type telephone equipment and service. For a current list of cellular type telephone equipment and service providers, contact the BMB. Institution staff will need to refer to the CMAS/WSCA for a current list of cellular providers and general terms and conditions.

If a field office/institution is outside of the service areas that the CMAS/WSCA covers, it is permissible to enter into a contract with a local vendor. Contact the Office of Contract Services for information and instructions.

To purchase or replace a cellular type telephone(s), submit a signed BMB Services Request (SR) with a completed Intra-Office Requisition, CDC Form 954, to BMB, signed by a Staff Services Manager III or above, or designee. Institution staff will need to submit the completed CDC 954 to their respective Business Services Office. All information will need to be included on the CDC 954. A rate plan guide will be provided by BMB upon request to the divisions/offices/regions telecommunications contact. Each Institution Business Services Office can request a rate plan guide directly from contracted service providers.

If a cellular type telephone is inoperable or obsolete and is no longer used, staff must notify BMB using a SR to have the service discontinued so that there are no further charges. Institution staff will need to contact their

Business Services Office for direction. Cellular telephones must be surveyed out by completing a Request for Disposition of Equipment or Furniture (STD 152) form. Send the completed request along with the inoperable/obsolete cellular telephone(s) to BMB. Institution staff will need to submit their completed request to the Business Services Office.

#### **Lost, Stolen, or Destroyed Property Equipment**

If a cellular type telephone is lost, stolen, or damaged, the employee must notify BMB or the Business Services Office at the Institution to have the service discontinued so that there will be no further charges. Lost, stolen, or damaged cellular type telephones must be surveyed by completing a STD 152 form.

The State Administrative Manual (SAM) Section 8643 states: "Whenever property is lost, stolen, or destroyed, departments will prepare a STD 152 form. The department will adjust its property accounting records and retain the Property Survey Report as documentation." The report will contain: "(1) A description of the events; (2) Precautions to be taken to prevent repeat situations; and (3) A statement that the California Highway Patrol (CHP) has been notified. Losses of State Property due to fraud or embezzlement will be reported to Department of Finance, Office of State Audits and Evaluations and the Bureau of State Audits. See SAM Section 20060. Employees may be charged for any loss and damages to State Property due to negligence or unauthorized use."

It is at the discretion of the Hiring Authority for each Division/Parole Region to determine if an employee will be required to reimburse the State (CDCR) for the cost of replacement equipment.

#### **Purchasing of Accessories**

It is prohibited to purchase any accessories outside of the normal purchasing process. (DOM 22030.3 "No employee shall commit to a vendor for the purchase of merchandise or services prior to receiving approval and the preparation of a purchase document.") Purchases are not to be made through a local vendor and charged against cellular telephone accounts. Any purchases obtained by this means are subject to being charged back to the employee.

#### **Issuance and Tracking of Cellular Type Telephones**

When a cellular type telephone is purchased and received, BMB or the Institution Business Services Office will place a property tag on the cellular telephone to track as sensitive equipment. The cellular type telephone will be activated and assigned to the appropriate division/office/region/institution.

BMB or the Business Services Office at the Institution will track the assignment of cellular type telephones by maintaining a tracking log. Cellular type telephone service charges are billed monthly directly to the respective division/office/region/institution.

#### **Changing Rate Plans**

To change a rate plan, contact BMB by telephone or e-mail. A division/office/region can request the most recent rate plans offered by their service provider. After reviewing the plans and making a selection, the division's/office's/region's liaison must contact the BMB analyst with the new calling plan name(s) and all cellular numbers to be placed under the new plan. Institution staff will need to contact their Business Services Office for directions. Changes to calling plans will only be made once every three months.

#### **Changing Service Provider**

Changing service providers involves changing existing equipment, which can be costly and inconvenient. Service providers (i.e., AT&T Wireless or Nextel) will not activate cellular telephones not purchased directly from them. To change providers, submit SR to BMB accompanied by a CDC Form 954 purchasing new cellular telephone(s), accessories, and service provider. Institution staff will need to submit the completed forms to their respective Business Services Office.

#### **12070.19 Revisions**

The Director, DSS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **12070.20 References**

PC §§ 629.50 et seq., and 633

State Administrative Manual, Chapter 4500

State Administrative Manual §§ 8643 and 20060

**ARTICLE 13 — Public/Media Information***Revised June 2, 2009***13010.1 Policy**

Correctional institutions and programs are operated at public expense for the protection of society. The public has a right and a duty to know how such facilities are operated and programs are being conducted. It is the policy of the California Department of Corrections and Rehabilitation (CDCR) to make known to the public, through the media, through contact with public groups and individuals, and by making its public records available for review by interested persons, all relevant information pertaining to operations of the CDCR institutions. However, due consideration will be given to all factors which might threaten the safety of the institution in any way, glamorize crime or individual criminals, or unnecessarily intrude upon the personal privacy of inmates and staff. Wardens/institution heads, Regional Parole Administrators (RPAs), and their designees shall provide for a professional bridge of communication linking the public in a positive manner to the CDCR.

**13010.2 Purpose**

This Article defines staff responsibilities for relaying information to the public. It specifies who shall make contact with the media, how and when the media may enter facility grounds, and for what purposes.

**13010.3 Requirements**

The CDCR's Public Information Program attempts to make known to the public all relevant information pertaining to operations of the CDCR. This occurs through the media, through contact with public groups and individuals, and by making its public records available for review by interested persons. The CDCR's public information efforts require an attitude of cooperation and responsiveness in dealing with the media.

The CDCR also has the responsibility to protect the privacy, safety, and other rights of inmates and members of the staff. Furthermore, the CDCR is committed to protecting crime victims from the unnecessary disclosure of information that may traumatize victims, family, and friends or glamorize criminals and their actions. Accordingly, media access to an institution shall be regulated to ensure the orderly and safe operation of that facility.

Further guidance can be obtained from CCR, Title 15, Division 3, Sections 3141, 3170 through 3179, 3260 through 3262, and 3450.

**13010.4 Designation of Public Information Officers (PIO)**

Each institution and parole region shall designate an appropriate staff member as a Public Information Officer (PIO). The PIO shall coordinate public information and community relations programs. The Press Secretary, Office of Public and Employee Communications (Communications), or designee shall participate in all institution and parole region PIO interviews. Final selection is the responsibility of the Warden/institution head or RPA with the concurrence of the Assistant Secretary, Communications. Prospective vacancies require written notification to the Assistant Secretary, Communications, via the Director, Division of Adult Institutions (DAI) or the Director, Division of Adult Parole Operations (DAPO), or the Chief Deputy Secretary, Division of Juvenile Justice, as soon as the prospective vacancy is anticipated.

Each institution and parole region shall have a designated staff member on duty or available by telephone to the media at all times. Basic responsibilities include responding to media inquiries with factual details after consulting with the Administrative Officer of the Day (AOD) or the regular PIO.

Institution PIOs shall be the Warden's/institution head's Administrative Assistant, Correctional Lieutenant, or equivalent non-custody classification. Parole region PIOs shall be the RPA or Deputy RPA. PIOs in juvenile justice facilities shall be nominated by the Chief Deputy Secretary, Division of Juvenile Justice.

**13010.5 Media Representatives**

- Media representatives, as defined in CCR 3261.5(a)(1) and (2), includes news media representatives and non-news media representatives.
- News media representative means a journalist who works for, or is under contract to, a newspaper, magazine, wire service, book publisher, or radio or television program or station, or who through press passes issued by a governmental or police agency, or through similar convincing means, can demonstrate that he or she is a bona fide journalist engaged in the gathering of information for distribution to the public.
- Non-news media representative means an individual in the publishing and broadcasting media who is not a news media representative. A non-news media representative may include editorial researchers, freelance writers, authors of books, and independent film makers involved with the production of broadcast or print endeavors including, but not limited

to, features, documentaries, commercials, and pilots for proposed news or entertainment programs.

A current list of the names, telephone numbers, fax numbers, and e-mail addresses of media representatives who usually cover the institution or parole region office shall be readily available to those officials authorized to issue news releases and statements. Media representatives shall be advised to contact the PIO when they are seeking information.

**13010.6 Media Information Practices**

The following provisions shall be considered as guidelines:

- News and all the factors associated with it are highly variable.
- No set of rules will cover all situations.
- Clarify what the reporter is seeking.
- Prepare your response.
- Know your policies and regulations.
- Never speculate or guess.
- Communicate clear and accurate information.
- Do not disclose confidential information about any individual.
- There is no substitute for good judgment.
- Confer with the Communications office for guidance and coordination.

Institution PIOs shall immediately notify the Secretary via the Assistant Secretary, Communications, and their respective chain of command within their division (e.g. Associate Director, Director), of any occurrence or situation of unusual, critical, significant, potential, and/or prolonged media interest. Examples include:

- Incidents involving fatalities, incidents involving a high profile inmate or parolee, crisis or high profile situations, mass disturbances, labor actions, issues or incidents that place the CDCR in an unfavorable or unpopular light, inmate homicides, employee arrests, issues or incidents that place the CDCR in a position of defending against incorrect perceptions or allegations of the media, any significant, potential, and/or prolonged inquiry by major, national or international media, a media investigation, anything else of concern to the CDCR and/or the administration including ballot measures, audit reports, lawsuits, regulation submission to the Office of Administrative Law, scheduled executions, major motion picture requests, and others.
- Incidents likely to attract routine media interest do not require notification. Examples include non-fatal incidents, unless a high profile inmate or parolee is involved, and regularly scheduled events or classes.

Written news/press releases and media advisories, except for escape bulletins, shall be approved before distribution by the Assistant Secretary, Communications, or designee.

- A written news/press release is a formal, typed document, usually in the form of a newspaper article, that is sent to the media and other interested parties and that contains newsworthy information. It is intended for mail, fax, online communication, or hand-carried delivery.
- A media advisory is a written document which alerts the media to a specific event. It is often sent out to alert the media of a news conference or some other event where their presence is desired or expected.
- A news conference is an event where PIO's or other speakers are present to tell the media about a newsworthy subject.

**13010.7 General Inquiries**

Requests for information shall be given prompt attention. Inquiries addressed to a specific facility requesting information about the history or operation of a facility shall be answered by the facility. However, if clarification regarding the communication or a matter of policy is involved, seek the assistance of the Assistant Secretary, Communications, or their designee in the Office of Public and Employee Communications.

Unusual or repeated inquiries or letters shall be reported to the Assistant Secretary, Communications. Requests for information about CDCR issues, requests involving other segments of the CDCR, or requests from other State agencies shall be referred for reply to the Assistant Secretary, Communications, or their designee in the Office of Public and Employee Communications. Requests for public records shall be processed in accord with DOM, Chapter 1, Article 16.

**13010.8 Media Access to Institutions and Facilities**

Access to an institution, facility, or contract facility for a news media representative shall require approval of either the institution head or the Assistant Secretary of Communications or designee. Access to an institution or facility for a non-news media representative shall require prior approval of both the institution head and the Assistant Secretary of Communications or

their designees. For each request for access from a news media representative or non-news media representative, the institution head or the Office of Public and Employee Communications shall provide an initial response within two (2) working days.

Non-news media representatives must provide proof of employment by a bona fide publication or production company, or have evidence that such a company has contracted to purchase the completed project prior to approval. Non-news media representative requests for access to departmental facilities, on-duty staff, or inmates shall include project and production details as necessary to determine security and operational impacts. Non-news media representative film productions require a California Film Commission permit, along with evidence of financial responsibility and liability insurance or at least \$1 million indemnifying and defending the State of California, its offices, employees, and agents against any lawsuits.

Within an institution, all media representatives shall be under direct supervision of the PIO or their designee. Media representatives shall not enter security housing units, condemned units, execution chamber, Administrative Segregation Units, Psychiatric Services Units, or any area currently affected by an emergency situation without approval of the Secretary, or designee. Access to any secured area where lethal weapons are maintained requires prior approval of the institution head. The institution head may allow access to an area outside the secure perimeter of a facility to news media representatives. News media representatives shall be given general access to all areas of community based correctional centers and facilities under contract to DAPO only with prior approval of the RPA, and when accompanied by the regional PIO or designee.

No media representative or organization shall be barred for cause from a correctional institution without the advance approval of the Secretary or designee. Documentation relative to such a proposed action should be mailed, faxed, or delivered to the Chief Deputy Secretary, Adult Programs, and the Assistant Secretary, Communications.

Institutions, on-duty staff, inmates, or records under control of the CDCR, shall not be used in conjunction with filmmaking, radio, or television programs, or the writing of books, magazine articles, or syndicated stories, without prior approval of the Secretary.

All requests for transmission by microwave or satellite from a correctional facility shall be directed to the Assistant Secretary, Communications, for approval or disapproval.

Controlled access for media representatives may be permitted to seriously or terminally ill patients and their housing areas, subject to DOM Section 13010.15.3. There may also be limited and/or restricted access to other areas including towers, control booths, protective housing units, reception centers, and other areas that affect the security of the institution. The intent of this section is to encourage all reasonable cooperation with and access for media reporters and their technical crews within available resources consistent with the safe and secure operations of its institutions.

Institution heads and RPAs may impose limitations on or set conditions for media access when, in their judgment, such access would constitute an immediate threat to safety and security, or generate serious operational problems. In the event of a disturbance that may, in the opinion of the institution head or his/her designee, threaten the safety and security of the institution or any person, media representatives shall be escorted to safety. The Assistant Secretary, Communications, shall be notified as soon as possible of such occurrences. The Assistant Secretary, Communications, is available to mediate disputes with the media.

#### **13010.9 Public/Media Notice of Escapes**

In the event of an actual or suspected escape, the institution, regional PIO, RPA, or off-hours designee shall notify by the fastest means possible (i.e., fax, telephone), radio stations, television stations, and newspapers in surrounding communities as well as the escapee's home community of pertinent information about the escapee and shall make the information available for public posting on the CDCR Internet website. Such information shall include, but not be limited to, the missing escapee's:

- Name, CDC number, and date of birth.
- Physical description, including race, sex, height, weight, hair and eye color, and any scars or tattoos.
- Estimated time of disappearance and other pertinent details.
- Last known address.
- Commitment offense and current warrants or holds.
- Possibility of being armed or being a danger to the community.

- Most recent photograph (unless releasing the photograph poses a specific threat of imminent danger to the escapee), or short escape bulletin of the escapee to the notified television stations and newspapers.

If a photograph or short escape bulletin is not available for distribution, post the photograph at the institution or parole office's front entrance and notify the media that they may drop by and take pictures of the photograph for their use.

Inform the news media on the institution's and/or parole office's search efforts and cooperation with local law enforcement agencies to apprehend the escapee.

#### **13010.10 Media Inquiries**

Media inquiries shall be given high priority. Facts shall be gathered as quickly as possible and provided to the inquirer. If the requested facts are not known or are otherwise unavailable, the inquirer shall be so informed.

An official authorized to respond to media inquiries shall be available at all times. Officials shall be thoroughly familiar with CDCR, institution, or parole region policies and procedures.

Officials shall not speculate or guess when answering inquiries or in issuing releases. The facts shall be obtained as quickly as possible and communicated to the inquirer. If the information cannot be quickly secured, a progress report shall be given to the inquirer.

A person making an inquiry shall not be referred to another source by the PIO without clearing the referral with the appropriate authority and then discussing the matter with the staff contact person. The information shall be collected by the PIO receiving the inquiry, and then relayed to the inquirer. If the requested facts are not known or are otherwise unavailable, the inquirer shall be so informed.

When a media inquiry is received, the fact that the inquiry was made shall not be volunteered to another media representative. No information developed to answer a media person's inquiry shall be provided to another media person unless in response to a separate inquiry from them on the same subject.

Staff shall not comment on any active or pending lawsuit or other legal action. Responses to specific allegations of a lawsuit or legal action shall be directed to the appropriate Deputy Attorney General or the Assistant Secretary, Communications.

#### **13010.11 Authorized Release of Information**

The only data that may be released to the media or to the public about an inmate or parolee without a valid written authorization from the inmate/parolee includes the following:

- Name.
- Age.
- Birthplace.
- Place of previous residence.
- Commitment information from the adult probation report (as excerpted in the Cumulative Case Summary).
- Facility assignments and behavior.
- General state of health given in short and non-medical terms such as good, fair, serious, critical, or treated and released.
- Cause of death.
- Actions regarding sentence and release.

Generally, it is appropriate to provide all data which is a matter of public record. However, the Criminal Identification and Investigations Report (rap sheet) shall not be used as a source. Under law, information on the rap sheet is not a public record and shall not be used to furnish information concerning an inmate's or parolee's arrest history to any person other than a sworn member of a government law enforcement agency.

Except as provided by applicable federal and state law, no person shall disclose any protected health information that identifies an individual without a valid written authorization from the individual.

No person shall disclose specific inmate information involving medical history, educational test scores, psychological test results, classification scores, or information provided on employment or educational applications. Information on a CDC Form 115, Rules Violation Report, that has not been affirmed by administrative review should be general in scope and referenced as allegations, such as "inmate xxxx has been charged with...."

Information pertaining to a Division of Juvenile Justice ward shall be released to the news media or the public according to Sections 676, 1764, and 1764.1 of the Welfare and Institutions Code.

**13010.12 Authority to Contact Media**

The authority granted to institutions and parole region offices to release information regarding an institution incident or newsworthy event does not apply to individual employees unless specifically authorized by the Warden, institution head, or RPA.

Employees of CDCR shall not generate or initiate news media contact regarding incidents or newsworthy events without prior approval to do so. Employees who believe that a particular event is newsworthy shall first seek the guidance and permission of the PIO, who shall seek appropriate authorization and make prior notification to the Assistant Secretary, Communications, or their designee in the Office of Public and Employee Communications.

**13010.13 Spot News**

Through PIOs and with authorization from the Assistant Secretary, Communications, institutions and parole offices are encouraged to release spot news such as information about escapes and major incidents. The PIOs are authorized to release related photographs if available, subject to DOM, Sections 13010.16 – 13010.17.3.

The institution or parole office shall initiate release of spot news. It shall be done as soon as practical before or soon after the event. The release shall be made simultaneously to all reporters or media who cover the institution or parole office if possible. Each shall be provided the same information. Releases need not be provided to the news media in written form. When contacting the media by telephone, it is advisable to develop a well supported oral or written statement. This ensures consistency and accuracy in releasing spot news.

Information about an escape is routinely released. However, every effort shall be made to release constructive news concerning the institution or parole office. Information concerning programs and activities including blood donations, rescues, graduations, art shows, charitable activities, fundraisers for non-profit organizations, and concerts are possible subjects.

**13010.14 Informing the Secretary**

The Assistant Secretary, Communications, shall inform the Secretary of events likely to attract significant and/or prolonged news media attention. This includes statements, advisories, and releases given to news media, as well as instances in which reporters enter facilities or institutions to cover activities or randomly interview inmates.

**13010.15 Routine Media Interviews**

Media representatives may be permitted random face-to-face interviews with inmates housed in facilities under the jurisdiction of CDCR. Such interviews shall be conducted as stipulated by the institution head, including restricting the time, place, and duration of interviews, and size of technical crews. No inmate shall be interviewed against his/her will.

**Interview Conditions**

Inmates may not participate in specific-person face-to-face interviews. Random interviews of individuals involved in a specific activity or program, or encountered while covering an institution activity or event shall be limited to the time, areas, and segments of the facility population designated by the institution head.

**Cameras/Recording Equipment**

The institution head or designee shall approve the use of cameras or recording equipment in advance. A location agreement and a film permit from the California Film Commission may be required for filming and photographing on state property.

**Security Arrangements**

Media representatives are to be accommodated, whenever possible, at the institution within regular work hours using on-duty personnel. In certain situations, CDCR may incur additional staffing costs. Media representatives or their organizations may be required to pay the reasonable security or escort costs directly associated with media's use of the location including benefits and overtime pay. Media will be notified of the approximate staff requirements and costs.

The Assistant Secretary, Communications, shall be consulted whenever a fee for the added supervision or security arrangement is contemplated.

**13010.15.1 Inmate Declaration to News Media Contact (CDCR Form 146)**

The CDCR Form 146, Inmate Declaration to News Media Contact, shall be completed when an inmate is the subject of an interview, still photograph, motion picture, or other recording intended for use by a television, radio station, newspaper, magazine, or other publication.

- Inmates under 18 years of age shall not be photographed, filmed, or videotaped.

- One employee shall witness the inmate's signature on the completed CDCR Form 146.
- In order to provide a permanent record of the incident, the signed copies of the CDCR Form 146 shall be distributed as follows:
  - Original - institution file.
  - Copy - inmate's central file.

**13010.15.2 Writing, Telephoning, and Visiting an Inmate**

Media representatives may contact any State prison inmate by mail. It is not necessary for media to notify the CDCR before communicating with an inmate. Incoming letters are opened, inspected for contraband, subject to be read, and then forwarded to the inmate. To ensure prompt processing, media representatives should address letters using the inmate's full name, CDC number, cell or location numbers if known, and the address of the institution where the inmate is housed.

Most inmates have access to telephones and can make outgoing collect calls on designated telephones according to their privilege group. Limitations are placed on the frequency of such calls to allow equal access to telephones by as many inmates as possible and as determined by the inmate's privilege group. When corresponding with an inmate, media representatives may provide a telephone number where an inmate can call them collect. It is up to the inmate to initiate the call. No restriction is placed on the identity or relationship to the inmate of the person called, provided that the person agrees to accept all charges for the call. Telephone calls are limited to 15 minutes and may be recorded. Media representatives may also record the call with the inmate's permission.

Staff will not take messages and faxes from the media to inmates.

If a media representative wishes to visit an inmate, it shall be in accordance with the visiting requirements in CCR Sections 3170-3176.3 and DOM section 54020. A completed questionnaire must be submitted and approved by the institution before the visit. Any member of the media, once approved, may visit; however, they may not bring in cameras or recording devices in a manner inconsistent with the DOM or State law. No inmate or parolee may have his or her visitation limited or revoked solely because of a visit or potential visit from a media representative, nor may an inmate or parolee be punished, reclassified, disciplined, transferred to another prison against his or her wishes, or otherwise retaliated against, solely for participating in a visit by, or communicating with, a media representative. During an interview, media representatives shall be allowed to bring up to three (3) pens, three (3) pencils, and one (1) pad of paper into the facility. These items shall be searched to protect against an immediate and direct threat to the security of the institution.

**13010.15.3 Interviews with Seriously or Terminally Ill Inmates**

- News media shall be allowed controlled access under institution escort to patients and their housing areas in order to safeguard the public's right to know.
- Random interviews in units housing patients shall be closely monitored and shall be terminated if a majority of the unit's inmates object.
- No more than two visits per calendar month to a unit housing seriously or terminally ill inmates shall be allowed so as not to disrupt the operation of the unit. These visits shall be on a first-come, first-served basis with a waiting list to be maintained by the institution's PIO. A pool of no more than 10 media persons per visit shall be permitted.
- Media interviews shall not be permitted with an inmate suffering from a mental illness when, in the opinion of a psychiatrist or psychologist, the inmate is not capable of giving informed consent or their condition may be worsened by such an interview.
- Assistant Secretary, Communications; Chief Deputy Secretary, Operations; and institution medical staff shall be notified in advance of all significant planned news media events with medically-confined inmates.

**13010.16 Interviews with Employees**

Accurate information within statutory guidelines shall be provided in response to media inquiries regarding employees. Incidents within facilities and institutions are often newsworthy events that involve staff as well as inmates. Other incidents include employees' acts of heroism, volunteerism, or community involvement that merit media attention.

The only employee data that may be released to the media or to the public by other than the employee concerning the employee's involvement in an institution incident or newsworthy event includes:

- Full name.
- Civil service classification.
- Age.

- Work assignment.
- Length of service with the Department and/or current division or unit.
- Past work assignments.
- Role or function in a newsworthy event.

Employee information shall not be released if the information would endanger the employee or if the employee is the victim of a crime.

Further information and directions for releasing information on employees is found in DOM, Chapter 1, Article 15, Information Practices.

#### **13010.16.1 On-Duty Interviews**

Media representatives may be permitted random or specific person interviews with on-duty staff who consent to the interviews, provided such interviews do not interfere with the security of the institution. Such interviews shall be conducted as stipulated by the institution head, including restricting the time, place, and duration of interviews, and size of the technical crews.

Use of cameras or recording equipment shall require prior approval of the institution head, or designee. (A location agreement and a film permit from the California Film Commission may be required for filming and photographing on State property.)

Photographing, filming, or video recording of CDCR staff within an institution, parole office, or other non-public area is permissible only with prior consent of each employee.

#### **13010.17 Photographs, Films, and Videotapes**

The Department has no control over photographs, films, or video recordings taken of CDCR facilities, employees, inmates, parolees, or CDCR equipment when the person taking the photograph is not on institution property. This includes, but is not limited to, inmate community work crews, inmate fire crews, inmate presentations in schools and other public locations, inmates being transported on public streets, highways, etc.

Persons are prohibited from interrupting, interfering, or communicating with an inmate being transported or working off institution grounds without prior authorization of the staff person in charge or institution head.

Photographs, films, videotapes, digital videotapes and photographs, floppy disks, compact disks, memory cards, memory sticks, or any other recorded media other than for official purposes, which reveal an inmate's identity, may be taken within an institution, camp, community correctional facility, or parole office subject to the following conditions:

- An inmate shall be required to sign a CDCR Form 146 before any photographing, filming, videotaping, or video recording that clearly identifies the individual.
- An inmate's consent is not required where individuals in such settings as an exercise yard or dining hall are not singled out or where the identity of the inmate is not revealed; however, before any photographs are taken or filming is done, inmates shall be advised so those who do not want to be recognized may turn away or leave the area.
- Photographs taken or filming of inmates may be in any appropriate location such as on their job or other assignment, with their artwork, playing an instrument, etc., depending on the news or feature story under development.

#### **13010.17.1 Identification Photographs**

- Unless there is a specific threat of imminent danger to an inmate or parolee by releasing their image, media representatives shall be permitted access to identification photographs without the inmate or parolee's consent. Media representatives shall pay for the facility's cost of providing such requested photographs. Current photographs of escaped inmates and parolees at large shall be provided without charge.
- If there is reason to believe release of a photograph will create an imminent danger to an inmate or parolee, the Assistant Secretary, Communications, and the Director of the division responsible for the inmate/parolee shall make the final decision about the photograph being released.
- No photograph which would reveal the identity of any inmate committed to the Division of Juvenile Justice (DJJ) shall be made available other than for official purposes such as an escape.

#### **13010.17.2 Execution Chamber**

- Photographs or any other audio or visual recordings of an execution are prohibited. However, stock CDCR photographs and videotape footage of the area are available upon request from the Communications Office.
- No camera, wireless microphone, or other recording device shall be permitted within the execution chamber area.

#### **13010.17.3 Prohibitions**

Before entering a facility, photographers, camera, and video operators shall be carefully instructed as to what cannot be filmed, photographed, video taped or video recorded. Prohibitions include photographing staff or inmates without consent and any procedure, equipment, or structure that compromises security. The photographers, camera, or video operators shall agree in writing to these conditions prior to entering a CDCR institution or facility.

#### **Conditions**

In rare instances, it may become necessary to seize film, videotape, digital videotape, floppy disks, compact disks, memory cards, memory sticks, or any other recording devices because of a clear violation of regulations on photography within CDCR institutions or facilities. For example: photographing an employee, inmate, or parolee after the employee, inmate, or parolee has refused permission, or photographing security facilities, procedures, or equipment without permission.

- Any seized film, videotape, digital videotape, floppy disks, compact disks, memory cards, and/or memory sticks, and any other recording devices shall be placed undamaged, undeveloped, and unviewed, in a secure area.
- The institution head and the Assistant Secretary, Communications, shall be notified immediately for disposition of the recorded material and/or devices.

**Note:** In no event shall film, audiotape, videotape, camera, or recording equipment be destroyed or harmed.

In the event of a disturbance, photographers, and videographers approved to visit an institution or facility shall not have their film, audiotape, videotape, digital videotape, floppy disks, compact disks, memory cards, memory sticks, or recording devices seized. The production may be halted at the request of the institution head or designee and personnel will be escorted to safety if the disturbance threatens the safety or security of the institution or any person. Should CDCR or another law enforcement agency have need of the recorded material in connection with any criminal, civil, or administrative investigation or proceeding, they may advise the photographer or videographer of the need for the recorded material.

#### **13010.18 Legislative Hearings**

*Revised September 25, 2007*

Institutions shall allow legislative hearings to be held at predetermined locations as approved by the Secretary. The areas within an institution where legislative hearings can be held shall be determined according to the number of anticipated attendees, security needed for testifying inmates, and logistics. Some authorized areas include visiting rooms, IST classrooms, visitors' processing centers, conference rooms, boardrooms, and staff dining rooms. Gymnasiums, chapels, libraries, education facilities, as well as other areas located within secure confines, shall not be utilized.

The hearing shall be held during the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday.

Cessation of some institution programs may be necessary depending upon the area scheduled for the hearing. When suspension of visiting is required, the inmate population of the institution involved shall be notified in writing as far in advance as possible.

#### **Preparation and Processing**

Once an institution hearing is approved, the legislative committee initiating the request shall designate a coordinator to work with the CDCR's Legislative Liaison.

The coordinator shall make a formal request for any CDCR report, file, or other data needed at the hearing. The coordinator shall also provide the Legislative Liaison with the names of legislators, consultants, staff, and witnesses who will be in attendance.

The Legislative Liaison shall provide the coordinator a copy of any pertinent, public CDCR regulations relative to security and logistical concerns including the type of clothing not allowed on institution grounds and the permissible capacity of the designated hearing area to be used.

The institution shall make every reasonable effort to assist with the set up of seating, but are not obligated to furnish equipment, props, staff resources (other than security), or make any physical plant modifications for the hearing.

During the hearing, the legislative sergeant-at-arms shall coordinate all activities with the institution head or a designee. The institution head shall have the authority and responsibility for all matters relating to security and processing. The sergeant-at-arms shall act primarily as a liaison between the committee's chairperson and the institution head.

If the hearing requires inmate testimony, the hearing shall be scheduled in an area indicated above that will provide reasonable access to and from the



inmate's housing unit. If the hearing requires the presence of inmates housed in a Level IV security housing unit or condemned row facility, the hearing shall be held in an approved area that provides the highest degree of security.

#### **Classification and Processing of Attendees**

The number of attendees shall never be allowed to exceed the established occupancy capacity of the designated hearing area.

All tours of an institution shall be conducted in accord with DOM, Chapter 1, Article 14.

Prospective attendees shall be classified in one of the following categories and processed accordingly:

- **ELECTED OFFICIALS**--This category of persons includes the Governor, Lieutenant Governor, Attorney General, United States Senators, and members of the United States House of Representatives, as well as State Legislators and other California Constitutional Officers. Elected officials shall:

- Be processed promptly upon their arrival and shall not be subjected to search or other visitor processing requirements except as outlined in DOM Chapter 5, Article 42 (Visiting) DOM Sections 54020.5 – 54020.6.
- Be afforded, upon request, access to any portion of the facility provided they are escorted. No arrest history inquiries shall be done for dignitaries.
- Be required to sign the visitors' register and present an official photo identification card when entering and leaving the institution, and shall be accompanied by sworn staff at all times.

In cases of immediate need, and upon notification by the Secretary in writing, any prohibitions within this Article regarding elected officials may be suspended in the interest of public understanding of the CDCR operations and responsibilities.

- **MEDIA REPRESENTATIVES**--This group of persons includes any print, wire service, or broadcast reporter and corresponding technical crew, transcriber(s) of the proceedings, persons affiliated with the elected officials in an official capacity, and the sergeant-at-arms. Other persons may be assigned to this group as determined by the institution head. Media representatives:
  - Shall be required to sign the visitors' register and present verification of their employment.
  - Shall be processed in accordance with the same rules and procedures pertaining to other visitors.
  - Shall be subject to reasonable limitations as determined by the institution head, there shall be no restriction on the type, size, or amount of equipment allowed unless the institution head determines that such equipment would threaten the safety of the institution or would unduly impede normal operations. All equipment shall be searched for contraband.
  - Shall make sure that photographers and camera operators be instructed carefully as to what cannot be filmed, photographed, or otherwise recorded prior to entering an institution. Prohibitions include photographing staff or inmates without their written consent and any procedure, equipment, or structure that may compromise security.
  - May be granted a limited tour of nonsecure areas of the institution provided they have been cleared by an arrest history inquiry, do not tour with the elected officials, and are escorted by available institution staff.
- **LEGISLATIVE STAFF**--This group of persons includes any transcriber(s) of the proceedings, persons affiliated with the elected officials in an official capacity, and the sergeant(s)-at-arms. Legislative staff:
  - Shall be required to sign the visitors' register and present verification of their employment.
  - Shall be processed in accordance with the same rules and procedures pertaining to other visitors.
  - May accompany the officials by whom they are employed on any tour of the institution in all areas approved for tour by the institution head or not otherwise prohibited by CDCR regulations or policies, or may tour any areas of the institution separately from the officials as approved by the institution head, and escorted by available institution staff.
- **WITNESSES**--Witnesses are those inmates, parolees, or ex-felons who have been subpoenaed by the legislative committee and other persons

invited by the committee. Such other persons may include family members including registered domestic partners, victims of crimes, expert or technical advisors, and past or present employees of CDCR, all of whom must have received written verification of the committee's directive to appear. Witnesses are subject to the following:

- Witnesses who have been subpoenaed to testify shall be allowed to attend. The institution head shall decide the appropriateness and degree of restraint and security needed for inmates. For those inmates who would pose a clear threat to the safety of persons attending the hearing, the Secretary may approve use of the two-way audio/video communication system in lieu of the inmate's actual appearance.
- Inmates who have been subpoenaed to testify shall not be allowed into the hearing area until the time he or she has been scheduled to appear. Prior to entering the hearing room, all inmates shall be searched and be properly attired in State-issued clothing. Inmates shall have no contact with other persons in attendance, be closely supervised, and be strictly limited to the hearing area at all times.
- All witnesses except current CDCR employees shall be processed in accordance with same rules and procedures pertaining to other visitors to the institution.
- **INTERESTED PERSONS**--All other persons not mentioned above shall be considered interested persons and shall be subject to the following:
  - All interested persons shall be allowed to attend unless there are circumstances to indicate the person would pose an imminent threat to the safety and security of the facility.
  - Interested persons attending the hearing shall not be allowed to tour the facility nor have contact with any inmate. Interested persons shall be processed in accordance with the same rules and procedures pertaining to other visitors to the facility pursuant to CCR 3170 through 3179.

#### **Exclusions**

Because access must be restricted due to the established occupancy capacity, exclusions, if necessary, shall be made, first on a voluntary basis. If further measures are required, access shall be denied to those individuals identified as interested persons. When the hearing involves public comment, the institution head may prioritize access by interested persons over media representatives and may designate one or a limited number of accredited pool reporters to cover the event.

#### **13010.19 Revisions**

The Assistant Secretary, Office of Public and Employee Communications, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **13010.20 References**

CCR Title 15, Division 3, §§ 3010, 3141, 3170 - 3179, 3260 - 3262, 3402(a), and 3450.

Government Code § 9027.

Civil Code §§ 1798, et seq. (Information Practices Act).

Government Code §§ 6250, et seq. (Public Records Act).

Cal. Const. Art. 1, sec. 1 (Right to Privacy).

Cal. Const. Art. 1, sec. 3 (Right to Information).

### **ARTICLE 14 — COMMUNITY RELATIONS**

*Revised March 14, 1995*

#### **13020.1 Policy**

The goodwill of the public is important to the Department, each facility, each parole region, and each employee.

#### **13020.2 Purpose**

- This section designates employee responsibility in representing the Department in the community, and describes practices to encourage and maintain good community relations.

#### **13020.3 Definition of Community Relations**

Community relations is the function of promoting positive interaction between the correctional community and the public in an effort to educate and develop public awareness. It is through better understanding of the Department's mission that public confidence will be increased.

#### **13020.4 Community**

Community as used in this section refers to the general public, local, and State government bodies, employee organizations, special interest groups, and

community organizations. The Department, its divisions, facilities, and units deal with many different, though frequently overlapping communities.

Examples of communities with which the Department is involved include, but are not limited to, the following:

- The State, counties, and cities.
- Employees of the Department.
- Law enforcement personnel at the State, county, and local levels.
- Legal groups.
- Taxpayers groups.
- Religious organizations.
- Medical associations.
- Labor unions.
- Chambers of commerce.
- Schools.
- Neighborhoods.
- Athletic organizations.
- Entertainment groups.
- Service organizations.
- Special interest associations.

Each group has its own viewpoint, interests, needs, and background. Each group is influenced by and influences other groups. Together with other groups, they make up the general public of a nation, state, county, city, or town.

#### **13020.5 Policy Decisions and Operating Procedures**

The Department and its units were created and are maintained by the public to perform a task for the public. Policies and procedures of the Department, its divisions, facilities, and units shall be designed to serve the public's interest. The effect of proposed policies and procedures on all public groups shall be carefully analyzed. Care should be used to ensure that steps taken to provide a service to one group does not harm some other group. In the event of conflict, alternative policy or procedure shall be sought to resolve it. If the conflict cannot be resolved and action is necessary, the alternative providing either the greatest good for the largest public group or the least inconvenience for the smallest public group shall be pursued.

#### **13020.6 Public Inconvenience**

Any policy or procedure which results in, or could appear to result in any of the following, shall be reexamined:

- Excessive noise.
- Smog, smoke, dust, bad odors, or other air pollutants.
- Dirt.
- Pollution of water.
- Traffic jams.
- Dangerous, unhealthy, or unsightly conditions.
- Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, marital status, sex or sexual orientation, political affiliation, or age.
- Misuse of money, manpower, or resources.
- Brutality to or coddling of prisoners.
- Competition with business or labor.
- Favoritism to or discrimination against certain suppliers.
- Embarrassment to friends or relatives of inmates, to visitors, to passersby, or to nearby residents.

#### **13020.7 Unfavorable Public Reaction**

Policies or procedures that unexpectedly cause an unfavorable public reaction shall be reexamined as soon as brought to the attention of the Department, division, facility, or unit. Every effort consistent with the public interest shall be made to correct the situation as quickly as possible.

#### **13020.8 Community Relations Representatives**

The employees of the Department are the greatest single resource for building good relations. Every employee is a community relations representative both on and off-duty. Employees shall be properly informed, through IST and other appropriate means, of departmental and facilities or divisional philosophies and practices. Employees are regarded as experts in all phases of correctional work by those with whom they come in contact; therefore, it is important that

they understand the reasons behind the practices of the Department and its broad organization, as well as the position in which they are employed.

The designated staff liaison for community-related activities shall be the Community Resource Manager (CRM).

#### **13020.9 Facility Activities**

Wardens or RPAs, through the facility/regional CRMs and PIOs, shall coordinate all facility/regional activities which are a part of this section unless those responsibilities have been designated as the sole responsibility of the Warden or RPA by statute or regulation.

##### **Citizens Advisory Committee**

Each facility/parole region shall organize a Citizens Advisory Committee whose primary objective shall be to promote communications between the facility/region and the community. The role and function of these committees are further defined in DOM Chapter 10, Article 9.

Positive programs to maintain premises well-kept and attractive shall be followed.

Reputable citizens of the community shall be encouraged to come to the facility. Good community relations cannot exist when the facility is a place of mystery, set apart from the community.

Reception of visitors shall be cordial and businesslike. Employees shall be courteous, pleasant, neat, helpful, and efficient.

Appropriate, identifiable parking shall be provided for visitors where possible. In the planning of any event expected to attract large numbers of visitors, adequate parking space shall be arranged.

The parking area shall be supervised. If the event may cause traffic problems off the grounds, the CHP and/or other appropriate agencies shall be notified in advance.

Employees shall not act as traffic officers on highways off Department property.

Employees shall be sensitive to possible misunderstandings by visitors. Where the possibility of misunderstandings exist, care shall be taken that an adequate explanation is made. Employees regularly meeting the public, conducting tours, or escorting groups shall make a particular effort to stay informed in order to make an effective presentation and provide accurate, complete answers to questions.

#### **13020.9.1 Visits by Other Departments/ Agencies**

In the case where a facility requests the services of other departments or agencies, or those departments or agencies request an official visit as part of their official duties, to interview staff or inmates, or to do follow-up work to ensure compliance with legal requirements, the facility shall make every effort to assist those individuals in completing their assignment.

Examples of visitors of other departments or agencies include, but are not limited to, employees of:

- State DOJ, Law Enforcement Division (investigators, forensic scientists, fingerprint specialists).
- DHS (environmental health specialists, vector, and sanitation experts).
- The Board of Prison Term (commissioners and Deputy Commissioners) if hearing cases in a special housing unit.
- The Legislative Analyst.
- The DOF.
- Auditors.
- DA investigators.
- Coroners.
- FBI agents.
- Court monitors.

If the visitor(s) is doing follow-up work or interviewing staff or inmates, the visiting department or agency shall notify the office of the Warden at least 24 hours in advance of the visit date and delineate the time of arrival and purpose.

The Warden, or designee, shall ensure the necessary gate clearance is forwarded to the gate officer.

Visitors shall be required to produce official identification and a standard search will be conducted.

##### **Visitor Clearance**

The Warden's office shall ensure that the visitor or visiting group is assigned a staff member to escort the visitor(s) while at the facility. The staff escort shall remain with the visitor(s) during the entire stay in the facility. The staff escort may be from sworn, non-sworn, or other personnel assignment.

### Equipment

If the visitor has equipment that is required to complete their task, proper security of that equipment shall be maintained during the entire visit.

If necessary because of the size/weight of the equipment or weather conditions, transportation shall be provided by the facility to the area of the visit if possible.

Parking shall be provided.

### 13020.10 Tours

Service clubs, trade associations, labor unions, educational groups, and other civic organizations shall be encouraged to visit facilities and community correctional centers. Arrangements for group tours may include providing meeting facilities for the groups.

Facilities, camps, and community correctional centers may set aside a regular time one day each week for a conducted tour of individuals. These individuals shall be treated as a group.

- Facilities where the small number of individual requests or other reasons make weekly tours impractical may set aside one or two days a month for such tours.
- Spouses or other close relatives of employees may be conducted on a tour as a group at least annually.

### TAC

TACs provide an important public information and community relations opportunity. Special efforts shall be made to keep the committees accurately informed through special tours and visits to the various trade areas.

TACs shall be encouraged and assisted in the preparation of special articles for trade publications covering their appropriate fields.

### Distinguished Visitors

Distinguished visitors assist the Department in being visible to the community. Distinguished visitors include: the Governor, Lieutenant Governor, Attorney General, U.S. Senators and Congressmen, State Legislators, foreign dignitaries, noted authors, and other national, State, and local officials. The Director shall be notified, when appropriate, of the impending visit of a distinguished visitor. In the event of a visit by the Governor, Lieutenant Governor, Attorney General or a State Legislator, a full written report of the visit shall be made promptly to the Director, with a copy to the Assistant Director, LLO. The report shall include the purpose of the visit, together with any comments or other information that may assist the Director in making any necessary response.

State Legislators, and other elected California Constitutional Officers shall be permitted to visit and tour facilities, camps, and community correctional centers without prior notice. Appropriate escorts shall be provided. All reasonable access and cooperation shall be given. Access for such officials may be denied only during emergencies, with the approval of the Director. Guests accompanying elected officials may be denied access in absence of prior approval by the Warden, or RPA.

An appropriate personal escort from either the YACA or CDC shall be provided for nonpublic tours of institutional facilities for the Legislature, Lieutenant Governor, State Controller, Secretary of State, State Treasurer, State Insurance Commissioner, State Superintendent of Public Instruction, State Attorney General, members of the State BOE, elected city and county officials, and candidates for political office and members of their staff.

A separate tour may be arranged for the news media and other members of the public through the office of the Warden, or RPA, according to provisions of DOM 13010.

### 13020.11 Grand Juries

PC 919 and 921 entitle Grand Juries to free access, at reasonable times, to the public prisons within their county for the purpose of inquiring into the conditions and management of these prisons and to examine public records. Each Warden shall, therefore, extend an invitation, at least once a year, to the Grand Jury of the county in which their facility is located. Such visits shall be coordinated with the BPT' schedule when possible and where practical.

Visits shall be scheduled as soon as possible after the impaneling of each new Grand Jury.

When visits to a facility are initiated by the Grand Jury, employees shall be made available as necessary to guide, orient, or otherwise assist the Grand Jury. A report of such visit shall be made to the Director.

### 13020.12 Exhibits

Exhibits depicting the activities of the Department, divisions, facilities, units, and the work or training involving inmates, may be displayed in Department facilities.

Properly planned and prepared exhibits (not including inmate handicraft) may also be displayed at conventions, banquets, and other appropriate locations where they may be helpful for educational or recruitment purposes. Care shall be taken that no commercial sponsorship or endorsement is stated or implied.

### 13020.13 Facility Participation in Community Activities

The facility may participate in some community activities either as a State agency or as a group of employees or inmates.

- Activities as a State agency (staff/inmates) can include, but are not limited to, the following:
  - Community service work crews.
  - Mutual aid, police, and fire agreements.
  - Provisions for informative material and speakers to schools, colleges, civic groups, and other organizations.
  - Appropriate assistance in the prevention of delinquency and crime.
  - Arts work crew.
  - Vocational shop repairs and construction products.
- Activities as a group of employees or inmates may include, but are not limited to, the following:
  - Participation in charity drives and blood donations.
  - Sponsorship of athletic teams, scout troops, or cultural groups.
  - Formation of employee teams, bands, and orchestras.
  - Sponsorship, support, and supervision of youth activities aimed at instilling good citizenship.

### 13020.14 Employee Participation in Community Activities

Employees shall be encouraged to participate in community functions. While the job shall come first, such encouragement shall include changes in duty time or days off (when possible), for employee participation in specific community events.

Employees seeking approval to represent the Department in public appearances shall submit a request in writing to the Warden or RPA.

- The request shall include a complete description of the type of event, purpose, size of the audience, date of the event, and topics to be discussed.
- When a speaking engagement has been completed, the employee involved shall submit to the PIO a written summary of the event including:
  - Evaluation of the audience response.
  - Number of people present.
  - Presence of news media representatives.

### 13020.15 Revisions

The Assistant Director, Communications, or designee is responsible for ensuring that the contents of this article are kept current and accurate.

### 13020.16 References

PC §§ 919, 921, and 5056.

CCR (15) (3) §§ 3260 - 3265.

DOM §§ 13010 and 31040

## ARTICLE 15 — INFORMATION PRACTICES

*Revised July 16, 1996*

*Updated April 11, 2014*

### 13030.1 Policy

Information in all records and files of the Department which pertains to inmates, parolees, employees, or other persons shall be collected, maintained, amended, and disclosed in conformance with the IPA of 1977 and subsequent amendments.

### 13030.2 Purpose

This section specifies staff responsibility for the collection, maintenance, amendment, and disclosure of information in keeping with the right to privacy of inmates, parolees, employees, or other persons.

### 13030.3 General Review

When a request to disclose information from a departmental record, or to receive copies of information, is received, employees shall look first to the provisions of the DOM 13040 to determine if the information is in a public record. If the information is disclosable as a public record, and the record

contains personal information, employees shall look to the provisions of this section to determine if the information is exempt from disclosure.

### **13030.3.1 Training**

All employees shall be provided general training regarding the policies, procedures, and regulations governing the collection, maintenance, use, disclosure, and destruction of personal information. Only those employees with a “need to know” shall be permitted to have access to departmental records containing personal information.

### **13030.4 Definitions**

#### **Access**

An individual's right to see their own records, or an individual's right to permit an agent, on their behalf, to review the individual's records.

#### **Agency**

Every state office, officer, department, division, bureau, board, commission, or other state entity exclusive of the following:

- The California Legislature.
- Any agency established under Article VI of the California Constitution.
- SCIF, except for any records which contain personal information about employees of SCIF.

Agency includes any local agency as defined in GC 6252(b).

#### **Caseworker**

A CC-I or PA-I.

#### **Commercial Purpose**

Any purpose which has financial gain as a major objective. It does not include the gathering or dissemination of newsworthy facts by a publisher or broadcaster.

#### **Confidential Information**

Information, other than exempt personal information, that is withheld from disclosure as a public record under DOM 13040.14 (Also see **Exempt** in this section).

#### **Data Subject**

See **Individual** in this section.

#### **Department Employees**

Full-time and part-time civil service and exempt employees, student assistants, aides, contractual persons/entities, consultants, or anyone whose duties with CDCR require or permit the use of records or information about other individuals.

#### **Disclose**

To divulge, release, transfer, disseminate, or otherwise communicate all or any part of any record orally, in writing, or by electronic or any other means to any person other than the one about whom the information is kept.

#### **Examine a Record**

The physical audit of a record by a departmental reviewer prior to an inspection or disclosure to determine if the record contains exempt personal information.

#### **Exempt**

Personal information that may, by law, be withheld from the individual to whom it pertains. This was formally referred to as confidential information (Also see **Confidential Information** in this section).

#### **File**

See **Record** in this section.

#### **Government Entity**

Any branch of the federal government or of state or local government as defined in GC 6254(b).

#### **Individual**

Any natural person about whom CDCR maintains any personal information.

#### **Inspect a Record**

The act of physically reviewing a record by the person about whom the record is kept or their authorized representative.

#### **Person**

Any natural person, corporation, partnership, firm, association, or government entity.

#### **Personal Information**

Any information that is maintained by an agency which identifies or describes an individual, including, but not limited to, an individual's name, social security number, physical description, home address, home telephone number,

education, financial situation, and medical or employment history, including statements made by, or attributed to, the individual.

#### **Record**

Any records system or grouping of information about an individual that is maintained by CDCR by reference to an identifying particular, such as an individual's name, photograph, finger or voice print, or a number or symbol assigned to the individual. This includes all records systems maintained by CDCR.

#### **Records System**

Any grouping of records which pertains to one or more individuals maintained by CDCR from which information is retrieved by an individual's name, photograph, finger or voice print, or a number or symbol assigned to an individual.

### **13030.5 Responsibility: Office of Information Practices**

The Office of Information Practices (OIP) operates under the direction of the Executive Officer of the CalHR. Its functions include, but are not limited to, the following:

- Assist an individual in identifying and accessing records which may contain information about the individual.
- Develop administrative guidelines and assist state agencies in implementing the IPA's provisions.
- Investigate alleged violations of the IPA.
- Mediate disputes arising under the IPA.
- Report uncorrected violations of the IPA to the Governor, the Legislature, and the appropriate law enforcement agency.

### **13030.6 Responsibility: Departmental IPA Coordinators**

CDCR's IPA Coordinator shall:

- Ensure that CDCR complies with the provisions of the IPA.
- Act as liaison with the OIP.
- Provide training to those persons designated as local IPA liaison personnel.
- Collect information on records systems from all CDCR units that keep personal information for submission of necessary reports to the OIP as required by law.
- Coordinate individual requests for personal information to the appropriate CDCR division, facility, or office.
- Monitor record keeping practices of offices where personal information is collected, maintained, and disclosed.

#### **CALPIA**

The CALPIA's IPA coordinator, located in the Personnel and Training Unit, shall:

- Ensure that CALPIA complies with the provisions of the IPA.
- Act as liaison with the OIP.
- Collect information on record systems from all CALPIA headquarters units and CALPIA facility factories that keep personal information for submission of necessary reports to the OIP as required by law.
- Coordinate individual requests for personal information to the appropriate staff.
- Monitor record keeping practices of office where personal information is collected, maintained, and disclosed.

### **13030.7 Responsibility: Local IPA Liaison Personnel**

Local IPA liaison personnel shall be the personnel manager from each facility, a unit/section chief from each headquarters division, or a staff services analyst or above from each regional parole office. Their duties shall include:

- Ensure that their division, parole region, or facility complies with all provisions of the IPA.
- Act as liaison with the departmental IPA coordinator.
- Coordinate individual requests for personal information to the appropriate office within their division, parole region, or facility for response.
- Monitor record keeping practices of offices where personal information is collected, maintained, and disclosed to ensure compliance with CDCR practices.

### **13030.8 Responsibility: CCRM**

CCRM shall review the fingerprint card responses from State DOJ for persons appointed to positions which allow access to inmate records or EDP terminals usable to access electronically stored inmate records.

**13030.9 Responsibility: All Employees**

Employees responsible for the creation, use, maintenance, amendment, dissemination, and/or destruction of records containing any personal information shall take all necessary precautions to ensure that proper administrative, technical, and physical safeguards are established and followed in order to protect the confidentiality of those records and to preclude disclosure of personal information to unauthorized persons.

**Shall**

All CDCR employees who collect, use, maintain, amend, disseminate, and/or destroy personal information shall:

- Make every reasonable effort to respond promptly to inquiries and requests by persons desiring to receive or review personal information.
- Assist persons who are seeking personal information to make their inquiry specific and descriptive enough to facilitate locating the records requested.
- Respond, in a courteous and business like manner, to inquiries from persons seeking to review, obtain copies of, amend, correct, or dispute personal information kept by CDCR.

**Shall Not**

CDCR employees who collect, use, maintain, amend, disseminate, and/or destroy personal information shall not:

- Require individuals to disclose personal information which is not necessary and relevant to the lawful state function for which the employee is responsible.
- Improperly disclose personal information relating to any individual to any unauthorized person. The improper disclosure of personal information is cause for an adverse action, and it may subject the employee and CDCR to legal action (See DOM 13030.33 for further information).
- Seek or use personal information relating to others for any purpose other than the lawful purpose for which it is collected. The intentional violation of this requirement is cause for an adverse action, and it may subject the employee and CDCR to legal action (See DOM 13030.33 for further information).

**13030.10 Validity of Information**

Every employee who collects, maintains, or receives personal information shall make reasonable efforts to ensure that the information is accurate, timely, relevant, and complete.

**13030.11 Notification and Reporting Requirements**

Each local IPA liaison person shall complete and file with CDCR's IPA Coordinator a fully complete T-SPB Form 103, Personal Records System Report. The steps to be followed to allow an individual to access records, request amendments, or dispute information about themselves shall be included with each T-SPB Form 103.

CDCR's IPA Coordinator shall complete and file with the OIP a completed T-SPB Form 103.

CDCR's IPA coordinator shall attach to the report submitted to the OIP a copy of CDCR's procedures on "How to Inspect and Correct Your Records" that shall explain the procedures to be followed by an individual wishing to access, inspect, amend, or dispute personal information kept by CDCR.

**Initial Report**

After the initial report is filed with CDCR's IPA coordinator and the OIP, only changes in the records systems and/or procedures need to be reported. If no changes have been made in the records system or procedures since the last previous report, a statement that there has been no change is sufficient. For this purpose, CDC Form 1020, IPA Notices of Records System Titles, shall be used and submitted. The local IPA liaison person shall compile and submit their respective reports to CDCR's IPA coordinator by March 1 of each year. By March 31, CDCR's IPA coordinator shall compile and forward CDCR's report to the OIP.

CDCR's IPA coordinator may report new records systems or changes anytime during the year to OIP.

Once the annual report is filed with the OIP, CDCR's IPA coordinator shall forward copies of the report to the Assistant Secretary, Communications and External Affairs, headquarters, and to all offices and/or units reporting that they keep personal information.

**13030.12 Notice to Individuals**

When CDCR collects personal information from individuals, by any means, including the use of forms, a CDC Form 1023, IPA Privacy Statement, shall be given to these individuals.

**13030.12.1 Content of Notice**

The notice shall cover all of the following:

- The CDCR name.
- The title, business address, and telephone number of CDCR official who is responsible for the system of records and who shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.
- The authority, whether granted by statute, regulation, or executive order, which authorizes the maintenance of the information.
- With respect to each item of information, whether submission of such information is mandatory or voluntary.
- The consequences, if any, of not providing all or any part of the requested information.
- The principal purpose or purposes within CDCR for which the information shall be used.
- Any known or reasonably foreseeable disclosure which may be made of the information.
- The individual's right to inspect records containing personal information which is maintained by CDCR.

**13030.12.2 Notice Methods**

This notice shall be given by one of the following methods:

- A notice printed directly on the form requesting information.
- A written policy provided to the person with the form requesting information.
- A CDC Form 1023, filled out and given to the source person.

This notice shall be given at each contact when personal information is requested. When contact is of a regularly recurring nature, an initial notice followed by a periodic notice at not more than one-year intervals shall satisfy this requirement.

**13030.12.3 Exceptions to Notice Requirements**

This notice requirement shall not apply to the following:

- Any enforcement document issued by an employee of a law enforcement agency in the performance of his or her duties wherein the violator is provided an exact copy of the document.
- Any accident reportable under the Vehicle Code (VC) when the parties of interest may obtain a copy of the report pursuant to VC 20012.
- CDCR requirements for an individual to provide his or her name, identifying number, photograph, address, or similar identifying information, if this information is used only for the purpose of identification and communication with the individual by CDCR, except that requirements for an individual's social security number shall conform with the provisions of the Federal Privacy Act of 1974 and subsequent amendments.

**13030.13 General Requirements for Information Collection**

To the greatest extent possible, personal information shall be collected directly from the subject of the inquiry rather than from another source. All information collected must be relevant and necessary to accomplish the lawful purpose for which it is collected.

Reasonable efforts shall be made to ensure that all information about an individual is timely, accurate, relevant, and complete.

**13030.13.1 Inaccurate Information**

The CDCR shall correct, update, withhold, or delete any portion of a record that CDCR knows, or has reason to believe, is inaccurate before transmitting or communicating the information to an agency outside of state government.

**13030.13.2 Record of Information Sources**

When information is collected from an origin other than the individual about whom it is collected, a record shall be made of the information source. The record of the source shall be made available to the individual when they inspect the record. The document to be used in recording the origin of personal information shall be CDC Form 1022, IPA Record of Sources. For exceptions see DOM 13030.13.3.

**13030.13.3 Exception to Disclosing a Source of Information**

When the personal information is contained in a document and the individual about whom the information is being collected is given a copy of that document, the origin of the document need not be listed on the IPA Record of Sources. The identity of a source need not be recorded when the source is in a non-supervisory relationship with the individual and the information is given with the promise of confidentiality during an investigation of:

- An applicant for public employment or a state license.
- A grievance or complaint.
- A suspected civil offense.

See DOM 13030.19 and 13030.20 for further information.

#### **13030.13.4 Using Inmates to Collect Personal Information**

Inmates in assignments where they will type, file, or otherwise handle any non-confidential information pertaining to another inmate shall comply with all State IPA requirements.

#### **13030.14 Conditions of Disclosure**

Records containing personal information may be disclosed or transferred only under the following conditions:

- To the individual to whom the information pertains, unless the information is exempt from access to the individual (See DOM 13030.19).
- To other persons with the prior written, voluntary, and timely consent of the individual to whom the record pertains, if the information is not exempt from access and the consent to disclose has been obtained within 30 days before the disclosure or within the time limit specified in the written consent. The CDC Form 1021, IPA Voluntary Consent to Release Personal Information, shall be used for this purpose.
- To the guardian or conservator of the individual, or a person representing the guardian or conservator, if it can be proven with reasonable certainty that such person is the authorized guardian or conservator of the individual, or their authorized representative.
- To an employee of CDCR, as long as the disclosure is necessary for the performance of the employee's official duties and the use to be made of the information is related to the purpose for which the information was obtained.
- To another State agency, when the disclosure is necessary for that agency to accomplish its constitutional or statutory mission and use of the information shall be compatible with a purpose for which the information was obtained.
- To any person where the disclosure is in accordance with the PRA (GC 6250, et seq.) and DOM 13040.
- To a governmental entity when required by State or federal law.
- To a person for statistical research or reporting purposes if adequate written assurance is obtained that the information shall only be disclosed in a form that will not identify any individual.
- To a person when compelling circumstances exist which affect the health or safety of an individual as determined by the agency maintaining the information, unless the disclosure conflicts with state or federal laws. Upon disclosure the individual to whom the information pertains shall be notified in writing through their last known address.
- To the California State Archives (CSA) as a record which has historical or other value which warrants its preservation by the State.
- To the Director of General Services, or their designee for evaluation to determine if the record may have further administrative, legal, or fiscal value.
- To any person pursuant to a search warrant [except that compliance with PC 832.7 shall be required for the record of a peace officer employee].
- To any person pursuant to the VC 1800, et seq.
- To any person for verification of eligibility and authorization for payment of government health care service claims pursuant to the W&I 1000, et seq.
- To a law enforcement agency when required for investigation of criminal activity unless such disclosure is otherwise prohibited by law. If the request is from a DA, the information shall be disclosed within ten days unless a court determines that the disclosure is not in the public interest or for good cause.
- C-Files (excluding medical, psychiatric, and confidential) are accessible to the DA or designee upon request, pursuant to GC 6263.
- Physical access by the DA or designee to medical and psychiatric files is prohibited, pursuant to PC 1543 through 1545 and W&I 5328.01, unless a court order from the court in the county where the files are located has been obtained or release authorization has been obtained from the inmate/parolee whose file is being sought.

The DA or designee is permitted to obtain copies of medical reports/records of the victim(s) and assailant(s) related to any in-custody incident(s)/ assault(s) committed by inmates and subject to possible DA prosecution.

- The DA or designee is authorized to review Confidential files in the presence of designated facility staff to determine whether there is sufficient available information to file criminal charges for in-custody misconduct, (i.e., staff assault/inmate assault).

Requests by the DA or designee for copies of Confidential documents necessary to prosecute in-custody crimes shall be forwarded to the Warden or designee for authorization to release. Confidential documents identified by the Warden or designee as endangering the safety and security of staff, inmates, or the facility and/or deemed too sensitive for release to the DA or designee will not be released without a proper court order.

All other requests by the DA or designee for access to Confidential files to assess information for possible prosecution of crimes occurring in the community will be reviewed by the Warden or designee on a case-by-case basis. The Warden or designee shall factor the need of the DA or designee to obtain relative information and the need to ensure the safety and security of staff, inmates, and the facility.

In the event the DA or designee discovers exculpatory information in the Confidential file during their initial review, or any subsequent review, the DA or designee shall immediately notify the Warden or designee of the discovery and the DA's duty to disclose the exculpatory information to the defense per PC. The DA or designee shall notify the Warden or designee prior to disclosure of such information to the defense in order for the Warden or designee to determine any possible safety concerns and take appropriate action.

Subpoenas for inmate and parole records shall be referred, in accordance with DOM 14010.6.3 to the appropriate Attorney General's (AG) Office identified in DOM 14010.13. Any questions regarding subpoenas or court orders for inmate/parolee records should also be directed to the local AG's office.

- To a person or government entity to the extent required to obtain information from that person or government entity, when necessary for an investigation of a failure to comply with a specific law which CDCR is responsible for enforcing.
- To the OIP with the written, voluntary, and timely consent of the individual when necessary for an investigation of a complaint regarding the IPA or for mediation of a dispute.
- To an adopted individual if the information is limited to the general background of the individual's natural parent and does not include or reveal the identity of the natural parent.
- To a child or grandchild of an adopted individual if the information is limited to medically necessary information pertaining to the adopted individual's natural parents and does not include or reveal the identity of the natural parents.
- To a committee or member of the Legislature with the written, voluntary, and timely consent of the individual.
- To the University of California or a nonprofit educational institution conducting scientific research when the request includes the following:
  - The need for the information.
  - Procedures protecting the confidentiality of the information.
  - Assurance that the identity of the individual shall not be disclosed in an individually identifiable form.
- To an insurer if authorized by VC 10900, et seq.
- To any person when the court issues a subpoena duces tecum or other compulsory legal process for the following:

**Note:** Before disclosure, if notification is not prohibited by law, CDCR shall reasonably attempt to notify the individual to whom the information pertains.

- A peace officer employee's record. It may be necessary to consult with the OLA, IPOLT, prior to disclosing a peace officer employee's record because of the restrictions imposed by PC 832.7 (See DOM 14010.6.10.2 for further information).
- Other employee's records. Only the documents specifically named shall be disclosed (See DOM 14010.10.1 for further information).
- An inmate's/parolee's record. Only the C-File shall be provided unless the court specifies other records by title.

#### **13030.15 Accounting for Disclosures**

Each operational unit within CDCR, including headquarters, division offices/sections/ units, field offices, facilities, and parole regions, shall keep an accurate accounting of the date, nature, and purpose of each disclosure made under the following circumstances:

- To persons or government entities when required by them to perform their constitutional or statutory duties. The use must be compatible with a purpose for which the personal information was collected.
- To a governmental entity when required by State or federal law.
- Under compelling circumstances which affect the health or safety of an individual.
- Under a subpoena, court order, or other compulsory legal process.
- Under a search warrant.
- To a law enforcement or regulatory government entity when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes, unless otherwise prohibited by law.
- To a person or government entity to the extent necessary to obtain information from the person or entity as necessary for an investigation by the person or entity of a failure to comply with a specific state law which that person or entity is responsible for enforcing.

#### Also Include

The accounting shall also include the name, title, and business address of the person or government entity to which the disclosure was made. Routine disclosures pertaining to crimes, offenders, and suspected offenders to law enforcement or regulatory government entities of federal, State, and local government require an accurate accounting. However, if disclosure is made to a government entity when required by state or federal law, it shall be sufficient to record the date of disclosure, the law enforcement or regulatory government entity requesting disclosure, and the purpose of the disclosure (e.g., investigation, licensing, certification, or regulatory purposes).

A CDC Form 819, IPA Personal Information Disclosure Log, shall be used to record disclosures. It shall be retained in the individual's file for three years from the date of disclosure or until the record is destroyed, whichever is earlier. The individual about whom information is disclosed is entitled to inspect this document, except information that is exempt pursuant to DOM 13030.19.

#### 13030.16 Access to Records

*Revised April 11, 2014*

Each individual has the right to inquire and be notified whether CDCR maintains a record about him or her. Any inquiry shall specify the name and title of the records system as filed with the OIP. Inmates are granted access and review of information pertaining to themselves under case law (*Olson v. Pope* (1974) 37Cal.App.3d783, 112Cal.Rptr.579) and this section. Inmates may request an Olson review of their Central File (C-File) from their assigned Correctional Counselor (CC).

The individual shall be permitted to inspect and obtain an exact copy of all or any portion of any nonexempt personal information about themselves even when it might be kept under the name of another person, entity, event, or date or among other records systems.

The individual may permit another person of their choosing to inspect all nonexempt personal information in a record and have an exact copy of all, or any portion, of the record. The individual must sign a CDC Form 1021, before such disclosure may be permitted.

The individual shall be permitted to inspect the accounting of disclosures made in accordance with this section, except that exempt information contained in the accounting shall be withheld.

##### 13030.16.1 Availability of Procedures to Access Records

*Revised April 11, 2014*

Upon written request, the office with the individual's record shall furnish the requester a copy of CDCR's procedures to be followed to gain access to or amend a record.

The information contained in this form shall include the following:

- The name, title, and business address of the person to contact for each record system and to whom to appeal if all, or any part, of the request is denied.
- Whether the request needs to be in writing.
- Where and when records may be inspected in person, including the regular office hours (See DOM 13030.21 and 13030.26 for further information).
- Fees to be charged for photocopying information (See DOM 13030.26.3 for further information).
- Notice that proof of identity, such as a valid driver's license or notarized signature, shall be required when the individual's identity (or the identity of the individual's representative) is not known to the keeper of the records.

- Example of information likely to be exempt from access.
- Approximate time frames in which CDCR shall:
- Respond to a request for inspection.
- Respond to a request for copies.
- Respond to a request to amend a record.
- Respond to a request to appeal a refusal to amend a record. (See DOM 13030.26, 13030.27, 13030.27.2, and 13030.28 for further information.)
- Limitation on what shall be accepted as a rebuttal to information in the record.

The individual requesting any record containing personal information shall sign an acknowledgment of penalties for requesting or obtaining records under false pretenses, CDC Form 1019, IPA Statement of Penalties.

#### 13030.16.2 Requests to Review Electronic C-File for Inmate Attorney or Olson Review

*Effective April 11, 2014*

Requests for CDCR offender records, specifically the C-File, come from various entities such as inmates, attorneys, law enforcement agencies, Office of the Attorney General, District Attorneys, Office of the Inspector General, Governors Office, etc.

Requests are usually received and facilitated by CC's, Litigation Coordinators, and Case Records Managers. Previous to electronic offender records, the paper C-Files were reviewed onsite or photocopies of the C-File were made.

With the Implementation of the Strategic Offender Management System (SOMS) and the Electronic Records Management System (ERMS), the location of where information resides and the process for gathering and providing offender information has changed significantly.

All existing Departmental policies and regulations, Memoranda, Legal Affairs opinions, and state and federal laws currently in place for releasing offender information as well as redaction of specific information still apply.

SOMS and ERMS are web-based computer programs dependent upon a networked computer accessing a database. SOMS and ERMS contain data of inmates' case factors and other information that was formerly contained in a paper C-File. The Electronic File in ERMS is organized in sections similar to the former C-File (e.g. Legal, Classification, and Disciplinary). For security reasons, inmates are not allowed to access a networked computer.

In order to facilitate an ERMS version of an Olson review, the documents in each section can be saved to an encrypted compact disc (CD) or in the case of an Inmate Attorney review, a PDF file stored on the institution's data storage drive commonly referred to as the "Share Drive". Each section of the ERMS version of the Olson/Inmate Attorney review will contain a category of the File similar to the current paper C-File format (e.g. Legal, Classification, and Disciplinary). The ERMS Olson or Attorney Review CD or PDF file will contain all scanned documents for an inmate that are stored in the ERMS database not considered confidential.

SOMS contains the inmate's case data that is accessed via computer screens devoted to a specific topic (e.g. Initial Housing Review, Notification in Case of Inmate Death, Serious Injury or Serious Illness, or Physical Characteristics). In order to facilitate a SOMS Olson or Attorney review, the input screens relating to each specific topic can be printed from the SOMS application.

##### 13030.16.3 Conducting an ERMS/SOMS Olson Review

*Effective April 11, 2014*

#### Assigned Correctional Counselor

When an Olson review request is received from an inmate or inmate's designee or a copy of the inmate's file is requested from an outside agency, the designated CC will review the inmate's C-File (as outlined in DOM Section 13030.17.2) and determine if any additional confidential information is to be exempt from review. In addition, the CC will review ERMS for any information that may have been misfiled, filed in the wrong inmate's file, confidential documents filed in a non-confidential section or non-confidential documents filed in the wrong section.

Per DOM Section 13030.17.4, the assigned CC will list any confidential documents withheld from the Olson/Inmate Attorney/Third Party review on a CDCR Form 810, Confidential Information Listing, and provide the inmate or third party with a copy.

Once the Olson CD is encrypted and copied, the assigned CC will be contacted by Case Records staff to retrieve the ERMS Olson Review CD, and schedule an appointment with the inmate to review it on a non-networked computer.

### Facilitating the Olson Review with the Inmate

In order to facilitate the Olson Review, the CC will perform the following steps:

- Provide the inmate a copy of the CDCR Form 810; where confidential information exists, it shall be excluded from the review.
- Print the designated input screens and redact any information deemed confidential prior to the inmate's review.
- Place the ERMS Olson Review CD in the non-networked computer.
- Open the requested sections.
- Allow the inmate to take notes as requested (per DOM Section 13030.26.2).
- Should the inmate request copies of the documents, the CC will note which documents and require the inmate to pay the established per copy charge.
- Upon completion of the Olson Review the CD will be returned to Case Records for proper disposal.

### Inmate Attorney Review

An Inmate Attorney review of an inmate's C-File utilizing the SOMS and ERMS applications is accomplished in the same manner as described in the previously listed Olson Review steps.

### 13030.17 Processing Requests for Personal Information

#### Employee Records

When a request is received for personal information regarding an employee, the request shall be forwarded to the employee's immediate supervisor. The supervisor shall:

- Contact the personnel assistant who maintains the employee's file.
- Request the file be examined for exempt information.
- Request that exempt information be properly identified and protected from disclosure in keeping with this section.
- Request that all nonexempt disclosable information be made available for the employee's inspection, or for inspection by the employee's authorized representative (See DOM 13030.14 for further information).
- If the information is exempt from disclosure, notify the requesting party that CDCR cannot comply with the request to disclose the information.

#### Inmate/Parolee Records

When a request is received for personal information regarding an inmate or parolee, the request shall be forwarded to the caseworker assigned to the case. The caseworker shall:

- Review the request to determine if the requested information is exempt from disclosure.
- If the information is not exempt from disclosure, make arrangements to disclose the information (See DOM 13030.21 for further information).
- If the information is exempt from disclosure, notify the requesting party that CDCR cannot comply with the request.

### 13030.17.1 Denial of Request

Any denial of a request to inspect a record shall contain the reason(s) for the denial and CDCR's policy, How to Inspect and Correct Your Record relating to requesting a review of the decision to deny access to a record. Appeals of this denial shall be the same as for an appeal of a refusal to amend a record (See DOM 13030.28).

### 13030.17.2 Screening a Record for Exempt Information

*Revised April 11, 2014*

A CDCR employee who has been trained and specifically designated (see DOM 13030.3.1 for further information) as an authorized discloser of exempt personal (formerly confidential) information shall examine all material in the file or record prior to any inspection by the requester, the requester's attorney, or any person designated by the requester. Caseworkers (for inmate/parolee records) or personnel assistants (for employee records) generally are designated to examine records for exempt personal information.

The purpose of the screening is:

- To evaluate material already classified as exempt or nonexempt to reaffirm the validity of the determination.
- To classify materials as exempt or nonexempt according to the CCR 3321 and DOM 13030.19 of this manual.
- To prepare CDCR Form 810, Confidential Information Listing; CDC Form 811, or Confidential Information Removal Notice.
- To ensure that all exempt material is removed from an employee's file or is placed in the Confidential Material Folder for inmate/parolee

C-files, so as not to be improperly disclosed (See DOM 13030.3 and 13030.18 for further information).

### 13030.17.2.1 Identifying Exempt Information

When an employee feels a document in an inmate/parolee C-file contains exempt personal (formerly confidential) information, the document shall be forwarded to a staff person at the level of Correctional Counselor III (CC-III), Parole Agent III (PA-III), or higher, with a recommendation for approval of the designation of "Confidential." The staff person approving the designation shall ensure that the document is handled as required in DOM 13030.17.4.

- An employee who feels a document should be designated "Confidential" shall hand deliver the document to the CC-III/ PA III, if feasible. If not, follow instructions in DOM 13030.31.

### 13030.17.2.2 Classification Committee Review

*Revised April 11, 2014*

Every classification committee shall review the documents in the Confidential Section of each case being considered. If the designation of "Confidential" assigned to any document is no longer warranted, the document shall be reclassified. The classification committee chairperson shall ensure that the procedures for returning declassified documents to their assigned place in the C-file, as outlined in DOM 13030.17.4, are followed.

### 13030.17.3 Difference of Opinion About Confidential Designation

When the examiner disagrees with a prior designation of confidential or non-confidential, the examiner shall forward the document to the appropriate staff person for designation or declassification as outlined in DOM 13030.17.2.1.

Where a difference of opinion cannot be resolved in this manner, the examiner shall refer the matter to their immediate supervisor in headquarters, to the associate Warden in a facility, or to the assistant Regional Parole Administrator (RPA) in a parole region. When a significant and consequential difference of opinion between staff cannot be resolved, the matter shall be referred to the Warden, RPA or (in headquarters) the deputy or assistant director.

### 13030.17.4 Preparation of Exempt Personal Information in Inmate/Parolee Records

*Revised April 11, 2014*

If an entire document is classified as exempt, the originator of the document or the person designating it as confidential shall:

- Conspicuously stamp the document at its top and bottom with the word "Confidential" in red ink. If the document consists of more than one page, each page shall be so marked.
- Date and sign the designation of confidential.
- Note the document in the C-file on CDCR Form 810.
- Replace the document with a completed CDC Form.
- Immediately scan the document into the Confidential Section of the ERMS file.

#### Mixed Information

If a document contains a mixture of exempt and nonexempt information, the originator or the person designating it as confidential shall:

- Conspicuously stamp the document at its top and bottom with the word "Confidential" in red ink. If the document consists of more than one page, each page shall be so marked.
- Date and sign the designation of confidential.
- Cover the exempt portions and make a photocopy which shall be included in the nonexempt portion of the C-file to be disclosed.
- Immediately scan the document into the Confidential Section of the ERMS file.
- Note the exempt information on the CDCR Form 810.

#### Leave Information

The Confidential Information Listing and Confidential Information Removal Notice shall remain in the C-file when requester inspects the C-file.

When a designation of confidential is removed from a previously confidential document, the examiner shall ensure that:

- The document is removed from the Confidential Section and returned to its regular place in the C-file.
- A line is drawn through the identifying confidential designation.
- The redesignation as no longer confidential includes the date and signature of the examiner.
- The document is deleted from the CDCR Form 810.



- The CDC Form 811 is removed from the record.

#### **Obsolete Information**

Confidential Information Listing forms made obsolete by the designation, or re-designation of confidential material shall be removed from the record and destroyed and an updated Confidential Information Listing shall be inserted by the examiner.

#### **13030.18 Confidential Section**

*Revised April 11, 2014*

The responsibility for the preparation of the Confidential Section shall rest with the originator of a document or the examiner when the first instance arises which requires the separation of exempt personal (formerly confidential) information from the main body of the C-file. Staff remains responsible to ensure they complete the process of stamping the document "Confidential" top and bottom, and for ensuring the appropriate level of administrative approval is obtained and the document scanned to the Confidential Section of ERMS.

#### **Retention of Folder**

The Confidential Section shall remain a permanent part of the C-file. The contents of the Confidential Section shall not be returned to its normal position in the C-file until, or unless, the confidential designation is removed and the information is no longer exempt from disclosure. Exceptions may be made on a temporary basis to facilitate special circumstances, i.e. confidential BPH/BPT addenda and permanent addenda.

Except for the temporary exceptions mentioned above, all information designated as confidential shall be placed, and retained, in the Confidential Section.

#### **13030.19 Exempt Personal Information Withheld From Individual**

*Revised April 11, 2014*

The CDCR is not required to disclose personal information to the individual about whom the information pertains, if the information meets any of the following criteria:

- Is compiled for the purpose of identifying individual criminal offenders and alleged offenders and consists only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status.
- Is compiled for the purpose of a criminal investigation of suspected criminal activities, including reports of informants and investigators, and is associated with an identifiable individual.
- Is contained in any record which could identify an individual and which is compiled at any stage of the process of enforcement of the criminal laws, from the arrest or indictment stage through release from supervision, including the process of extradition or the exercise of executive clemency.

#### **For Investigative Purposes**

- Is maintained for purpose of an investigation of an individual's fitness for licensure or public employment, or of a grievance or complaint, or of a suspected civil offense, as long as the information is withheld only so as not to compromise the investigation or a related investigation. The identities of individuals who provided information for the investigation may be withheld when the provisions of DOM 13030.13.3 are met.
- Would compromise the objectivity or fairness of a competitive examination for appointment or promotion in public services, or to determine fitness for licensure, or to determine scholastic aptitude.

#### **Condition of Individual**

- Pertains to the physical or psychological condition of the individual, if determines that disclosure would be detrimental to the individual. The information shall, upon the individual's written authorization, be disclosed to a licensed physician designated by the individual. When a determination is made that information is exempt under this exclusion, it shall be documented as follows:
- For employees, a physician shall make a statement on the document (or attach a statement to the document) that disclosure of the information would be detrimental to the person about whom it was prepared.
- For inmates/parolees, a physician shall prepare a CDC Form 128C, Medical Chrono, stating that disclosure of the information to the inmate/parolee would be detrimental. The information shall be included in ERMS by designated staff as soon as possible.
- Relates to the settlement of claims for work-related illnesses or injuries and is maintained exclusively by SCIF.
- Is required by statute to be withheld from the individual to whom it pertains.

#### **13030.20 Deletion of Source Information**

Where a source person, not in a supervisory relationship to the individual, provides nonexempt information to CDCR under a promise of confidentiality, the information shall be fully disclosed unless the information is otherwise exempt from disclosure. However, the identity of the source shall, in this circumstance, be withheld. The individual must either be allowed access to an exact copy of the information with only the source person's identity deleted or they must be provided with a comprehensive summary of the substance of the information, with particular attention to providing any nonexempt personal information that could affect the individual's reputation, rights, benefits, or privileges (See DOM 13030.13.3 for further information).

#### **13030.21 Scheduling Inspection of Nonexempt Records**

*Revised April 11, 2014*

Upon receipt of a proper written request, the inspection of records shall be scheduled as soon as possible by the caseworker, or personnel assistant, but no later than:

- Thirty days from the date the request is received in CDCR for active records and discharged CDCR archive files already available on ERMS.
- Sixty days from the date the request is received in CDCR for inactive records in central storage or for records which are geographically dispersed.

Failure by CDCR to respond within these time limits shall be deemed a denial to access of the record. All inspections of departmental records shall be supervised by a Department employee.

#### **Location of Review**

Inspection of a file kept by CDCR shall take place at the location where the record is usually maintained. The following exceptions may apply:

- If a court orders a file to be inspected at another location, CDCR shall comply with the court order.
- An attorney, who has obtained written, voluntary, and timely authorization from the person about whom the personal information is kept, may request to inspect a record at a departmental office or facility near the attorney's office.
- The person approving a request to inspect a record at an alternate location may, upon written request, approve the alternate site for the inspection only after receiving permission from the head of the office where the proposed inspection is to take place.

#### **13030.22 Inmate/Parolee Review of Case Records**

*Revised April 11, 2014*

Upon proper written request, an inmate or parolee [or, with proper authorization (see DOM 13030.14 for further information), their attorney or representative] shall be permitted to review their record ten days prior to any BPH meeting for any of the following:

- Reviewing eligibility for parole, release, or return.
- Setting, postponing, or rescinding a parole/release date.
- Evaluating an appeal of good time credit denial.

Compliance with DOM 13030.17.4 and 13030.20 shall precede any disclosure of a record.

#### **13030.23 Information Available to the Public or News Media**

Although CDCR records and files containing personal information identifying an individual are not public records and shall not, at any time or under any circumstances, be made accessible to the public or news media, non-personal information obtained from such records and files may be disclosed to individual members of the public and the news media without the individual's consent. Information shall be disclosed only by CDCR employees who have been trained and specifically designated to disclose personal information (See DOM 13030.3.1 for further information).

When responding to a request from the news media, the identity of the requester shall be determined, and the information disclosed shall be related to a current newsworthy event.

#### **13030.23.1 Guidelines: Employee Information**

##### **Released**

The following information about employees may be released:

- Class title.
- Class salary range.
- Work location.
- Work telephone number.
- Role or function in a newsworthy event.

- Records of adverse actions. A notice of such action filed with SPB is accessible to the public, just as hearings on appeals are considered open to the public, with rare exceptions to protect minors, wards, and patients under special circumstances.

#### Not Released

The following information is exempt and shall not be released:

- Photographs of the individual or their family members.
- Home address and telephone number.
- Performance evaluations unless they are at issue in an adversarial proceeding.

#### 13030.23.2 Guidelines: Criminal Offender Record Information

CDCR employees shall not use the SSCH Information from CI&I to furnish information about an inmate's arrest history to the inmate's family, friends, prospective employers, the news media, or the public. Persons who are not authorized by State DOJ to receive the CI&I SSCH but who have a legitimate interest in the inmate's past history may be given information from other nonexempt documents in the inmate's C-file.

Any person authorized by law to receive the CI&I SSCH, who knowingly furnishes the record or information to a person not authorized by law to receive it, is guilty of a misdemeanor.

Only the CCRM of headquarters and each facility or regional parole office shall release CI&I SSCHs, and they shall be released only to those agencies authorized by State DOJ to receive CI&I SSCHs.

State DOJ Guidelines for Dissemination of Criminal Offender Records Information shall be maintained in the records office at headquarters, facilities and regional parole offices.

#### Photocopy

When an inmate seeks to obtain a photocopy of a CI&I SSCH, they shall be instructed to complete a BCID Form 8705, Application to Obtain Copy of State Summary Criminal History Record, and a Trust Account Withdrawal Form in the amount of \$25.00 payable to DOJ. If there is an extra completed fingerprint card in the inmates C-file, it may be used with this application. Otherwise the inmate shall be fingerprinted. The records office shall forward the BCID Form 8705, the inmate's check, and the fingerprint card to DOJ for the inmate. There shall be no charge for these services by CDCR employees.

When an employee, parolee, or their attorney seeks to obtain a photocopy of a CI&I SSCH, they shall be referred to DOJ, the local sheriff, or the local police department to file an application for a CI&I SSCH.

#### 13030.23.3 Guidelines: Inmate/Parolee Information

##### Not Exempt

Unless inmate/parolee information is classified as exempt, it may be disclosed. The following inmate/parolee information is not exempt [See DOM 13030.23.4 for guidelines on DJJ/CYA ward information]:

- Age.
- Date of birth.
- Birthplace.
- Race.
- CDCR identification number.
- Commitment offense for the current term of imprisonment and any prior commitments to prison.
- County(ies) from which committed.
- Any pending court action or records of court proceedings.
- Facility or field parole office having jurisdiction of the case.
- Anticipated date of release to parole or discharge.
- BPH hearing schedule and actions.
- Nature of an injury.
- Cause of death.
- The individual's role, functions, or actions relating to a newsworthy event.

#### Exempt

The following information is generally exempt from disclosure:

- Personal information about the inmate/parolee, except as provided above.
- Personal information about the inmate's/parolee's family, relatives, friends, associates, or former employer.

- Any other information about the inmate/parolee which is not relevant, pertinent, or directly related to a current newsworthy event or which may affect the safety of the inmate.

#### 13030.23.4 Guidelines: DJJ Ward Information

No photographs or other information which pertains to a DJJ ward or which identifies an individual as a ward shall be released to the media or to the public without DJJ approval. This includes adult Superior Court commitments as well as Juvenile Court commitments covered by specific statutes. When a compelling reason or need exists, CDCR shall obtain DJJ approval prior to disclosing any information concerning a DJJ ward.

#### 13030.23.5 Guidelines: Methadone Patient Information

*Revised September 25, 2007*

##### With the Patient's Consent

If the patient gives prior written consent, designated employees (see DOM 13030.3.1 and 13030.17.2 for identifying designated employees) may disclose necessary written or verbal information to the following persons:

- The patient's attorney.
- The patient's immediate family members as defined in Section 3000 of the Title 15, unless the person responsible for treatment believes the disclosure would be harmful to the patient.
- Employers and employment agencies when the information may assist in the patient's rehabilitation.
- A criminal justice agency which requires methadone maintenance as a condition of release, probation, parole, the disposition or status of any criminal proceedings against the patient, or pursuant to the execution or suspension of any sentence imposed upon the patient.
- Licensed physicians when the disclosure is necessary for them to furnish medical services to the patient to whom the personal information pertains.
- Licensed physicians when necessary to provide continued methadone maintenance when the patient is traveling, incarcerated, or hospitalized.

##### Document

Such disclosures shall be documented as follows:

- The name of the patient or assigned program case number.
- The time and date of the disclosure.
- The information disclosed.
- The names of individuals by whom and to whom the disclosure was made.
- The purpose for the disclosure.

**Note:** Consent to disclose information under this section may not be revoked for 60 days or until the condition for which it was given has terminated, whichever is later.

##### Without the Patient's Consent

If the patient does not give prior written consent, designated employees may disclose information verbally or in writing to the following persons:

- Licensed physicians to the extent required to meet a bona fide medical emergency if, upon disclosure, CDCR sends notification to the patient's last known address and the disclosure does not conflict with other state or federal law.
- Persons authorized by a court order to receive such information if, before disclosure, CDCR attempts to notify the individual unless the notification is prohibited by law.
- Qualified persons conducting authorized scientific research, management audits, financial audits, or program evaluation. The identity of individual patients shall not be disclosed, either directly or indirectly, in any resulting report.

#### 13030.24 Reporting no Record When a Record Exists

In limited instances CDCR may respond to a request for personal information that no records are kept by CDCR, even though nonexempt information is kept. This exception is very limited and requires a court order pursuant to CC 1798.41(c).

CDCR may seek to use this exception only if disclosing the information would:

- Seriously interfere with attempts to prevent the commission of crime, or
- Endanger the life of an informant or other person who submitted the information contained in this record.

In order to bar disclosure of nonexempt personal information under this rule, the presiding judge of the superior court in the county in which the record is

maintained must review the record in camera. If the judge agrees that the information meets the above criteria, the court issues an ex parte order authorizing CDCR to respond to the requester that no record is maintained, even though CDCR maintains a record.

#### **Duration of Court Order**

The maximum effective life of such order shall be no longer than 30 days. CDCR may seek renewals of the order at 30-day intervals. If an order expires, and CDCR receives another request to disclose the nonexempt personal information, CDCR would be required to obtain another court order or disclose the information.

#### **Requests for Court Order**

When a request for disclosure of information is received and the reviewer feels that the one, or more, of the above circumstances exist, the reviewer shall:

- Contact the Office of the AG (see DOM 14010.18.1) and request that the Attorney General seek an ex parte order authorizing CDCR to respond to the person requesting the information that no record is maintained by CDCR.
- Provide sufficient justification to the Office of the AG to allow that office to approach the court and show cause why the information (otherwise not exempt from disclosure) should be withheld and why the ex parte order should be issued by the court.

#### **13030.25 Transfer of Personal Information**

Prior to the transfer of a record, particularly to another jurisdiction, the record shall be reviewed, corrected, and updated, and any portion known or believed to be inaccurate or untimely shall be withheld. Records are cumulative, and the accuracy and validity of information in the record is accomplished through continual updating and scheduled purging of outdated and unneeded information.

#### **13030.26 Method of Disclosure**

The CDCR shall present the information in a form reasonably clear to the general public. When the person to whom disclosure is made has difficulty understanding material contained in a record, the employee supervising the inspection of the record shall make a reasonable effort to help the person understand the record.

#### **13030.26.1 Charges for Staff Services**

There shall be no charge for staff services in supervising the inspection of a file during normal business hours by the requester, a requester's attorney, or any person designated and authorized by the requester to inspect the file.

When a person requests inspection of a file or record outside of CDCR's regular business hours for the office in which the inspection will take place, CDCR may, at its discretion, grant or deny the request. When CDCR grants the request, the requesting person shall be notified that a charge may be made to reimburse CDCR for any costs incurred in supervising the inspection of records outside of regular business hours and the amount of any charge.

The decision to grant or deny a request to inspect a file or record outside of regular business hours shall be made by the deputy or assistant director over a headquarters unit or the Warden or RPA with administrative control of the unit retaining the file or record to be inspected.

#### **13030.26.2 Note-Taking During Disclosure**

Notes may be taken during the inspection of a record. Notes shall be limited to brief references to specific documents the person intends to question or discuss with employees after the completion of the file review or to specific documents the person may decide to have copied. Verbatim copies of completed documents or lengthy portions of documents shall not be permitted during the inspection.

No person shall be permitted to use any pen and/or ink writing instrument during note-taking in the process of inspecting a departmental record. Only pencils may be used for the taking of notes.

#### **13030.26.3 Copies of Records**

*July 23, 1997*

When copies of arrest reports are requested by the subject of the report, they shall be referred to the agency where the report originated.

Copies of nonexempt information shall be provided to the requesting party, or their designee, when permitted by this section. All requests for copies of any record shall be in writing, and it shall clearly identify the document or material to be copied.

Requests for photocopies of documents shall be referred to the person who reviewed the request prior to disclosure for exempt information (For additional information on copying services, see DOM 13030.16.1, and 13040.20).

Upon a showing of a reasonable need to have a copy of a document, and upon payment of ten (10) cents per copied page, the requested copies shall be made and transmitted to the requesting party within 15 days of receiving the request.

There may be instances where a request to review a record is based upon the requester's need to obtain a copy of one, or even several, specific documents contained in a file. In those cases it may best serve the needs of CDCR to provide those copies (if the information is disclosable) rather than have an employee supervise a full inspection of the record by the requesting party. No charge shall be made when copies are furnished in lieu of a physical inspection of the full record.

#### **13030.26.4 Staff Answering Questions during Record Inspection**

*Revised April 11, 2014*

An employee supervising the inspection of a record may answer questions about nonexempt information contained in or related to the records or refer the requester to the person who examined and approved the record for inspection.

Employees shall not engage in debates, justification, or discussions regarding departmental actions. Employees shall make genuine, reasonable efforts, when requested, to assist the requester in understanding nonexempt information being inspected. This could include, but is not limited to, reading a document (if the requester is illiterate), and explaining abbreviations and acronyms used by CDCR.

#### **13030.27 Requests to Amend Records**

Any person seeking to correct or amend a record CDCR obtained from another agency shall be directed to make their request to the agency from which the record originated.

Any person about whom CDCR maintains any record of personal information may request that the information be amended to correct outdated, inaccurate or incomplete information.

Requests to amend any record maintained by CDCR shall be directed to:

- The source of the contested information if the source is a departmental official or employee who is responsible for the contested information's placement or retention in the record or file.
- The keeper of the record being contested if the source person is not as described above or if the source person is no longer available.

#### **13030.27.1 Contents of Requests to Amend Records**

Any request to amend a CDCR record shall be in writing and shall contain at least the following:

- Sufficient specific identifying information to permit CDCR to locate the record and the specific portion of the record that is to be considered for amendment.
- The information the requester alleges should be amended.
- Those amendments the requester feels should be made.
- Full documentation to support and justify the amendment.

#### **13030.27.2 Responses to Requests to Amend Records**

The CDCR shall, within 30 days:

- Make each amendment in accordance with the individual's request and inform the individual of the amendments; or
- Inform the individual of CDCR's refusal to amend the record, the reason for the refusal, and the process established by CDCR for the individual to request a review of any refusal to amend the record (See DOM 13030.28 for further information).

#### **13030.28 Appeals on Refusal to Amend Records**

##### **Inmate/Parolee Appeals**

When an individual disagrees with CDCR's refusal to amend a record, they may request CDCR review that decision. Requests submitted by inmates and parolees for CDCR to review a decision not to amend a record shall follow the inmate/parolee appeal process, and shall be submitted on CDCR Form 602, Inmate/Parolee Appeal (refer to DOM 54100 for information concerning inmate/parolee appeals).

For requests submitted by employees and other than inmates and parolees, the first level of review shall be the Warden, RPA or division head (in headquarters). The second level of review shall be the Director.

For appeals from employees and persons other than inmates and parolees, the request shall be in writing and shall include the following:

- A copy of all previous requests to amend and any prior correspondence concerning amending the record.
- A copy of all previous CDCR responses and any prior correspondence concerning the request to amend the record.

- A full statement explaining why the individual disagrees with CDCR's denial.
- Full documentation to support and justify the request to review the refusal to amend the record.

#### **Length of Review Period**

Responses to requests to review a decision denying a correction or amendment to a departmental record shall be made no later than 30 days from the date of receipt within CDCR. Upon a showing of good cause, CDCR may extend the review period up to 30 additional days (for a total of not more than 60 days from the receipt of the request). The individual requesting a review shall be notified that CDCR extended the response time and the reasons establishing good cause to extend the response time.

Inmate/parolee appeals shall be handled within the established time limits for appeals.

#### **13030.29 Statement of Disagreement**

If the individual continues to be dissatisfied after the above review process has been completed, and the denial of the request to amend has been upheld, a statement of disagreement may be placed in the record by the individual about whom the information pertains.

Where the disputed information is an opinion, diagnosis, etc., of another person, the individual may place in the record a rebuttal or a counter opinion, diagnosis, etc. While no arbitrary limit is placed upon the length of the statement, the statement must be limited to a length reasonable to the circumstance or information disputed (normally from one to three pages).

#### **13030.29.1 Effect of Statement of Disagreement**

When a statement of disagreement is placed in the record, the original record shall not be altered. The statement of disagreement shall be made available to any person eligible to review the disputed information, and when the disputed information is disclosed, the statement of disagreement shall be included with the disclosure. If the statement of disagreement contains exempt personal information, for the purpose of future disclosure, it shall be screened, classified, and treated like any other information in the record. Any decision based upon the disputed information shall include a review of the statement of disagreement and a consideration of its contents.

Any disclosure of disputed information and a statement of disagreement shall include a concise statement of the reasons for CDCR's decision not to alter the original record.

The statement of disagreement shall remain a part of CDCR's record as long as the disputed information is retained in the record.

#### **13030.30 Security of Records**

Inmates and parolees shall not be used to gather, process, maintain, or handle exempt personal (formerly confidential) information. The use of inmates to process nonexempt information shall be minimized.

Administrative, technical, and physical safeguards shall be established and implemented to ensure compliance with the provisions of this section, to ensure the security and confidentiality of records, and to protect against reasonably anticipated threats and hazards which could result in damage to, dissemination of, or destruction of departmental records.

Records shall not be taken from their usual place of use or storage unless specifically approved by policy or procedures. Records shall not be taken off state property without the express permission of the Warden; RPA; Deputy Director, OLA; or their designees.

Records containing exempt personal (formerly confidential) information shall be stored in locked areas designed to protect the privacy and integrity of the records. When exempt personal information is not under the physical control and observation of a person authorized to review it, the record shall be returned to the locked area.

The authorized person reviewing exempt personal information shall assure its security while it is under their control.

Immediately after they have served their purpose, all preliminary drafts, carbon sheets, plates, stencils, stenographic notes, work sheets, and similar items shall be destroyed by the person responsible for their preparation.

#### **13030.31 Mailing Personal Information**

Exempt personal information shall be mailed in two envelopes as follows:

- The outer envelope shall be addressed in the normal manner, and it shall not be marked with any indication that exempt personal (formerly confidential) information is enclosed.
- The inner envelope shall be marked in one of two ways:
  - "CONFIDENTIAL to \_\_\_\_\_ unit." This envelope may be opened only by unit staff and handled in the manner, or

- "CONFIDENTIAL to \_\_\_\_\_ unit. Mr./Mrs. \_\_\_\_\_ only." This envelope shall be opened by the designated person. Employees should be aware that if the designated person at the address is not available, the package or envelope shall not be opened until that person is available or other permission is obtained from the sender.

#### **13030.32 Retention and Destruction of Personnel Information**

The CDCR records shall be retained only as approved on STD Form 73, Records Retention Schedule (RRS), and DOM 72010. Every effort shall be made to protect the privacy of the information when it is being destroyed. All personal information in departmental records shall be shredded by hand or by machine.

Personnel records shall not be combined with non-personal records when being shipped, mailed (see DOM 13030.30 for further information), or transported for destruction.

#### **13030.33 Civil Remedies and Penalties**

Any individual may initiate a civil action if CDCR:

- Refuses to comply with an individual's lawful request to inspect their records.
- Fails to maintain any record concerning an individual with accuracy, timeliness, and completeness where the failure results in a determination adverse to the individual about whom the information pertains.
- Fails to comply with the IPA in such a way that it has an adverse effect on the individual about whom the information pertains.

#### **Court May**

In any suit brought against CDCR, the court may:

- Examine the contents of any record to determine whether the records may be withheld as being exempt from the individual.
- Award to the individual reasonable attorney's fees and other litigation costs, including payment for mental suffering, if the court's finding is adverse to CDCR.

#### **Penalties**

Penalties for noncompliance with the IPA are as follows:

- Any employee of CDCR who intentionally violates any part of the IPA shall be subject to adverse action, including termination of employment.
- Any person who requests or obtains any record containing personal information from CDCR under false pretenses shall be guilty of a misdemeanor and may be fined up to \$5,000, or imprisoned up to one year, or both.
- The intentional disclosure of medical, psychiatric, or psychological information is punishable as a misdemeanor if the wrongful disclosure results in economic loss or personal injury to the individual, except when the disclosure is required or permitted by law.

#### **13030.34 Revisions**

*Revised April 11, 2014*

The Director, Division of Administrative Services, or designee is responsible for ensuring that the contents of this article are kept current and accurate.

#### **13030.35 References**

*Revised April 11, 2014*

CC § 1798, et seq. (IPA).

EC § 1040, et seq.

GC §§ 6250, 6252(b), 6254(b), 6263, and 14740 - 14750.

PC §§ 832.7, 1543 - 1545, 2081, 2081.5, 2082, 11105, and 11140.

W&I §§ 1000 and 5328.01.

5 USC 552 and 552a.

CCR (15) (3) §§ 3321 and 3450, et seq.

SAM §§ 1665 - 1673.2.

DOM §§ 13040, 14010, 54100, and 72010.

Olson v. Pope (1974) 37Cal.App.3d783, 112 Cal.Rptr.579.

### **ARTICLE 16 — PUBLIC RECORDS**

*Revised January 2007*

#### **13040.1 Policy**

All records of the Department of Corrections and Rehabilitation (CDCR) shall be safeguarded, maintained, and disclosed in compliance with the Government Code (GC) Sections 6250, 6275, 6276, et seq., Public Records Act (PRA).

**13040.2 Purpose**

This Article specifies staff responsibilities for the collection, maintenance, and disclosure of records identified as public records.

**13040.3 General Review**

When a written request is received to provide access to or copies of a CDCR record, staff shall look first to the provisions of the PRA in this article to determine if the record may be disclosed. If it is a public record, and the record contains personal information, the employee shall look to the provisions of Department Operations Manual (DOM), Chapter 1, Article 15, Information Practices, to determine if the personal information is exempt from disclosure under the Information Practices Act (IPA).

**13040.4 Definitions**

**Public Record** - Includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

**Writing** - Any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

**13040.5 Security of Records**

When the public is inspecting any record, an employee who shall ensure the security and integrity of the record shall directly supervise the inspection. The removal of any document or the altering of any record during a public inspection is prohibited. Note taking shall be limited in accordance with the provisions of DOM Chapter 1, Article 15, Information Practices.

**13040.6 Designation of Public Records Act Coordinator**

Each CDCR Division, Branch, Office, Institution, Parole Region, and the California Prison Industry Authority (CalPIA) shall have a designated Public Records Act Coordinator.

**13040.7 Public Records Request**

When a request for records is submitted on CDCR Form 1432, Request to Inspect Public Records, or other method, the recipient of the request shall give the request to his or her PRA Coordinator for processing. If the requested records are maintained by the recipient location, then the PRA Coordinator for the recipient location shall process and respond to the record request. If the requested records are maintained at a different location, the recipient PRA Coordinator shall immediately forward the request to the appropriate PRA Coordinator for response.

**13040.7.1 Responsibility of All Employees**

All employees who are public liaisons shall be made aware of the procedures established for public inspection of CDCR records through this Article. Employees shall be sensitive to any request from the public for the review of any records.

**13040.7.2 Responsibility of Public Records Act Coordinator**

The PRA Coordinator shall:

- Determine whether requested records are publicly disclosable in whole or part. Any questions concerning whether a requested record may be publicly disclosed shall be directed to the Office of Legal Affairs.
- Log and track the request in the Public Records Act Tracking System (PRATS).
- Respond to the request within 10 days.
- Gather and perform any necessary redaction of exempt information contained in the requested records.
- Provide or coordinate the supervision of records inspection by the public.
  - Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
  - Describe the information technology and physical location in which the records exist.
  - Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

**13040.8 Guidelines for Inspecting Public Records**

The CDCR's headquarters and each institution, facility, parole region, and field or CALPIA office shall maintain a supply of CDCR Form 1431, Guidelines for the Inspection of Public Records, and CDCR Form 1432, Request to Inspect Public Records. Upon written/verbal request from any member of the public or any inmate/parolee, a copy of either form shall be

provided, free of charge for their use in making a request to inspect public records.

**13040.9 Notice to the Public**

The CDCR's headquarters and each institution, facility, parole region, and field or CALPIA office shall display a conspicuous notice to the public at each main point of entrance used by the public. The notice shall contain the guidelines for inspection of public records, as provided in CDCR Form 1431.

**13040.10 Hours of Inspecting Public Records**

When public records are disclosed, they shall be made available by appointment for inspection during regular business hours.

**13040.11 Where to Make a Request for Records**

A request to inspect a public record may be mailed, emailed, faxed, or personally delivered to any unit or office of CDCR, in writing or by completing CDCR Form 1432. Requests to inspect public records may also be submitted verbally in person or via telephone. To avoid a misunderstanding of the information requested, the receiver of the request should encourage the requester of a verbal request to submit the request in writing.

**13040.11.1 Retention of Public Records Act Requests**

Public Records Act requests shall be maintained for at least 3 years or until the requested record is destroyed, whichever is shorter.

**13040.12 Specifically Included Public Records**

The following CDCR records are included in the general category of public records:

- California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections.
- Non-confidential DOM and CDCR procedures.
- Director's bulletins and directives.
- Non-confidential local operational plans and procedures.

**13040.13 Disclosure of Information**

The CDCR shall disclose information about an incident, arrest, or complaint as outlined below, unless the disclosure would endanger the safety of a witness or other person involved in the investigation or the successful completion of an investigation or a related investigation per GC 6254, et seq., or disclosure is prohibited by law (see Chapter 1, Article 15, Information Practices).

**Disclosure of Information Concerning an Incident**

The following information concerning an incident shall be disclosed to those persons listed in the next section: Who Can Receive Information Concerning an Incident.

- The name and address (use the business address for CDCR employees) of persons involved in or witnesses (other than confidential informants) to an incident.
- The description of any property involved.
- The date, time, and location of the incident and all diagrams.
- The statements of all parties involved in the incident and the statements of witnesses (other than confidential informants).

**Who Can Receive Information Concerning an Incident**

Only the following shall receive information concerning an incident:

- A judicial, law enforcement, or regulatory agency when required for the performance of their lawful duties.
- The victim of the incident.
- An authorized representative of the victim.
- An insurance carrier against which a claim has been or might be made.
- Any person suffering bodily injury or property damage or loss as a result of the incident caused by:
  - Arson.
  - Burglary.
  - Fire.
  - Explosion.
  - Larceny.
  - Robbery.
  - Vandalism.
  - Vehicle theft.
- Use of a motor vehicle, aircraft, or water vehicle in a manner which intentionally inflicted death or injury.
- Violation of Vehicle Code 23152 or 23153.

- The immediate act of fleeing the scene of a crime in which the person knowingly and willingly participated.

#### **Disclosure of Information Concerning an Arrest**

The following information concerning an arrest shall be disclosed:

- Full name and occupation of every individual arrested.
- A description of every individual arrested which includes the following:
  - Date of birth.
  - Color of eyes and hair.
  - Sex.
  - Height.
  - Weight.
- Time and date of the arrest.
- Time and date of the booking.
- The location of the arrest.
- The factual circumstances surrounding the arrest.
- The amount of bail set (if any).
- The time and manner of release or the location where the individual is currently being held.
- All charges upon which the individual is being held, including any outstanding warrants from other jurisdictions and parole or probation holds.
- The current address of every individual arrested by CDCR and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator, EXCEPT that the address of the victim of any crime defined by Sections 220, 261, 261.5, 262, 264, 264.1, 273(a), 273(d), 273.5, 286, 288, 288(a), 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential.

#### **Disclosure of Information Concerning a Complaint**

The following information concerning a criminal complaint received by the CDCR shall be disclosed:

- The time, substance, and location of all complaints received by the CDCR.
- The time and nature of the response.
- To the extent the information is recorded, the following may be disclosed:
  - The time, date, and location of the occurrence.
  - The time and date of the report.
  - The name and age of the victim-EXCEPT at the victim's request, the name of the victim of any crime defined by Penal Code Sections 220, 261, 261.5, 262, 264, 264.1, 273(a), 273(d), 273.5, 286, 288, 288(a), 289, 422.6, 422.7, 422.75, or 646.9 shall not be disclosed.
  - The factual circumstances surrounding the complaint.
  - A general description of any injuries, property, or weapons involved.

#### **13040.14 Exemptions from Disclosure**

Records exempt from public disclosure include, but are not limited to, the following:

##### **Working Documents**

Preliminary drafts, notes, memorandums, etc., which are not retained in the ordinary course of business, are exempt from disclosure provided that the public interest in withholding the record clearly outweighs the public interest in disclosure.

##### **Litigation Records**

Records pertaining to pending litigation in which CDCR is a party or to claims made under the California Tort Claims Act are exempt from disclosure until the pending litigation or claim has been finally adjudicated or otherwise settled. Records specifically created by the lawyer or agency (attorney work-product) for the litigation are exempt from disclosure.

##### **Unwarranted Invasions of Privacy**

Personnel, medical, or similar files are exempt from disclosure if disclosure would constitute an unwarranted invasion of personal privacy or would cause disclosure of exempt personal information under DOM, Chapter 1, Article 15, Information Practices.

#### **Examination Data**

Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided in the Education Code 99150(4), are exempt from disclosure.

#### **Prohibitions in Other Laws**

Records are exempt from disclosure when provisions of federal or state law, including, but not limited to, provisions of the Evidence Code 1040, et seq., relating to privilege, and of the Information Practices Act, Civil Code 1798, et seq., prohibit disclosure or establish an exemption from disclosure. See also DOM, Chapter 1, Article 15, Information Practices.

#### **Financial Data**

Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for a license, certificate, or permit applied for are exempt from disclosure.

#### **Complaints, Investigations, and Intelligence Records**

Records of complaints to, investigations by, or intelligence information or security files of CDCR, or such information in the possession of CDCR, but compiled by another state or local agency for correctional, law enforcement, or licensing purposes are exempt from disclosure. This exemption shall include plans and operating procedures that protect the internal security of CDCR and its operational units.

#### **Adult Probation Reports**

Disclosure of adult probation reports to the public is prohibited.

#### **Analysis and Conclusions of Investigating Officers**

The portion of investigative files that reflect the analysis and conclusions of the investigating officer are exempt from disclosure.

#### **Extradition and Clemency Records**

All records compiled in the process of extradition or the exercise of executive clemency are exempt from disclosure.

#### **Correspondence of and to the Governor's Office**

Correspondence of and to the Governor or employees of the Governor's office are exempt from public disclosure.

#### **Balancing of Public Interests**

A record is exempt from public disclosure if CDCR demonstrates that based on the facts of a particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (Note: prior approval by the Governor's office is required whenever CDCR plans to invoke the balancing of public interests exemption. CDCR's Office of Legal Affairs shall facilitate the notification to the Governor's office upon notification from a PRA Coordinator of CDCR's intention to invoke this exemption).

#### **13040.15 Locations for Inspecting Public Records**

The location of records that may be inspected under the PRA is left to the discretion of the Agency Secretary; Undersecretary; Assistant Secretary; Director; Chief; Deputy Director; Warden; General Manager, CALPIA; PRA Coordinator; and/or Field Office Supervisor.

#### **13040.15.1 Inmate Inspection of Specifically Included Public Records**

Copies of the specifically included public records shall be located in the inmate law library and/or at other centralized locations at which they shall be available to all inmates.

#### **13040.16 Duplicate Records for Public Inspection**

The CDCR shall not maintain any record at a specific location solely for the purpose of inspection by the public. There may be instances where it is necessary, desirable, or advantageous to CDCR to maintain a duplicate record at centralized or more accessible locations for public inspection purposes. Any such duplicate record shall be as up-to-date and complete as the original or working record used by staff.

#### **13040.16.1 Disclaimer Concerning the Validity of Duplicate Records**

When separate copies of a record are maintained exclusively for public and/or inmate inspection, a disclaimer notice shall be affixed to the record's cover or folder. This notice shall read:

"THE CONTENTS OF THIS MANUAL/FILE/RECORD REPRESENTS THE LATEST INFORMATION RECEIVED IN WRITTEN FORM. CONTENTS MAY BE OUTDATED AS THE RESULT OF NEW OR REVISED INFORMATION WHICH HAS NOT BEEN RECEIVED OR FILED."

This disclaimer shall be given verbally when a record, which is maintained exclusively for public and/or inmate inspection and which does not have a written disclaimer attached, is disclosed.

#### **13040.17 Copy Services**

Upon receipt of payment of the cost of the reproduction, a copy of the disclosable public record, or any portion thereof, shall be provided to the requester. The copy cost for public records is 12 cents per page plus postage. *Note:* The employee receiving the funds for providing copies of public records shall explain on the receipt the number of pages at 12 cents per page plus postage for the reproduction of public records.

#### **13040.18 Time Limits for Responding to Record Requests**

When a request for a copy of or to inspect CDCR records is received, CDCR shall notify the requester within 10 days of receiving the request whether CDCR will comply with the request. If a determination is made to release copies of public records to a requester, CDCR shall advise the requester of the copy cost and the copies of the requested records shall be provided to the requester upon receipt of payment of the copy costs. If a determination is made not to release copies to a requester, CDCR shall notify the requester the specific reasons for denying the request.

#### **13040.18.1 Extension of Time Limits**

In unusual circumstances, the 10-day time limit for determining and notifying the requester whether the request seeks copies of disclosable public records may be extended by written notice. When CDCR determines unusual circumstances exist (see below), the requester shall immediately be notified (and no later than 10 days from the date of receipt of the request) in writing of the extension, the reasons for the extension, and the date upon which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension of more than 14 days. For the purpose of this Section, “unusual circumstances” means, but only to the extent reasonably necessary for the proper processing of the particular request, the need to:

- Search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- Search for, collect, and appropriately examine a voluminous amount of separate and distinct records which relate to a single request.
- Consult with another agency having a substantial subject matter interest therein. This consultation shall be conducted with all practicable speed.

#### **13040.18.2 Justification for Denying Access to Records**

Any time a request under the PRA is denied, CDCR shall justify withholding the record. The CDCR is required to demonstrate one of the following:

- The requested record is exempt under expressed provisions of the PRA.
- The requested record is exempt under expressed provisions of the IPA.
- On the facts of the particular case, the public interest served by not making the record public clearly outweighs the public interest served by the disclosure of the record. Any notification of a denial of any request under the PRA shall set forth the names and titles or positions of each person responsible for the denial.

#### **13040.18.3 Appeals of Decisions Denying Access to Records**

When a decision is made not to disclose a record, and the Inmate/Parolee requester disagrees, the requester may appeal the decision through the appeals process described in DOM, Chapter 5, Article 53, Inmate/Parolee Appeals.

#### **13040.19 Revisions**

The Assistant Secretary, Office of Public and Employee Communications, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **13040.20 References**

EC § 1040, et seq.  
EdC § 99150(4).  
CC § 1798, et seq.  
GC §§ 6250, 6275, 6276, et seq.  
California Tort Claim Act.  
Executive Order S-03-06.

### **ARTICLE 17 — MOTION PICTURES, RADIO, AND TELEVISION**

*Revised September 28, 1998*

#### **13050.1 Policy**

Any audio, video, or photographic production at any State correctional institution/facility, except those for a general interest daily newscast by a

television or radio station holding a license to broadcast from the FCC, shall be governed by provisions of this policy section.

#### **13050.2 Purpose**

The purpose of this policy is to identify departmental and statutory requirements that production media shall satisfy prior to being granted an approval for any audio, video, or photographic production at any State correctional institution/facility, except those for a general interest daily newscast by a television or radio station holding a license to broadcast from the FCC.

#### **13050.3 Objectives**

Departmental objectives governing access for any audio, video, or photographic production at any State correctional institution/facility, except those for a general interest daily newscast by a television or radio station holding a license to broadcast from the FCC are to:

- Present the public with a true and accurate account of Department operations.
- Promote greater public awareness of the CDC’s public safety mission, programs, and issues through the media.

#### **13050.4 Authority**

Approval to conduct any media production activity in a State correctional institution/facility is granted jointly by the Warden/RPA and the Assistant Director, Communications, with the approval of the Director.

#### **13050.5 Definition**

Media representatives are defined in the CCR 3000 and in the DOM 13010. Non news related production shall be synonymous with and include motion pictures, features, news magazine programs, public affairs programs, weekly or monthly programs, cable or Internet productions, documentaries, shorts, commercials, and any other production form that is not for general interest daily newscast purpose.

#### **13050.6 Preliminary Screening and Referral**

Upon receiving inquiries from production companies, the PIO for the institution/facility/parole region shall determine if the inquiry pertains to a news or non news related venture as defined above and in DOM 13010.

#### **News Related**

If the proposed production pertains to news, the PIO shall follow procedures identified in DOM 13010.

#### **Non News Related**

If the production activity proposed is non news related, the PIO shall refer the company to the office of the Assistant Director, Communications, for further processing.

#### **13050.7 Approval Procedure/ Obtaining Permit**

After the company has discussed the proposed activity with the Assistant Director, Communications, and received CDC approval for the project, the company shall also apply for and receive a Photography/Motion Picture Permit from the California Film Commission (CFC).

- The company shall produce evidence of financial responsibility and liability insurance.
- *Note:* Present industry practice and the recommendation of the DGS, Office of Risk and Insurance Management is for general liability coverage of at least one million dollars, with the State of California, its offices, employees, and agents as the “additional insureds” under the terms of the policy.
- The company shall be required to keep this permit readily available throughout location filming.
- Minor changes in the permit may be made at the site by the PIO who shall initial the change.
- Major changes shall be handled with a permit rider through CFC.
- The company shall file a formal application to film at a specific location with the Assistant Director, Communications.

#### **13050.7.1 Applicant Screening**

The assigned Communications Officer from the office of the Assistant Director, Communications, shall screen applicants and verify with CFC that the applicant has:

- A valid permit.
- Insurance coverage.
- No history of past complaints with CDC.

The assigned Communications Officer shall determine from the company:

- Production location needs.

- Production schedule and duration.
- Number of crew personnel required to be admitted.
- Security coverage needed.
- Type/quantity of production equipment on premises.
- Level of overcrowding at the institution/facility/housing unit to be used.
- Custody level of inmates at the institution/facility/housing unit to be used.
- Degree of institution/facility/housing unit program disruption as a result of the production's presence.
- Impact on surrounding homeowners.

#### **13050.7.2 Script Screening**

The company shall furnish a copy of the script and/or a production outline to determine whether the program/motion picture on CDC property will be consistent with the safety and security of the institution/facility, public, staff, and inmates, and will not unduly interfere with the operation of CDC. The Communications Officer shall reject the application if the proposed production activities compromise facility safety and/or security. In accordance with GC 14998.8(f), CDC shall have five working days to disapprove a film permit application or it is deemed approved.

No use of firearms (real or simulated), other weapons, or use of pyrotechnics on CDC property shall be permitted. In addition, it would, in general, be inconsistent with the above factors if the script proposed to produce the following on CDC property:

- Material which has been designed to glamorize crime or criminals or to intentionally invoke sympathy for them.
- Material which justifies or encourages criminal behavior.
- Display of criminal skills which appear to provide instruction in criminal behavior.

If portrayed in the program, CDC shall be presented in a true and accurate light.

#### **13050.7.3 Script Handling**

The script shall be handled in the form and manner prescribed for copyrighted material. It shall be used solely for the purpose intended and shall not be copied in any form and/or distributed to anyone without the expressed written permission of the Director.

#### **13050.8 Criminal History Check**

The CDC shall run a criminal history request through CI&I and the FBI on all reporters and crew members to determine eligibility for access onto institution/facility grounds/security areas in accordance to the CCR 3173, 3176, and 3177, DOM 31070, and good sound judgment.

#### **13050.9 Formal Agreement**

After all appropriate script changes, institution/facility/production agreements, and background checks have been made, the company shall:

- Sign a CDC Form 1846, Film Permit, with the Assistant Director, Communications, or designee.
- Receive a CDCR Form 181, Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates (previously titled Digest of Laws Related to Association with Prison Inmates).

Originals of all signed documents shall be maintained in the office of the Assistant Director, Communications. Copies shall be given to the company and the Warden/RPA.

Requests for script changes after the signing of the location agreement shall be referred to the Assistant Director, Communications for approval.

#### **13050.10 Basic Orientation Class**

The PIO shall conduct a basic orientation class for all approved crew members. All crew members shall be apprised of expectations within a State correctional institution/facility.

#### **13050.11 Communication Ground Rules**

When resolving conflicts/issues during production, the PIO shall deal only with the pre-designated company representative (e.g., producer, director).

- The PIO shall advise the predesignated company representative to communicate solely with the PIO's office in all matters.
- All previously arranged time frames, personnel, and production site(s), shall be adhered to.

#### **13050.12 Institution/Facility Internal Notification**

The PIO shall prepare appropriate memos and distribute them to all affected areas prior to any production activity or lack of any activity (in the event there are changes regarding the use of an area).

#### **13050.13 Issuing Identification Cards**

Approved crew members shall be required to wear identification (ID) cards issued by the institution/facility that shall be surrendered upon exiting the institution/facility. (See DOM 31070.)

#### **Crew Processing**

The PIO and Entrance Gate Officer(s) shall verify the identity of each crew member by ID, sample signature, and other visible identification prior to granting entry.

Crew members shall sign in and out at the entrance gate and, at all times, be escorted by the PIO or the PIO's designee to pre-approved locations. The PIO shall collect and maintain possession of all issued ID cards at the sign-out time, and shall reissue them during the next signing-in process.

#### **13050.14 Cancellation of Approval**

The Warden/RPA shall, in agreement with the Assistant Director, Communications, stop all production activity at any phase if, in their judgment, the production has:

- Compromised the safety and security of the institution/facility.
- Failed to adhere to the conditions stipulated in the agreement.
- Revealed evidence that indicates the company provided false information/documentation prior to being approved to conduct its planned activities.
- Violated State laws or CCR rules while on State grounds.
- Revealed (or staff have discovered) that production members conspired with an inmate(s) to circumvent CDC's policies/procedures.

#### **13050.15 Custody Supervision/Escort**

Appropriate peace officer personnel shall oversee and provide security for all production activity.

Crew members shall be under escort at all times and shall be supervised by specific peace officer personnel who are thoroughly familiar with CDC's public information and community relations policies.

#### **13050.16 Employee Participation**

No employee shall participate in any motion picture/radio/television or other production wherein their appearance is based primarily on the fact they are employed with CDC, unless prior written approval has been granted by the Director, or designee.

It shall be considered a conflict of interest for any employee to be in the employ of the production firm. (See CCR 3413 and PC 2540.) It shall be considered a conflict of interest for an employee in the approval or security clearance process to participate or appear in any motion picture/radio/television or other production. These employees include, but are not limited to, the Warden, institution/facility head, Chief Deputy Warden, Associate Warden, Facility PIO, Administrative Assistant to the institution/facility head, and Institution/Facility Chief of Security.

#### **13050.16.1 Billing For Department Employees**

When production activities disrupt the normal routine of the institution/facility/parole region and require special arrangements and/or the assignment of additional personnel to cover the activity of the production crew, the company shall be required to pay the cost of the additional personnel, rental fees for any props, inmate clothing, incidental damages, and other appropriate expenses, excluding a "user's fee."

#### **FLSA**

Approved "on duty" employee work hours shall be recorded on FLSA sign-up sheets and security coverage costs shall be billed at the current overtime rate for the top salary range in each classification represented plus benefits.

#### **Billing**

Billing shall be done as follows:

- The accounting office of the affected institution/facility/parole region shall prepare a statement of incurred expenditures on an OSP Form 132-A, the standard departmental invoice.
- The completed OSP Form 132-A shall be sent to CFC (Attention: Permit Coordinator/Billing) who shall bill the motion picture production company on the Department's behalf.

All fees collected by CFC, pursuant to this section, shall be deposited in the Film Transfer Account in the State's Special Deposit Fund for disbursement to the affected institution/facility/parole region.



**13050.17 Inmate/Parolee Participation**

If the production company wishes to utilize inmates or parolees returned to custody, the Joint Venture Coordinator may be contacted to determine whether inmate participation can be arranged under the Joint Venture program and if so, establish the necessary billing and payment instruments. The PIO or designee shall exercise good judgment in screening and dealing with prospective inmate/parolee participants and exclude from consideration those who are:

- High interest.
- High risk.
- Condemned inmates/life parolees.
- Inmates/parolees awaiting trial.
- Under court ordered gag rule/minute order prohibiting the inmate/parolee from media contact.
- Inmates diagnosed as psychotic and/or, in the opinion of their attending psychiatrist/psychologist, such participation would be detrimental to their condition.

No inmate/parolee shall be photographed or have their voice recorded unless they have first properly signed the CDC Form 146, Inmate Declaration to News Media Contact. This form shall be a permanent part of the inmate's/parolee's C-File.

**Controlled Conditions**

Inmates and parolees shall participate under carefully controlled conditions as follows:

- The participating inmates/parolees shall be assigned as "extras" and/or to other non starring roles.
- Inmate/parolee participation, except for Joint Venture projects, shall be strictly on a volunteer basis. They shall not receive any remuneration or be entitled to any "day for day" privileges.
- The same inmate/parolee shall not be used repeatedly while they are under CDC's jurisdiction.
- The inmates/parolees shall not act their own "true life" parts or the part of other inmates/parolees.
- Random interviews with inmates are prohibited unless specifically authorized in the CDC Form 1846.
- The random inmate interviews shall take place at the location of the inmate program. (Inmates must sign a CDC Form 146.)
- The duration of the random interviews shall not exceed ten (10) minutes per inmate.

Additional guidelines addressing inmate/parolee participation are found in DOM 13010 and shall be adhered to.

**Public Interest**

Precautions shall be taken to avoid focusing public interest on individual inmates/parolees.

**Contributions**

The media/producers are welcome to contribute toward the IWF and/or make other Director approved contributions to the institution/facility/parole region. Gifts and gratuities shall not be given directly to inmates/parolees.

**13050.18 Revisions**

The Assistant Director, Communications, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

**13050.19 References**

CCR (15) (3) §§ 3000, 3010, 3141, 3173, 3176, 3177, 3260 - 3262, 3402(a), 3409, 3413, and 3450 - 3452.

DOM §§ 13010, 13020, and 31070.

PC § 2540.

FLSA.

**ARTICLE 18 — LEGAL MATTERS**

*Revised November 4, 2008*

**14010.1 Policy**

Appropriate legal representation and assistance shall be provided when the Department or its employees are subjected to legal proceedings.

Prompt action is required to resolve all legal matters because of time limits imposed by courts for responses in judicial proceedings.

**14010.2 Purpose**

This Section establishes guidelines for the Department to follow when legal issues arise and describes how to use the Department's OLA and the AG's Office in any legal proceedings involving the Department and/or its employees.

**14010.3 Definitions****Civil Action**

An action brought to recover some civil right, or to obtain redress for a wrong, which is not a crime.

**Complaint**

A legal document setting forth the alleged charge or cause of action. It notifies the defendant that an alleged charge or cause of action has been filed.

**Criminal Action**

An action prosecuted by State or Federal agencies as a party against a person for the purpose of either preventing the commission of a crime, or for fixing the guilt for a crime already committed and punishing the offender.

**Legal Process**

As used in this Section, legal process is a generic term that refers to all lawful proceedings and the documents used in those proceedings. This includes writs, applications for writs, summons and complaints, orders to show cause, etc. It does not include subpoenas as they are described separately.

**Personal Service**

The delivery of legal process to a party, either a person or the Department, or a designee authorized to receive such service.

**Subpoena**

A means of legal process compelling a witness to appear and give testimony at the time, date, and place specified.

**Subpoena Duces Tecum**

A means of legal process compelling the keeper of a record, document, or file to make the record, document, or file available for examination at the time, date, and place specified.

**Substituted Service**

The delivery of legal process by any legal means other than personal service.

**Summons**

A legal document which, when properly served, gives the court jurisdiction over a defendant, and orders a defendant to appear in court at the time, date, and place specified to answer a complaint.

**Writ**

A written order issued by a court, commanding the party to whom it is addressed to perform or cease performing some specified act. A party seeking a writ must file a petition for a writ before the court can issue the writ. A petition for a writ is frequently, but inappropriately, referred to as a writ.

**14010.4 Types of Litigation**

Litigation may involve criminal charges against a party or it may be seeking to correct some civil wrong.

Generally, the Department and/or its employees become involved in judicial proceedings for one or more of the following reasons:

- An inmate is participating in litigation, which may or may not name the Department as a party. This may involve:
  - An active case in which the inmate is a party.
  - An active case in which the inmate is needed as a witness.
  - A recently filed case in which the inmate must be served as a party.
- The Department and/or its employees have been named as parties in a case arising from departmental activities.
- An employee has been named as a party in a case, which arises from the employee's duties with the Department.
- A party to a case requires some information in the possession of the Department or its employees, such as:
  - The testimony of an employee who observed an event (a percipient witness).
  - The testimony of an employee who has some expertise in a particular field but no direct knowledge of the event which is the subject of the case (an expert witness).
  - A record in possession of the Department or an employee.

Anytime the Department becomes involved in legal proceedings, the AG's Office acts as the attorney for the Department and/or its employees and represents the Department and its employees in court except when:

- The AG's Office authorizes the Department to hire outside counsel.
- The AG's Office asks a DA to represent the Department in a particular matter.
- The action is filed in small claims court as discussed in the DOM 14010.8.

#### **14010.5 Notice to OLA**

Anytime the Department, Secretary, Undersecretary, Chief Deputy Secretary, Assistant Secretary, Director, Warden, or RPA is named in a legal action, a copy of the summons and complaint or legal process shall be immediately forwarded to the OLA and the appropriate AG's Office by Correctional Case Records Administration (CCRA), the Litigation Coordinator, or the Correctional Case Records Manager (CCRM). Multiple copies on the same suit are not required.

Copies of all petitions for writs shall be forwarded to the OLA at the same time they are sent to the AG's Office.

#### **14010.6 Subpoenas — in General**

All employees of the Department are subject to being subpoenaed concerning actions arising from their employment with the Department.

Any employee subpoenaed in any action regarding an event or transaction which the employee perceived or investigated in the course of the employee's duties, or as an expert witness, shall immediately notify their supervisor of the time, date, location, and case upon which the employee must appear.

A person who fails to obey a subpoena, which is properly served, can be held in contempt of court. Employees shall appear in court, pursuant to a subpoena, unless they are directed not to appear by one of the following:

- The person issuing the subpoena.
- A representative of the AG's Office assigned to the case.
- An attorney from the OLA.
- A Litigation Coordinator working on the case in which the employee is subpoenaed.

When a subpoena is received, it is absolutely imperative that it is processed as quickly as possible to the appropriate unit. (See DOM 14010.6.9.)

#### **14010.6.1 Subpoenas — Criminal**

*Revised September 26, 2011*

Criminal subpoenas may be issued by any of the following:

- A magistrate before whom a complaint is filed or the magistrate's clerk.
- A District Attorney (DA), a Deputy DA, or the attorney's investigator.
- The defense attorney of record or the attorney's investigator.
- A judge in support of a complaint or an indictment.
- A judge acting at the request of a grand jury.

No person is obliged under a criminal subpoena to attend as a witness before a court that is out of the county where the witness resides or is served with the subpoena unless:

- The distance is less than 150 miles from the employee's residence to the place of trial, or
- The subpoena is endorsed by:
  - The judge of the court in which the offense is triable.
  - A judge of the Superior Court.
  - A justice of the Supreme Court

#### **14010.6.2 Subpoenas — Civil**

Civil subpoenas may be issued by a variety of jurisdictions and they compel either the production of a document or the attendance of a witness when the witness is a resident of the State at the time of service. Civil subpoenas are signed in blank by the issuing court and they are completed by the party seeking to examine the witness or document.

#### **14010.6.3 Subpoenas — Who Can Accept Service**

Not all employees are legally authorized to accept service of a subpoena on behalf of the Secretary, another employee, or an inmate.

Only employees who are authorized in writing to accept service of a subpoena for another, except as noted under DOM 14010.6.5.2, shall accept such service on behalf of another person.

#### **14010.6.4 Subpoenas — Designating an Agent to Accept Service**

Any employee of the Department may designate in writing another employee as their agent to accept service of a subpoena in legal matters related to the employee's work with the Department. No personal service of a subpoena shall be accepted for another person without written authorization from that person.

The designation of an agent to receive service under this Section authorizes that agent to receive service of legal process discussed later in this Section (see DOM 14010.7.2).

Any employee for whom service of a subpoena has been accepted shall immediately be notified and given a copy of the legal documents.

The transfer, resignation, or retirement of either the person authorizing another to accept service or the designee shall automatically revoke the authorization to accept service.

#### **14010.6.5 Subpoenas — Types of Service**

Subpoenas may be received by personal service in civil cases and by either personal service or substituted service in criminal cases.

##### **14010.6.5.1 Subpoenas — Personal Service**

Personal service implies giving the subpoena to the person to whom it is addressed. If the person to whom the subpoena is addressed has designated an agent in writing to accept service of subpoenas, service of a subpoena upon that person is the same as personal service upon the person to whom the subpoena is addressed. Personal service is permitted in all cases.

##### **14010.6.5.2 Subpoenas — Substituted Service**

Substituted service is the delivery of a subpoena to the person to whom it is addressed by any method other than personal service. Substituted service is not permitted in civil matters, but is permitted in criminal matters.

Substituted service of criminal subpoenas may be accomplished by the delivery of the subpoena by any of the following:

- USPS.
- Messenger.
- Delivery to the immediate supervisor of an officer.

Service given to an officer's immediate supervisor requires the delivery of two (2) copies to the supervisor. Substituted service upon the immediate supervisor may be refused, or returned, by the immediate supervisor as specified in DOM 14010.6.7 and 14010.6.8.

- For the purpose of this discussion, reference to the officer's immediate supervisor includes an authorized designee of the supervisor.

#### **14010.6.6 Subpoenas — Accepting Substituted Service**

Substituted service of a subpoena is effected only when the person to whom it is addressed acknowledges receipt of the subpoena. Acknowledgement of substituted service shall not be made without first checking with the OLA, unless the subpoena is for the prosecution of an in prison offense. Acknowledgement is made by telephone, mail, or in person, as directed on the subpoena.

Although substituted service is not completed until acknowledged by the person to whom it is addressed, an employee failing to acknowledge substituted service may be required, by the court, to pay the cost of undertaking another means of service.

A subpoena delivered by substituted service has the same force and effect as a subpoena received by personal service, once it is received and acknowledged.

An officer's immediate supervisor who accepts substituted service shall ensure delivery of the subpoena to the officer as soon as possible, but in no event later than such time as shall enable the officer to comply with the subpoena.

When substituted service for an officer is tendered to an immediate supervisor, the superior shall insure that:

- The addressee is an officer and that the supervisor is, in fact, the addressed person's immediate supervisor.
- Sufficient time remains to accomplish delivery of the subpoena to the officer.
- The supervisor can reasonably expect to deliver the subpoena to the officer in sufficient time to permit the officer to comply with the subpoena (taking into account regular days off and holidays for both the supervisor and the officer).

#### **14010.6.7 Subpoenas — Refusing Substituted Service**

When an immediate supervisor is tendered service of a subpoena for an officer less than five (5) days prior to the date of the scheduled appearance, and/or the supervisor is not reasonably certain they can complete service to the officer in sufficient time for the officer to comply with the subpoena, the supervisor may refuse to accept service of the subpoena. The supervisor shall notify the server of the reason for the refusal at the time service is being attempted.

#### **14010.6.8 Subpoenas — Inability to Complete Substituted Service**

Where an immediate supervisor has accepted substituted service of a subpoena for an officer, and it is subsequently determined that delivery to the officer is not reasonably possible within time to allow the officer to comply, the immediate supervisor shall notify the server, or the server's office (not less

than 48 hours prior to the hearing date specified on the subpoena) that service can not be completed. No legal penalty shall arise in connection with compliance with this procedure. First, however, all reasonable attempts to complete service shall have been made.

#### **14010.6.9 Subpoenas — Instructions to Subpoenaed Employees**

The OLA shall immediately be notified when:

- An authorized employee receives a subpoena for the Secretary, Undersecretary, Chief Deputy Secretary, Assistant Secretary, or Director.
- There is a need to quash a subpoena.
- The affected employee or the litigation coordinator believes the subpoena was not properly served.

The OLA shall provide directions on how to proceed.

Local litigation coordinators, CCRM's, or a CCRA shall immediately contact the AG's Office if the subpoena is connected to a case in which the AG's Office is representing the State, the Department, or an employee.

The procedure for referrals to the AG's Office is covered under DOM 14010.6.11.

Within one week of sending the transmittal letter to the AG's Office, case records personnel shall ensure that the employee, on whose behalf service had been accepted, has signed and forwarded to the AG's Office a Request for Representation.

When an employee receives a subpoena (other than as outlined above), there is no need to notify the OLA, unless there are reasons to attempt to quash the subpoena.

Anytime an employee is served with, or otherwise receives, a subpoena arising from employment with the Department, the employee shall:

- Contact the litigation coordinator, the CCRM or CCRA.
- Complete a Request for Representation, unless a request has previously been filed for the specific case.

Employees consulting or testifying as a specialist or an expert witness, based on experience gained in the course of their employment with the Department, should first review Department regulations governing incompatible activities, CCR Section 3413(a)(10).

Retired employees shall contact the appropriate staff person at their former institution, region, office, or the OLA.

#### **14010.6.10 Subpoenas — Requests to Disclose Information**

When an employee is requested to disclose information by any party to a lawsuit, either informally or by service of a subpoena, the employee shall consider the following:

- Information from public records shall only be disclosed in accordance with DOM 13040.
- Information from employee and inmate files shall only be disclosed in accordance with DOM 13030 and 13040.
- Only the documents specifically named shall be disclosed.

##### **14010.6.10.1 Subpoenas — Non-Peace Officer Personnel Records**

Response to a subpoena for information from non-peace officer personnel records shall be as follows:

- Provide the information if:
  - Employee consents in writing to the disclosure of the information; or
  - Disclosure is permissible as a public record or as non-exempt personal information (see DOM 13030 and 13040).
- Contact the OLA if:
  - Employee does not consent in writing to the disclosure of the information; and
  - Exempt personnel information is requested.

In civil actions in which the Department is not involved, and where only payroll or medical records are requested, a subpoena for non-peace officer records shall be complied with. No appearance shall be made on behalf of the Department to oppose a motion for non-peace officer records. Disclosure shall be made upon receipt of the subpoena.

Before disclosure, the Department shall reasonably attempt to notify the individual to whom the record pertains.

Disclosure of personnel records without a subpoena, or the employee's written consent, shall only be made to an attorney representing the Department's interest, as in worker's compensation matters when defending the Department or its employees, or in adverse personnel actions.

#### **14010.6.10.2 Subpoenas — Peace Officer Personnel Records**

Peace officer personnel files are considered confidential under PC 832.7 and 832.8. Disclosure shall occur only if:

- The employee consents in writing to the disclosure, or
- A subpoena is issued by a DA for the limited purpose of enforcing child support obligations; or
- The Department is served notice more than ten days in advance of a hearing on a motion for hearing held under EC 1043 and 1046. At the hearing, the court, not the Department, would determine if the record is to be disclosed.

Motions made to obtain information from peace officer personnel files shall be handled in accordance with the following:

- Upon receipt of a subpoena or notice that a motion has been requested, the employee whose records are being sought shall be sent a written notice mailed to the employee's last known address that a hearing is being scheduled to determine whether information in the employee's file is to be disclosed.
- All subpoenas in criminal and civil actions requesting peace officer records, other than those noted above, shall be referred to the AG's Office.

An attorney serving a subpoena for peace officer personnel records shall be informed of the provisions of PC 832.7 and 832.8.

#### **14010.6.10.3 Subpoenas — Inmate/ Parolee Records**

Subpoenas for inmate/parolee records shall always be referred to the AG's Office except under the following circumstances:

- The subpoena was issued by the inmate's/parolee's own attorney.
  - The attorney shall be informed that the inmate's/parolee's written consent is required for the attorney to review the record.
  - If the attorney is unwilling to fulfill this requirement, the matter shall be referred to the Department's OLA.
- Inmate/parolee medical records are sought in a civil action, not involving the Department, where the inmate/parolee is a party.
  - Notice shall be given to the inmate/parolee prior to disclosure.

#### **14010.6.10.4 Subpoenas — Other Records**

Subpoenas for public records such as a copy of non-confidential operating manuals shall be handled by informing the person issuing the subpoena of the method to secure public records as outlined in DOM 13040.

Subpoenas for other records such as copies of incident reports or confidential procedures shall immediately be referred to the AG's Office.

#### **14010.6.11 Subpoenas — Referral to the Attorney General**

Subpoenas shall be referred to the appropriate AG's Office (see DOM 14010.13) under the following circumstances:

- When issued to an employee because of their participation in, or preparation of, a diagnostic study under PC 1203.03 or 1170 (d).
- When an employee is subpoenaed to give an expert opinion (that is, the employee has some expertise in a particular field) in a case in which the employee has no direct knowledge of the event that is the subject of the case and an expert witness fee has not been tendered.
- When served at a time which is unreasonably close to the date on which the appearance is required.

A subpoena referral shall not be made to the AG's Office if:

- The employee who has been served is willing to appear at the employee's own expense, on the employee's own time; and
- The Warden, RPA, or division head authorizes the employee vacation time off to make the appearance.

#### **14010.6.12 Subpoenas — Contacting the Issuing Attorney**

The subpoenaed employee shall not make direct contact with an attorney issuing a subpoena unless directed to do so by the OLA. In any case where the employee was not a percipient witness, or lacks any relevant information concerning the event, the employee shall make direct telephonic contact with the OLA. The OLA shall make attempts to have the subpoena withdrawn by the attorney who issued it.

#### **14010.6.13 Subpoenas — Failure to Comply**

Failure to comply with any legal subpoena can result in contempt charges and sanctions (fines and/or imprisonment) by the court which issued the subpoena. Employees shall make every reasonable effort to comply with subpoenas.

**14010.7 Legal Process — In General**

Service of any documents used in civil proceedings (except subpoenas) is referred to as service of legal process in this section. The documents shall be handled in accordance with the provisions of this section anytime an employee receives such service.

**14010.7.1 Legal Process — Who Can Accept Service**

Only the following Headquarters staff shall accept service of legal process for the Department:

- Designated staff of OLA.
- The Chief, Correctional Case Records Services.
- CCRA's in Case Records Services.
- The CCRM, LPU.

**14010.7.2 Legal Process — Designating an Agent to Accept Service**

Each Warden and RPA shall designate an employee to accept service of process on behalf of the institution or region.

Designating an agent to receive service is accomplished in the same manner as described in DOM 14010.6.4.

**14010.7.3 Legal Process — Types of Service**

Service of legal process may be by personal service or by substituted service. Note that unlike the service of a subpoena in a civil matter, service of legal process in a civil matter may be accomplished by substituted service.

**14010.7.3.1 Legal Process — Personal Service**

Personal service is accomplished by delivering the legal process to the defendant in person, or to an agent designated by the defendant, in writing, to accept service of legal process on their behalf.

**14010.7.3.2 Legal Process — Substituted Service**

Substituted service is accomplished in any of the following ways:

- Leaving a copy of the legal process at the defendant's residence with a person over 18 years of age and, thereafter, mailing a copy to the defendant at the same address.
- Leaving a copy at the defendant's place of employment with a person in charge (this may be the officer on duty at the front gate or public entrance) and, thereafter, mailing a copy to the defendant at the place of employment.
- Sending the legal process to the person by mail, but this must include an acknowledgement of service. This is the method most commonly used by the U. S. Marshall for service of federal civil rights actions.

**14010.7.3.3 Legal Process — Acknowledgement of Service by Mail**

The acknowledgement shall not be signed or dated by the person receiving it. The acknowledgement shall be transmitted to the AG's Office with the legal process as provided in DOM 14010.7.6.

**14010.7.4 Legal Process — Service Upon Inmates**

No charge shall be made for the serving of legal papers on inmates by departmental staff. This shall preclude process servers from direct access to security areas of the institutions. This shall not preclude the proper service of papers by a sworn peace officer escorted into a security area.

Service may be completed as follows:

- Staff may accept the papers from the process server and then complete the service on the inmate.
- A sworn peace officer may be escorted into the security area to complete the service of papers.
- A non-sworn process server may be permitted to complete personal service if:
  - The server desires to make personal service and has made prior arrangements.
  - The inmate can reasonably be brought to the visiting area.
  - Permitting the personal service does not compromise the institution security.
- If a request for service is received by mail, institution staff shall serve the papers and complete the verification of service. If a fee accompanied the request for service, the fee shall be returned with the verification of service.

**14010.7.5 Legal Process — Handling**

Upon receipt of legal process, the employee served shall forward the document to the person designated by the Warden or RPA (normally the litigation coordinator or the case records staff).

Headquarters staff shall forward such documents to the OLA or the Case Records Office.

The employee served shall furnish the following information:

- Date of service.
- Place of service.
- Name, or title, of the person who served the documents.
- Method of service.

All employees shall receive training to ensure they are familiar with this process, and they shall be given written instructions in the format shown in.

Headquarters, each institution and each parole region shall process substituted service for an employee as follows:

- A process server who indicates they are leaving substituted service shall be allowed to leave it with an employee most convenient (such as the front gate or the receptionist) for Headquarters, the institution, the parole region, or field office. The legal process may be placed in the office mail system for delivery to the employee if there is a reasonable assurance service shall be completed in a timely manner, or it shall be delivered in person to the employee.
- If the legal process is job related, the employee to whom service is addressed may request representation at State expense or at the employee's expense as provided in DOM 14010.14.

**14010.7.6 Legal Process — Transmittal to the Attorney General**

Upon receipt of legal process and information concerning service, the litigation coordinator or case records staff shall prepare a transmittal letter to the assistant AG serving the court (see DOM 14010.13) which issued the documents. The appropriate assistant AG shall be contacted by telephone when it appears some action needs to be taken immediately or when a written referral will not give the AG's Office sufficient time to respond.

The transmittal letter shall contain the following information:

- The name of the employee served and for whom service was accepted.
- The method of service: personal delivery, mail, etc.
- The date and place of service.
- The name, or title, of the person who served the documents.
- A request for representation on behalf of the person named in the documents.

The employee on whose behalf service was accepted shall be given a copy of the transmittal letter and any other documents they had not previously been given.

**14010.8 Small Claims Court**

On occasion, an employee is served with a claim filed in small claims court against the Department, or against the employee arising from their employment with the Department. As attorney representation is not permitted in small claims court, neither the AG's Office nor any other attorney may appear to represent the Department or the employee. The employee served shall immediately contact the individual designated for processing legal documents as described in DOM 14010.7.5 and then provide that individual with a copy of the claim.

The Warden, RPA, Assistant Secretary, or their designee, shall write a letter to the clerk of the court in which the claim was filed, requesting that the claim be dismissed when either, or both, of the following appears to be true:

- The claimant failed to exhaust all administrative remedies.
- The claimant failed to file a California Victim Compensation and Government Claims Board (CVCGCB) claim.

Copies of the letter shall be sent to the OLA and the claimant/plaintiff.

If the claimant exhausted administrative remedies and filed a CVCGCB claim prior to filing the action, or if the court refuses to grant the request to dismiss, the Warden, RPA, Director, Assistant Secretary, Chief Deputy Secretary, Undersecretary, Secretary, or their designee (either the employee served or another staff member with relevant knowledge of the issue before the court), shall appear at the hearing to present the Department's response to the claimant's allegations.

**Court Ruling**

If the court rules in favor of the claimant, the defendant (the Department and/or the employee) has the right to appeal the finding to the Superior Court. The AG's Office shall represent the Department or the employee. Prior to deciding whether to appeal, the Warden, RPA, Director, Assistant Secretary, Chief Deputy Secretary, Undersecretary, Secretary, or their designee, shall contact the OLA. If the decision is made not to appeal, the person who appeared in court shall be required to obtain a copy of the order to justify payment of the claim.

**14010.9 Not Reporting Home Address During Testimony**

An officer may give the place of employment, rather than the actual residence location, in the following circumstances:

- Testimony is being given in a criminal proceeding.
- Testimony is likely to become a matter of public record.
- The testimony concerns an event or transaction the employee perceived or investigated in the course of employment with the Department.

**14010.10 Transfer of Original Documents**

Original documents shall not be transferred to the custody of a Deputy AG, or anyone outside the Department, without the consent of the Assistant Secretary, OLA, or the Chief, Correctional Case Records Services.

**14010.11 Cooperation with the Attorney General**

Departmental employees shall cooperate fully with the AG's staff who are representing the Department, or a departmental employee, in any legal action.

Cooperation shall include, but not be limited to:

- Producing documents.
- Completing interrogatories.
- Researching matters within the Department.
- Appearing as a witness, when required.

If it is felt that requests by the AG's Office have become excessive, the litigation coordinator or the section chief in units without identified litigation coordinators shall contact the OLA, which shall attempt to mediate the conflict between the Department and the AG's Office.

**Attorney General's Obligation**

When the AG's Office represents an employee of the Department, the AG's Office is obligated to maintain the same attorney-client privilege regarding any communications with that employee as if the employee had retained private counsel.

Employees with information relevant to any litigation involving the Department should channel the information to the AG's Office through the litigation coordinator or the section chief in units without identified litigation coordinators. If there is any question about whether or not the information should be communicated to the AG's Office, the OLA shall be consulted.

**14010.12 Contacting the Attorney General**

Employees shall initiate contact with the AG's Office only under the following circumstances:

- As directed by this section.
- When instructed by the OLA.
- When assigned to assist in preparation of a specific case.
- When the employee is personally represented by the AG's Office in a legal action.
- When the Department seeks an ex parte order blocking disclosure of exempt personal information.

**14010.13 Attorney General Assignments**

*Revised September 30, 2014*

The following AG's Offices have been assigned to represent the Department in the various courts as shown:

AG's Office	Federal District Courts	Calif. Appeals Courts	Counties	Parole Regions
Los Angeles	Central	2 <sup>nd</sup>	Inyo, Kern*, Los Angeles, Orange, Santa Barbara, San Bernardino	Southern
Los Angeles	Central	2 <sup>nd</sup>	Ventura, San Luis Obispo	Northern
Sacramento	Eastern	3 <sup>rd</sup> & 5 <sup>th</sup>	Alpine, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kings*, Lassen, Madera, Mariposa, Merced, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, Yuba	Northern
San Diego	Southern	4 <sup>th</sup>	Imperial, Riverside, San Diego	Southern
San Francisco	Northern	1 <sup>st</sup> & 6 <sup>th</sup>	Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Sonoma	Northern

\*The AG's Office in San Francisco will handle state habeas corpus matters arising from CCI; California State Prison, Avenal; and California State Prison, Corcoran.

**14010.14 Employee's Right to Obtain Private Counsel**

In job related actions any employee has the right to be represented, at their personal expense, by the attorney of the employee's choice rather than by the AG's Office. Where it is determined that the Department shall provide defense counsel, and the employee does not wish to provide counsel at their own expense, the Department shall have the AG's Office, or private counsel (in cases where the AG's Office has a conflict of interest), represent the employee at Department expense.

**14010.15 Requests to Settle Litigation**

All settlement requests shall be in writing. They shall be submitted to the Secretary or the Undersecretary through the Assistant Secretary, OLA. Prior to settling any legal action, the following guidelines shall be followed:

- Settlements involving policy or procedural changes shall be approved by the appropriate division head, the Assistant Secretary, OLA, and, when necessary, the Secretary or the Undersecretary.
- The Secretary or the Undersecretary shall approve money settlements.

**14010.16 Policy Changes Because of Litigation**

*Revised February 11, 2013*

The Secretary establishes departmental regulations and policy. No changes to department regulations will be allowed without the consent of the Secretary or members of the Secretary's staff who have been delegated rulemaking authority by the Secretary to establish or modify regulations.

The approval of the General Counsel, OLA, or their delegate is required for any regulation, policy, or procedural change based upon a court decision. Consultation with the Department's OLA, appropriate division heads, and the

Secretary is required before any regulatory, operational, or policy changes are made in response to the instructions or advice of:

- The AG's Office.
- A DA's office.
- Any other attorney representing the Department or its employees.

**Note:** Further information is contained in DOM 12010, Regulation and Policy Directives.

The litigation coordinator shall notify the AG's Office and OLA if a specific case involves broad policy implications for the Department. When a question arises as to which unit (the OLA or the AG's Office) shall have primary responsibility for handling a case, the inquiry shall be directed to the OLA who shall make the determination.

#### **14010.17 Designating Litigation Coordinators**

The Department shall provide litigation assistance to the AG's Office. To best accomplish this, each facility and parole region shall designate a staff member to act as the Litigation Coordinator. The Litigation Coordinator shall be the contact person for departmental staff or the AG's Office, either on a continuing basis or upon request on an individual case. The OLA shall be informed of the Litigation Coordinator for each case and all changes or replacements as they occur.

##### **Responsibility**

The Litigation Coordinator shall:

- Establish a system to coordinate, control, and process all legal documents.
- Schedule legal planning sessions between facility, parole region, and the AG's Correctional Law Section (CLS) for responding to ongoing litigation and finalized court decisions.
- Monitor due dates on all legal matters in order to ensure facility and staff compliance with those dates.
- Upon request of CLS, identify appropriate expert(s) on specific issues in litigation.
- Compile, review, and evaluate all records and documents related to matters in litigation to ensure uniformity and compliance in facility responses.
- Provide necessary documentation for CLS and disseminate documents to staff, inmates, or inmate attorneys when directed.
- Prepare responses to discovery requests and/or other documentation required during litigation.
- Receive, file, and prepare initial documentation for CLS on all cases instituted by inmates.
- Coordinate security for maximum-security inmates who testify in either criminal or civil proceedings.
- Identify areas of potential or recurring litigation for possible facility action.
- Coordinate with CLS to provide for briefings of the Warden or RPA and administrative staff on the status and content of pending litigation, including the potential impact of that litigation on prison/parole region administration and operational procedures.
- With direct guidance from CLS, provide IST for management and line staff on operational changes dictated by recent specific court orders, litigation, statutes, or general new case law.
- Provide IST to staff on their role and responsibility as a party or witness in litigation.
- Act as in-court trial investigator and source for necessary immediate facility information, during trial, and for the attorney representing a staff member concerning any correctional interest at issue.
- Assist staff members during their legal contacts with the court, inmate, inmate attorney, or attorney representing staff.
- Review confidential records and files to be used in litigation in order to protect confidential matters not at issue or not relevant to individual litigation.
- Provide budget planning information by determining costs of litigation because of lost staff time, overtime, travel, etc., and costs of implementing finalized court decisions.
- Provide information to CLS on the facility's/parole region's compliance in procedural or policy concerns.
- Ensure improvement in CLS responses to facility contacts by the courts and attorneys where appropriate (particularly when court makes requests of the facility).

- Schedule staff meetings or staff interviews for CLS and coordinate CLS contacts with the facility.
- With input from CLS, where appropriate, make recommendations to the Warden or RPA for implementation of procedural changes necessitated by prison litigation or court orders.

#### **14010.18 Civil Rights of Inmates**

Under federal statute, the U.S. AG's Office may investigate complaints that incarcerated persons are being deprived of their federal constitutional rights.

If such an investigation is started based on an inmate/parolee complaint, an affected employee may request representation by the State AG's Office.

Request for representation shall be made in writing.

#### **14010.19 Inmate Access to Court**

State and federal law guarantees inmates access to the courts to litigate issues. An inmate may bring a lawsuit or be sued, like any other person.

No inmate shall be disciplined or punished in any way for instituting or maintaining a lawsuit. Sanctions shall only be imposed by the courts, not by departmental employees, if an inmate uses or abuses the right of access to the courts.

#### **14010.19.1 Filing Fee for Inmates to Initiate State Civil Actions**

Statute and regulations require the Secretary to collect a \$3.00 filing fee, separate from any other fees required from the court, for each state civil action initiated by inmates while incarcerated with the Department. Civil actions are defined as non-criminal.

The fee is to be charged to the inmate's trust fund. Inmates shall fill out a CDC Form 193, Trust Account Withdrawal Order, specifically identifying the purpose of the withdrawal, the parties associated with the action, and the court where the filing is to be sent. The CDC Form 193 shall be processed in the trust office, marked "PAID," and signed by the trust staff deducting the \$3.00 filing fee from the trust account. If the inmate trust account does not have \$3.00 available to pay the filing fee, the CDC Form 193 shall be marked "NSF" to reflect that funds were not available to pay the filing fee.

Inmates shall not handle completed CDC Form 193. After the CDC Form 193 has been marked "PAID" or "NSF," it shall be provided to a designated staff member, who shall place it in the package in accordance with current legal mail procedures, prior to sealing and initialing of the envelope.

#### **14010.20 Staff Assistance to Inmates**

Employees shall not assist an inmate/parolee in the preparation of any legal document except as provided in the CCR 3160, for inmates/parolees who are illiterate or physically incapable. Employees shall not give any form of legal advice. Employees are permitted to help inmates/parolees find qualified assistance for their legal problems, but only through referrals to the California Bar Association, the local county bar associations, or a local attorney referral service listed in the telephone yellow pages. Referrals to specific attorneys are prohibited.

#### **14010.21 Legal Copying Services**

Copy service is provided as a convenience for inmates in preparing legal documents. The number of copies required by applicable court rules to be filed with the courts and to be served on all parties and other persons in the litigation shall be provided. Other persons may include the AG's Office, the inmate's attorney, and the Secretary's Office. The inmate shall be provided with one extra copy of the document for his or her own records. One additional copy of a petition for a writ of habeas corpus filed in State court shall be provided to the inmate for mailing to the appropriate DA.

Printed forms required by State and federal courts, which are made available by the courts to the Department, shall be provided without charge to inmates.

Inmates shall be required to pay for necessary duplication of printed forms and other written or typed materials, special paper, envelopes, and postage for mailing to the courts, except these items shall be provided at no charge to an indigent inmate as described in CCR 3162 and 3165(d).

#### **14010.21.1 Abuse of Legal Copying Services**

*Revised April 29, 2012*

Copy service shall be restricted when:

- An inmate abuses the service to the extent that other inmates are deprived of such service or
- An inmate requests duplication of a document exceeding 50 pages in total length without a written explanation of need, as described in section 101120.15.

Authority to restrict copy service shall not be delegated below the level of Captain, or a person designated by the Warden. Reasons for the restriction of service shall be documented by using a CDC Form 128-B, General Chrono.

**14010.21.2 Legal Documents**

The following are considered legal documents for the purpose of providing copy service to inmates:

- Writs--habeas corpus, mandate, etc.
- Civil rights complaints.
- Civil complaints or answers.
- Petitions for hearings in appellate courts.
- Motions to proceed "in forma pauperis" (without funds to hire counsel).
- Exhibits, including slip opinions of the California Court of Appeals, when attached to petitions for hearing in the State Supreme Court.

**14010.21.3 Non-legal Documents**

The following are considered non-legal documents for the purpose of providing copy service to inmates:

- Law book pages.
- Law review articles.
- Court transcripts.
- Correspondence with attorneys or public officials.
- Slip opinions, except as noted above.

Inmates shall be charged for copies of these documents.

**14010.21.4 Size and Number of Copies for Court Documents**

The number of copies required by the courts of the following documents is:

Court	Writs of Habeas Corpus	Appeals & Certiorari Petitions	Hearings and Other Writs	Exhibits
U.S. Supreme Court	Original and Appendix (a)	Original and 8 Copies	—	Original
U.S. Court of Appeals	Original and 3 Copies	Original and 15 Copies <sup>(b)</sup>	—	Original and 3 Copies
U.S. District Courts	Original and 3 Copies	—	—	Original and 3 Copies
State Supreme Court	Original and 14 Copies	Original and 14 Copies	Original and 14 Copies	Original and 1 Copy
State Court of Appeals	Original and 3 Copies	Original and 3 Copies	Original and 3 Copies	Original and 1 Copy
State Superior Courts	Original	—	—	Original

(a) Indigent inmates--original and In Forma Pauperis affidavit.

(b) Indigent inmates--original and four copies.

Paper size for all courts is 8 1/2" x 11."

**14010.22 Notarization of Legal Documents**

Each Warden shall identify and designate a Notary Public Coordinator, have an adequate number of commissioned notaries public to accommodate inmate requests, and designate a secured storage area for supplemental identification cards. Upon request from an employee, an inmate, or an inmate's attorney, notary service shall be provided upon payment of established notary fees.

Documents requiring notarization may be notarized only upon the inmate's payment of the established notary fee. Inmates who request notarization of court documents, but who cannot pay the established fee, shall be advised that the courts permit an alternative to notarization. Under CCP 2015.5 and Title 28, U.S. Code (USC) 1746 (cited as 28 USC 1746), documents can be filed with a declaration under penalty of perjury.

Notary services shall be provided as expeditiously as possible, consistent with security and other operational needs.

An employee acting as a notary shall not read a document to witness the signature other than to ascertain the title or description of the document for the notary's record book and to ensure the person whose signature is being witnessed signs it in front of the notary.

**14010.22.1 Identification of Persons**

An employee acting as a notary may only acknowledge an instrument in accordance with the current Notary Public Handbook published by the Secretary of State.

Satisfactory evidence for incarcerated inmates shall be a supplemental inmate identification card as described below.

Supplemental inmate identification cards will include the inmate's full name, physical description (height, weight, hair, eyes, date of birth, and gender), the inmate's photograph, the inmate's signature, the inmate's CDC number, and contain the following heading: "California Department of Corrections and Rehabilitation (CDCR), Temporary Supplemental Identification (ID) Card for Notary Purposes Only." These cards are used for the sole purpose of identifying inmates for notary services and will not be given to the inmate at any time for any reason.

Each institution shall develop and maintain a DOM Supplement in accordance with Civil Code Section 1185, DOM Chapter 1, Article 18, Legal Matters, and DOM Chapter 1, Article 6, Policy Directives.

**14010.23 Legal Information for Parole Agents**

DOM 80000 contains additional information governing how the DAPO staff handles legal matters unique to that division.

**14010.24 Education of Professionals from the Judicial System**

Professionals of the judicial system shall be kept informed about programs and services available to inmates within the Department. This can be accomplished by:

- The Department's participation in the annual Superior Court Criminal Law Institute.
- Participation in programs presented by the California Center for Judicial Education and Research.
- The Secretary's Annual Report to municipal and superior courts.
- Acquainting professionals in the criminal justice and judicial system regarding the programs and services available to persons committed to the Department as civil narcotic addicts as an alternative to commitment as a felon.

In accordance with the provisions of DOM 13020, Wardens may invite professionals of the judicial system into facilities to observe operations and activities and gain first-hand, up-to-date knowledge about the programs and services available to inmates.

**14010.25 Revisions**

The Assistant Secretary, OLA, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**14010.26 References**

CC §§ 1185 and 1798, et seq.

CCP §§ 415 et seq., and 2015.5.

EC §§ 1043 and 1046.

GC §§ 3300, et seq.

PC §§ 832.7, 832.8, 1170(d), 1203.03, 1328, and 1328.5.

18 USC 1746.

CCR (15) (3) §§ 3160, 3162, 3165(c), 3165(d), and 3413(a)(10).

DOM §§ 12010, 13020, and 13040.

**ARTICLE 19 — RESEARCH**

*Revised April 16, 2013*

**14020.1 Policy**

A research section has been established to facilitate review and evaluation of programs and basic operational procedures for the purpose of promoting greater effectiveness and efficiency in achieving departmental goals.

**14020.2 Purpose**

This section outlines the scope of the Department's research operations and specifies the procedures used in submitting research proposals.

**14020.3 Definitions****Research**

Research is the application of the scientific method for the extension of knowledge. The objective of this method is to prove the validity and reliability of any statement at the highest possible level of certainty in accordance with the rules of mathematics, statistics and logic.

### Biomedical Research

Biomedical research is research relating to or involving biological, medical, or physical science.

### Behavioral Research

Behavioral research involves, but is not limited to, investigation of human behavior, emotion, adaptation, conditioning, and response in a program designed to test certain hypotheses through the collection of objective data.

Specifically excluded from the definition of behavioral research is the accumulation of statistical data in the assessment of the effectiveness of programs to which inmates are routinely assigned such as, but not limited to, education, vocational training, productive work, counseling, recognized therapies, and programs which are not experimental in nature. This type of research may be carried out in the Department.

#### 14020.4 Restrictions

No biomedical research shall be conducted on any inmate under the jurisdiction of the Department.

Specific kinds of behavioral research on inmates are permitted and governed by the Penal Code. The kinds of behavioral research that may be conducted on inmates are limited to:

- Studies of prisons as institutional structures.
- Studies of prisoners as incarcerated persons who present minimal or no risk and no more than mere inconvenience to the subjects of the research.
- Studies of the possible causes, effects, and processes of incarceration.

The use of behavioral modification techniques in research on inmates is authorized by the Penal Code only if such techniques are a medically and socially acceptable means by which to modify behavior and if such techniques do not inflict permanent physical and psychological injury on inmates.

#### 14020.5 Research Advisory Committee

A Research Advisory Committee has been established to provide routine review and oversight of behavioral and other research activities in the Department.

Membership of the Research Advisory Committee may be comprised of CDCR departmental representatives, as well as other research and evaluation professionals as determined by the Director of Internal Oversight and Research such as:

- Deputy Director, Office of Research (chairperson).
- Deputy Director, Division of Adult Institutions.
- Deputy Director, Division of Adult Parole Operations (DAPO).
- Chief of the Research and Evaluation Branch.
- Academic community representatives engaged in criminal justice research.

##### 14020.5.1 General Responsibility of Committee

The Department is held accountable for the conduct of all research on inmates. This accountability is ensured through the Research Advisory Committee in that its functions include overseeing behavioral and other research activities within the Department. No behavioral or other research shall be conducted on inmates without review by this committee. General functions of this committee shall include:

- Reviewing proposed research projects and recommending approval or disapproval to the Director.
- Overseeing research projects in progress, ensuring adherence to State laws, departmental policies and standards for research on human subjects.
- Preparing the biannual report to the Legislature as required by PC. This report shall include a review of each research project approved and conducted during the time period covered by the report.

##### 14020.5.2 Specific Responsibility

Specific functions of this committee shall include ensuring that:

- Any risks to inmates consenting to research are outweighed by the benefits they shall receive and the knowledge that will be gained from the research.
- The rights and welfare of inmates are adequately protected and the security of any exempt personal information is maintained.
- Procedures for the selection of inmates for research projects are equitable and that they are not unjustly deprived of the opportunity to participate. A means is established for adequately compensating research related injuries.
- Legally effective informed consent is obtained from all participating inmates.

- The rate of remuneration is comparable to that received by non-prisoner volunteers in similar research.
- The conduct of research projects is reviewed at timely intervals.

#### 14020.6 Informed Consent

An inmate shall be deemed to have given their informed consent only if the following conditions are met:

- Consent is given without duress, coercion, fraud, or undue influence.
- Inmate is informed in writing of the potential risks and benefits of the proposed research.

#### Language

- Inmate is informed both orally and in writing, in a language in which subject is fluent, of each of the following:
- An explanation of the behavioral or other research procedures to be followed and their purpose, including identification of any procedures which are experimental.
- A description of all known attendant discomforts and risks reasonably to be expected.
- A disclosure of any appropriate alternative behavioral or other research procedures that might be advantageous for the subject.
- The nature of the information sought to be gained by the experiment.
- The expected recovery time of the subject after completion of the experiment (if applicable).
- Amount of remuneration to be received.
- Manner in which the prisoner may obtain treatment if research related injuries occur.
- An offer to answer any inquiries concerning the applicable behavioral or other research procedures.
- An instruction that the person is free to withdraw his consent and to discontinue participation in the research at any time without prejudice.

#### 14020.7 Project Approval

All research activities and proposals involving departmental facilities, employees, or inmates shall be submitted, in the format described in the DOM 14020.8, to the Chief of the Research and Evaluation Branch, who shall coordinate the process of departmental review and approval. Review of research proposals shall be carried out by the Research Advisory Committee. For each proposal, the committee shall recommend that it be approved, approved with qualifications, or disapproved. The recommendation shall be submitted to the Director for final approval/disapproval.

#### Projects

Projects requiring this approval process include:

- Departmental research conducted by employees of the Department.
- Research conducted jointly by outside agencies and departmental employees.
- Outside agency research conducted with the Department.
- Research conducted by students in conjunction with their academic studies or recognized apprenticeship service.

#### Agreement

Persons/agencies outside the Department, prior to project approval, shall sign an agreement to adhere to the requirements established herein.

#### Reports

Agencies/persons conducting research in the Department shall be required to submit progress reports on their projects at the request of the Chief of the Research and Evaluation Branch. Information from these reports shall be included in the biannual report transmitted to the Legislature.

#### 14020.8 Preparation of Proposals

All research proposals submitted for departmental approval shall contain:

##### Introduction

- Brief statement of the objectives of the proposed study; what questions are being asked or what hypotheses tested.
- Specific values of the project with particular focus on administrative decisions to which the findings might be pertinent.

##### Methodology

- A description of the research methods to be used (e.g., experimental-control group, matched comparisons, exploratory interviews) and the approach to be taken (e.g., descriptive, experimental hypotheses testing, or participant observation).



- A description of the measuring devices to be used, (e.g., scales, tests, questionnaires). If measuring instruments are other than those routinely administered in the Department, a copy of the instruments shall be forwarded with the proposal. If they are to be developed as part of the project, a statement of their intended character and rationale shall be included.
- The institution where the proponents intend to collect data.

#### **Resources Required**

- Names and working titles of personnel involved (both employees of the Department and of other agencies), and their responsibilities in the project.
- An estimate of departmental staff time to be devoted to the project.
- Beginning and ending dates of the study.
- Additional operating or equipment costs to the State, including alterations to or additions of space.
- Demands on the time of inmate subjects and a plan for the compensation of the inmates.
- Source of funding.

#### **Other Required Documents**

- A copy of the informed consent form that shall be used in the project which shall include as a minimum those items listed in DOM 14020.6.
- An up-to-date curriculum vitae (resume) for each professional staff member of the proposed project.
- For student research projects, a letter from the student's faculty advisor stating that the student will be working on the project under his/her supervision and that the project has the approval of the student's college or university.
- A privacy certification signed by the principal investigator of the project outlining procedures for protecting exempt personal information and certifying that these procedures shall be carried out.
- For any proposal previously reviewed by a human subjects committee in a university or outside research organization, a copy of the record of the committee's approval.

#### **14020.9 Grievances**

Any inmate who has a grievance concerning the operation of any particular research program conducted under the authority of the Department may appeal using established appeal procedures (see DOM 54100).

#### **14020.10 Research Related Injuries**

Any physical or mental injury of an inmate resulting from participation in behavioral research, irrespective of the causation of such injury, shall be treated by the Department promptly and on a continuing basis until such injury is cured.

#### **14020.11 Revisions**

The Deputy Director, Office of Research, or designee shall ensure that the contents of this Article are accurate and current.

#### **14020.12 References**

PC §§ 3500 - 3524.

ACA Standards: 4-4108 through 4-4113.

### **ARTICLE 20 — POLYGRAPH**

*Revised August 9, 2011*

#### **14030.1 Policy**

A polygraph examination is a tool, which may be used during official departmental investigations, by which the polygraph examiner formulates an opinion as to the veracity of statements made by an examinee.

#### **14030.2 Purpose**

This Article seeks to ensure that the rights of the persons being examined (herein referred to as the examinee) are protected through the consistent compliance of all statutes and regulations governing the polygraph examination process.

#### **14030.3 Responsibility - Secretary**

The Secretary retains overall responsibility for the proper administration of all polygraph examinations by departmental staff.

#### **14030.3.1 Responsibility — Chief, Office of Correctional Safety (OCS)**

The Chief, OCS, supervises departmental employees who perform polygraph examinations and the administration of all such examinations.

#### **14030.3.2 Responsibility — Polygraph Examiner**

The polygraph examiner shall not knowingly violate the rights of the examinee. The examiner shall comply with all statutes and regulations governing the polygraph examination process. The examiner shall not conduct a polygraph examination without proper authorization. The examiner shall not disclose or discuss the examination or the results of the examination with anyone not authorized to receive the information.

#### **14030.4 Polygraph Examiners and Equipment**

Only staff of the OCS shall conduct polygraph examinations. Only equipment approved by the Chief, OCS, shall be used during a polygraph examination conducted by departmental staff.

#### **14030.5 Who May Request a Polygraph Examination**

An employee, inmate, or parolee under investigation for an alleged violation of the law or a regulation may make a request for a polygraph examination. No person shall be ordered to take a polygraph examination. No coercion or offer of reward shall be used to induce any person to take a polygraph examination.

#### **14030.6 Conditions for a Polygraph Examination**

The following conditions shall be met before a polygraph examination may be conducted:

- If an employee requests or agrees to an examination, they shall have completed and signed a CDC Form 1498, Employee Request For Polygraph Examination.
- The examinee shall have voluntarily consented to the examination.
- The examinee shall have voluntarily signed a CDC Form 1499, Polygraph Examination Consent, Release, and Waiver.
- The prior approval of the Chief, OCS, shall have been obtained.

#### **Used During Investigation**

The polygraph examination shall be used only when there is an active departmental investigation in progress and other investigative efforts have been exhausted. All employees of the CDCR shall be afforded the protections provided under the Public Safety Officers Procedural Bill of Rights concerning the use of polygraph examinations. For further information concerning an employee's rights in situations which might result in an adverse personnel action, the reader is directed to the DOM Sections 31140, Internal Affairs Investigations; and 33030, Employee Discipline.

#### **14030.7 Approval for Polygraph Examinations**

The Chief, OCS, or in their absence, the Special Agent-In Charge, shall review and approve all requests for a polygraph examination.

#### **14030.8 Requests from Other Agencies for a Polygraph Examination**

The Chief, OCS, may permit the administration of a polygraph examination by departmental staff upon written request from another law enforcement agency when a departmental employee, inmate, or parolee is under investigation, and/or a departmental interest can be served.

When a paroling authority requests a polygraph examination, the chairperson of the appropriate board shall make a written request to the Chief, OCS.

#### **14030.9 Polygraph Examinations by Other Agencies**

Polygraph examinations may be administered by non-departmental persons to inmates and parolees under the Department's jurisdiction only under the following conditions:

- With the prior approval of the Chief, OCS, and
- Under such conditions and at a time and place set by the Warden or RPA having jurisdiction over the inmate or parolee, and
- With the consent of the DA of the involved county, when in connection with the guilt or innocence for an offense in which a conviction resulted, or
- When ordered by a court having jurisdiction in a currently pending criminal case.

#### **14030.10 Polygraph Examination Results**

Upon completing a polygraph examination, the examiner may discuss with the examinee, in general terms, the opinion formed as a result of the examination. The opinion formed may be that the examinee has been "truthful" or "deceptive" in answering the questions. If the examiner is unable to reach an opinion based upon the examination, the result would be the examination was "inconclusive." When in the opinion of the polygraph examiner the examinee has been truthful, the examiner may express that opinion to the examinee and terminate the examination.

When in the opinion of the polygraph examiner the examinee has been deceitful, the examiner may confront the examinee with that opinion in the

attempt to elicit truthful answers. In this case, the examination may continue. Except in unusual circumstances, polygraph examinations shall not be used as substitutes for or to check the outcome of inmate disciplinary hearings, parole revocation hearings, or parole rescission hearings.

#### **Confidential**

The written report and all examination materials shall not be considered public documents. They shall not be released or disclosed. They are considered part of an ongoing investigation and, as such, are classified as confidential.

The examiner's report shall be made available to the Secretary, the Chief, OCS, and the Warden or RPA having jurisdiction over the employee, inmate, or parolee unless specifically restricted by the Secretary. A copy of the report shall be retained in the files of the OCS.

#### **14030.11 Revisions**

The Chief, OCS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **14030.12 References**

B&PC § 9303, et seq.

GC § 3300, et seq.

PC § 637.4.

CCR (15) (3) § 3293.

DOM §§ 31140 and 33030.

Public Safety Officer's Procedural Bill of Rights.

### **ARTICLE 21 — UNASSIGNED**

### **ARTICLE 22 — LEGISLATION**

*Effective January 25, 1990*

#### **14050.1 Policy**

The Department shall operate in compliance with the statutes and regulations established by the Legislature and control agencies.

#### **14050.2 Purpose**

This section seeks to establish guidelines for ensuring that all proposed legislation affecting the Department is analyzed, the Department's interests are made known to the Legislature, and the departmental reports to the Legislature are submitted in a timely manner.

#### **14050.3 Responsibility**

The Director retains overall responsibility for effectively communicating and interfacing with the Legislature.

##### **14050.3.1 Responsibility — Assistant Director, LLO**

The Assistant Director, LLO shall ensure that all proposed legislation affecting the operation of the Department receives timely analysis and the Department's concerns and positions on proposed legislation are made known to the Legislature; respond to inquiries from the Legislature, its committees and aides, and ensure that reports required by the Legislature are properly prepared and transmitted in a timely manner.

##### **14050.3.2 Responsibility — Operating Units**

Upon request from the Assistant Director, LLO, operating units shall prepare proposed responses to legislative inquiries, prepare proposed analyses of pending legislation, prepare proposed mandated reports to the Legislature and provide information and statistics to assist others in the preparation of the Department's position.

##### **14050.3.3 Responsibility — Employees**

An employee who becomes aware of proposed or pending legislation that may affect the Department shall notify the Assistant Director, LLO. This shall be accomplished in the form of a brief memorandum identifying the author and subject of the legislation. This shall be transmitted through the employee's normal chain of command.

Some bills are sent to staff members for information only. If the recipient of a bill, sent for information only, determines that it is one on which the Department should have an official position, they shall contact the LLO for a decision concerning a formal bill analysis.

#### **14050.4 Bill Analysis**

Changes in the law can have tremendous effects upon the Department's policies, procedures, personnel and budget. It is vital that proposed legislation affecting the Department be identified and analyzed concerning its impact upon the Department.

Bill analysis shall be given the highest priority in order that the Department can have maximum, effective, timely input into the establishment of laws impacting departmental operations.

##### **14050.4.1 Bill Analysis — Responsibility**

Legislative measures of interest to the Department shall be logged and transmitted by the Assistant Director, LLO to the appropriate assistant or deputy director for analysis. A CDC Form 853, Request for Legislative Bill Analysis shall be attached to indicate the type of analysis requested and a due date.

The assistant or deputy director shall immediately assign the request for bill analysis to an appropriate staff person.

The assigned staff member shall:

- Secure from other staff or units any information necessary to analyze the bill.
- Ensure the bill analysis is completed by the due date and meets format and content standards.
- Contact the LLO of unusual circumstances that preclude completion of the bill analysis by the due date.
- Forward the completed bill analysis to the assistant or deputy director.

The assistant or deputy director shall review the bill analysis and forward it to the LLO.

##### **14050.4.2 Bill Analysis — Time Limits**

The due date is shown on the CDC Form 853, as well as the time required for the analyst to send the completed work back through the assistant or deputy director for signature and to forward it to the Assistant Director, LLO.

##### **Time Limits**

The time limits are:

- Five working days for the first time analysis of a legislative bill.
- Three working days for a fiscal analysis.
- Three working days for analysis of an amended bill.

##### **14050.4.3 Bill Analysis — Format And Content — Original Bill**

A bill analysis response is prepared and forwarded on a CDC Form 1617, standard Memorandum, and shall identify the bill by number and author. The caption headings, in the bill analysis, shall be the following:

- Summary of Bill: This is a concise summary of what the proposed bill would do. This should emphasize its effect on the Department.
- Background: This should include any information the staff has about how this bill developed and/or why it is being proposed. If this is not known, this section should so state. DO NOT CONTACT THE LEGISLATOR to attempt to obtain this information.
- Specific Findings: This states a summary of the current law and compares existing law, policy and practice with the proposed changes. This section seeks to give the lay, non-correctional reader a clear understanding of the present situation and how the proposed bill would change current policies, procedures, etc..
- Analysis: This is a concise discussion of how the proposed bill will impact current departmental operations. This section is critical to the Department's response to the bill. It should briefly discuss:
  - What will the bill cause the Department to do or not do?
  - How many employees, inmates or parolees will be effected by the change?
  - Can the changes be made within the proposed times?
  - Is the change practical?
  - Is there a better way to accomplish the same effect or goal?
  - Is the bill technically correct (does it properly reflect existing law, cite the correct section numbers, etc.)?

**Note:** There are some bills that would be more desirable or less desirable, for the Department, if some specific amendments could be made. In this situation, the staff preparing the analysis should outline and speak to these possible amendments.

- Fiscal Impact: This section indicates the immediate and projected long term net cost or savings, if known. The fiscal impact may be prepared separately, by fiscal staff, and joined when the bill and fiscal analysis reach the LLO.
- Recommendation: This section is a staff recommendation to the Assistant Director, LLO, on the position the Department should take regarding the bill under analysis. The following recommendations may be made:

- **Support:** The Department should support the bill as it will have some beneficial, positive effect on the operation of the Department.
- **Support If Amended:** The bill would be desirable for the Department, if the specific changes were made in the bill.
- **Neutral:** The change made by the bill will have no significant effect on the Department.
- **Oppose:** The Department should oppose the bill as it will have some adverse, negative effect on the operation of the Department.
- **Oppose Unless Amended:** The basic thrust of the bill will have some adverse, negative effect on the Department unless the objectionable portions can be removed.

#### **Signed By**

The bill analysis shall be signed by the assistant or deputy director having administrative responsibility over the staff who prepared the analysis.

#### **14050.4.4 Bill Analysis — Format And Content — Amended Bill**

This covers a bill that has been amended by the Legislature and it may, or may not, have previously been analyzed. The amendment may, or may not, change the thrust of the bill, its impact upon the Department and/or the Department's position on the bill. A single bill may be amended several times during the legislative process, and staff may be requested to perform more than one analysis of the bill or its amendments.

It will not be necessary to repeat an analysis of unchanged portions of an amended bill, unless new information is developed that could significantly affect the Department or the Department's recommended position. The extent of the new analysis will depend both on the complexity and significance of the amendments and the availability of new information. Normally, a statement as to any change made by an amendment, and the effect it has, will suffice.

In some instances the amendments will be so extensive that an entire new analysis must be made in order to clearly present the effects of the amendments.

The analysis of an amended bill shall be prepared in memorandum form, just as the original analysis. The same caption headings shall be used, but only use those necessary to the analysis of the amended portions of the bill. The analysis shall be signed by the assistant or deputy director having administrative authority over the staff who prepared the analysis.

#### **14050.4.5 Bill Analysis — Format and Content — Enrolled Bills**

When the final version of a bill, as passed by the Legislature is forwarded to the Governor for signature, a complete new analysis is required. Drawing on information already furnished, this final analysis is normally completed by the LLO.

A copy will usually be sent to the staff member responsible for the analysis for one last review.

Staff reviewing an enrolled bill shall compare it with the last version analyzed and immediately notify the LLO if any significant change is discovered.

#### **14050.5 New Statute — Implementation Reports**

The law requires that each State agency responsible for the implementation of a new program or regulatory action report a summary of the actions taken to implement the statute or regulation to specified members and committees of the Legislature.

##### **14050.5.1 New Statute Implementation Reports — Time Limits**

Implementation reports prepared by the Department shall be submitted to the YACA in sufficient time that they can be forwarded to the Legislature within six months of the effective date of the measure, or within six months of the operative date, whichever is later.

No later than 30 days prior to the date the implementation report is due to the Legislature, the responsible division shall forward its completed report, in final draft form, to the Assistant Director, LLO for review.

##### **14059.5.2 New Statute — Implementation Reports — Responsibility**

Assignment for implementation usually occurs at the executive staff meeting during briefing on new statutes. Divisions given primary responsibility for implementation of new statutes shall be responsible for preparing the required implementation reports.

##### **14050.5.3 New Statute — Implementation Report — Procedures**

The final draft of the implementation report shall be forwarded to the Assistant Director, LLO.

- Reviewed by the affected executive staff and corrections suggested.
- Returned to the responsible program unit.

#### **Final Report**

The final report shall be prepared and forwarded through the Assistant Director, LLO, and Chief Deputy Director to the Director for signature.

#### **Approved and Signed**

Once approved and signed by the Director, the report is returned to the LLO. The necessary copies are made, and the report is forwarded to the YACA for distribution to the Legislature.

#### **14050.6 Legislative Reports**

The Department is required to prepare a variety of reports for the Legislature. These reports may be in response to statutory requirements, budget control language, or committee requests.

##### **14050.6.1 Legislative Reports — Requirements**

The Assistant Director, LLO shall be responsible for identifying the various reports needed, except that the Deputy Director, ASD, shall be responsible for identifying reports required by budget language.

#### **Each Fall**

Each fall, as part of its annual review of legislative actions affecting the Department and assignments for implementing new statutes, executive staff members shall be assigned responsibility for preparing legislative reports. The staff member designated by the Director shall be responsible for instructing the program unit to prepare the necessary reports and ensuring that reports are submitted to the Legislature on a regular, periodic, or one time basis, as required.

Any program unit made responsible to prepare a report through any other means shall inform the Assistant Director, LLO, so the assignment can be reviewed; another assignment made, if appropriate; and the report completed in ample time to transmit the report in a timely manner.

##### **14050.6.2 Legislative Reports — Format**

Legislative reports shall be prepared on plain white 20 lb. bond paper in the following format:

- The body of the report shall be typed in block form.
- If captions are used, they shall be typed in initial capital letters and underscored.
- Paragraphs are to be single spaced with double spacing between them.
- Pages shall be numbered in the upper right corner of each page, with the report control number also appearing on each page, just above the page number.

#### **Sections**

Each section of the report described below shall appear in the report in the order listed:

- **Cover:** Each report shall have a front and back cover of beige cover-stock paper. The front cover is to include the title of the report, centered, with the "Department of Corrections" just below the title, and the date and control number in the lower right corner.
- **Preface:** The preface shall be on plain white bond paper. It shall be entitled "Preface", underlined and centered with the date in the upper-right corner. It should include the following sections:
  - Purpose of the report (statutory, committee request, etc.).
  - Scope of the report.
  - Brief statement covering the highlights of findings and recommendations.
  - The Director's signature (two copies of the report shall bear the original signature and be delivered to the Secretary of the Senate and the Chief Clerk of the Assembly).

**Note:** A record is kept of all reports received in the Legislature. The preface will be published in the appropriate legislative journal.

- **Table Of Contents:** A table of contents is appropriate when the report covers several subjects or extensive/complex material requiring various subheadings.
- **Executive Summary:** This summary states the purpose and scope of the report, and shall include a statement of findings and recommendations.
- **Body Of Report:** This section briefly states the purpose of the report, including a summary or quote of the legislative request, and summarizes the method used in conducting any studies, research, polling, etc., to prepare the report. Include acknowledgements of cooperation and assistance received. The report shall be clear and concise.
- **Recommendation/Evaluation (Optional):** It is sometimes more appropriate to place recommendations and evaluations into a separate

section. When this is done, the sections should be labeled as such. Any evaluation, recommendation or conclusion should be substantiated.

- **Appendices:** Unless charts, statistics, graphs, footnotes and other technical support material complement the body of the report, they should be placed in this separate section at the end of the report.

#### 14050.6.3 Legislative Reports — Review

The final draft of a legislative report is due in the LLO 30 days before the final report is due to be delivered to the Legislature.

The writer of the final draft report shall submit the documents and the Governor's transmittal memo (without the beige cover), to their immediate supervisor.

The supervisor shall review the documents and forward them, through channels, to the LLO.

The LLO shall:

- Review the documents.
- Assign a control number.
- Forward the documents to the Director for review and approval.

#### Forward Documents

After the Director signs the transmittal memo, the LLO shall forward the documents to the YACA for review and approval and then forward to the Governor's office for review and approval.

#### Governor Signs

When the Governor signs the transmittal memo, the documents are returned to the LLO, then forwarded to the program unit.

The program unit shall:

- Prepare, proof and duplicate the final report and transmittal letter.
- Attach the beige cover.
- Forward the final report and transmittal letter (two originals) to the Assistant Director, LLO.

#### Director Signs

The Assistant Director, LLO shall obtain the Director's signature on the report and transmittal letter and return the documents to the program unit.

The program unit shall:

- Prepare copies in accordance with the DOM 14050.6.4, after consulting with the LLO regarding additional copy requirements.
- Retain one copy of the documents.
- Forward the original documents and copies to the LLO for distribution.

#### 14050.6.4 Legislative Reports — Distribution

Unless the LLO specifically issues other instructions, at least 17 copies of each report shall be prepared. One copy shall remain in the unit preparing the report.

The balance of the reports shall be distributed as follows:

- Secretary of the Senate (with original signature).
- Chief Clerk of the Assembly (with original signature).
- Speaker of the Assembly.
- President Pro Tempore of the Senate.
- Minority Floor Leader of each House.
- Chairperson of the appropriate policy/fiscal committees of each House.
- Lead author of the legislation authorizing the report.
- Assembly Office of Research.
- Senate Office of Research.
- Joint Legislative Committee on Prison Construction and Operations.
- Any legislative member or committee mandated in the language of the bill.
- LLO.
- LAD-RMU and PMU.
- DOF.
- YACA.

#### Additional Reports

When both the policy and fiscal committees of each House are to receive a report, additional copies shall be prepared for the minority staff of each fiscal committee.

These guidelines are intended to provide a standard format and procedure for processing legislative reports. Exceptions to this format and process may include brief reports that merely transmit data that can be contained in letter

form, and reports in which the subject or issue is sufficiently unique to dictate the need for an alternative format, and reports to individual committees. Any questions regarding the preparation or distribution of these reports, or exceptions to these requirements, should be addressed to the Assistant Director, LLO; (916) 445-4737.

#### 14050.7 Proposed Legislation

Proposed legislation shall be submitted to the Assistant Director, LLO.

##### 14050.7.1 Proposed Legislation — Format and Content

Proposed legislation shall be submitted on a CDC Form 852, Request for Approval of Proposed Legislation. The caption headings in the proposed legislation shall be the following:

- **Title:** A one line description of the subject of the proposed bill for purposes of identification.
- **Problem:** A concise statement in nontechnical terms of the problem and why legislation is necessary to solve the problem.
- **Proposed Solution:** The proposed solution shall be in three sections:
  - **Existing Law:** Outline in nontechnical language how these items are currently handled under existing law, i.e. what is required to be done under current law. Thoroughly explain current practices and the reason a change is needed. Use examples.
  - **Proposed Change:** Outline in nonlegal terms how the items would be handled under the proposed change.
  - **Justification:** State the reason why legislation is needed. Indicate the results or impact if the legislation was not enacted. If alternatives were considered but rejected in favor of the Legislative proposal, give the reason for rejection of the alternative.
- **Fiscal Impact:** If the proposal has fiscal implications, estimate the cost breakdown for the first two years. Include local and GF costs, or special fund costs. Indicate amount and source of revenue if the proposal will result in additional revenues. Identify any change in staffing requirements and explain why the current level of staffing is inadequate to carry out the purpose of the legislation. Consult with fiscal staff for assistance in this area.
- **Legislative History:** Identify possible opposition and support for the proposal when known, i.e. agencies, organizations, other individuals.
- Include prior legislation on the subject, if any. Give year, author and bill number if known. If a previous proposal was submitted on the subject, give year and/or number.

#### Answer Questions

The following basic questions shall be answered:

- What is the need for this legislation?
- Will the proposed legislation, if enacted, meet this end?
- What will it cost?
- Was the cost reviewed during budget discussions?
- Are the benefits to be derived in line with the costs?
- Is the proposed legislation consistent with the Department's objectives?
- Are alternatives available which better solve the problem?
- Is the responsibility for meeting this need placed at the proper level of government - city, county, state?
- Does any conflict exist with any other state department? Have all attempts to resolve the conflict failed?
- Will the proposal be opposed by anyone? Specify.
- Please attempt to quantify your proposal. For example, how many persons will it affect? How much time is involved, etc.?

**Note:** Questions regarding proposed legislation format and requests for assistance shall be directed to the Assistant Director, LLO.

##### 14050.7.2 Proposed Legislation — Review

Executive staff shall review the proposals.

The Assistant Director, LLO shall transmit approved proposals to the YACA for review and approval.

#### 14050.8 Revisions

The Assistant Director, LLO, or designee, shall ensure that the contents of this section are accurate and current.

#### 14050.9 References

GC § 11017.5.

**ARTICLE 23 — RECORDS MANAGEMENT***Revised May 14, 2002***14060.1 Policy**

The CDCR shall maintain a records management program to ensure the efficient creation, use, maintenance, retention, preservation, and disposition of records, files, and micrographics.

**14060.2 Purpose**

This Article establishes the requirements of the records management program as mandated by current statutes, laws, regulations, State policy, and collective bargaining agreements.

**14060.3 Definitions**

The following definitions are provided for the purpose of the Article:

**Active Record**

Any record accessed frequently.

**Archival Record**

Any record that has historical value and is preserved permanently at the California State Archives (CSA).

**California Records and Information Management (CalRIM)**

Program within the California Department of General Services (DGS) that provides management consulting services to assist agencies in developing and implementing an organizational records management program.

**California State Archives**

The California Secretary of State is responsible for maintaining any record of historical value at CSA for public reference after the CDCR's records retention period is completed.

**Confidential Record**

Any record which contains information exempt from individual, public, or CDCR review due to legal or security reasons.

**CDCR Archives**

The storage location of discharged inmate/parolee records.

**Inactive Record**

Any record required infrequently, but must be retained until the designated destruction date.

**Local Archives**

Any local facility or office storage area where inactive or discharged records are retained in an organized boxed manner until the authorized destruction date.

**Microfilm**

The process of reducing the size and volume of paper records by means of micrographic technology.

**Nonrecord**

Any library or reference material, publications, blank form, informal notes, worksheets, and rough drafts of letters and reports.

**Official Record**

Any nonduplicate, authentic record maintained as the CDCR's primary record used to substantiate any necessary follow-up activities.

**Personal Record**

Any record that identifies or describes an individual including but not limited to: Name, Social Security number, physical description, home address, home telephone number, education, financial matters, medical or employment history, and statements made by or attributed to the individual. Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy (see Chapter 3, Article 20, Personnel Policies). Civil Code Sections 1798-1798.1, Information Practices Act (IPA), protects the collection, maintenance, and dissemination of personal records. (See Department Operations Manual (DOM), Chapter 1, Article 15, Information Practices.)

**Public Record**

Any record maintained by the CDCR relating to the Department's business conduct that can be made available for public inspection in accordance with the Public Records Act. (See DOM, Chapter 1, Article 16, Public Records.)

**Record**

Any paper, map exhibit, electronic disk or type, microfilm image, photographic film or print, building plan, or drawing.

**Records Coordinator (RC)**

The individual responsible for the CDCR's Records Management Program and is located in headquarters.

**Records Destruction**

The appropriate disposition of records through recycling or confidential destruction.

**Records Retention Schedule (RRS)**

The document governing the authorized retention and disposition of all agency record systems as identified in the CDCR's Records Retention Handbook.

**Records Transfer**

The organized movement of inactive or discharged records to the State Records Center (SRC), CDCR headquarters, or local archives for further retention, or the transfer of ownership to the CSA for historical purposes.

**State Records Center**

The off-site records storage location owned and maintained by DGS to provide inactive records storage and confidential records destruction services for the State agencies.

**Vital Record**

Any record that is essential for daily performance or reconstruction of basic CDCR programs during and following a major disaster.

**14060.4 Responsibility**

Headquarters' Business Management Branch shall plan, organize, implement, and administer records management program policies and procedures.

**14060.5 Training**

CDCR staff shall be provided general training regarding the policies and procedures to be followed to ensure compliance with State laws and regulations pertaining to records management.

**14060.6 Records Management**

The following are provisions for Record Management within the CDCR in accordance with current statutes, laws, regulations, State policy, and collective bargaining agreements.

**14060.6.1 Records Coordinator**

The Records Coordinator (RC) shall:

- Ensure the necessity, availability, and maintenance of records.
- Ensure the disposal of unnecessary records.
- Coordinate micrographic activities.
- Provide assistance to records liaisons.
- Submit required records reports.
- Obtain approval of record retention schedules.
- Arrange transfer of inactive/discharged records to SRC.
- Coordinate destruction of obsolete/discharged records by the paper recycle or confidential destruction programs.
- Approve and coordinate requests for purchase of filing, micrographic, and document destruction equipment.

**14060.6.2 Records Liaisons**

Each division office, parole region, and facility shall appoint a records liaison that shall work with the RC to provide efficient records management. Staff Services Analysts shall be appointed for each parole region, and Procurement and Services Officers I and II (Correctional Facility) shall be appointed for each institution/facility.

**14060.6.3 Records Disclosures**

Public records shall be available to the public and to all offices, but shall be removed only by authorized employees. Staff removing file material from its proper location shall replace the file material or folder with a card showing the following:

- Title of borrowed record.
- Name of borrower.
- Date record is borrowed.

Employees shall refer to the following for additional information:

Subject	DOM	Contact Person
Public Information	Chapter 1, Article 13	Public Information Officer
Information Practices	Chapter 1, Article 15	Local IPA liaison
Public Records	Chapter 1, Article 16	Local Public Records Officer
Legal Matters	Chapter 1, Article 18	Deputy Director

**14060.6.4 Records Locations**

The following locations maintain the official records listed.

LOCATION	OFFICIAL RECORDS
CSA	Historical documents selected to be retained for public research.
CDCR Archives	Inactive inmate/parolee case records.
Institution/facility	Institution/facility employee records, inmate case records, and blueprint drawings.
Local Archives	Inactive facility records.
Parole Region	Appropriate parolee case records.
Personnel Transactions	Official personnel files for headquarters.
Office of Facilities Management	Facility blueprints and drawings.
Regulation and Policy Management Branch	CDCR regulation and policy files.
SRC	Inactive or discharged CDCR files and confidential records for destruction.

**14060.6.5 Records Reports and Inventories**

The State Administrative Manual (SAM) mandates that the CDCR complete and submit the Annual Progress Report on Records Management to DGS, CalRIM. This report is due to DGS by August 30. The RC shall coordinate the report and forward a report summary to Executive Staff.

SAM also mandates that each agency must inventory its records at least once every five years. The RC shall coordinate this inventory.

**14060.6.6 Record Retention Schedule**

The guidelines for the legal retention, disclosure, and destruction of all CDCR records are listed in each operational unit's RRS.

Within three months after implementation of each operational unit, an RRS shall be initiated, and every five years thereafter, the RRS shall be updated. The RC shall provide the new operational unit a Std. Form 70, Records Inventory Worksheet, to be completed from which the RRS will be created. Every five years thereafter, a Std. Form 70 shall be provided the operational unit, along with a copy of the current approved Std. Form 73, RRS, and a Std. Form 72, Request for Approval of RRS, for review and approval. All forms shall be returned to the RC for further revision or processing.

Once approved by CalRIM and CSA, the RRS shall be included in the CDCR Records Retention Handbook. The updated RRS's will be distributed to provide all units with current RRS's.

**14060.6.7 Records Filing****Active Records**

Active records shall be filed in an organized manner for the retention period listed in the RRS. Exception: Duplicate records must be routinely purged and retained a minimal time period.

**Inactive or Discharged Records**

Inactive or discharged records shall be filed in an organized manner in boxes in the appropriate archives (e.g., local archives for facility records, SRC for CDCR headquarters' records, or CDCR's headquarters' archive for inmate/parolee case records).

The following steps shall be followed in filing records:

Inspecting: Employees shall ensure that the record has been released for filing.  
Equipment Labeling: File shelves and drawers shall be plainly labeled for easy identification of contents.

Master File Index List: A Master File Index List of all files on each shelf or drawer shall be retained by the file equipment and be easily visible.

Indexing: Employees shall determine an appropriate file caption for the record.  
Coding: The file caption shall be written in the upper right-hand corner of the record or underlined if it is already plainly visible on the record.

Sorting: Employees shall sort records before filing.

Filing: When a file folder is filled, a new folder shall be created, labeled, and filed in front of it.

Out Card: Records removed from files shall be replaced by out cards in the record or file place. The out card should identify the record title, borrower name, and date removed.

**14060.6.8 Records Transfer and Retrieval**

Inactive/discharged records shall be transferred to the appropriate storage location as designated by the unit's RRS.

**California State Archives**

Historical records shall be transferred once the CDCR relinquishes ownership. The transfer and retrieval processes are:

- **Transfer Process:** Place all historical records in record storage containers and prepare a Std. Form 71, Records Transfer List, to accompany the shipment. Forward the Std. Form 71 to the RC who will notify the unit when the records have been approved to ship. Ten boxes or less should be sent directly to the CSA. For more than ten boxes, the RC will check with the CSA prior to shipping. The CSA staff shall contact the RC or local records liaison and shall authorize shipment or determine the review needs for larger shipments.
- **Retrieval Process:** CSA staff screen all incoming records to select the historical records to be retained. Records may be reviewed at the CSA, but no removal is possible.

**CDCR Archives**

Discharged inmate/parolee case files transfer and retrieval processes are:

- **Transfer Process:** All files or records shall be placed in boxes, organized by Case File Number, and listed on the CDCR Form 134, Records Transfer Checklist. The top page shall clearly note the name, number, and discharge date. Records received without a discharge date shall be returned to the sending office.
- **Retrieval Process:** Contact CDCR archive's staff for specific transfer and retrieval instructions.

**Local Archives**

Inactive records can be maintained at an institution/facility provided:

- They are stored in an organized manner that allows for retrieval when required.
- The area shall be sufficiently secure to allow for the institution/facility or unit to maintain the integrity of the records.
- The records are disposed of according to the approved RRS.

Although physical locations and processes may vary, each institution/facility shall designate a local archive's liaison to ensure current destruction. The transfer and retrieval processes are:

- **Transfer process:** Stored in record storage containers, with a label that identifies the unit name, box number, general contents, and destruction year on each box. Each unit shall maintain a master inactive records list on CDC Form 1442, Local Archives Transfer List.
- **Retrieval Process:** Contact the local archives liaison for specific transfer and retrieval instructions.

**State Records Center**

Inactive/discharged records transfer and retrieval processes are:

- **Transfer Process:** Only those items listed on an approved RRS may be stored at the SRC. Storage time must coincide with times listed and approved on the RRS. All inactive or discharged records shall be stored in records storage boxes, identifying only the Transfer List and box numbers in the appropriate area. (No other marks shall be made on the box exterior.) Transfer List numbers are issued by the RC for each records shipment and destruction year.
- The unit shall prepare a Std. Form 71 and forward the form and detailed backup list to the RC. The RC will make the necessary storage arrangements and notify the unit when the records have been approved to ship.
- **Retrieval Process:** Complete a Std. Form 76, SRC Reference Request, for each item or box required. The RC forwards all forms received by 9:00 a.m. for next day delivery. Same day expedite retrievals require a written request from executive level staff. Contact the RC for further information.

**14060.6.9 Records Destruction**

The instructions for confidential, non-confidential, and inactive/discharged records are listed below:

**Confidential Records**

State employees shall witness destruction of paper records that contain exempt, confidential, or sensitive information. For those CDCR units using the SRC for this type of service, all staff at the SRC are State employees and, therefore, the destruction is performed and witnessed by State employees. If a contractor or service provider that is not a State employee is performing the destruction, a State employee shall witness the destruction.

The records should be destroyed by on-site destruction equipment using the State Document Destruction Center (SDDC) or local destruction contract. Destruction contracts can be implemented locally since there are no statewide destruction contracts, but a State employee witness is required.

Instructions for obtaining SDDC services are available from the RC.

#### **Nonconfidential Records**

All non-confidential records shall be incorporated into a recycle program. Paper recycle containers are available by contacting the local recycling coordinator.

#### **Inactive/Discharged Records**

Local archives and SRC staff shall contact the coordinating staff when inactive or discharged records are due for destruction. The operational unit responsible for the records shall approve, in writing, the destruction or justification for an extension of the retention period.

#### **14060.7 Records Equipment Purchases**

Requests for records equipment purchases shall be forwarded to the RC. No request shall be approved unless the records are listed in an approved RRS. Contact the RC for any questions or assistance.

Record equipment purchases may be made for vertical shelf, mobile, specialized files, shredders, micrographic, or optical disk equipment. Complete and forward to the RC the appropriate purchase document as follows:

- Headquarters and DAPO units shall submit a CDC Form 954, Intraoffice Requisition.
- Institutions/facilities shall submit a Std. Form 65, Contract/Delegation Purchase Order, or Std. Form 66, Purchase Estimate.
- A completed CDC Form 1298, Records Equipment Justification.
- Specifications, vendor brochures, or sole source justifications shall be included, if appropriate. The CDCR is mandated to support California Prison Industry Authority (CalPIA) programs. Should equipment that is available through CalPIA be requested for purchase from a vendor other than the CalPIA, a waiver must be obtained from CalPIA and submitted with the purchase order or requisition.

All file equipment shall be secured in accordance with California Code of Regulations, Title 24, Part 2, Section 2-23-12, Earthquake Seismic Standards.

#### **Drawer Files (Replacement Only) Specialized Filing Equipment**

Drawer files may be purchased as replacement equipment only. SAM Section 1661 states that vertical shelf files are the State's standard filing equipment. Because of safety regulations, floor space must include an additional amount of space to facilitate an open drawer and allow for office movability.

Complete and forward the appropriate purchase document, CDC Form 954, Std. Form 65 or Std. Form 66, and the completed CDC Form 1298 and a floor plan to the RC.

#### **Executive Drawer Files**

In accordance with SAM Section 1661, non-State standard file equipment purchases are restricted to control space and excessive cost. The CDCR has limited the purchase of executive drawer filing equipment to executive staff's office or work area that is subject to public view. For purposes of this Article, executive staff is defined as the Secretary, Undersecretary, Executive Director, Assistant Secretary, General Counsel, Chief Deputy Secretary, Director, Deputy Director, Associate Director, Warden, Regional Administrator, or positions at the Career Executive Appointment (CEA) III level, or above.

Form 954, or Std. Form 65, and justification memorandum to the RC.

#### **Document Destruction Equipment**

The SDDC, located in West Sacramento, provides destruction services for confidential records from all State agencies. There are situations that require the records be destroyed locally rather than transporting to the SDDC. If an institution/facility or office feels there is sufficient justification to support the purchase of on-site document destruction equipment, forward the below listed information and documents to the RC.

- Headquarters and DAPO units shall submit a CDC Form 954.
- Institutions/facilities shall submit a Std Form 65 or Std Form 66.
- A completed CDC Form 1298.
- Vendor's specifications, brochures, or sole source justifications shall be included, if appropriate.

Purchase requests for document destruction equipment shall include an attachment that provides any and all applicable information that addresses the DGS Guidelines for Purchase or Rental of Document Shredding Equipment,

item numbers 2 through 10 listed on the back side of CDC Form 1298. This will allow for the prompt review of the request.

#### **14060.8 Micrographic and Optical Disk Management**

A micrographics system is used to maintain the integrity of records that are vital to the operation of the CDCR.

The RC shall review, approve, and coordinate proposed microfilm and optical disk systems. Feasibility Study Report (FSR) shall be submitted to the RC. The RC shall submit the FSR to DGS, Office of Information Services, for approval.

For proposed purchases of Micrographic/Optical Disk equipment, a FSR, or Computer Workgroup Justification Form (CWJF) (exact document is based on the dollar amount of the project and technology involved) must be prepared. The FSR or CWJF shall then be sent to the Enterprise Information Services for review and approval and will then be forwarded to the RC. After approval by the RC, the approved document shall be forwarded to CalRIM for final approval. Upon return of the approved document from CalRIM, it will be returned to the requestor for processing the appropriate purchase or contract document.

#### **14060.9 Revisions**

The Chief, Business Management Branch, or designee shall ensure that the content of this Article is accurate and current.

#### **14060.10 References**

Civil Code §§ 1798 et seq., IPA

SAM § 1661

California Code of Regulations, Title 24, Part 2, § 2-23-12, Earthquake Seismic Standards

### **ARTICLE 24 — UNASSIGNED**

### **ARTICLE 25 — UNASSIGNED**

### **ARTICLE 26 — AMERICAN CORRECTIONAL ASSOCIATION STANDARDS**

*Revised June 19, 2008*

#### **14090.1 Policy**

The Department utilizes the American Correctional Association (ACA) standards as resource material in developing departmental regulations, policy, and operational procedures. The Department may pursue accreditation by the ACA at selected facilities as determined by the Secretary.

#### **14090.2 Purpose**

This Article provides departmental employees with an understanding of the relationship between the Department and the ACA, and basic structural elements of the accreditation process.

#### **14090.3 General Information**

The ACA is a nonprofit, professional organization, focused exclusively on the field of detention and corrections, whose activities include the administration of a national accreditation program as a method of certifying levels of overall compliance with specific and predetermined correctional standards.

The Department utilizes the following ACA manuals:

- Manual of Standards for Adult Correctional Institutions.
- Manual of Standards for Adult Community Residential Facilities.
- Manual of Standards for Adult Probation and Parole Field Service.

#### **14090.4 Responsibility**

The Secretary affirms that the Department shall pursue accreditation of its facilities as they are found to be ready for accreditation audits.

The Secretary shall decide which of the facilities are to be targeted for accreditation audits by the ACA for any given time period, and have those decisions incorporated into the Department's facilities plan.

#### **Office of Audits and Compliance**

The Assistant Secretary for the Office of Audits and Compliance shall oversee all ACA accreditation activities within the Department including, but not limited to, the following:

- Communicating with the ACA.
- Recommending accreditation-ready facilities to the Secretary.
- Coordinating and completing contracts and applications for accreditation with the facilities selected for accreditation audits.
- Providing technical guidance for accreditation activities at every facility.

- Performing preaccreditation audits at facilities.
- Coordinating the resolution of accreditation related issues/problems.

#### **Division of Adult Institutions/Division of Adult Parole Operations**

All Wardens and RPAs shall have systems in place to ensure that ACA standards have been reviewed and, where appropriate, incorporated into local operations.

All Wardens and RPAs whose facilities have been selected for accreditation shall assign a staff member at the level of Lieutenant, Correctional Counselor II (CC-II), Parole Agent II (PA-II), or above, to monitor and coordinate ACA accreditation activities at their respective facilities.

Facilities selected for accreditation efforts, and those that have been awarded accreditation, shall assign an accreditation manager/coordinator to:

- Coordinate the overall effort.
- Communicate local needs and concerns to Warden/RPA.
- Develop and maintain accreditation records and documents.
- Provide training to facility staff.
- Liaison with the Office of Audits and Compliance in all aspects of the accreditation and reaccreditation process.
- Review facility operations for consistency with ACA standards.

#### **14090.5 Revisions**

The Deputy Director, Office of Audits and Compliance, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **14090.6 References**

ACA Agency Manual of Accreditation Policy and Procedure.

### **ARTICLE 27 — DIVISION OF ADULT INSTITUTIONS**

*Revised August 2006*

#### **15000.1 Division of Adult Institutions (DAI)**

The Director of DAI reports to the Undersecretary of Operations. All responsibilities for the day-to-day operations of the adult institutional facilities and camps rest with this division, specifically with the Director, DAI. A Deputy Director and Associate Directors (AD) assist the Director of the DAI in carrying out this responsibility. The ADs are tasked with managing adult institutions with similar missions.

#### **15000.2 Reception Center Institutions**

The AD, Reception Center Institutions, has supervisory responsibility for the Wardens of the following facilities:

- CIM.
- DVI.
- NKSP.
- RJD.
- SQ.
- WSP.

#### **15000.3 Conservation Camp Operations**

The overall leadership and guidance to the camps program is provided by the Wardens of the CCC, SCC, and other Wardens whose areas of responsibility include conservation camps. The statewide program is administered through camp liaisons. The liaisons provide support services necessary for the program, develop and monitor contracts with the California Department of Forestry and Fire Protection, and the Los Angeles County Fire Department for the operation of 38 camps, and serve as the principal contact on camp program matters to other state, federal, or local government agencies, members of the legislature, special interest groups, and the general public.

Responsibilities include the regular statewide monitoring and evaluation of camp operations through the management survey process. Every other year the liaison reviews each camp to ensure it is operating in compliance with all appropriate laws, policies, procedures, and contract obligations. Camp liaisons are also responsible for implementing the statewide Camps Information Program to make the public more aware of the tax dollars saved by camp inmates through their project work, wildland fire fighting, and other emergency activities.

#### **15000.4 High Security and Transitional Housing**

The AD has supervisory responsibility for the Wardens of the following facilities:

- CCI.
- COR.

- HDSP.
- KVSP.
- PBSP.
- SAC.
- SVSP.

#### **15000.5 General Population Levels Three and Four**

The AD has supervisory responsibility for the Wardens of the following facilities:

- CAL.
- CEN.
- CMC.
- CMF.
- CSATF, COR.
- LAC.
- MCSP.
- PVSP.

#### **15000.6 General Population Levels Two and Three and Male Offender Camps**

The AD has supervisory responsibility for the Wardens in the following facilities:

- ASP.
- CCC.
- CRC.
- CTF.
- CVSP.
- FSP.
- ISP.
- SCS.
- SOL.

#### **15000.7 Female Offender Institutions and Camps**

The AD has supervisory responsibility for the Wardens of the following facilities:

- CCWF.
- CIW.
- VSPW.

#### **15000.8 Operations and Programs**

Operations and Programs are responsible for policy and program formulation within the DAI and ensures consistency and uniformity in their development and application. In this capacity, the Undersecretary Operations and the Director DAI have managerial responsibility for all headquarters-based administrative staff as follows:

#### **15000.9 Institution Operations**

Institution Operations, under the guidance of the Undersecretary, Operations and Director, DAI is responsible for the following operational units:

#### **15000.10 Classification Services Unit**

*Revised July 22, 2013*

The Classifications Services Unit (CSU):

- Develops, administers, and maintains CDCR classification policies and procedures to ensure uniform diagnostic evaluations of State inmates.
- Enforces appropriate housing of inmates at the lowest level of custody consistent with the security of the institution and safety of staff, inmates, and the community.
- Endorses inmate transfer recommendations based on verification of specific inmate safety and security considerations, program eligibility and appropriateness, and CDCR bed availability. Case factor reviews include an evaluation of the inmate's criminal history, street or prison gang affiliations, propensity for violence and/or escape, programming needs, work skills, medical and psychiatric needs, and reentry eligibility.
- Audits institutional classification practices and safeguards institutional compliance with CDCR classification policy.
- Resolves conflicts and enforces standardized interpretation of CDCR classification policies raised by institutions to either the chief of CSU or the Departmental Review Board (DRB), for a binding administrative decision.



- Presents ongoing training to institutional staff regarding due process rights, the inmate classification system, use of confidential information, inmate housing criteria, and documentation requirements.
- The CSU includes the following sections and functions:

#### **Population Management Section**

- Analyzes and evaluates current and projected inmate population trends.
- Coordinates inmate movement and cost effective bed use.
- Establishes compliance criteria for reception center processing requirements and time frames.
- Monitors and coordinates inmate placement and full utilization of beds in minimum support facilities, camps, restitution centers, and community correctional reentry centers.
- Implements and maintains the County Delivery System, a computer-based system that identifies county delivery options based on expected processing times, projected intake, and geographical location.
- Serves as Intake Control Unit (ICU) for the County Delivery System.

#### **Health Care Section**

In coordination with the Division of Correctional Health Care Services (DCHCS):

- Evaluates, endorses, and expedites transfers for medical treatment including special housing for pregnant, physically disabled (including those inmates confined to wheelchairs), and contagious/infectious inmates.
- Endorses and monitors inmates with ongoing psychiatric concerns including inmates recommended for Correctional Clinical Case Management Services, Enhanced Outpatient Program, Mental Health Crisis Bed, and Department of Mental Health Inpatient Hospital Care.
- Evaluates and endorses transfers for inmates with developmental disabilities.
- Acts as liaison with the court, DCHCS, institutions, and families concerning compassionate release requests and coordinates, verifies, prepares, reviews, and processes requests for the Secretary's approval.
- Conducts inquiries and responds to written correspondence from the general public, inmate families, legislators, advocacy groups, judges, and attorneys.

#### **Special Projects Section**

- Develops and clarifies components of the classification system.
- Researches and augments classification policies, regulations, and procedures.
- Coordinates efforts to ensure the California Code of Regulations (CCR), Title 15 and the DOM are current.
- Researches, analyzes, and generates administrative and informational bulletins, proposes and implements legislation, and responds to inquiries.
- Provides teletype approval for prerelease transfers and DJJ dual jurisdictional cases.
- Prepares budget change proposals, composes memoranda and special reports to the Governor's Office, and the Secretary.

#### **Sexually Violent Predator Unit**

- Refers potential Sexually Violent Predator (SVP) cases to the Department of Mental Health (DMH) via the Board of Parole Hearings (BPH) for clinical evaluations and potential referral for prosecution and a renewable two-year civil commitment.
- Coordinates with the BPH, DMH, DAPO, Correctional Case Records Administration, DJJ, and OLA to implement new laws and procedures (i.e., SVP Program).
- Acts as the liaison with city, county, State, and federal agencies.

#### **Security Housing and Administrative Segregation Section**

- Clarifies and standardizes CDCR Administrative Segregation (AD SEG) and Security Housing Unit (SHU) policy and procedures.
- Audits AD SEG and SHU placement to ensure compliance with regulations.
- Establishes criteria for classification review of prison gang validations for determining Indeterminate SHU placement and/or retention.
- Serves as a liaison to the OCS to monitor enemy activity, high notoriety cases, and protective housing unit placements.
- Oversees preparation, investigates, and provides an analysis of cases referred to the DRB.

- Coordinates the classification portion of the DAI compliance reviews.
- Conducts AD SEG Unit Bed Utilization Reviews to maximize use of beds.
- Creates and maintains the Classification Services Representative (CSR) travel schedule to ensure adequate coverage for all institutions.

#### **Minimum Custody Program and United States Citizenship and Immigration Services Section**

- Maintains the Enhanced Tracking System to identify, monitor, and coordinate inmate placement and full utilization of beds in Minimum Support Facilities, Camps, Restitution Centers, Community Correctional Facilities (CCF), Community Prisoner Mother Programs, and Community Correctional Reentry Centers (CCRC).
- Identifies and tracks foreign-born inmates in compliance with the United States Citizenship and Immigration Services (USCIS).
- Coordinates with the BPH to facilitate return of inmates to their country of citizenship in compliance with the Foreign Prisoner Transfer Treaty Program.
- Coordinates with the USCIS to facilitate housing and deportation hearings by federal immigration judges for inmates with active detainers.
- Is the liaison with foreign consul concerning issues related to foreign-born inmates.
- Is the liaison with CCF administration concerning CCF issues.
- Is the liaison with the DAPO concerning CCRC and Restitution Center issues.

#### **Training Section**

- Plans, coordinates, and presents annual training to Classification & Parole Representatives (C&PRs), Reception Center Correctional Counselor (CC) IIIs, Assistant C&PRs, and other staff responsible for the classification process.
- Collects CSR audit reports and compiles information distributed in quarterly audit report summaries for the purpose of evaluating the classification processes.
- Plans, coordinates, and presents quarterly CSR training regarding classification process updates and changes to policy and procedure.
- Coordinates, presents, and tracks training for all headquarters CCH Specialists and training for CSU staff.
- Provides training for all CDCR institutions/units/offices in various areas of the classification process, on request.
- Is the liaison with Commission on Peace Officer Standards and Training (CPOST) regarding classification issues and training.
- Plans, develops, and funds requests for CC I and CC II Supervisor Training Academies.

#### **15000.11 Correctional Case Records Unit**

- Administers and is responsible for planning and developing policies governing the CDCR uniform case records system.
- Assumes responsibility and accountability for the accurate interpretation and application of laws, administrative standards, and court decisions related to the processing, maintenance, and control of inmate and parolee records.
- Acts as administrative and technical advisor to CDCR management on matters related to the records system and is the primary liaison with other governmental agencies, courts, legislators, and other persons on matters related to the records system.
- Reviews and revises DOM Chapter 7, Case Records Information.
- Conducts the records portion of the DAI Annual Compliance Review.

The Correctional Case Records Unit includes the following sections and functions:

#### **Legal Processing Unit**

- Reviews legal documents on cases with sentencing discrepancies and communicates with the court, DA, and Office of the Attorney General (OAG) to resolve discrepancies.
- Functions as liaison between CDCR and related city, county, and State agencies on matters concerning the application of sentence and parole laws.
- Acts as consultant/advisor to CDCR staff, court offices, and other governmental agencies or authorized persons regarding CDCR responsibility under pertinent laws and administrative standards,

interpretations, and applications of laws and standards related to inmate receipt, sentencing, parole, and release.

- Functions as the hub for records related matters for inmates serving their prison terms in DJJ/CYA facilities pursuant to Welfare and Institutions Code (W&IC) 1731.5c.

#### **Identification/ Warrants Unit**

- Operates 24-hours-a-day and provides inmate/parolee history, location, and commitment information to law enforcement agencies and other authorized persons.
- Maintains the CDCR Warrants Register and central dispatch system for the BPH and NAEA warrants issued on parolees-at-large, and releasees-at-large, and places parole holds pursuant to Penal Code (PC), 3056, and/or W&IC 3151, for the DAPO.
- Responds to telephone inquiries concerning felons/civil addicts that require non-confidential information.
- Receives and distributes incident reports.

#### **Correctional Case Records Training Unit**

- Analyzes training needs.
- Plans and develops training programs.
- Provides specialized, technical training to Case Records staff throughout the CDCR.
- Provides technical and practical assistance to Case Records staff to eliminate backlogs.
- Resolves legal and procedural problems.

#### **Archives Unit**

- Receives, processes, and maintains the records of all discharged felons for a period of 30 years from date of discharge.
- Processes requests for documents pursuant to PC 969(b), Proof of Prior Convictions.
- Processes requests for documents for discharged felons, social service agencies, CDCR staff, and State and national law enforcement.

#### **15000.12 Transportation Unit**

- Coordinates the transfer of inmates throughout the State with CSU, DAI, and DAPO.
- Coordinates the transfer of parole violators, escapees, and Western Interstate Corrections Compact cases to and from other states.
- Compiles transportation needs information.
- Schedules and routes inmates between facilities, and to and from county jails.
- Maintains the CDCR fleet of transportation vehicles.

#### **15000.13 Institution Programs**

Institution Programs, under the guidance of the Director DAI and the Deputy Director, Operations and Programs, is responsible for the following program units:

#### **15000.14 Standardized Procedures Liaison Unit**

- Administers the statewide inmate Disability Placement Plan (DPP).
- Analyzes and coordinates the activities required by major litigation affecting the CDCR.
- Coordinates legislative proposals and bill analysis, chaptered law implementation, and modifications to the CCR, Title 15, Division 3 and the DOM.
- Prepares analyses, issues memos, and recommendations for divisional and departmental consideration on a variety of correctional issues, policies, and practices.
- Prepares written responses to inquiries concerning correctional operations and practices received from elected officials, public, State agencies, inmates' families, and inmates.

The Institution Procedures Liaison Unit is comprised of the two following sections:

#### **Institution Standards and Operations Section**

The Institution Standards and Operations Section (ISOS) develops, implements, administers, and monitors the DPP to ensure effective access to programs, services, and activities for disabled individuals incarcerated within the CDCR. The ISOS provides DPP management and guidance to all institutions concerning placement, accommodation, and access issues related to disabled inmates. The Facility Captain, ISOS, serves as CDCR's coordinator as mandated by Title II of the Americans with Disabilities Act.

#### **Litigation Management Section**

In coordination with the OLA, the Litigation Management Section:

- Provides litigation coordination for the CDCR in response to major litigation actions filed by or on behalf of inmates.
- Provides the focal point for the analysis, review, and interpretation of issues raised in legal suits and their applicability to correctional policy and practices.
- Prepares required court reports.
- Serves as litigation liaison for the CDCR to the affected institutions, divisions, house counsel, OAG, plaintiffs' attorneys, and inmates.
- Provides functional support to the institutional litigation coordinators.
- Coordinates the divisions activities related to reviewing, interpreting, and evaluating issues impacting correctional policies.
- Coordinates with the Regulation and Policy Management Branch (RPMB) for issues impacting Title 15 and DOM.
- Coordinates activities to develop legislative proposals.
- Provides assistance to field inquiries concerning policy issues.
- Maintains direct responsibility for the correctional visiting policy.

#### **15000.15 Community Correctional Facilities Administration**

The Community Correctional Facilities (CCF) Administration Section oversees the statewide coordination and support of CCF programs including:

- Establishing and administering State-operated and contracted CCFs.
- Developing and processing contracts for CCF programs.
- Identifying and coordinating transportation needs.
- Evaluating, monitoring, and auditing CCF programs to ensure compliance with CDCR policies and procedures and contract requirements.
- Providing and maintaining operational integrity of CCF programs/facilities and community relations.
- Providing administrative support to parole regions and resolving problems between parole regions and facilities.

#### **15000.16 Office of Appeals**

*Revised July 29, 2011*

The Office Of Appeals (OOA) monitors CDCR processes utilized by an inmate or parolee to appeal any CDCR decision, action, condition, omission, or policy which they can demonstrate as having a material adverse effect upon their welfare.

The responsibilities of the OOA include:

- Providing a fair and objective review of inmate and parolee appeals at the Secretary's level.
- Meeting with CDCR administrators to review policy and procedure needs as revealed by inmate appeals.
- Conducting audits of facility and parole appeals units.

The Chief, OOA, may act for the Secretary in matters regarding inmate/parolee appeal issues, policies, and practices. As such the Chief, OOA, shall:

- Provide authoritative expertise and guidance.
- Oversee and monitor the Department's conformity with regulations and operating procedures pertaining to or affecting appeals processes.
- Ensure that the necessary training and assistance relative to the appeal system is provided to local appeals coordinators and appropriately delegated staff.

#### **15000.17 Revisions**

The Director, DAI or designee is responsible for ensuring that the contents of this Article are kept current and accurate.

#### **15000.18 References**

CCR 15(3).

### **ARTICLE 28 — DIVISION OF ADULT PAROLE OPERATIONS**

*Revised November 2, 2015*

#### **15010.1 Division of Adult Parole Operations**

The Director of the Division of Adult Parole Operations (DAPO) reports to the Undersecretary of Operations. The Director of DAPO provides supervision and services for individuals on parole following their terms in State prison. The Director and designees oversee administrative and field support services for statewide Parole Operations at the DAPO Headquarters.

**15010.2 Parole Operations**

DAPO is organized into two Regions. Each Region is supervised by a Regional Parole Administrator (RPA). The regional offices administer more than 114 unit offices and 2 Parole Outpatient Clinics (POCs) located in the Northern and Southern Regions. Both POC headquarters supervise POC clinicians located in 42 parole complexes throughout the state.

**Northern Region**

Includes the entire central valley from Kern County (south) to Siskiyou County (north) to the Oregon border.

**Southern Region**

Includes the San Diego area, extending north to San Bernardino County and Los Angeles County.

**15010.3 DAPO Division Headquarters**

DAPO Division Headquarters is responsible for training, peer audits, and rehabilitation services. DAPO Division Headquarters serves as a liaison with the Board of Parole Hearings (BPH), law enforcement agencies, and other divisions and departments; supports legislative bill analysis; develops parole policies and procedures; and special projects related to substance abuse treatment programs, POC, and asset forfeiture. Additionally, DAPO Division Headquarters monitors compliance with existing policies and procedures, management of Interstate Compact offenders and, management of global positioning system of adult sex offenders. It maintains liaison with information systems units; collects and analyzes information from field operations (arrest data, holds, continue-on-parole actions, violations, dispositions etc.); coordinates American Correctional Association accreditation; and addresses parolee/inmate appeals, grievances, and correspondence. DAPO Division Headquarters also manages parole litigation and ensures compliance with the court revocation procedures, Armstrong court mandates, and current law. The organizational structure of units within DAPO Division headquarters consists of:

- Alternative Custody Program
- Asset Forfeiture
- Division Training Unit
- Electronic Monitoring Unit
- Fidelity Assurance and Outcomes Unit
- Criminal Intelligence Unit
- Interstate Compact Unit
- Litigation Compliance Unit
- Parole Automation Unit
- Parole Planning & Placement
- Policy and Procedures Unit
- Quality Control Program
- Sex Offender Unit
- Support Services Unit
- Warrant Unit

**15010.4 Parole Outpatient Clinics**

POCs are located within each parole office and provide the first line of mental health treatment and services to parolees. POCs operate as part of DAPO's Mental Health Services Continuum Program (MHSCP), providing parolees with a seamless continuum of care from the Mental Health Services Delivery System (MHSDDS) in the institution, to meeting their mental health needs while on parole.

POCs provide timely, cost effective mental health services aimed at reducing the symptoms of mental illness among parolees to optimize their level of functioning in the community, reduce recidivism, and improve public safety.

POC services include evaluation of mental illness, medication management, individual and group therapy, crisis intervention and case management. POC staff work closely with parolees to develop their individualized re-entry plan, and connect them to essential services within their communities. POC staff also work in conjunction with Integrated Services for Mentally Ill Parolees (ISMIP) providers to refer qualified mentally ill parolees for additional outpatient services.

**15010.5 Interstate Compact Unit**

The Interstate Compact Unit coordinates the State's functions and responsibilities under the terms of the Interstate Compact for Adult Offender Supervision.

**15010.6 Revisions**

The Director DAPO or designee is responsible for ensuring that the content of this Article are kept current and accurate.

**15010.7 References**

CCR 15(3).

**ARTICLE 29 — DIVISION OF REHABILITATIVE PROGRAMS**

*Revised August 2006*

**15020.1 Division of Rehabilitative Programs**

The Director, Division of Rehabilitative Programs (DRP), reports to the Undersecretary of Operations. The Director of DRP serves as advisor to the Secretary and supervises the following programs.

**15020.2 Office of Education, Vocation and Offender Programs**

The Education, Vocation and Offender Programs administers CDCR policies and procedures governing:

- Academic education.
- Funding allocations.
- Curriculum development of basic literacy instruction.
- High school courses and/or equivalency programs.
- Vocational education.
- Funding allocations.
- Curriculum development of basic entry level to advanced skills in a wide variety of vocational programs.
- Recreation/physical education programs.
- Institutional recreation programs.
- Physical fitness and physical fitness training in those institutions responsible for providing inmate firefighters.
- Inmate libraries and law libraries.
- Funding allocations for general libraries as well as the contents of the general collection.
- Guidelines for law library access and materials that meet court requirements.
- Apprenticeship programs - For qualified inmates in vocational education allowing the opportunity to use on-the-job training and related classroom instruction to increase skill level in a trade area.
- Pre-release programs - Voluntary program offered to inmates emphasizing employability skills, communication skills, money management skills, community resources, and parole resources.
- Federal Education Grants - Grant funds are allocated to specific education programs in accordance with State Administrative Manual (SAM), the United States Department of Education guidance, and the California State Department of Education State Plan.

The Office of Education, Vocation and Offenders Programs assists in the development of education programs for new prisons and for special projects within the above fields.

**15020.3 Office of Offender Services****In-Prison Services****Community and Re-Entry Services****15020.4 Office of Recovery Services**

The Office of Recovery Services serves as the centralized point of substance abuse treatment and recovery program development, management, coordination, and program fund administration. The ORS:

- Develops CDCR standards for substance abuse treatment and recovery programs to ensure that offenders housed within the CDCR facilities and those supervised within the community receive consistent, quality programs likely to impact the drug use and crime continuum.
- Develops new and innovative pilot substance abuse and recovery programs in CDCR facilities and community settings.
- Monitors program implementation and audits program operation.
- Drafts regulations pertinent to the operation of substance abuse programs to ensure consistent program development.
- Provides grant management for substance abuse-related grant projects, and seeks potential grant sources which may provide assistance in furthering CDCR's programs.
- Establishes a strategic plan to address offender needs for treatment and recovery services.
- Assesses strategic plan progress.
- Assesses the status of the delivery of program services to CDCR's offender population.
- Manages the Joint Venture Program (JVP) pursuant to the 1990 Inmate Labor Initiative.

**15020.5 Revisions**

The Director, Division of Rehabilitative Programs or designee is responsible for ensuring that the content of this Article are kept current and accurate.

**15020.6 References**

CCR 15 (3).

**ARTICLE 30 — DIVISION OF HEALTH CARE SERVICES**

*Revised August 2006*

**15030.1 Division of Correctional Health Care Services**

The Director of the Division of Health Care Services (DHCS) reports to the Undersecretary of Administration and Offender Services. The DHCS is responsible for consistently providing quality health care to the inmate population within the custodial environment. Quality of care is defined as timely, appropriate, effective, and efficient health care provided within an accepted scope of services and consistent with community standards of care. The Director, DHCS, provides overall administrative direction for the program.

**15030.2 Clinical Policy and Field Management Branch**

Primary functions include:

- Planning and developing statewide clinical policies and programs.
- Assisting with implementation of policies and programs in the field.
- Administering the programs in the field based on policies and performance data.
- Evaluating the performance of programs and professional practices.

Based on these four functions, this branch is organized into two major Sections: Clinical Policy and Programs, and Field Management.

**15030.3 Clinical Policy and Programs Section**

This Section consists of staff members who primarily work within one of three units in headquarters. The units include Clinical Standards and Services, Public Health and Prevention, and Clinical Programs Support.

**Clinical Standards and Services Unit**

Primary functions include:

- Planning and develops standards and structures for clinical operations, professional practice, and management of clinical quality and utilization including use of licensed beds, contract specialty services, and pharmaceutical drugs.
- Planning and developing the orientation, training and development program.
- Providing clinical services and consultations. Clinical operations include programs that span disciplines of public health, medicine, surgery, nursing, dentistry, mental health, and pharmacy.

**Public Health and Prevention Unit**

The primary function is to collaborate and coordinate with the Clinical Standards and Services and Clinical Programs Support units, and the Field Management Section to plan, develop, and evaluate key public health and prevention programs that focus on Hepatitis C, and inmate-patient education and prevention services. In addition, this program will assist the Office of Risk Management (ORM), and the Academy, in projects and training activities that focus on reducing the risks of communicable diseases and occupational injuries.

**Clinical Programs Support Unit**

Primary functions include:

- Developing and maintaining clinical information systems that monitor and analyze data collected from several priority areas to ensure compliance with standards of care, program policies, and court mandates.
- Generating routine and ad hoc reports that assist in management decisions.

**15030.4 Field Management Section**

This Section consists of staff members who primarily work within one of two units at regional and institutional sites. The units include the Quality Management Assistance Program and Regional Administration.

**Quality Management Assistance Program Unit**

Using two types of teams, the Quality Management Assistance Teams and the Utilization Management Assessment Teams, primary functions include:

- Facilitating implementation of statewide policies and programs.
- Providing appropriate orientation and training.

- Monitoring and improving system and staff performance.

The Utilization Management Assessment Teams consist of registered nurses who work in the institutions. The primary duties of the nurses include:

- Ensuring compliance with the Utilization and Pharmacy Management policies, procedures, and criteria.
- Identifying opportunities to improve quality and reduce waste.

Current priorities focus on the use of registries, licensed correctional beds, costly medications, and community contract services, including emergency services, hospital beds, and requests for referrals for transplant evaluations.

**Regional Administration Unit**

The primary function of this unit is to administer and manage health care programs in the field based on statewide priorities, policies, and performance requirements. The Regional Administration Unit consists of three regions:

**Northern Region:**

- California Correctional Center (CCC).
- California Medical Facility (CMF).
- California State Prison, Sacramento (SAC).
- California State Prison, San Quentin (SQ).
- California State Prison, Solano (SOL).
- Deuel Vocational Institution (DVI).
- Folsom State Prison (FOL).
- High Desert State Prison (HDSP).
- Mule Creek State Prison (MCSP).
- Pelican Bay State Prison (P BSP).
- Sierra Conservation Center (SCC).

**Central Region:**

- Avenal State Prison (ASP).
- Central California Women's Facility (CCWF).
- California Men's Colony (CMC).
- California State Prison, Corcoran (COR).
- California Substance Abuse Treatment Facility and State Prison at Corcoran (SATF).
- Correctional Training Facility (CTF).
- North Kern State Prison (NKSP).
- Kern Valley State Prison (KVSP).
- Pleasant Valley State Prison (PVSP).
- Salinas Valley State Prison (SVSP).
- Valley State Prison for Women (VSPW).
- Wasco State Prison-Reception Center (WSP).

**Southern Region:**

- California Correctional Institution (CCI).
- California Institution for Men (CIM).
- California Institution for Women (CIW).
- California Rehabilitation Center (CRC).
- Calipatria State Prison (CAL).
- California State Prison, Los Angeles County (LAC).
- Centinela State Prison (CEN).
- Chuckawalla Valley State Prison (CVSP).
- Ironwood State Prison (ISP).
- Richard J. Donovan Correctional Facility at Rock Mountain (RJD).

**15030.5 Resource Management and Administrative Support Branch**

The primary functions include:

- Developing administrative processes and procedures to support clinical policies and programs at division headquarters and in the field.
- Developing and maintaining appropriate resource development and management procedures.
- Developing, coordinating, implementing, monitoring, and evaluating health care fiscal, quantitative, and programmatic data collection systems and processes to assist in program analysis and planning efforts.

Based on the functions listed above, this branch is organized into three major sections: the Fiscal and Business Management Section, the Licensing and

Information Systems Section, and the Program and Policy Coordination Section.

#### **15030.6 Fiscal and Business Management Section**

This Section consists of administrative and analytical staff that primarily work in the DHCS headquarters which includes four units: Contracts, Health Care Cost Utilization Program (HCCUP), Fiscal Management, and Capital Outlay.

##### **Contracts Unit**

The primary functions include:

- Developing and negotiating Master Health Care Contracts.
- Developing and implementing statewide contract policies and strategies.
- Evaluating and piloting managed care alternatives.
- Monitoring statewide contracts.

##### **HCCUP Unit**

The primary functions include:

- Developing, implementing, and maintaining automated statewide systems for health care cost accounting and reporting; census and discharge data collection and reporting; and reporting standardized information on statewide health care cost utilization that supports planning, budgeting, and management needs of DHCS.
- Developing patient profiles to assist the DHCS management in anticipating trends for the purpose of developing future programs and resources requests.

##### **Fiscal Management Unit**

The primary functions include:

- Developing, implementing, and maintaining.
- Consulting with Health Care Managers (HCMs) and participating in the training for HCMs and other health care staff on the systems processes, and reporting responsibilities inherent in budget management.
- Developing and preparing budget concept statements and budget change proposals, including statewide budget change proposals.
- Providing direction and support to field managers on trends that could affect their ability to maintain costs within allocated levels, and works closely with managers within the division and other divisions within the Department to develop staffing formulas and ratios.
- Establishing and maintaining reporting and monitoring systems and annual allocations.

##### **Capital Outlay Unit**

The primary functions of this unit are directing and coordinating the division's capital outlay and materials management processes.

#### **15030.7 Licensing and Information Systems Section**

This Section consists of administrative and analytical staff that work in the DHCS headquarters and include three units: Health Insurance Portability and Accountability Act (HIPAA) Compliance, Information Systems, and Licensing.

##### **HIPAA Unit**

The primary functions include:

- Researching, developing, and implementing standardized policies and procedures for the Department's HIPAA program areas.
- Identifying and assisting in the implementation of improvements in information processing to enhance efficiency and effectiveness of the Department's health care services.
- Coordinating the assessment and improvement of statewide systems.

##### **Information Systems Unit**

The primary functions include:

- Supporting computer and computer related equipment and printers used by DHCS staff.
- Coordinating with the EIS, DAI, and other programs and agencies regarding health care information system activities and processes.
- Developing, implementing, and coordinating health care data collection and information processing procedures.

##### **Licensing Unit**

The primary functions include:

- Preparing new health care facilities for initial licensure.
- Assisting existing licensed health care facilities to maintain licensure.
- Assisting clinical staff to develop and implement policies and procedures, including new statutory and regulatory requirements.

#### **15030.8 Program and Policy Coordination Section**

This Section consists of administrative and analytical staff that work in DHCS headquarters and include three units: Education, Training and Telemedicine, and Policy and Planning Coordination.

##### **Education Unit**

The primary function of this unit includes the coordination, planning, and provision of the educational programs of the Division, including the Inmate Peer Education Program and the Continuing Medical Education program.

##### **Training and Telemedicine Unit**

The primary functions include:

- Planning, organizing, developing, conducting, and evaluating health care training programs.
- Planning, development, and management of the telemedicine services program, including the development of service sites, development of policies and procedures to coordinate clinical services, selection and installation of appropriate telemedicine equipment, data collection, service monitoring, and evaluation.

##### **Policy and Planning Coordination Unit**

The primary functions include:

- Developing programs and administrative functions relating to the design and implementation of health care planning efforts.
- Coordinating the planning and policy research, analysis, and development between the units of the division.
- Analyzing health care statutory and regulatory changes and proposals.

#### **15030.9 Personnel Section**

This Section consists of administrative and analytical staff whose primary functions include the development and maintenance of an effective division personnel program and the oversight and processing of personnel transactions and procedures.

##### **15030.10 Revisions**

The Director, Division of Health Care Services or designee is responsible for ensuring that the content of this Article are kept current and accurate.

##### **15030.11 References**

CCR 15 (3).

### **ARTICLE 31 — DIVISION OF FACILITY PLANNING, CONSTRUCTION AND MANAGEMENT**

*Revised August 2006*

#### **15040.1 Division of Facility Planning, Construction and Management**

The Director of the Division of Facility Planning, Construction and Management (FPCM) reports to the Undersecretary of Administration and Offender Services. The FPCM has responsibility for telecommunication planning and management, all capital outlay planning, and managing the construction, renovation, and maintenance of facilities. The FPCM has five branches:

- Facility Planning and Finance Branch.
- Project Development and Management Branch (PDMB).
- Day Labor and Professional Services Branch.
- Security Operations and Maintenance Branch (SOMB).
- Telecommunications Branch.

##### **15040.2 Facility Planning and Finance Branch**

The Facility Planning and Finance Branch administers a broad scope of planning, financial management, contract management, and administrative support functions for prison construction, and the Major/Minor Capital Outlay, Special Repair, and Energy Management Programs. These responsibilities include preparation of an annual five-year facilities master plan for new prison and capital outlay programs; bond management for a \$5 billion construction program; development of the Department's capital outlay program for the Governor's budget; management of the consultant/construction contracting and payment processes; and supports the analysis of legislation affecting any programs of the Division. The branch is also responsible for energy management programs, and compliance with the California Environmental Quality Act for new prison construction, prison expansion, and other construction or remodeling projects.

**15040.3 Financial and Project Support Section**

The Financial and Project Support Section:

- Develops and administers the Department's five-year Infrastructure Plan.
- Budgets and financially manages the capital outlay appropriations, interim loans, and bond proceeds.
- Administers contracts for capital outlay projects.
- Supports division staff's Information Technology (IT) needs.

**Infrastructure Planning Unit**

In accordance with Assembly Bill 1473, Chapter 606, Statutes of 1999, the Infrastructure Planning Unit develops annually a Five-Year Infrastructure Plan (Plan) in conjunction with the Governor's budget that identifies the Governor's capital outlay policies and funding priorities for each five-year period. In addition to this responsibility, the Infrastructure Planning Unit:

- Works with departmental management to establish multi-year priorities and identify facility deficiencies and capacity needs according to departmental objectives and programmatic standards, guidelines, and priorities.
- Defines data needs, develops assessment tools, directs and coordinates statewide studies, and evaluations to identify and prioritize infrastructure needs.
- Prepares the Plan and coordinates the inclusion of all capital outlay budget change proposals and capital outlay concept papers covering the five-year planning period.

**Project Support Unit**

Project Support is primarily responsible for managing the fiscal aspects as well as contract development and management in support of the Department's prison construction and capital outlay programs.

For the fiscal aspects, responsibilities include:

- Capital outlay budget preparation.
- Interim loan and bond fund management.
- Ongoing financial management of prison capital outlay projects.
- Legislative/Public Works Board Capital Outlay submittals.
- OFM support budget.
- Quarterly reports for the legislature, control agencies, and other interested parties on the status of authorized projects and development of other reports and materials as needed for special projects, presentations, or legislative hearings.

The contract responsibilities of the unit include:

- Audit and prepare payments of all prison construction related invoices.
- Participation in scope and fee negotiations with construction managers, architects, and engineers.
- Audit and approval of construction change orders reflecting additions or changes to construction contracts.
- Preparation of all prison construction related contract and amendment requests.
- Log and track contract related documents from receipt through audit and approval.

**15040.4 Capital Outlay Section**

The Capital Outlay Section is responsible for the Department's capital outlay and special repair programs and serves as a liaison with institutions on facility related issues. The section also has a lead role in working with the Department of Finance (DOF) and Legislative Analyst's Office on capital outlay issues.

The Section's responsibilities include:

- Major/minor capital outlay funding preparation and project Management.
- Special repair funding preparation and project management.
- Budget package preparation.
- Section 6.00 (Budget Act) and architecture/engineering reviews.
- Liaison with institutions on facility related issues.
- Design development.
- Public works board approval.
- Governor's budget submittal.
- Miscellaneous projects such as the DGS funded seismic retrofit projects in our facilities.

**15040.5 Energy Management Section**

The Energy Management Section's primary function is to make California's prisons as energy efficient as possible and procure the least costly energy available.

The Energy Management Section:

- Obtains financing and oversees design and construction activities for energy efficiency projects at the facilities.
- Monitors gas and electricity costs in order to take advantage of market conditions and regulatory changes in an effort to procure the best energy contracts.
- Monitors utility bills to ensure accuracy of invoices and maintains database of energy usage.
- Updates the peak load reduction plans annually to assist facility managers in determining and managing non-essential electrical loads in order to meet executive orders on energy efficiency.
- General support to facilities on utility issues.

**15040.6 Product Development and Management Branch**

The PDMB oversees the daily operations of design, construction, activation, contract closeout, and claims management for new State prisons and existing facilities repair/renovation projects. The Branch provides policy direction to diverse program areas of construction operations including site selection, project management, architectural/engineering services, construction management, contract solicitation/negotiation, quality assurance, and claims management. Responsibilities include, but are not limited to, the following:

- Plan, design, and construct new facilities and renovate existing facilities.
- Develop design and construction proposals for capital outlay.
- Develop and administer design, construction, and project management and contract strategies, policies, and procedures.
- Develop joint powers agreements with local jurisdictions for on-site and off-site utilities.
- Negotiate scope and fees for construction and consultant contracts and interagency agreements.
- Negotiation, resolution of cost claims, and arbitration support to OLA.

**15040.7 Project Management Section**

The Project Management Section manages each of the project teams to control schedules, scope, and budgets of all new prison and existing facilities projects, and effective day-to-day design and construction operations.

**15040.8 Project Services Section**

The Project Services Section reviews the work of consulting architects, engineers, and inspectors under contract with the CDCR in the preparation of plans, specifications, and cost estimates for construction bid packages of new and existing facility construction. It also oversees the on-site construction management team; administration of construction contracts; coordinates independent inspection of facilities; and intervenes, as necessary, to resolve field disputes.

**15040.9 Day Labor and Professional Services Branch**

The Day Labor and Professional Services Branch plans, organizes, and administers a statewide inmate work program that utilizes inmates, casual trade labor, and State staff in direct construction activities to complete major and minor capital outlay projects and significant repairs at all CDCR institutions. In addition, it contains a professional architectural and engineering staff that provides a broad range of technical services for the Department and provides construction support for the direct construction and institution public works contract management activities.

**Material and Technical Services Section**

The Material and Technical Services Section provides a broad range of administrative services in support of the project construction activities undertaken by the Inmate Day Labor (IDL) program. These services include the development, ordering, and processing of material and equipment orders, the development and management of consultant, construction, and service agreements, and the coordination of personnel, equipment, and oversight of this programs budget.

**Inmate Day Labor**

The IDL Section administers the statewide inmate direct construction program that combines trade union craft persons and inmates under State supervision to complete public works projects at various facilities. The IDL Program undertakes viable, labor-intensive construction projects that are funded through the capital outlay and special repair programs.

### Architecture and Engineering Section

The Architecture and Engineering Section provides a broad range of technical services to the branch and existing facilities statewide. This Section produces construction documents and provides technical construction support for the IDL program and institutions to enable them to complete construction projects. In addition, this Section provides assistance to existing facilities on technical problems requiring architectural and engineering services; coordinates technical requirements developed by consultants and other State agencies for improvement projects on existing facilities; and provides input into long-range capital improvement planning.

#### 15040.10 Security Operations and Management Branch

The SOMB provides direction and oversight to ensure the appropriate standards of security are applied to the design, construction, renovation, activation, and maintenance of the Department's facilities. Through project management, training, automation, and one-on-one support, the branch contributes to the Department's overall safety and security, and the efficient use of its resources.

##### Security Operations Unit

The Security Operations Unit (SOU) is responsible for the development and maintenance of design standards that ensure cost-effective construction while maintaining public, staff, and inmate safety. The SOU reviews major and minor capital outlay budget change proposals and Section 6.00 requests relating to facility/building renovations/modifications and when possible, ensures compliance with new prison construction standards. The unit is also responsible for the development of perimeter security systems including the design, activation, and ongoing maintenance programs of electrified fences.

##### Facilities Maintenance Unit

The Facilities Management Unit (FMU) is responsible for the development, implementation, administration, support, and compliance reviews of the Standard Automated Preventive Maintenance System (SAPMS) and the maintenance program at all State facilities. The unit is also responsible for developing, administering, and updating the maintenance program section in DOM. The unit shall:

- Conduct on-site operational reviews to provide technical consultation and evaluate compliance with the SAPMS.
- Review and analyze the institutions' database for the inclusion of major systems (electrical, electrified fence, HVAC, personal alarms, water, wastewater, etc.) as defined, but not limited to the Functional Inventory Guide of the SAPMS.
- Provide contract management and oversight on the hardware/software maintenance contract and licensing agreements on the SAPMS equipment.
- Evaluate monthly corrective and preventive maintenance reports by facility.
- Compile information from the monthly reports as appropriate for the Regional Administrators and Deputy Director.
- Review requests from institutions to complete any in-house projects with the Program Support Unit for impact on the SAPMS.
- Coordinate, develop, and implement departmentwide studies of policy and regulations with regards to SAPMS.
- Review, analyze, and develop standard methodologies for facility management functions such as, but not limited to, a Standard Plant Operations Procedure Manual, Material & Safety Data Sheet Manuals, and Tool Control Procedures.
- Review, analyze, and provide recommendations for facility management in the areas of budgeting, staffing, and vacancies.
- Assess, analyze, and develop appropriate training programs as identified by institution staff.
- Assist EIS in the preparation of any feasibility study report as required by the DOF and DGS in maintaining the SAPMS.
- Interact with HQs, EIS, Strategic Offender Management System (SOMS) project staff, Business Information System, vendors/contractors, Associate Wardens for Business Services, Correctional Plant Managers, and Preventive Maintenance System analysts.

##### Technology Management Unit

The Technology Management Unit (TMU) shall be responsible for providing statewide coordination, implementation, and ongoing support for new "state-of-the-art" technology projects approved by the Technology Transfer Committee and the Secretary (Chapter 1, Article 3). TMU shall implement large-scale technology applications to respond to safety and security problems

or to improve existing equipment to enhance institutional operations. The TMU shall:

- Develop project plans and monitor progress of implementation.
- Develop and negotiate contracts to support the applied technology.
- Manage and coordinate the delivery, placement, and installation of the system/equipment.
- Provide ongoing support and provide maintenance for the life of the program.
- Report performance history to management and recommend needed improvements/modifications to the applied technology.
- Interact as the departmental liaison during and after project implementation with headquarters, institutions, control agencies, and the business community.
- Provide presentations on the effectiveness of the technology.

#### 15040.11 Telecommunications Branch

The Telecommunications Branch has a role in all new institution construction, facility modification, and maintenance projects. As necessary, the branch designs, procures, maintains, and supports the institutions' telecommunications systems, the Inmate Security Telephone System, and radio communications in all State correctional institutions, correctional camps, and the CTC. The branch is responsible for managing funds for Department initiated telecommunications and radio projects, and maintaining project budgets.

#### 15040.12 Revisions

The Director, Division of Facility Planning, Construction and Management or designee is responsible to ensuring that the contents of this DOM article are kept current and accurate.

#### 15040.13 References

AB 1473, Chapter 606, Statutes of 1999  
California Environmental Quality Act  
Section 6.00 (Budget Act)  
CCR 15(3).

## ARTICLE 32 — OFFICE OF CORRECTIONAL SAFETY

*Revised June 17, 2009*

### 15050.1 Office of Correctional Safety

The Chief of the Office of Correctional Safety (OCS) reports to the Undersecretary of Operations. The OCS supports the mission of the California Department of Corrections and Rehabilitation.

The OCS mission is to protect the public and serve the CDCR investigative and security interests.

The OCS is the primary departmental link with allied law enforcement agencies and the California Emergency Management Agency.

The OCS is comprised of six sub-units:

- The Special Services Unit is the primary unit assigned to handle Security Threat Groups (STG), criminal and administrative investigations, and acts as the primary law enforcement liaison.
- The Fugitive Apprehension Teams conduct field arrest operations of high risk parole violators/absconders.
- The Emergency Operations Unit oversees special departmental operations such as special transports; hostage rescue; riot suppression firearms, less lethal weapons, and armories; critical incident response; and protective vests.
- The Emergency Planning and Management Unit facilitates departmental emergency planning, preparedness, response and recovery needs.
- The Criminal Intelligence and Analysis Unit identifies and conducts trend and link analyses between criminal suspects and criminal enterprise organizations operating within California's correctional systems and assists with internal and external suppression efforts.
- The Juvenile Gang Operations unit is responsible for oversight of juvenile STG management issues.

The Chief, OCS, has line authority over all OCS staff and operations.

#### 15050.2 Revisions

The Chief, Office of Correctional Safety or designee is responsible to ensure that the content of this Article is kept current and accurate.

**15050.3 References**

CCR 15 (3)

**ARTICLE 33 — OFFICE OF VICTIMS AND SURVIVORS RIGHTS AND SERVICES***Revised August 2006***15060.1 Office of Victim and Survivors Rights Services**

The Chief of the Office of Victim and Survivors Rights Services (OVSRS) reports to the Undersecretary of Operations. The OVSRS provides functional oversight in the area of victim services and restitution. The OVSRS is responsible for the overall planning, development, coordination, implementation, and operation of these areas and ensures that victims are informed, heard, and involved in the criminal justice system. The OVSRS is responsible for the overall coordination and operation of victim services and restitution activities throughout CDCR. The scope of the activities related to this program includes, but is not limited to, the following:

- Improves treatment of victims at all levels of involvement with the CDCR.
- Provides training regarding the impact of crime on victims.
- Develops and implements programs in all facilities and parole regions for the collection and disbursement of restitution collected from offenders.
- Notifies victims.
- Facilitates fundraising to benefit victims of crime.
- Develops and disseminates victim services information.
- Involves victim service agencies in CDCR's activities.
- Develops programs and trains inmates and staff in collaboration with local victim service agencies.
- Develops programs and trains staff on victimization.
- Assists and informs victims of crime in all facets of the correctional process.

**15060.2 Revisions**

The Chief, Office of Victims and Survivors Rights Services or designee is responsible for ensuring that the content of this Article is current and accurate.

**15060.3 References**

CCR 15 (3)

**ARTICLE 34 — OFFICE OF LEGAL AFFAIRS***Revised September 1, 2015***15070.1 Office of Legal Affairs**

The General Counsel of the Office of Legal Affairs (OLA) reports to the Secretary of CDCR. The primary functions of the OLA are managing all litigation involving the Department; providing legal advice to the Secretary and the staff of the Department; and representing the Department in administrative proceedings. Among the services provided by OLA are the following:

- Advice on legal matters related to business operations and administrative functions, including contracts, transactions and disputes involving vendor goods and services contracts, environmental issues, and construction related matters.
- Assessment of requests of records pursuant to federal and state law, such as the Public Records Act.
- Advice to hiring authorities and the Office of Internal Affairs regarding the investigation and prosecution of those CDCR employees who have committed crimes or misconduct as specified in Government Code Section 19572 and representation of CDCR in administrative hearings on these matters as well as Equal Employment Opportunity Commission and Department of Fair Employment and Housing mediations.
- Advice on inmate, ward, and parolee health care issues, including representation of CDCR in involuntary psychiatric medication administrative hearings.
- Oversight of the management of class action litigation against CDCR.
- Oversight of litigation against CDCR, including lawsuits seeking money damages filed by inmates, parolees, youths, employees and external plaintiffs, writs of habeas corpus, and writs of mandate.

- Advice on a broad spectrum of issues that pertain to inmates, parolees, and youth including conditions of confinement, regulations, policies, and legislative analysis.
- Advice on general personnel matters, including labor issues, equal employment opportunity claims, employee requests for reasonable accommodations, and Cal/OSHA matters.
- Training, support, legal research and analysis, case management, and settlement authority in workers' compensation cases of CDCR employees.
- Advice to proactively identify and address areas where CDCR may be vulnerable to risk of litigation, or can best mitigate such exposure with early intervention.
- Oversight of Victim Compensation and Government Claims Board (VCGCB) claims filed against CDCR or its employees, including coordination with institution or program staff to develop recommendations to pay or reject claims, staff training on VCGCB processes, and representation of CDCR at VCGCB hearings.

**15070.1.1 Request for legal assistance**

High level CDCR staff may request assistance with legal matters by sending an email outlining the issue about which they need assistance to [Legal.Assistance@cdcr.ca.gov](mailto:Legal.Assistance@cdcr.ca.gov). These high level staff are Executive Staff and their designees, headquarters staff at the level of Chief of a unit and above, Parole Regional Administrators, Wardens, Division of Juvenile Justice Superintendents, and all Litigation Coordinators.

**15070.2 Revisions**

The General Counsel or designee is responsible for ensuring that the contents of this Article are kept current and accurate.

**15070.3 References**

CCR 15 (3)

**ARTICLE 35 — DIVISION OF INTERNAL OVERSIGHT AND RESEARCH***Revised August 2006***15080.1 Director-Division of Internal Oversight and Research**

The Director of the Division of Internal Oversight and Research (DIOR) reports to the Undersecretary of Administration and Offender Services. The DIOR contains the Office of Internal Affairs, the Office of Research, the Offender Information Services Branch and the Office of Audits and Court Compliance.

**15080.2 Office of Internal Affairs***Revised December 13, 2012*

The Office of Internal Affairs (OIA) is the departmental entity with authority to investigate allegations of employee misconduct when appropriate. The Chief, Office of Civil Rights (OCR), OIA, serves as an advisor to the Secretary on policies and procedures for implementing the CDCR Equal Employment Opportunity (EEO / Sexual Harassment) policy in accordance with State and federal law.

The OIA serves the Department by providing information and assistance regarding discrimination, procedures for filing complaints, developing and implementing non-discrimination policies and ensuring compliance with these policies by all employees. This office develops prevention strategies for a work environment free from discrimination, harassment, retaliation, and facilitates resolution of complaints filed with the U.S. Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing, and other external compliance agencies, in addition to complaints filed internally. The OIA provides technical assistance and training to EEO Counselors, EEO Coordinators, managers, and supervisors in complying with State and federal statutes, regulations, and departmental policy relating to EEO and civil rights.

The OIA coordinates the activities of the Disability Advisory Committee, which serves as an advisory body to the Secretary, on issues affecting employment opportunities and equitable treatment for all employees, applicants, and volunteers with disabilities.

OIA ensures allegations of employee misconduct are objectively reviewed through the use of the Central Intake Panel and investigated in a manner that provides a complete and thorough presentation of all facts regarding the allegation or complaint for the use by the Hiring Authority in making a determination of appropriate remedy and/or discipline.

The OIA reviews complaints and conducts investigations of staff misconduct including:



- CDCR Equal Employment Opportunity / Sexual Harassment policy violations.
- Discrimination / Harassment.
- EEO Retaliation.
- Allegation Inquiry.
- Criminal.
- Administrative.
- Whistleblower Retaliation.
- Workers Compensation Fraud.
- Employee Use of Deadly Force.

All investigations or inquiries shall be conducted in compliance with all laws, regulations, and departmental policies.

The policy of CDCR is to ensure EEO for all applicants and employees, to promote a professional work environment free from discrimination, harassment, and retaliation, and to conduct training and timely investigations in compliance with civil rights laws and CDCR policy.

#### **15080.3 Office of Research**

*Revised August 2006*

The Office of Research (OR) objectively evaluates the Department's correctional programs with regard to their implementation and effectiveness in reducing the recidivism and return to custody rates and protecting public safety. The branch does this by conducting internal research projects evaluating the outcomes of Department programs and by providing technical advice and oversight of research on Department programs conducted by external researchers under contract with CDCR. The OR also reviews and coordinates the approval of all research projects proposed by outside researchers who desire to study socio-behavioral characteristics of CDCR inmates and parolees as required by the PC. The chief of the branch serves as the chair for the Department Research Advisory Committee whose approval must be granted before socio-behavioral research can begin within the Department.

#### **15080.4 Offender Information Services Branch**

The Offender Information Services Branch (OISB) has been designated as the primary provider of summary statistical information about CDCR inmates and parolees. The OISB responds to special requests; compiles statistical reports; prepares legislative estimates, and population projections; coordinates the timely, accurate, and consistent coding and entry of data; and performs data integrity control functions for the Offender Based Information System, classification, incident, and all other major current and proposed computerized inmate and parolee databases.

##### **Estimates and Statistical Analysis Section**

The Estimates and Statistical Analysis Section is the primary source for summary statistical information on inmates and parolees under the jurisdiction of CDCR. This Section ensures that CDCR has accurate data and analyses on which to base program planning and direction; compiles and analyzes information for special projects, court cases, special task forces or programs; prepares periodical statistical reports about inmates and parolees used in budget planning, legislative responses, and audits; and prepares all CDCR projections of future facility and parole populations, including inmate classification levels. This Section also prepares estimates of the impact of proposed legislation, ballot initiatives, and administrative policy changes. In addition, this Section reviews and approves CDCR information to be disseminated to the public by CDCR branches and divisions.

##### **Information Quality Support Section**

The information Quality Support Section (IQSS) in OISB is responsible for providing Quality Assurance (QA) oversight for major current, proposed, and future statewide offender information systems. The QA procedures to be applied to these CDCR information systems include continuous monitoring of the validity and currency of data, and developing appropriate procedures and solutions to correct inaccuracies or out of date data.

The IQSS does not directly implement most procedures and solutions. Rather, once a problem has been identified, IQSS provides the owners of the data with the tools and procedures aimed at eliminating the problem. After the owners of the data have implemented these tools and procedures, the IQSS provides ongoing review of the data to ensure its accuracy, currency, and completeness.

This Section also conducts routine and special analyses to maintain accuracy and integrity of data; handles requests for changes and improvements in the data systems; and provides necessary training for facility OBIS operations.

#### **15080.5 Office of Audits and Court Compliance**

*Revised August 2006*

The Office of Audits and Court Compliance are authorized to perform audits, internal control reviews, and compliance assessments on behalf of and at the request of executive management.

##### **Program and Fiscal Audits Branch**

The Program & Fiscal Audits Branch (P&FAB) exists to independently audit program contracts for compliance to terms and conditions of the contract and review, evaluate, and better assure that institutions, parole regions, and headquarters are operated in accordance with CDCR standards, State and federal law, and court mandates.

##### **Program Compliance Unit**

The Program Compliance Unit is responsible for the evaluation of selected institution and parole operations to ensure that the evaluated institutions and parole operations are in accordance with CDCR standards, State and federal law, and in compliance with court mandates.

##### **Fiscal and Business Management Audits Unit**

The Fiscal & Business Management Audits Unit conducts contract audits of profit and non-profit organizations that contract with the CDCR. These contracts provide programs and services to the OCR, the OSAP, the DAPO, and the DCHCS. The FBMAU also evaluates cost data submitted by the individual local jurisdictions for the establishment of the daily jail rate in respect to reimbursement in accordance with the local assistance program, acts as the fiscal consultant for management within the CDCR, and conducts special audits as requested by the Secretary.

##### **Correctional Business Internal Audits Unit**

The Correctional Business Internal Audits Unit is responsible for evaluating the institutional business services operations which includes plant operations, materials management, personnel transactions, occupational health and safety, environmental health and safety, food services, inmate trust accounting, procurement, and fire protection.

#### **15080.6 Revisions**

The Director, Division of Internal Oversight and Research or designee is responsible for ensuring that the contents of this Article are current and accurate.

#### **15080.7 References**

Title VII of the Civil Rights Act of 1964 (including amendments).

Family and Medical Leave Act.

Age Discrimination in Employment Act of 1967.

Americans with Disabilities Act of 1990.

Uniformed Services Employment and Reemployment Rights Act.

Title II of the Genetic Information Nondiscrimination Act of 2008.

California Fair Employment and Housing Act of 1959 (including amendments).

California Family Rights Act.

Government Code §§ 12920 - 12922; 12925 - 12928; 19230 - 19237; 19400 - 19406; 12940 - 12951; 12960 - 12976; 19700 - 19706; 19790 - 19799.

CCR 15(3)

### **ARTICLE 36 — DIVISION OF ADMINISTRATIVE SERVICES**

*Revised September 2021*

#### **15090.1 Director, Division of Administrative Services**

*Updated January 6, 2014*

The Director, Division of Administrative Services (DAS), serves as an advisor to the Secretary. The Director of DAS reports to the Undersecretary of Administration and Offender Services. The Director of DAS Division of Administrative Services, supervises the following functions for all program and administrative purposes:

- Human Resources (HR).
- Office of Business Services (OBS).
- Office of Fiscal Services (OFS).
- Regulation and Policy Management Branch (RPMB).

#### **15090.2 Human Resources**

The HR has statewide administrative responsibility for the following:

- Human service functions in the areas of health and safety, personnel, labor relations, and training.

- Recruiting, testing, and appointing peace officers and medical staff.
- Conducting background investigations, processing employees' fingerprints, and subsequent arrest notifications.
- Supporting the CDCR's business affairs in the areas of procurement and contracting to ensure that overall departmental objectives are met.
- Providing advocacy and overseeing the Small Business (SB) and Disabled Veterans Business Enterprise (DVBE) Programs.

#### **15090.2.1 Office of Personnel Management**

The Office of Personnel Management (OPM) is responsible for establishing CDCR personnel policies and ensures that all personnel actions and examinations are conducted in compliance with applicable control agency laws, rules, policies, and procedures. The OPM provides the technical personnel assistance to managers and supervisors throughout the CDCR. It also reviews and approves classification requests and personnel actions; reviews proposed adverse personnel actions; and conducts periodic audits of all personnel actions throughout the CDCR. The OPM is responsible for administering payroll and personnel programs, including benefits, and for managing a number of automated personnel systems for the CDCR, including the Watch Office Tracking System and the Personnel Post Assignment System. OPM is also responsible for all employee placement actions in the CDCR and serves as the primary liaison with SPB and Department of Personnel Administration (DPA).

#### **15090.2.2 Personnel Operations**

Personnel Operations is divided into two service functions: Personnel Operations Section (Field) and Personnel Operations Section (Central Office and Parole).

The Personnel Operations Sections provide managers and supervisors with technical personnel management advice concerning selection, classification, and compensation as well as merit issues. As an extension of the DPA and SPB, section staff ensures that appointments and assigned duties meet all legal and classification requirements. Additionally, these sections are responsible for maintenance and revision of CDCR's classification plan. In this capacity, staff develops proposals for control agency approval regarding new/revised classification and special salary actions such as recruitment and retention differentials. The section staff are responsible for reviewing proposed adverse personnel actions to determine compliance with SPB standards and providing consultation to management on adverse personnel action procedures and processes. The staff also provide guidance, direction, and training to institution personnel offices and headquarters' liaison staff on delegated matters.

#### **15090.2.3 Personnel Liaison Unit**

The Personnel Liaison Unit (PLU) has several major functions and serves as the CDCR "clearinghouse" for all issues related to the Fair Labor Standards Act (FLSA), the federal Family and Medical Leave Act (FMLA), the California Family Rights Act, and other various leave entitlements (collectively referred to herein as the FMLA). Responsibilities include research, development, and negotiation of resolutions to employee complaints filed with the Department of Labor or other outside agencies, FLSA/FMLA-related lawsuits, and FLSA/FMLA-related grievances. The PLU coordinates the efforts of control agencies and the CDCR budget and accounting staff to ensure the accurate and timely processing of settlement payments; responds to FLSA/FMLA inquiries from institutions, headquarters, and the control agencies; and provides FLSA/FMLA training for supervisors and managers.

The PLU is responsible for complex salary determinations; provides training to headquarters and institution personnel staff on salary determinations; and administers implementation of new salary-related programs. The PLU also provides technical personnel support during collective bargaining and provides ongoing support to management, CDCR's labor relations staff, and institution personnel staff on personnel-related collective bargaining issues.

The PLU works with the institutional and headquarters personnel officers to improve efficiency and effectiveness of personnel operations through the development of tools and standardized resources necessary to enable personnel staff to function consistently throughout the CDCR and administers several statewide programs (e.g., Conflict of Interest, Supervisory Bonus Awards, Incompatible Activities, etc.).

#### **15090.2.4 Personnel Examining Section**

The PES administers CDCR's civil service examining program on behalf of SPB under the decentralized selection program. PES services are divided into two testing program areas: Central Testing Unit (CTU) and Regional Testing Liaison Unit (RTLUL).

#### **Central Testing Unit**

The Central Testing Unit conducts both promotional and open examinations for service-wide classes and classes unique to the CDCR; provides consultation and technical assistance to CDCR managers, supervisors, staff, and the public upon request; interprets and applies civil service merit system laws, rules, policies and procedures; and CDCR policies, procedures, and processes related to personnel examining.

#### **Regional Testing Liaison Unit**

The RTLUL manages CDCR's statewide-delegated testing program. Under this program, the Local Testing Offices (LTOs) administer examinations on a local basis. The LTOs include the facilities, HR, New Prison Activation Unit, and Correctional Training Center (CTC). The RTLUL provides LTOs with training, consultation, technical assistance, and oversight to ensure compliance with the civil service merit system's laws, rules, policies, and procedures. In addition, the RTLUL provides LTOs with explicit written materials necessary to administer examinations.

#### **15090.2.5 Personnel Services Section**

The Personnel Services Section (PSS) administers the payroll and personnel programs for headquarters' and DAPO staff. These programs include position control, employee benefits, and workers' compensation. The PSS also provides certification of eligibility lists for headquarters and DAPO.

#### **15090.2.6 Personnel Automation Section**

The Personnel Automation Section (PAS) develops, implements, maintains, and provides training for custody time and post assignments systems. These automated systems document attendance, position control, post assignments, and produce management reports. The PAS provides State Controller's Office (SCO) Management Information Retrieval System reports, and serves as a liaison with SCO, headquarters units, and other public and private agencies regarding automated personnel systems.

#### **15090.2.7 SB/DVBE Program Advocacy**

The HR functions as the departmental advocate for SB and DVBE by developing, implementing and monitoring policies and procedures that are used statewide to achieve SB/DVBE participation goals in contracting and procurement. The HR coordinates and monitors departmental efforts on a statewide basis and submits mandated reports on CDCR's participation levels and action plan to achieve SB/DVBE participation goals.

#### **15090.2.8 Office of Departmental Training**

The Office of Departmental Training (ODT) is responsible for developing and delivering training programs in support of the CDCR and its staff. The ODT is also responsible for the overall management of the Department training program and ensuring that the Department's training goals and objectives are met. The ODT carries out these responsibilities through the Training Academies Section, the Training Development and Support Section (TDSS), and the Business Support Section (BSS). The Training Academies and the BSS are located at the Richard A. McGee CTC.

#### **15090.2.9 Training Academies Section**

The Training Academies Section is responsible for the administration and oversight of the Basic Correctional Officer Academy (BCOA); the academies for Correctional Sergeants and Correctional Lieutenants; basic and advanced supervision training; management training; PC 832 training; and special instructor training programs.

#### **Training and Development Support Section**

The Training and Development Support Section (TDSS) consists of the Training Technology Services; Curriculum Development; and Training Planning and Field Support units. The TDSS is responsible for integrating technology training and adapting new automation technology into departmental training programs, evaluating departmental training courses, developing lesson plans and curriculum for CDCR training programs and academies, serving as the liaison with the Curriculum Review Committee of the CPOST, and providing functional direction and technical support to institution in-service training offices.

#### **Business Services Section**

The BSS is comprised of the Food Services, Plant Operations, Personnel Services, Procurement Services, and Technical Services units. The BSS is responsible for the preparation of cadet meals and the overall maintenance, repair, and upkeep of the CTC. In addition, the BSS is responsible for the administration and oversight of the Department's Badge Program.

#### **15090.2.10 Office of Peace Officer Selection**

*Revised June 28, 2017*

The Office of Peace Officer Selection (OPOS) is responsible for the recruitment of peace officers for all institutions and for ensuring that all individuals appointed as peace officers within CDCR meet the legal

requirements for appointment and are suitable for the responsibilities and authority conferred upon peace officers. OPOS accomplishes this by administering the examinations for entry-level peace officer classifications, conducting background investigations, psychological screenings, and pre-employment medical examinations for all new appointments to peace officer positions, and establishing qualification and suitability standards for appointments to peace officer positions in CDCR. OPOS is responsible for making the initial appointment of all Correctional Officers (COs) to fill the staffing needs of the institutions. OPOS is also responsible for providing service to CDCR hiring authorities via the Individual Service Request process to facilitate the appointment of peace officers. OPOS also conducts background investigations on appointees to selected case records series classifications.

#### **Selection Centers**

OPOS has Selection Centers located in Northern, Central, and Southern California. These Selection Centers are responsible for administering the various testing components of the CO, Youth Correctional Officer (YCO), and Youth Correctional Counselor (YCC) examinations and for conducting all background investigations required by law and by CDCR policy. Through the Selection Centers, OPOS provides service to CDCR hiring authorities within regional service areas who want to make peace officer appointments. The regional service areas are listed in DOM Section 31060.9.3.2 in accordance with the Selection Centers that assist the hiring authorities therein.

#### **Peace Officer Recruitment Unit**

The Peace Officer Recruitment Unit (PORU) is committed to recruiting entry-level peace officers for staffing at facilities. The hard-to-fill categories of CO are the focus of PORU.

#### **15090.3 Office of Fiscal Services**

All fiscal services are under the direction of the Deputy Director, OFS.

##### **15090.3.1 Accounting Services Branch**

*Revised August 20, 2015*

Accounting Services Branch (ASB) is responsible for the overall fiscal management of the department. Specifically, ASB is involved in the following activities:

- Plans, organizes and directs all accounting activities for the department. Included are activities associated with payables, receivables, cashing, travel, trust and the administration of the Inmate Welfare Fund.
- Directs the development, preparation and presentation of financial reports and year-end statements on time and in conformance with legal requirements to control agencies.
- Forecasts short-term and long-term cash requirements and obligations, as a basis for maintaining adequate funds for labor, goods and services.
- Gathers, consults and distributes financial data and projections for executive management that will have substantial influence in adopting a departmental fiscal policy.
- Assists executive management in identifying sensitive fiscal-related issues and assists in developing strategies to address those issues.
- Provides oversight and consultation for the review of accounting systems for appropriate information, accuracy, controls and compliance to appropriate rules, regulations and laws. Assists in testing and upgrades to the accounting system.
- Interacts and consults with external control agencies (e.g., State Controller's Office-SCO, Department of Finance-DOF, Department of General Services-DGS) on complex accounting related activities.
- Provides managed oversight for numerous audits conducted by external agencies (e.g., California State Auditor, SCO, DOF, and DGS) as they relate to accounting activities.
- Designs, recommends and implements a system of internal controls and reconciliation procedures for accounting and financial record keeping and reporting in compliance with Federal and State regulations, GAAP, and agency policies and procedures.
- Reviews and reports on programs' / institutions' internal controls as they relate to cash controls.
- Provides and directs the uniform implementation of statewide policies and procedures impacting accounting operations via Financial Information Memorandums.
- Develops or assists in the development of fiscal related projects that advances the department towards its mission.

ASB maintains offices ("Centers of Excellence") in the following locations:

#### **Bakersfield**

ASB-Bakersfield provides accounts payable services (excluding food, contracts and medical) for designated institutions and vendors. It is the office

that processes parolee release funds (debit cards), as well as vacation and benefit trust payments for casual laborers.

#### **Corcoran**

ASB-Corcoran processes travel-related transactions statewide including all advances, claims, business expense reimbursements, out-of-state trips, preparing the Out-of-State Travel Blanket, long-term assignments, relocation, in-state transportation, car rental and American Express payments.

#### **El Centro**

ASB-El Centro provides payment processing services for all non-medical purchase orders (excluding food and contracts), service and expense orders and non-utility direct pay pays for assigned institutions. This office also processes direct fund transfer transactions from various state agencies including SCO, DGS, Prison Industry Authority, State Compensation Insurance Fund (worker's compensation invoices), etc.

#### **Paso Robles**

ASB-Paso Robles processes payments for all non-medical purchase orders for all food vendors statewide, purchase orders and contracts related to postage equipment; rental, leases, maintenance, refills, supplies and coordinates the Electronic Funds Transfers (EFT) for vendors.

#### **Rancho Cucamonga**

ASB-Rancho Cucamonga handles cashing, utility payments and non-employee accounts receivables (reimbursements). Specifically, this office processes deposits, receipts, remittances, asset forfeitures; billing for private, state, federal and local governments, state-owned housing, grants, recycling; and provides payment services related to utilities, telephone, data services and Inmate Ward Labor.

#### **Sacramento**

ASB-Sacramento handles administrative, general ledger, payroll accounts receivable, various accounts payable for headquarters programs, including non-medical purchase orders, service and expense orders, contracts for all institutions and headquarters programs, all medical payments, and inmate accounting functions. Reconciliations and year-end statements, federal drawdowns, salary advances, collections from ex-employees, inmate trust and restitution, capital outlay, leases, local assistance, medical and contract payments, legal settlements, employee and inmate property claims, CALPERS, GSmart, bank drafts, and accounting for closed facilities are some of the items processed by this office.

#### **Stockton**

ASB-Stockton provides services for several Northern California Adult institutions and Division of Juvenile Justice Facilities. Ward trust and ward restitution, foster grandparent program, reporting of personal use of state vehicles, county claims for transportation and extradition, and payment processing for non-medical purchase orders and service expense orders for assigned institutions are handled by this office.

##### **15090.3.2 Budget Management Branch**

The Budget Management Branch develops, implements, and controls the annual CDCR budget which is submitted to the legislature by January 10. The branch also reviews all CDCR BCPs, coordinates budgetary studies; and prepares special reports for control agencies. Additionally, this branch provides fiscal control for CDCR operations; distributes budgeted funds for each division, parole program, and facility; reviews budget reports; performs policy cost analysis and labor relations fiscal analysis; and participates in labor relations negotiations.

##### **15090.3.3 Fiscal Management and Standardization Branch**

The Fiscal Management and Standardization Branch oversees the development of the CDCR's fiscal management policies and operational standardization; coordinates and provides training, guidance, and mentoring on fiscal issues; collects, reviews, and analyzes complex fiscal data to achieve sound fiscal management practices; and coordinates the departmental response to various internal and external fiscal audits.

##### **15090.3.4 Business Information System Project**

The Business Information System Project is the Department's commitment to automate, standardize, and streamline business practices through the implementation of an Enterprise Resource Planning (ERP) solution. An ERP is a prepackaged suite of software applications designed to allow the Department to efficiently manage the human resources, financial, procurement/contract, facilities, risk, and business management functions on a real-time basis.

#### **15090.4 Office of Business Services**

The Office of Business Services (OBS) consists of five support services sections that include: Procurement Section, Business Operations Section,

Fleet Management and Acquisitions Section, and Contract Management, and the Statewide SB/DVBE Program.

#### **15090.4.1 Business Management and Procurement Branch**

The Business Management and Procurement Branch provides support services in the following areas, as well as, coordination with control agencies for the CDCR:

- (a) Procurement Section provides support in the following areas:
  - (1) Commodities Acquisition
  - (2) Procurement Operations and Delegation Oversight
  - (3) Rehabilitative Program Acquisition
  - (4) Cal-Card program
  - (5) Centralized procurement of CalPIA
- (b) Business Operations Section provides support in the following areas:
  - (1) Asset Management
  - (2) Material Master Data
  - (3) Correspondence and Reprographics
  - (4) Mailroom Services
  - (5) Records management
- (c) Fleet Management and Acquisitions Section provides support in the following areas:
  - (1) Fleet Management
  - (2) Fleet Acquisitions
- (d) Contract Management Branch provides support in the following areas:
  - (1) Institution Service Contracts
  - (2) Master Contracts
  - (3) Construction Contracts
  - (4) Service Contracts
  - (5) Headquarter Contracts

#### **15090.4.2 Reserved**

#### **15090.4.3 Food Services Section**

The Food Services Section develops, administers, and monitors the feeding program for all institutions (utilizing the Department's standardized menu); reviews and approves food service needs for existing prisons; coordinates with the CalPIA regarding food programs and products; provides training for food service staff in the institutions to maintain industry standards and compliance in food preparation, storage, and safe handling; participates in committee meetings that develops the policies and processes that impact the health and safety of the inmates (i.e. Food Borne Illness); works with the DCHCS and DAI in developing food programs that address the medical/religious concerns of the inmate population; and assists the OFM on issues relating to new prison construction.

#### **15090.4.4 Office of Contract Services**

The Contract Services (CS) has statewide responsibility for the administration of all contract activities to ensure that all CDCR contracts and agreements are executed in compliance with State laws and regulations. The CS consists of four sections which include: Construction Contracts and Bid Packages Section (CC&BPS); Institution Medical Contracts Section (IMCS); Institution Service Contracts Section (ISCS); Services Contracts Section (SCS); and two branch support units: Automation Support Unit and Special Projects/Policy Unit.

##### **Construction Contracts & Bid Packages Section**

The Construction contracts & Bid Packages Section (CC&BPS) coordinates all aspects of new prison construction contracts that include: advertising, bidding, awarding, preparing, and processing contract documents through the OAG. The CC&BPS is responsible for facilitating the contracting process for the IDL program, the energy management program and various public works projects for CDCR's institutions and other State owned facilities.

The CC&BPS prepares and processes a wide variety of new prison construction related contractual agreements for areas such as: architectural and engineering, construction testing, surveying, and inspection; and construction and program management services. Additionally, the CC&BPS processes stop notices, escrow agreements, easements, property transfer grants, and rights-of-entry relating to construction sites.

##### **Institution Medical Contracts Section**

The Institution Medical Contracts Section (IMCS) is responsible for all aspects of institution inmate medical service contracts exceeding \$5,000. The IMCS also has statewide responsibility for preparing and processing all inmate medical service contracts, such as, but not limited to, physicians, various registries, hospitals, medical groups, and any other inmate medical services requested by the institutions. Responsibilities include advertising, bidding,

awarding, and preparing and processing the original or amended contract documents for approval by Department of General Services (DGS) or OCS under the Department's delegated authority. The IMCS processes medical service contracts on an individual, statewide, regional, or multiple institution basis. The IMCS works closely with the DCHCS and institution Chief Medical Officers/HCMs regarding medical contract issues.

##### **Institution Service Contracts Section**

The Institution Service Contracts Section (ISCS) is responsible for all aspects of institution service contracts exceeding \$5,000, and has statewide responsibility for preparing and processing all non-medical contracts requested by CDCR institutions. Responsibilities include advertising, bidding, awarding, preparing, and processing the original or amended service contract documents for approval by the DGS or CS under the Department's delegated authority. The ISCS processes service contracts on an individual, statewide, regional, or multiple institution basis.

##### **Services Contracts Section**

The Services Contracts Section (SCS) coordinates all aspects of service contracts for headquarters and DAPO. Responsibilities include advertising, bidding, awarding, preparing, and processing the original or amended contract documents for approval by the DGS or CS under the Department's delegated authority.

#### **15090.5 Regulation and Policy Management Branch**

*Revised October 13, 2014*

The RPMB facilitates and manages on behalf of the Secretary the policy and regulatory development process for the Adult Operations and Adult Programs of the CDCR by overseeing the revision, publication, distribution and archiving of regulations in the Title 15, Division 3, and the statewide operation policy in the DOM (see DOM Chapter 1, Article 6 Regulation and Policy Directives). The RPMB partners with divisions, offices and programs to ensure that their policies and regulations are clear, consistent, concise, authoritative, current and flexible enough to serve the multifaceted operations of the CDCR. It assists the CDCR divisions, offices, and institution/facility staff in preparing policy directives that are consistent with applicable State laws and regulations. The branch also works with department programs to ensure that proposed regulation and DOM revisions are vetted with department stakeholders that may be impacted by the changes proposed. RPMB staff also work with operating divisions to develop Administrative and Informational Bulletins.

RPMB staff evaluate all regulation and DOM proposals for potential conflicts with existing laws, regulations, or policies and manages the printing and distribution of the Notices of Change to Regulations and the DOM (NCRs and NCDOMS) to staff department-wide and all interested parties. Since all Title 15 regulations must meet Administrative Procedure Act (APA) requirements, the RPMB staff work with the Office of Administrative Law (OAL) to file rulemaking packages, issue public notices regarding regulation changes published in the OAL's Notice Register, and manage the public phase of the department's regulation adoption. Consistent with the APA, staff schedule and hold public hearings regarding proposed regulation changes and coordinate with the responsible department program the drafting of responses to public comments generated by proposed regulatory changes. The RPMB also maintains Intranet and Internet Homepages that features all pending and recently adopted changes to the regulations and DOM.

The RPMB is also the custodian of the Department's most sensitive tactical and law enforcement policies. These are contained in the DOM, section 55000. All revisions and changes to these policies are managed through the Statewide Restricted DOM coordinator position that resides in RPMB.

The RPMB manages the development and revisions of CDCR forms to ensure compliance with applicable laws, (GC 14772), department regulations, and policies; maintains and distributes the CDCR forms catalog, and acts as the forms liaison with other State agencies; and arranges for and coordinates the printing of department forms. The department's statewide Forms Coordinator resides in RPMB.

The RPMB also maintains a Department rulemaking and policy library that consists of a reference collection and public records held in accordance with the APA. The library contains branch, topical, historic, and background files for past regulation and DOM revisions, forms catalog, requests for determination of underground regulations, and administrative and informational bulletins.

#### **15090.6 Revisions**

The Director, Division of Administrative Services or designee is responsible for ensuring that the contents of this Article are kept current and accurate.

## References

Revised June 28, 2017  
 GC §§ 6254(f) and 14772.  
 EC § 1040.  
 PC § 5058(c)(1)(B).  
 CCR (15) (3).

## Revision History

Revised: August 2006  
 Revised: September 2021

## ARTICLE 37 — ENTERPRISE INFORMATION SERVICES

*Revised August 2006*

### 16000.1 Enterprise Information Services

The Director of Enterprise Information Services (EIS) reports to the Undersecretary for Administration and Offender Services. The Director of EIS has supervisory responsibility for the following:

#### Enterprise Information Services

Under the direction of the Agency Information Officer, the mission of the EIS is to facilitate the accomplishment of departmental goals through automation by the design, development, ongoing operation, security, and maintenance of information technology (IT) systems.

EIS develops and implements all new and existing CDCR IT systems. EIS responsibilities include:

- Installing computer hardware/software; providing customer access to CDCR data.
- Assisting in the justification of new IT.
- Acting as consultants on the most complex technology issues.
- Ensuring that CDCR complies with all oversight and procurement rules and regulations.
- Partnering with program areas to implement IT as a business solution where appropriate.
- Working with Information Security Officer to ensure the safety and integrity of all data and IT.
- Setting departmental standards for hardware and software.
- Providing support and direction to all departmental PC coordinators.

### 16000.1 Data Center

The Data Center provides technical services required to operate and maintain the CDCR computing resources. The objective of the Data Center is to maximize the availability, reliability, manageability, interoperability, and performance of the CDCR information systems. The Data Center is responsible for purchase and installation of computer hardware, maintaining system software, creating and maintaining CDCR databases, managing system security, operating headquarters mainframe and mini-computers, and implementing and managing local-area and wide-area networks. The Data Center also provides 24 hour, 7 day-a-week customer support including help desk services. The Data Center provides desktop support for headquarters' users and assists and coordinates activities with field staff.

Within the Data Center, the System Administration Unit (SAU) performs systems engineering and analysis to ensure that technologies employed in building CDCR strategic systems operate effectively as an integrated whole. To provide a common data architecture for CDCR systems, the SAU manages the creating and maintenance of a comprehensive, department wide data model upon which CDCR strategic systems can be built. The SAU ensures that CDCR information systems are built in a manner that allows integration of new technologies to support the mission and objectives of the CDCR. The SAU also ensures conformance to industry standards to allow CDCR systems to share essential information internally within the CDCR and with external entities in a secure and error free manner. The SAU also supports information technology architecture planning, review, and decision making processes.

The Data Center provides the liaison function for the Department with the Teale Data Center and Hawkins Data Center.

### 16000.2 Applications Development and Maintenance Section

The Applications Development and Maintenance Section (ADAMS) is responsible for the development and support of quality, automated applications that meet the business needs of the CDCR. ADAMS serves CDCR staff and other authorized entities by promoting the effective management of, and access to, CDCR-related information. ADAMS is primarily responsible for the analysis, design, development, implementation,

and maintenance of CDR information systems as well as providing customer training and ongoing application support.

Additionally, ADAMS provides assistance in the assessment of automation needs by working directly with the program areas in the development of new system requirements, Information Systems Budget Concept Statements, Feasibility Study Reports (FSRs), Special Project Reports (SPRs), Post-Implementation Evaluation Reports (PIERS), Information Technology Procurement Plans (ITPPs), procurement strategies (requests for proposals or alternative procurements), procurement evaluations, contract negotiations, contract initiation, and contract management.

### 16000.3 Parole Automation Section

The Parole Automation System (PAS) is responsible for the development and support of quality automated applications that meet the business needs of the DAPO. PAS serves the DAPO, other CDR staff and other authorized entities by promoting the effective management of, and access to, information on the parolee population throughout the State. PAS is primarily responsible for the analysis, design, development, implementation, and maintenance of all parolee related information systems, as well as, providing customer training and ongoing application support.

Additionally, PAS provides assistance in the assessment of automation needs by working directly with the DAPO program area in the development of new system requirements, Information Systems Budget Concept Statements, FSRs, SPRs, PIERS, ITPPs, requests for proposals or alternative procurements, procurement evaluations, contract negotiations, contract initiation, and contract management.

### 16000.4 Project Management Office

The Project Management Office (PMO) provides guidance and assistance to CDCR staff starting new IT projects designed to solve problems and improve operations. This includes providing guidance in the development of project concept proposals, feasibility studies, and other documentation required to obtain approval of any IT project. PMO maintains CDCR standards regarding the quality and format of FSR. These standards are consistent with statewide standards for FSRs. PMO reviews and approves FSRs to ensure they satisfy statewide and CDCR standards and requirements. The PMO is the CDCR liaison to the control agencies regarding project initiation matters. The PMO is responsible for tracking all approved projects and ensuring that all projects comply with State reporting requirements. Functional support, assistance, and direction are provided to the Information System Analysts on all system related issues by the Applications Systems Section. PMO is also responsible for coordinating and supporting the ongoing development of the CDCR Strategic Information Systems Plan.

PMO provides functional support to the ongoing operations of the Information Technology Executive Committee (ITEC). PMO responsibilities include:

- Coordinating ITEC meeting agendas.
- Coordinating the review of proposed information systems and furnishing recommendations for ITEC review.
- Preparing periodic updates for the ITEC on the CDCR automation efforts.
- Developing, coordinating, and participating in presentations to the committee that address current IT issues.
- Coordinating the review of IT concepts to ensure compliance and consonance with CDCR policies and the AIMS.
- Recording the actions and decisions of the ITEC for distribution to appropriate CDCR staff.

PMO is responsible for administering and coordinating the CDCR Workgroup Computer Policy. The Workgroup Computing Coordinator (WCC) resides in PMO. The WCC responsibilities include:

- Ensuring that workgroup computing hardware and software requests comply with the CDCR and control agency policy requirements.
- Preparing the appropriate certification documents for workgroup computing procurements.
- Providing assistance in the completion of workgroup computing requests.
- Maintaining the CDCR workgroup computing policy and modem policy as well as related equipment request forms for distribution to CDCR staff.
- Overseeing the personal computer PIER process.
- Maintaining the CDCR personal computer equipment inventory.
- Maintaining a record of all personal computer procurements, including those justified through the use of a FSR, the CDCR internal summary fact sheet, or the approved workgroup computing policy.

ITEC-Support Unit (SU) responsibilities include:

- Coordinate ITEC Committee meetings and disseminate information from these meetings.
- Coordinate review of proposed information systems.
- Preparing annual updates for the cabinet on all CDCR automation efforts for the current year and strategic planning for the coming year.
- Developing, coordinating, and participating in presentations for the ITEC committee addressing current technical innovations.
- Coordinating the review of Information Systems concepts to ensure compliance and consonance with the budget cycle.

In its role as WCC, the ITEC-SU ensures that requests for microcomputer commodities comply with the CDCR and control agency policy requirements; prepares the appropriate procurement certification documents; provides assistance in the completion of workgroup computing equipment requests; maintains the CDCR workgroup computing policy, modem policy, and related equipment request forms for distribution to CDCR staff; and tracks the CDCR microcomputer commodity inventory.

#### **16000.5 IT Planning Section**

The IT Planning Section plans for the efficient and effective use of IT resources as required by the SAM. Specifically, SAM 4819.31 requires each State agency to:

- Establish and maintain an operational recovery plan so that it will be able to protect its information assets in the event of a disaster or serious disruption to its operations, and annually certify to the DOF that its plan complies with SAM 4843-4845.
- Establish an ongoing information management strategic planning process to support the accomplishment of its overall business strategy (i.e., its strategy to carry out its programmatic mission) and submit its strategic plan to Department of Information Technology for approval. See SAM 4900.2.
- Adopt standards for an agency information technology infrastructure and ensure that new acquisitions or developments involving information technology are consistent with those standards. See SAM 4900.1.

These externally required planning functions are consolidated in the EIS IT Planning Section. Consolidating these IT planning functions removes barriers that would limit consistency and coherence in CDCR IT planning and enables the CDCR to present a clear, consistent IT strategy to external oversight agencies.

#### **16000.6 Information Security Office**

The Information Security Office is responsible for the overall security of CDCR information systems. In accordance with GC 1171 and SAM 4840.2, the CDCR has designated an Information Security Officer. The function is organizationally placed in this Division.

#### **16000.7 Revisions**

The Director, EIS or their designee is responsible for ensuring that the content of this Article is current and accurate.

#### **16000.8 References**

GC § 1171.

CCR 15 (3).

SAM §§ 4819.31, 4840.2, 4843-4845, 4900.1.

### **ARTICLE 38 — OFFICE OF LABOR RELATIONS**

*Revised January 27, 2016*

#### **16010.1 Office of Labor Relations**

The Chief of the Office of Labor Relations (OLR) reports to the Undersecretary for Administration and Offender Services. The OLR is responsible for establishing policies and planning, organizing, developing, monitoring, and administering positive and effective labor management relationships and services among CDCR, its employees, and recognized employee organizations, thereby ensuring the delivery of CDCR services to the public with minimum disruption. This is accomplished through, but not limited by, the following:

- Represents management in all areas of labor-management relations, including contract negotiations and administration, statewide and local meeting and conferring, and in handling employee grievances and complaints.
- Establishes policies and procedures related to labor-management relations.

- Provides all levels of management with accurate interpretations of applicable policies, rules, laws, and contract provisions.
- Provides staff support and consultation services to all levels of management regarding rights and responsibilities under the Ralph C. Dills Act and the labor contracts.
- Implements the collective bargaining law for all covered employees and the excluded employees bill of rights.
- Meets and confers in good faith with exclusive employee representatives promptly upon request.
- Upon request, meets and confers, in accordance with Government Code Section 3533, with all employee organizations representing supervisory employees. "Meet and confer" means that they shall consider, as fully as the employer deems reasonable, representations made on behalf of supervisory members prior to arriving at a determination of policy.
- Provides a resource for negotiating labor contracts under the Ralph C. Dills Act.
- Provides training and advice on labor relations issues.

#### **16010.2 LRA Vacancies and Selection Process**

CDCR Hiring Authorities, other than the Office of Labor Relations (OLR), seeking to appoint a Labor Relations Analyst (LRA) or an individual performing LRA duties, shall notify the Chief of the OLR or designee prior to advertisement and ensure the Chief of the OLR or designee is afforded the opportunity to review potential candidate applications, participate in interviews, and provide suggestions on candidates. This includes temporary assignments, training and development assignments, and out-of-class assignments where an individual performs the duties of the LRA classification within the Department.

#### **16010.3 Employee Organization Notification Process**

The OLR is responsible for ensuring the Department notifies the various Bargaining Units within CDCR when the Department seeks to adopt or amend policies and/or regulations that change working conditions. Prior to the implementation of any new or amended policy and/or regulation, the Hiring Authority shall provide a Negotiation Preparation Tool to the OLR. Detailed instructions on the Negotiation Preparation Tool Process will be available on the CDCR Intranet under the OLR team site.

The OLR will analyze the information provided by the Hiring Authority to determine the potential impact to employee wages, hours, and terms and conditions of employment. The OLR will determine the Department's notice requirements and will work collaboratively with the specific Hiring Authority to ensure all notice requirements are met.

This process will help ensure that consistent and effective communication between the Hiring Authority and the OLR begins during the early stages of policy and regulation development and will improve efficiency during bargaining and the meet and confer process.

#### **16010.4 Revisions**

The Chief, Office of Labor Relations or designee is responsible for ensuring that the contents of this article are current and accurate.

#### **16010.5 References**

Ralph C. Dills Act

CCR 15 (3).

Government Code Section 3512 and 3528, et seq.

#### **16010.4 Revisions**

The Chief, Office of Labor Relations or designee is responsible for ensuring that the contents of this article are current and accurate.

#### **16010.5 References**

Ralph C. Dills Act

CCR 15 (3).

### **ARTICLE 39 — OFFICE OF THE OMBUDSMAN**

*Revised August 25, 2014*

#### **16020.1 Office of the Ombudsman**

The Chief, Office of the Ombudsman (OOTO) reports to the Undersecretary for Operations. The Office of the Ombudsman assists the Secretary and executive staff in identifying and resolving issues at the institutions relating to staff, inmates, inmate families, legislative bodies, special interest groups, and community-based organizations. This office also provides management advice and consultation on issues affecting the full range of departmental programs.

**16020.2 Revisions**

The Chief, Office of the Ombudsman or designee shall be responsible for ensuring that the content of this Article is kept current and accurate.

**16020.3 References**

CCR 15 (3).

## CHAPTER 2 — FISCAL MANAGEMENT

### ARTICLE 1 — BUDGET PLANNING

*Revised January 29, 2021*

#### 21010.1 Budget Planning Policy

The California Department of Corrections and Rehabilitation (the Department) shall submit an annual budget that is consistent with the policies set by the Governor, the Secretary of the California Department of Corrections and Rehabilitation, and the Director of the Department of Finance (DOF).

#### 21010.2 Purpose of Budget Planning

This Article describes the Department's portion of the process for submittal of the Governor's Budget exclusive of Major and Minor Capital Outlay projects. For a description of the Major and Minor Capital Outlay processes, see the Department Operations Manual (DOM) Chapter 2, Article 4, Capital Outlay.

#### 21010.3 Budget Planning Responsibility

The Budget Management Branch (BMB) provides coordination for the central support budget planning process.

#### 21010.4 Budget Planning Preparation Calendar

(a) Based on the schedule established by the DOF, the BMB issues a calendar of actions and deadlines required in the preparation of the Governor's Budget.

(1) This serves as a guideline for operating units of the Department to schedule workloads accordingly.

(2) Because requirements change annually and State revenues may not be available as anticipated, this calendar is subject to numerous changes.

#### 21010.5 Budget Process

(a) The Budget Act is the primary source for appropriations and provides for the usual and current expenses of the State. Departments are responsible to operate within budgeted levels and to comply with any restrictions or limitations enacted by the Legislature. The Legislature has provided provisions in the Budget Act to allow for budget adjustments.

(1) These provisions include authorizations for: intra-item transfers (Section 26.00), deficiencies (Section 27.00), changes to federal funding levels (Section 28.00), and changes to reimbursements (Section 28.50).

(b) The basic concept of budget development uses incremental budgeting. This approach uses the current departmental level of funding as a base amount to be adjusted by change proposals.

(1) The Budget Change Proposal (BCP) is the traditional decision document to change the level of service or funding sources for activities authorized by the Governor and the Legislature, or to propose new program activities not currently authorized.

#### 21010.6 Requesting Budgetary Resources

(a) The following are standardized processes used to request budgetary resources:

##### (1) Policy Budget Change Proposal

The BCP process is used to request the increase, decrease, or redirection of resources due to changes in existing programs, departmentwide problems, policies, procedures, mandates, increase or decrease in workload, etc. Based on direction provided by the DOF through the annual budget policy letter, the Office of Fiscal Services (OFS) issues instructions annually to set forth overall budgetary policies and the BCP process and timelines.

(A) The BCP process usually starts with the Budget Concept Statement (BCS), which is an internal departmental process. BCPs have to be clear, concise, direct, and supported with factual statements and workload data. Approval of this request by the Governor and the Legislature will address changes in resources for the budget year. Current year resource changes will be addressed in either a deficiency request, changes to federal funding levels, or changes to reimbursements, as appropriate.

(B) BCPs containing information technology (IT) components related to IT projects, generally must secure Department of Information Technology approval of the related Feasibility Study Report or Special Project Report prior to submission to the DOF. These BCPs are subject to the same DOF submittal deadlines.

(C) For BCPs that are tied to a Capital Outlay project, program staff need to coordinate with the Capital Outlay staff to include information that is consistent with the Capital Outlay BCP.

(D) If a requesting program's BCP affects other administrative or operational entities within the Department, the requesting program must

contact the affected entity(s) for input on whether additional resources are needed to offset the workload. The requesting program shall coordinate the inclusion of any identified resources into the BCP.

(E) If a BCP affects another state agency, program staff must contact the other agency to ensure that they concur and will not be in opposition of the BCP. When sending BCP related documentation to another state agency, the following statement is to be included on all correspondence: "CONFIDENTIAL: DO NOT FORWARD OR DUPLICATE EXCEPT TO AUTHORIZED STAFF."

#### (2) Responsibility for BCPs

Individuals who direct the preparation and submission of BCPs are as follows:

(A) Deputy Director, OFS.

(B) Undersecretaries

(C) Program Directors.

#### (3) Population Budget Change Proposal

A Population Budget Change Proposal (POP BCP) is processed every year, starting in September, to address changes in resources as a result of projected inmate and parolee population changes in both the current and budget years.

#### (4) Population Projections Fall and Spring

Utilizing the projections issued by the Office of Research (OR), and the construction schedule issued by the Facility Planning, Construction and Management Division, the program support unit of the Division of Adult Institutions schedules the placement of inmates in what is known as the "Institution Activation Schedule." Based on this schedule, the OR issues the following projections in September or October and updates them in February or March of each fiscal year (July 1 to June 30):

(A) Preliminary estimates of prison and parole populations for the preparation of the budget which becomes effective July 1 of the following year.

(B) Revised population estimates for the current fiscal year.

#### (5) Finance Letter

This is an emergency Policy BCP request for unforeseeable events that arise after the Governor has submitted the budget request to the Legislature or a proposal to refine or adjust a BCP that was included in the January 10 budget. Finance Letters are usually submitted in February. Approval of this request by the DOF will revise the budget previously submitted to the Legislature in January.

#### (6) May Revise

A BCP submitted to the DOF by April 1 and then to the Legislature by May 14 requests augmentation to the Governor's Budget for the inmate and parolee population change in both current and budget years. This document is submitted in the Spring as a revision to the budget previously submitted to the Legislature in January.

#### (7) Deficiency Requests

The deficiency request allows departments to add monies to their budget in the current year to address immediate program changes (i.e., population increases). The request is to be submitted as soon as the need is identified for unforeseen and significant costs over and above what is in the budget. The deficiency request is submitted by the BMB to the DOF, Governor, and the Legislature for approval.

(A) The deficiency process is also used to recover those funds spent during an emergency, which cannot be absorbed by existing resources. The Secretary has defined an emergency as a sudden, unexpected occurrence that poses a clear and imminent danger requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

(B) An emergency has to be an event of large magnitude and severe impact, such as, but not limited to, earthquake, flood, tornadoes, major riots, severe and prolonged disruption of utilities, etc. Only in extreme emergencies are departments allowed to incur expenditures prior to securing the proper funding.

(C) Such expenditures still need to be submitted by the BMB to the DOF, Governor, and the Legislature for approval. Therefore, managers need to immediately, within the next business day of the emergency, notify their chain of command and the BMB of the emergency and, at the end of the emergency, submit to the BMB an expenditure report of all costs incurred.

(D) Once the BMB validates that those costs meet the requirements of an emergency, it will immediately notify the Office of the Secretary and the DOF of its intent to file for a deficiency if the costs cannot be absorbed.

#### (8) Approval Process

All budgetary requests will be forwarded to the BMB for approval prior to final submittal to the DOF in compliance with State Administrative Manual (SAM) Section 6120.

#### 21010.7 Budget Change Proposal Adjustments

Adjustments are often required between the final submission of BCPs and the final preparation of the Governor's Budget. The BMB shall notify departmental administrators of such changes and recommend proper action.

#### 21010.8 Budget Allotments

By July 1 of each fiscal year, an initial allotment is issued for each facility, office, and division, provided timely passage of the Budget Act. As the fiscal year progresses and changes are made to the budget, corresponding changes are made to the allotments through the budget change process.



**21010.9 Fiscal Reviews**

(a) Fiscal reviews are an important process, which ensures the Department remains fiscally sound. The areas involved with the fiscal review process are:

**(1) Programs**

Each facility, office, division, and parole region will complete a monthly Budget Forecasting Function (BFF) document using the standardized methodologies listed in the BFF instructions, which can be provided by the BMB. For those line items with no standardized projection methodology, a detailed explanation is to be provided. The BFF will be submitted to the BMB beginning September of each fiscal year and then every month after based on an annual calendar. Programs must continuously monitor their fiscal situation and quickly raise financial problems to the BMB as soon as they become known.

(A) During the third quarter of each fiscal year, fiscal reviews are held at headquarters to validate the projected expenditures by facility, office, division, and parole region. At the fiscal reviews, Wardens, Associate Directors, Deputy Directors, Parole Administrators, and departmental managers are expected to:

1. Identify the reasons for a potential budgetary surplus or deficit.
2. Identify measures to be taken to offset a potential deficit.
3. Provide detailed information for temporary help and overtime expenditures.
4. Provide a clear and accurate reflection of the operation's fiscal state.

**(2) Office of Fiscal Services – Budget Management Branch**

The BMB is responsible for oversight of the BFF and the fiscal review process and making recommendations to executive staff.

(A) The BMB budget analysts are responsible for analyzing the BFF, and providing feedback to all facilities, offices, divisions, and parole regions.

(B) The BMB will provide training to the BMB budget analysts and the institutions' managers and budget analysts about how to make fiscal projections and understand cost data. This training module will also include an in-depth discussion on the fiscal and operational challenges of managing a prison.

(C) The BMB provides a monthly expenditure report of all departmental programs to the Office of the Secretary.

**(3) Executive Office**

The Director, Division of Administrative Services, and the Undersecretary of Administration, or their designee(s), will chair fiscal reviews and make final decisions on the approval or disapproval of expenditure projections. The committee shall consist of:

- (A) OFS executive staff, managers, and analysts.
- (B) Respective division Directors or designee(s).
- (C) Respective program executive staff, managers, and analysts.

**21010.10 Fiscal Responsibility**

(a) Government Code Section 13324 states: "Every person who incurs any expenditure in excess of the allotments or other provisions of the fiscal year budget as approved by the Department (OFS) or as subsequently changed by or with the approval of the Department (OFS), is liable both personally and on his official bond for the amount of the excess expenditures." The Secretary and Undersecretaries approve all policy decisions.

(b) Wardens, Directors, Deputy Directors, and Parole Administrators have the primary responsibility to follow approved policies and remain within budgetary authority by adhering to the following guidelines:

(1) Notify the BMB as soon as possible of new policies, procedures, or changes in policies and procedures that may have a fiscal impact. Fiscal impact is defined as an increase in cost that is not funded and cannot be absorbed within existing resources in the current or subsequent fiscal year(s). If a program is operating in a deficit, there shall be no changes that will increase costs. Follow the established process to acquire additional funding.

(2) Immediately notify the appropriate chain of command and the BMB of an emergency that may require expenditures to be incurred prior to securing the Office of the Secretary's approval and the appropriate funding.

(3) Immediately notify the appropriate chain of command, Office of Legal Affairs and the BMB when the Department is compelled by court order or other legal process to make non-budgeted expenditures. The BMB shall contact the DOF to begin the process of securing the necessary funding.

(4) Hold in abeyance the implementation of new or adjusted policies and procedures until the Office of the Secretary's approval and proper funding is secured.

(5) Agreements with local unions must stay within the parameter of the contract and authorized resources, and must not have a statewide impact.

(6) Follow the established budget process to request additional resources (e.g., Policy and Population BCPs, Finance Letters, May Revise, Deficiency Requests).

(7) Minimize temporary help and overtime expenditures.

(8) Eliminate unauthorized positions.

(9) Position upgrades (reclassifying a position to a classification with a higher salary) must be accomplished within existing resources.

(10) Achieve the savings identified in the Non-Custody Vacancy Plan.

(11) Control sick leave usage in conformance with DOM Chapter 3, Article 8.

(12) Maximize the use of permanent full time and intermittent officers.

(13) Eliminate programs for which no funding is available.

(14) Eliminate the liability for accumulated holiday leave and excess vacation and annual leave balances by utilizing the budgetary authorized holiday and vacation relief factor.

(15) Closely monitor the BFF.

(16) Reduce or postpone non-critical expenditures if a budget deficit is projected.

(17) It is the responsibility of the Warden, Associate Director, Deputy Director, or Parole Administrator to ensure that the BMB is notified immediately via the BFF cover memorandum when a projected budget deficit is anticipated. Also, it is their responsibility to submit an action plan addressing every action available to eliminate the projected deficit.

**21010.11 Policy Decisions and Fiscal Impact**

(a) The Secretary, Undersecretaries, and Assistant Secretaries approve all departmental policy changes as set forth in DOM Section 11010.3. The program division Directors shall prepare a request to change policy identifying the scope of the recommended policy change and any fiscal impact.

(1) The Director shall route the recommended policy change package to the BMB who shall analyze the projected fiscal impact and ensure the proposal has been costed accurately and the program has identified the funding source and availability of funds for the recommended change. Based on the BMB analysis, the Deputy Director will determine one of the following:

(A) The funding for the request is identified, but not yet allotted to the program. In this situation, the Deputy Director will respond directly to the program, and not forward the request to the Office of the Secretary.

(B) The program could internally redirect funding within its allotment. Similar to the above situation, the Deputy Director will respond directly to the program. However, if the program disagrees with the Deputy Director's determination, the Deputy Director shall forward the request along with a recommendation to the Office of the Secretary for final decision.

(C) No funding is available to implement the request, but program has identified a critical or time sensitive need. In this situation, forward the request to the Office of the Secretary and follow the process for non-urgent requests as described below.

(D) No policy decisions shall be recommended for implementation without the funding being identified, secured, and if necessary, approved by the Office of the Secretary and the DOF.

**(2) Non-Urgent Requests**

Non-urgent requests are to be submitted to the Office of the Secretary, the BMB and the DOF through the normal budgetary process described in Sections 21010.5 and 21010.6. The BMB will work with the program staff to identify which of the processes described in these Sections is to be used to request funding prior to implementation of the change.

**(3) Urgent Requests**

For urgent requests, the following steps will be taken as expeditiously as possible:

(A) Program submits the request to their headquarters chain of command, with a copy to the Deputy Director, OFS, using the BCS format.

(B) Deputy Director, OFS submits the request to the BMB for fiscal impact analysis.

(C) The BMB reviews and submits the request to the Office of the Secretary with a recommendation to approve or disapprove.

(D) The Office of the Secretary approves or disapproves and returns the request to the BMB.

(E) If disapproved, the BMB returns the request to the originator, closing the request.

(F) If approved, the BMB immediately notifies the DOF to secure approval of the request prior to implementation of a policy change.

(G) The BMB will work with the DOF on the best approach to acquire additional resources within the budgetary cycle.

**21010.12 Inmate Welfare Fund**

The Inmate Welfare Fund (IWF) is shown as a separate item in the Budget Act and is subject to the same schedule as the Department's. Information about the IWF is contained in DOM Chapter 2, Article 20.

**21010.13 Revisions**

The Deputy Director, OFS, or designee shall be responsible for ensuring the contents of this Article are kept current and accurate.

**References**

SAM § 6120

BA § 32.

VCGCB Rule § 614.  
DOM §§ 11010.3, 21010.5, and 21010.6.

#### **Revision History**

Revised: April 25, 2001  
Revised: January 29, 2021

### **ARTICLE 2 — OPERATING EXPENSES AND EQUIPMENT**

*Revised April 25, 2001*

#### **21020.1 Policy**

The Department shall allocate all available funds required for departmental operating expenses.

#### **21020.2 Purpose**

This Article describes the allocation process for Operating Expenses and Equipment.

#### **21020.3 Allocation of Funds**

By August 1, the BMB shall issue a program/line item budget allocation to each facility office, and division, provided timely passage of the Budget Act. This shall normally be an allocation of the total funds available for operating expenses. If additional funds become available during the fiscal year, subsequent allocations of these funds shall be made at the earliest possible opportunity.

Subsequent changes to original allocations shall be transmitted by numbered budget change documents during the fiscal year. In some instances, informational letters about the changes shall precede the budget change document, but shall not be used to enter the change into the official accounting records. This shall be done only after the budget change document is issued.

#### **21020.4 Schedule 9, Equipment**

The Schedule 9 process is for replacing existing equipment only. Equipment for new positions or new programs shall be requested via the BCP process. Equipment reported in the Schedule 9 has a unit acquisition of \$5,000 (e.g., four identical assets at \$3,000 each, for a \$12,000 total would not meet the requirement). For more information, refer to SAM Section 8602.

The BMB sends specific instructions annually (around end of August) on how to complete the Schedule 9 process. DAI, DAPO, and each Headquarters' division/office need to complete the Schedule 9.

#### **21020.5 Written Justification for Requested Equipment**

Except for those complements related to new positions, a CDC Form 533, Equipment Budget Request, detailing the description of the equipment, its function, and the need for it shall be attached to the Schedule 9.

#### **21020.6 Equipment for New Positions**

Equipment needs related to new positions shall be included in the BCP for the position and submitted to BMB for computation of cost of standard office equipment complement. If equipment and furnishing are required beyond the standard office complement, it must be identified by description and cost in the BCP.

#### **21020.6.1 Standard Equipment Complements**

When requesting standard equipment complements, the basic equipment complement guidelines, which are utilized in new prison construction, should be referred to for guidance. For the purpose of BCP, BMB calculates a standard office furnishing complement. This complement, based on classification, may include a chair, table, desk, bookcase, and personal computer or calculator, where applicable.

#### **21020.6.2 Special Equipment**

Request for special equipment (major equipment that can not be acquired through the Schedule 9 process) shall be identified in a BCP by description and estimated cost. BCPs shall be submitted to BMB for either inclusion in the Governor's Budget or submission through the Finance Letter process. The Finance Letter process is only used for proposals of critical nature and is not to be used as an extension of the Fall BCP process.

#### **21020.7 Inmate Pay**

See the DOM Chapter 5, Article 12 for instructions relating to inmate pay.

#### **21020.8 Minor Capital Outlay**

See DOM Chapter 2, Article 4 for instructions relating to Minor Capital Outlay.

#### **21020.9 Revisions**

The CFO, OFS, or designee shall ensure that the contents of this Article are accurate and current.

#### **21020.10 References**

SAM § 8602.  
DOM §§ Chapter 2, Article 4 and Chapter 5, Article 12.

### **ARTICLE 3 — UNASSIGNED**

### **ARTICLE 4 — CAPITAL OUTLAY**

*Revised June 11, 2002*

#### **21040.1 Policy**

In order to identify capital improvement needs and plan for the funding and accomplishment of this activity, the California Department of Corrections and Rehabilitation (CDCR) annually prepares a five-year plan for these improvements along with a project plan for the budget year (i.e., year one of the five-year plan).

#### **21040.2 Purpose**

This Article outlines the CDCR's Office of Facilities Management (OFM) procedures and guidelines for development and submission of the five-year capital improvement plan and construction projects for approval.

#### **21040.3 Authorization**

Projects included in the Budget Act, and any other legislation, are authorized for planning, design, and construction in accordance with the effective date of the authorizing legislation.

#### **21040.4 Responsibility**

The OFM shall maintain the CDCR's five-year plan for major construction projects and direct the planning, design, and construction of all projects authorized by the legislature. Penal Code (PC) Section 7000 authorizes the CDCR to prepare plans for and construct facilities and renovations included within its Five-Year Infrastructure Plan. The CDCR may transfer the responsibility for undertaking any aspect of the plan to the Department of General Services (DGS).

#### **21040.4.1 Request for Project Undertaking by State Agency**

The OFM may delegate the completion of funded projects subject to the Department Operations Manual, Section 21040.4, to a CDCR facility. All projects to be undertaken by a facility require approval from DGS using a Standard (STD) Form 23, Request for Project Undertaking by State Agency, applicable to undertake projects from \$120,000 to \$400,000 excluding those projects authorized for completion by the Inmate Day Labor (IDL) program or those the CDCR undertakes under the authority of PC 7000.

*Note:* The cost limitation is adjusted upward or downward by the Director of the Department of Finance (DOF) every two years to reflect the percentage change in the California Construction Cost Index (CCCI) as used by DGS. For purposes of compliance with this Section, the current cost limitation can be obtained by contacting the Capital Outlay Section of OFM.

#### **21040.5 Definitions**

The following definitions are included as a guide, but any definitions in statute shall supersede the definitions in this Article.

##### **Major Capital Outlay**

Major capital outlay projects include the following:

- Any real property acquisition including the exercise of a lease purchase option.
- New construction, extension, or betterment in excess of \$400,000.
- Fixed and movable equipment necessary for the initial occupancy of a new facility.

##### **Minor Capital Outlay**

Capital outlay construction projects estimated to cost \$400,000 or less.

##### **Special Repairs**

Repair projects that, irrespective of cost, continue the usability of a facility at its designed level of services are termed special repairs. The nature of these repair projects is considered extraordinary, either in amount or occurrence, and extends the life of the facility or infrastructure.

##### **Alterations**

Any modification to a State building that changes the use of the building in function, layout, capacity, or quality is an alteration. New construction may be considered an

alteration. Typical alterations include the demolition and construction of new walls and additions up to the limits in Section 6.00 of the Budget Act (Section 6).

#### **Maintenance**

Maintenance projects are intended to keep structures, grounds, equipment, and facilities within acceptable standards of structural condition, appearance, and utility.

#### **Budget Package**

A budget package consists of schematic drawings, outline specifications, and a cost estimate. Packages shall be descriptive to convey accurately the location, scope, cost, and nature of the improvement being proposed.

#### **Preliminary Plan**

The preliminary plan includes site plan, architectural floor plans, elevations, outline specifications, and cost estimate. For each utility, site development, conversion, and remodeling project, the drawings shall be descriptive to convey accurately the location, scope, cost, and nature of the improvement being proposed.

#### **Working Drawing**

Working drawings include a complete set of plans, specifications, and final cost estimate that show/describe all phases of a project (architectural, structural, mechanical, electrical, civil engineering, and landscaping systems) to the degree necessary for accurate bidding by contractors and for the use of artisans in constructing the project. All necessary professional fees and administrative service costs shall be included in the final cost estimate.

#### **Construction**

Construction projects are those that create new or improved real property. A capital outlay project shall include all related items such as fixtures, installed equipment (commonly referred to as Group I equipment), auxiliary facilities, contingencies, project construction management, administration, and associated costs like design and loss of productivity. Group II equipment, movable equipment, such as tables and chairs, will be included as necessary and appropriate.

#### **21040.6 Alterations**

Alteration projects shall normally be budgeted in the capital outlay budget category as part of the building construction program. Funds from the State operations' budget category may only be used for alterations if they meet the criteria established under Section 6.00. Pursuant to Section 6.00, no support funds may be used for any project for alteration of a State building requiring total expenditures of \$100,000 or more unless the Director of DOF determines that the proposed alteration is critical and it is necessary to proceed using funds appropriated for support purposes. The maximum cost of any project undertaken under Section 6.00 authorization shall not exceed \$400,000.

Any construction project estimated to be less than \$1,000, and includes all of the following, may be undertaken by the facility:

- The alterations do not increase program costs and/or personnel year requirements.
- The alterations do not create life, safety, or environmental problems.

#### **21040.7 Development of the Capital Outlay Five-Year Plan for Existing Facilities**

As part of the State's construction program, the CDCR shall maintain a five-year plan for major construction projects. The plan shall be prepared in accordance with Government Code (GC) Section 13100 and in compliance with directives from DOF, including the following:

- The CDCR's projected capital outlay needs for five years beyond the period covered by the latest Governor's Budget.
- Capital Outlay Budget Change Proposal's (COBCP) for each project which CDCR wishes to include in the next budget year.
- A listing in priority order of CDCR's proposed capital outlay program for the upcoming fiscal year.

**Note:** The plan is prepared annually and may be modified at that time.

#### **February 1**

The CDCR's Five-Year Infrastructure Plan shall be submitted to the DOF each February.

#### **21040.8 Preparation of Request for Capital Outlay Projects**

The COBCP's are the formal requests for capital outlay projects submitted for approval in the five-year plan. They should be prepared in

sufficient detail to describe the type of improvements requested. A COBCP shall include the following information regarding the project:

- Purpose of the project.
- Relationship to the Strategic Plan.
- A discussion of alternatives.
- The recommended solution and rationale for choosing it.
- A detailed scope description.
- The basis or source of the cost information.
- Description of any impacts to the support budget.
- Identification of any perceived project risks.
- A proposed project schedule that identifies start and completion of the various funding phases (i.e., preliminary plans, study, etc.).
- A detailed cost breakdown.
- A Management Plan (how will the project be accomplished, swing space, etc.).

#### **21040.9 Capital Outlay Timetable**

The following schedule has been established to meet the CDCR and DOF time frames. A detailed timetable for the current budget cycle shall be developed annually and provided to the facilities. Facilities shall adhere to this annual timetable so that analysis and processing may occur in an orderly and effective manner within statewide deadlines. Dates on which facilities are required to submit items are the dates for OFM action in order to forward the items to the Secretary, CDCR, and DOF within the statewide deadlines:

Year One:

#### **March**

The OFM shall issue a "Budget Call Letter" to all facilities requesting the development of budget concept papers for the major and minor capital outlay program and identifying the time frames for the upcoming budget cycle.

#### **April**

Deadline for the receipt of concept papers for all major and minor capital outlay projects.

#### **May**

Capital outlay analysts may conduct on-site reviews of all proposed projects in preparation for project priority setting.

A committee that includes representatives of the Division of Adult Institutions, Division of Correctional Health Care Services, Office of Substance Abuse, Joint Venture Program, and OFM makes project priority recommendations. These recommendations are the basis for determining which projects should be fully developed into COBCP's.

Based on the approved priorities and subject to the availability of funding, facilities are given approval to develop COBCP's.

#### **July**

Deadline for submission of COBCP's to OFM.

#### **September**

Review and discussion of project analysis, recommendations and COBCP's deficiencies are conducted with facility staff.

#### **October**

All final COBCP's are due to OFM.

#### **November**

The OFM recommendations and analysis are submitted to the Office of the Secretary to establish the final priority list for the CDCR's capital outlay program.

#### **January – February 1**

The existing facilities five-year capital outlay plan is submitted to the CDCR for approval and then to DOF.

Year Two:

#### **July – August**

Final approved list of projects submitted to DOF.

#### **September – December**

State Capital Outlay Program Evaluation meetings and review are conducted with DOF. Capital outlay budget hearings are held with the DOF and the CDCR to determine which projects will be included in the Governor's budget for the upcoming fiscal year.

#### **January**

The Governor's Budget and Budget Bill are submitted to the Legislature.

**February**

The CDCR identifies capital outlay projects that were not included in the Governor's Budget, but have become critical. Justification identifying why the projects are now critical must be included in a Finance Letter submission.

**March**

The CDCR receives the Legislative Analyst's Office recommendations of the Governor's Budget.

**April – June**

Legislative hearings on the Budget Bill are held. During this time, the OFM continues to work with DOF and the Legislative Analyst's Office to resolve outstanding issues.

**July**

This is the earliest effective date of the Budget Act. Notification of all major and minor capital outlay projects approved in this process is prepared for transmittal to the institutions and other interested programs.

**21040.10 Project Design**

Project design is the process that converts the concepts outlined in COBCP's into a set of plans and specifications that will allow the project to be constructed. The planning process for major capital outlay projects is divided into two major sections:

- Preliminary plans (or design drawings) include site plans, architectural floor plans, elevations, outline specifications, and cost estimates. This stage in planning is identified in order to review architectural and engineering input to ensure the project still meets facility objectives and is consistent with legislative scope and cost. Preliminary plans shall be reviewed by DOF and approved by the State Public Works Board (SPWB).
- Working drawings (or construction documents) are preliminary plans with full architectural and engineering detail. These plans are developed in sufficient detail to instruct any construction organization how to build the project and identify what materials and equipment must be approved by DOF before any construction can take place.

**21040.11 Project Construction**

Major capital outlay construction can be accomplished in three ways. All public works not specifically exempted are administered by the DGS. Upon approval of working drawings by the DOF, they may authorize DGS to bid the project to private contractors. The lowest responsible bidder may then construct the project. The second method of construction utilizes IDL. The IDL utilizes a combination of State staff, trade union labor, and inmates to accomplish the capital outlay project. The IDL requires the approval of DOF, SPWB, and Prison Industries Board and is subject to the availability of resources. A third method that we now have available is under PC 7000 which allows the CDCR to use new prison construction resources and processes.

**21040.12 Scope Changes**

After the project is authorized for design and/or construction, it may be necessary for the CDCR, DGS, or the contractor to add, delete, or modify components of the project. If that change significantly modifies the size, shape, assigned space, or physical characteristics of the project, written approval shall be obtained from the DOF and the Legislature. Minor capital outlay scope changes only require DOF approval.

**21040.13 Revisions**

The Deputy Director, OFM or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**21040.14 References**

PC §§ 2816, 2817, and 7000.

GC §§ 13100, and 13332.11.

SAM §§ 6600 – 6724.

Section 6.00 of the Budget Act.

Public Contracts Code § 10108.

**ARTICLE 5 — REIMBURSEMENTS**

*Revised April 30, 2018*

**21050.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) shall recover the full costs of reimbursable goods and/or services, unless full cost recovery has been prohibited by statute.

**21050.2 Purpose**

This article shall specify the requirements for full cost recovery on reimbursable goods and/or services.

**21050.3 Responsibility**

The Office of Fiscal Services (OFS) through the Budget Management Branch (BMB), and the California Correctional Health Care Services (CCHCS) through the Fiscal Management Section (FMS), shall work with the Department of Finance (DOF) to ensure the inclusion of reimbursements in the Governor's budget, and the allocation of reimbursement authority to the various institutions and divisions utilizing Systems, Applications, and Products (SAP).

BMB and FMS Responsibilities:

- Assist institutions and program managers and coordinate with Accounting Services Branch (ASB) in determining the reimbursement budget authority to be collected for goods and/or services to individuals, other governments, and entities.
- Request additional budget authority if the total departmental budget for reimbursements is insufficient, in accordance with procedures described in the State Administrative Manual (SAM) §§ 6551-6557 and Control Sections of the Budget Act.

ASB Responsibilities:

- Timely record reimbursement billing and receipt activities.
- Monitor the reimbursement activity at the program, element, and component level for unanticipated reimbursement activity.
- Coordinate with institutions, program managers, BMB, and FMS for possible budgetary adjustments.
- Notify institutions and program managers of uncollectable account receivables, as they may have a negative impact on the ability of CDCR to fully fund its normal support operations.
- Obtain written agreements from institutions and program managers for goods and/or services to individuals, state and federal agencies, and other entities.

Institutions and Program Managers' Responsibilities:

- Stay within reimbursement budget or make timely requests for an additional allocation from BMB or FMS through the established SAP and budget processes.
- Promptly notify BMB or FMS of new reimbursement activities for inclusion in the budget through the established SAP and budget processes.
- Monitor the level of reimbursement activity and promptly notify BMB or FMS and ASB of significant upward or downward trend in activity, as budgetary adjustment may be necessary.
- Will not enter into verbal, informal, or undocumented agreements with individuals, state and federal agencies, and other entities.
- Ensure written agreements with individuals, state and federal agencies, and other entities are on file.
- Ensure the timely submission and/or processing of all documents related to reimbursable activities to ASB.

**21050.4 Reimbursements**

A reimbursement is repayment for the cost of work or services performed, or for other expenditures made for or on behalf of and for the convenience of another governmental unit, fund, or department, or for an individual firm or corporation. There should be a positive, direct relationship of the charge to the cost of the particular services performed for an individual or entity before one considers a receipt to be a reimbursement. Refer to SAM § 6463.

- Reimbursement services require the use of Internal Orders (IO) in SAP in order to segregate the financial effects from the ongoing support operations. Prior to establishing an IO, programs must have the approval of BMB or FMS and ASB.
- Reimbursements represent the recovery of expenditures.
- Reimbursement receipts shall not exceed the reimbursement authority that is allotted per program.
- Changes in authority at any level will require timely communication with BMB or FMS and may require approval of DOF and the Legislature.
- Monies received directly from the federal government will be classified as Federal Funds. Federal monies passed from another State agency to CDCR will be classified as reimbursements to CDCR's General Fund (GF). Refer to SAM § 17105.

**21050.4.1 Types of Reimbursement**

The Budget Act classifies reimbursements as either "Scheduled" (budgeted) or "Unscheduled" (not budgeted). It is the intention of this section to ensure that all

CDCR reimbursements are “Scheduled.” The Uniform Codes Manual lists the various types of reimbursements, which include the following:

- Intradepartmental – Scheduled reimbursements from other departmental units/programs within the same organization, such as Inmate/Ward Labor (IWL) services related to Facility Planning, Construction, and Management (FPCM) construction projects.
- Interdepartmental – Scheduled reimbursements from other State departments, commissions, boards, etc., such as rent and utility costs for California Prison Industry Authority (CALPIA), inmate and custody services provided to the California Department of Forestry and Fire Protection (CAL FIRE), and health care services related to the Inmate Medi-Cal Program.
- External/Federal – Scheduled reimbursements received DIRECTLY from the federal government, such as overtime costs for parole/special agents working on the Violent Crime/Gang Task Force.
- External/Local – Scheduled reimbursements received from local governmental entities within the State, such as housing and care costs for county inmates assigned to fire camps.
- External/Private – Scheduled reimbursements received from private individuals, firms, institutions, or corporations, such as inmate services for Joint Venture Programs.
- External/Other – Scheduled reimbursements not otherwise classified. This classification should only be used when a reimbursement does not fit it into one of the above broad classifications.
- Unscheduled – Reimbursements which either were not anticipated nor provided for when the budget was prepared, or for which budget revisions to increase scheduled reimbursements have not been processed. Unscheduled reimbursements shall not be used without prior consultation and authorization from ASB, BMB or FMS, and/or DOF.

#### **21050.4.2 Full Cost Recovery**

It is State policy that departments recover full costs whenever goods or services are provided for others. These costs of goods or services include all costs attributable directly to the activity plus a fair share of indirect costs which can be ascribed reasonably to the goods or services provided. Refer to SAM §§ 8752, 8752.1 and 8753.

- Direct costs are those which can be identified specifically with a particular program, e.g., salaries and wages of assigned staff to a reimbursable activity.
- Indirect costs are support costs which usually benefit more than one program or organizational unit. They are accumulated and allocated periodically to the cost objective or organizational units which benefit from the support activity/function.
- Central service costs are costs incurred by central service departments for the benefit of all State departments. This is a pro-rata share of statewide central services costs as determined by the Fiscal Systems and Consulting Unit of the State DOF through the Statewide Cost Allocation Plan (SWCAP).

#### **21050.4.3 Collection – Indirect Overhead**

- Activities associated with grants, contracts, and interagency agreements generally operate on a budget agreed to by all parties involved. In addition, indirect overhead costs associated with these activities may be generated which either do not operate on a formal budget or have recovered expenditures that are intangible or unidentifiable.
- The indirect overhead costs are billable and recoverable according to SAM §§ 8752 through 8758.1. Institutions and programs must use the currently approved rate (per agreement/contract) and provide the pertinent information to ASB for indirect costs. Indirect charges are reimbursable to the GF.
- If there is no contracted or budgeted amount, indirect overhead will not be established budgetarily until the annual level of collections can be reasonably estimated from a few months’ actual billings. Requests for budget adjustment will be forwarded to BMB or FMS.

#### **21050.4.4 Projects at Two or More Locations**

When projects involve multiple locations, whenever possible, the budget should be apportioned by the institution or program. When this is not feasible (e.g., when there are many locations, or when one location must manage a project in its entirety with subsidiary operating units) the

subsidiary operating unit will still establish its share of the budget, using a reimbursement IO number.

#### **21050.4.5 Reclassification of Reimbursable Expenses**

Reimbursement receipts should have a direct relationship to the cost of the particular services performed. Reimbursable expenditures and reimbursement receipts should be recorded in SAP using IO numbers. Reimbursable services not directly recorded to IO numbers, such as salaries and wages, require expenditure reclassifications to align the reimbursement receipts to the reimbursable expenditures at the program, element, and component level. Refer to: SAM § 6463.

#### **21050.5 Reimbursement Funding**

Reimbursement funding comes from various sources, including projects or agreements funded indirectly with Federal Funds, such as with the California Governor’s Office of Emergency Services (Cal OES); cooperative agreements funded with general funds, such as with CAL FIRE; and projects funded with capital outlay or bond funds, such as IWL projects.

##### **21050.5.1 Counties and Cities**

Various services are provided to counties and cities, such as housing of inmates subject to Penal Code Section 4007, when ordered by a Superior Court Judge (e.g., Safekeepers); housing of inmates at Fire Camps to aid in fire suppression services; and providing inmate work crews to perform various tasks, such as general clean-up and maintenance work, etc.

- Rates to be charged these entities for services rendered (including medical services), shall be based on the standard agreement.
- Billings for these services will be processed by ASB.
- Counties and cities will not be charged for retention of prisoners who are under CDCR commitment.

##### **21050.5.2 Other States**

The reimbursement accounts for support of prisoners from other jurisdictions are processed as follows:

- Rates to be charged these entities, for retention of prisoners (including medical services), shall be based on the interstate agreement.
- Billing for the care of prisoners from other states will be processed by ASB.
- Other states will not be charged for retention of prisoners who are under CDCR commitment.

##### **21050.5.3 Federal Agencies**

The reimbursement accounts for care of federal prisoners are processed as follows:

- Rates to be charged these entities, for retention of prisoners (including medical services), shall be based on the interstate/intergovernmental agreement.
- Billing for care of federal prisoners will be processed by ASB.
- The federal government will not be charged for retention of prisoners who are under CDCR commitment.

Receipts directly from federal agencies – such as the US Department of Justice and the US Marshals Service, are recorded under the Federal Trust Fund. They require a federal catalog number (from the Catalog of Federal Domestic Assistance – (CFDA)). Institutions and programs must strictly monitor these reimbursements, as any services beyond the budgeted amount will not be billable to the federal agencies. Instead, the costs of services above the authorized amount will be absorbed by the institution or program’s regular (non-reimbursable) budget. Refer to: SAM § 17105.

##### **21050.5.4 Prison Industries Revolving Fund**

For those services (including custody pay) which are to be reimbursed to the support appropriation from the Prison Industries Revolving Fund, refer to the Penal Code (PC) §§ 2806 and 2816. These are expenses necessary in the administration of the prison industry program, and projects involving construction, renovation, or repair of prison or juvenile justice facilities, which are to be performed by inmate/ward labor. These services should be properly covered within an interagency agreement and must consider full cost recovery as detailed above.

##### **21050.5.5 Inmate Welfare Fund**

*Revised September 26, 2018*

Institutions and programs provide services to the Inmate Welfare Fund (IWF) for which reimbursement from the IWF may be required. In order for ASB to invoice IWF for these services, institutions must first provide ASB with supporting documentation of the services rendered.

##### **21050.5.6 Miscellaneous Reimbursements**

Miscellaneous reimbursement services include but are not limited to: work furlough administrative charges, repayment cash assistance to parolees, and community correctional center reimbursements.

##### **21050.6 Grants**

For the purposes of this article, grants are defined as: funds from sources other than the CDCR GF, for operational and demonstration programs, which involve CDCR

facilities, employees, inmates, or parolees. Typically, grant funds are received for a specific purpose with no obligation to be repaid.

#### **21050.6.1 Authorized Grant Positions**

Some grants allow funding for additional positions. Positions are to be established through the Change in Established Positions process, utilizing STD. Form 607. Only fully funded positions will be established. Current positions partially assigned to in-kind match grants will continue to be charged against their regular reporting units.

- Care must be exercised to determine that all in-kind match positions are filled at all times. Otherwise, the ability to recover the full amount of the contract is reduced by the amount represented by vacant positions.
- In-kind match positions and the time being billed for such positions must be readily identifiable for audit purposes.
- Billings must be prompt and regular within the terms of the contract.

#### **21050.6.2 Grant Advances**

Many grant project agreements contain a provision for advances. Where possible, the institution or program grant administrator must apply for an advance payment that will be sufficient to maintain an anticipated continuing level of expenditure prior to the first reimbursement and thereafter between reimbursements. Maximum advances will be obtained from all grantors as early as possible. Monies received in advance will be recorded by ASB in the advance collections account until the reimbursement is earned.

- Grants must be self-supporting, except for in-kind match (e.g., positions, expenses, etc.). Continuous and careful monitoring of project-related activity and records must be performed by the institutions and/or programs, and ASB to assure that billings, requests for advances from grantors, and grantor's payments, are current.

#### **21050.6.3 Budgetary Recognition**

Each grant project will be established budgetarily by promptly submitting a request to BMB or FMS upon approval of the agreement. Only that portion of the grant that in the best estimate will be expended within the current year budget will be established. The remaining portion of the grant, overlapping into budget year, will be established for the new budget year before July 1.

A grant which is expiring within the current year and which is being extended or renewed must be re-documented for that portion of the renewal or extension falling within the current year.

#### **21050.7 Revisions**

The Deputy Director, Office of Fiscal Services, or designee shall ensure that the content of this article is accurate and current.

#### **21050.8 References**

SAM §§ 6463, 6551-6557, 8752-8758.1, 17105.

Uniform Codes Manual.

PC §§ 2806, 2816, 4007, and 11189.

DOM Chapter 2, Article 20.

Control Sections of the Budget Act.

**ARTICLE 6 — UNASSIGNED**

**ARTICLE 7 — UNASSIGNED**

**ARTICLE 8 — UNASSIGNED**

**ARTICLE 9 — UNASSIGNED**

### **ARTICLE 10 — EQUIPMENT AND SUPPLIES**

*Effective December 5, 1989*

#### **22010.1 Policy**

The Department shall operate in accordance with the basic statewide materials management program policy as stated in SAM 3500.

#### **22010.2 Purpose**

This section provides instructions for ordering equipment and supplies for Headquarters.

#### **22010.3 Responsibility**

Each unit supply requisition officer shall order and receive supplies and equipment for the unit.

#### **22010.4 Ordering of Supplies**

A CDC Form 838, Supply Requisition shall be completed for each and every item listed in the DGS supply catalog. As many as 16 items may be placed on each requisition form and normally, delivery shall be within 24 hours. A supply of CDC Form 838s may be obtained from the Headquarters stockroom and, once completed, forward the white and yellow copies to the stockroom and retain the pink copy in a suspense file.

#### **Emergency Orders**

Emergency orders shall be filled immediately upon receipt, either from the supply stocked in the stockroom or from General Services' warehouse located on Watt Avenue. However, the originator shall hand carry the order to the stockroom supervisor or obtain authorization for the merchandise to be picked up at General Services' warehouse.

#### **Nonemergency Orders**

For other than emergency orders, place the supply requisition form in the outgoing mail basket. Mailroom employees shall pick up and handle from this point. When material is delivered, check the items against the copy of the order that is returned with the material.

Fill out all supply requests in their entirety and indicate delivery room number and name. For stock numbers and descriptions, refer to the General Services office supply catalog. Orders not completely prepared shall be returned.

#### **Departmental Forms**

Orders for all "CDC" and "GA" forms shall be placed on a CDC Form 838, and shall be handled in the same manner as other supply requests. Supply requisitions for these forms do not need a General Services stock number; however, the form number and form name shall be indicated. Orders for all standard state forms shall have the General Services stock number indicated on the supply requisition.

#### **Form 5 Items**

All requests for items obtainable only from an outside vendor (i.e., books, maps, etc.) shall be on an STD Form 5, Intra Office Requisition. These forms shall be submitted in duplicate to the BSS for processing. They shall give a complete description of the item desired (size, style, model, color, etc.), the price, the vendor from whom it may be purchased and the employee for whom the item is ordered.

#### **22010.5 Filing Equipment**

All requests for filing equipment shall be submitted on a STD Form 5 and shall include a statement of justification.

- Shelf files shall be considered when requesting new equipment. Drawer file cabinets, tub type or desk side files, lateral filing equipment, mechanized files, plan filing equipment and rotary files shall not be authorized except in unusual circumstances and only when fully justified.

Each request shall be submitted to the Department's records management analyst in BSS for review and approval.

#### **22010.6 Shredder**

A shredder located in the Correctional Case Records Section may be used to destroy a small amount of confidential material.

Upon request, mailroom personnel shall arrange for the destruction of large amounts of confidential material.

#### **22010.7 Revisions**

The Deputy Director, OBS or designee shall ensure that the content of this article is accurate and current.

#### **22010.8 References**

SAM § 1161.

### **ARTICLE 11 — TRAVEL**

*Effective December 5, 1989*

*Updated September 19, 2013*

#### **22020.1 Policy**

Travel Expense Claims (TEC) policies are specified in the CCR and the various collective bargaining agreements (MOU). All employees are expected to be familiar

with the following policy and departmental procedures established to facilitate operations within the framework of these statewide requirements:

#### **22020.2 Purpose**

The purpose of this section is to provide the procedures and guidelines to be followed by Department employees who are on travel status. Should the content of this section conflict with any MOU agreement, the MOU will prevail.

#### **22020.3 Responsibility**

It is the responsibility of each manager/supervisor authorizing employee travel to practice the following principles:

- Travel is usually warranted when personal contact by the employee is the most economical method of conducting state business.
- Attendance at conferences and meetings is limited to persons immediately concerned with the topics to be discussed or the business to be transacted.
- A manager/supervisor shall consider the most economical method of transportation in addition to the amount of time an employee would spend away from their office.
- Travel by the employee shall be scheduled to avoid backtracking and/or additional trips whenever possible.
- State cars should not be parked overnight at an airport unless there is no other practical and/or reasonable way for an employee getting to and from the airport.
- Reimbursement shall be made only for the method of transportation which is in the best interest of the state. The employee may choose a more expensive form of transportation above the state rate but shall only be reimbursed for the approved state rate for transportation.

#### **Volunteers**

With prior authorization, volunteers may be eligible for TEC reimbursements. To be eligible, volunteers must complete and sign a volunteer services agreement, an oath of allegiance, and a health questionnaire.

The TECs shall be limited by the same constraints and policies as state employees.

#### **22020.4 Travel Authorization**

*Updated September 19, 2013*

The travel request, CDCR Form 1082, Request For Travel/Advance, has been designed to provide a weekly plan of proposed travel and absences for any staff member on travel status.

Each staff member shall submit a CDCR Form 1082 to their immediate supervisor preceding planned travel or absence. The approved forms shall be routed as follows:

- If a travel advance is needed, one copy of the form shall be forwarded to the accounting office and one to the employee.
- If no travel advance was requested a copy of the approved form shall be returned to the employee.

#### **22020.5 Travel Expense Advances (TEA)**

TEAs to cover necessary travel expenses shall be made from the revolving fund. TEAs are handled in two ways:

- A temporary TEA may be requested at the time the plan for travel is submitted for a specific trip or period.
- A permanent TEA may be approved for employees who travel a significant amount of time on a monthly basis provided it does not exceed the employee's average monthly travel reimbursement. Employees shall submit Standard Form 262, Travel Expense Claim to be reimbursed for the actual amount of each travel claim.

#### **Repayment of Temporary TEA**

A temporary TEA is to be repaid within 30 days of the date of issue unless the employee is away from their headquarters continuously for more than 60 days in which case the temporary TEA is to be repaid within 30 days of the employee's return to their headquarters. Repayment may occur in the following ways:

- If the TEA was for more than the actual TEC, repayment in the form of a check for the difference must accompany the TEC.
- If the TEA is for less than the TEC, a revolving fund check for the difference shall be issued when the TEC claim is submitted.

- If the trip is cancelled or postponed more than one week, any temporary TEA is to be returned immediately.

#### **Permanent Travel Expense Claim**

Permanent TEAs shall be reviewed periodically and adjusted if the advance does not meet current requirements of the employee's TECs:

- Annual confirmation of the liability and estimate of the current requirements, as required in the SAM, shall be signed by the employee and approved by the supervisor.

#### **Monetary Limit for Travel Expense Claims**

The total amount of any outstanding TEA, including temporary and permanent, to one individual shall not exceed \$500. Exceptions to this policy must be approved in writing by the Deputy Director, ASD. A TEA is considered outstanding if no TEC has been submitted to the appropriate accounting office for the trip or purpose for which the TEC was authorized.

#### **Collection of Travel Expense Claims**

Failure to repay either a temporary or permanent TEA when circumstances no longer justify the advance will necessitate collection by the accounting office from the employee's salary. A permanent TEA shall be repaid by check once an employee is no longer traveling a significant amount of time in a month or when the employee separates from the Department.

#### **22020.6 Charges for Accommodations and Meals at Department Facility**

It is the option of each employee to utilize overnight accommodations at departmental facilities where lodging is available. When such is planned, employees should request reservations and confirmation in advance.

In these circumstances, employees may claim full per diem. However a \$5.00 charge shall be made to the employee by the facility providing the accommodations. Institutions shall develop procedures for collecting this \$5.00 room charge.

No per diem shall be authorized for employees participating in training at the Academy.

Employees who eat meals at state operated departmental facilities shall present meal tickets or equivalent for each meal served.

DPA Rules 599.662 and 599.663 contain authority and instructions concerning employee's and guest's meals served at state operated facilities.

Travel may include staying overnight or eating in Nevada. Subsistence allowance shall be based on in-state travel allowances. Travel claim should state "Reno en route to Susanville."

#### **22020.7 Preparation of Travel Expense Claim, STD Form 262**

DPA rules provide allowance for subsistence expenses (meals and lodging), transportation expenses, including commercial carrier fare, private car mileage allowances, parking, taxis, bridge tolls, and business expenses, including telephone calls for non-represented employees. Rules for represented employees are found in the applicable bargaining unit contracts.

The DPA travel expense rules provide reimbursement for necessary and actual out-of-pocket expenses incurred by state employees while traveling on official state business. Within this context, maximum limits are prescribed for various types of expenses incurred. These limits serve the purpose of notifying the employee planning a trip, in advance, the maximum amounts that shall be reimbursed.

#### **24 Hours or More**

The regular per diem schedule assumes that an employee will provide the full cost for lodging and meals during a 24-hour period. If an employee receives one or more meals without charge (i.e., a luncheon at a conference that is included in the state paid "tuition" fee), they shall reduce their TEC in accordance with the reimbursement schedule for meals. If an employee receives free room and/or board, their per diem should be reduced to the extent that their actual expenses were reduced.

#### **25 Miles**

No subsistence expenses shall be allowed at any location within a radius of 25 miles of an employee's headquarters. Parole agents supervising a caseload are considered to be at "headquarters" wherever their travels might take them in covering their caseload; therefore, no per diem allowance shall be provided for trips of less than 24 hours within such "headquarters."

Claims for meals at informal business meetings, at adjourned sessions or recesses of official meetings when attendance of the employee is primarily for public or community relations are specifically prohibited.

#### **Less Than 24 Hours**

Employees on travel status for less than 24 hours may claim subsistence expenses incurred before or after the regularly scheduled workday but lunch allowance may not be claimed. Non-represented employees may claim breakfast and/or dinner expenses incurred 25 miles from headquarters and at least one hour before and/or

after the regularly scheduled workday of the employee. Represented employees should check their MOU contract to determine eligibility for meal expenses.

Detailed instructions for preparation of STD Form 262 are contained on the reverse side of the form.

#### **22020.7.1 Rate for Reimbursement**

All represented employees should refer to their MOUs to determine actual subsistence allowances as approved by the DPA.

DPA transmits Management Memos when rates of reimbursement change (This document should be attached to this manual section for easy reference for all non-represented employees).

#### **High Cost Rate Criteria**

DPA may perform post audits on the Department's application of delegated authority to approve lodging expenses using the following criteria:

- The name and address of the establishment where expenses were incurred.
- The actual amount of the expenses.
- The reason(s) why it was necessary to incur expenses in excess of the authorized limit such as, but not limited to:
  - Employee was required to stay at the lodging site.
  - Employee is handicapped and required "reasonable accommodations".
  - State business was conducted in late night meetings.
  - Cost of transportation to alternative lodging would equal the cost of the rate that was paid.
  - Availability of transportation to alternative lodging.
  - Availability of alternative lodging.
- If more than one employee is attending a conference or meeting a detailed explanation of why one employee could not achieve the objective of the trip.

A copy of the approved request to exceed the \$79.00, lodging rate must be attached to the employee's TEC prior to submission to the appropriate departmental accounting office for processing and submission to the SCO.

#### **22020.7.2 Submission of Travel Expense Claim, STD Form 262**

TECs for regular travel shall be submitted monthly but no more than two times per month.

Employees shall submit one original STD Form 262, and one copy with all supporting documentation to their supervisor for approval and forwarding to the accounting office.

#### **22020.8 Private Car Mileage**

Reimbursement rates to operate a privately owned vehicle may vary when authorized by department head/designee, or for specialized vehicles with certification.

Rates claimed in excess of authorized cents per mile require that the certification statement on the TEC be signed by the employee. The statement says, "for mileage reimbursement which exceeds the minimum rate, I certify that the actual cost of operating the vehicle was equal to or greater than the rate claimed." The maximum mileage rate that may be claimed without justification to the Internal Revenue Service (IRS) is 24.0 cents per mile and subject to change.

#### **22020.9 Travel Expense Claim for Transportation of Prisoners/Parolees**

The definition for "transportation of prisoner/parolee" is the transporting of a prisoner/parolee between two points entirely within the State of California.

All expenses relative to the transportation of prisoners/parolees will be claimed on STD Form 262 separate from any other traveling expenses. This TEC must be clearly marked "Transportation of Prisoners."

DPA rules provide detailed information concerning allowable expenses. Receipts or supporting vouchers that are required are listed on the reverse side of STD Form 262. In addition, a CDC Form 123, Body Receipt, which is obtained from the facility at the time the prisoner/parolee is delivered, shall accompany the STD Form 262 if any expenses are claimed for the trip.

If, for some reason, the prisoner/parolee is not delivered to a prison or jail, a letter of explanation must accompany the STD Form 262 indicating the reason why the prisoner/parolee was not delivered.

Two copies of the TEC with all substantiating vouchers and receipts shall be forwarded to the administration accounting office upon completion of the trip. The prisoner/parolee's name and identification number must appear on the claim.

#### **22020.10 Travel Expense Claim for Return of Fugitive**

Definition for "Return of Fugitive" is the transporting of a prisoner or parole violator from a point outside California to a point within the state.

All TECs for "Return of Fugitive" shall be claimed on AUD Form 5, State Agent Travel Expense Claim.

DPA rules and the reverse side of AUD Form 5 detail allowable expenses.

#### **Certification**

The claim of the agent should be accompanied by one (or more) of the certifications shown under Item 12 on the reverse side of AUD Form 5.

A CDC Form 123 should accompany the AUD Form 5.

Receipts or vouchers shall be submitted as outlined on the reverse side of AUD Form 5, Item #10.

If an advance of funds has been made by a county or city treasurer for the transporting of prisoners or parole violators, payment shall be made to such treasurer if claim is accompanied by a certification that such funds were so advanced.

Two copies of the TEC with all substantiating vouchers, receipts, and other necessary documents shall be forwarded to the administration accounting office upon completion of the trip.

#### **22020.11 Automobile Travel Authorization**

*Revised January 31, 1992*

The use of both State-owned and privately owned vehicles for operation on State business is defined and controlled by SAM 0750 through 0755, 4100 through 4188, and DPA 599.630, 599.631, and 599.800 through 599.808.

All employees who drive automobiles in the conduct of State business shall be thoroughly familiar with these provisions.

Information concerning the procedures to be followed in the event of an accident while on State business in a State, private, or rental vehicle can be found in SAM 2420, 2430, 2440, 2441, 2441.1, 2442, and 2442.1.

#### **22020.12 Use of State-Owned Automobile**

*Revised January 31, 1992*

In order to eliminate any misunderstanding concerning authorized use of State-owned automobiles, the following sections are established as a guide:

- Improper use of State-owned vehicles shall be cause for adverse personnel action.
- State-owned vehicles, as a general rule, shall not be driven to or from an employee's home unless:
  - The employee is departing on or returning from an official trip away from headquarters before or after normal working hours.
  - The employee's home is reasonably en route to or from his/her headquarters or other place where he/she is to commence work.
  - The vehicle is used continuously for two or more days to conduct State business.
  - The employee has completed a work day and the vehicle is to be used in the conduct of State business on the same day or before his/her usual working hours the next day.
  - No State garage facility is available.
  - The vehicle is being operated as a van pool on a reimbursed basis between employees' homes and places of employment.

#### **22020.13 Home Storage Vehicle Permit**

When an employee is required by his supervisor to store a State vehicle at his/her home or vicinity thereof in order to fulfill his/her civil service duties on a frequent basis, a permit must be issued in advance by the Department.

Frequent, as defined and stated above, shall be 72 nights at home in a 12-month period or more than 36 nights at home over any three-month period, or as permitted under DPA 599.808.

Wardens, the Deputy Director, Institutions Division, and active case carrying agents of the P&CSD shall use the following procedures in securing home storage permits.

- A Home Storage Request/Permit, Office of Fleet Administration (OFA) Form 77 shall be completed by the Warden or Deputy Director, Institutions Division.
- Vehicle travel logs, completely and accurately filled out, that covers the three prior calendar months are to be attached to the request.



- The request shall be submitted to Headquarters, BSS, for coordination of the review and approval process.
- If the request lacks sufficient information, it will be returned for completion and resubmission.
- If the request is approved, a copy of the approved OFA Form 77 will be returned to the requestor.

The approved OFA Form 77 will serve as the permit and shall automatically terminate one year from the date of issuance and may be renewed at the discretion of the Department.

#### **22020.14 Authorization to Operate Unmarked State Vehicle**

Employees required to drive unmarked state vehicles in the performance of their official duties are required to submit a memorandum. The memorandum shall contain their name, position, division, job duties, and unit, addressed to The Director and submitted to Contract and Business Service Branch, ASD, as soon after their appointment as possible.

The memorandum shall then be submitted through the Deputy Director, ASD, to the Director for approval. Upon the Director's approval it shall be forwarded to the YACA and the Governor's Office for final approval.

- Blanket authorization has been granted for all case-carrying Parole Agents by the YACA and the Governor's Office.

If the unmarked state vehicle is taken from the DGS vehicle pool a FAD Form 33, Request for Certification to Operate State-Owned Vehicle Bearing Non-Exempt License Plates, shall be submitted to the Deputy Director, ASD, for submission to the Director for approval and then to the AG's office.

A TD Form 34a or 34b, Permit to Operate an Undercover Car will be issued by the AG's Office. The permit may be required by the DGS when checking out an unmarked vehicle from a state garage on a permanent or temporary assignment (VC 5002). These permits shall be renewed annually on a calendar year basis.

DGS undercover vehicles may be obtained on a temporary basis by presenting the "TD34a Form or 34b" permit and their DGS charge card to the state garage dispatcher.

#### **22020.15 Assignment of a State Vehicle**

DGS pool vehicles may be obtained from any local state garage or airport pool for a maximum of two weeks per assignment.

State vehicles may be assigned on a long-term basis when it is determined that a short-term rental may hinder the performance of an employee's official duties and those duties will exceed a two-week period.

The request for both undercover and exempt vehicles shall consist of a FAD Form 54, Monthly Assignment or Release of a State Vehicle, or a memorandum prepared in accordance with SAM 4182.5.

Upon approval and availability of the vehicle from the DGS, the employee or their supervisor will be notified by the local garage as to the specifics regarding how the vehicle may be picked up.

- A DGS charge card will have to be presented at that time so that charges for the vehicle are invoiced to the proper billing code number.

The Department is charged for the rental or lease of state vehicles that are owned by the DGS. Prices are shown in the General Services Price Book and Directory of Services.

For additional information on the usage of pool vehicles and locations of available pool vehicles, consult the SAM 4182.4 and 4187.1.

#### **22020.16 Driving Rules**

Drivers must have in their possession a valid operator's license while operating a state-owned vehicle.

Employees shall adhere to all vehicle code requirements, including all posted speed limits.

##### **Traffic Citation**

If an employee receives a traffic citation while driving a state-owned vehicle, they shall report the circumstances to their supervisor on the first work day in the office following the incident. Citations that indicate negligence or other serious conditions may result in departmental adverse personnel action.

The person to whom the citation is issued is responsible for all fines and other penalties levied.

It is permissible for persons who are not state employees to be passengers in state-owned vehicles, and they are insured by the state when the

employee or agent of the state is acting within the scope of their employment. However:

- State cars can only be driven by state employees or agents of the state.
- Employees who wish to take their families with them are encouraged to use private automobiles. Transporting of family members in state-owned vehicles is discouraged.
- Hitchhikers should not be picked up under any circumstances.

#### **Other Than State Business**

Use of state-owned vehicles for other than state business is prohibited except as necessary to meet personal needs while traveling.

- Personal needs do not include pleasure driving for sightseeing or recreational purposes.
- The use of state-owned vehicles to and from restaurants within a reasonable distance from the place of lodging is authorized.
- The DGS may notify agencies of alleged misuse of a state-owned vehicle. If, on the basis of any records it may have, the DGS is of the opinion that misuse has not occurred, the case will be closed by an answer to the complainant without referral to the agency.

#### **Travel Log**

An automobile travel log is required under the CCRs, DPA 599.807, GC 13951(C) and SAM 4143.

The cost for repairs for damages to a car caused by an employee driving the car not in the course of their state employment, or which is due to willfully or imprudently operating the vehicle in an unsafe or illegal manner shall be charged to the driver (DPA 599.802-599-806 information).

#### **22020.17 Use of Commercially Rented Vehicles**

When state pool cars are not available, it is permissible to rent vehicles available through commercial rental agencies. The most economical vehicle suitable for the purpose will be utilized as required under SAM 0756 and 4187.1 and DPA 599.627.

The DGS enters into a service agreement to provide commercial automobile rentals at certain locations in California (SAM 4187.11.) Employees will have no choice as to the model of the vehicle assigned to them. This determination will be made by the vendor. State employees traveling to any of these locations will be required to use the contract vendor. Employees renting from other than the contract vendor in these locations may be personally liable. State employees should not secure rental car insurance, as the State of California is self-insured.

#### **22020.18 Use of Privately-Owned Vehicles**

In accordance with DPA 599.630 and 599.631 and SAM 0750 through 0755, the following procedures are established for the use of private automobiles on state business by employees of the Department.

Before an employee can receive reimbursement for official travel performed in a privately owned vehicle, it is necessary that a Standard Form 261, Authorization to Use Privately Owned Vehicles on State Business be approved by authorized persons. The following procedure shall be used to obtain such approval.

The employee shall complete and sign STD Form 261 and route as follows for signature by the authorized officer indicated below:

##### **Institutions**

- To Warden by business manager through division heads.

##### **P&CSD**

- To Deputy Director, P&CSD, through Regional Administrator or appropriate Headquarters supervisor.

##### **Department Headquarters**

- To division chief through regular supervisor.

When approved by authorizing officer, the following distribution of STD Form 261 will be made:

##### **Original**

- Forward to the accounting officer, authorization for payment of private mileage on travel expense claim.

##### **Duplicate**

- Return to employee.

##### **Triplicate**

- Return to supervisor.

If permit is disapproved, all copies of STD Form 261 will be returned to the employee.

**22020.19 Reimbursement for Use of Private Car**

When reimbursement is authorized on a mileage basis, expenses shall be claimed on a STD Form 262.

The maximum mileage allowed between Sacramento and the institutions and parole regions shall be in accordance with the following schedule:

<b>Sacramento to:</b>	<b>One Way</b>	<b>Round Trip</b>
ASP	208	416
CCC	228	456
CCI	330	660
CIM	440	880
CIW	448	896
CMF	37	74
CMC	325	650
COR	260	520
CRC	450	900
CTF	215	430
CVSP	630	1260
DVI	66	132
FSP	26	52
MCSP	48	96
NCWF	48	96
PBSP	382	764
RJD	528	1056
SCC	103	206
SQ	87	174
LAC	385	770
Oakland	82	164
San Francisco	88	176
San Francisco Region II	95	190

This schedule does not apply if the employee travels by private car to more than one institution during a single trip.

Reimbursement for mileage when an employee is ordered back to work outside regularly scheduled work hours or on normal days off (i.e., when an employee is on call-back time) will be in accordance with the provisions of DPA 599.708.

**22020.20 Aircraft Travel**

Use of scheduled airlines for state travel is governed by DPA 599.628 and SAM 0741. State employees are requested to travel by the least expensive class available. The standard classes from least expensive to most expensive are as follows:

- Commuter.
- Coach.
- Standard.
- First class.

State employees traveling by other than the least expensive class available shall provide a full explanation stating the facts constituting the official necessity when submitting their TEC.

**Privately-Owned Aircraft**

Use of an employee's privately owned aircraft for state travel is governed by DPA 599.628 and SAM 0745 through 0746.

**Charter Aircraft**

Use of chartered (i.e., agency-rented) aircraft for state travel is governed by DPA 599.628 and SAM 0747.

**22020.21 Purchase of Tickets for Schedule Airlines****Cash Purchase**

Airline tickets may be purchased with cash, personal credit card, or a TEC filed for reimbursement. If necessary, a temporary travel advance, DOM 22020.5 may be requested to cover the costs of airline tickets.

**Travel Agency**

Reservations and the purchase of airline tickets may be handled by a travel agency. There must be no charge for this service and invoices from the travel agency must contain adequate detail for audit purposes including passenger's name, cost of ticket, issue date, and class of flight.

**22020.22 Attending Conventions, Conferences, or Business Meetings**

Travel expenses incurred in attending conventions or conferences may be allowed. Where more than two individuals (officers or employees) from the same department are attending the same convention or conference, approval of each claim by the department head, a deputy, or the chief administrative officer is required. This requirement does not

apply to a conference called by a state department for purposes of instruction or dissemination of information to its own officers and employees.

Registration fees incurred in attending conventions, conferences or other similar formally scheduled meetings may be allowed. Reimbursement for registration fees exceeding \$50 must be approved by the department head, deputy, or the chief administrative officer.

For a conference called by a state department, no subsistence expense will be allowed within 25 miles of an employee's headquarters, as the conditions applying to the employee are controllable by their agency. Exception may be given in advance by the DPA for unusual circumstances. For such conferences no claim for registration fee will be allowed.

- If an exception is granted by the DPA, claims for meals and lodging shall be in accordance with the travel allowances set forth in DOM 22020.7.

**Actual Costs**

The officer or employee may claim the actual cost of meals and lodging provided:

- The conference or meeting was not planned or arranged by a state agency.
- The circumstances and cost of the meals or lodging were beyond the control of the officer or employee.
- The claim is supported by a voucher, indicating the actual amount paid, attached to the expense account form.

When state officers or employees are attending conventions or conferences outside the state, the authorization required by DOM 22020.23 must expressly include authorization to attend such convention or conference.

**22020.23 Out-of-State Travel**

Out-of-state travel by employees is defined and controlled by SAM 0730 through 0733 and DPA 599.619.

**22020.24 Blanket Approval of Out-of-State Travel**

At the beginning of each fiscal year, the Department submits a blanket out-of-state travel request for approval by the DOF and the Governor's Office. This blanket request lists all proposed trips for the year. The necessary information for inclusion of a trip in the blanket out-of-state travel request usually must be received by the Financial Management and Support Services by April 30.

**22020.25 Individual Request for Approval of Out-of-State Travel**

Out-of-state travel requests, which are not included in the Department's blanket approval, require individual approval by the YACA, DOF, and Governor's Office. In order to expedite the approval process and improve the chances of securing favorable review by the control agencies, the following should be adhered to:

- Standard Form 257 (Request For Approval Of Out-Of-State Travel), should be received by the ASD as early as possible prior to the departure date. Ideally, a 30-day lead time should be allowed for adequate processing through the agency, DOF, and the Governor's Office. Of course, this does not allow for unscheduled delays. The 30 days is strictly a minimum allowable time.
- Each travel request should have substantial justification attached as to the benefits the trip(s) will accrue for the department/state. Inadequate justification will cause delays, and may result in disapproval of the request by the control agencies.

**22020.26 Subsistence Allowance**

When state officers or employees are on travel status, payment of a subsistence allowance will be authorized by the DPA for both in-state and out-of-state travel. The circumstances of travel shall determine the rate allowed. Agencies shall authorize payment for lodging, meals and incidental expenses as claimed by the employee in accordance with the current DPA Management Memo. Each agency is responsible to determine which of the following allowances is applicable:

- In-state subsistence allowance.

**Short-Term Allowance**

- A short-term allowance shall be authorized when the circumstances and duration of travel are such that the traveler incurs expenses comparable to those arising from the use of good, moderately priced establishments, catering to the general public. The short-term allowance is intended for trips of such duration that weekly or monthly rates are not obtainable.
- A long-term allowance shall be authorized when the circumstances of travel are such that the traveler incurs expenses in one location comparable to those arising from the use of establishments catering to the long-term visitor. In computing allowances under this section, the long-term rate will apply only while the employee is at the temporary location. Expenses incurred while traveling to or from the job site will be reimbursed at the short-term rate.

An employee on field assignment away from their headquarters who maintains a permanent residence elsewhere while living at the job site will be authorized the long-term allowance provided one of the following conditions exists:

- Permanent residence is occupied by employee's dependents, or

- Permanent residence is being maintained and held vacant by the employee at an expense to him in excess of \$200 per month. For purposes of this rule, maintenance costs are not limited to rent or basic mortgage payments.

To qualify for this per diem allowance, an employee must submit whatever evidence his agency may require substantiating the existence of either condition.

#### **Non-commercial Allowance**

A non-commercial allowance will be authorized when the circumstances of travel are such that the traveler incurs expenses comparable to those arising from the use of non-commercial subsistence facilities, such as, but not limited to, house trailers or field camping equipment. In computing allowances under this section, expenses incurred at commercial establishments while traveling to or from the job site will be reimbursed at the short-term rate.

#### **22020.27 Out-of-State Subsistence Allowance**

For out-of-state travel, state elected officials and other employees will be reimbursed actual lodging expenses, supported by a voucher, and reimbursed for meal and incidental expenses in accordance with DPA Management Memo.

#### **Computation of Allowance**

The short-term allowance is based upon the rates shown in DPA Management Memo.

Long-term and non-commercial allowances will be computed at 60 percent of the statewide short-term allowance for meals and lodging, plus the incidental allowance, when applicable, rounded to the nearest dollar.

#### **Expenses Outside the State**

Expenses incurred outside the state will not be allowed unless authorization for incurring them and permission for absence from the state has first been obtained from the Governor and the Director of Finance. The Director of Finance approval is required where expenses are incurred by travel to and from places in states bordering California. Any terms or directives set forth in such authorization are limitations and will not operate as exceptions to these rules. A separate claim for expenses for out-of-state travel must be submitted, do not combine with in-state expenditure.

Subsistence expense negotiated or paid for by the state. When a significant portion of the subsistence expenses (either meals or lodging) are negotiated or otherwise paid for by the state (e.g., billed to the state, paid for by group leader, included in overnight train fare, etc.) the employee will not be reimbursed for such expenses. The employee will be allowed to claim reimbursement in accordance with DPA Management Memo for any subsistence not provided.

#### **22020.28 Overtime (OT) Meals**

When any state officer or employee is required to work OT, they may receive an OT meal allowance for the actual expenses supported by a voucher not to exceed the maximums prescribed in DPA Management Memo for lunches. To be eligible for this allowance, the employee must be required to report to work at least two hours prior to or be required to remain at least two hours past the regularly scheduled work day.

If the officer or employee is required to work for more extended periods of time, they may be reimbursed for actual meal expenses not to exceed the maximums prescribed by DPA for each additional six-hour period. No more than three OT meal allowances may be claimed during any 24-hour period. The mealtime shall not be included in the computation of OT for the purposes of this allowance.

Agencies that operate facilities for feeding officers, employees, and official guests may instead furnish an official guest meal to an employee. Agencies shall maintain a record of all guest meals furnished for this purpose. An employee may not claim reimbursement for an OT meal nor be furnished a meal free of charge if they are also claiming per diem.

#### **22020.28.1 Business Related Meals**

When it is necessary for state officers or employees to conduct official state business during a meal, they may be reimbursed for actual meal expenses substantiated by a voucher up to the maximums prescribed in DPA Management Memo.

In order to claim reimbursement for a business-related meal, the circumstances surrounding the meal must be beyond the control of the officer or employee and it must be impractical to complete the business during normal working hours. Officers or employees may not claim reimbursement for a business-related meal if they are also claiming per diem.

Claims for meal expenses where business is incidental to the meal or where the attendance of the employee is primarily for public or community relations are specifically prohibited.

The intent of this section is to allow an agency to reimburse officers and employees for meal expenses in the limited number of instances where they are required to incur such expenses in connection with the conduct of official state business.

Members of non-salaried boards, commissions, and duly constituted advisory committees may be reimbursed for actual meal expenses up to the maximums prescribed in DPA Management Memo when attending board, commission, and committee meetings. They may not claim this allowance if they are also claiming per diem.

#### **22020.29 Employee Moving and Relocation Expense**

Moving and relocation expenses of employees, who are required to move by administrative decision, are defined in DPA 599.721, 599.722 and SAM 3829.

In the case of a promotion or when the institution, region, or Headquarters division requests an employee to accept another assignment, the receiving entity shall pay the necessary moving and relocating expenses. The qualifying assignment may include but is not necessarily limited to training and development, limited term, and temporary assignments. It should be noted that the DPA 599.721 and 599.722 clearly specifies that actual and necessary expenses only are allowable. Do not automatically provide the maximum for employees.

A voluntary non-promotional transfer in response to an individual's personal request should specify that no moving or relocation expenses will be paid unless it is deemed to be in the best interest of the state by the appointing authority.

Employees may request moving and relocation information packages from: Institutions-respective Wardens, Attention: Business Manager, Headquarters-BSS, by Division Deputy Director.

#### **22020.30 Revisions**

The Associate Director, Office of Accounting Services or designee shall ensure that the content of this article is accurate and current.

#### **22020.31 References**

DPA §§ 599.619, 599.626, 599.628, 599.630, 599.631, 599.662, 599.663, 599.708, 599.721, 599.722, 599.802-599.808.

SAM §§ 0730-0733, 0741, 0745-0747, 0750-0755, 0756, 2520, 2530, 2540-2542.1, 3829, 4100-4188.

V.C. §§ 5001 and 5002.

P.C. § 1557.

G.C. § 13951.

## **ARTICLE 12 — MATERIALS MANAGEMENT**

*Effective December 5, 1989*

### **22030.1 Policy**

The Department shall operate in accordance with the basic statewide materials management program policy in the SAM 3500. The Department shall practice effective purchasing methods that will minimize the quantity and type of expendable items in the Department's inventory.

The inventory management and control systems in use throughout the Department shall be standardized, when possible, and provide for an accountable, responsive, and financially sound materials management program.

### **22030.2 Purpose**

This section describes the materials management program of the Department.

### **22030.3 Responsibility DGS**

Every purchase of supplies or equipment in excess of \$100 is subject to the approval of the DGS. DGS has delegated purchasing authority in accordance with the Public Contract Code (PCC) 10330 to the Department.

#### **Department's Administrators**

The Warden at each institution; the Deputy Directors of ASD and Planning and Construction (P&CD); and the General Manager of CALPIA direct their purchasing programs and investment of expendable goods inventories.

#### **Materials Manager**

The Materials Manager in the BSS of the ASD shall:

- Coordinate the materials management program.
- Provide guidelines, training, and assistance to staff in meeting the goal and objectives of the materials management program.
- Audit purchasing activities periodically to ensure adherence to the purchasing laws and procedures and the terms and conditions required for materials management. The Materials Manager shall work closely with the business

management staff of each institution to ensure that these policies and procedures are being followed.

#### Associate Warden, Business Services

The Associate Warden, Business Services, at each institution shall ensure that the goal and objectives of the Department's materials management program are met and ensure that all department staff involved in purchasing are afforded the opportunity to receive the training required to adequately perform their duties.

#### Purchasing Units

The Department's purchasing units shall:

- Purchase materials necessary to meet the needs of the Department in a timely manner.
- Purchase products and services which provide the best quality for the least money.
- Deny or reduce a requisition for items for inventory if the amount requested exceeds the maximum based on the minimum/maximum order points or requisitioning objective concept stock control method.

#### Employees

All departmental personnel involved in purchasing shall:

- Comply with state and departmental conflict of interest policies and procedures and the terms and conditions of the delegated purchase program. Conflict of interest statements shall be on file for the employees securing bids and quotes from vendors and those employees who approve and have authority over materials management program activities.
- Receive purchasing training offered by either the State Office of Procurement or the Department's materials management staff.
- Be familiar with the Intraoffice Requisition/Procurement Worksheet, state purchasing contracts, state price schedules, Materials Services Supply Order Forms, Contract/Delegation Order Forms, and the delegated purchase program.

No employee shall commit to a vendor for the purchase of merchandise or services prior to receiving approval and the preparation of a purchase document.

#### 22030.4 Goal and Objectives

The program goal is to have quality materials available where they are needed, in adequate quantities, at a minimum cost to the Department.

The Department's program objectives include the following:

##### Support

- Support operations with an uninterrupted flow of material without overstocking.
  - Maintain accurate stock records with fiscal accountability.
  - Set stock levels after stock records are maintained and reset levels at least annually thereafter.

##### Improve

- Improve service at the lowest feasible cost.
  - Chart the target and the actual inventory level of the total inventory and by material commodity group and class.
  - Chart and measure the overall service level and set goals.

##### Develop

- Develop reliable systems which shall help prevent stock outages and provide continued program performance.
  - Determine the percentage of stock outages caused by late deliveries or inaccurate forecasts.

##### Set

- Set an inventory turn rate goal for each commodity group.
  - Measure the annual inventory turn rate by group.

##### Maintain

- Maintain an accurate and up-to-date book inventory.
  - Compare physical inventory counts with book inventory counts.
  - Determine the level of accuracy in posting transactions.
  - Identify the data lag by comparing the date of the inventory transaction with the date the transaction is posted.

#### Keep

- Keep the inventory investment and the inventory losses because of deterioration and obsolescence of stock items at a minimum.
  - Determine whether or not stock is being rotated.
  - Determine the amount and value of items declared obsolete or defective.
  - Identify all items with declining demand histories before they become obsolete.

#### Buy

- Buy competitively.
  - Secure bids and quotes from vendors to determine lowest cost.
  - Develop lists of vendors and encourage vendors to offer discounts for prompt payment of invoices.

#### Encourage

- Encourage purchases from small, minority, or women-owned businesses.
  - Establish goals and facilitate the participation of 15 percent minority and 5 percent women owned businesses in procurement service and public works contracts.
  - Provide that the contracts let by the Department for the construction, erection, alteration, repair, or improvement of a state prison facility and for services, maintenance, and supplies be awarded to at least 15 percent minority businesses and 5 percent women-owned businesses.
  - Determine the percentage of expenditures for annual purchases awarded to small, minority, or women-owned businesses.

#### 22030.5 Intra-Office Requisition/Procurement Worksheet

A CDC Form 954, Intra-office Requisition/Procurement Worksheet shall be used to provide purchase office staff with data required for the preparation of final purchase documents. One side of the form is designed for the requisitioner to list information about the bid and quote processes used to determine the vendor that shall be awarded the purchase, and the other side is used to list all pertinent purchasing data after the bids and quotes are analyzed. The CDC Form 954 shall be affixed to the file copy of the final purchase document for audit purposes.

#### 22030.5.1 Intra-Office Requisition Data Requirements

The intra-office requisition data requirements are as follows:

##### Area of "Intraoffice Requisition"

Agency billing code - to be entered by the requester or purchase office staff.

Location - to be entered by the purchase office staff.

Contract/delegation number - enter the appropriate number found on state contracts state price schedules, or the unit's delegated purchase program number.

Ship to - enter unit and person to which the merchandise or services are to be delivered.

Bill to - to be entered by the purchase office staff.

Date - enter the date the requisition is prepared by the requester.

Agency order number - to be entered by the purchase office staff.

To: (firm address) - enter name, address, and phone number of the vendor contact person who shall receive the order.

Vendor number - enter the appropriate number. If the vendor number is unknown or unavailable, leave blank and fill out small business code and ethnic code.

Small business (S/B) code - enter the appropriate information. If a vendor number is not available, do not leave this code box blank unless the vendor is known to be a "large business". Enter S = small business, or leave blank to indicate large business.

Ethnic code - enter the appropriate information when a vendor number is not available. Enter only one of the following numbers or letters:

	Male	Female
Black	1	A
Asian	2	B
Other	3	C
Spanish-Speaking/Surnamed	4	D
White	5	E
Polynesian	6	F
American Indian or Alaskan Native	7	G
Filipino	8	H
Unknown	Blank	Blank

Line no. - enter a number sequentially beginning with number one for each item being requested..

Quantity - enter the quantity needed in this column. Do not enter fractions, decimals, or commas. Always check the order unit and packaging requirements and adjust the quantity accordingly. Quantity ordered shall correspond with the order units.

Unit - enter the appropriate unit of measure (e.g., EA, DZ, PG, etc.) that is shown in the Purchasing Information Network (PIN) Stock Item Catalog.

Stock item number - enter numbers as required.

Materials Services items - the full 12-digit PIN stock item number that is listed in the Materials Services Catalog.

State contract items - the full 12-digit PIN stock item number found in state contracts or the PIN stock item catalog.

State Price Schedule (SPS) items - no numbers required for state price schedule items except for those sold by the CALPIA.

CALPIA items shall be listed with the full 12-digit PIN number shown in the SPS, CALPIA, or PIN catalogs.

Delegated purchase program items - the four-digit group/class number that is the first four numbers of the PIN stock item number shown in the PIN catalog.

Purchase estimate/purchase order items - enter the 12-digit PIN stock item number shown in the PIN catalog.

Subpurchase order (under \$100) items - no number is required.

Subpurchase order (over \$100) items - enter the four-digit group/class number that is the first four numbers of the stock item number shown in the PIN catalog.

Description - enter the appropriate description for the item being ordered using the key noun that best describes the item and all other descriptors that include color, size, part, or catalog number, name, etc..

Per unit - enter the unit price that corresponds to the quantity/unit of measure being used.

Total - enter the extension price. (The unit price times the quantity equals the total).

I hereby certify - signature and title of the employee who determines that the items requested are appropriate and required for state business.

Approved/title - to be entered by the purchasing officer or the person delegated authority to approve the processing of the final purchase document

## 22030.5.2 Procurement Worksheet Data Requirements

The procurement worksheet data requirements are as follows:

Price quotes obtained by - signature of the person who obtained the required bids and quotes contained on the worksheet.

Vendor information - not required for state contract, state price schedule, Materials Services and subpurchase orders (under \$100). For purchase estimate/purchase orders, enter the reference vendor that should be invited to bid by the Office of Procurement. Contract/delegation orders and subpurchase orders (over \$100) require multiple quotations orders and subpurchase orders (over \$100) require multiple quotations when purchases are made for highly competitive items (i.e., those items that are available from several sources at competitive prices). Examples of highly competitive items are automotive parts; maintenance items including electrical, plumbing, and lumber; and office supplies. Enter the appropriate vendor name, address, and phone number for each quote required in the spaces provided.

FOB - to be determined at the time quotes are obtained. Request "FOB destination" whenever possible. "FOB shipping point" shall be avoided as title to the materials transfers to the Department at the time of shipment. Filing claims for FOB shipping point orders and resolution of problems involved in the delivery, from the time the shipment leaves the vendor to the time of delivery, is the responsibility of the Department.

Term - enter the cash discount term offered by vendors to ensure timely invoice payment. Cash discounts amounting to at least \$2.50 and where the discount percentage allowed is at least one-half of the percent shall require the appropriate accounting office to issue a revolving fund check to ensure the discount can be taken.

Delivery - enter the date the materials or services are expected to be delivered.

Add minority ethnic indicator - disregard. To be revised at a later date.

Item/quantity/unit - enter the description, number, and unit of measure for the item being ordered.

Unit price/extension - enter the quoted price from each vendor and the total cost of each item. Unit pricetimes the quantity equals the extension price.

Gender/ethnic indicator - circle one of the alpha/ numeric indicators for the vendor awarded the purchaseorder (0-8 or A-H).

## 22030.6 Contract /Delegation Purchase Order

A Standard (STD) Form 65, Contract/Delegation Purchase Order, shall be used for the following:

- Purchases from state contract vendors.
- Purchases from state price schedule vendors.
- Subpurchase order transactions.
- Delegated purchase program transactions.

### 22030.6.1 State Contract Order

The Office of Procurement, DGS, has negotiated contracts with vendors and suppliers for many of the more commonly used products and materials. Materials available on state contract shall be purchased only from the contract vendor.

Officers and employees purchasing state contract items at higher retail prices from non-contract vendors are personally liable for the difference between the non-contract and state contract price, except in verified emergencies which shall be fully explained on the orders covering the emergency.

There is usually a minimum order quantity on commodity contracts. If a vendor shall not accept an order that is less than the minimum order quantity, and the minimum quantity, when received, shall be in "long supply", the item can be purchased off contract. If, upon contacting a vendor, an order for less than minimum quantity is acceptable, the following should be marked on the contract/delegation purchase order: "Agreement to accept order less than minimum authorized (date), by (vendor name)."

All contracts in force are listed in the "Check List of Effective Contracts and Price Schedules" issued by the DGS, Office of Procurement.

For purchases of filing and/or microfilm equipment, necessary approval shall be secured from the Department records management analyst in Headquarters, BSS prior to submitting to the approving agency.

A copy of all new state contract orders shall be mailed to the Office of Procurement on a weekly basis.

### 22030.6.1.1 Data Requirements

The data requirements for purchases from contract vendors are as follows:

#### Area of "Contract/Delegation Purchase Order"

Agency billing code - enter the correct agency billing code.

Contract/delegation number - enter the state contract number from the cover page of the state contract notification. Do not use the dashes when listing the number.

Ship to - enter address to which merchandise shall be delivered.

Bill to - enter name and address of the unit to receive the invoice or statement.

Date - enter the date the order is prepared. The month, day, and year shall be indicated with two digits (e.g., July 17, 1989 as 07 17 89).

Agency order number - enter the appropriate agency order number, an internal control number, from left to right.

Firm address - enter the name, address and phone number of the contact person of the vendor.

Vendor number - enter the appropriate number. When a vendor number is not shown on the state contractnotification, leave blank.

Small business (S/B) code - enter the appropriate information when a vendor number is not available.

S = small business.

Blank = not small business or unknown shall be counted as a large business.

Ethnic code (ETH) - furnish the appropriate information when a vendor number is not available. Enter only one of the following numbers and letters:

	Male	Female
Black	1	A
Asian	2	B
Other	3	C
Spanish-Speaking/Surnamed	4	D
White	5	E
Polynesian	6	F
American Indian or Alaskan Native	7	G
Filipino	8	H

Date wanted - enter the delivery date material is expected (e.g., 30 days ARO shall be converted to an exact delivery date). ASAP shall not be used in any case.

Ship by - used to indicate special handling or a specific method of transportation.

Terms - enter the terms listed in the state contract notification.

Quantity - enter the appropriate quantity needed.

Unit - enter the two digit unit of measure (e.g., EA, DZ, G, etc.).

Stock item number - enter the stock item number exactly as shown in the state contract.

Description - enter the description that is listed in the state contract notification. When the description of the item exceeds one line, the description shall be extended to the next line in the stock item column.

Unit price - enter the unit price that corresponds to the order unit.

Extension - enter the extended price which is quantity times the unit price.

FOB - enter the shipping point noted on the state contract notification.

Sales tax - enter the sales tax required for the purchase of materials.

Total - enter the total cost of the order. Include the subtotals from all continuation pages (STD Form 65A) when they are included in one agency order number.

Charge against - enter the program number, index code, fund title, item number, chapter number, statute, fiscal year, and object code.

Certification - signature of the person authorized to sign the purchase document.

Self-invoicing - the contract/delegation purchase order may be used as a self-invoicing form. Vendors may return "copy 1", with the "self-invoicing" box completed, rather than send a separate invoice.

Completion of all other data requirements on the contract/delegation purchase order form is self-explanatory.

Completion of all other data requirements on the contract/delegation purchase order form is self-explanatory.

#### 22030.6.2 State Price Schedule

SPSs are established to permit direct ordering of primarily noncompetitive commodities by state agencies. They are not contracts and agencies are not required to purchase items from SPS vendors except those listed with CALPIA. Except for items available from CALPIA, if an item of another brand or type would better meet the department's needs and the price is lower, it shall be processed as a normal purchase transaction after notifying the Office of Procurement, Research and Analysis Section, of the intent to purchase the item from another source. Permission shall be secured to purchase materials from alternative vendors who offer the items at lower prices. A notation concerning the approval and circumstance shall be placed on the order for audit purposes.

Purchases against an SPS cannot exceed the \$9,999.99 limit specified in the SPS. Each time an order is placed against an SPS, a copy shall be forwarded to the Office of Procurement.

Purchases from CALPIA have no monetary restrictions.

Copies of SPS orders shall be sent to the Office of Procurement on a weekly schedule.

#### 22030.6.2.1 Data Requirements

The data requirements for purchases from SPS vendors are as follows:

##### Area of "Contract/Delegation Purchase Order"

Agency billing code - enter the correct agency billing code.

Contract/delegation number - enter the appropriate state price schedule number, from left to right, and omit all dashes.

Ship to - enter address to which merchandise shall be delivered.

Bill to - enter name and address of the unit to receive the invoice or statement.

Date - enter the date the order is prepared. The month, day, and year shall be indicated with two digits (e.g., July 17, 1989 as 07 17 89).

Agency order number - enter the appropriate agency order number, an internal control number, from left to right.

Firm address - enter the name, address and phone number of vendor contact person.

Vendor number - not required.

Small business (S/B) code - enter the appropriate information when a vendor number is not available.

S = small business.

Blank = not small business or unknown shall be counted as a large business

Ethnic code (ETH) - furnish the appropriate information when a vendor number is not available. Enter only one of the following numbers and letters:

	Male	Female
Black	1	A
Asian	2	B
Other	3	C
Spanish-Speaking/Surnamed	4	D
White	5	E
Polynesian	6	F
American Indian or Alaskan Native	7	G
Filipino	8	H
Unknown	Blank	Blank

Date wanted - enter the delivery date material is expected (e.g., 30 days ARO shall be converted to an exact delivery date). ASAP shall not be used in any case.

Ship by - used to indicate special handling or a specific method of transportation.

Terms - enter the terms listed in the state price schedule notification.

Quantity - enter the appropriate quantity needed.

Unit - enter the two digit unit of measure (e.g., EA, DZ, PG, etc.).

Stock item number - not required except for purchases from CALPIA. A 12-digit PIN stock item number is required for all CALPIA items.

Description - enter the proper description shown in the state price schedule notification.

Unit price - enter the unit price that corresponds to the order unit.

Extension - enter the extended price which is quantity times the unit price.

FOB - enter the shipping point noted on the state price schedule notification.

Sales tax - enter the sales tax required for the purchase of materials.

Total - enter the total cost of the order. Include the subtotals from all continuation pages (STD Form 65A) when they are included in one agency order number.

Charge against - enter the program number, index code, fund title, item number, chapter number, statute, fiscal year, and object code.

Certification - signature of the person authorized to sign the purchase document.

Self invoicing - the contract/delegation PO may be used as a self-invoicing form. Vendors may return "copy 1" as the invoice after completing the "self-invoicing" requirements.

#### 22030.6.3 Subpurchase Order

A "subpurchase order" is used to order merchandise where the total cost is less than \$100, and for the type of items listed below. A PIN Stock Item number is not needed. Small and minority-owned business shall be vigorously sought when placing subpurchase orders.

Additional items in the "subpurchase order" category:

- Without monetary limits.
  - Purchases from CALPIA.
  - Purchases from the State Educational Agency for Surplus Property Subsistence.
  - Purchases from the DGS, Surplus Property.
  - Purchases of excess personal property from the federal government by qualified state agencies.
  - Inter-agency purchases.
- Special monetary limit - less than \$10,000.
  - Intravenous solutions.
  - Cadavers and live laboratory animals.
  - Prosthetic devices.
  - Purchases of books, educational films, and film strips, Library of Congress cards, film slides (35 mm, 2 x 2, etc.), microscopic slides, reproduction of art objects and paintings, phonographic records, prerecorded tapes, publications, periodicals, sheet music, test and examination booklets (such as education aptitude, achievement, personality, etc.), maps and aerial photograph (cost of publications only, not cost of preparation), and copies of documentary material prepared by governmental agencies.
- Special monetary limit - \$1,000.

- Ice.
- Bottled drinking water or distilled water when it has been determined that the building water supply is not fit for human consumption, or when the cost of connecting a drinking fountain to the building water supply renders it impractical (No other purchases of bottled drinking water shall be made).

**22030.6.3.1 Data Requirements**

The data requirements for subpurchases order using a STD Form 65 are as follows:

**Area of "Contract/Delegation Purchase Order"**

Agency billing code - enter the correct agency billing code.

Contract/delegation number - not required.

Ship to - enter address to which merchandise shall be delivered.

Bill to - enter name and address of unit receiving the invoice or statement.

Date - enter the date the order is prepared. The month, day, and year shall be indicated with two digits (e.g., January 15, 1990 as 0115.90).

Agency order number - enter the appropriate agency order number, from left to right.

Firm address - enter name, address and contact person of the vendor.

Vendor number - enter appropriate number, if available.

Small business (S/B) code - enter the appropriate information when a vendor number is not available.

S = small business.

Blank = not small business or unknown shall be counted as a large business

Ethnic code (ETH) - furnish the appropriate information when a vendor number is not available. Enter only one of the following numbers and letters:

	Male	Female
Black	1	A
Asian	2	B
Other	3	C
Spanish-Speaking/Surnamed	4	D
White	5	E
Polynesian	6	F
American Indian or Alaskan Native	7	G
Filipino	8	H
Unknown	Blank	Blank

Date wanted - enter the delivery date material is expected (e.g., 30 days ARO shall be converted to an exact delivery date). ASAP shall not be used in any case.

Ship by - used to indicate special handling or a specific method of transportation.

Terms - enter the discount the vendor may give to ensure timely invoice payment.

Quantity - enter the appropriate quantity needed.

Unit - enter the 2-digit unit of measure (e.g., EA, DZ, PG, etc.).

Stock item number - not required.

Description - enter the appropriate description for the item being ordered that includes the color, size, part number, name, etc.

Unit price - enter the unit price that corresponds to the order unit.

Extension - enter the extended price which is quantity times the unit price.

FOB - enter FOB destination.

Sales tax - enter the sales tax required for the purchase of materials.

Total - enter the total cost of the order. Include the subtotals from all continuation pages (STD Form 65A) when they are included in one agency number.

Charge against - enter the program number, index code, fund title, item number, chapter number, statute, fiscal year, and object code.

Certification - signature of the person authorized to sign the purchase document.

**22030.6.4 Delegated Purchase Program**

The Office of Procurement has delegated to the Department the authority to make individual purchases up to either \$2,500, \$5,000, or \$9,999.99 excluding sales tax and freight charges. The amount of the monetary limit depends on the results of each organization's delegated purchase program audit. The departmental organizations listed below have been granted delegated purchase program authority:

- Each prison/institution.
- P&CSD.
- CALPIA.
- ASD.

**22030.6.4.1 Program Requirements**

The requirements of the delegated purchase program are as follows:

- All purchases shall be made in compliance with the published Materials Management Handbook developed by the Department.
- Competitive purchases from responsible vendors shall be made to obtain materials that are properly suited to the needs of the Department both in terms of price and quality.
- At least 25 percent of the dollar value of delegation orders shall be placed with small businesses.
- Purchases shall not exceed the monetary limit of the authority. The monetary limit of the authority (\$2,500, \$5,000, or \$9,999.99) is for each group/class commodity on an order. When multiple group/classes are ordered from a vendor, the total dollar value of each order cannot exceed the \$9,999.99 authority limit.
- Delegation orders shall not be split to circumvent expenditure limitations.
- Purchases made under the delegation shall be listed on a Contract/Delegation Purchase Order. The STD Form 65 shall indicate the delegation number, the agency billing code, the PIN stock item number for each item and the small business identification code for the vendor.
- Delegation holders shall forward copies of all delegation orders to the Office of Procurement on a weekly basis.
- Auditable copies of all delegation orders shall be maintained on file and made available to the Office of Procurement upon request.
- When appropriate, the Department shall obtain the approval of other state departments or divisions before issuing a delegation order.
  - For purchases of filing and/or microfilm equipment, necessary approvals shall be secured from the Department records management analyst in the Headquarters, Business Services Unit.
  - For the repair of motor vehicles, authorization shall be secured from the DGS' Fleet Administration Division. The permission granted to repair motor vehicles does not authorize the Department to exceed the monetary limit of the Delegated Purchase Program for these expenses.
  - For EDP equipment and software, necessary approvals shall be secured from the Department Management Information System Committee, the Deputy Director, ASD, and the Office of Information Technology, DOF.

**Shall Not**

The following commodities shall not be purchased using the Delegated Purchase Program:

- Passenger motor vehicles.
- Trucks.
- Tractors, tracked.
- Tractors, wheeled.
- Photocopiers (photocopiers in workload 1 and 2 can be purchased under delegation).
- Earth moving equipment (e.g., grader, loader, etc.).
- Warehouse trucks, forklifts.
- Word processors.
- Personal computers.
- Carpeting.
- Draperies.
- Typewriters, electronic, including memory style.
- Labels, foil printed and metal property tags.
- Soft body armor.
- Alcoholic beverage

**22030.6.4.2 Price Quotes**

For all purchases over \$100 but less than \$500 using the Delegated Purchase Program, two price quotes shall be sought (from the vendor awarded the order and an alternate). For all purchases of \$500 and above, a minimum of two price quotes from competitive vendors shall be secured. A copy of the price quotes shall be indicated on or attached to the audit copy of the delegation order. When the commodity to be purchased is proprietary (sole source), no quotes are necessary. However, a statement concerning the nature of the purchase (why it is proprietary) shall be included in the file. Items available through a state contract, and state price schedules, including CALPIA, may not be purchased under this delegation.

Bids shall be solicited on a cost per item basis. When established price lists are available, percentage discounts shall be used to determine the most competitive vendor.

A price quote that remains unchanged in a time period, not to exceed three months, can be used as a bid for repetitively purchased items. A single price quote can be used in lieu of frequent and redundant phone quotes each time the item is ordered during this time period.

**22030.6.4.3 Emergency Purchases**

In the event of emergencies, when it is necessary to buy material in excess of the monetary limits, the following process shall be used:

- The staff desiring to make the purchase shall contact the nearest DGS, Office of Procurement, and request emergency purchasing authority. An explanation shall be furnished regarding the circumstances surrounding the emergency and a complete description of the material, price, and source of supply. The Office of Procurement buyer receiving the request shall review the circumstances and, if warranted, a GSOP Form 42, Authorization to Exceed Monetary Limits of SAM 3571.1, shall be issued.
- In the event that it is impossible or impractical to contact the DGS, Office of Procurement, the Department shall proceed with the purchase without prior approval by the Office of Procurement. However, the Department, within five working days, shall notify the Office of Procurement of the action taken and the circumstances necessitating the action. After review and determination by the Office of Procurement that such action was warranted, a GSOP Form 42 shall be prepared and forwarded to the unit initiating the order.
- During any period of a natural disaster (earthquake, fire, and/or flood) the unit charged with the emergency services support shall process emergency orders. The purchase document and justification shall be submitted to the Office of Procurement within 30 days after the termination of the disaster but no more than 60 days after the emergency order was made. After review and determination by the Office of Procurement that such action was warranted, a GSOP Form 42 shall be prepared and forwarded to the facility making the purchase.
- Copies of the GSOP Form 42 shall be attached to the copies of the contract/delegation purchase order which departmental staff shall prepare to complete the transaction. All such purchase orders shall be clearly identified and marked "Emergency."

**22030.6.4.4 Material Services Section (MSS) Items**

Items available from the DGS, MSS, shall be purchased from local vendors using the Delegated Purchase Program only when the following conditions are met:

- MSS is out of stock (indicated by a back order notice).
- The need for the item is immediate and the need can be substantiated.

A delegated purchase order shall be used to purchase a 30-day interim supply of items not to exceed the monetary limits of the delegated authority. However, the audit copy of the delegation order shall be clearly marked with a statement referring to the MSS stock outage and affixed with a copy of the back order notice.

**22030.6.4.5 Annual Audit**

Each Delegated Purchase Program shall be audited annually by the Office of Procurement to determine whether the conditions and requirements of the program are being met. Renewal of the Delegated Purchase Program shall depend on the effectiveness of the current procurement and materials management programs.

**22030.6.4.6 Data Requirements**

The data requirements for orders under the Delegated Purchase Program are as follows:

**Area of "Contract/Delegation Purchase Order"**

Agency billing code - enter the correct agency billing code.

Contract/delegation number - enter the delegation number assigned by the Office of Procurement from left to right.

Ship to - enter address to which merchandise shall be delivered.

Bill to - enter name and address of the unit to receive the invoice or statement.

Date - enter the date the order is prepared. The month, day, and year shall be indicated with two digits (e.g., July 17, 1990 as 07 17 90).

Agency order number - enter the appropriate agency order number, an internal control number, from left to right.

Firm address - enter the name, address and phone number of vendor contact person.

Vendor number - enter the appropriate number. When a vendor is not known or available, leave blank and continue with the small business and ethnic codes.

Small business (S/B) code - enter the appropriate information when a vendor number is not available.

S = small business.

Blank = not small business or unknown shall be counted as a large business

Ethnic code (ETH) - furnish the appropriate information when a vendor number is not available. Enter only one of the following numbers and letters:

	Male	Female
Black	1	A
Asian	2	B
Other	3	C
Spanish-Speaking/Surnamed	4	D
White	5	E
Polynesian	6	F
American Indian or Alaskan Native	7	G
Filipino	8	H
Unknown	Blank	Blank

Date wanted - enter the delivery date materials are expected (e.g., 30 days ARO shall be converted to an exact delivery date). ASAP shall not be used in any case.

Ship by - used to indicate special handling or a specific method of transportation.

Terms - enter the discount the vendor shall give to ensure timely invoice payment.

Quantity - enter the appropriate quantity needed.

Unit - enter the two digit unit of measure (e.g., EA, DZ, PG, etc.).

Stock item number - enter the four digit group/class number. A complete 12-digit PIN stock item number may be used but is not required.

Description - enter the appropriate description for the item being ordered that is found in the PIN Stock Item Catalog. The "key noun" shall be the first descriptor used, followed by more detailed description.

Unit price - enter the unit price that corresponds to the order unit.

Extension - enter the extended price which is quantity times the unit price.

FOB - to be determined at the time quotes are obtained. Request "FOB destination" whenever possible.

Sales tax - enter the sales tax required for the purchase of materials.

Total - enter the total cost of the order. Include the subtotals from all continuation pages STD Form 65A when they are included in one agency order number.

Charge against - enter the program number, index code, fund title, item number, chapter number, statute, fiscal year, and object code.

Certification - signature of the person authorized to sign the purchase document.

**22030.7 Material Services Section Supply Order**

The DGS, MSS, operates a materials distribution system and carries a stock of commonly used items in warehouses in Sacramento, North Highlands, and Fullerton, California. These items include stationery, standard state and departmental forms, housekeeping and janitorial items, and other general use commodities. MSS issues a catalog, special supplements, and interim revisions listing and describing all available stock items and providing information necessary for requisitioning commodities from MSS. Periodically, MSS issues a supplemental price list of all inventory items.

A STD Form 116, Supply Order is the document used to order items from MSS. Supply orders may be forwarded to the nearest MSS warehouse or to Material Services Section, P.O. Box 1015, North Highlands, CA 95660. All supply orders are input into the DGS EDP system for the filling of orders or in the case of stock-outs, back order notices.

When departmental staff receive back order notices, permission is granted to purchase an interim supply (30 days) of materials from local vendors. A copy of



the notice of back order shall be affixed to the file copy of the purchase order to document the necessity for the interim purchase from a source other than MSS.

A second circumstance for purchasing items from local vendors that are also offered by MSS is when the price of an item is significantly lower than the price offered by MSS. Department staff shall notify the MSS in writing of the intent to purchase these items (not to exceed the delegation limit). Within two working days after receipt of the request, MSS shall respond with approval or disapproval. All requests shall be sent to:

Materials Services Section  
Attention: Materials Manager  
P.O. Box 1015 North Highlands, CA 95660

Following the instructions printed on the STD Form 116 regarding typing and distribution. Do not place more than 12 items on each order. Do not combine forms, publications, and supplies on the same order.

Retain a copy of the STD Form 116 to use as a stock received report. Record the date and quantity of merchandise received and route to the accounting office for payment. Retain a copy for your files.

See Section 5 in the Materials Services Catalog when ordering publications. When ordering publications from MSS, address the order as follows:

Office of Procurement  
Publications Section  
P.O. Box 1015  
North Highlands, CA 95660

#### **22030.7.1 Data Requirements**

The data requirements for purchases from MSS are as follows:

##### **Area of "Supply Order"**

Ship stock to - enter address to which merchandise shall be delivered.

Send invoice to - enter name and address of unit receiving the invoice.

Signature of officer authorizing expenditure - signature of person authorized to sign a supply order.

Agency contact - enter name and phone number of person Materials Services Section shall contact regarding the order.

Date - enter the date the order is prepared.

Agency billing code - enter correct agency billing code.

Agency reference number - enter the unit's internal control number, if possible.

Back order instructions - enter a mark to receive back-ordered material. No back order shall be processed when the box is unmarked.

Stock number - enter the stock item number found in the DGS' Materials Services Catalog.

Catalog description - enter description as written in the DGS' Materials Services Catalog.

Unit price - enter the unit price shown in Section 7 of the Materials Services Catalog.

Price extension - enter the extended price. (The unit price times the quantity equals the extended price.)

Unit - use the abbreviations listed in the Materials Services Catalog.

Quantity - enter amount desired.

#### **22030.8 Purchase Estimate**

The DGS, Office of Procurement, operates a centralized purchasing unit to achieve standardization, to eliminate duplication of effort and to lower prices as a result of volume buying. The Office of Procurement shall also provide effective means of acquiring equipment whether the acquisition is to be made by purchase through non-purchasing techniques (e.g., lease - conditional sales contract).

The Department shall use the services of the Office of Procurement to competitively purchase the following:

- Items not available from MSS, state contracts, or state price schedules.
- Orders that exceed the monetary spending limits of the Delegated Purchase Program.
- Food that is included in the quarterly food order.
- Materials that require technical specifications or special requirements.

- Equipment or other high cost items that result in reduced costs when purchased by "formal" bid.

For purchases requiring the services of the Office of Procurement, a STD Form 66, PE and, when necessary, a STD Form 10, PE Continuation shall be used to list all ordered items. All PEs shall be typed. The original of the PE, with the required signatures of approval, shall be sent to the Office of Procurement for processing.

##### **Prior Approval of Another Agency**

Do not submit purchase estimates directly to the Office of Procurement that require prior approval of another agency. Submit these estimates to the approving agencies first. Refer to the PIN Stock Item Catalog for the list of these agencies and the commodities that need prior approval. For purchases of filing and/or microfilm equipment, necessary approvals shall be secured from the Department records management analyst in the Headquarters BSS.

##### **Accuracy and Clarity**

Department personnel who submit purchase estimates shall make every possible effort to ensure that these documents are not forwarded to the Office of Procurement until they have been thoroughly reviewed for accuracy and clarity.

##### **Specifications**

The Specification and Quality Control Section staff of the Office of Procurement can assist Department personnel in the preparation of the description and specification of the purchase requirements. Copies of standard specifications are available upon request and assistance is available for developing descriptions of non-standard commodities. Contact the Specifications and Quality Control Section at (916) 445-0957/ATSS 485-0957 for referral to the appropriate analyst.

#### **22030.8.1 Data Requirements**

The purchase estimate data requirements are as follows:

##### **Area of "Purchase Estimate"**

Date prepared by agency - enter the date the PE was typed. Enter two digits in each field (e.g., September 10, 1990 shall be entered as 09 10 90).

Date stock wanted - this is an optional field; however, departmental staff shall enter a specific date to determine the order processing time that is reflected in inventory control supply levels, if applicable. Enter two digits for each field. Allow an adequate lead time when determining the date of delivery. The following is the recommended ordering and shipping time (OST) that shall be used for purchase estimates:

	<b>Amount of Purchase</b>	
	<b>Up to \$10,000</b>	<b>Over \$10,000</b>
Internal Processing	20 days	20 days
Special Approval/Authorization	21 days	21 days
Office of Procurement Processing	30 days	60 days
Specifications Review	10 days	15 days
Purchase Order Preparation	5 days	5 days
Vendor Shipping Time	60 days	60 days
Total OST	146 days	181 days

The Department shall anticipate a lengthy OST when using this "formal" method of ordering.

Agency billing code - enter the appropriate agency billing code. Use only one agency billing code per estimate.

Purchase estimate number - use a unique estimate number designed to eliminate duplication. The remainder of the purchase estimate number provides a maximum of 15 alpha/numeric positions in which to enter each requesting unit's reference number. The estimate or reference number shall not be duplicated in a fiscal year.

Page number - enter the purchase estimate page number and total number of pages. Page numbers shall be shown with two digits (e.g., page 01 of 05, 02 of 05, etc.). Do not number pages that do not have stock item numbers or codes.

Do not enter the page number on the purchase estimate continuation if it is used only to furnish additional description or instructions from the previous page. For example, on a two-page purchase estimate, the first page would be numbered as page 01 of 01. (The second page would not show a page number.) However, enter the page number on the continuation page when an item is listed and other required information is stated. For example, on a two-page purchase estimate, the second page would be numbered as page 02 of 02.

Delivery location code - circle the appropriate code which corresponds to the delivery location shown on the State of

California 11 - Area Map. Multiple delivery locations may be submitted on one estimate when only one agency billing code is used.

Procurement Office - do not fill in this information.

Vendor number - enter a reference vendor. Normally, the vendor who received the previous order and provided adequate service or assistance shall be listed as the reference vendor. (All reference vendors are automatically sent invitations to bid.) Indicate the vendor's name, address, and phone number and the name of the person authorized to provide price quotes.

Agency contact - enter the name and phone number of the Department representative with the most knowledge of the uses and requirements of the ordered items whom buyers may contact for additional information. Do not enter the vendor name or phone number in this space.

Line number - each page of a purchase estimate (including the continuation pages) is limited to a maximum of nine stock items which shall be numbered sequentially beginning with number one on each page. Enter a single digit number for each stock item listed, from 1, 2, 3, etc., up to 9. The first item on each continuation page shall always begin with number one and shall not exceed nine items per page.

Quantity - enter the quantity wanted in this column. Do not enter fractions, decimals, or commas. Always check the order unit and packaging requirements, and adjust the quantity accordingly. Quantity ordered shall correspond with the order unit and unit price.

Unit - enter unit exactly as indicated in the PIN Stock Item Catalog, except when the unit is indicated as VA. The order unit shall vary on some commodities; this is indicated by a VA in the unit column of the PIN Stock Item Catalog. In such instances, specify the appropriate unit code from the order unit table listed on the front page of the PIN Stock Item Catalog.

Stock item number - enter the 12-digit stock item number exactly as indicated in the PIN Stock Item Catalog. Potential vendors are invited to submit bids for the items listed on the PE when the PIN stock item number is input into the computerized vendor/stock item number file. Do not use ditto marks to repeat identical stock item numbers. Neatly underline and draw arrows down columns to note repetition of stock item numbers.

Each page of the PE shall contain only one group of items (the first two numbers of the stock item number). The only exceptions are:

- When the order is for the purchase of a system, where the components are in different groups and are to be purchased together because the components must match and inter-member.

• For the purchase of individual items that fall into different groups. Continuation pages (STD Form 10) shall be used to list items having multiple group numbers. "Ship to" and "charge to" addresses, the reference vendor, and the delivery date if critical or unusual shall be shown on each estimate page.

Description - enter exactly the description provided in the PIN Stock Item Catalog. The key noun description is input into the PIN computerized system to determine whether the description/stock item number matches exactly to detect errors prior to the bid process.

All items shall be completely described and whenever possible a brand and corresponding catalog number shall be referenced with the notation or comparable. A complete description shall include the name of the item plus any of the following that apply:

- Size.
- Dimension.
- Grade.
- Weight.
- Color(s).
- The minimum acceptable technical specifications.
- Packaging requirements.
- Samples (in the case of forms).
- A kit package listing of each component.
- Installation dimensions if restrictions exist.
- Inter-member item description of existing materials.

The brand referenced on the purchase estimate shall meet all required specifications. When reasonable, list all acceptable brands on the purchase estimate. Also, all unacceptable brands can be listed. It may

be stipulated that alternate brands shall be submitted for evaluation prior to the awarding of the bid.

Unit price - always enter the unit price and extension for each item listed. The unit price shall correspond to the order unit. For example, if the order unit is gross, show the unit price per gross - not some other unit such as per dozen. Do not enter commas in this column. Align the unit price with the first line of the commodity description.

Subtotal - on single page estimates a subtotal is not necessary. On multiple page estimates, enter a subtotal on each page.

Tax and total - on single page estimates, enter the tax and total in appropriate boxes on the estimate. On multiple page estimates, enter the tax and total only on the first page of the estimate and subtotals on each continuation page.

Signature block - at least one original signature is required by the Office of Procurement to process estimates.

Charge code - enter the index number, object code, appropriation, item number, current fiscal year's chapter number, fiscal year, and ending date of the current fiscal year.

Do funds expire - it shall be indicated on the purchase estimate whether funds expire at the end of the current fiscal year. Either:

Check yes or no in the appropriate block printed on the lower right-hand corner of the purchase estimate form; or

Type/stamp on the first page in bold letter, **FUNDS EXPIRE** \_\_\_\_\_ or **CONTINUING FUNDS** if funds do not expire at the end of the current fiscal year.

#### **22030.8.2 Purchase Estimate Description Restricting Bidding**

PEs referencing only one brand or containing specifications which have the effect of limiting or restricting bidding to one brand shall be justified by the requesting unit in a statement fully explaining why the product specified is necessary. This statement shall include at least the following:

- The unique performance factors of the product specified.
- The reason these specific factors are required.
- What other products have been examined and rejected and why.

Purchase requests submitted without adequate information in support of limiting competitive bidding shall be returned to the requesting unit.

#### **22030.8.3 Purchase Estimate Requesting Sole Source**

The requirements listed in the DOM 22030.8.2 apply to sole source purchases where an item is available from only one vendor, or when the requestor wants to restrict the purchase to only one vendor.

#### **22030.8.4 Non-Competitive Repair Parts**

PEs for repair parts of a specific brand or type shall contain the following justification:

- Why only one brand or part can be used to repair the equipment.
- Whether the specified brand of repair parts is available from only the manufacturer or distributor.

#### **22030.8.5 Non-Competitive Equipment to Inter-Member with Existing Equipment**

PEs for equipment of a specific brand or type to be used with equipment shall contain the following justification:

- The quantity and value of existing equipment or parts currently on hand to be interfaced.
- Why it is necessary that the requested equipment or parts be the same as currently owned.

#### **22030.8.6 Pin Stock Item System**

The ability to properly complete the STD Form 66, PE, depends entirely on a full understanding of the PIN stock item system and the PE form.

##### **22030.8.6.1 Stock Item Number**

The single most important element in the entire materials management system is the stock item number. A single, unique stock item number is assigned to each specific item of material used by the state.

Stock item numbers are 12-digit numbers that are based on the federal classification and stock numbering system. A typical stock item number looks like 7920-292-2367-8. The groups of numbers represent the following:

- First four digits - group and class of a commodity such as food, medical supplies, stationery, etc..
- Next seven digits - specific item numbers are serially assigned with no numerical relationship between one identification number and the next in sequence.
- Final digit - computer check or verification number.

The 12-digit stock item numbers shall be used by all ordering units.

**22030.8.6.2 Pin Stock Item Catalog**

The PIN Stock Item Catalog is a listing by stock item number and description of commodities purchased by the state on a regular basis. Products are classified in group and class number sequence; commodities within each class are listed in alphabetical key noun order. Currently, 60,000 items are listed.

Other information contained in the PIN Stock Item Catalog is the following data:

- **Description** - the stock item description field consists of a maximum of 54 characters of information which describes each stock item. The first word in the stock item description is the key noun.

This is the noun that most accurately identifies the nature of the product (e.g., drill electric, not electric drill). All commodities are listed in alphabetical key noun sequence within each class.

- **Order unit** - this is a two-character field which describes the unit of measure by which each stock item shall be ordered [e.g., EA (each), DZ (dozen), YD (yard), RL (roll), BX (box), etc.]. Refer to the order unit table listed on the front page of the PIN Stock Item Catalog.
- **Source code** - this is a one-character field that indicates the usual source or method for acquiring a given stock item. The various codes and their meaning are as follows:
  - A: Office of Procurement (PE is required on all A source code items) and delegated purchase program orders.
  - B: OSP and Office of Support Services printing orders.
  - C: MSS stock items.
  - D: Statewide contract stock items.
  - E: Limited contract stock items.
  - F: SPS stock items.
  - I: CALPIA stock items.
  - M: SPS competitively bid items.
- **Special code** - this is a two-character field which identifies those stock items covered by detailed product specifications. The coding scheme is as follows:
  - 1-99 State specifications.
  - A Federal specifications.
  - B Commodity standard.
  - C Supply operations commodity standard (SOCS).
  - D Bid specifications.
  - E Acceptable brands list.
  - F Special/other.

**Locate a Number**

There are several ways to locate a stock item number in the PIN Stock Item Catalog:

- Refer to the alphabetical product listing "Index to New State Materials-Classification Catalog" in the State Materials Classification (SMC) Catalog. This index lists general categories of frequently purchased products and the SMC group number. It may be used to determine the correct SMC group number for a related product. For example, although a credenza is not specifically listed, the appropriate group may be located by referring to "furniture, most types." The key noun for each stock item is usually based on what that item is rather than its use.
- Refer to the PIN Stock Item Catalog Index (on the front pages of the catalog) to locate the corresponding group. Next, locate the proper group class. The group and class shall provide the page number within the PIN Stock Item Catalog where a specific stock item and its number shall be found.
- Refer to the listing of commodities by key noun in the back of the catalog. This is a listing of items in the PIN Stock Item Catalog in alphabetical order by key noun.

Many commodity descriptions in the PIN Stock Item Catalog are very brief and may not be complete. Therefore, additional descriptive information shall be added as required in preparing the purchase order (e.g., color, size, dimensions, packaging, etc.). Except for additions to the description, no other changes or deletions shall be accepted.

**22030.8.6.3 Availability of Pin Stock Item Catalog**

PIN Stock Item Catalogs are available as follows:

Form	Contact
Book (revision 1983 in three-ring binder)	Office of Procurement Materials Management Unit 4675 Watt Avenue North Highlands, CA 95660 (916) 973-3726 or ATSS 480-3726
Microfiche	Office of Procurement Data Management Unit (916) 323-3465 or ATSS 573-3465 This unit also mentions a subscription list for updates of microfiche.

**22030.8.7 Purchase Estimate Changes**

After the PE has been sent to the Office of Procurement, amendments to the PE may have to be made. A STD Form 96, Purchase Order (PO) Alteration, is used to amend PEs when requested by the Office of Procurement, DGS, for specific estimates or when:

(a) the cost is	(b) the amendment is	{c} and exceeds the estimate costs by
Less than \$1,000	\$100 or more	25% or more
\$1,000 - \$4,999	\$250 or more	10% or more
\$5,000 or more	\$500 or more	-

To check the current status of a purchase estimate submitted to the Office of Procurement, contact Procurement's Central Records at (916) 445-6241/ATSS 485-6241. The buyer shall not be contacted unless absolutely necessary, and only after calling Central Records.

**22030.8.8 Purchase Order Changes****PO Alteration Required**

Once a PO has been issued to a vendor by the Office of Procurement, changes are not permitted unless authorized by the Office of Procurement. A STD Form 96, shall be submitted to the Office of Procurement buyer who signed the original PO in the following instances:

- Change in FOB point.
- Change in terms if unfavorable to the state.
- Change in the estimate number.
- Change in the vendor's name (except simple spelling corrections).
- Increase in unit price.
- Mathematical error over \$10.
- Addition or cancellation of any item.
- Change in description, specifications, or substitution of any material.
- Extension of time on "as needed" or "as required" orders. Such orders are written for units of material as required or as needed for a specific period of time (The extension of this time is what would require a PO change).
- Adding or changing a priority rating or certification.
- Any overdraft of a PO except as permitted below.

**PO Alteration not Required**

PO changes are not required when:

- Prices billed are less than the PO amount.
- Weight, quantity, or unit price is less than what is stated on the PO.
- At the time of taking a final delivery there is a balance remaining on the PO and the final delivery does not overrun the PO by more than 10 percent (This would apply to such items as yardage; steel; lumber; rock; asphalt; products like forms, cartons, etc. produced from roll paper stock; and other items when exact quantity is not known at the time the order is placed, including items that come in standard containers).
- Delivery of items such as fresh vegetables varies from the weight, quantity, or count specified on the PO (not to exceed plus or minus 10 percent of the value of the total PO up to \$1,000).

- PO specifies certain sized containers but other containers, which are acceptable, are delivered in their place but the total quantity and unit cost are within the limits of the PO.

### 22030.9 Service and Expense Order

Services for repair, rental of equipment, classroom space, and other minor services from private vendors, costing less than \$500, can be obtained by using a CDC Form 1063, Service and Expense Order. This form shall be used in lieu of the STD Form 2, Standard Agreement. Prior to any service being performed and expenses incurred, approval in writing shall be obtained from business management staff. Services performed may require labor and materials. Transactions with less than 10 percent labor charges are purchases and shall be obtained on either a subpurchase or delegated purchase program order. Transactions with greater than 50 percent labor charges are services and can be obtained using the service and expense order form. Transactions with labor charges between 10 percent and 50 percent require consultation with an Office of Procurement formal bid buyer to determine the appropriate method for acquisition.

Services of a minor nature normally do not require competitive bidding, but staff shall identify and employ cost effective methods when contracting for services from private vendors.

General use mobile equipment (GUME) having an original purchase price of \$25,000 or more shall not be rented or leased from a non-state source without prior approval of the DGS, Office of Fleet Administration, after a determination that comparable state-owned equipment is not available. If obtaining such approval would endanger life or property, the transaction and justification for not having sought prior approval shall be reported immediately thereafter to the DGS. GUME is defined as equipment listed in the GUME inventory of the state equipment council as capable of being used by more than one agency.

#### 22030.9.1 Data Requirements

The data requirements for Service and Expense Order are as follows:

##### Area of "Service and Expense Order"

Vendor - enter the vendor name and vendor contact providing the service.

Bill to - enter name of facility receiving the service and name of the person the vendor is to contact.

S and E number - enter the unit's service order number.

Work order number - optional field. When possible, reference a maintenance work order.

Date - enter the date the order is prepared.

Nature of service and expense - enter the type of expense to be incurred.

Location where expense to occur - enter the building number or address where the service shall be performed.

Start date/completion date - enter the appropriate dates (for monitoring purposes).

Work to be performed - enter a full description of what is to be accomplished, including the number of hours of labor.

Description and cost of parts - a detailed listing of parts and materials to be obtained from the vendor.

Accounting requirements - to be entered by accounting office staff.

Signature/title - signature of person authorized to sign the service and expense order. The purchasing manager or designee is the appropriate person.

### 22030.10 Inventory Management

Proper inventory management minimizes the investment in inventory stock and helps maintain a stated service level objective.

#### 22030.10.1 Stock Records

The responsible unit shall maintain stock records on all items that are stored in the support services and maintenance warehouses. In addition, unit stock records shall be maintained for materials being warehoused in other storerooms and supply shops that exceed a working stock (30 day) supply and collectively meet any of the following criteria:

- Gross floor space used exceeds 4,000 square feet.
- Average annual inventory investment in expendable goods exceeds \$50,000.
- Annual issues of expendable goods exceeds \$100,000.
- Inventory consists of 400 or more stock items.

### Records Maintained

Stock records shall be maintained by using a manual card or computerized inventory control system. The STD Form 119, Stock Control Record, is available for use as a manual stock record card in recording information dealing with the management and control of warehouse inventories. This or a similar record card shall be used in all warehouses when a manual system is the only means of control. If a computerized inventory management system is used, the system shall provide the same information and data required on a stock record card.

The stock record, which serves as a joint purchasing/financial/ operational record, shall be kept current and accurate at all times. Stock Control Record cards are available from the Office of Procurement, MSS.

#### 22030.10.1.1 Data Requirements

The data requirements for the Stock Control Record card are as follows:

##### Area of "Sample Stock Control Record for Minimum/Maximum Stock Item"

Miscellaneous information - any miscellaneous information that is pertinent and not included in other specific sections of the stock control record shall be entered here. This information might concern minimum order or standard packs, key personnel to contact, vendor name and address, phone numbers, emergency sources of supply, or any other supplemental entry which alerts the inventory control staff of circumstances requiring attention.

Date - a complete history shall be established and kept current for each item that is stocked in a warehouse. The date is used in forecasting stock levels, reconciling procurement problems, confirming demands and issues, documenting physical inventories, etc.. The month, day, and year shall be entered for all transactions affecting the item, such as stock orders, stock receipts, demands and issues (non-recurring and recurring), dates of inventories, and audits.

Issued to or received from - this section serves a dual purpose. Record the name of the facility, unit, program, etc., to which stock is issued and/or the name of suppliers from whom stock is received. Continued activity of an item over a period of time shall provide inventory control staff and unit administrators with a use pattern which shall assist in inventory planning. This column shall also reflect those facilities that are consistent in their withdrawals as well as identify those vendors which are the most reliable.

Order document number - those transactions that pertain to stock issues and stock receipts shall be documented using the identifying order number. The forms that are commonly used to replenish stock for warehouses are contract/delegation purchase order, subpurchase order, supply order, and purchase estimate.

On order - this column shall be used whenever a stock replenishment order is placed. The quantity requested is the only entry to be made.

Demand - is any request for an item. Demand history provides the information necessary to decide what to stock; therefore, all demands, regardless of whether stocks are issued, shall be recorded. Each space in the demand column shall be used for a single demand.

Issues - the quantity issued for each demand shall be carefully and accurately entered as this directly reduces the calculated balance on hand (column 8). Occasionally, demands are made for depleted stocks. The demand shall be shown in the proper space and the quantity issued entered as zero.

Quantity received (+) - the quantity received (+) column is used to record the amounts or quantities of stock received as a result of a prior order. These incoming stocks shall normally be for inventory replenishment but in some cases stock relocations shall also be shown in the quantity received column.

The balance on hand (column 8) shall be adjusted whenever quantity received entries are made.

Quantity issued (-) - at any time an issue is shown in either the non-recurring or recurring columns, the total quantity issued (sum of both) shall be entered in the quantity issued (-) column. That amount shall be subtracted from the previous balance on hand and the new balance entered.

Balance on hand - the inventory balance on hand, both the actual bin count and the calculated balance, is the key indicator in managing inventory stock efficiently. To prevent inventories that are excessive or too low, the balance on hand shall be used to:

Determine when to replenish stock.

Identify long supply.

Maintain stock accountability.

Evaluate the efficiency of warehouse operations.

Balance on hand entries shall be current and accurate. Stock acquisitions and issues shall be promptly recorded on the stock control record and the balance on hand adjusted accordingly. Physical inventories which reveal a difference in the actual bin count versus the calculated balance shall be reconciled when the inventory is taken and the stock control record balance on hand changed to reflect the actual inventory in stock.

In long supply - long supply shall be reduced to the lowest level possible. This column provides a space to record long supply so that efforts can be undertaken to reduce it.

Days of supply - the days of supply shall be entered as shown in the examples of the minimum/maximum (MIN/MAX) and requisitioning objective (R/O) stock records (See DOM 22030.10.5.2 and 22030.10.5.6 respectively).

Quantity of supply - for all stock items managed under the R/O or Min/Max systems, the quantity of supply boxes shall be completed. In the reorder point block, show both the reorder point and the reorder quantity for the R/O concept.

Source code - the source code is a current reference to the purchase method or vendor designated by the PIN Stock Item Catalog as the primary source for a stock item. Only the approved codes as shown in the PIN Stock Item Catalog shall be used.

Management code - this space is used to denote whether the item is contingency (emergency) (C) stock or regular (R) stock. Use the letter C or R.

Stock number - the stock number identifies the item by commodity group and class. All expendable stock inventory items in the warehouse shall have an approved stock number assigned. That stock number shall be entered in the space provided.

Unit of measure (U/M) - the unit of measure or the unit of issue is a two-letter designation for the count, measurement, container, or form of an item of supply. It is the minimum quantity which can be ordered. The unit of measure designations to be used are shown in the PIN Stock Item Catalog.

Unit price - all stock items shall have a unit price entered. Use the latest price paid for the item. This is necessary for computer update and budgetary purposes.

Description - the descriptions currently in use in the PIN Stock Item Catalog shall be entered in the description space.

Color coding - this space identified any action (by colored tab) that shall be needed. The colored tab designations in these instructions shall be used to identify the type of action that is proposed or has already taken place. The following colored tabs are the only colors that are approved to flag the stock control record:

Red - activity during the month requiring monthly action update reporting.

Green - item is on order. Serves as a reminder; follow-up is the requisitioner's responsibility.

Blue - needs to be reordered as stock has reached the reorder point.

Yellow - order received. Remove the tab when the shipment is received as ordered.

Contract or SPS number - enter the appropriate number found on state contracts and state price schedules.

Vendor name/address/phone number/catalog number enter name, address and phone number of vendors submitting price quotes.

Minimum order quantity - enter the number of units the vendor requires to be purchased to recover the shipping and handling costs associated with the order.

Price per order unit - enter the price per standard unit of measure.

FOB terms - to be determined at the time quotes are obtained. Request FOB destination whenever possible.

Discount terms - enter the cash discount offered by vendors to ensure timely invoice payment. Cash discounts amounting to at least \$2.50 and when the discount percentage allowed is at least one-half of one percent shall require the payment to be made in a timely manner.

Delivery date - enter the date the materials or services are expected to be delivered.

Total cost - enter the extension price (The unit price times the quantity equals the total cost).

This information shall assist in determining which vendor shall receive the order.

Inside delivery - used to determine and project the necessity for additional shipping charges associated with inside delivery of materials.

#### **22030.10.1.2 Retention of Stock Control Record**

The Stock Control Record cards shall be retained for at least two years. One year in the active file and at least one year in the inactive file. Those

stock control records that have served their purpose, such as those for discontinued stock, shall be retained for a minimum of two years.

#### **22030.10.2 Safety Levels**

Normally, safety levels are established to minimize stock outages. To determine the level of safety stock that should be maintained, the critical need of the item shall be established based upon the following:

- The degree of the problem if there is no stock on hand.
- The effort, both in cost and time, necessary to secure the stock.

#### **Stock Outages Classified**

Stock outages shall be classified as follows:

- Minor - stock outage of these items shall cause little inconvenience and shall be overcome with a little extra effort, perhaps a phone call and with a short delay in processing the demand or with a back order. Work production delays are not a factor. These items are considered regular stock items and 15 days safety stock shall be sufficient.
- Major - a stock outage of these items shall cause some inconvenience and could result in additional costs because of production delays or program disruption. Generally, these items are also considered regular stock items but an increased safety stock of 16 to 25 days is required. These are the "A" items (see source code in DOM 22030.8.6.2 for a description of "A" items) or items with the highest demand.
- Critical - a stock outage of these items shall cause significant delays in production or intolerable program disruption and could result in excessive costs. These items are not available locally and a stock outage may endanger public health or safety. These items are considered contingency stock. A safety level of predetermined amount shall be set.

#### **22030.10.3 Selecting Items for Continuing Storage**

All items carried in the warehouse shall meet the Department's criteria for selecting items for continuing storage in DOM 22030.10.4. All items shall be reviewed annually by the materials management coordinator, and those items not meeting the criteria shall be discontinued.

All items carried in the warehouse as routing stock for filling supply demands shall have levels set by using the Min/Max or R/O inventory control concept. Stock control records shall be available for audit purposes at all times.

Supply levels for stock items are established to accomplish the following:

- To have an ample supply of stock items on hand but not more than is needed to meet the goal of the Department.
- To have emergency reserves on hand in the event items due in are not received on time.
- To know when and how much to order.
- To build accurate records which provide for adjustments at a later date.

Time, space, and money are wasted if supply levels are not set. The Department shall not have excessive funds tied up in unused inventory.

#### **22030.10.4 Criteria for Selecting Items for Continuing Storage**

Demand - at least five recurring demands for each 365 days demand year. Demands must occur on a regular basis and reflect a standard usage pattern over a 365-day period.

Volume - stable and large enough to permit significant savings from acquisition in quantity.

Dollar - minimum issues of \$50 per demand year as long as the demand criteria is met.

QA - items that require a high degree of QA shall be selected for continuing storage.

Emergency - items of an emergency nature, which may be required within hours after the need is recognized, shall be held in continuing storage.

Specifications - only items that have established accepted standards or detailed specifications shall be considered for inventory.

Usage - infrequently used items or those with patterns of erratic use do not make good inventory items, as large inventories are required to meet high use periods (e.g., usage patterns show more than five demands per year but all the demands occur in a restricted time period).

Lead-time - the non-critical item that can normally be purchased from a local source within 30 days shall not be stocked.

Items shall not be stocked merely for convenience. For non-critical items, institutions shall rely primarily on the purchase-as-needed technique. Continuing storage inventories shall be limited to only those items that are clearly justified as contingency stock for emergency needs or items that are not readily available from relatively nearby sources.

**22030.10.5 Setting Levels**

Component parts of a stock objective are expressed in days of supply. The component parts consist of the following:

- Safety level.
- Ordering and shipping time.
- Operating level.

Setting levels shall assist personnel who maintain stock to have on-hand materials when they are needed. Levels are set to ensure that stock shall not be depleted. The Department shall use the MIN/MAX concept to set the majority of supply levels; however, the R/O concept may be preferred for some items.

**22030.10.5.1 Min/Max Concept of Setting Levels**

A simple MIN/MAX supply level system provides proper inventory control. To determine MIN/MAX supply levels, the following supply history is necessary:

- The total amount of recurring issues for one demand year (365 consecutive calendar days).
- Ordering and shipping time (used to establish minimum level).
- Operating level (used to establish maximum level).

Low demand stock items, regardless of their unit value, are prime candidates for the MIN/MAX concept or for discontinuance.

**22030.10.5.2 Guidelines for Min/Max Levels**

Type of Transaction	Minimum (in days)	Maximum (in days)
Contract/delegation order or state price schedule.		
Lead time 0-30 days.	30	60
Lead time 31-60 days.	60	90
Lead time 61-90 days.	90	180
Lead time over 90 days.	Equal to actual lead time.	180
CALPIA order.	150	270
Purchase orders (up to \$10,000).	90	180
Purchase orders (over \$10,000).	120	180
Printing orders.	120	180
Material Services orders.	30	90
Food orders.	90	120
Special orders for forms, letterhead, etc.	Equal to actual lead time.	360

**22030.10.5.3 Purchase Order Example for Calculation of Min/Max Levels**

Example using guidelines for MIN/MAX levels for items purchased by POs up to \$10,000 (When a replenishment order is prepared, the quantity ordered is 90 items):

- Yearly demand: 180 items.
- Order and shipping time: 90 days.
- Operating level: 180 days.

**Method 1**

Step 1 - convert yearly demand into issues per day. Issues per day = 180 items (yearly demand) ÷ 365 days = .5.

Step 2 - calculate the minimum level. Minimum = ordering and shipping time (in days) x issues/days = 90 x .5 = 45 items.

When the stock on hand is depleted to 45 items, a replenishment order is prepared.

Step 3 - calculate the maximum level. Maximum = operating level (in days) x issues/days = 180 x .5 = 90 items.

When MIN/MAX levels may also be calculated with the yearly demand divided by factors based upon ordering and shipping time (for the minimum level) and operating level (for maximum level). The division factor for the minimum level is the approximate number of days per year (360) divided by the ordering and shipping time in days. The division factor for the maximum level is an assumption of the number of orders

per year (i.e., the approximate number of days per year - 360 - divided by the operating level in days). A chart that provides the division factor for different ordering and shipping times or operating levels follows:

Ordering and Shipping Time or Operating Level (in Days)	Division Factor
365	1
180	2
120	3
90	4
75	5
60	6
45	8
30	12

**Method 2**

Step 1 - determine the division factors. Minimum = 4 (for ordering and shipping time of 90 days). Maximum = 2 (for operating level of 180 days).

Step 2 - calculate the minimum level. Minimum = yearly demand ÷ division factor for ordering and shipping time = 180 ÷ 4 = 45 items (When stock on hand is depleted to 45 items, a replenishment order is prepared).

Step 3 - calculate the maximum level. Maximum = yearly demand ÷ division factor for operating level = 180 ÷ 2 = 90 items.

**Note:** When a replenishment order is prepared, the quantity ordered is 90 items. The quantity to order is the maximum supply level.

**22030.10.5.4 Contract Example for Calculation of Min/Max Levels**

Example using guidelines for min/max levels for items purchased from contract:

- Yearly demand: 72 items.
- Order and shipping time: 60 days.
- Operating level: 90 days.

**Method 1**

Step 1 - convert yearly demand into issues per day. Issues per day = 72 items (yearly demand) ÷ 365 days = .2.

Step 2 - calculate the minimum level. Minimum = ordering and shipping time (in days) x issues/days = 60 x .2 = 12 items (When the stock on hand is depleted to 12 items, a replenishment order is prepared).

Step 3 - calculate the maximum level. Maximum = operating level (in days) x issues/days = 90 x .2 = 18 items.

**Method 2**

Step 1 - determine the division factor. (See chart for prior example of Method 2.) Minimum = 6 (for ordering and shipping time of 60 days). Maximum = 4 (for operating level of 90 days).

Step 2 - calculate the minimum level. Minimum = yearly demand ÷ division factor for ordering and shipping time = 72 ÷ 6 = 12 items (When stock on hand is depleted to 12 items, a replenishment order is prepared).

Step 3 - calculate the maximum level. Maximum = yearly demand ÷ division factor for operating level = 72 ÷ 4 = 18 items (When a replenishment order is prepared, the quantity to order is 18 items).

**22030.10.5.5 Requisitioning Objective Method of Setting Levels**

To determine R/O supply levels, the following history is necessary:

- The total amount of recurring issues for one demand year (365 consecutive calendar days).
- Ordering and shipping time.
- Operating level.
- Safety level.

**22030.10.5.6 Guidelines for Requisitioning Objective Levels**

For the R/O method, 135 days of supply is adequate for Department warehousing facilities. The number of days for each component is as follows:

Operating Level	Ordering and Shipping Time	Safety Level
60 Days	60 Days	15 Days
135 Days		

**22030.10.5.7 Example for Calculation of Requisitioning Objective Levels**

An example of the R/O method follows:

- Yearly demand: 720 items.
- Ordering and shipping time: 60 days.
- Operating level: 60 days.

- Safety level: 15 days.

**Step 1** - convert yearly demand into issues per day. Issues per day = 720 items ÷ 365 = 2.

**Step 2** - calculate the number of items used during the ordering and shipping time. Number of items = ordering and shipping time (in days) x issues per day = 60 x 2 = 120 items.

**Step 3** - calculate the number of items required for the operating level. Number of items = operating level (in days) x issues per day = 60 x 2 = 120 items.

**Step 4** - calculate the number of items required for the safety level. Number of items = safety level (in days) x issues per day = 15 x 2 = 30 items.

**Step 5** - calculate the R/O. R/O = number of items for the ordering and shipping time + number of items for operating + number of items for safety level = 120 + 120 + 30 = 270 items.

**Step 6** - calculate the reorder point (ROP). ROP = number of items for ordering and shipping time + number of items for safety level = 120 + 30 = 150 items (When stock on hand is depleted to 150 items, a replenishment order is prepared).

**Step 7** - calculate the quantity to be ordered. Order quantity = R/O - RPO = 270 - 150 = 120 items (When a replenishment order is prepared, the quantity ordered is 120 items).

This is a minimum guideline. Such things as minimum order quantities from supply sources (e.g., contract vendors) may require that an order be issued for more than the difference between the R/O and ROP. Use your own judgment ordering more items delays the need to reorder the next time but increases the amount of inventory investment to more than is required.

#### **22030.10.6 Maximum Quantities Allowed in Inventory**

Any quantity in excess of the R/O is technically long supply. Quantities on hand and due in from outstanding orders shall not exceed the R/O unless the items can be used within the next 45 day operating period. The next reorder shall be delayed until the amount in long supply is exhausted.

#### **22030.11 Warehousing Program**

The warehousing program shall provide for the following:

- Establishment of warehousing facilities in line with distribution plans.
- Storage areas, handling equipment, and warehousing methods and techniques which optimize the use of the facilities.
- Verification that materials are received as ordered.
- Storage of material.
- Rotation of stock.
- Effective distribution of material ordered by customers.
- Maintenance of accurate records.
- Regular survey of physical inventories.

#### **22030.11.1 Establish Warehousing Facilities In Line With Distribution Plans**

The warehouses shall be material distribution facilities and not merely places to store supplies. Planning and layout of space are dependent upon the types of supplies being stored. At all facilities used to store and distribute materials, entry/exit controls shall be in place to restrict unauthorized personnel from having access to the inventory (except in cases involving emergencies concerning health and safety).

Subsistence supplies shall be protected properly from extreme changes of temperature, dampness, rodents, and insect infestation. Security items shall be stored in vaults or safes. Sensitive items, subject to pilferage, shall be properly protected. Hazardous commodities, including explosives, flammables, and oxidizing agents, shall be properly segregated from each other and other types of supplies and stored in buildings designed for this purpose.

Every effort shall be made to:

- Use space in the most effective and efficient manner.
- Use pallets and material handling equipment effectively.
- Use a direct flow assembly line principle.
- Establish an effective warehouse and storage layout plan.

#### **22030.11.2 Effectively Received Material**

The support and/or maintenance warehouse staff shall perform all receiving duties at the institutions, including those shipments destined for other areas inside their facility. For other facilities without a formal warehousing program, an employee shall be designated to be responsible for the receiving functions.

All facilities receiving purchased material shall maintain an open order receiving file. At least semi-monthly, the receiving file shall be monitored for overdue shipments and the orders shall be followed up to determine the status of late deliveries.

Once it is verified that an overdue shipment has not arrived, a non-delivery letter shall be prepared. Without proper notification, a buy-out requires the original vendor to pay the difference, if any, of the price paid to the alternate bidder or any additional cost because of the inconvenience caused by the non-delivery. Buy-outs shall be coordinated by the Office of Procurement.

The receiving agent shall verify incoming shipments against a copy of the original purchase order and packing slip. Materials received by common carrier shall be verified against the carrier's shipping document (freight bill).

When inmates are assisting with receiving duties, the delivery vehicle license number shall be noted on the warehouse copy of the freight bill or receiving documents (This shall aid in the identification of vehicles used in the event of inmate escapes).

All cartons shall be inspected for correct quantity of items and visible damage. The most critical time for establishing a proper base for collection of a shortage or damage is at the time of delivery. Failure to observe correct receiving procedures at this time may well result in the carrier's denial of a claim. For all overages, shortages, or damages (O, S, or D), an explanation of the discrepancy shall be written on all copies of the delivery documents. The delivery documents shall then be signed by both driver and receiving agent.

Upon receipt of a shipment that is over, short, or damaged, the receiving agent shall furnish the payments unit staff, vendor, and/or the person expecting the shipment with information concerning the problem. This can be accomplished by using the O, S, or D form. This provides those involved with the O, S, or D with a written statement and actions required to resolve the problem.

Inventory control of property shall begin immediately when delivered by the vendor. The receiving agent shall contact a property controller at the time of delivery to arrange to have property items tagged or engraved for easy identification as state-owned property before they are moved from the point of delivery.

#### **22030.11.3 Visible Damage**

Inspect the individual pieces before accepting the delivery and signing the carrier's delivery documents. Legally, the consignee must accept delivery of a damaged shipment.

Notify the vendor and carrier's representative of the damage and request an immediate inspection.

Retain the containers and packaging material for inspection by the carrier's representative.

Contact the Office of Procurement, Traffic Management Unit, for assistance when damages to material exceed \$100.00.

#### **22030.11.4 Concealed Damage**

Upon discovery of concealed damage, immediately stop unpacking the shipment.

Leave the shipment intact and do not remove it from the receiving location. Retain the internal packing, carton, or crate intact.

Notify the carrier and vendor that concealed damage was discovered and request inspection. Try to offer reasonable evidence that concealed damage did not occur after delivery.

Contact the Office of Procurement, Traffic Management Unit, for assistance when damages to material exceed \$100.00.

#### **22030.11.5 Stock Received Reports**

Stock received reports shall be:

- Prepared at the time goods are received. Receiving agents may use a STD Form 106, Stock Received Report, or a copy of the PO (as long as the information required on the STD Form 106 is shown on the copy of the PO).
- Processed immediately.
- Routed to the payments unit for prompt payment of invoices. Discounted purchase order stock received documentation shall be expedited to ensure that payment is made according to the terms shown on the purchase order.

#### **22030.11.6 Storing Material**

Accessibility shall be the first consideration when arranging stock for order processing. Fast moving, high transaction items shall be stored in locations where they can be selected and issued with the minimum amount of handling. Warehousing staff shall store bulky or difficult to handle items, when possible, near

doors and main aisles leading directly to the shipping and pickup areas. Materials shall not be arranged in strict PIN stock item number sequence. All shelves, bins, and bulk cartons shall be stock numbered to identify the items being stored.

A systematic stock rotation program shall exist at all warehouse storage areas. All materials in inventory shall be dated at the time of receipt. Items that carry an assigned shelf life require shelf rotation; first-in, first-out warehousing shall be used with these items. Whenever possible, the flow-through method for bulk storage items shall be used. With the flow-through method stock is selected from one end of a row or rack of a single stock item and new stock is replenished at the other end.

#### **22030.11.7 Distribution of Material**

A catalog of items in inventory shall be provided to staff for ease of requisitioning materials.

Materials shall be issued from warehouses on a STD Form 115, Order for Storeroom Supplies, or a local form that contains the same basic information as the STD Form 115. The requisition shall show the date of the requisition, the unit to be charged, the stock item number and description, quantity ordered, and signature of requester. The requisition shall be signed by the approving officer who shall retain the triplicate copy until the order is filled. The approving officer shall send both the original and duplicate copies of the requisition to the warehouse.

Each approved requisition shall be numbered and listed in a central control register for reference control of material issues.

After the order is filled, the original of the requisition shall be used to update stock records while the duplicate copy accompanies the material and serves as a packing slip.

When the goods are received, the person who ordered them shall check the quantity received, sign the receipt portion of the triplicate copy, and send it to the warehouse for comparison of quantity filled vs. quantity received. All discrepancies shall be reported immediately. Immediate reporting shall assist in determining the steps necessary to rectify any discrepancies.

The distribution of maintenance warehouse items shall be basically the same as distribution of all other items, except all trades staff shall stock a 30-day supply of maintenance supply items in their respective areas or vehicles to eliminate frequent trips to the warehouse. A STD Form 115 or similar form is required for all issues from maintenance warehouses.

Every effort shall be made by staff to maintain accurate warehouse and inventory control records, which make the detection of losses easier.

#### **22030.11.8 Physical Inventory of Materials**

A count of every inventory item held in storage shall be taken annually on all materials in all warehouses, storerooms, and maintenance shop storage areas. More frequent inventories are acceptable if experience indicates that reducing the interval between physical inventories shall result in less time being consumed in the reconciliation of records.

Food shall be inventoried at least quarterly to determine the amount of supply necessary for the next quarterly food order.

##### **22030.11.8.1 Physical Inventory Check List**

The following is a checklist of action steps that shall help to achieve a successful physical inventory:

- Establish a firm inventory date, and provide advance notice to vendors and employees. The inventory date shall be established and approved well in advance of the proposed inventory. Cut-off times shall be determined for all operating activities which have an effect on physical inventory. This shall include interagency shipments and corresponding paperwork, issues, and vendor shipments and receipts. Determination of an inventory date shall depend on the number of items in stock, the time needed to count these items, and the established business hours. It may be beneficial to take the inventory during non-business hours to minimize disruptions to day-to-day operations. When the inventory is not centrally located, the physical inventory shall be conducted at all locations on the same day(s).
- Assign inventory responsibilities. The supervisory responsibility for physical inventory shall be delegated to the person with the functional duties of purchasing officer, business manager, materials manager, or inventory manager. The accounting office shall fully participate in the physical inventory if the accounting office performs the inventory reconciliation.

An inventory supervisor shall be assigned to each area to be counted to supervise the taking and reporting of the count. The functions of the inventory supervisor are:

- Briefing. On the first day of the count, the inventory supervisor shall give the final briefing on count procedures.
- Count control. The inventory supervisor shall maintain control of the preprinted inventory worksheets and assign worksheets for counting, supervise reconciliations, and collect the completed data.
- Count integrity. The inventory supervisor shall maintain counting procedures, reconciliation of count data, and all other matters which affect count accuracy.
- Inventory acceptance. The inventory supervisor has sole and final authority to accept count data as complete and accurate. The inventory supervisor may require recounting by staff, emergency overtime, etc. The inventory count is not completed until accepted by the inventory supervisor.
- Perform inventory preparation. Before the scheduled inventory date, the warehouse manager(s) shall check all bins and bulk stock to see that the stock is clearly marked and arranged for ease of counting. All bin, shelving, and pallet rack labels shall be checked to assure that stock numbers, descriptions, and units of measure are identical to those listed on the inventory worksheets. The inventory worksheets are either computer produced or manually prepared by the inventory supervisor from the authorized stock listing (listing of items acceptable for storage). Items found in storage that are not shown on the stock listing shall be brought to the inventory supervisor's attention for addition to the listing or disposal action.
- Assign operating cut-off dates. Operating cut-off times for business activities and paperwork, and desired inventory preparation, shall be coordinated with the inventory date. All receiving documentation, requisitions, and shipping memos issued prior to the inventory shall be clearly marked "before inventory" and processed before the inventory is taken. All materials received after the assigned cut-off date shall be set aside, clearly identified as "after inventory," and held until after the inventory counting is completed. All receiving and issuing documentation shall also be marked "after inventory" and not processed.
- Determine and schedule inventory requirements for staffing, supplies, and equipment. Staffing heads the list of inventory needs. An adequate number of people shall be assigned. The types of listings, inventory tags, forms, or recording devices shall be selected. Writing tools, such as pencils, marking pens, etc., shall be provided. Masking tape, cards, wire, or string shall be obtained if tags are used. A clipboard or something similar shall be handed out to write on.

Ladders and step stools shall be obtained ahead of time for easier counting of material on upper shelves. Equipment shall be available for stock that has to be moved during counting.

- Provide adequate training. Schedule inventory training dates and provide advance notification to affected personnel. Conduct thorough training with inventory supervisors before instructing other inventory personnel (counters, recorders, inspectors, auditors, etc.).

Inventory supervisors shall receive instruction a minimum of one week prior to inventory, to allow time to familiarize themselves with their area of responsibility and to make the area ready for inventory. Inventory personnel shall receive their instruction as close to the actual inventory as possible.

Inventory training for counting personnel shall include information on why the inventory is necessary, how to count and record accurately, and how to identify materials that shall be inventoried. They shall also be informed that discovery of repeated bad counts through the audit process shall result in personnel recounting their entire area.

An instruction booklet or inventory information sheet shall be printed and handed out to each person. The booklet or sheet might contain the purpose of the inventory, but shall illustrate and explain the method of taking inventory, reiterate certain key inventory steps to follow, list assignments and accountability, and point out certain dos and don'ts relating to inventory counting such as:

- Do express count by the unit of measure assigned to the item being counted.
- Don't count partial quantities of any item where the quantity would be less than an expressed unit of measure, such as pounds, feet, or gallons.
- Do individually count the contents of all opened packages.
- Don't open sealed packages to count. Use the count marked on the outside.
- Do approximate the length of bulk items such as hoses, wire, etc., where lengths are extensive and too costly to count.



- Don't sight-count open - carton merchandise. Take merchandise out of containers to count.
- Do replace boxes or packages (or items counted) back in original location after counting.
- Don't disturb rotation sequence of items counted that carry assigned shelf life (Add any dos and don'ts not shown above which fit the inventory being taken and delete those that have no relationship).
- Count the inventory. The taking of a physical inventory shall be done in teams. A count team shall include a counter and recorder. As much as possible, members of count teams shall continue to work together throughout the inventory. Counting assignments shall be designated by a clearly defined physical area of the warehouse. The count teams shall count all stock within their area. The counter shall post a tag or card on all items counted to distinguish between counted and uncounted items. To make sure the correct item is being counted, the recorder shall read the complete stock item number, description, size, and color. The counter shall repeat the stock item number. Each recorder shall use a ruler as a line guide to ensure the count is entered in the proper column. The recorder shall record all numbers as neatly and legibly as possible.

The count teams shall pay close attention to the unit of measure to ensure they are counting the correct unit of issue shown on the inventory worksheet.

When an inventory item is not listed on the inventory worksheet, the item description, count, unit of measure, and stock item number shall be written in on the last page. All such write-ins shall be brought to the attention of the inventory supervisor.

Filling of emergency orders during the inventory period shall be strongly discouraged. Requesters shall be asked to leave the order for filling and pickup after the inventory is completed. If the emergency is such that the order must be filled, the inventory supervisor has sole authority to approve this action.

- Verify the count. The inventory supervisor shall assign count teams to check counts at random as well as to check on predetermined items which typically have been a counting problem in the past, have a high unit cost, or are subject to shrinkage. These counts shall be taken on approximately five percent of the stock. The person making the random counts shall record the stock item number, description, unit of measure, and quantity by area of recounted stock. The inventory supervisor shall reconcile this data to the original count; and if there is a difference, another count team shall be assigned to recount the item. If any evidence of a significant count error is detected, the original count team shall be assigned to recount all items within its assigned area.

The audit taken during physical inventory shall ensure that all items are counted uniformly and that an accurate count is taken.

- Perform inventory reconciliation. A report shall be issued at the conclusion of the physical inventory count which includes an explanation of any large differences between the inventory records and the physical count. Reconciliations may be required as a result of material issued from stock but not yet recorded or invoiced, materials-in-process, material on display or in separate areas, material missed during the count, or returned material and material-in-transit. The report shall contain an explanation of all attempts made to reconcile count and book differences. The book balance is the balance on hand shown on the Stock Control Record or stock status report at the inventory cut-off date.
- Finalize the inventory. To obtain the monetary value of the inventory, the inventory items shall be priced out. Use either the average cost method or current replacement cost, whichever is lower. When the average cost method is used, the average cost shall be updated as new receipts occur, or on a periodic basis. The use of the current replacement price generally inflates the inventory value. When required, purchase, MIN/MAX, or days-of-supply level and issue information shall be posted to the inventory worksheets. This information shall be used in the calculation of turn-rates and for readjustments of stock levels.
- Prepare and submit the final physical inventory report. Prepare a copy of the inventory procedure, the final inventory monetary value, and the final physical inventory report. The report also shall contain the percentage of variance between the count and book

inventories. The maximum acceptable percentage of variance is 5 percent. Generally, the difference after reconciliation shall be from 1 to 3 percent.

Upon acceptance of the final inventory report by management, inventory records shall be changed to reflect actual on-hand balances as verified by the physical count. Units with manual systems shall indicate on the records what adjustments were made as a result of the inventory.

Common reasons for inventory discrepancies are:

- Lack of recording receipts or issues.
- Accidentally placing merchandise in wrong storage areas.
- Recording quantity received without checking actual count before stocking.
- Pulling a larger quantity than asked for.
- Failure to prepare needed paperwork.
- Pilferage.

Only a physical inventory, taken with proper audit control, can certify counts and recommend needed corrections in procedures, record keeping, or security.

#### **22030.11.8.2 Budget Comparisons**

Inventory purchases shall be shown as a separate line item in the budget. Purchases shall be made after considering the inventory of expendable goods on hand.

The materials manager shall make a comparison of the budgeted amount, the amount spent on purchases of expendable goods inventory, and the amount of expendable goods issued from inventory. The dollar value of amounts issued shall exceed the dollar value of amounts purchased until long supply is reduced to acceptable levels. Thereafter, the amount issued shall coincide with the amount purchased. In July of each year, the business managers shall prepare a Materials Management Inventory Expenditure Report on amounts budgeted for expendable goods inventory, amounts spent, and amounts issued. The report shall include trends in the level of inventory investment at each facility.

#### **22030.11.8.3 Stock Record Keeping Inspection/Audit**

All institutions or facilities shall maintain stock records on inventory items. The materials manager shall visit the institutions periodically to inspect the record keeping system.

The stock records shall be audited to ensure that:

- The Department's criteria for selecting items for continuing storage are used.
- The Department's guide for selecting items for continuing storage is followed.
- The Department's guide for setting stock levels is used.

In addition to stock records, the materials manager shall audit purchase documents, property survey reports, etc., to determine if the Department's Materials Management policies are being followed and the goal and objectives of the Materials Management program are being met.

#### **22030.11.8.4 Comparison of Physical Inventories**

Starting with the June 30, 1986 physical inventory of support items including food, miscellaneous feeding supplies, clothing, housekeeping/janitorial, personal care, medical, and office supplies, a copy of all physical inventory data shall be sent to the materials manager. The inventories shall include a physical count, unit price, maximum supply level, annual demands, issues, receipts, and the ending book on hand.

Starting on July 30, 1990, a maintenance item physical inventory shall be conducted and include a physical count, the unit value of each item, extensions and the total value of each item, and extensions. Subsequent inventories shall require a physical count, unit price, maximum supply level, annual demands, issues, receipts and the ending book on hand. This data shall be compared to the base inventory data, by the materials manager, to determine progress towards improved materials management.

Over a period of seven years, the long supply of expendable materials shall be exhausted; therefore, each subsequent inventory shall indicate:

- A reduction in the inventory investment (adjusted for the inflation rate and population fluctuations).
- Reduction in the number and variety of different items held in warehouses and storage areas.
- Reduction in the amount and number of items that are in long supply in the support, maintenance, and property storage areas.

#### **22030.11.8.5 Inventory Reports Statewide Inventory Management Program (SIMP)**

In addition to the base inventory, at the end of the fiscal year, a physical inventory shall be taken and input to the DGS, Office of Procurement, SIMP. The required inventory data shall be entered on the worksheets (SLH Form 912 provided by SIMP). The completed worksheets shall be sent to the SIMP and to the Department's Materials manager, ASD; and a copy shall be retained by the facility.

Each institution or facility worksheet shall list the specific items stored in that location. When the completed worksheet is received by the Office of Procurement, the inventory information shall be fed into the SIMP computer system.

The Department's participation in the SIMP inventory program shall be in two phases. Phase I began with a support warehouse inventory in fiscal year 1985-86. Phase II shall bring the maintenance inventories on line beginning in fiscal year 1989-90. Those facilities that now have an operational maintenance inventory control program in use shall be input first. It is anticipated that facilities that do not have an operational maintenance warehousing program shall be phased into the SIMP system during fiscal year 1990-91.

After the second physical inventory is in the SIMP system, management reports shall be produced to monitor and measure the effectiveness of the program. This system shall provide the Department with the following information:

- The Department's expendable goods inventory investment, by warehouse and stock item.
- An increase or decrease in the inventory investment and at what rate.
- Stock turnover/ratio.
- Identification of items in long supply or excess.
- Deviations of physical inventory counts when compared to stock record counts.

#### **22030.11.8.6 SLAMM Statewide Physical Inventory Report**

Guide to using the SLH Form 912, SLAMM Statewide Physical Inventory Report:

##### **Area of "SLAMM Statewide Inventory Report"**

Warehouse number - a number consisting of a five-digit agency billing code and a three-digit warehouse code. These codes are assigned by the SIMP Unit and shall be preprinted on each page of the worksheet.

Physical inventory date - the date of the inventory shall be entered by the SIMP analytical staff. This is a six-digit field that shall be hand-coded by the SIMP staff to ensure the inventory data is matched exactly with all previous inventories in their system.

Name, address, city, zip code - agency name and current address shall be preprinted on the first page of the inventory worksheet.

Stock number - a 12-digit PIN stock item number shall be printed in numerical sequence for each item maintained as an authorized stock item.

Description - a commodity description shall be printed for each stock item number from the PIN stock item master file.

Max-inventory, quantity-of-supply - enter the maximum supply level quantity. The R/O entry shall list the number of days supply for each component of this supply system.

Mode - the unit's current type of supply method is indicated by a preprinted X below either R/O or M/M.

Stock type (ST) - items determined to be either regular or contingency (emergency) stock shall be indicated by a preprinted R or C symbol.

Acquisition code (AC) - indicates the source or method for acquiring a stock item. The various codes and their meanings are listed in the PIN Stock Item Catalog. This information is preprinted from the PIN stock item master file.

Count - enter the total count on hand for each item at the time of the physical inventory. All count entries shall be in the unit of measure printed on the worksheet. Do not include fractional quantities.

Unit of measure (UM) - this is the standard issue unit of measure. The units of measure shall be preprinted for each stock item listed on the worksheet.

Unit cost - enter the latest cost for each item. Unit price shall be expressed in the same term as the unit of measure.

Demand - indicate the number of requests for the item for the past 12 months.

Issue - enter the total quantity issued for the one-year period starting on the date of the last physical inventory that was input to SIMP.

Receipt - enter the total quantity received during a one-year period starting on the date of the last physical inventory that was input to SIMP.

Book on hand (O/H) - enter the quantity shown on the Stock Control Record at the time the physical inventory begins (i.e., current balance on hand).

When the preprinted field information is in error or differs from the information contained on your records, do not make any notations or changes on the worksheets. These items shall be treated as add-ons and listed separately on blank worksheets for the creation of new PIN numbers for your inventory.

#### **22030.12 Property Management**

The property unit shall provide input data and maintain property inventory records on all items meeting the criteria for property accounting. From this data, department management shall be guided and assisted in the following:

- Establishing equipment maintenance schedules.
- Determining property inventory needs based on expected obsolescence or probable ending of its useful life.
- Assisting budget staff in determining items to be budgeted.
- Maintaining an accurate record of property held accountable to the department or unit.
- Providing sufficient data to determine if there is surplus property and locations needing property.
- Providing a sufficient data base to draw information for routine or special reporting.
- Maintaining a functional inventory tool for all users.

##### **Stock Records**

For departmental property inventory control purposes, unit stock records shall be maintained on all state-owned items that meet any of the following requirements:

- Has a normal useful life of at least four years;
- Has a unit acquisition cost of at least \$500; or
- Is defined as sensitive property.

#### **22030.12.1 Sensitive Property**

Sensitive property is any highly desirable and portable item, including expendable material. Sensitive materials include any items that possess a value because of:

- Procurement restrictions.
- Restricted use or possession of the item to certain people or functions.
- Potential for sale or barter.
- Uniqueness.
- Availability.
- Ability to be transported easily without detection.
- Desirability for personal use.

##### **Examples**

Some sensitive items are the following:

- Adding/calculating machine.
- Binoculars.
- Boat/canoe.
- Breathing apparatus.
- Calculators.
- Calibrator, gas voltage.
- Cameras.
- Cutters, pipe/bolt/torch.
- Detectors, bomb/infrared/metal.
- Dictation equipment.
- Drill, electric.
- Dynamometer, hand held.
- EDP hardware.
- EDP software.
- Edger, lawn.
- Embossing machines.
- Engraver/etcher.
- Fluoroscope.
- Keyboard, electronic.
- Lens, projector/camera.
- Light, timing (auto).
- Microphone.
- Microscope.

- Microwave oven.
- Monitor/TV audio.
- Mower, lawn.
- Musical instruments.
- Ohm meter.
- Oscope/oscilloscope.
- Projector (portable).
- Paging system.
- Player, audio/video.
- Punch/die set (complete).
- Recorder, audio.
- Router.
- Razor, electric.
- Sander, belt/disc.
- Saw, circular/jig/saber.
- Scope, spotting.
- Stop watch.
- Strobe, camera.
- Telescopes.
- Televisions (portable).
- Tool sets (complete).
- Tester, voltage/transistor.
- Typewriters.
- Weapons (includes pistol, rifle, shotgun, speed loader, scopes).

#### **22030.12.2 Budgeting for Property**

For budget purposes, property shall meet the following three requirements:

- Have normal useful life of at least four years.
- Have a unit acquisition cost of at least \$500 (e.g., four identical assets which cost \$300 each, for a \$1,200 total, would not meet the requirement).
- Be used to conduct state business.

#### **22030.12.3 Property Identification Numbers**

Each item of state-owned property shall bear an identifying number, either by decal or engraving. The manufacturer's serial number for typewriters, computers, calculators, etc., shall not suffice for purposes of identification.

Property numbers are assigned to property as it is received. When the property is received from the vendor and prior to moving the item from the point of delivery, the property controller shall assign a property tag that indicates the division or unit to which the property belongs and a specific number that shall be affixed to the item.

Property is tagged to designate the assets as belonging to the state. Property tag or engravings shall be placed so that they are in plain sight and easy to read.

When a computerized bar code system is in effect, an optical scanning identification decal can be substituted for the traditional property tag now in use.

To the extent possible, all property shall be tagged on the front, left-hand corner of the item. The identification number/tag shall not be changed unless transfer occurs between divisions or institutions. If the property tag is destroyed, lost, or marred beyond recognition, a substitute number shall be supplied upon request.

#### **22030.12.4 Adhesive Tags**

This type of tag includes tags manufactured from thin gauge metal, plastic, or other materials that are attached by use of an adhesive. These tags are for general purpose use and shall be used whenever practical. All tags shall be 1 1/2" x 3/4" as illustrated below. Tags shall be numbered sequentially.

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Tags are not required for the following:

- EDP software. However, locations having EDP software shall maintain an inventory listing of that software to ensure both accountability and security for state property.
- Furniture such as desks, chairs, bookcases, file cabinets, etc. that do not meet the criteria for property accounting.

#### **22030.12.5 Stock Records**

The Department shall maintain inventory control records on all property that meets the criteria for strict accountability. The following information shall be input into the inventory control record system when property is acquired:

- Acquisition date.
- Property description.
- Property identification number.
- Cost or other basis of valuation.
- Owner fund.
- Rate of depreciation (or depreciation schedule) if applicable.

The Department shall maintain stock records of property on a STD Form 153A, Property Record Card or on an automated property accounting system.

The STD Form 153A is a multi-part form to be used to provide information in three different sequences. They are as follows:

- Property identification number.
- Description, brand, serial number.
- Location/custodian.

The property stock records shall provide the Department with a method of determining the quantity, value, and location of property items.

#### **22030.12.6 Physical Inventory of Property**

The Department shall conduct a physical inventory on all property and reconcile the inventory with accounting records at least every three years. Inventory counting does not need to be performed at one time. Units may take a rotating inventory according to an inventory calendar.

Units shall develop and carry out an inventory plan that shall include:

- Inventory taking.
  - Time schedule.
  - Count procedure (type of listing or count sheet to be used).
  - Count assignment (statement of who shall take the inventory at the times and locations scheduled).
- Internal control.
  - Inventories shall not be exclusively controlled by the custodian of the property records.
  - Worksheets used to take inventory shall be retained for auditing purposes. The worksheets shall show the date of inventory and the name of the person taking the inventory.
  - Physical inventory records shall be retained until the inventory reconciliation is completed.
  - The person in charge of the storeroom, if one is used, shall not be in charge of maintaining the inventory records nor the taking of physical inventory in that location.
- Reporting and approval of inventory adjustments.
  - Adjustments and reconciliation of the records shall take place after the physical count has been completed.
  - Review and approval of all inventory adjustments shall be made by the business managers at the institutions or section chiefs at all other Department facilities. This review and approval shall be documented on a STD Form 157, Property Listing Adjustment Sheet.

For any move of an office from one building to another, an inventory shall be conducted on property items prior to and after the move is completed. This shall ensure that all property is accounted for and that property records are updated and the move completed as planned.

#### **22030.12.7 Storage of Property**

At least annually, a review shall be made of all property storage areas to determine the need to maintain property and what is surplus or excess to the needs of the facility. Every effort shall be made to reduce the amount of warehoused property that could be used by another division or at another location within the Department and to reduce the amount of space required for warehousing.

The Department may store a maximum of five complements of office furniture at any facility it leases or owns. A complement of office furniture consists of the following:

- One desk.
- One swivel chair.
- Four side chairs.
- One work table.
- One credenza.
- One bookcase.
- One typewriter.
- One calculator.

If these amounts of furniture are exceeded, each facility shall state in writing why they need to store used office furniture, how many complements shall be stored, and how long they shall be stored.

### **22030.13 Surplus and Obsolete Property**

Each departmental facility maintaining warehouse inventories shall develop a viable program for disposal of surplus material.

- Each facility shall establish a property survey board which shall determine whether items are surplus or obsolete and the methods to be used to dispose of the items.
- The property survey board shall be composed of several section chiefs and chaired by a Correctional Administrator.
- The board shall meet at least quarterly to make management decisions concerning disposal of surplus and obsolete material.
- The goal of all property survey boards shall be to reduce the inventory investment and storage costs and to make storage space available for other functions.
- A property controller shall identify and dispose of material.

Several methods shall be employed to determine surplus, obsolete, or discontinued material.

- Frequent inventory appraisals shall identify potential surplus conditions before they become real, by acknowledging the trend toward a slow or no activity status or an increase in inventory.
- Stock records shall be used to determine when items are no longer in demand and should be removed from inventory.
- Staff shall try to be aware of changing technology that contributes greatly to the stockpiling of obsolete and surplus material.

Staff shall promote common parts usage to limit the total number of probable inventory items or urge a limitation of the variety of items.

In plant operations, warehouse staff shall be promptly informed when equipment is pulled out of service so that repair parts for this equipment can be disposed of and removed from the inventory.

All items identified as surplus or obsolete by the property survey boards shall be listed and submitted to the Department's materials manager for review and analysis. The listing shall include a full description, age, condition, value at the current replacement cost, and the approximate area where the item is located in order to determine the most effective method for disposal of the property and to provide data on inventory reductions to the DGS' Statewide Materials Inventory Management Program.

Under no circumstances shall material, tangible or intangible, be disposed without proper documentation. A Property Survey Report, (STD Form 152), shall be prepared for all transactions involving material disposal and shall be approved in advance by the Department's Materials Manager and the Office of Procurement's State Surplus Program. The Department's Materials Manager and the State Surplus Section shall instruct the facility to:

- Transfer the material to another facility within the Department; or
- Transfer the material to another state agency; or
- Make a diligent effort to secure at least three competitive bids and sell the material.

When materials are transferred to other state facilities including those within the Department, a STD Form 158, Transfer of Location of Equipment shall be prepared and distributed according to the instructions on the form.

#### **22030.13.1 Public Sale**

Whenever public sales are conducted, a system of checks and balances shall be used. This shall, at a minimum, consist of having separate persons handle the sale and the collection of funds.

Three methods can be used to dispose of surplus property through public sale:

- Sealed bid.
- Auction.
- Fixed price.

The best method is the sealed bid. Historically, this method had the highest monetary return. A diligent effort shall be made to secure at least three competitive bids. If three competitive bids cannot be obtained, a list of the firms or individuals that were solicited shall be prepared and signed by the employee soliciting the bids. The bid solicitation list and the bids received shall be attached to the property survey report.

When material is to be disposed of at a public sale, public notices shall be given. The public notices shall consist of:

- Newspaper ads.
- Notice of sale posted in public places.
- Mailings to interested businesses and individuals.
- Announcements on employee bulletin boards.

Public sales shall be announced a minimum of one week prior to the sale. Notices in newspaper ads shall run a minimum of three days.

An ample quantity of Notice of Sale flyers for distribution to prospective bidders shall be supplied to the unit where the sale material is located. The bid due date shall be set far enough in advance to allow ample time for advertising, bidder's inspection of items, and preparation of bids.

State employees may participate in public sales providing they do so in the same manner as the general public. Employees shall not use their position, office, or prestige to their advantage when participating in sales of materials and shall not participate on state time.

The terms and conditions of a proposed sale shall be prepared in advance of the sale and made available to prospective bidders at the time of the sale. A copy of the terms and conditions shall be posted at the sale site.

The terms and conditions shall contain the following information:

- When and where material offered for sale may be inspected.
- Bidding procedures, including bid closing time and date.
- Bid opening time and date including statement as to how successful bidders shall be notified.
- How, when, and where successful bidders shall make payment including a statement regarding sales tax.
- Time limit for successful bidders to pick up items.
- Other bid conditions including any other relevant information and the following statement:

The items are being sold as is and where is. Verification of the description and condition is the responsibility of the bidder. All sales are final. The State of California reserves the right to reject any or all bids or to waive any defects or irregularities therein. Minimum bid amounts, when indicated, shall be applicable.

The State of California makes no warranty, either expressed or implied, as to the condition or completeness of the equipment being sold nor does the equipment necessarily meet CAL-OSHA Standards, Orders, or Regulations.

After the successful bidder has paid for the items and presents their receipt, the bidder shall be requested to sign an appropriate delivery receipt to signify that they have received the property. When scrap and junk is being sold, the person taking delivery shall either sign a delivery receipt or give the agency a receipt indicating the type and quantity of material removed from the premises.

After the sale of property is completed, the amount of cash received shall be recorded on the approved copy of the property survey report. The approved copy shall be retained by the organizational unit conducting the sale.

#### **22030.13.2 Other Methods of Disposal**

When a transfer of material is to be made to another facility within the Department or to another agency, the following shall be clearly understood and agreed upon by both units:

- Description of items to be shipped.
- Quantity to be shipped.
- Price.
- Method of and who shall pay for shipping.

Whenever material is disposed of by some means other than transfer or sale (junked, hauled to the dump, scrapped, dismantled for salvage) the property controller or section chief shall certify in writing that the disposition described has been accomplished. The certification may be made on the property survey report (PSR) or on a separate piece of paper that shall be attached to and filed with the PSR. When material is disposed of at a public dump site, a signature shall be obtained from the disposal site operator or attendant indicating that the property

listed was disposed of at the site. If the dump site is unattended, the employee disposing of the property and the property controller shall sign and certify that the disposition described was accomplished.

Every effort shall be made to follow state and departmental policies, guidelines, and procedures when disposing of state-owned property.

#### **22030.14 Department Management Reports**

The materials manager shall prepare annual reports for management at each institution or facility where major materials management functions are performed. The analysis report shall be an evaluation of the effectiveness of each institution's or facility's materials management program and shall include recommendations for improvement, when necessary.

#### **22030.15 Revisions**

The Deputy Director, OBS or designee, shall ensure that the content of this article is accurate and current.

#### **22030.16 References**

GC §§ 11330-11335.

GC § 14675.

SAM §§ 0510, 1690, 1691, 1694, 1695, 3520, 3535, 3536, 4174, 4175, 5901, 5953, 5952, 5952, 8621, 8640, 8643, 10220.

PCC § 10334.

### **ARTICLE 13 — CONTRACTS**

*Revised July 30, 2010*

#### **22040.1 Policy**

The Department shall enter into contracts in accordance with the provisions of the State Administrative Manual (SAM), the Public Contract Code (PCC), the Government Code (GC), the Labor Code (LC), the State Contracting Manual (SCM), the Penal Code (PC) and all other applicable State law and regulations.

#### **22040.2 Purpose**

This Article describes departmental policy for processing contracts with the exception of those contracts which are subject to the provisions of PC § 7000 et seq. (i.e., masterplan construction).

#### **22040.3 Responsibility**

The Deputy Director of the Office of Business Services (OBS) acts as the Procurement and Contracting Officer (PCO) pursuant to the PCC §§ 10333

and 10351-2, and SAM § 1208 on behalf of the Secretary of the California Department of Corrections and Rehabilitation (CDCR), and delegates signature authority for approval for contracts to the Contracts Management Branch (CMB) managers.

The CMB of the Office of Business Services shall administer all contracts through execution into by the Department in a manner which:

- Conserves the financial interests of the State.
- Prevents thriftless acts or expenditures by employees of the Department.
- Ensures compliance with applicable laws, rules, and regulations of the Department.

The CDCR receives an exemption every four years from the Department of General Services (DGS) to execute contracts up to a certain dollar amount. All contracts exceeding the specified dollar amount must be approved and executed by DGS. The contracts executed by the CDCR are subject to approval by the DGS per PCC § 10335. The exemption is in addition to contract exemptions set forth in the SCM.

The Enterprise Information Services (EIS) Division of CDCR is responsible for the acquisition and maintenance of information technology (IT) goods and services.

The California Prison Health Care Services (CPHCS), the receivership established by the federal courts in June 2005 as a result of the Plata v Schwarzenegger lawsuit, shall administer all adult inmate medical and related services, e.g., nursing, pharmaceutical, and laboratory services contracts of the CDCR.

The DGS is the State agency, which exercises supervision over contracts entered into by State agencies and departments. DGS reviews contracts to ensure that the best interests of the State are preserved; that agencies of the State are complying with applicable laws, rules, and regulations;

and expenditures are fiscally responsible while meeting the needs of the State.

The Department of Finance (DOF) and the DGS have general powers of supervision over matters concerning the financial and business policies of the State and shall institute investigations and procedures deemed proper to conserve the rights and interests of the State.

The Office of the Attorney General (AG) will review and approve any public works construction projects exceeding \$250,000 (adjusted periodically by the DOF to reflect the percentage change in the annual California Construction Index) and executed under PC § 7000.

#### **22040.4 Contract Process**

The CMB shall administer all non-IT service contracts, including the competitive bid and non-competitive bid (NCB) processes, for Adult Institutions, Division of Juvenile Justice (DJJ) facilities, Adult and Juvenile Justice Parole Divisions, and Adult and Juvenile Justice Headquarters Programs. Service and Expense orders can be utilized to obtain informal services not to exceed \$4,999.99 (excluding tax) for a twelve-month period.

Contract processing time can vary significantly depending upon the complexity and volume of contracts and the various control agencies involved in the approval process. Programs shall follow the OBS established contracting guidelines to allow enough lead time for necessary approvals before the effective date of the contract.

All requests for contracts shall be initiated by the program/institution on a Purchase Requisition (PReq) through the release process to the CMB in Systems, Applications, and Products (SAP).

#### **22040.5 Emergency Contracts**

Emergency contracts which are necessary for the immediate preservation of life or State property are exempt from advertising.

The definition of what constitutes an emergency is contained in two separate sections of the PCC.

- Section 1102 addresses emergency services and,
- Section 10122 addresses emergencies for construction and public works.

Emergency contracts are designed to provide immediate services needed to mitigate an emergency and cannot be used to complete an entire project or provide on-going services unless mitigating efforts are insufficient to address the emergency. State of California contracting rules and regulations require a competitive bidding process to obtain a contract for projects and on-going service needs. Under an emergency situation, informal bids (minimum of three) may be obtained by telephone and work may begin without an executed contract if the contract has been verbally authorized by someone with Department authority to authorize the initiation of an emergency contract. However, a full explanation of the emergency and a justification for the contract price shall be included on the Agreement Summary (STD. 215).

Examples of acceptable emergency contract situations include:

- Institutional security failures such as gates, fences, security systems (i.e., lethal electrified fence, shaker fences, cameras, etc.).
- Failure of other critical building/site components or systems required to maintain staff, inmate, and public safety and licensing.
- Utility failures such as loss of power, potable water, wastewater.
- Failure of essential central plant services such as HVAC, steam, hot water.
- Loss of fire protection or other essential life safety systems.
- Loss of essential food services.
- Unanticipated loss of janitorial services that impact the immediate health and safety of staff.
- Identification of toxic mold within the premises that must be remediated to protect the health and safety of staff.

Examples of unacceptable situations for using the emergency contracting process include:

- Building system or component renewal beyond what is required to address the immediate failure or condition.
- Scope of work activity beyond the acceptable immediate emergency condition as demonstrated above.
- Restoration or replacement of a building system or component beyond its original design capacity.
- Instances in which the requesting institution or program failed to adequately plan for required services.

The PCC allows exceptions to the competitive bidding requirement in true emergencies. However, emergency contracts are not exempt from all other contracting requirements including a valid business license, insurance coverage certificates, and payment bonds, payment of prevailing wages and DGS/Office of Legal Services (OLS) or AG approvals.

**22040.6 CDCR Purchase Requisition (PReq)**

The responsible program shall complete and submit a PReq in SAP, including all required contract documents and forward to the CMB.

**22040.7 Agreement Summary (STD. 215)**

The CMB shall prepare the Agreement Summary (STD. 215), in accordance with the OBS Contracting Guidelines and the SCM.

The CMB will obtain the approval of the contract's funding on the STD. 215 from the approving authority within the program. The approving authority will be the same program representative authorized to approve a PReq in SAP.

**22040.8 Appropriate Signatures**

Upon return of the contract from the contractor, the CMB shall obtain the appropriate departmental signatures and, if required, control agency review and approval. Signature authority for Service and Expense Orders not to exceed \$4,999.99 (excluding tax) for a twelve-month period has been delegated to designated individuals at adult institutions and DJJ facilities.

**22040.9 Amendments**

An executed contract cannot be changed except by formal amendment. An amendment is required when any of the following proposed changes to an executed contract are required:

- Change in the scope of work.
- Change in contract term (if original contract allowed for an extension).
- Increase or decrease in total funding for any one fiscal year.
- Salary increases over 15% of the budgeted high salary range.
- Increase in the total Personnel category greater than 15%.

If a contract needs to be amended, the original PReq must be amended to reflect the changes in SAP by the responsible program. The responsible program shall prepare and provide all required documents by attaching them to the PReq in SAP. Amendments must be requested to allow sufficient time for processing, as detailed in the OBS Contracting Guidelines.

A contract that has expired or been terminated cannot be amended.

Both contracting parties shall approve contract amendments. If the original contract required DGS approval the amendment shall also require DGS approval, except, to extend the original contract term for a period of one year or less.

A NCB may be required to amend a contract under the following circumstances:

- If the original contract was let via the NCB process.
- The amendment changes the scope of work.
- The amendment increases the dollar amount by 30% or more of the original contract amount, not to exceed \$250,000, and there is no change to the scope of work.
- The amendment extends the term of the contract and adds money.

The date of the amendment shall be prior to the expiration date of the original contract.

A budget change between line items does not require a contract amendment if the change:

- Is 15 percent or less of the total amount of the contract or such other percentage as specified in the contract.
- Does not increase the total amount of the contract.
- Does not significantly modify the original intent of the contract.

The amendment will clearly state all changes to the original contract and incorporate any changed exhibits or attachments.

**22040.10 Contract Content**

All documents shall be executed before the date of performance. No back dated documents are authorized except as provided under emergency situations. (See Department Operations Manual (DOM) § 22040.5.)

All contracts must contain the following information:

- An accurate identification of the parties.
- A complete scope of the work, service, or product to be performed, rendered or provided.
- A clear statement of the basis of payment and the maximum amount to be paid.

- The period of time for performance or completion of the contract, including beginning and ending dates.
- Restrictions on payment of mileage, per diem, and transportation governed by the Department of Personnel Administration (DPA) regulations for non-represented State employees or University of California for contracts with California State higher education institutions.
- Legal clauses, language, or formats when applicable for specific classes of contracts; e.g., public works, consultant, personal services, etc.
- Signature by a person for each party who is authorized to bind that party.

**22040.11 Term of Contract**

Contracts for services should normally not exceed two years, unless there is statutory authority for a longer term or a substantial written justification demonstrates a business need for a longer term.

Contracts for more than one fiscal or calendar year shall be bid on a multi-year basis; that is, a two-year contract shall include a total dollar amount for the two years which is not subject to year-to-year increases or negotiation.

Contracts bid or written on a multi-year basis to secure a rate/cost for the entire period of the contract shall have a termination clause for the State only.

**22040.12 Execution of Contract**

A fully executed contract shall have original signatures of the contractor, the CMB manager, DGS, or other approving authority. Contracts must also be approved and released within the SAP program.

Under no circumstances can a contractor commence services before a fully approved and executed contract is received by the contractor. However, under an emergency situation work may begin without an executed contract if the contract has been verbally authorized by someone with Department authority to authorize the initiation of an emergency contract. (See DOM § 22040.5)

Backdating of a contract is prohibited.

The risks associated with a contractor commencing services without an executed contract include:

- Inability of the State to hold the contractor accountable for poor, insufficient, or incomplete work;
- Inability to pay the contractor for work performed;
- A possible 15 percent penalty fee of the total costs of claims filed against the Department with the Victims Compensation Government Claims Board added to the total cost of the claim and charged to the program; and
- Potential loss of qualified contractors for future work.

**22040.13 Payments**

Provisions for payment shall be clearly defined in the contract.

**Advance Payments During Contracts**

Advance payments are allowed only to community-based, private, non-profit agencies, and to public agencies. If an advance payment is essential for the effective implementation of a program and funds are available, an advance may be granted. The program and or contractor may request that the contract be written to allow advance payment.

**Determining Need**

Program and contract staff shall jointly determine the need for advance payment based upon a review of the contractor's most recent financial statements, budget, and audit report by an independent accountant or other comparable financial information.

The determination shall be based on the following factors:

- The percentage of the contractor's total operating budget to be funded by the contract.
- The extent to which the contractor is dependent upon voluntary contributions from individuals.
- The extent to which the contractor receives financial support from other governmental organizations, private commercial firms, and fund-raising organizations, such as United Way.
- The ability of the contractor to repay the advance from other income.

**Proof of Non-Profit Corporation Status**

The contract with a community-based, private, non-profit agency shall provide that the agency submit proof of non-profit corporate status to the Department before advance payment is made.

This proof shall be reviewed by the CMB staff and be retained in the contract file.

**Granting Advance Payments**

Advance payments to a community-based, private, non-profit agency may be granted by the Department for contracts of \$400,000 or less; for contracts over \$400,000, an advance may be granted only with prior DOF approval.

Advance payments may also be granted to any “Public Agency” and shall be repaid in accordance with the provisions of the contract.

“Public Agency” includes any State or federal agency, county, city, or public district of the State of California.

#### **Fidelity Bond**

The contract shall include a requirement that the agency and its representatives who, in any way, handle financial transactions related to the receipt or disbursement of funds provided by the contract shall be covered by a fidelity bond equal to at least 50 percent of the total amount of the contract.

#### **22040.14 Contracting Parties**

Type of entity shall be clearly defined (partnership, corporation, etc.). Full name of contractor and contractor’s business address shall be included in all contracts.

#### **22040.15 Termination Clause**

A termination clause allowing the Department to terminate the contract with a 30-day written notice to the contractor shall be included in all contracts. A 30-day termination clause may be included in public works contracts if it is considered to be in the best interest of the State.

#### **22040.16 Additional Considerations:**

##### **Travel or Per Diem**

Travel expenses and per diem rates for contracts with consultant services, legal services or a cost reimbursement budget shall be set at the rate specified by the DPA for similar employees or verification supplied that such rates are not available to the contractor.

##### **Consultant Contract**

A consultant cannot commence services before a fully approved and executed contract is received by the consultant. The exception is an emergency, as determined by the Department, where the use of contracted services appears to be reasonably necessary but time did not permit the obtaining of prior formal approval of the contract.

Backdating of a contract is prohibited.

##### **Contract/Contractor Evaluation (STD. 4)**

Upon completion of a consultant contract, the responsible program shall prepare the STD. 4, and submit it to CMB within 60 days of the expiration date of the contract. The CMB shall forward the STD. 4 to the DGS.

##### **Progress Reports**

All consultant contracts shall provide for a series of progress reports or meetings of at least once a month to allow the Department or program to determine if the consultant’s service is meeting the specific problem, administrative requirements, or program needs and is on schedule.

##### **Funds**

Each contract shall state that it is subject to the availability of funds.

##### **Local Government**

When one of the contracting parties is a county, city, district, or other local public body, the contract shall be accompanied by a copy of the approved resolution, order, motion, or ordinance of the local governing body by law having authority to enter into the proposed contract, approving and authorizing execution of the contract.

The CMB will obtain a copy of the resolution, order, motion, or ordinance on behalf of the Department.

Responsible programs shall consider the time involved in obtaining the resolution when planning their contract start date.

##### **Departmentally Authorized Signature**

A Legal Office Form (LO) 33, Signature Authority Card, shall be submitted in triplicate and forwarded to the CMB. After approval and signature of the OBS Deputy Director or designee, the completed card is distributed as follows:

- The requesting program
- CMB
- Claims Audit, State Controller’s Office (SCO)

#### **22040.17 Distribution of Contracts**

The CMB shall mail an original copy of the contract to the contractor. When contracts are approved and are ready for distribution, notification shall be made to the requesting program, headquarter or regional accounting office, and the SCO. The executed contract is also placed in SAP for the headquarter or regional accounting office to retrieve. If a

contract has been approved by DGS they will provide a copy of the contract to the SCO.

#### **22040.18 Developing a Contract Budget**

All contracts shall contain a budget itemizing the expenses involved with the contract.

Basic components of a budget could include:

##### **Personnel Services**

- Salaries and benefits of the staff involved with the contract performance

##### **Operating Costs**

- Postage
- Printing
- Travel
- Office supplies

##### **Reimbursable Costs**

- Bookkeeping services
- Computer services
- Training consultants

When the contractor submits a budget for contracts not required to be bid or for amendments, program staff shall verify the line item amounts in each component to ensure the total budget does not exceed the specified contract amount.

#### **22040.19 Consultant Progress Payments in Contracts**

Progress payments authorized within a consultant contract shall comply with the provisions of PCC § 10346.

When progress payments are authorized, not less than 10 percent of the contract amount shall be withheld pending final completion of the contract. However, if the contract consists of the performance of separate and distinct tasks, then any funds withheld with regard to a particular task may be paid upon completion of that task.

#### **22040.20 Small Business Preference in Contracts**

The small business preference applies for competitive solicitations regardless of the solicitation format or dollar value with few exceptions. The exemptions to the Small Business (SB) preference are Interagency Agreements, contracts or purchases with any government agency (including cities, towns, colleges, universities, etc.), federally funded contracts, and Joint Power Agreements. The SB participation goal has been established for all contracts by Executive Order S-02-06. It is the commitment of the Department to provide SBs with the opportunity to participate to the maximum extent feasible in the performance of contracts and subcontracts.

#### **22040.21 Disabled Veterans Business Enterprise Participation Requirements**

The CDCR is committed to achieving the legislatively established goal for the participation of disabled veteran-owned businesses in procurement and contracts to the fullest extent possible. The CDCR may establish Disabled Veterans Business Enterprise (DVBE) participation requirements on individual contracts.

The DVBE program policies and procedures seek to achieve the established statewide annual minimum goal in the performance of contracts. All managers, procurement officers, and contract officers are responsible for implementing those policies and shall exert maximum efforts to successfully achieve the legislatively established DVBE goal.

#### **22040.22 Termination of Contracts**

The State may terminate a contract for any reason other than failure to perform services as long as the 30-day termination clause is included in the contract language. A notice of termination shall be written to the contractor giving at least 30 days notice by the CMB.

##### **Failure to Perform**

Termination for failure to perform services specified in the contract may occur immediately under the provisions of the contract. Prior to termination, the contractor shall be given a reasonable amount of time in which to improve the services. After a written notice to improve is given and services have not improved, the contract may be immediately terminated.

The CMB contract analyst will process all contract terminations. Copies of any prior correspondence to the contractor shall be forwarded to the CMB. The written notice of termination shall indicate the specific provisions that were not adhered to.

#### **22040.23 Competitive Bidding (Non-Public Works)**

To the greatest extent possible, engage in competitive bidding.

At least three competitive bids or proposals shall be secured on all contracts except those specifically exempted in GC § 14825 and PCC § 10348. Exceptions to a minimum of three bids are listed in SCM § 5.08A and SCM § 5.10B.

All bids/proposals received and all related correspondence and documents shall accompany the contract for final approval.

**22040.24 Revisions**

The Deputy Director, Business Services or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**22040.25 References**

SAM §§ 1200, 1208, and 1216 et seq.

PCC §§ 1102, 10122, 10333, 10335, 10340, 10346, 10348, 10351, 10352, and 10371

PC § 7000, et seq.

GC § 14825

SCM §§ 2.05, 2.06, 2.06D, 2.07, 3.02, 3.07, 3.09, 3.10, 3.11, 3.12, 3.17.2, 4.05, 4.10, 5.08, 5.08A, 5.10B, 5.60, 5.75, 5.80B2, 6.00, 7.15, 7.25, 7.30, 7.32, 7.40, 7.80, 7.85, and 9.12

**ARTICLE 14 — FIELD OFFICES**

*Effective January 18, 1990*

**22050.1 Policy**

The Department shall enter into leases for field offices in a manner which focuses on the greatest accessibility to service the public and client population with the least hardship on staff and community while adhering to budget constraints.

**22050.2 Purpose**

This section describes the process involved to lease, relocate or equip any field office of the Department that is not geographically located within Headquarters space.

- This section shall use a parole field unit as an example to illustrate the step-by-step acquisition process and subsequent operational requirements.

**22050.3 Definition**

The term "field office," for purposes of this section, is synonymous with and shall include any divisional unit, subunit, office, suboffice, or annex identified on the departmental organization chart, and that is physically located in another building, warehouse or trailer outside of the headquarters building and institution property.

**22050.4 Establishing Need for New Field Office Space**

The need for expansion or relocation is based on criteria specific to the type of office affected. For instance, the need for new parole field offices is based on OBIS parole population projections broken down by counties and on local information about client population collected by unit supervisors. Expansion needs for a parole unit is also directly related to the creation/proposed creation of new staff positions to manage client population increase.

**22050.5 Acquisition Process**

The process involved in the acquisition of new or additional field office space is the same for all Department programs and are as follows:

The compiled information supporting the need for expansion must be submitted to the BSS by the divisional head. In the case of paroles, the RPA submits the request and supporting materials to the Department's Business Services Unit by the Deputy Director, P&CSD, who signs the memo giving approval or rejects the request.

**Request**

The written request shall contain the following information based on a two-year projection:

- Justification for acquiring a new location.
- Geographic boundaries within which the proposed office is to be located.
- Staff, equipment, and other special requirements.
- All other pertinent data ensuring compliance with departmental and local community needs and ordinances.

**Area**

The Business Services Officer assigned to the area/region of the proposed office site shall prepare the following:

- A Standard (STD) Form 9, Space Action Request.
- A General Services (GS) Form 4083, Space Planning Data Chart which contains staffing proposals and other office necessities.

The Assistant Deputy Director, Financial Management and Support Services, approves or disapproves the STD Form 9. If approved,

Business Services shall submit along with the STD Form 9, the GS Form 4083 to Office of Real Estate and Design Services (OREDS) for:

- Review.
- Advertising.
- Site search.
- Lease Negotiation.
- Lease Preparation.
- Physical layout of space.

**22050.6 Furniture and Equipment**

The following actions initiate furniture and equipment procurement:

- Upon completion of lease preparation, OREDS prepares a Lease Project Memorandum (OREDS Form 6) and sends it by Business Services to the Assistant Director, Financial Management and Support Services for review and approval.
- Business Services shall mail an informational copy of the OREDS Form 6 to the division's Support Services Unit.
- The staff services analyst of the affected region shall immediately prepare a request for equipment (STD Form 5), and send it by divisional headquarters to Business Services for processing.
- At this time, Business Services shall also complete a request for telephone services (STD Form 20), security systems, and moving services.

DOM 22030, Materials Management, discusses furniture/equipment procurement in detail.

**22050.7 Site Selection**

Appropriate field staff shall participate in the inspection of the proposed office sites and indicate their preference, and reasons for rejecting the other sites. Final site selection shall be determined by OREDS and the Department based on:

- Cost factors.
- Accessibility to public and client population.
- Other relevant factors (e.g., proximity to law enforcement, ventilation, location of emergency evacuation routes, etc.).

**22050.8 Lease Finalized**

OREDS shall send a lease agreement to the lessor and, upon receipt of the signed lease, forward a copy to the Departments BSS. Business Services, if so requested, shall forward a copy of the lease to the affected region.

After alterations to conform the acquired space to Department's requirements are completed, a final walk-through is conducted by OREDS, Business Services, and the appropriate field staff.

**22050.9 Occupation Process**

Business Services shall arrange for the mover as follows:

- If there is a state master agreement with a specific mover in the area of the new office location, the Business Services Unit shall follow the procedures outlined in that agreement.
- If there is no state master agreement and the move will cost \$500 or more, the move must be advertised in the State Contracts Register. The Business Services officer shall be responsible for preparation of the bid package and submitting the contract request to the Departments Contract Services Unit.
- If the move will cost less than \$500, the Business Services Unit shall call three local movers to have them submit bids and then shall select the lowest price quoted.

DOM 22040 describes contracting procedures in detail.

**22050.10 Requesting Additional Office Space for Existing Offices**

When there is a need for additional space for an existing field office, the process followed to obtain such additional space shall be the same as that used to obtain a new field office location.

**22050.11 Emergency Acquisition of Office Space**

If an extreme emergency exists that necessitates acquiring temporary rental space expeditiously, Business Services shall examine various options to satisfy immediate needs on a case-by-case basis.

If this new space is not to be located within a state owned building, the process of emergency acquisition shall take at least 60 working days to allow for the notification of appropriate local officials (mayor, city clerk, county board of supervisors, senator, assembly member and the LLO) pursuant to the requirements of Administrative Bulletin 647, Chapter 812 (September 1987).

**22050.12 Revisions**

The Deputy Director, ASD, or designee, shall ensure that the content of this section is accurate and current.



**22050.13 References**

GC §§ 13070; 14681.5; 14615; 14825; 14616.

PCC § 10295.

PC Chapter 9.5.

**ARTICLE 15 — SELECTION OF PROFESSIONAL CONSULTING  
SERVICES**

*Revised August 10, 2002*

**22060.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) shall secure the services of private architectural, engineering, and other firms, as defined in Section 4525 (a) of the Government Code, on the basis of:

- Demonstrated competence.
- Professional qualifications necessary for the satisfactory performance of the service required.

**22060.2 Purpose**

This Article incorporates the requirements for selecting the services of architectural, engineering, and other firms as defined in Section 4525 (a) of the Government Code.

**22060.3 Responsibility**

CDCR's Contracts Management Branch shall provide functional direction for the selection of firms (defined below) pursuant to this Article.

**22060.4 Definitions****Firm**

Any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

**Small Business Firm**

A business in which the principal office is located in California and the officers of such business are domiciled in California, which is independently owned and operated and which is not dominant in its field of operation.

The maximum dollar volume that a small business may generate shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries.

**State Agency Head**

For the purpose of this Article, the State Agency Head is the Secretary of the CDCR or his/her designee.

**Architectural, Landscape Architectural, Engineering,  
Environmental, and Land Surveying Services**

Professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, are the primary consulting services spoken to in this Article.

**Construction Project Management**

Those services provided by a licensed architect, registered engineer, or licensed general contractor who meet the requirements of Government Code Section 4529.5 for management and supervision of work performed on State construction projects.

**Environmental Services**

Those services performed in connection with project development and permit processing in order to comply with federal and State environmental laws. "Environmental services" also includes the processing and awarding of claims pursuant to Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.

**22060.5 Notice of Announcement**

Where services subject to this Article are identified as being required, the Secretary or designee shall make a statewide notice of announcement as follows:

- The announcement shall be advertised in two major California daily newspapers.

- The announcement shall be placed in the California State Contracts Register and shall include information as identified in Section 14825.1, Government Code.
- The announcement shall be published in respective professional societies publications.

All announcements in professional societies or newspapers shall contain the following minimal information:

- The nature of the work.
- The criteria upon which the selection of a firm shall be made.
- The time frame within which statements of interest, qualification, and performance data shall be received.

Failure of the professional societies or newspapers to publish the notice of announcement shall not operate to invalidate any contract.

Firms selected may be retained for multiple years to complete the service.

**22060.6 Established Criteria**

The Secretary or designee shall establish criteria, which will comprise the basis for selection, which shall include such factors as:

- Professional excellence.
- Demonstrated competence.
- Specialized experience of the firm.
- Education and experience of key personnel.
- Specialized staff capability.
- Workload.
- Ability of the firm to meet schedules and budgets.
- Principals to be assigned by the firm.
- Nature and quality of completed work by the firm.
- Reliability and continuity of the firm.
- Location.
- Professional awards received by the firm.
- Other relevant considerations.

The Secretary or designee shall weigh such factors according to the nature of the work to be performed, the needs of the state, and complexity and special requirement of the specific work.

**22060.7 Selection of Architects or Engineers**

After expiration of the period stated in the publications, the Secretary or designee shall evaluate statements of qualifications and performance data submitted by interested firms and on file in the Department. The Secretary or designee shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required service. From the firms with which the Secretary or designee holds discussions, the Secretary or designee shall select no less than three, in order of preference, based upon the established criteria, whom the Secretary or designee deems to be the most highly qualified to provide the services required. In the event there are fewer than three qualifying submittals, the Secretary or designee will make a finding as to whether it is in the best interest of the State to proceed or re-advertise.

**22060.8 Estimate of Value of Service**

Before any discussion with any firm concerning fees, the Secretary or designee shall cause an estimate of the value of such services to be prepared. Such estimate shall be, and shall remain, confidential until the award of contract or abandonment of any further procedure for the services to which it relates.

**22060.9 Negotiation**

The Secretary or designee shall attempt to negotiate a contract with the best-qualified firm. Should the Secretary or designee be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at fair and reasonable compensation, negotiations with that firm shall be terminated. The Secretary or designee shall then undertake negotiations with the second most qualified firm. Failing accord, negotiations shall be terminated. The Secretary or designee shall then undertake negotiations with the third most qualified firm. Failing accord, negotiations shall be terminated. Should the Secretary or designee be unable to negotiate a satisfactory contract with any of the selected firms, the Secretary or designee may select additional firms in order of their competence and qualifications and continue negotiations in the manner prescribed until an agreement is reached.

**22060.10 Amendments**

In instances where the State effects a necessary change in the work during the course of performance of the contract, the firm's compensation may be adjusted by mutual written agreement in a reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the parties.

**22060.11 Contracting in Phases**

Should the Secretary or designee determine that it is necessary or desirable to have the work performed in phases, it will not be necessary to negotiate the total contract price in the initial instance. This is provided that the Secretary or designee shall have determined that the firm is best qualified to perform the work at a reasonable cost. Also the contract shall contain provisions that the State, at its option, may utilize the firm for other phases and the firm will accept a fair and reasonable price for subsequent phases to be later negotiated, mutually-agreed upon, and reflected in a subsequent written instrument. The procedure, with regard to estimates and negotiation shall otherwise be applicable.

**22060.12 Small Business Participants**

The Secretary or designee shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for services for which the Secretary or designee concludes that small business firms could be especially qualified. The Secretary or designee shall assist firms in attempting to qualify for small business status. A failure of the Secretary or designee to send a copy of an announcement to any firm shall not operate to invalidate any contract.

**22060.13 Applicability of this Article**

This Article shall not apply where the Secretary or designee determines that:

- The services needed are more of a technical nature.
- The services needed involve little professional judgment.
- Requiring bids would be in the public interest.

**22060.14 Revisions**

The Deputy Director, Office of Business Services or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**22060.15 References**

CCR (15) (3) §§ 3454 – 3464.

PC §§ 5054, 5058, and 7000.

GC §§ 4525 – 4529.5 and 14825.1.

Health & Safety Code §§ Division 20 §§ Chapter 6.75 (commencing with Section 25299.10).

**ARTICLE 16 — EMPLOYEE PERSONAL PROPERTY**

*Revised August 30, 2016*

**22070.1 Policy**

The Government Code (GC) and the State Administrative Manual (SAM) authorize the California Department of Corrections and Rehabilitation (CDCR) to provide reimbursement for the repair or replacement of damaged or stolen personal property an employee wears or uses in the course of employment.

**22070.2 Purpose**

This Article outlines the process to be used by employees for obtaining reimbursement for the repair or replacement of damaged personal property or stolen personal tools or equipment. If any content conflicts with bargaining unit agreements, the Memorandum of Understanding prevails.

**22070.3 Damaged Personal Property**

CDCR is authorized to pay for the repair or replacement of damaged personal property worn or used by an employee in the course of employment. An inventory of all personal property used on the job must be approved by the employee's supervisor prior to the loss. CDCR shall decide between reimbursement for repair or replacement; the employee's preference shall be considered in this decision. Personal property eligible for reimbursement may include:

- Eye glasses
- Dentures
- Watches
- Hearing aids
- Clothing
- Uniforms
- Uniform items

Personal property brought to the work place, which is not required for employment, shall not be considered a responsibility of CDCR or the

State. Personal property ineligible to be repaired or replaced may include:

- Clocks
- Radios
- Calculators
- Desk sets
- Pictures
- Jewelry (other than watches)
- Sunglasses

Damage that is incurred as a result of normal wear in the course of employment is not compensable by the State.

**22070.4 Stolen Personal Tools and Equipment**

CDCR is authorized to reimburse the cost of replacing a personal tool or piece of equipment that was stolen from an employee's work site if all three of the following requirements are met:

- The stolen personal tool or piece of equipment was required in the employee's work;
- The item was authorized by the written approval of the employee's immediate supervisor prior to the loss;
- Contributory negligence of the employee did not exist.

Claims involving stolen property valued in excess of \$500 must also be approved by CalHR. In the event an employee's personal tool or equipment is stolen, the California Highway Patrol (CHP) must be notified and a copy of the theft report must accompany the claim.

**22070.5 Preparation of Claims**

A claim submitted by an institution employee for the repair or replacement of damaged personal property or reimbursement of stolen personal tools or equipment shall be approved by the employee's immediate supervisor and the Warden or designee. A claim submitted by an administration or field office employee shall be approved by the employee's immediate supervisor and the appropriate division/department head or designee.

All claims involving reimbursement of stolen personal tools or equipment valued in excess of \$500 must be approved by CalHR.

All claims shall be submitted using CDCR Form 892, Employee Claim for Loss or Damage to Personal Property.

All claims shall include the employee's verification of the following on CDCR Form 892:

- The item was used in the course of employment
- Loss or damage of the item occurred at the employee's work site, work base, or en route between the two locations
- Loss or damage of the item was not a result of carelessness or negligence

Additional documentation required for damaged personal property:

- If the item is repairable, provide a researched estimate of the cost for any repairs
- If the item is irreparable, provide the reason(s) why the item cannot be repaired and evidence of the item's value at the time of damage, e.g., sales records, price lists, etc.

Additional documentation required for stolen personal tools or equipment:

- The official CHP report describing the incident or the circumstances of the theft
- Evidence of the item's value at the time of theft, e.g., sales records, price lists, etc.

**22070.6 Supervisor's Review of Claims**

The claim shall be submitted to the employee's immediate supervisor for review. Preliminary approval of the claim at the supervisor's level shall provide:

- Confirmation of the employee's statement as certified by the supervisor's signature on CDCR Form 892
- Recommendation of reimbursement for repair or replacement of damaged personal property or reimbursement of stolen personal tools or equipment
- An attached statement of measures taken to prevent recurrence of such an incident or an indication on CDCR Form 892 that no measures are possible to prevent recurrence

**22070.7 Submission of Claims**

Institution Employees:

- Upon the supervisor's approval, CDCR Form 892 and all accompanying documents shall be forwarded to the Institution Business Office.
- The Warden or designee shall approve/disapprove the claim. If approved, the Institution Business Office shall forward the claim to the Accounting Services

Branch – Sacramento for payment processing. For a stolen personal tool or piece of equipment claim exceeding \$500, the Institution Business Office must forward the claim to the CalHR Benefits Division for approval prior to submitting the claim to the Accounting Services Branch – Sacramento.

- If the claim is disapproved, the Warden or designee shall return the claim to the supervisor. The supervisor shall then return the claim to the employee.

Administration or Field Office Employees:

- Upon the supervisor's approval, CDCR Form 892 and all accompanying documents shall be forwarded to the Deputy/Associate Director or designee of the employee's division.
- The Deputy/Associate Director or designee shall approve/disapprove the claim. If approved, the claim shall be forwarded to the Accounting Services Branch – Sacramento for payment processing. For a stolen personal tool or piece of equipment claim exceeding \$500, the Deputy/Associate Director or designee must forward the claim to the CalHR Benefits Division for approval prior to submitting the claim to the Accounting Services Branch – Sacramento.
- If the claim is disapproved, the Deputy/Associate Director or designee shall return the claim to the supervisor. The supervisor shall then return the claim to the employee.

#### **22070.8 Denied Claims**

Any claim denied during the process outlined in this Article may be submitted by the employee to the California Department of General Services, Office of Risk & Insurance Management – Government Claims Program, for further determination/consideration. If the claim is denied at this level, the last avenue of appeal is through civil action.

#### **22070.9 Revisions**

The Associate Director, Accounting Services Branch or designee shall ensure that the contents of this Article are current.

#### **22070.10 References**

GC §§ 935.6(a), 19849.8, and 19850.6.

MOU for Bargaining Unit 6.

SAM § 8423.

CCR Title 2 (1) (3) § 599.725.

### **ARTICLE 17 — EVALUATIONS AND FISCAL CONTROL AUDITS**

*Revised February 1, 1993*

#### **22080.1 Policy**

The Program Compliance Evaluation and Internal Audit Units shall review departmental operations for compliance with departmental and State policies, procedures, directives, regulations, and statutory requirements in order to enhance the effectiveness of departmental operations by providing to The Director, Executive Staff, and field managers current information for effective planning and decision-making.

#### **22080.2 Purpose**

This section establishes requirements for program compliance evaluations and for fiscal compliance and internal control audits.

#### **22080.3 Responsibility— PFAB**

PFAB shall assist the Director and other departmental executives with increasing the effectiveness of management by systematically reviewing departmental activities to provide recommendations for improvements. The reviews shall determine:

- Compliance with existing laws, rules, court and legislative mandates, regulations, directives, standards, and policies.
- The reliability and integrity of information.
- Efficient and effective use is made of resources.
- The safeguarding of State assets.
- The accomplishment of established objectives and goals for operations or programs.

#### **22080.4 Responsibility— Inmate Appeals**

Inmate Appeals, headquarters, shall notify the Chief, PFAB of all third-level appeals ruled in favor of the inmate and of repetitive noncompliance detected through the inmate appeal process.

#### **22080.5 Responsibility—Wardens/RPAs**

The incumbents shall ensure the monitoring of all fiscal transactions by implementing ongoing reviews and audit evaluations of same within their facilities and parole regions.

#### **22080.6 Reports**

The reviews conducted by PFAB shall provide management with reports regarding the levels of operational compliance with departmental and State directives, internal monitoring methodology, actions taken to correct deficiencies, and assessments of current operational and program status.

#### **22080.7 Evaluation Function**

The evaluation function provides a means of:

- Improving management of the facilities and headquarters through systematic operational compliance reviews and data collection which:
  - Provides for early identification of operational problem areas with recommendations for solution.
  - Coordinates departmentwide resolution of problems.
  - Increases communication between departmental managers at all levels.
  - Ensures consistent compliance with, and adherence to, operational application of goals and the philosophy of the Department.
- Systematically reporting and recording information regarding the activities of the Department by:
  - Biennial evaluations and appropriate follow-up of each of the Department's operational units.
  - Special reviews of identified or potential problem areas initiated by direction of Executive Staff or request of field managers.
  - Periodic reviews of operational areas to evaluate the effectiveness of specific changes in policy, procedures, and/or regulations for the purpose of problem-solving and determining if improvements may be made.
  - Management and dissemination of collected data regarding identified operational or noncompliance areas.

#### **22080.8 Annual Work Plan**

PFAB shall establish an Annual Work Plan (AWP) for:

- Conducting program compliance evaluations of headquarters and field operations.
- Conducting postevaluation progress reviews as required to evaluate implementation of corrective actions on identified deficiencies.
- Monitoring compliance with specific court-imposed mandates.
- Conducting departmental administrator-requested special reviews.
- Conducting preaudits of ACA Standards for Adult Institutions to enable preparation for the accreditation audits conducted by the Commission on Accreditation for Corrections (CAC).
- Conducting internal and fiscal compliance audits which ensure compliance with the Financial Integrity and State Manager's Accountability Act of 1983.

#### **22080.8.1 Approval and Review**

The AWP shall be prepared and distributed by PFAB to Executive Staff for review and comment. Upon resolution of any Executive Staff concerns, it shall be submitted to the Assistant Director, OOC (EC&ISD) by each October 1 for approval.

#### **22080.8.2 Definitions**

The following definitions apply to the reviews by PFAB:

##### **Evaluation Scope.**

Delineation of the procedures, programs, operations, and activities that shall be reviewed.

##### **Evaluation Liaison.**

A staff person designated at each review location to serve as liaison between the local and review team staff, and to facilitate the team's review by expediting information-gathering and access to documents and records.

##### **Evaluation Worksheet.**

A checklist noting all the departmental requirements related to the review scope which serves as the source document for the review findings report. PFAB shall update the review worksheets to ensure that they reflect current law, policy, and procedure.

##### **Action Plan.**

A formal written plan submitted by the administrator responsible for detailing proposed actions to correct any deficiencies noted in the evaluation findings. Action plans shall:

- Fix the responsibilities and specify the actions to be taken for correcting deficiencies.
- Establish the time limits within which corrective actions shall be completed.

#### **22080.9 Program Compliance Evaluations**

PFAB shall schedule on-site program compliance evaluations for headquarters divisions and field units no less than once during each two-year period. The evaluation scope, methodology, and frequency shall consider the technical resources from other divisions with functional responsibility for specific operations, which may be used to assist with the evaluation. The schedule shall note additional staff resources with specific technical expertise which may be necessary to assist PFAB staff.

##### **22080.9.1 Advance Notice**

Each headquarters division and field unit shall be notified in advance of the schedule for program compliance evaluations. The notice shall include a copy of the evaluation worksheets to be used. If a scheduled evaluation date conflicts with an exceptional activity or event, the head administrator may request rescheduling of the review.

##### **22080.9.2 Entry Interview**

An entry interview shall be held with the responsible administrators prior to beginning the evaluation to discuss the scope, method, and to identify local resources required to assist with the evaluation. At this time a staff person shall be designated to serve as liaison between the headquarters division/field unit and the evaluation team.

##### **22080.9.3 Evaluation Coverage**

The program compliance evaluation shall cover all operations governed by departmental policies, procedures, and regulations, and shall consist of:

- Comparing local supplemental procedures to the appropriate departmental policies, procedures, regulations, and directives.
- Comparing local operational practices with the written procedures governing the operations.
- Using the evaluation worksheets to carry out the evaluation plan. These worksheets list departmental policies, procedures, and regulations which govern headquarters and field operations.
- Evaluating any operational areas not governed by facility procedures, but identified by departmental administrators as being of specific concern.
- Inspecting the physical plant with respect to fire/life safety and sanitation with an emphasis on actions which have been taken to correct deficiencies cited in the most recent State Fire Marshal Report and Environmental Health Survey.
- Interviewing staff members who administer, manage, supervise, and implement procedures.
- Reviewing documentation and records to verify past and current practices.
- Directly observing operational practices.

##### **22080.9.4 Exit Interview**

At the conclusion of each evaluation, an exit interview shall be conducted with the local administrators to discuss the evaluation findings and provide them with a rough copy of the completed evaluation worksheets.

##### **22080.9.5 Formal Report**

Within three weeks, a formal report of the evaluation findings and recommendations shall be prepared in draft form and forwarded to the responsible division head and local administration for review and comment. The administrator shall respond within four weeks after receipt of the formal draft report by submitting a Plan of Action for correcting any deficiencies noted and discussion of any findings considered to be in error.

##### **22080.9.6 Rebuttal of Findings**

The rebuttal of findings and/or proposed action plans shall be reviewed and approved by the appropriate Deputy Director or Assistant Director in consultation with PFAB and/or Assistant Director, OOC. PFAB shall be consulted on any rebuttals. The appropriate Deputy Director or Assistant Director shall make any necessary changes to the Action Plan and shall forward the plan to PFAB within one week of receiving it. The Deputy Director or Assistant Director shall provide a summary of the Action Plan package with an approval block for approval by the Director or Chief Deputy Director.

#### **22080.9.7 Final Report**

PFAB shall within two weeks of receipt of the Action Plan from the responsible division, combine the draft report, the related responses, and the Action Plan, and shall prepare a final report for submittal to the Assistant Director, OOC.

The Assistant Director, OOC, shall within two weeks forward the final report to the Director/Chief Deputy Director for approval. Rebuttals not resolved by the division shall be brought to the attention of the Director/Chief Deputy Director at that time for final decision.

#### **22080.9.8 Distribution**

Upon approval, copies shall be distributed to all of the following:

- YACA.
- Responsible Deputy Director or Assistant Director.
- Local administrator.
- LAD-PMU for retention in the Department's policy files.

#### **22080.9.9 Emergency Situations**

If during the course of an evaluation findings indicate an emergency situation, it shall be immediately reported to:

- Assistant Director, OOC.
- Local administrator.
- Responsible Deputy Director or Assistant Director.

#### **22080.9.10 Progress Reviews**

A progress review of corrective actions shall be scheduled approximately 90 days after approval of the Action Plan by the Director/Chief Deputy Director, unless another interval is appropriate in a unique situation. Progress reviews shall follow the same process as the program compliance evaluation but shall be limited to operations which required corrective action. The approved Action Plan shall be the reference document for the progress review.

#### **22080.10 Annual Summary of Significant Non-compliances**

By the close of the fiscal year, PFAB shall provide to the Director, Chief Deputy Director, and appropriate Deputy Directors and Assistant Directors, a summary of significant noncompliances which occurred at more than one location.

#### **22080.11 Court Compliance Evaluations**

Court compliance evaluations shall be scheduled to ensure that court mandates are met. Court compliance evaluations shall follow the same process as program compliance evaluations except that:

- The on-site evaluations shall compare the local operations with the requirements imposed by court order, injunction, settlement agreement, or other court mandate.
- Action plans to correct deficiencies noted in the findings shall be submitted by the field unit to the appropriate Deputy Director or Assistant Director, and to PFAB within two weeks following the exit interview and receipt of the rough completed evaluation worksheets. Any disagreements or clarifications of action plans shall be resolved by the Deputy Director/Assistant Director and PFAB and/or Assistant Director, OOC, during this time.
- The review worksheets and resulting Action Plan shall be incorporated into a final report by PFAB and submitted to the Assistant Director, OOC, within two weeks after receipt of the Action Plan from the facility.
- The Assistant Director, OOC, shall then forward the report within one week to the Director/Chief Deputy Director for approval.
  - Rebuttals not resolved by the division shall be brought to the attention of the Director/Chief Deputy Director at this time for final decision.
- Upon approval, copies shall be distributed to YACA; the responsible Deputy Director or Assistant Director; the local administrator; and to applicable court monitors.

#### **22080.12 Special Reviews**

Special reviews shall be scheduled as directed by the Assistant Director, OOC. Special reviews shall follow the same process as program compliance evaluations except that:

- The formal report shall be submitted by the Assistant Director, OOC, to the requesting administrator and to the Director/Chief Deputy Director.
- Formal notice of special review dates may not be practical depending on the nature and urgency of the review. Exceptions to the standard times shall be discussed in the final reports.

#### **22080.13 ACA Preaudits**

ACA preaudits shall be scheduled prior to an audit by the CAC to assist the facilities with preparation for the accreditation audit. ACA preaudits shall simulate the CAC's audit plan.

Preaudits shall be conducted using the same process as program compliance evaluations except that the on-site reviews shall compare the local operations with the ACA Standards for Adult Institutions.

#### **22080.14 Fiscal Compliance and Internal Control Audits**

These audits shall be conducted in accordance with the SAM, Chapter 20000 to ensure all of the following:

- Reliability and integrity of information.
- Compliance with policies, plans, procedures, laws, and regulations.
- The safeguarding of assets.
- Economical and efficient use of resources.
- The accomplishment of established objectives and goals for operations or programs.

They shall follow the same process as the program compliance evaluations except that on-site reviews shall compare the local operations with the requirements of the Audit Guide for the Evaluation of Systems of Internal Control prepared by the DOF.

#### **22080.15 Requesting Exemptions From Certain Internal Control Procedures**

##### **Responsibility**

As stated in SAM 8080, the Financial Integrity and State Manager's Accountability Act of 1983 (GC 13400 through 13407) requires that the head of each State agency shall establish and maintain an adequate system of internal control within their agency.

The DOF is no longer responsible for granting exemptions from internal control procedures.

##### **Accounting Systems Section**

It is the policy of the CDC to delegate this responsibility to the Accounting Systems Section which oversees the Department's accounting systems and procedures.

##### **Facility Accounting Office**

Each facility accounting office shall establish and maintain, in accordance with SAM procedures, a system of internal control which is adequate to safeguard assets, provide reliable data, promote operational efficiency, and encourage adherence to prescribed policies.

In the event a certain internal control procedure cannot be properly implemented, an exemption can be requested from the Accounting Systems Section. Such a request shall be submitted in writing with a description of the internal control procedure at issue and why this procedure cannot be properly implemented. This request shall also include a complete description of the proposed alternative procedure and how the alternative procedure adequately meets the internal control objectives.

The requests for exemption from internal control procedures shall be addressed to:

Department  
Accounting Systems Section, Room 211-S  
P.O. Box 942883 Sacramento, CA 94283-0001

Alternative procedures shall not be implemented until written approval from the Accounting Systems Section is received.

#### **22080.16 Revisions**

The Assistant Director, OOC, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **22080.17 References**

PC § 5057.

GC §§ 1330 and 13400 – 13407.

SAM Chapter 20000.

Financial Integrity and State Manager's Accountability Act of 1983.

ACA Standards for Adult Institutions.

Audit Guide for the Evaluation of Systems of Internal Control prepared by the DOF.

### **ARTICLE 18 — FISCAL AND ADMINISTRATIVE REVIEWS**

*Revised February 13, 2012*

#### **22090.1 Policy**

The Office of Audits and Court Compliance (OACC) conducts selected reviews of expenditures and reimbursements, as well as compliance with contracts and/or Department guidelines.

#### **22090.2 Purpose**

This Article outlines the process used by the OACC in reviewing, evaluating, and documenting fiscal operations of selected public and private providers under contract with the Department.

#### **22090.3 Responsibility**

The OACC shall review and evaluate selected fiscal operations of other government agencies and the profit and non-profit organizations that have contracted or provided services to the Department. The purpose of this review is to verify compliance with the terms of the contract, State and departmental rules, laws, and regulations related to specific areas being reviewed.

#### **22090.4 Objectives**

The OACC objectives include:

- Verify the contractor's or local government's fiscal compliance with the terms and conditions selected for review in the contract.
- Verify that all questioned costs are carried through to a final resolution.

#### **22090.5 Contracts Subject to Review**

The OACC has the authority to review any contracts between the CDCR and public, private, profit or non-profit corporations, and/or individuals.

In addition, the OACC also reviews reimbursements to counties for costs incurred for parolee detention under State mandated laws.

#### **22090.6 Requests for Audits**

Requests for audits or reviews to be performed by the OACC should be submitted in writing to the Deputy Director, OACC. A request should indicate the need for an audit or review, the desired scope of the audit or review, what areas and time periods to be audited or reviewed, and the date when the audit or review results are needed. A request should be submitted early enough to allow adequate time for the performance of the audit or review prior to the desired date. After consultation with the appropriate Director(s) and the Deputy Director, the OACC shall establish audit priorities.

#### **22090.7 Resolution of Audits or Disputed Monetary Findings by OACC**

*Revised September 3, 2013*

Audits and disputed monetary findings shall be resolved as follows:

- The OACC will issue a draft report or management letter to the contractor or city/county setting forth its preliminary findings and recommendations.
- The contractor or city/county shall have thirty (30) calendar days from receipt of the draft report or management letter to provide a written response to the preliminary findings and recommendations. The contractor or city/county may also provide additional documentation for consideration in the preparation of the final report or management letter.
- The OACC will thereafter issue a final report or management letter to the contractor or city/county.
- The contractor or city/county shall have thirty (30) calendar days from receipt of the final report or management letter to make a written appeal of the findings. The written appeal must clearly identify the specific finding(s), or portion of the specific finding, disputed by the contractor or city/county. The written appeal must also (1) set forth all facts in support of the contractor's or city/county's position on each disputed finding, and (2) include all evidence and documentation in support of the contractor's or city/county's position on each disputed finding.
- The written appeal must further include a written certification signed by the contractor or city/county under the penalty of perjury pursuant to California Code of Civil Procedure Section 2015.5 that the appeal is made in good faith, and that the supporting evidence and documentation is accurate and complete.
- Upon receipt of a timely and complete written appeal a hearing date will be established by the OACC. The appeal shall be reviewed by the Administrative Review Committee (ARC) consisting of:
  - Director, Division of Administrative Services, or a Designee (ARC Chairperson).
  - Deputy Director, Office of Fiscal Services.
  - Director or a Designee as assigned by the Director responsible for the program area covered by the contract.

In addition to the above ARC members, a representative from the Office of Legal Affairs will be present in an advisory non-voting role. The OACC shall serve as the liaison between the ARC and involved parties.

- The ARC shall notify the contractor or city/county of its findings within thirty (30) calendar days of the hearing. The ARC's findings shall be the Department's final position on the audit or review. Any further questions from the contractor or city/county related to the final audit report or management letter shall be directed to the OACC.

- Any final report or management letter findings resulting in disallowances not appealed by the contractor or city/county must be repaid to the State within thirty (30) calendar days of receipt of the final report or management letter. Any ARC findings resulting in disallowances must be repaid to the State within thirty (30) calendar days after the ARC's findings are issued.
- When payment is not received within the required timeframe, the amount involved shall be deleted from future monthly claims until the audit or review disallowance is fully paid. Nonpayment of an audit or review disallowance may result in immediate cancellation of the contract and notification to the DGS that the contractor has refused to honor the findings of the audit or review, whereupon appropriate action shall be taken to collect the amount due the State.

Contract provisions to settle unresolved disputes are provided in general conditions of the Contract Handbook for construction contracts. Those parties entering into construction contracts shall settle unresolved disputes using independent arbitration prior to litigation. This arbitration shall be conducted in accordance with the PCC Sections 10240 through 10240.13.

#### **22090.8 Revisions**

The Deputy Director, OACC, or Designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **22090.9 References**

GC § 13300.

PC §§ 4016.5 and 5057.

PCC §§ 10240 - 10240.13.

SAM Chapter 20000.

ACA Standards 4-4031 through 4-4036.

CCP § 2015.5

### **ARTICLE 19 — DVBE PROGRAM FOR SERVICES, COMMODITIES, AND PUBLIC WORKS**

*Revised March 28, 1999*

#### **22100.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) is committed to achieving the legislatively established goal for the participation of disabled veteran-owned businesses in procurement and contracts to the fullest extent possible.

The Disabled Veteran Business Enterprises (DVBE) Program develops policies and procedures to achieve the statewide annual goal of 3 percent in the performance of contracts.

All managers, procurement officers, and contract officers are responsible for implementing the CDCR's DVBE policies and shall exert maximum efforts to successfully achieve the legislatively established DVBE goal.

#### **22100.2 Purpose**

Pursuant to Public Contract Code (PCC) Sections 10115, et seq. and the California Code of Regulations (CCR), Title 15, Sections 3000 and 3475, et seq., CDCR policies and procedures have been developed to enable staff to implement and comply with DVBE requirements for services and commodities. These policies and procedures are the means by which the CDCR shall accomplish its objectives to:

- Achieve or exceed the statutory goal of 3 percent DVBE participation.
- Provide DVBE firms the maximum opportunity possible to provide CDCR services and commodities.

For contracts pursuant to statutes that require minority and women business enterprise participation, staff should notify the Centralized Procurement Section (CPS) for policy and procedure requirements.

#### **22100.3 Glossary of Terms**

For definitions of contract terms that are not included in this glossary refer to Department Operations Manual (DOM) Section 22040, Contracts.

CERTIFICATION: Refer to the CCR, Title 15, Section 3000.

DEPARTMENTAL CONTRACT REPRESENTATIVE (DCR): Either the facility's or headquarters' staff person who processes service contracts or commodity purchases, answers questions regarding the

transaction, and assists the vendor in complying with the DVBE requirements.

DISABLED VETERAN BUSINESS ENTERPRISE (DVBE): Refer to the CCR, Title 15, Section 3000.

GOAL: Refer to the CCR, Title 15, Section 3000.

GOOD FAITH EFFORT (GFE): Refer to the CCR, Title 15, Section 3000.

DVBE BUSINESS UTILIZATION PLAN: A plan submitted by a bidder to the Department of General Services (DGS) and approved as set forth in PCC Section 10115.15.

#### **22100.4 Certification**

Refer to the CCR, Title 15, Sections 3000 and 3475, et seq., CDC Form 1457, DVBE Mandatory Participation Requirements for Competitive Bid Contracts, and CDC Form 1458, DVBE Mandatory Participation Requirements for Sole Source Contracts.

##### **22100.4.1 Disabled Veteran Business Enterprises Contact**

An organized network between facilities and headquarters shall be developed to facilitate the dissemination and exchange of DVBE information and policies.

Each facility and headquarters procurement office shall designate one staff member to serve as the contact person regarding all DVBE issues.

The DVBE contact shall coordinate with CPS on the following areas:

- Staff/vendor training.
- Dissemination of policies and procedures.
- Technical assistance.
- DVBE outreach activities.

All DVBE printed materials pertaining to contracts, procurement, and/or outreach activities shall be reviewed by CPS before distribution and implementation to ensure that the information complies with current CDCR policy and legislative mandates.

##### **22100.4.2 Referral Organizations**

Refer to CDC Form 1457, DVBE Mandatory Participation Requirements for Competitive Bid Contracts, and CDC Form 1458, DVBE Mandatory Participation Requirements for Sole Source Contracts.

##### **22100.4.3 Focus and Trade/Professional Publications**

Refer to CCR, Title 15, Sections 3000 and 3475, et seq.

##### **22100.5 Good Faith Effort Requirements**

Refer to CCR, Title 15, Sections 3000 and 3475, et seq., CDC Form 1457, DVBE Mandatory Participation Requirements for Competitive Bid Contracts, and CDC Form 1458, DVBE Mandatory Participation Requirements for Sole Source Contracts.

##### **22100.5.1 Participation In Purchases**

In accordance with the CCR, Title 15, Section 3475, purchases made under the delegated purchase authority for an amount of \$15,000 or less are exempt from DVBE participation requirements.

##### **22100.5.2 Participation Goal/Good Faith Requirements in Service Contracts**

Refer to the CCR, Title 15, Sections 3000 and 3475, et seq., CDC Form 1457, DVBE Mandatory Participation Requirements for Competitive Bid Contracts, and CDC Form 1458, DVBE Mandatory Participation Requirements for Sole Source Contracts.

##### **22100.6 Disabled Veterans Business Enterprises Forms**

This Section describes the forms needed to document and monitor DVBE compliance. Instructions on completing the forms provide users with an understanding of the purposes of the individual forms as well as how each form corresponds with the others to produce a comprehensive system of compliance tracking.

The data on DVBE compliance forms is used to prepare the annual Report to the Governor and the Legislature. The forms shall be submitted by the CDCR contract/procurement offices to the appropriate headquarters' office in a complete and timely fashion.

All original DVBE documents shall be maintained with the contract to provide an audit trail.

##### **22100.6.1 CDC Form 1457, DVBE Mandatory Participation Requirements - Competitive Bid Contracts**

The CDC Form 1457, DVBE Mandatory Participation Requirements - Competitive Bid Contracts, shall be used for all CDCR competitive bid contracts, which contain DVBE requirements. This package shall be included with all Invitations for Bid, Requests for Proposal, and Requests for Quotations when released to interested bidders.

The CDC Form 1457 provides a brief overview of the DVBE program and legislative mandates. Refer to CDC Form 1457 for specific instructions.

### **22100.6.2 CDC Form 1458, DVBE Mandatory Participation Requirements - Sole Source Contracts**

The CDC Form 1458, DVBE Mandatory Participation Requirements - Sole Source Contracts, shall be used for all contracts exempted from the competitive bid process and from advertising in the California State Contracts Register (sole source contracts).

Sole source contracts are not exempt from DVBE compliance unless they are exempt pursuant to CCR, Title 15, Section 3475, et seq. Refer to CDC Form 1458 for specific instructions.

### **22100.6.3 CDC Form 1786, DVBE Participation in Exempt Contracts**

The CDC Form 1786, DVBE Participation in Exempt Contracts, documents DVBE participation in competitive bid and sole source contracts, which are exempt from DVBE requirements.

Although the contract is exempt from DVBE requirements, any documented participation that may exist in the bid proposal/proposed contract shall be reported.

The DVBE participation information gathered from the CDC Form 1786 shall be recorded on the CDC Form 1428.

Whenever a potential bidder/contractor obtains a competitive bid or sole source package for a DVBE-exempt contract, a CDC Form 1786 shall also be supplied to the potential bidder/contractor who shall be encouraged to complete and return the form if the contract contains documented DVBE participation.

### **22100.6.4 Recording of DVBE Expenditures and Participation, STD. 810, Contracting Activity Report**

*Revised August 6, 2014*

The STD. Form 810 shall be used to record DVBE expenditure and participation data for inclusion in the annual Report to the Department of General Services.

### **22100.6.5 CDC Form 1818, Request to Exempt Contract from DVBE Requirements**

The CDC Form 1818, Request to Exempt Contract from DVBE Requirements, shall be used to request DVBE exemptions for service and public works contracts. Refer to CCR, Title 15, Section 3475, et seq., to determine exemption criteria. Refer to CDC Form 1818 for specific instructions.

### **22100.7 Disabled Veterans Business Enterprises Standard Contract Language**

Unless specifically exempt, the following standard DVBE contract language shall be included in all contracts:

#### **Over \$15,000**

“Disabled Veterans Business Enterprises (DVBE) Conditions”

- To the best of the Contractor’s ability, the Contractor shall fulfill his/her obligations in dispensing that portion of the contract amount to the DVBEs as identified in the reply to the DVBE Mandatory Participation Requirements. Said reply by reference is a part of this contract and is on file and available for review Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m. at the contracting location.
- Contractor agrees that the State or its delegate will have the right to review, obtain, and copy all records pertaining to performance of the contract. Contractor agrees to provide the State or its delegate with any relevant information requested and shall permit the State or its delegate access to its premises, upon reasonable notice, during normal business hours to interview employees, inspect and copy such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with PCC Section 10115 et seq. and CCR, Title 2, Section 1896.60 et seq. Contractor further agrees to maintain such records for a period of three (3) years after final payment under the contract.”

#### **\$15,000 or Less**

“Contractor agrees that, in the event the contract is amended to exceed \$15,000, Contractor shall comply with CDCR’s DVBE participation goals as set forth in PCC Section 10115(c).”

### **22100.7.1 Departmental Contract Representative Responsibilities**

The DCR is the primary facility’s or headquarters’ staff member responsible for the coordination and processing of a specific contract.

The DCR shall provide information and/or assistance to all potential bidders/contractors regarding participation requirements. In this capacity, the DCR shall:

- Answer questions regarding DVBE certification and GFE requirements.
- Provide potential contractors with a DVBE Resource Packet for identifying State and local DVBE referral organizations and focus and trade/professional publications.
- Clarify any other contract-related issues.

If the DCR cannot adequately respond to bidders’/contractors’ questions, the DCR shall contact their designated contract analyst in headquarters.

If the contract analyst is unable to assist with a specific issue, the contract analyst shall contact CPS.

The DCR shall accurately document all contacts from potential contractors including the specific types of information and/or assistance provided.

### **22100.8 Procurement Services**

All procurements made under the delegated purchase authority are exempt from DVBE requirements.

Generally, all purchases which exceed the delegated purchase authority limit are processed by DGS, which has the responsibility for DVBE compliance and reporting, unless otherwise directed by DGS.

### **22100.9 Revisions**

*Revised August 6, 2014*

The Deputy Director, OBS, or designee shall ensure that the contents of this Article are accurate and current.

### **22100.10 References**

PCC §§ 2050, et seq., 10115, et seq., 10340(b)(1), and 10356(c).

W&IC § 1753.3.

CCR (2) § 1896. CCR (15) §§ 3000, 3475, 3476, and 3477.

SAM §§ 1200, et seq., 3500, et seq., and 3612, et seq.

## **ARTICLE 20 — INMATE WELFARE FUND**

*Revised January 31, 2017*

### **23010.1 Policy**

The Secretary administers the Inmate Welfare Fund (IWF) as a trust for the benefit and welfare of all inmates under the jurisdiction of the Department. The IWF is used to provide the following:

- Leisure time activities for inmates.
- Essential items for purchase by inmates.
- Opportunities and training for inmates to be creative and to profit from their handicraft products.

### **23010.2 Purpose**

The purpose of this Article is to provide the guidelines for the correct uses of the IWF.

### **23010.3 Responsibility**

#### **Warden**

Each Warden or his or her designee administers the IWF programs at their respective institution/facility.

#### **Inmate Welfare Fund Officer**

The IWF Officer provides overall planning and guidance regarding IWF operations.

### **23010.4 Budget**

Each institution/facility shall budget IWF expenditures so that expenditures shall not exceed budget allocations and revenues from IWF activities unless approved by the Central Office IWF Officer. An appropriate exception would be if a major IWF project has been authorized, (e.g., replacement equipment, new equipment for new institutions/facilities, and startup inventories).

There may be unanticipated deficiencies due to situations which occur after approval of the institution’s/facility’s IWF budget. These unanticipated deficiencies shall be carried into the subsequent fiscal year by the institution/facility.

Any IWF expenditures shall be consistent with the provisions of this Article.

The Warden or his/her designee of each institution, in collaboration with at least two representatives from advocacy groups for inmates shall meet at least biannually to determine how the money in the fund shall be used to benefit the inmates of the respective institution.

#### **Inmate Advisory Committee**

The institution/facility Inmate Advisory Committee, or other group(s) representing the inmate body, shall submit in writing their view of proposed expenditures,

particularly in the area of inmate benefit expenditures, during the preparation of the IWF budget.

### **23010.5 Revenue**

The following areas are the major sources of IWF revenue:

- Canteens at each institution/facility (DOM Chapter 5, Article 50-Canteen).
- Handicraft programs at some institutions/facilities (DOM Chapter 10, Article 5-Handicraft Programs).
- Photo projects at some institutions/facilities.
- Interest on investment of idle inmate funds and IWF money.
- Donations.

### **23010.6 Expenditures**

Purchases or services may be charged to the IWF if funds are available and the item is consistent with the policy for IWF use. The monies in this fund shall be used for expenditures or services other than those that the department is required to provide to inmates.

#### **23010.6.1 Authorized Expenditures**

The following items are examples of appropriate expenditures from the IWF:

##### **Inmate Benefits**

- Purchase of, repair to, and postage on fiction books for inmate libraries.
- Newspaper and magazine subscriptions for library and entertainment purposes.
- Rental of movie films and video tapes (including postage and/or freight) for institutions/facilities and permanent camps.
- When regular television service is unavailable, the most cost effective alternative can be provided which include cable, satellite or streaming.
- Paints and materials for signs and show cards.
- Miscellaneous expenses for prizes and awards, general entertainment, and New Year's entertainment.
- Minor construction, (e.g., a few shelves, camp or yard canteen shacks, etc., and repair projects for the benefit or welfare of inmates). Procedures outlined under Chapter 2, Article 4-Capital Outlay shall be followed, and any construction to be paid out of the IWF shall be submitted to the Secretary or designee for approval.
- Athletic supplies and exercise equipment such as stationary bikes, scoreboards, pumps, cones, bases and field equipment (excluding weights) subject to local institution security requirements.
- Musical instruments, subject to local institution security requirements.
- Non-affixed items (High chairs, storage bins).
- Institution inmate visiting areas expenditure items (improvement to children play areas, games, toys and books) subject to institution security requirements.
- Audio visual equipment on mobile racks, such as televisions with instructional/informative content.
- Dishes, linens, pots/pans, utensils for family visiting and/or family housing units (excluding furniture and appliances).

##### **Canteen**

- Salaries and benefits for the institution/facility canteen manager and other canteen positions.
- Merchandise purchases for resale to inmates.
- Purchase of canteen materials, (e.g., wrapping paper, paper bags, twine, paper napkins), and miscellaneous operating expenses, such as printer/fax supplies, stationary, and repairs to counters and shelves.
- Purchase and repair of equipment used in the canteen, such as sale scanners and terminals, typewriters, adding machines, or any equipment necessary for the operation of the canteen.
- Temporary help.

##### **Handicraft**

- Materials purchased for resale to the inmates for their projects.
- Miscellaneous operating expenses in production of articles for sale, (e.g., glue, brushes), rental of equipment, and repair of movable equipment. Purchase of equipment necessary for the

production and sale of handicraft items does not include items used in occupational therapy or in teaching of arts and crafts.

- Hobby type materials, subject to local institution security requirements (e.g: knitting needles (plastic), yarn, origami).

##### **Photo Project**

- Rental, purchase, and repair of cameras.
- Miscellaneous items, such as backdrops or lights.
- Photographic film or photo paper.

##### **Administration**

- Accounting personnel working on IWF bookkeeping.
- Miscellaneous office expenses and equipment for IWF accounting positions.
- Workers' Compensation Insurance premium payments on all IWF positions.

##### **Staff Benefits**

- Staff benefits, including employer contributions for retirement, health and welfare insurance, and unemployment compensation for IWF positions.

##### **Inmate Pay**

- Pay for inmates employed in IWF activities, such as canteen, handicraft, photo projects, and motion picture projectionists.

#### **23010.6.2 Unauthorized Expenditures**

The following items are examples of expenditures that shall not be financed from the IWF:

- Replacement of inmate canteen cards or canteen draw amounts.
- Canteen additions, alterations, and equipment installed as part of the building unless approved by the Secretary.
- Repairs to the canteen building, (e.g., windows, window shades, replacement of lighting fixtures, repairs to floors, heaters, or any equipment installed as part of the building).
- Repairs to a fixed portion of the handicraft shop, room, building, or any equipment installed as part of the building.
- Utility payments.
- Shop equipment, tools, etc., used in occupational therapy, for institutional special projects, or in teaching arts and crafts.
- Purchase of nonfiction, text, or reference books and pamphlets.
- Repairs of nonfiction, text, and reference books and pamphlets.
- Postage on nonfiction, text, and reference books for inmate libraries.
- Correspondence courses, including departmental self-study courses.
- Miscellaneous expenses, such as printing, pamphlets, and other items used in organized educational courses.
- Supplies and equipment for the production or distribution of institution/facility publications.
- Subscriptions for trade magazines.
- Original complement and replacement of motion picture, radio, and television equipment.
- Repairs to motion picture equipment.
- Television and radio alteration and repairs, purchase of tubes, headphones, parts, phonograph records, and recording tapes.
- Housing, furniture, appliances, television sets, etc., for family visiting and/or family housing units.
- Overtime for employees supervising special inmate activities, such as athletic events, stage shows, self-help group, etc. (Such overtime shall be paid from the General Fund.)
- Duplicate items/Items with an existing funding source (religious).

#### **23010.7 Procurement**

The Inmate Services Canteen Master Contracts are executed by the Office of Business Services on behalf of the Inmate Welfare Fund and are awarded to the lowest bidder consistent with quality requirements and accepted purchasing practices. The contracts are exempt from the Department of General Services approval per DGS Exemption Letter CDCR3. All contract documents shall be executed before the date of performance. No back dated documents are authorized. All contracts must contain an accurate identification of the contractor, a complete statement of work, the period of time for performance or completion of contract including beginning and ending dates. Each institution is required to purchase canteen resale items solely from the Statewide Master Contracts for all Inmate Services Canteens. If a like-commodity is available through the California Prison Industry Authority (CALPIA), purchase from CALPIA will not violate the terms of the contract agreement. IWF can only pay resale invoices for items purchased from



the contract and those invoices approved by procurement. All other resale invoices cannot be paid.

#### **23010.7.1 Bid Requirements**

When a purchase order is to exceed \$4,999.99, the informal competitive solicitation process based on written specifications shall be used unless there are valid reasons for not going to bid. For purchases \$4,999.99 or less, the fair and reasonable procurement method may be used utilizing one supplier bid with pricing justified using the methods as outlined in State Contracting Manual Volume II, Chapter 4, Section C, Topic 2. Documentation of bid solicitations and related correspondence shall be maintained in the procurement files.

#### **23010.7.2 Operating Expense Items**

Whenever possible, purchase orders shall be placed directly with the manufacturer rather than local vendors. Canteen purchasing shall be geared to take advantage of the many promotional offers and special discounts available. If minimum case requirements exceed one institution's/facility's needs, arrangements can be made with other institutions/facilities to split orders with the purchase orders and invoices processed by Headquarters to allocate expenditures to the participating institutions/facilities.

Institutions/facilities are encouraged to solicit sample or promotional merchandise that can be given to the inmate population.

Existing State contracts for items that are used to operate the institutions/facilities shall be used for purchasing IWF items when the prices are lower than from other resources.

Products from the CALPIA may be offered for sale to inmates through the canteens on the same basis as commodities purchased from commercial sources.

#### **23010.7.3 Equipment**

Institutions/facilities taking advantage of State contract prices when purchasing IWF equipment shall submit the BIS purchase requisition to the CDCR Office of Business Services Commodities Acquisition Unit.

#### **23010.7.4 Consolidation of Orders by Headquarters**

To take advantage of quantity purchasing, the Central Office IWF Officer shall initiate action for consolidated contracts with vendors for the purchasing of certain merchandise and equipment items by institutions/facilities.

#### **23010.7.5 Unbudgeted Equipment and Construction Projects**

Purchase orders for equipment and for construction projects not previously budgeted shall be submitted with justifications to the IWF Officer for approval.

#### **23010.8 Review of Financial Condition**

The Department of Finance conducts a biennial audit of the IWF that includes an audit report summarizing expenditures by major categories.

At least one copy of the audit report shall be posted at the inmate canteen, and at least one copy shall be made available in the inmate law library for inmate review.

At the end of the intervening fiscal year, the institution/facility shall post, at the inmate canteen, at least one copy of the institution's/facility's statement of operations, and one copy shall also be made available in the inmate law library for inmate review.

Institutions/facilities shall post a copy of the latest Monthly Expenditure Report and Statement of Operations at each inmate canteen every quarter. A copy of these statements shall also be placed in the inmate law library.

#### **23010.9 Services to Other Organizations**

A 10 percent service charge, which is remitted to the IWF, shall be added to monthly inmate payrolls when billing other organizations for inmate services not performed for facility convenience. When a blood sale is authorized (California Code of Regulations (CCR), Title 15, Section 3359), the institution may impose an additional charge to the purchaser to retrieve the cost of Department resources used in drawing the blood. The proceeds of such charges shall be deposited in the IWF.

Inmate payrolls shall not be processed through the IWF.

#### **23010.10 Service Charges for Handicraft Items**

To defray handling costs on the purchase of materials used in the manufacture of handicraft articles and to balance possible losses, 10 percent shall be added to the purchase price only, exclusive of costs, such as State tax, freight, and handling, and charged to the inmate for such articles. No charge shall be made on canceled orders. This service charge shall be deposited in the IWF.

#### **Handicraft Items for Sale**

A 10 percent administrative surcharge shall be added to the price established by the inmate on all articles placed on sale including paintings. However, one percent will be refunded to the inmate for the sales tax paid on the raw materials used in the handicraft articles sold.

#### **Paintings**

"Paintings" shall include all kinds of pictures, drawings, sketches, etchings, and any frames that are attached.

#### **Repair of Handicraft Items**

A 10 percent administrative surcharge shall be added to the cost established by the inmate for the repair of handicraft-type articles for State employees or the public through the handicraft program. This surcharge shall be deposited in the IWF.

#### **23010.11 Service Charge on Inmate Donations**

Ten percent shall be deducted from inmate donations for deposit in the IWF to offset processing costs. The 10 percent charge will be made in accordance with DOM Chapter 10, Article 8 Charitable Fund-Raising Campaigns.

#### **23010.12 Property Loss, Cash Shortages, and Uncollectible Checks**

The IWF shall not be used to reimburse inmates for the theft or loss of personal property including, but not limited to, canteen cards, canteen draw balances, ducats, trust funds, handicraft items, or checks received for handicraft sales that become uncollectible. Inmates shall submit Victim Compensation and Government Claims Board claims for such losses in accordance with DOM Chapter 5, Article 53.

#### **23010.13 Distribution of Contraband Currency**

In accordance with DOM Chapter 5, Article 20, Disposition of Contraband, all contraband currency confiscated from inmates shall be deposited in the IWF as miscellaneous income.

#### **23010.13.1 Contaminated Currency**

After contaminated currency is confiscated, it shall be placed in a sealed plastic container clearly marked "CONTAMINATED." The container shall be turned in to the Associate Warden, Business Services (AWBS) or a designated Business Services representative for mailing to the Department of Treasury for destruction. The AWBS or representative shall enclose a letter instructing the Department of Treasury to deduct any processing fee from the contaminated money amount, and issue a check payable to the IWF for the balance, if any, of the contaminated money.

The letter and contaminated money shall be packaged and mailed to: Department of Treasury

Bureau of Engraving & Printing  
MCD/OFM, Room 344A  
P.O. Box 37048  
Washington, DC 20013

Upon receipt of reimbursement, the AWBS or representative shall deposit the check into the IWF.

#### **23010.14 Revisions**

The Deputy Director, Office of Fiscal Services, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **23010.15 References**

PC §§ 2786, 2813, 5005, 5006, 5006.1 and 5007.

CCR (15) (3) §§ 3104, 3359.

DOM §§ Chapter 2, Article 4, Chapter 5, Articles 20, 50 and 53, and Chapter 10, Articles 5 and 8. .

## CHAPTER 3 — PERSONNEL, TRAINING, AND EMPLOYEE

### RELATIONS

#### ARTICLE 1 — EQUAL EMPLOYMENT OPPORTUNITY

*Revised August 25, 2015*

##### 31010.1 Policy

The California Department of Corrections and Rehabilitation (CDCR) is committed to providing Equal Employment Opportunity (EEO) and creating a work environment in which all individuals are treated with respect and professionalism. Consistent with this commitment, it is the policy of CDCR to provide a workplace free from discrimination, harassment, and retaliation for all applicants, employees, contractors, unpaid interns and volunteers. The CDCR EEO policy is a zero-tolerance policy which applies to all aspects of employment within CDCR including recruitment, hiring, promotion, transfer, training, corrective adverse action, and other terms, conditions, and benefits of employment. Zero tolerance means that violations of this policy will not be tolerated. When policy violations are found to have occurred, appropriate corrective action and/or adverse action, up to and including dismissal, depending on the severity of the violation, will be taken.

All employees are prohibited from discriminating against or harassing anyone on the basis of their protected status. The bases for filing a complaint are:

- Age (40 or older)
- Ancestry
- Color
- Disability (physical or mental)
- Genetic Information
- Marital Status
- Medical Condition (cancer or genetic characteristics)
- National Origin
- Political Affiliation (includes opinion or activities)
- Race
- Religion/Religious Creed
- Sex/Gender (including sexual harassment, pregnancy, gender identity, and gender expression)
- Sexual Orientation
- Veteran Status/Military Service
- Usage of leave rights permissible under the Family and Medical Leave Act (FMLA), California Family Rights Act (CFRA), and/or Pregnancy Disability Leave Act.
- EEO Retaliation

All employees are prohibited from retaliating against any person because the person has opposed any practices forbidden under this policy or because the person has filed a complaint, testified, or assisted in any proceeding related to this policy.

All employees are prohibited from aiding or coercing any acts forbidden under this policy.

All employees are prohibited from engaging in behavior that rises to the level of discrimination, harassment, or retaliation in violation of:

- Title VII of the Civil Rights Act of 1964 (including amendments)
- California Fair Employment and Housing Act (FEHA) of 1959 (including amendments)
- California Code of Regulations (Titles 2 and 15)
- Departmental EEO policies and procedures
- Other California and federal EEO laws

This policy applies to conduct that occurs in any location operated by CDCR or is considered a workplace by CDCR, as well as any location that can reasonably be regarded as an extension of the workplace, such as an off-site business or social function, or other non-CDCR facility where CDCR business is being conducted. This policy applies to conduct that occurs off-duty and is brought back to the workplace, when such conduct adversely affects the individual in a manner otherwise prohibited by this policy.

##### 31010.2 Purpose

The purpose of this policy is to prevent misconduct, define the roles and responsibilities of CDCR management and employees relative to the EEO policy, and to identify the discrimination complaint process.

##### 31010.3 Definitions of Discrimination Basis

###### Age

Refers to the chronological age of any individual who has reached his or her 40<sup>th</sup> birthday.

###### Ancestry

The national or cultural origin of a line of familial descent.

###### Color

The color of skin of an individual, including shades of skin within a racial group.

###### Disability

A physical or mental impairment affecting one or more body systems which limits a major life activity, including work; a record of such an impairment; or being regarded as having such an impairment. This includes Human Immunodeficiency Virus and Acquired Immunodeficiency Syndrome.

###### Genetic Information

With respect to any individual, information about the individual's genetic tests, genetic tests of family members of the individual, and the manifestation of a disease or disorder in family members of the individual.

###### Marital Status

The legal status in a relationship such as married, never married, single, separated, divorced, or widowed.

###### Medical Condition

A person's genetic characteristics or a person who has or had cancer.

###### National Origin

The country where a person was born, or more broadly, the country from which his or her ancestors came, which includes the individual's common language, culture, ancestry, and other similar social characteristics.

###### Political Affiliation

Membership or association in a political party or special interest group (union issues are not included).

###### Race

Classes of persons identifiable because of their ancestry or ethnic characteristics.

###### Religion

All aspects of religious belief, observance, and practice.

###### Retaliation

An adverse employment action taken against an individual due to his/her protected activity (including one's opposition to a discriminatory practice or participation in the discrimination complaint process).

###### Sex

Sex includes, but is not limited to, a person's gender. Gender includes a person's gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. Gender identity refers to a person's identification as male, female, a gender different from the person's sex at birth, or transgender.

Sex also includes, but is not limited to pregnancy or medical conditions related to pregnancy; childbirth or medical conditions related to childbirth; and breastfeeding or medical conditions related to breastfeeding.

###### Sexual Orientation

"Sexual orientation" means heterosexuality, homosexuality, and bisexuality.

###### Military and Veteran Status

Any person entitled to the rights and benefits under the Uniformed Services Employment and Reemployment Rights Act.

##### 31010.3.1 Definitions of Other Terms

*Revised December 23, 2021*

###### Association

An individual's involvement with a member of a protected group or membership in an advocacy organization representing a protected group.

###### Complainant

Any individual or group of individuals who allege discrimination in violation of a State or federal EEO law or regulation or departmental policy.

###### EEO

The legal right of all individuals to be afforded full and equal consideration for employment, retention, and advancement on the basis of merit.

###### EEO Counselor

A departmental employee trained to assist in the discrimination complaint process.

### EEO Coordinator

A person designated by a hiring authority to receive and coordinate internal discrimination complaints.

### External Discrimination Complaint

A complaint alleging discrimination, harassment, and/or discrimination filed with a State or federal compliance agency against the Department by a charging party.

### Family and Medical Leave Acts/California Family Rights Act

(a) Provisions in State and federal statutes that allow eligible employees to take up to 12 work weeks (26 work weeks to care for a military service member) of unpaid, job-protected leave in a 12-month period, and the continuation of health benefits for one or more of the following reasons:

(1) The birth and care of a newborn child of the employee, placement of a child in the employee's family for adoption or foster care, and for bonding leave within 12 months of birth, adoption, or foster care placement.

(2) The qualified serious health condition of the employee, or to care for the qualified serious health condition of the following family members:

(A) FMLA and CFRA: parent, spouse, or child.

(B) CFRA only: domestic partner, grandparent, grandchild, or sibling.

(3) A qualifying exigency related to the covered active military duty or call to covered active military duty of the following family members in the Armed Forces of the United States (including the National Guard and Reserves):

(A) FMLA and CFRA: spouse, child, or parent.

(B) CFRA only: domestic partner;

(4) Military caregiver leave, up to 26 work weeks of unpaid leave to care for a covered military service member who has a qualifying serious health condition.

(b) The program responsible for the administration of these statutes is Human Resources.

### Hiring Authority

The Secretary, Undersecretary, General Counsel, Chief Information Officer, or any Assistant Secretary, Executive Officer, Director, Deputy Director, Associate Director, Warden, Parole Administrator, Superintendent, Superintendent of Correctional Education, Associate Superintendent of Education, Regional Health Care Administrator, Health Care Manager, Chief Executive Officer, or any other person authorized by the Secretary, CDCR, to hire, discipline and dismiss employees under his/her authority.

### Internal Discrimination Complaint

A complaint alleging discrimination filed with the OIA or any local EEO Coordinator.

### Respondent

The person(s) who is alleged to have committed an unlawful practice or engaged in conduct that violates this policy, in a complaint filed through Local Intervention Process (LIP), referral to OIA/CRO, or compliance agency.

### 31010.4 Complainant's Rights

Every person covered by this policy has the following rights:

- The right to a discrimination-free work environment.
- The right to work in an environment free from bullying or abusive conduct.
- The right to file a discrimination complaint, freedom from influence to refrain from filing a complaint, and freedom from retaliation after filing a complaint, (see "Filing a Complaint" below). Employees and applicants must immediately report the discriminatory action or conduct.
- The right to have their complaint promptly reported, objectively reviewed, and investigated when appropriate.
- The right to be informed of the disposition of the complaint.
- The right to be represented by a person of the complainant's choosing at each and all steps of the process.
- The right to file a complaint with the California Department of Fair Employment and Housing (DFEH), Equal Employment Opportunity Commission (EEOC), and other appropriate State and federal compliance agencies.

### 31010.5 Conduct Violations

The type of prohibited discriminatory, harassing, or retaliatory behavior which may be found to constitute a violation of CDCR's EEO policy includes, but is not limited to:

- Making employment decisions on the basis of an individual's protected characteristics.

- Changing the terms, conditions, or privileges of employment of an employee in retaliation for filing a discrimination complaint or participating in the discrimination complaint process.
- Failing to consider reasonable accommodation request for a disability or for religious reasons.
- Denying a leave request for which an employee is eligible under FMLA, CFRA, or because of pregnancy and pregnancy-related conditions.
- Using discriminatory terms or telling discriminatory jokes that are based on an individual's protected status.
- Bullying or abusive conduct, including repeated infliction of verbal abuse and use of derogatory remarks, insults, and epithets.
- Verbal and physical conduct that a reasonable person would find threatening, intimidating, or humiliating.
- Displaying objects, cartoons, pictures, or posters that are derogatory, sexual in nature, or discriminatory based on an individual's protected status.
- Posting, sending, uploading/downloading messages with discriminatory, retaliatory, or sexual content in any form via electronic mail, the intranet/internet websites, cell phone, interoffice mail, or public or private mail.
- Discriminating against any employee in violation of this policy so as to create a hostile work environment.
- Engaging in any unwanted physical contact or leering.
- Making harassing telephone calls to a coworker, or sending harassing correspondence to an individual by any means including, but not limited to, public or private mail, interoffice mail, facsimile, electronic mail or text messaging.
- Restricting or denying restroom access, in accordance with their gender identity/expression, to transitioning transgender employees; or repeatedly calling a transgender employee by the wrong pronouns or name, after the transgender employee has provided notice of his or her transition in accordance with his or her gender identity.

### 31010.6 Sexual Harassment Violations

Sexual harassment is defined under State and federal laws and by this policy as unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature that interferes with work performance by creating an intimidating, hostile, or offensive work environment. Such conduct constitutes sexual harassment in violation of this policy when:

- Submission to the conduct or communication is made either explicitly or implicitly a term or condition of employment.
- Submission to or rejection of the conduct or communication is used as a basis for employment or service decisions affecting the individual.
- Such conduct or communication has the potential to negatively affect an individual's work performance and/or create an intimidating, hostile, or offensive work environment.

The type of prohibited discriminatory or harassing behavior which may be found to constitute a violation of CDCR's EEO policy includes, but is not limited to:

- Demanding sexual favors in exchange for employment benefits, or as a term or condition of employment, whether explicitly or implicitly.
- Engaging in any unwanted physical contact, including touching, leering, making sexual gestures, impeding or blocking movements, pinching, grabbing, patting, intentionally brushing up against another individual in a sexual manner, rape, or sexual assault.
- Engaging in retaliation after a negative response to sexual advances.
- Using sexually derogatory terms or telling sexual jokes and/or stories.
- Displaying objects, cartoons, pictures, or posters of a derogatory or sexual nature.
- Posting, sending, or uploading/downloading sexual or demeaning materials in any form via electronic mail, the intranet/internet websites, cell phone, interoffice mail, or public or private mail.
- Following or stalking an employee.
- Making harassing telephone calls of a sexual nature to a coworker, or sending sexually harassing correspondence to an individual by any means including, but not limited to, the use of public or private mail, interoffice mail, facsimile, electronic mail, or text messaging.

### 31010.7 Responsibilities

#### Deputy Director, Office of Internal Affairs

The Deputy Director, Office of Internal Affairs (OIA), will establish a Office of Civil Rights (OCR) within OIA. The OCR will develop policy and provide training to meet the Department's obligation to ensure EEO and a work environment free of discrimination, harassment, and retaliation.

#### Chief, Office of Civil Rights

The Chief, OCR, OIA, shall:

- Serve as the department's EEO Officer. As needed, the Chief, OCR reports to the CDCR Secretary on matters related to EEO.
- Develop EEO policies and procedures.
- Provide statewide direction in the implementation of the Department's EEO policy and procedures in compliance with State and federal laws and departmental policies to ensure a work environment free of discrimination, harassment, and retaliation.
- Oversee the statewide discrimination complaint process and provide technical assistance to hiring authorities.
- Ensure the Department is in compliance with requirements mandated by external State and federal agencies, including Department of Fair Employment and Housing (DFEH), and the Equal Employment Opportunity Commission (EEOC).
- Monitor the most sensitive and/or complex cases.

Consult with the Office of Legal Affairs when necessary.

Conduct research and prepare reports regarding EEO matters.

Ensure the Disability Advisory Committee (DAC) and other EEO/Sexual Harassment workgroups are effectively implemented throughout the Department.

- Coordinate with the Office of Training and Professional Development in the development and delivery of EEO/Sexual Harassment Prevention training, including monitoring and evaluating the effectiveness of such training.
- Provide EEO program support; ensure the adequacy and accuracy of training materials; identify training needs; and customize training to meet training requirements.
- Complete the annual Workforce Analysis Report, including goals for persons with disabilities and upward mobility, and other reports related to EEO compliance and regulation.
- Provide technical assistance to CDCR staff regarding EEO/Sexual Harassment issues, internal and external complaint processes, and completion of forms.
- Serve as a liaison for the Limited Examination and Appointment Program (LEAP); incorporate LEAP into training programs to encourage hiring of qualified persons with disabilities.

#### Office of Civil Rights, Headquarters Staff

The OCR, Headquarters Staff shall:

- Review discrimination complaints received by OIA.
- Provide analysis of discrimination complaints alleging a violation of the CDCR EEO policy.
- Provide a response to external compliance agencies regarding complaints or requests for information.
- Develop EEO/Sexual Harassment training for CDCR staff and managers.
- Provide consultation to EEO Coordinators and hiring authorities on requests for religious accommodation.
- Review all requests for religious accommodation, and provide recommendations to the hiring authority, prior to their final determination.
- Conduct EEO/Sexual Harassment Prevention training. Provide technical assistance to CDCR staff on EEO policy.

#### Office of Civil Rights, Regional Staff

The OCR, Regional Staff shall:

- Conduct EEO/Sexual Harassment Prevention training. Provide technical assistance to local CDCR staff on the EEO policy.
- Assist Special Agents with investigations involving allegations of harassment/discrimination.
- Provide response to external compliance agencies related to OIA investigations.
- Serve as a liaison for OIA and EEO Coordinators, EEO Counselors, and field training staff.

### Hiring Authority

The hiring authority shall:

- Ensure compliance with the EEO policy and procedures and applicable State and federal laws by all employees under their authority and take immediate and appropriate course of action as necessary.
- Ensure that employees under their management or supervision have received EEO/Sexual Harassment training and a copy of the EEO policy.
- Ensure discrimination complaints received are referred to, recorded, and reviewed by the EEO Coordinator and logged in compliance with Department Operations Manual (DOM), Section 31140.13, regardless of the nature of the complaint.
- Assign an appropriate employee to the position of EEO Coordinator, normally at the level of a Captain, Parole Agent III, Staff Services Manager II or above.
- When appropriate, the hiring authority may conduct an allegation inquiry in compliance with DOM Section 31140.14.
  - Consult with OCR staff on requests for religious accommodation prior to rendering a final determination.
- Ensure engagement of interactive process with the requesting employee has occurred. Review requests for religious accommodation and make the final determination regarding such requests. Take disciplinary action pursuant to CDCR DOM, Articles 14 and 22 when necessary, to address violations of the CDCR EEO policy.

### EEO Coordinator

Under the supervision of the hiring authority, the EEO Coordinators shall:

- Receive discrimination complaints (whether or not they are documented on a Discrimination Complaint Form [CDCR Form 693]), and initiate the discrimination complaint process following the EEO Coordinator's manual provided by OIA.
- Review the complaint, including the CDCR Form 693, and collect any other documents submitted or identified by the complainant and/or EEO Counselor.
- Provide respondent with a Notice of Complaint after initial review when appropriate to order the alleged conduct or retaliation to stop/cease.
- Notify the complainant and respondent(s) in writing following the disposition of the complaint after the Local Intervention Process (LIP).
- Provide recommendation to the hiring authority regarding EEO policy, complaints, and related concerns.
- Serve as a liaison between employees and management to help resolve discrimination complaints by discussing problems with employees and appropriate supervisors, by advising employees on the issues, and by developing appropriate solutions.
- Make recommendations for the selection of EEO Counselors to the hiring authority, and provide training, technical assistance, direction, and maintain their contact information.
- Provide assistance to OIA in coordinating on-site interviews, including interviews conducted by external compliance agencies, and obtaining any requested documents.
- Receive, review, and evaluate requests for religious accommodation, on behalf of the hiring authority.
- Gather additional information or documents related to requests for religious accommodation, as needed, to evaluate such requests.
- Make a recommendation to the hiring authority regarding requests for religious accommodation.
- Serve as liaison between the employee requesting a religious accommodation and management to determine an appropriate accommodation, if any.
- Consult with OCR staff on requests for religious accommodation, as needed.
- Log complaints on the CDCR Form 2140, Internal Affairs Allegation Log, in compliance with DOM Section 31140.13.

Serve as a member of the EEO Advisory Committee, as outlined in Section 31010.9, and participate in quarterly meetings (at a minimum) to advise the hiring authority regarding local EEO complaints and training.

### EEO Counselors

Under the supervision of the EEO Coordinator, the EEO Counselors shall:

- Establish and provide an open channel of communication through which employees may discuss complaints.
- Direct individuals to the appropriate procedure if the issue of the complaint does not involve an allegation of discrimination.

- Advise employees of their rights and responsibilities with regard to the internal and external discrimination complaint procedures.
- Inform employees of the EEO policy and procedures and the discrimination complaint process.
- Receive discrimination complaints and forward them to the EEO Coordinator within 24 hours.
- Conduct the LIP intake interview with the complainant and submit the completed CDCR Form 693 and documentation to the EEO Coordinator.
- Assist the EEO Coordinator, as needed, in gathering information or documentation related to requests for religious accommodation.
- Serve as a member of the EEO Advisory Committee, as outlined in Section 31010.9, and participate in quarterly meetings (as a minimum) to advise the hiring authority regarding local EEO complaints and training.

### Managers and Supervisors

Under the supervision of the hiring authority, all CDCR managers and supervisors shall:

- Maintain and promote a work environment free from discrimination, harassment, retaliation, and unprofessional or disrespectful conduct related to this policy.
- Adhere to the EEO policy and procedures, applicable State and federal law, discrimination complaint process and ensure they are communicated to all employees under their supervision.
- Take immediate and appropriate action to stop conduct that violates this policy. Ensure that employees under their management or supervision have received EEO/Sexual Harassment Prevention training and a copy of the policy.
- Advise employees of their rights and the process for filing an EEO complaint.
- Notify in writing his or her direct supervisor and the local EEO Coordinator within 24 hours of becoming aware of conduct that may violate CDCR's EEO policy. Prepare and submit a memorandum to the EEO Coordinator within three working days from the date the employee informed the supervisor of the alleged violation.
- Attend mandated EEO/Sexual Harassment Prevention training.
- Submit any requests for religious accommodation to the EEO Coordinator within two working days.
- Cooperate with the EEO Coordinator to identify possible accommodations to address requests for religious accommodation.

Failure by a manager or supervisor to adhere to the above responsibilities may result in corrective and/or adverse action up to and including dismissal from CDCR. Separate from any action taken by CDCR, managers and supervisors should be aware that their conduct may result in personal civil liability.

### Employees

All CDCR employees shall:

- Adhere to CDCR's EEO policy and procedures, applicable State and federal laws, and the discrimination complaint process.
- Not engage in, condone, tolerate, or leave uncorrected conduct that violates the EEO policy.
- Report any EEO policy violations to any supervisor or manager.
- Cooperate with any investigation conducted by OIA.
- Attend mandated EEO/Sexual Harassment Prevention training.

Failure by an employee to adhere to the above responsibilities may result in corrective and/or adverse action, up to and including dismissal from the Department, regardless of rank, level, or classification.

### 31010.8 Religious Accommodation

The need for religious accommodation may arise when an employee's sincerely held religious beliefs, observances, or practices conflict with a requirement or an essential function of the employee's work. If a conflict exists between an employee's religious beliefs, observances, or practices and the employee's work requirements or essential functions, that employee may request a religious accommodation. An employee who seeks a religious accommodation must make the employer aware of the need for an accommodation.

The employer shall consider a request for an accommodation that eliminates the conflict between the employee's religious beliefs, observances, or practices and the employee's work requirements or essential functions.

An accommodation includes, but it is not limited to adjustment to the work environment that eliminates, when reasonable, a conflict between an employee's religious beliefs, observances, or practices, and the employee's work requirements or essential functions. A waiver of an essential function is

not required. Essential functions are the fundamental job duties of the employment position the individual holds or desires. Essential functions do not include marginal functions of the position.

Under the Government Code, Section 12926, Subdivision (u), an undue hardship is an action requiring significant difficulty or expense. An undue hardship may exist if the requested accommodation creates safety or security risks, conflicts with a Memorandum of Understanding (MOU), conflicts with State or federal laws, or results in a waiver of an essential function of a position.

### Request for Religious Accommodation

An employee in need of a religious accommodation shall make a request and cooperate in good faith with their supervisor, manager, EEO Coordinator and/or hiring authority to provide the necessary information to process the request. This may include providing the appropriate and verifiable information from a religious leader within the employee's religious group. A request for religious accommodation should be submitted by an employee in writing, on a CDCR Form 2273, Request for Religious Accommodation or verbally to a supervisor, manager, or EEO Coordinator.

The CDCR Form 2273 should state the specific religious belief, observance, or practice in conflict with specific work requirements or essential functions; it must explain how the religious belief, observance, or practice conflicts with specific work requirements or essential functions; and it must state the specific accommodation requested, and explain how the requested accommodation resolves the conflict between the employee's religious belief, observance, or practice and the employee's work requirements or essential functions.

Upon receipt of a CDCR Form 2273, it shall be forwarded to the EEO Coordinator within two working days.

A verbal request for religious accommodation shall be documented in writing by the person receiving the request and delivered to the EEO Coordinator within 2 working days. The employee must make a request for religious accommodation at least 15 calendar days prior to the requested accommodation. Failure to submit the request 15 calendar days prior to the requested accommodation may delay the processing of the request for accommodation.

### 31010.8.1 The Interactive Process

EEO Coordinators and hiring authorities shall engage in a good faith interactive process with the employee requesting a religious accommodation. The interactive process requires employer and employee flexibility and cooperation in informal discussions. An employer is not required to provide the specific accommodation requested by the employee. An employer is also not required to provide an accommodation, if the accommodation creates an undue hardship for the employer, or if the accommodation results in the segregation of the requesting employee from other employees or the public. (See Government Code, Section 12940 [1][2]). If the requested accommodation creates an undue hardship for the Department, the hiring authority must engage in the interactive process with the employee to determine if there is an alternative accommodation to address the employee's religious needs. EEO Coordinators and hiring authorities shall consult with OIA/CRO before making a final decision.

### 31010.8.2 Evaluation of a Request for Religious Accommodation EEO Coordinator

The EEO Coordinator shall evaluate the request for religious accommodation and request additional information, if necessary. The EEO Coordinator shall contact the employee requesting the religious accommodation and ask clarifying questions, if needed, regarding the specific religious belief, observance, or practice that conflict with specified work requirements or essential functions, the specific conflict, and the accommodation requested.

The EEO Coordinator shall consider alternative accommodations, if the accommodation requested creates an undue hardship for the Department. The EEO Coordinator will consult with the local Labor Relations Analyst to rule out a conflict between the proposed accommodation and a MOU. If a conflict with a MOU exists, the EEO Coordinator will consult with the Labor Relations Analyst to determine if alternatives are available in accordance with the terms of the MOU.

The EEO Coordinator shall review the information and make a recommendation to the hiring authority regarding the request for religious accommodation.

### Hiring Authority

The hiring authority shall forward all requests for religious accommodation to OIA/CRO for review. OIA/CRO will provide a recommendation to the hiring authority regarding such requests. Upon receipt of the recommendation from the OIA, the hiring authority shall make the final determination. Once a final

determination has been made, the hiring authority shall provide a response to the requesting employee, as soon as operationally feasible.

### **31010.9 Discrimination Complaint Process**

The CDCR's Discrimination Complaint Process consists of the Local Intervention Process (LIP), direct filing with the OIA, or referral to OIA via CDCR Form 989, Confidential Request for Internal Affairs Investigation by the hiring authority. A complaint may also be filed by contacting a State or federal compliance agency.

#### **31010.9.1 The Local Intervention Process**

It is CDCR's policy to resolve a complaint of discrimination, harassment, or retaliation at the lowest level. If an employee reasonably believes that an EEO policy violation has occurred, he or she must report the alleged misconduct pursuant to DOM Section 31140.5. An employee should file a complaint in writing using the CDCR Form 693, Discrimination Complaint form which can be obtained from the local EEO Coordinator, the OIA, or the CDCR Intranet/Internet websites. An employee must be allowed a reasonable amount of State time to report a complaint to his or her supervisor, an EEO Counselor, the local EEO Coordinator, or any other CDCR manager or supervisor. The individual to whom the violation has been reported will take immediate and appropriate action to assist the employee in reporting the complaint, including submission of a written report to the EEO Coordinator in the case of a verbal complaint, and preventing further violation(s) of this policy.

A discrimination complaint alleging a violation of the CDCR EEO policy must be forwarded to the EEO Coordinator within 24 hours, whenever possible. The EEO Coordinator may assign an EEO Counselor to conduct a LIP interview with the complainant. After the EEO Coordinator receives the documents from the assigned EEO Counselor, the EEO Coordinator evaluate the complaint and makes a recommendation to the hiring authority. The hiring authority will make a determination and direct the appropriate course of action. The complaint must be forwarded to OIA via CDCR Form 989 when a reasonable belief of misconduct occurred and the alleged misconduct, if proven true, would result in adverse action, as determined by the hiring authority.

#### **31010.9.2 Filing a Complaint**

A discrimination complaint should be filed via a CDCR Form 693, Discrimination Complaint Form, with the local EEO coordinator. A complaint may also be sent directly to the OIA, or by using the OIA, EEO Discrimination Complaint Hotline at 1-800-272-1408. An employee may also file an external complaint with a State or federal agency. See External Complaint, 31010.8.4. An employee is not required to confront the person(s) engaged in the conduct believed to be in violation of this policy at any time before or after filing a complaint. If the complaint involves supervisor(s) or manager(s) in the employee's direct chain of command, the employee may report the behavior to any uninvolved supervisor, manager, EEO Counselor, or EEO Coordinator.

#### **31010.9.3 Allegation Inquiry**

An allegation inquiry may be conducted when violations of the CDCR EEO policy are alleged, but the allegations(s) and/or complainants and respondent(s) are not clearly defined. The OIA, CRO staff may be consulted to determine whether an inquiry is appropriate. The inquiry shall be conducted in accordance with DOM Section 31140.14.

#### **31010.9.4 External Complaint**

All persons covered by this policy may elect to file a discrimination complaint with the following external compliance agencies:

- California Department of Fair Employment and Housing (DFEH) – A complainant may file with DFEH within 365 days from the last incident, date of notification of alleged discriminatory act(s), or date of actual harm.
- United States (U.S.) Equal Employment Opportunity Commission (EEOC) – A complainant may file a discrimination complaint with EEOC within 300 days from the last incident or notification of the alleged discriminatory act(s).
- U.S. Department of Labor – A complaint filed with the U.S. Department of Labor should be filed within a reasonable time of when the employee discovers that his or her FMLA rights have been violated. In no event may a complaint be filed more than two years after the action which is alleged to be a violation of FMLA occurred, or three years in the case of a willful violation.

When a charge of discrimination is received from external compliance agencies, OIA shall review the charge to determine the appropriate course of action and take suitable corrective action where appropriate. On behalf of CDCR, the CRO will submit a position statement, including a response to the requested supplemental information to the external compliance agencies.

### **31010.10 Logging Discrimination Complaints**

The hiring authority, or designee, shall log each discrimination complaint on the CDCR Form 2140, Internal Affairs Allegation Log, in compliance with DOM, Section 31140.13.

#### **31010.11 Use of State Time**

Use of State time for filing a discrimination complaint or participating in investigations shall be approved by the employee's supervisor. Absent an emergency, employees may request and shall be allowed reasonable State time by the supervisor to contact/secure a representative and to discuss the matter with the representative prior to any interview.

#### **31010.12 EEO Advisory Committee**

Each institution/parole region shall establish an EEO committee. The EEO Committee shall meet on a quarterly basis and serve in an advisory capacity to the hiring authority on EEO matters including complaints and training. EEO Advisory Committee Membership shall include the following individuals:

- Warden or Regional Parole Administrator (RPA) and Deputy RPA.
- EEO Coordinator.
- EEO Counselors.

#### **31010.13 Disability Advisory Committee**

The Chief, CRO, OIA, or designee, serves as the liaison to the DAC and shall provide advice and assistance to the CDCR Secretary, and the OIA Deputy Director, on disability issues, such as:

- Developing and maintaining EEO programs and activities for persons with disabilities.
- Making recommendations to improve the personnel practices and employment opportunities for persons with disabilities.
- Establishing contact with groups and organizations that are concerned with achieving equitable representation and utilization of persons with disabilities in the CDCR workforce.
- Monitoring of disability issues identified by the committee, including, but not limited to, reasonable accommodation and accessibility, to ensure that necessary actions occur within reasonable time frames.
- Assisting the Department in complying with the Americans with Disabilities Act and other related statutes.

#### **Membership**

The Chief, CRO, OIA, or designee serves as the liaison to the DAC.

The DAC shall consist of volunteers selected by the DAC Chairperson and DAC Vice Chairperson with input from the hiring authority and current DAC members. DAC membership should include persons with disabilities.

#### **Meetings**

The DAC shall meet at least annually.

#### **Resources**

Members of the DAC shall be primarily involved with the duties and responsibilities of their specific assignments; local administrators shall make the necessary arrangements to allow members reasonable time to perform committee activities.

#### **31010.14 Revision**

The Deputy Director, OIA, or designee, shall ensure that the content of this Article is accurate and current.

#### **References**

##### **Federal**

Title VII of the Civil Rights Act of 1964 (including amendments).  
Family and Medical Leave Act.  
Age Discrimination in Employment Act of 1967.  
Americans with Disabilities Act of 1990.  
Uniformed Services Employment and Reemployment Rights Act.  
Title II of the Genetic Information Nondiscrimination Act of 2008.

##### **State**

California Fair Employment and Housing Act of 1959 (including amendments).  
California Family Rights Act.  
California Department of Corrections Code of Regulations (Title 15).  
California Government Code Sections 12920 - 12922; 12925 - 12928; 19230 - 19237; 19400 - 19406; 12940 - 12951; 12960 - 12976; 19700 - 19706; 19790 - 19799.

##### **Revision History**

Revised Article: August 25, 2015

Revised Section 31010.3.1: December 23, 2021

## ARTICLE 2 — HEALTH AND SAFETY PROGRAM

*Revised December 12, 2022*

### 31020.1 Policy

The California Department of Corrections and Rehabilitation (CDCR) and California Correctional Health Care Services (CCHCS) policy is to conduct business in the safest manner possible adhering to all applicable State and Federal laws, rules and regulations relating to occupational safety and health. The CDCR Office of Employee Health Management (OEHM) will provide administrative services and addresses communicable diseases statewide. OEHM develops and distributes educational material on California Code of Regulations (CCR) Title 8, and is the key department contact with CCHCS on occupational and public health issues throughout the department.

### 31020.2 Purpose

The Health and Safety Program is designed to prevent workplace incidents, injuries, hazardous exposures, and illnesses. Employees and inmate workers are responsible to support the safety program and perform their duties in a manner that ensures their personal safety and the safety of others. To be successful in this endeavor, all employees and inmate workers shall adopt proper and cooperative attitudes towards the Health and Safety Program.

### 31020.3 Definitions

Unless specifically indicated, the terms used in this section are defined as follows:

#### (a) Employees

A person legally holding a position in the State civil service. Contractors, registry staff, and subcontractors are not considered to be CDCR or CCHCS employees. Employees refers to supervisors, managers, and staff.

#### (b) Inmate Worker

An incarcerated person whose work substantially replaces the work of a civil service employee.

#### (c) Worksite Administrators

Have the authority and responsibility for implementing the provisions of Health and Safety Programs for their assigned worksite as well as ensuring all non-CDCR and non-CCHCS employees (e.g., registry workers, contractors, subcontractors) have equivalent Health and Safety programs such as Injury and Illness Prevention Program (IIPP) before performance of the work, both under the contract for the performance of the work and in fact. Worksite Administrators include working titles such as IIPP Administrator, Respiratory Protection Program (RPP) Administrator, and Aerosol Transmissible Disease (ATD) Administrator.

### 31020.4 General Responsibility of the Health and Safety Program

(a) A successful Health and Safety Program can only be achieved and maintained when there is active interest, participation, and accountability at all levels within CDCR and CCHCS. CDCR and CCHCS executive leadership shall have the authority and responsibility to ensure that all Health and Safety Programs are implemented.

#### (1) Compliance

(A) The Worksite Administrator, managers, and supervisors have delegated responsibility for implementing and ensuring compliance with all departmental Health and Safety Programs in their work areas and for responding to employee and inmate worker questions about the program. Worksite Administrators, managers, and supervisors shall ensure compliance with the CDCR and CCHCS Health and Safety Programs by completing the following:

1. Communicate effectively and ensure all safety, health laws, rules, policies, and procedures are understood by all employees and inmate workers and enforce those laws, rules, policies, and procedures.
2. Investigate and document accidents, injuries, illnesses, and unsafe work conditions, and maintain records of inspections and findings to determine the cause and develop a mitigation strategy to identify, prioritize and implement actions to reduce the risk of reoccurrence.
3. Evaluate the safety performance of employees and inmate workers.
4. Recognize employees and inmate workers who perform safe work practices in an exceptional manner and encourage the reporting of accidents, injuries, or illnesses.
5. Inform employees and inmate workers of the CDCR and CCHCS Health and Safety Programs and ensure access to these programs.
6. Provide training and instructions to employees and inmate workers in compliance with CCR, Title 8, section 3203(a)(7).

#### (2) Discipline for non-compliance

(A) Worksite Administrators who fail or neglect to ensure that supervisors and managers are in compliance may result in disciplinary action in accordance with the provisions described in California Government Code section 19572, DOM section 33030.1, and CCR Title 15, section 3392, Employee Discipline.

(B) Managers and supervisors shall ensure employees and inmate workers comply with the CDCR and CCHCS Health and Safety Programs and maintain a safe and secure work environment by adhering to CDCR and CCHCS policies, procedures, and safe work practices.

(C) Managers and supervisors shall ensure disciplinary action is taken in accordance with California Government Code section 19572 for employees or inmate workers who fail or neglect to comply with the CDCR and CCHCS Health and Safety policies and procedures.

(D) Employees and inmate workers who fail or neglect to ensure compliance with Health and Safety Programs may result in disciplinary action in accordance with the provisions described in California Government Code section 19572, DOM section 33030.1, and CCR Title 15, section 3392, Employee Discipline.

### 31020.5 Injury Illness Prevention Program

#### (a) Purpose

(1) The IIPP is designed to prevent workplace incidents, injuries, and illnesses. Employees and inmate workers are responsible to support the safety program and perform their duties in a manner that assures their own personal safety and the safety of others. To be successful in this endeavor, employees and inmate workers shall adopt proper and cooperative attitudes toward injury and illness prevention.

(2) The IIPP provides the procedures for complying with the requirements of CCR Title 8, Subchapter 7, General Industry Safety Orders (GISO), section 3203, Injury and Illness Prevention Program. The IIPP is an authoritative source of information to assist managers, supervisors, and employees in promoting the health and safety of CDCR and CCHCS employees, inmate workers, and visitors. The IIPP shall be in writing and contain the elements required by CCR, Title 8, section 3203. The IIPP template and instructions are accessible to the Worksite IIPP Administrators at [https://cdcr.sharepoint.com/sites/CDCR\\_IIPPATDBiosafety](https://cdcr.sharepoint.com/sites/CDCR_IIPPATDBiosafety). Each worksite shall tailor the IIPP template to address the site-specific hazards, operations, and tasks. Employees shall be provided access to the IIPP pursuant to CCR, Title 8, section 3203(a)(8).

(3) CDCR and CCHCS are committed to maintaining a safe and healthy working environment for all employees, inmate workers, and visitors. Management shall provide necessary safeguards, programs, and equipment to reduce the potential for accidents and injuries.

(4) CDCR and CCHCS shall strive to provide a healthy environment and safe working conditions, therefore:

(A) All employees and inmate workers of CDCR and CCHCS are responsible for the safety of themselves and others.

(B) Safety considerations shall take precedence over convenience and expediency in CDCR and CCHCS's operations.

(C) Accident prevention and safety are basic management responsibilities.

(D) Supervisors shall be evaluated on the effectiveness of their safety efforts.

(E) Employees and inmate workers shall also be evaluated on their adherence to safety rules and safe practices.

### 31020.6 General Responsibility of the Injury Illness and Prevention Program

(a) A successful IIPP can only be achieved and maintained when there is active interest, participation, and accountability at all levels within CDCR and CCHCS. CDCR and CCHCS executive leadership have the authority and responsibility to ensure that an IIPP is implemented.

#### (1) Compliance

The Worksite IIPP Administrator and all managers, supervisors, and lead employees have delegated responsibility for implementing and ensuring compliance with the IIPP in their work areas and for answering employee and inmate questions about the program. Worksite IIPP Administrators, managers, and supervisors shall ensure compliance with the CDCR and CCHCS IIPP by completing the following:

1. Communicate effectively and ensure all safety, health laws, rules, policies, and procedures are understood by all employees and inmate workers and enforce those laws, rules, policies, and procedures.
2. Investigate and document all accidents, injuries, illnesses, and unsafe work conditions, and maintain records of inspections and findings to determine the cause and correct the problem so it does not happen again.
3. Evaluate the safety performance of all employees and inmate workers.

4. Recognize employees and inmate workers who perform safe work practices in an exceptional manner and encourage the reporting of accidents, injuries, or illnesses.
5. Inform employees and inmate workers of the CDCR and CCHCS IIPP and ensure access to the program.
6. Provide training and instructions to employees and inmate workers in compliance with CCR, Title 8, section 3203(a)(7).

### **31020.7 Reporting Requirements for Work-Connected Injury, Illness, Hospitalization, or Death of an Employee to the California Occupational Safety and Health Administration (Cal/OSHA)**

#### **(a) Cal/OSHA Reporting**

(1) Pursuant to CCR, Title 8, section 342, all divisions, offices, facilities, and institutions within CDCR and CCHCS shall immediately report to Cal/OSHA any serious injury, illness, or death of an employee occurring in a place of employment or in connection with any employment. This includes, but is not limited to communicable disease that results in hospitalization. If the employee becomes seriously injured or ill at work or in connection with their employment, it is not necessary for the Hiring Authority (HA) to determine if the serious injury or illness is work-related prior to reporting. Under Cal/OSHA regulation requirements, employers shall report all serious injuries, illnesses, or deaths occurring at work, without making a determination about work-relatedness. Reporting is not an admission of liability or responsibility. Employees who are unsure about whether or not to report an employee injury, illness, or death, regardless of where it occurred, contact the CDCR Office of Legal Affairs (OLA).

(2) CDCR and CCHCS shall report immediately, any serious injury, illness, or death of an employee occurring in a place of employment or in connection with any employment through email to Cal/OSHA at <https://www.dir.ca.gov/dosh/report-accident-or-injury.html> with copies to OLA's Compliance, Accountability, and Risk Management Team at [m\\_OLA\\_Accountability\\_Compliance\\_Team@cdcr.ca.gov](mailto:m_OLA_Accountability_Compliance_Team@cdcr.ca.gov), and the local Return-to-Work Coordinator (RTWC). Additionally, all emails reporting an employee death shall copy Human Resources at [m\\_CDCREmpdeathnote@cdcr.ca.gov](mailto:m_CDCREmpdeathnote@cdcr.ca.gov). The report shall include the following information, if available:

- (A) Time and date of accident or event.
- (B) Employer's name, address, and telephone number.
- (C) Name and job title of the person reporting the accident.
- (D) Address of accident or event site.
- (E) Name of person to contact at the accident or event site.
- (F) Name and address of the injured employee(s).
- (G) Nature of the injuries.
- (H) Location where injured employee was taken for medical treatment.
- (I) List and identify other law enforcement agencies present at the accident or event site.
- (J) Description of accident or event and whether the accident scene or instrumentality has been altered.

(b) For the Division of Adult Institutions, during work hours, the report to Cal/OSHA shall be made by the Warden and or Public Information Officer. For after-hours, the Administrative Officer of the Day shall report to Cal/OSHA. For the Division of Adult Parole Operations, the Staff Services Manager III Support Services Unit shall report to Cal/OSHA. For all other CDCR locations, the HA shall report all work-connected injury, illness, hospitalization, or death of an employee to the OEHM at [m\\_OEHM\\_EHS@cdcr.ca.gov](mailto:m_OEHM_EHS@cdcr.ca.gov) for CCHCS the Deputy Director (DD) of CCHCS Human Resources (HR). The OEHM or HR DD or designee shall report to Cal/OSHA. "Immediately" means as soon as practically possible **but within 8 hours** after the employer knows or with diligent inquiry would have known of the death or serious injury or illness.

(c) "Serious injury or illness" means any injury or illness occurring in a place of employment or in connection with any employment that requires inpatient hospitalization for other than medical observation or diagnostic testing.

### **31020.8 Respiratory Protection Program**

#### **(a) Purpose**

(1) Each worksite has a written Respiratory Protection Program (RPP) that contains required worksite-specific procedures and elements for required respirators use for compliance with the California Code of Regulations (CCR), Title 8, and section 5144, Respiratory Protection. This RPP policy also assists HA, managers, supervisors, and employees in promoting the health and safety of all CDCR and CCHCS employees, inmate workers, and youth workers, and visitors. The RPP model plan and instructions are accessible to the Worksite RPP Administrator at

[https://cdcr.sharepoint.com/sites/CDCR\\_Admin\\_fmb\\_ECS\\_OCC\\_RPP/sites/pages/home.aspx](https://cdcr.sharepoint.com/sites/CDCR_Admin_fmb_ECS_OCC_RPP/sites/pages/home.aspx).

#### **(b) General Responsibilities for the Respiratory Protection Program**

(1) CDCR and CCHCS shall work with the RPP Administrator to view the 'User Profiles' located within the Business Information Systems (BIS), Environmental Health and Safety (EHS), RPP system and the Strategic Offender Management System (SOMS) to identify specific job classifications and task associated with those classification or inmate workers assignments which are required to wear respiratory protection. Employees required to wear a tight-fitting respirator are determined based on a job hazards assessment of the worksite and worksite tasks or other tasks that their classification may require. The RPP Administrator at each worksite shall ensure that employees required to don a tight-fitting respirator are identified and shall generate a compliance report to determine those employees that need medical clearance and need to be fit tested and ensure fit testing and training occurs annually (no less than 12 months from the last fit testing and training) or whenever a different size, make, or model of respirator is used or there is a change in an employee's health or working conditions that would prompt new fit testing.

(2) CDCR and CCHCS shall ensure that all employees who are required to wear a tight-fitting respirator have completed an RPP medical questionnaire and medical evaluation within the last four (4) years, before they are fit tested and required to use a respirator to perform their various job functions in the workplace.

(3) Medical evaluations of employees may be completed by an Employee Medical Monitoring Services contractor. CDCR and CCHCS HAS shall refer to the specific contract language to determine CDCR and CCHCS, or the vendor's responsibilities regarding medical evaluation and fit testing of health care registry providers and contract workers. Consult with the appropriate contract manager for more information.

(4) CDCR and CCHCS institution and facility employees who are required to wear respirator(s) shall comply with CCR, Title 8, sections 5144 and 5199.

### **31020.9 Respirator Fit Testing Requirements**

(a) All employees who are required to wear a respirator shall complete a medical questionnaire and be medically evaluated before they are fit tested and required to use a respirator to perform their job functions in the workplace. The medical clearance evaluation may be completed by an Employee Medical Monitoring Services contractor.

(b) Annually, employees shall submit a CDCR 2294 Respiratory Protection Program Screening form to confirm whether there have been any changes in their medical condition or working condition(s) since the submission of their last medical questionnaire. If changes have or may have occurred, a new medical questionnaire and medical evaluation shall be completed. A new medical questionnaire and medical evaluation shall be completed at least every four years following the initial evaluation.

#### **(c) Training**

CDCR and CCHCS shall provide training on the RPP to employees who are required to use respirators. Training must meet the requirements of CCR, Title 8, section 5144(k).

#### **(d) Facial Hair Requirements**

Employees who are required to wear tight-fitting respirators shall not have facial hair that comes between the sealing surface of the face piece and the face or that interferes with valve function.

#### **(e) Accommodations**

Any reasonable accommodation requests shall adhere to the following procedures:

- (1) Requests for Reasonable Accommodations  
Refer to DOM sections 31040.4.5 through 31040.4.13.
- (2) Requests for Religious Accommodations  
Refer to DOM sections 31010.8 through 31010.8.2.

### **31020.10 Respiratory Protection Program Non-Compliance and Accountability**

(a) Employees who are unable or unwilling to comply with CCR, Title 8, sections 5144 and 5199 and the department's fit testing requirements, and who do not have a pending or approved request for a religious or medical reasonable accommodation, shall be subject to corrective or disciplinary action in accordance with CCR Title 15, section 3392, et seq. and DOM Chapter 3, Article 22, Employee Discipline, sections 33030.8, 33030.9, and 33030.15, et seq.

(b) Non-compliant healthcare registry providers and contract workers who do not have a pending or approved request for religious or medical reasonable accommodation may be subject to contract or assignment termination.



(c) Employees who are off work due to military leave or other long-term extended leave at the time the employee is formally noticed regarding the requirements of CCR, Title 8, sections 5144 and 5199 and the department's fit testing requirements, who return to work, shall be, in compliance with the CCR, Title 8, sections 5144 and 5199 and the department's fit testing requirements or have submitted a request for religious or medical reasonable accommodation, upon their return to work.

(d) Employees who are required to use a respirator because of the essential functions of their position shall not report to work until they are medically cleared and properly fit tested or have an approved accommodation or an approved respirator that can provide appropriate respiratory protection that allows employees to fulfill the essential functions of their position without creating additional hazards.

### **31020.11 Procurement and Maintenance of Respirators**

(a) HAs shall ensure there are sufficient sizes, makes, and models of appropriate respirators available for fit testing and use by employees who are required to fit test with a tight-fitting respirator.

(b) HAs are required to procure and maintain an inventory of respirators to ensure employees have access to an appropriate respirator when necessary. Institutions and facilities are required to establish procurement and inventory procedures of respirators in all sizes and various makes and models and shall conduct monthly audits to ensure respirators are clean and ready for use at any given time.

(c) Respirators issued to a station or location for possible use by more than one employee shall be cleaned and disinfected before being worn by different individuals and following the use of the respirator prior to securing it. Refer to CCR, Title 8, Section 5144, Appendix B-2, Respirator Cleaning Procedures (Mandatory). As an alternative, institutions and facilities may use the cleaning recommendations provided by the manufacturer of the respirators used by their staff, provided such procedures meet the requirements of CCR Title 8, Section 5144 procedures. The RPP Administrator shall ensure an adequate supply of appropriate cleaning and disinfection material.

### **31020.12 Revisions**

The Deputy Director or designee of the Office of Employee Health Management shall ensure that the content of this Article is accurate and current.

### **References**

CCR Title 8, Subchapter 7, section 3203, IIPP

GC section 19572

CCR Title 8, section 342,

CCR Title 8, 5144, 5199

CCR 15, Section 3392, Employee Discipline

DOM Chapter 3, Article 22, Employee Discipline, sections 33030.8, 33030.9, and 33030.15

### **Revision History**

Revised: February 6, 1990.

Revised Sections 31020.7.5.1.1, 31020.7.5.1.4, 31020.7.6, 31020.7.6.1, 31020.7.6.3,

31020.7.6.5, 31020.7.6.6, and 31020.7.7.9: January 16, 2008.

Revised: Sections 31020.7.5.1.1 and 31020.7.6: July 1, 2020.

Revised: March 7, 2022.

Revised: December 12, 2022.

## **ARTICLE 3 — EMPLOYEE AWARDS PROGRAM**

*Revised August 22, 2008*

### **31030.1 Policy**

The Department encourages all employees to actively participate in the following awards programs:

- State Merit Award.
- Employee Recognition.
- Safety Awards.

### **31030.2 Purpose**

This Article provides standards and procedures for participation in the State Merit Award Program, the Employee Recognition Program, the Safety Awards Program, and the 25-Year Service and Retirement Recognition Program.

### **31030.3 State Merit Award Program**

The California Legislature established the State Merit Award Program in 1950 to improve the operations and efficiency of State government through honorary and cash awards. The objectives of the program are:

- To encourage all employees to take an active part in improving the effectiveness of State government.
- To provide recognition for those employees whose individual or group efforts contribute to efficiency and economy through elimination or avoidance of State expenditures, or other improvements.
- To reward employees for acts or services of an outstanding nature.
- To reward employees for superior accomplishments.

The following awards are available under the State Merit Award Program:

- Employee Suggestion Program.
- Superior Accomplishment.
- Sustained Superior Accomplishment.

### **31030.3.1 Employee Suggestion Program**

The Employee Suggestion Program (ESP) rewards employees who come up with cost-saving ideas and/or ideas to improve the safety or operations of State government. The rules and regulations governing this program include:

- DPA Rules 599.655 to 599.664, inclusive.
- Government Code Sections 19815.4(d), 19816, and 19823.
- State Administrative Manual (SAM) Chapter 4700.

The Department of Personnel Administration (DPA) oversees the ESP statewide to ensure compliance with the laws and rules governing the program. DPA delegates authority to publicize and administer the ESP to state agencies and departments. Each State agency or department designates a Merit Award Administrator (MAA) as a liaison between its department and DPA. The Department's MAA is in the Division of Support Services, Office of Business Services.

### **Department Leadership Responsibilities**

Each supervisor and manager shall:

- Encourage the submission of suggestions.
- Be thoroughly familiar with the details of the program as specified in the DPA Rules, Government Code, SAM, and this Article.
- Provide assistance to suggesters when requested.

### **31030.3.1.1 Participation Criteria**

Active or retired State employees are eligible to participate in the ESP, with the exception of the following:

- Career Executive Assignments (CEA).
- Exempt classifications with a collective bargaining designation of managerial.

### **31030.3.1.2 Eligible Suggestions**

Eligible suggestions are those that have a cost savings to the State and can document one or more of the following:

- Improvement to State operations.
- Increase in revenue.
- Elimination of safety hazards.
- Improvement in procedures.

Suggestions include topics in engineering, security, information technology, accounting, clerical support, and many more. Suggestions must describe a specific problem as described above, offer a workable solution, and be of benefit to the Department or another State agency or department.

### **31030.3.1.3 Ineligible Suggestions**

Ineligible suggestions include those that:

- Are under evaluation or were evaluated through the Department ESP within the last year.
- Recommend new or increased taxes or fees.
- Recommend additional revenues at the expense of a segment of taxpayers and which can be classified as unjust or inequitable.
- Recommend a change in the pay or classification of a position or class, or the establishment of new positions.
- Recommend a study, survey, or review to determine a course of action.
- Involve a personal grievance.
- Involve terms and conditions of employment which are subject to the collective bargaining process under the Ralph C. Dills Act.
- Recommend corrections in spelling, punctuation, grammar, or mathematical calculations (these changes should be communicated through established channels).

### 31030.3.1.4 Submission Criteria and Suggester Responsibilities

Suggesters must complete an Employee Suggestion form (STD. 645) describing the suggestion. Each suggestion must describe only one specific problem and offer a workable solution. Suggesters must provide as much detail as possible and include examples or attachments to corroborate the problem and its solution. Suggesters may fully describe the suggestion on one or more attachments; however, the STD. 645 must reference the attachment and the attachment must follow the format of the STD. 645.

Suggesters must complete, sign, and date the STD. 645. The ESP cannot accept an incomplete or unsigned STD. 645. (Note: If your suggestion is a team-developed idea, all members of the team must sign.)

- If the suggestion impacts a Department institution, division, or program, submit the completed form/package to:  
CDCR Merit Award Administrator  
P.O. Box 942883  
Sacramento, CA 94283-0001
- If the suggestion impacts another department or multiple departments, submit your completed form/package to:  
Department of Personnel Administration  
Merit Award Program  
1515 S Street, North Building, Suite 400  
Sacramento, CA 95814

Suggesters may remain anonymous until the Department approves an award.

### 31030.3.1.5 Department Merit Award Administrator Responsibilities

The MAA receives, logs, refers, and tracks suggestions through the evaluation process. Upon receipt of a suggestion the Department MAA:

- Assigns an identification number and reviews the suggestion for completeness.
- Sends the suggester an acknowledgment letter.
- Assigns the suggestion to the division responsible for the suggestion's program area.
- Receives the completed Suggestion Evaluation Report (STD. 645A) and ensures it is an impartial and thorough evaluation. The MAA verifies recommended award amounts, if any, and notifies the suggester of the Department's decision.
- If the evaluator recommends implementation, the MAA notifies the suggester of the Department's intention and coordinates award payment to the suggester.

Evaluation timeframes vary according to the complexity of the suggestion.

### Additional Responsibilities

The Department MAA shall:

- Explain and interpret the program to Departmental employees.
- Supervise the distribution of Merit Award Program promotional material issued by the Governor, the DPA, or the State Merit Award Board.
- Forward a copy of the Suggestion Evaluation Report to suggester.
- Ensure awards for adopted suggestions proceed through Executive staff to the Secretary or designee.
- Ensure the appropriate payroll office requests award payment for suggester.
- Inform Department management of adopted suggestions that increase departmental economy or efficiency or improve operating procedures.
- Represent suggesters in meetings before the Merit Award Board.
- Provide additional information on the program, as requested.
- Answer questions.
- Provide ESP forms and/or Internet links to forms.
- Arrange for speakers to explain the program to employee groups.
- Provide quarterly status updates to suggesters.

### 31030.3.1.6 Division Evaluator Responsibilities

Evaluators are not expected to know all of the facts personally; however, evaluators should know how and where to obtain the information needed to evaluate the suggestion thoroughly. If an evaluator believes he/she lacks the expertise to evaluate a suggestion, or needs access to resources not available to him/her, immediately inform the MAA.

Evaluators shall:

- Act promptly.
- Get the facts.
- Use the Evaluator's Handbook throughout the evaluation.

- Make a sound recommendation based on his/her detailed analysis.
- Be fair and objective.
- Base the findings, conclusion, and award recommendation on the feasibility of the idea, not on the suggester's eligibility to receive an award.
- Make a definite recommendation for adoption or rejection of the suggestion. If a final decision cannot be reached without a trial implementation and cost-savings analysis, the evaluator shall submit an "Interim Report" to the MAA. In every case, the evaluator shall include appropriate comments and documentation necessary to support his/her recommendation.
- Complete the Suggestion Evaluation Report (STD. 645A) in terms that can be easily understood by persons unfamiliar with the Department.
- Be considerate of the suggester's feelings and encourage further suggestions, regardless of the outcome of the evaluation.
- Keep the MAA informed of the progress of the evaluation.

If the evaluator requires additional information from an anonymous suggester, contact the MAA. The MAA will act as a liaison between an anonymous suggester and the evaluator.

It is very important to process suggestions promptly. The timeframe for completing the evaluation is 25 working days. If the evaluation takes longer, the evaluator must request an extension on the assignment from the MAA and provide the MAA with the projected completion date.

### 31030.3.1.7 Evaluating the Suggestion

There are six steps in the evaluation process. Detailed information for each step can be found in the Evaluator's Handbook. The six steps are summarized as follows:

- Review the suggestion in its entirety and define the problem and the proposed solution.
  - What problem does the suggestion address?
  - What is the suggester's solution?
- Analyze the feasibility of the proposed change.
  - Compare the current method of operation to the method proposed in the suggestion in terms of feasibility, costs, and benefits to the Department.
  - Is the idea timely?
  - Is the idea under independent active consideration? If so, documentation of independent consideration by the Department must be attached to the STD. 645.
  - Is there an alternate solution to the problem?
- Calculate the cost savings.
- Determine whether the suggestion should be adopted and the type of award that should be presented.
- Determine the suggester's ability to receive a cash award.
  1. What are the suggester's assigned or expected job responsibilities?
  2. Was the suggestion assigned to the suggester for research, development, or solution?
- Prepare the STD. 645A.

### 31030.3.1.8 Completing the Suggestion Evaluation Report (STD. 645A)

Detailed information for completing the STD. 645A can be found in the Evaluator's Handbook. If the evaluation is lengthy, the STD. 645A may state "See Attached Evaluation" in the Comments section. Each STD. 645A must be signed and dated by the evaluator and the evaluator's division head or designee who signs as the Reviewing Officer, before it is returned to the MAA. The evaluator shall also provide his/her contact telephone number. Evaluators shall return the completed and signed STD. 645A to the MAA with any attachments and all notes, supporting documentation, and evaluation materials.

### 31030.3.1.9 Rejected Suggestions

The MAA notifies the suggester if the Department rejects his/her suggestion. Included in the notification is a copy of the STD. 645A, the suggester's appeal rights, and appeal timeframes.

### 31030.3.1.10 Right to Appeal a Rejected Suggestion

Suggesters have the right to appeal rejected suggestions within one year from the date on the rejection letter. The reasons for an appeal and the action the suggester must take are the following:

- The suggester disagrees with the evaluation report because pertinent information was not considered. In this case, the suggester shall submit a written request for reconsideration to the MAA that includes additional

or supplemental information not covered in the original suggestion, or shall point out an error in the evaluation report. The MAA shall return the suggestion with the additional or supplemental information to the division evaluator for a decision.

- The suggester disagrees with the evaluation report that states the suggester is not eligible to receive an award. The reason may be that the idea was within the scope of his/her duties, or was an assignment given to the suggester. In this case, the suggester shall submit to the MAA a written request for reconsideration. If the MAA determines the appeal is unresolvable at the Department level, the MAA shall submit the appeal to the State Merit Award Program for review and a binding decision.

Suggesters have the right to appeal rejected suggestions within three years from the date on the rejection letter if the suggester believes the Department implemented the suggestion within three years after rejecting the suggestion. In this case, the suggester shall submit to the MAA a written request to reopen the suggestion, with an explanation of when and how the Department adopted the idea. In addition, the suggester shall provide documentation or proof of implementation. If the MAA determines the appeal is unresolvable at the Department level, the MAA shall submit the appeal to the State Merit Award Program for review and a binding decision.

#### **31030.3.1.11 Administrative Reconsideration**

The MAA may administratively reopen a suggestion submitted through the ESP upon evidence that the Department implemented it without giving the suggester due recognition.

#### **31030.3.1.12 Adopted Suggestions**

The MAA notifies the suggester if the Department intends to adopt the suggestion, coordinates Executive approval of the recommended award, and requests payment to the suggester.

#### **31030.3.1.13 Types of Awards**

Awards range from \$50 to a maximum \$50,000 per adopted suggestion. The Department Secretary or designee approves awards up to \$5,000. Awards over \$5,000 require approval by the State Merit Award Board, DPA, and concurrent resolution by the Legislature. Below is a summary of the various types of awards available:

##### **Cash Award**

Cash awards are based on the net savings or earnings realized by the Department in the first 12 months following the implementation of the suggestion. If the first 12 months are not representative of net savings or revenue, a different period of time may be substituted. The award is 20 percent of the net savings or revenues.

Note: Suggestions requiring substantial refinement or modification for implementation will be calculated at 5 percent of the net savings or increased revenue.

##### **One-Time Award**

When an adopted suggestion results in one-time savings or revenue, the award will be calculated at 5 percent of the net savings or revenue.

##### **Preliminary and Supplemental Awards**

The adopting institution, division, or program may recommend a preliminary award after a suggestion has been in place for one year. If the institution, division, or program realizes greater net savings or revenue than the preliminary award represents, it may recommend a supplemental award.

##### **Improved Procedures Award**

Where an annual net savings or increased revenue cannot be determined or are calculated at less than \$500, a cash award may be recommended by the adopting division in accordance with the Improved Procedures Award Scale on Page two of the STD. 645A. Where annual net savings or increased revenue are calculated as at least \$500, but not more than \$1,000, the recommended cash award shall be \$100.

##### **Improved Safety Award**

These suggestions propose improvements in practices or facilities to eliminate or reduce injury to State employees or to the public, but the monetary value cannot be readily determined. Examples are suggestions relating to equipment modification, maintenance that is not routinely expected, and items that are not specified in building codes. To calculate awards for this type of adopted suggestion, the evaluator shall apply the Improved Safety Award Scale on Page two of the STD. 645A.

#### **31030.3.1.14 Award Time Frames**

Some types of awards can be paid relatively quickly. Others must wait until the first 12 months of net savings or revenue can be calculated. All occur after the evaluator returns the STD. 645A to the MAA indicating that a suggestion has been adopted and an award recommended. Timeframes do not include

MAA processing timeframes. All cash awards are considered income and subject to tax.

##### **Cash Awards**

The length of the process depends on the amount of the recommended award:

##### **\$50 to \$5,000**

Up to one year to obtain all required levels of approval within the Department and to request payment through the appropriate personnel office.

##### **\$5,001 to \$50,000**

Up to four years. An award this size requires:

- All required levels of approval within the Department.
- A hearing or multiple hearings by the State Merit Award Board.
- Sponsorship of a concurrent resolution by the Legislature to authorize payment (coordinated by DPA).

If the Legislature approves the concurrent resolution:

- Notification issued by DPA to MAA to request payment.
- MAA requests payment from the appropriate personnel office.

##### **One-Time Awards**

The length of the process depends on the amount of the recommended award. See Cash Awards above.

##### **Improved Procedures Awards**

Within one year.

##### **Improved Safety Award**

Within one year.

#### **31030.3.2 Superior Accomplishment Award**

The Superior Accomplishment Award (SAA) recognizes performance by an individual employee or a team of employees that results in an exceptional contribution to improving State government beyond the accomplishments normally expected of the employee's classification.

##### **31030.3.2.1 Eligibility**

All employees, except those who are designated supervisory or managerial, are eligible for nomination. Peers or superiors may nominate an employee or team of employees for the SAA. There is no limit on the frequency that employees may be recommended for the SAA; however, an employee who receives an SAA is not eligible to receive another SAA for three years.

##### **31030.3.2.2 Nomination Criteria**

As stated above, SAAs are reserved for on-the-job performance beyond that expected of the employee's classification(s). Typical nominations consider:

- Responsibility for major improvements of methods, organization, procedures, services, or products that result in improved State or Departmental operation.
- Important contributions to research, development, and implementation of Departmental goals.
- Actions that demonstrably enhance creativity and productivity of subordinates or co-workers.
- Outstanding and superior achievement that brings recognition to the employee, the team, and/or the Department.
- Successful completion of an assigned task, project, or special event in a superior manner and/or significantly shorter timeframe than was deemed possible.
- All nominations shall be made on a STD. 278, Superior Accomplishment Gift or Cash Award Recommendation. It must be signed and submitted with original signatures to the MAA in the Division of Support Services, Office of Business Services.

##### **31030.3.2.3 Selection Process**

The MAA receives, logs, and reviews nomination forms for completeness. The MAA forwards the STD. 278 through all required levels of approval to the Department Secretary or designee. The Secretary or designee shall make the final decision to approve or disapprove the award application and may change the amount of the recommended award. The Office of the Secretary returns the completed STD. 278 to the MAA with the recommendation(s).

##### **31030.3.2.4 Award Process**

Upon receipt of an approved nomination form from the Office of the Secretary, the MAA requests payment for the recommended award amount from the employee's payroll office. The State Controller's Office deducts applicable taxes from the award amount.

In lieu of cash payment, the Department may present a gift equal in value to the award amount; however, this practice is discouraged as it puts the burden of claiming the taxable gift on the recipient(s).

In addition to a monetary award, award recipients may receive a framed certificate commemorating their accomplishment. The design, purchase, and printing of the certificate are at the discretion of the Department.

### **31030.3.3 Sustained Superior Accomplishment Award**

The Sustained Superior Accomplishment Award is meant to reward superior performance over a two-year period that results in an exceptional contribution to improving California State Government.

#### **31030.3.3.1 Eligibility**

Efforts which may be recognized with this award include sustained performance significantly exceeding normal job requirements resulting in the completion of a major project or task with substantial benefits to the State.

All State employees, except agency heads or elected Constitutional officers, are eligible for this award. Individuals or teams of employees may be nominated for this award.

#### **31030.3.3.2 Nomination Criteria**

Nominations for the Sustained Superior Accomplishment Award may be submitted once a year to the MAA, on a date determined by the MAA. Nominations are limited to an amount equal to one nomination per 100 employees of the Department. The Department may nominate fewer employees than this number.

When a manager or supervisor wishes to nominate an employee for the Sustained Superior Accomplishment Award, he/she must first specify the amount of the award, ranging from \$25 to \$250, for an individual or for each member of a team.

#### **31030.3.3.3 Submission**

After selecting the award amount, the supervisor or manager must complete an STD. 278, Superior Accomplishment Gift or Cash Award Recommendation. It must be signed and submitted with original signatures to the MAA in the Division of Support Services, Office of Business Services. The MAA logs and tracks the nomination during the review process by the Office of Personnel Services (OPS).

#### **31030.3.3.4 Selection**

OPS reviews the application based on staff recommendations, objectives of the employee's program, and the terms of any previously approved Sustained Superior Accomplishment program. OPS recommends approval or disapproval to the Secretary or designee. The Secretary or designee shall make the final decision to approve or disapprove the award application and may change the amount of the recommended award. The Office of the Secretary returns the STD. 278 to OPS with the recommendation. OPS forwards the recommendation to the MAA for out-processing and to request any approved award payment(s).

#### **31030.3.3.5 Award Process**

Upon receipt of an approved nomination form from the Office of the Secretary, the MAA requests payment for the recommended award amount from the employee's payroll office. The State Controller's Office deducts applicable taxes from the award amount.

In lieu of cash payment, the Department may present a gift equal in value to the award amount; however, this practice is discouraged as it puts the burden of claiming the taxable gift on the recipient(s).

Award recipients, in addition to a monetary award, may receive a framed certificate commemorating their accomplishment. The design, purchase, and printing of the certificate are at the discretion of the Department.

### **31030.4 Employee Recognition Program**

The Employee Recognition Program was established to acknowledge those employees and community members who distinguish themselves by acts of heroism, bravery, or service beyond the normal demands of correctional/community service.

#### **31030.4.1 How to Submit Nominations**

An employee may be nominated for a departmental award by any supervisory or managerial employee. Supervisors and managers have a duty to recognize heroic acts. A written memorandum shall be submitted to the hiring authority for approval. The nominee shall have acted while on duty, or if off duty, while in a departmental facility or in the community.

The memorandum with the hiring authority's comments shall be forwarded to the appropriate assistant director for approval. They will then review and forward all nominations to the Assistant Secretary, Office of Public and Employee Communications.

The Employee Recognition Program operates on a calendar year basis. All awards for nominations submitted for which the incident occurred between January 1 and December 31 of each year are presented in May of the following year.

Nominations are due to the Assistant Secretary, Office of Public and Employee Communications, on the second Friday in January following the year in which the incident occurs. All nominations shall include:

- A standardized cover sheet provided by the communications office. A cover sheet for each nominated individual will include name, date of incident, brief description of incident (not to exceed space provided), name and signature of person making nomination, institution/parole region/other work location, and employee position or rank.
- One to three one-sided sheets (8 1/2 x 11) of additional or substantiating material (incident reports, statements of eyewitnesses, etc.) may be used.

The nomination package must be sent by U.S. Mail or delivery service (no telefaxed materials will be accepted unless specific information is requested by the Communications Office) so that arrival is prior to the due date.

The due date will be determined prior to December of each year. All Wardens/Superintendents/Parole Administrators/RPAs/Assistant Directors will be notified in early December of the deadline which will be 5:00 p.m. on the second Friday in January.

### **31030.4.2 Departmental Awards Review Board**

The Departmental Awards Review Board consists of the following:

- Undersecretary, Operations
- Director, Division of Adult Institutions
- Director, Division of Adult Parole Operations
- Director, Juvenile Operations
- Director, Juvenile Parole Operations
- One Superintendent
- One Division of Adult Parole Operations Regional Administrator
- One Division of Juvenile Justice Parole Administrator
- Two Wardens

The Board shall meet annually no later than the middle of March, or as frequently as deemed necessary by the Undersecretary. The Board shall make its recommendations from the prior calendar year's nominees to the Secretary.

The Assistant Secretary, Office of Public and Employee Communications, or his/her designee shall serve as the chief staff member for the Departmental Awards Review Board and shall ensure that all seats are properly filled, a sufficient number of meetings are scheduled, and appropriate individuals are in attendance.

### **31030.4.3 Presentation of Awards**

Awards shall be presented annually by the Governor, or his representative, and the Secretary, at publicized ceremonies.

### **31030.4.4 Wearing of Awards**

Uniformed employees shall wear awards in accordance with Section 33020 of this manual. Non-uniformed employees are permitted to wear the lapel pin replicas of awards received.

### **31030.4.5 Awards – Descriptions and Criteria**

#### **Medal of Valor**

The Medal of Valor is the Department's highest award, earned by employees distinguishing themselves by conspicuous bravery or heroism above and beyond the normal demands of correctional service. The employee shall display great courage in the face of immediate life/threatening peril and with full knowledge of the risk involved. The act should show professional judgment and not jeopardize operations or the lives of others.

- The medal consists of a gold-color medallion on a red, white, and blue ribbon.
- With the medal, the employee receives a red, white, and blue ribbon for wear with the Class A uniform and a lapel pin replica of the medallion for wear with civilian attire.

#### **Corrections Star (Gold)**

The Corrections Star (Gold) medal is the Department's second highest award for heroic deeds under extra-ordinary circumstances. The employee shall display courage in the face of immediate peril in acting to save the life of another person.

- The medal consists of a gold-color medallion in the shape of the departmental badge on a blue and white ribbon.
- With the medal, the employee receives a blue and white ribbon for wear with the Class A uniform and a lapel pin replica of the medallion for wear with civilian attire.

### Corrections Star (Silver)

The Corrections Star (Silver) medal is the Department's third highest award for acts of bravery under extra-ordinary or unusual circumstances. The employee shall display courage in the face of potential peril while saving or attempting to save the life of another person or distinguish himself/herself by performing in stressful situations with exceptional tactics or judgment.

- The medal consists of a silver-color medallion in the shape of the departmental badge on a red and white ribbon.
- With the medal, the employee receives a red and white ribbon for wear with the Class A uniform and a lapel pin replica of the medallion for wear with civilian attire.

### Corrections Star (Bronze)

The Corrections Star (Bronze) medal is the Department's award for saving a life without placing oneself in peril. The employee shall have used proper training and tactics in a professional manner to save, or clearly contribute to saving, the life of another person.

- The medal consists of a bronze-color medallion in the shape of the departmental badge on a yellow and white ribbon.
- With the medal, the employee receives a yellow and white ribbon for wear with the Class A uniform and a lapel pin replica of the medallion for wear with civilian attire.

### Distinguished Service Medal

The Distinguished Service Medal is for an employee's exemplary work conduct with the Department for a period of months or years, or involvement in a specific assignment of unusual benefit to the Department.

- The medal consists of a bronze-color medallion presented on a green and white ribbon.
- With the medal, the employee receives a green and white ribbon for wear with the Class A uniform and a lapel pin replica of the medallion for wear with civilian attire.

### Unit Citation

The Unit Citation is for great courage displayed by a departmental unit in the course of conducting an operation in the face of immediate life-threatening circumstances.

- Recipients shall also receive a green and gold ribbon for wear with the Class A uniform.

### 31030.5 Safety Awards Program

The Safety Awards Program was established to promote employee awareness in health and safety through recognition of significant employee contributions and achievements.

#### 31030.5.1 Vehicle Safety Awards

The Department's annual goal for a lower number of accidents involving vehicles driven on State business is expressed as a percentage of reduction in the frequency rate of vehicle accidents. Qualifying adult institutions, adult parole regions, and the Department's Transportation Unit shall receive awards for achieving the goal.

- The Departmental goal shall be obtained from the "Annual Report of the California State Workers' Compensation Program," published by the Department of General Services (DGS).
- Awards shall be made for each calendar year and shall be presented on or before June 15th of the following year.

#### 31030.5.2 Personnel Safety and Health Awards

##### Institutions/Parole Regions

Each qualifying adult institution, or adult parole region that achieves the injury frequency and severity rate goals established by the Office of Risk Management, shall receive recognition with the presentation of annual awards no later than June 15th of the following year.

- The goals are based upon the departmental injury frequency and severity rate goals set by the State Safety Advisory Committee.
- The formulas used in computing the frequency and severity rates for the Department and for each institution/parole region are as follows:
  - Frequency rate = total number of injuries x 200,000 work hours: total number of work hours.
  - Severity rate = total number of days lost x 200,000 work hours: total number of work hours.
- The Department's annual goals for the reduction in frequency and severity rates of disabling injuries and illnesses shall be forwarded in a memorandum from the Assistant Secretary, Office of Risk Management to each adult institution, or adult parole region every January.

### Departmental Award to Individuals

Departmental Employee Safety Awards shall recognize significant contributions to and/or achievements in the health and safety program.

- Eligibles: Employees from each adult institution, adult parole region, and Headquarters.
- Selection: Each local safety committee shall submit the names of those who were selected to receive the local employee safety awards on the Nomination Form for Safety Award to the Warden/RPA, or Assistant Secretary Office of Risk Management, for approval.
- Submission: The approving authority shall ensure that local award recipient's nomination forms arrive at the Department's Office of Risk Management by January 15th each year. The Assistant Secretary or designee shall arrange for selection and presentation of departmental awards.

### Governor's Award to Individuals and Groups

Employees of all state agencies are eligible to receive the Governor's Employee Safety Award. The Department may nominate for the award its quota of individuals and groups as established annually by the Office of Insurance and Risk Management, DGS.

The name(s) of those Department Employee Safety Award recipients who meet the Governor's Employee Safety Award criteria shall be forwarded to the Office of Insurance and Risk Management by the Office of Risk Management, CDCR for consideration by the Safety Awards Committee.

The award ceremony is held annually at a location of the Office of Insurance and Risk Management's choosing, and the awards are presented by members of the Governor's staff. The date of the ceremony is established each year by the Office of Insurance and Risk Management.

#### 31030.6 25-Year Service Recognition

Employees completing 25 years of State service are entitled to receive:

- Employee's choice of a 25-year service memento described in the catalog provided by the contract vendor.
- A framed certificate signed by the Governor, also provided by the contract vendor.
- A 25-year service recognition card signed by the Secretary to be presented to the employee with the framed certificate signed by the Governor.

#### 31030.6.1 Retirement Certificates

Retiring employees are entitled to receive:

- A retirement certificate from the Secretary.
- A congratulatory letter from the Secretary.
- If the employee has at least 25 years of state service, employees choice of any one of the retirement mementos described in the catalog provided by the contract vendor.
- If the employee is retiring at the same time that 25 years of service is achieved, the employee is entitled to two mementos from the catalog provided by the contract vendor, one commemorating retirement and one acknowledging at least 25 years of State service.

#### 31030.6.2 Personnel Services Responsibility

The Local Personnel Officer shall:

- Notify the supervisor/manager of those employees who are within six months of reaching 25 years of State service and/or retirement using the CDCR Form 1785, Service Award Eligibility Notification. The Headquarters Personnel Office shall:
  - Upon receipt of the CDCR 3019, Request for Retirement Letter/Certificate, (via electronic mail or FAX from the supervisor/manager) prepare the retirement letter and certificate and send to the Secretary's Office to obtain signatures.
  - Upon receipt of the signed retirement letter and certificate (from the Secretary's Office), prepare for presentation to the employee and mail to the office or the employee as indicated on the CDCR Form 3019.

#### 31030.6.3 Supervisor's/Manager's Responsibility

Supervisors and/or managers of the employee shall:

- Submit completed CDCR Form 3019, Request for Retirement Letter/Certificate, for a retirement award to the Headquarters Personnel Office via FAX or electronic mail.
- Allow a minimum of 20 working days after the request is submitted via electronic mail or by FAX.

- Make the contract vendor's memento catalog available to the employee. The local institution, facility, or headquarters business office shall provide the name and contact information for the current contract vendor.
- Prepare and submit the CDCR Form 954, IntraOffice Requisition (IOR), to order the 25-Year service certificate signed by the Governor and memento and/or the retirement memento selected by the employee. A copy of the CDCR Form 1785, Service Award Eligibility Notification, shall be attached to the CDCR 954. Refer to vendor's "Ordering Instructions" in the vendor's catalog for instructions on completing the requisition. For retiring employees, submit the order within 60 days of expected retirement date.
- Present the 25-Year service certificate signed by the Governor along with the memento as close to the employee's anniversary date as possible.
- Present the retirement certificate and congratulatory letter from the Secretary to the employee to commemorate the employee's service to the State. Retirement mementos should be presented at this time if available, or mailed to the employee if not available at the time of retirement.

#### 31030.6.4 Secretary's Office Responsibility

The Secretary's office shall:

- Upon receipt of the unsigned retirement certificate and the congratulatory letter (from the Headquarters Personnel Office) obtain the signature of the Secretary on each document and return the signed documents to the Headquarters Personnel Office.

#### 31030.7 Revisions

The Deputy Director, Human Resources, or designee shall ensure that the content of this Article on the 25-Year Service, Retirement Certificate, and Sustained Superior Accomplishment Award programs are current.

The Deputy Director, Office of Business Services, or designee shall ensure that the content of this Article on the State Merit Award Program, Superior Accomplishment Award, and Sustained Superior Accomplishment programs are current.

The Assistant Secretary, Office of Public and Employee Communications, shall ensure that the content of this Article on the Employee Recognition Program is current.

The Assistant Secretary, Office of Risk Management, shall ensure that the content of the Safety Awards Program is current.

#### 31030.8 References

SAM § 4700 et seq.

Government Code § 19815.4(d), 19816, 19823, and 19849.9(a).

California Code of Regulations Title 2, Division 1, Chapter 3, Subchapter 1, Article 4, § 599.655 et seq.

### ARTICLE 4 — EMPLOYEE WELLNESS PROGRAMS

*Revised August 25, 2015*

#### 31040.1 Policy

The Office of Employee Wellness (OEW) is responsible for policy development and administration of CDCR Peer Support Programs, Return to Work Services, and Substance Abuse Testing Programs in compliance with applicable laws.

#### 31040.2 Purpose

This Article sets forth the policies of the program administered within the OEW.

#### 31040.3.3 Blood Donations

Blood donations provide life-saving treatments to accident victims, surgery patients, and many others in need. Donating blood is one of the most generous acts of kindness that one human being can do for another.

#### Program

The Department encourages employees to participate in blood donation programs, thus making a vital contribution to the community. The OEW is responsible for maintaining and coordinating the CDCR's blood donation program and policies.

OEW shall:

- Coordinate and facilitate CDCR's Headquarters' Blood Drive each calendar year.
- Provide assistance to EAP/Return To Work Coordinators (RTWC) who are interested in establishing a blood donation program at their facility or region.

#### Time Off

The Department allows up to two hours off for regular donors when back-up coverage is not required. For special donation programs such as Pheresis, actual donation time plus up to 30 minutes travel time may be approved. Supervisors retain approving authority for granting time off for blood donations.

#### 31040.3.4 Workplace Violence Prevention

It is the policy of the CDCR to provide all employees and members of the public with a safe and healthful work environment. Violent acts or threats against another person's life, health, well being, family, or property, infringe upon CDCR's right and obligation to provide a safe workplace for its employees. CDCR has a zero tolerance policy for workplace violence and will respond to any acts or threats of violence with appropriate administrative or legal remedies.

#### 31040.3.4.1 Workplace Violence - Defined

**Disruptive Behavior** - Disturbs, interferes with, or prevents normal work functions or activities. Includes yelling, using profanity, waving arms or fists, leering, insubordination, refusing to cooperate with others, bullying, belligerency, verbally abusing others, making inappropriate demands for time and attention, making unreasonable demands for action (demanding an immediate appointment or a response to a complaint on the spot), or refusing a reasonable request for identification.

**Act of Violence** - The use (or attempted use) of force or violence with the intent to threaten, harass, intimidate, intentionally commit an injury to self or others, or damage or destroy property.

**Harassment** - Unwelcome verbal or physical conduct which creates a hostile or intimidating work environment, not resulting in physical harm; disparaging or derogatory comments, slurs or profanity.

**Intimidate** - To make afraid, frighten, alarm or scare; forcing action or inaction by inducing concerns for one's safety by means of any physical action and/or verbal comment.

**Stalking** - An act of willful, malicious, and repeated following or harassing by another person by any means, direct or indirect, that causes a reasonable person to fear for his/her safety or the safety of his/her immediate family.

**Threat** - An action (verbal, written, or physical) that is intended to intimidate by expressing the intent to harass, hurt, take the life of another person, damage or destroy property, including threats made in jest but which others could perceive as serious.

**State Workplace** - Anywhere a State employee is conducting authorized State business, or enroute to and from (excluding normal commute) a location where State business is or will be conducted.

#### 31040.3.4.2 Manager/Supervisor Responsibility

**Managers and Supervisors shall:**

- Comply with the CDCR Code of Conduct and General Qualifications as defined in DOM Sections 33030.3.1 and 33030.3.2.
- Foster a supportive, amicable work environment.
- Communicate openly and give employees support and recognition.
- Participate in training on how to resolve conflicts.
- Recognize potentially threatening situations for performing State business.
- Adhere to the incident reporting procedures.
- Offer the EAP to affected staff. EAP provides employees with free, easily accessible and confidential resources for addressing personal concerns.
- Contact the Office of Employee Wellness to coordinate a Critical Incident Stress Debriefing (CISD) for staff, if necessary.
- Take all reports of workplace violence seriously.
- Conduct a follow-up information gathering session with all involved employees to determine the facts.
- Report all incidents to administration.
- Take corrective action, when necessary.
- Contact the Office of Internal Affairs to complete a formal investigation, when appropriate.

#### 31040.3.4.3 Employee Responsibility

**Employees shall:**

- Comply with the CDCR Code of Conduct and General Qualifications as defined in DOM Sections 33030.3.1 and 33030.3.2.
- Act professional, courteous, and responsible at all times.

- Immediately report any and all acts of workplace violence to their supervisor or manager without fear of reprisal.
- Follow-up on the initial verbal report with written documentation, which should include the following critical information: names of the involved parties (i.e. perpetrator, victim, and witnesses), a description of what occurred, when and where the incident took place, and if known, why it happened.
- Headquarter employees shall call 911 if there is an immediate threat to the life or safety of employees, the public, or State property.

#### **31040.3.4.4 Training**

All employees, including managers and supervisors, shall receive training and instructions on the Workplace Violence Prevention Program. Initial training shall be taught as follows:

- Headquarters employees shall receive training at the New Employee Orientation.
- DAI/DJJ employees shall receive training through In-Service Training.
- Parole Regions shall receive training through their unit supervisor.

The Office of Employee Wellness develops Workplace Violence Prevention Program training curriculum. Workplace Violence Prevention Program training should include, but is not limited to the following:

- Workplace Violence Prevention Program policy and reporting requirements
- Expectations of CDCR employee conduct
- Definitions of workplace violence
- Measures to prevent workplace violence
- Ways to diffuse hostile or threatening situations
- Guidelines for notification to law enforcement authorities
- Referrals to EAP
- Resources for employees, managers, and supervisors

#### **31040.3.4.5 Recordkeeping**

Records of Workplace Violence Prevention Program training shall be maintained by the employee's manager or supervisor for one year. Training records shall include the name of the instructor(s), brief description of the training content, and a roster signed by participants.

#### **31040.3.5 Ergonomics Program**

It is the policy of CDCR to provide all employees with a healthy workplace and safe working conditions. CDCR is committed to reducing and/or eliminating the risk factors associated with repetitive motion injuries (RMIs), thus increasing employee productivity, quality, and efficiency, while decreasing workers' compensation claims. Upon request through their Hiring Authority (HA), all employees shall receive an ergonomic evaluation. CDCR is committed to providing information regarding the administration of the Ergonomics Program for the purpose of clarity and uniformity within the Department. The Office of Employee Wellness (OEW) is responsible to develop and maintain CDCR's Ergonomics Program policies and procedures. The Ergonomics Program meets the requirements of the California Occupational Health and Safety Administration (Cal/OSHA) and collective bargaining agreements.

##### **31040.3.5.1 Ergonomics Program – Defined**

The Ergonomics Program is conducted in accordance with the California Code of Regulations, Title 8, Subchapter 7, General Industry Safety Orders, Section 5110, Repetitive Motion Injuries.

The CDCR Ergonomics Program includes the following components:

- An Ergonomic Consultant (CDCR staff)
- A Certified Ergonomist (external contractor)
- Identification and prioritization of high-risk jobs and tasks
- Training for management and employees

#### **Hiring Authority Responsibility**

The HA for each institution, parole region, Division of Juvenile Justice (DJJ) facility, division, office, and Headquarter's (HQ) Program shall:

- Appoint an Ergonomic Consultant (EC) to oversee and complete ergonomic evaluations and ergonomic reports for their employees.
- Ensure all ECs are properly trained to conduct ergonomic evaluations.
- Provide all employees with an ergonomic evaluation, upon request.
- Approve the CDCR Form 2252, Ergonomic Workstation Evaluation Request.
- Contract with a Certified Ergonomist, when necessary.

- The HA shall make every effort to comply with the recommendations identified as a result of an ergonomic evaluation (If equipment is needed to comply with the recommendations, items may be available through the warehouse or surplus).
- Ensure all employees are properly trained on the Ergonomics Program. This includes: exposures which have been associated with RMIs, symptoms and consequences of injuries caused by repetitive motion, the importance of reporting symptoms and injuries to the manager/supervisor, and methods used to minimize RMIs.

#### **CDCR Ergonomic Consultant Responsibility**

ECs shall:

- Attend EC training.
- Schedule and complete ergonomic evaluations.
- Identify ergonomic risk factors.
- Perform detailed job analysis (e.g., by breaking down the jobs into tasks and risk factors and evaluating the level of exposure).
- Recommend improvements for jobs/tasks with a high level of exposure.
- Recommend equipment which may reduce or eliminate ergonomic risk factors.
- Communicate with and advise management of broader ergonomic issues.
- Provide written documentation to the employee and his/her supervisor with recommendations to reduce or eliminate ergonomic risk factors.
- Complete follow-up ergonomic evaluations and reports as needed.
- Complete a monthly ergonomic evaluation log and forward to the OEW.
- Maintain records of ergonomic evaluations for three years.
- Provide ergonomic awareness training.

#### **Certified Ergonomist Responsibility**

If a local EC has not been appointed, has not attended ergonomic training, or when additional expertise in ergonomics is needed, the local HA must contract with a Certified Ergonomist to complete ergonomic evaluations. A Certified Ergonomist shall:

- Complete ergonomic evaluations.
- Identify ergonomic risk factors.
- Perform detailed job analysis (e.g., by breaking down the jobs into tasks and risk factors and evaluating the level of exposure).
- Recommend improvements for jobs/tasks with a high level of exposure.
- Recommend equipment which may reduce or eliminate ergonomic risk factors.
- Communicate with and advise management of broader ergonomic issues.
- Provide written documentation to the employee and his/her supervisor with recommendations to reduce or eliminate ergonomic risk factors.

#### **Office of Employee Wellness Responsibility**

The OEW shall:

- Provide assistance and resources to the field as needed.
- Coordinate training for all ECs in conjunction with the local HA.
- Provide Ergonomics Program, policies and procedures.
- Provide information on local ECs as requested.
- Track ergonomic evaluation data to identify best practices and trends analysis on an annual basis.
- Prepare an annual report summarizing the progress and effectiveness of the program based on monthly ergonomic reports.

#### **Manager/Supervisor Responsibility**

Managers and supervisors must be familiar with the basic principles of their employees' jobs, workstations, and equipment use. Managers and supervisors shall:

- Actively support and participate in the Ergonomics Program.
- Review the *Computer User's Guide to an Ergonomic Workstation* located online at: <http://www.documents.dgs.ca.gov/dgs/telework/dpahandb.pdf> and complete the *Easy Ergonomics for Desktop Computer Users* training located online at: [http://www.dir.ca.gov/dosh/dosh\\_publications/ComputerErgo.html](http://www.dir.ca.gov/dosh/dosh_publications/ComputerErgo.html), to ensure the recognition and control of work-related ergonomic risk factors, recognize RMI signs and symptoms, and encourage early RMI symptom reporting.

- Ensure employees review the *Computer User's Guide to an Ergonomic Workstation* located online at: <http://www.documents.dgs.ca.gov/dgs/telework/dpahandb.pdf> and complete the *Easy Ergonomics for Desktop Computer Users* training online located at [http://www.dir.ca.gov/dosh/dosh\\_publications/ComputerErgo.html](http://www.dir.ca.gov/dosh/dosh_publications/ComputerErgo.html).
- Encourage active employee participation in the Ergonomics Program, including: attendance at scheduled ergonomic evaluation, required training, participation and implementation of ergonomic recommendations.
- Address employee concerns and resolve current problems as expeditiously, reasonably and inexpensively as possible.
- Complete the Ergonomic Workstation Evaluation Request form and submit it to the local HA for approval.
- Forward the completed Ergonomic Workstation Evaluation Request form to the local EC.
- Shall make every effort to provide employees with any recommended ergonomic equipment. Purchasing ergonomic equipment is both the decision and responsibility of the evaluated employee's unit (comparable items may be available locally or through the warehouse or surplus).
- Ensure the implementation of recommended controls and develop a system to monitor their effectiveness.
  - Maintain records of ergonomic evaluations for three years.

#### Employee Responsibility

CDCR employees are responsible for conducting themselves in accordance with this policy and program. Employees shall:

- Review the *Computer User's Guide to an Ergonomic Workstation* located online at: <http://www.documents.dgs.ca.gov/dgs/telework/dpahandb.pdf>.
- Complete the *Easy Ergonomics for Desktop Computer Users* training located online at: [http://www.dir.ca.gov/dosh/dosh\\_publications/ComputerErgo.html](http://www.dir.ca.gov/dosh/dosh_publications/ComputerErgo.html) and apply the knowledge and skills acquired to actual job, tasks, processes, and work activities.
- Report RMI signs or symptoms and work-related RMI hazards to the manager or supervisor as early as possible to facilitate proactive interventions and/or prompt medical treatment.
- Take responsibility for personal health and safety.
- Complete the Ergonomic Workstation Evaluation Request form and submit it to the manager or supervisor for approval.
- Maintain records of ergonomic evaluations for three years.

#### 31040.3.5.2 Ergonomic Evaluations

The local EC at each institution, parole region, DJJ Facility, division, office, HQ Program is responsible for completing ergonomic evaluations. Evaluations must include a review of the employee's workstation, equipment, and work processes, as well as training on the Ergonomics Program and instruction on proper ergonomic work habits. After the evaluation, a written report must be developed by the EC, which identifies ergonomic risk factors, adjustments made on-site to equipment and furniture, and recommendations for purchasing ergonomic equipment and/or modifying equipment and furniture. The report shall be forwarded to the manager/supervisor with a copy to the employee.

The HA at each institution, parole region, DJJ Facility, division, office, HQ Program is responsible for procuring ergonomic equipment and making any modifications to equipment and/or furniture as recommended through the ergonomic evaluation report. Additionally, the HA shall make every effort to comply with the recommendations identified through the ergonomic evaluation report. Local procurement procedures should be followed to order any recommended equipment and/or make modifications to workstations. Comparable items may be available locally or through the warehouse or surplus.

If additional changes or adjustments are necessary, the EC shall complete a follow-up report and forward to the employee and his or her supervisor.

#### 31040.3.5.3 Training

The OEW shall facilitate training for ECs. Training shall include:

- A review of the departmental Ergonomics Program.
- A review of ergonomic risk factors and RMIs.
- How to identify high-risk jobs.
- Understanding the importance of reporting RMI symptoms and injuries to a manager/supervisor.

- How to conduct ergonomic evaluations.
- Recommending control measures to reduce/eliminate risk factors.
- How to develop a written report of findings and recommendations.

Each employee shall receive ergonomic awareness training which includes:

- A review of the departmental Ergonomics Program.
- Understanding risk factors associated with RMIs.
- Identifying symptoms and consequences of injuries caused by RMIs.
- Understanding the importance of early reporting of RMI symptoms to their manager/supervisor.
- Awareness of safe work methods and techniques to minimize risk factors associated with RMIs.

Ergonomic awareness training shall be provided during the New Employee Orientation at the local level.

#### 31040.3.5.4 Recordkeeping

Records of ergonomic reports shall be maintained by the employee, his or her manager or supervisor, and the local EC for a period of three years.

**Ergonomic awareness training records shall be kept for a period of three years by the supervisor.**

#### 31040.4 Return to Work Programs

*Revised June 15, 2015*

##### 31040.4.1 Policy

It is the policy of the California Department of Corrections and Rehabilitation (CDCR) to provide an equal opportunity for all applicants and employees with disabilities. CDCR employees, including those in permanent intermittent positions, employment applicants, or interns are entitled to consideration for a reasonable accommodation. This policy applies to qualified individuals with permanent or temporary disabilities, or pregnancy related disabilities.

Contractors requesting accommodations shall consult with their hiring agency. If appropriate, CDCR will work with such hiring agency and contractor to evaluate the requests for accommodations.

##### 31040.4.2 Purpose

CDCR is committed to complying with State and federal laws, including the Americans with Disabilities Act (ADA), Fair Employment and Housing Act (FEHA), and Uniformed Services Employment and Re-Employment Rights Act (USERRA), by making a good faith effort to:

- Engage in a timely, ongoing, interactive process with employees and applicants when there is knowledge of a physical or mental disability, or medical condition that limits their ability to perform the essential functions of their positions, or complete the application process.
- Provide a reasonable accommodation to all qualified employees or applicants who need such an accommodation, unless to do so would present an undue hardship on CDCR.

CDCR's goals are to:

- Keep employees productive in the work environment by eliminating barriers to employment for qualified individuals with disabilities, without waiving the essential function(s) of the position(s).
- Retain valued, experienced, and qualified employees.

##### 31040.4.3 Definitions

###### 31040.4.3.1 Americans with Disabilities Act

The ADA is a federal law that mandates the elimination of discrimination against individuals with physical or mental disabilities, with a record of a disability, or being regarded as having a disability.

###### 31040.4.3.2 California Family Rights Act

The California Family Rights Act (CFRA) is a State law that grants eligible employees, who have more than 12 months and 1,250 hours (during the preceding 12-month period) of service with an employer, a right to take up to 12 workweeks of unpaid, job-protected leave in any 12-month period for medical leave related to a serious health condition; as well as to care for a family member who has a serious health condition; or bonding after the birth of a child, adoption, or foster care placement.

###### 31040.4.3.3 Disability

A Disability is a physical or mental condition, which affects one or more body system(s) and limits one or more of a person's major life activities, or makes the achievement of a major life activity difficult; or a medical condition (cancer related or genetic characteristic). Working is a major life activity. Disability does not include compulsive gambling, kleptomania, pyromania, pedophilia, exhibitionism, voyeurism, or psychoactive substance use disorders resulting from current unlawful use of controlled substances or other drugs.



#### 31040.4.3.4 Disability Retirement

Disability Retirement is a benefit for eligible employees of the State of California, which allows for a monthly pension and continuation of health benefits.

#### 31040.4.3.5 Essential Functions

Essential Functions are the fundamental job duties of the employment position the individual with a disability holds or desires. Essential functions do not include the marginal functions of the position.

A job function may be essential because:

- The position exists to perform the function;
- A limited number of employees are available to perform the function; and/or
- The function is highly specialized and the person in the position is hired for his or her expertise.

Essential functions are defined in the written duty statement or List of Essential Functions. Some factors to consider when identifying essential functions are:

- The amount of time spent performing the function;
- The consequences of not requiring a person in this job to perform the function;
- The terms of a collective bargaining agreement;
- Work experience of employees who have performed the job in the past; or
- Work experience of employees who currently perform similar jobs.

#### 31040.4.3.6 Fair Employment and Housing Act

The FEHA is State law that prohibits discrimination in employment against qualified individuals based on a physical or mental disability, or medical condition (cancer related or genetic characteristic); a history of a physical or mental disability; or being regarded as having a physical or mental disability. FEHA provides protections independent from those in the federal ADA.

#### 31040.4.3.7 Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) is federal law that grants eligible employees, with more than 12 months and 1,250 hours (during the preceding 12-month period) of service with an employer, a right to take up to 12 workweeks of unpaid, job-protected leave in any 12-month period for medical leave related to a serious health condition; as well as to care for a family member who has a serious health condition; or bonding after the birth of a child, adoption, or foster care placement.

Unpaid, job-protected leave of up to 12 work weeks also may be granted to assist a family member who is called to active duty, or is stationed overseas, during military service. Additionally, up to 26 work weeks of unpaid, job-protected leave may be granted to care for a family member who has been injured in the military.

#### 31040.4.3.8 Good Faith

Within the context of the interactive process, as used in this article, good faith means that the employer or designee and employee must communicate directly, exchange essential information, and neither side can delay or obstruct the process. For example, the employer or employee who rejects the reasonable accommodation proposed by the other party and offers no alternatives fails to engage in good faith in the interactive process.

#### 31040.4.3.9 Health Care Provider

A health care provider is:

- A medical or osteopathic doctor, physician, or surgeon, licensed in California, or in another state or country, who directly treats or supervises the treatment of the applicant or employee;
- A marriage and family therapist or acupuncturist, licensed in California or in another state or country, or any other persons who meet the definition of "others capable of providing health care services" under FMLA and its implementing regulations, including podiatrists, dentists, clinical psychologists, optometrists, nurse practitioners, nurse midwives, licensed midwives, clinical social workers, chiropractors, physician assistants, who directly treats or supervises the treatment of the applicant or employee; or
- A health care provider from whom an employer, or a group health plan's benefits manager, will accept medical certification of the existence of a health condition to substantiate a claim for benefits.

#### 31040.4.3.10 Hiring Authority

The Hiring Authority (HA) is any person authorized by the Secretary, CDCR, or the Receiver of the California Correctional Health Care Services (CCHCS), to hire, discipline and dismiss employees under his or her authority.

#### 31040.4.3.11 Interactive Process

The Interactive Process, required by both the ADA and FEHA, consists of timely, good faith communication between the Return-to-Work Coordinator (RTWC), the supervisor or manager, and an employee or applicant, when necessary due to a physical or mental disability, or medical condition that limits an employee's or applicant's ability to perform the essential function(s) of his or her current position, or the position for which he or she is applying. The purpose of this communication includes identifying the employee's restrictions or limitations and determining whether the applicant or employee needs a reasonable accommodation to perform the essential functions of the job, and if so, what options are available to reasonably accommodate him or her. (Refer to Section 31040.4.5.2.)

#### 31040.4.3.12 Limited Term Light Duty Assignment

A Limited Term Light Duty Assignment is the temporary placement of a CDCR employee who has medical limitations in his or her ability to perform the essential functions of his or her job. Such placement allows for the temporary waiver of the essential functions of the employee's position, or another position within the employee's bargaining unit, and shall not extend beyond 60 calendar days in a 6-month period for an employee with such medical limitations.

#### 31040.4.3.13 Medical Personnel Actions

Medical Personnel Actions (MPA) are voluntary or involuntary, non-disciplinary personnel actions. MPAs are approved by the HA, in consultation with the Office of Employee Wellness (OEW) when necessary or required, and may include the transfer, demotion, termination, or the filing of a disability retirement application, on behalf of a permanent or probationary employee who has become unable to perform the essential functions of his or her position with or without reasonable accommodation.

#### 31040.4.3.14 Options Letter

The Options Letter is sent to an employee as part of the interactive process. This letter outlines the different options that may be available to an employee with a disability that impairs his or her ability to perform the essential functions of his or her position, and invites discussion of these options. (Refer to Section 31040.4.5.2.)

#### 31040.4.3.15 Pregnancy Related Disabilities

A woman is disabled by pregnancy, childbirth, or a related medical condition, if in the opinion of her health care provider she is unable to perform any of the essential functions of her job, or if she is unable to perform any of these functions without undue risk to herself, to her pregnancy's successful completion, or to other persons.

#### 31040.4.3.16 Qualified Individual with a Disability

A Qualified Individual with a Disability is one who possesses the necessary skill, experience, education, and other job related requirements of the employment position the individual holds or desires, and who, with or without a reasonable accommodation, can perform the essential functions of such position.

#### 31040.4.3.17 Reasonable Accommodation

Reasonable Accommodation (RA) is any modification or adjustment to a job and/or the work environment that is effective in enabling an employee or applicant to perform the essential functions of the job the employee or applicant holds or desires. RA's may include, but are not limited to, providing assistive aids and services such as qualified readers or interpreters, job restructuring, providing a modified schedule, providing additional training, providing paid or unpaid leave, or transfer/demotion, which are accommodations of last resort when no other accommodation is possible in the employee's current position.

The Department must reasonably accommodate a qualified individual with a disability, if that individual can perform the essential functions of his or her job with the RA. Failure to provide an RA to the known physical or mental limitations, or medical condition of an otherwise qualified person with a disability, absent an undue hardship to the Department, is considered discriminatory.

#### 31040.4.3.18 Return-to-Work Coordinator

The RTWC is an individual at the analyst level, assigned to provide assistance and recommendations to employees, supervisors, managers, and HAs, regarding return-to-work matters relating to MPAs and requests for RA, in compliance with the ADA, FEHA, USERRA, the Civil Service Act, and other applicable laws. RTWCs shall engage in interactive discussions with employees, supervisors, and managers to assist employees through the return-to-work process.

#### 31040.4.3.19 Undue Hardship

Undue Hardship is any action requiring significant difficulty or expense

incurred by CDCR when considered in light of the totality of the circumstances. For CDCR, this would include, but it is not limited to, any action that would endanger the health or safety of the employee or applicant requesting the accommodation, co-workers, inmates, wards or parolees; any action that violates a bargaining unit agreement; any action that creates a conflict with State or federal laws; or any action that results in a waiver of any essential function of a position.

### **31040.4.3.20 Uniformed Services Employment and Re-Employment Rights Act**

The USERRA is a federal law that prohibits employers from discriminating against employees or applicants for employment on the basis of their military status or military obligations. Under USERRA, if a veteran has a disability incurred in, or aggravated during, his or her military service, the employer must make reasonable efforts to accommodate the disability and return the veteran to the position in which he or she would have been employed if the veteran had not performed military service. If the veteran is not qualified for that position due to the disability, USERRA requires the employer to make reasonable efforts to help qualify the veteran for a job of equivalent seniority, status, and pay.

### **31040.4.4 Roles and Responsibilities**

#### **31040.4.4.1 Employee**

An employee with a disability in need of an RA shall initiate the process by making a request for RA and cooperating in good faith with his or her supervisor, manager, RTWC, and/or HA in identifying modifications, equipment or services needed to accommodate the employee's functional limitations. Employees can submit a request for accommodation verbally, in any written format, or on a CDCR Form 855, Request for Reasonable Accommodation, which can be obtained from the local RTWC, or the OEW website.

If requested, the employee shall provide information on the need for an RA including medical documentation, as defined in Section 31040.4.5.3. **A medical diagnosis shall not be required.** Failure to provide the required medical documentation will result in the delay or denial of a request for accommodation.

Where reassignment to an alternate position is being considered as an accommodation because the employee is not able to perform the essential functions of his or her position with or without a RA, the employee shall also provide information about his or her educational qualifications and work experience that may help determine a suitable alternate position for which the employee is qualified and can perform the essential functions. Failure to provide personal qualifications, when requested, could result in CDCR having to rely on outdated information, and placement of the employee in a position at a lower pay rate than the employee would have otherwise been qualified to receive.

#### **31040.4.4.2 Supervisor/Manager**

Supervisors and managers shall attend training on Equal Employment Opportunity covering State and federal laws which protect disabled employees from discrimination, and which require an RA be provided when an employee with a disability needs assistance in performing the essential functions of his or her job. (Refer to Chapter 3, Article 1, Section 31010.6.)

Supervisors and managers shall inform employees of the return-to-work policy and refer requests for RAs, either written or verbal, to the RTWC upon receipt of the request from an employee.

In addition, supervisors and managers shall refer employees to the RTWC when the supervisor or manager becomes aware that the employee may need an RA to perform the essential functions of his or her position (e.g. through observation, a third party, or the employee's request for leave due to a serious health condition under the FMLA or CFRA, or due to a work-related injury under the Workers' Compensation Act [WCA]).

Supervisors and managers shall work cooperatively with the RTWC to identify the essential functions of a position, and to discuss RA options. Supervisors and managers shall not waive (formally or informally) the essential functions of a position to accommodate a disabled employee.

#### **31040.4.4.3 Return-to-Work Coordinator**

RTWCs manage and process return-to-work cases to assist the HAs in providing disabled employees with an accommodation when necessary. RTWCs routinely must engage in interactive discussions with employees, supervisors, managers and HAs, to assist employees through the return-to-work process.

The RTWC shall review and process all requests for RA received from supervisors, managers, employees, or HAs. The RTWC shall meet with the employee and discuss possible RAs as part of the interactive process to find an effective RA. The RTWC shall ask employees to complete a CDCR

Form 855, and assist the employee in completing the CDCR Form 855 as necessary. Completion of the CDCR Form 855 is not required to trigger CDCR's responsibility to provide a RA; even if the employee does not complete the CDCR Form 855, the RTWC must document the employee's request for an RA and engage in the interactive process with the employee. If the existence of a disability and/or the need for RA is not obvious, the RTWC shall request that the employee provide information on the need for an RA including medical documentation as defined in Section 31040.4.5.3. **A medical diagnosis shall not be requested.**

When additional medical information is needed, the RTWC shall ask the employee to sign a medical release authorizing direct communication between the RTWC and the employee's health care provider; or in the alternative, request the employee to provide the request for additional medical information to his or her health care provider and secure a written response from the health care provider. The RTWC shall communicate with the employee's health care provider only if the employee has consented to such communication and the medical documentation received does not provide the information specified in Section 31040.4.5.3.

The RTWC shall monitor the submission and evaluation of medical information, as well as any correspondence between CDCR and the employee that is necessary to process the request for RA. If necessary, the RTWC shall ask the employee for additional information or inform the employee that additional information is needed before a decision can be made. Medical inquiries shall be limited to information specifically needed to address the request for an RA and outlined in Section 31040.4.5.3.

The RTWC shall evaluate each request and advise the employee of the return-to-work policy, as well as other employment options available under the return-to-work policy. Options that could be available to the employee shall be outlined in writing in an Options Letter to the employee. The RTWC shall consult with OEW, as needed, to determine the appropriateness of any chosen option and to verify any other options that may be available to the employee.

The RTWC shall provide recommendations to employees, supervisors, managers, and HAs regarding appropriate accommodations for every request for RA, after the RTWC has gathered the information, specified above, from the employee and/or the employee's health care provider. The RTWC shall submit the completed CDCR Form 855 or documentation of the request for RA, with the requisite attachments, to the HA with a recommendation for the HA to make a final determination.

The RTWC shall consult with the OEW, as necessary, when assistive devices or ergonomic equipment are requested in order to identify appropriate equipment, furniture, or facility modifications. The implementation of such approved accommodations should be coordinated with the appropriate Business Services and Accounting offices to purchase the necessary services, equipment, or furniture.

#### **31040.4.4.4 Hiring Authority**

*Revised July 1, 2020*

(a) Each Hiring Authority (HA) shall have the responsibility to determine the appropriate course of action to follow when responding to requests for RA and providing RAs to qualified individuals with disabilities consistent with Departmental regulations and policies. The HA shall make every effort to accommodate each employee's individual limitation(s) or restriction(s) and consider a combination of return to work options in reaching final determinations.

The HA shall be responsible for the oversight of the return to work functions within his or her institution, facility, or program. The HA shall not waive the essential functions of a position to accommodate a disabled employee or provide an accommodation that creates an undue hardship as defined in Section 31040.4.3.19. In addition, the HA, in consultation with OEW, is responsible for:

- (1) Reviewing the completed CDCR Form 855, Request for Reasonable Accommodation, or the documentation of the request for RA, supporting medical documentation, and the recommendations from the Return to Work Coordinator (RTWC) for RA requests;
- (2) Making the final determination on requests for RA, medical transfers, medical demotions, medical terminations, and employer generated retirement applications;
- (3) Approving Limited Term Light Duty Assignments (LTLDA) or Temporary Modified Work Assignments (TMWA), consistent with regulations; and
- (4) Approving requests for Fitness for Duty Evaluations.

#### **31040.4.4.5 Office of Employee Wellness**

*Revised July 1, 2020*

(a) The OEW, Return to Work Services Section (RTWSS), an office within Employee Health and Wellness (EHW), Human Resources, shall assist all employees, and their supervisors and managers, in working through the RA, LTLDA, TMWA, and Medical Personnel Action (MPA) processes. That assistance includes facilitating Fitness for Duty Evaluations; processing medical transfers, demotions, or terminations; and filing for disability retirement on behalf of employees. The OEW is responsible for:

- (1) Providing return to work services for all Headquarters based personnel;
- (2) Providing liaison assistance and functional oversight to all CDCR RTWCs, statewide;
- (3) Providing training for all CDCR RTWCs, supervisors, and managers at all levels regarding requirements under State and federal laws and CDCR policies for the return to work program;
- (4) Developing and implementing CDCR's return to work policy;
- (5) Facilitating the development and retention of all standardized and other essential functions lists used in the return to work and RA processes; and
- (6) OEW must review, consult on, and provide recommendations to the HAs on all of the following:
  - (A) Peace officer requests for RAs;
  - (B) Vest wear RAs;
  - (C) RA, LTLDA, TMWA Denials;
  - (D) Medical demotions/transfers/terminations;
  - (E) Employer generated Disability Retirement Applications;
  - (F) Requests for Fitness for Duty Evaluations; and
  - (G) Pregnancy and Lactation Accommodations.

#### **31040.4.4.6 Disability Management Unit**

*Effective July 1, 2020*

(a) For employees under California Correctional Health Care Services (CCHCS), DMU, Human Resources, shall assist all employees, and their supervisors and managers, in working through RA, Limited Term Light Duty Assignments, Temporary Modified Work Assignments, and MPA processes. That assistance includes facilitating Fitness for Duty Evaluations; processing medical transfers, demotions, or terminations; and filing for disability retirement on behalf of employees. The DMU shall solicit review of the above requests by the CCHCS Office of Legal Affairs (COLA), as needed, and forward a recommendation for final review and determination by the appropriate HA. The DMU is responsible for:

- (1) Providing return-to-work services for all CCHCS employees;
- (2) Providing training for all supervisors and managers at all levels regarding requirements under State and federal laws and CDCR policies for the return-to-work program;
- (3) Developing and implementing in conjunction with CDCR's return-to-work policy;
- (4) Facilitating the development and retention of all standardized and other essential functions lists used in the return-to-work and RA processes; and
- (5) Reviewing, consulting on, and providing recommendations to the HAs on all of the following:
  - (A) Requests for RAs;
  - (B) Medical demotions/transfers/terminations;
  - (C) Employer generated Disability Retirement Applications;
  - (D) Requests for Fitness for Duty Evaluations; and
  - (E) Pregnancy and Lactation Accommodations.

#### **31040.4.5 Reasonable Accommodations**

##### **31040.4.5.1 Initiation of the Reasonable Accommodation Process**

It shall never be assumed by any manager or supervisor that an employee is disabled, has a medical condition, or requires RA. The RA process shall be initiated by the employee, supervisor, manager, HA, or RTWC when one or more of the following occur:

- An employee states he or she needs assistance to perform the essential functions of his or her job, due to a physical or mental disability, or medical condition;
- The supervisor, manager, HA, or RTWC becomes aware of the need for an accommodation through a third party or observation; or
- The supervisor, manager, HA, or RTWC becomes aware of the possible need for an accommodation, because the employee takes leave due to his or her serious health condition under the FMLA or CFRA, or due to a work-related injury under the WCA.

A request for RA can be submitted by employees verbally, in writing, or on a CDCR Form 855. A verbal request for an accommodation shall be immediately documented, in writing, by the person receiving the request and delivered to the RTWC.

The HA or designee shall provide a written acknowledgement to the employee regarding his or her request for RA due to a disability or medical condition within a reasonable time, but no later than 20 working days after the receipt of

the request from the employee. This acknowledgement shall notify the employee if additional information is needed before a decision can be made.

The HA or designee shall respond to the employee regarding a request for RA, transfer, or leave due to pregnancy or pregnancy related disabilities, within 10 calendar days from the receipt of the request from the employee. (CCR, Title 2, Section 11050.)

##### **31040.4.5.2 Interactive Process**

The interactive process requires employer and employee flexibility and cooperation to identify appropriate accommodations for qualified individuals with disabilities. The interactive process shall be documented, in writing, by the RTWC or any manager or supervisor involved in the process, even if conducted verbally, and shall continue until an RA has been identified and implemented or other resolution has occurred.

At the employee's request, a representative of his or her choosing shall be allowed to assist in the interactive process by attending meetings with the employer (or employer representative) convened to explore possible reasonable accommodations to an employee's disability.

The assigned RTWC shall make every effort to assist the employee by engaging in a timely, good faith, interactive process. The interactive process consists of communications designed to explore whether or not the employee needs an accommodation for the employee's known functional limitations, to perform the essential functions of the job. As part of the interactive process, and with the employee's consent, the RTWC may send a list of the essential functions of the employee's position to the employee's health care provider. Communications between the RTWC and the employee requesting RA should be in person, whenever possible, and may include providing an Options Letter to the employee, which identifies information, including but not limited to, RAs, disability benefits, retirement benefits, or leave of absence options. The Options Letter shall be sent to the employee when medical information has been received indicating that the employee may need an RA to perform the essential functions of his or her position.

If one does not already exist, rapid development of an essential functions list is a critical component of the interactive process. This list facilitates discussion among the supervisor, manager, employee, RTWC, OEW, HA, treating health care providers, and/or fitness for duty physicians.

If the health care provider outlines work restrictions that can be accommodated, the interactive process shall continue and the employee should return to his or her current position with any appropriate RAs. If the requested RA would create an undue hardship for the CDCR (as defined in Section 31040.4.3.19), or the employee cannot perform the essential functions of his or her job with the accommodation requested, the interactive process shall continue with the employee to discuss alternatives. The RTWC shall consult with the local Labor Relations Analyst, or the Office of Labor Relations for Headquarters employees, as needed, to rule out a conflict between the proposed accommodation and a bargaining unit agreement. An employer is not required to provide the specific accommodation requested by the employee, but has a duty to provide an effective accommodation that is reasonable.

For those accommodations that cannot be granted initially, RTWCs shall continue the interactive process by communicating with the employee and HA and exploring alternative accommodation opportunities, if any. Alternative accommodations may include, but are not limited to, paid or unpaid leave or transfer/demotion, which are accommodations of last resort when no other accommodation is possible in the employee's current position. Other options may include disability retirement or medical termination when no accommodation is possible in any CDCR position.

##### **31040.4.5.3 Processing Requests for Reasonable Accommodation**

RAs are processed by the assigned RTWC, through the appropriate chain of command, to the HA, in consultation with OEW as needed or required. The RTWC can receive requests for RA from the requesting employee or any manager or supervisor who received a request for RA from an employee. The RTWC shall review the request for RA and/or medical documentation; work cooperatively with managers and/or supervisors to identify the essential functions of the employee's position and discuss RA options; and make a recommendation to the HA regarding the request for RA.

If the existence of a disability and/or the need for an RA is not obvious, upon receipt of a request for RA, the RTWC shall require the employee to provide medical documentation verifying: the functional limitations that affect the employee's ability to perform the essential functions of his or her position; the need for a RA; the estimated duration of the RA; and the health care provider's expertise to certify the employee's functional limitations and the need for a RA.

Upon receipt of a request for RA due to pregnancy, the RTWC shall require the employee to provide medical certification from her health care provider containing: a description of the requested accommodation; a statement

describing the advisability of the RA; the date upon which the need for the RA will become medically advisable; and the estimated duration of the RA. For peace officers, and other classifications that may be required to wear a protective vest, a vest re-fit may be necessary during the employee's pregnancy.

A qualified individual with a disability is entitled to a RA, which may include reassignment to a vacant, budgeted position over other applicants and existing employees, when no accommodation is possible in the employee's current position; however, when considering a reassignment or other RA, the CDCR is not required to:

- Waive the essential functions of the job/classification;
- Reduce or transfer the employee's workload involving essential functions to another employee;
- Create additional employment that would not otherwise have been created;
- Discharge another employee;
- Violate the terms of a collective bargaining agreement or Memorandum of Understanding, including post and bid rules;
- Transfer another employee to create a vacancy for a disabled employee;
- Promote or transfer any employee who is not qualified to perform the new job and/or who otherwise does not meet civil service requirements or minimum qualifications for such position; or
- Provide an accommodation, if the accommodation creates an undue hardship for the CDCR.

RAs shall first be considered within the employee's current position without waiving the essential functions of the job. A RA may include the transfer of the employee to a vacant and budgeted, less strenuous or hazardous position, within the same classification, where the employee is still capable of performing all of the essential functions of his or her classification, when called upon to do so. A RA also can consist of job restructuring, which may include, but is not limited to, reallocation or redistribution of non-essential job functions in a position with multiple responsibilities.

If an employee requests a transfer to a less strenuous and/or hazardous position, and a vacant, budgeted position within the same classification does not exist that can accommodate the employee's restrictions, the employee may elect to continue working in his or her present position, performing all the essential functions of the position, with or without an accommodation, or take leave utilizing his or her own leave credits. The RTWC will refer employees to the FMLA Coordinator to discuss potential eligibility for protected leave under FMLA or CFRA, or if pregnant, to the Personnel Office for information on Pregnancy Disability Leave entitlements.

If an RA within the employee's current classification is not possible, alternate placement, in the form of a transfer or demotion, shall be considered as an RA of last resort. The interactive process shall occur prior to considering alternate placement; and this accommodation shall only be considered after all possible accommodations within the employee's same classification have been explored.

A transfer or demotion shall be considered if:

- The employee can no longer perform the essential functions of his or her current position or classification, either with or without a RA;
- CDCR cannot provide an RA in the current classification without undue hardship; or
- There are no vacant, budgeted positions in the employee's current classification for which the employee is qualified and can perform the essential functions either with or without a RA.

Prior to transferring or demoting an employee, as an accommodation of last resort, documentation (including but not limited to, the employee's request for RA, documentation of the interactive process, medical reports, a list of essential functions, the employee's current qualifications, State Application, and resume) must be submitted to OEW for approval and processing. The employee shall meet the minimum qualifications of any proposed position and must be able to perform the essential functions of the proposed position either with or without a RA. Transfers and demotions (except those that occur in compliance with USERRA) shall not result in a salary increase for the affected employee. However, CDCR is required to attempt to place the employee in the highest paid, vacant, budgeted position for which the employee meets the minimum qualifications.

If the transfer or demotion is involuntary, the employee shall be given written notice of the medical action and appeal rights, at least 15 calendar days prior to the effective date of the transfer or demotion. (Government Code, Section 19253.5.)

#### **31040.4.5.4 Finalization of the Reasonable Accommodation Request**

The HA, in collaboration with the OEW when required, shall make the final determination, and provide a written response to the employee, on requests for RA.

Any grant of an RA request resulting in an alternate placement, or any peace officer accommodation, shall be processed by the assigned RTWC and shall require consultation with the EHW, Associate Director, and final approval of the HA.

No accommodation shall be granted that results in an undue hardship for CDCR, as defined in Section 31040.4.3.19.

Denials of an RA request shall require the approval of the HA, after consulting with the EHW, Associate Director.

The employee has the right to file a complaint alleging discrimination, at any time during CDCR's process, in accordance with Chapter 3, Article 1, Section 31010.5.2.

#### **31040.4.5.5 Documentation/Record Keeping/Records Retention**

All discussions regarding a potential accommodation must be documented in writing, provided to the RTWC, and stored in the return-to-work file. Utilization of the CDCR Form 855 is recommended for this purpose, although not required.

The ADA and FEHA limit the use of information obtained from medical records of employees for the purpose of providing RA. All medical information obtained shall be treated as a confidential medical record. In accordance with the ADA, FEHA, and the California Confidentiality of Medical Information Act (CCMIA), the CDCR is responsible for the confidentiality and security of these medically-related materials. Employees improperly disclosing confidential medical information will be held accountable in accordance with departmental policy.

Information contained in the return-to-work file shall be kept separate from the employee's Official Personnel File (OPF) or Workers' Compensation File, and shall be kept confidential, except that: (1) supervisors, managers, and HAs may be informed of restriction(s) on the work duties of employees with disabilities and necessary RAs; (2) first responders and safety personnel may be informed, when appropriate, that the condition may require emergency treatment; and (3) government officials investigating compliance with the ADA, FEHA, or USERRA shall be provided relevant information through the Office of Internal Affairs (OIA) or the OLA.

Requests for RAs and supporting documentation shall be retained by the assigned RTWC in confidential files and stored in a secure location to prevent unauthorized access, for a period of 30 years, or for the duration of any related pending litigation, whichever is longer.

For RAs extending beyond one year, the RTWC may ask for medical documentation substantiating the need for continued RA, on a yearly basis.

#### **31040.4.6 Lactation Accommodation**

*Revised February 18, 2021*

(a) Employees have a right to request a lactation accommodation. It is the policy of the CDCR to make every reasonable effort to provide a lactation accommodation for employees as required by state and federal law. This policy shall be distributed to new employees upon hiring, and when an employee makes an inquiry about or requests parental leave.

(b) Employees may request verbally, in writing, or via CDCR Form 855, Request for Reasonable Accommodation, for a lactation accommodation to express breast milk for their child. The Return-to-Work Coordinator (RTWC) shall process all requests and submit to the Hiring Authority (HA) to make the determination and provide written notice of the decision to the employee within ten calendar days from the receipt of the request from the employee.

(c) Employees utilizing a lactation accommodation shall be entitled to a reasonable amount of break time each time the employee has a need to express milk, to be used concurrently with any break time already provided. Employees who do not have authorized breaks may use available leave credits or take unpaid leave during the time spent expressing milk.

(d) CDCR shall provide the employee with the use of a safe and private, locking room or location, as close in proximity to the employee's work area as reasonably possible. The lactation room or other private location shall comply with the following:

- (1) Not be in a restroom.
- (2) Be shielded from view and free from intrusion. Any existing windows must be covered for the employee during lactation.
- (3) Be safe, clean, and free from hazardous materials.
- (4) Contain seating and a surface to place a breast pump or personal items.

- (5) Have access to electricity or alternative devices needed to operate an electric or battery-powered breast pump.
- (6) Must meet privacy, safety, and security requirements.
- (7) In addition to providing a lactation room or location, the HA shall provide access to a sink with running water, a refrigerator or another cooling device, such as a cooler suitable for storing milk in close proximity to the employee's workspace.
- (e) Peace officers, or other classifications that are required to wear a protective vest, a vest re-fit may be needed.
- (f) Essential functions shall not be waived for employees granted a lactation accommodation.
- (g) If an employee has not been properly accommodated or has been denied a lactation accommodation break, the employee should notify their supervisor or RTWC immediately. Employees also have a right to file a complaint with the California Labor Commissioner's Bureau of Field Enforcement (BOFE) for any violations of their lactation accommodation rights.
- (h) For contract employees, the HA shall either provide lactation accommodations, or provide a safe and secure location for a subcontractor employer to provide a lactation accommodation on the worksite, and provide written notice of the decision to the employee within two business days from the receipt of the employee's written request.

#### **31040.4.7 Limited Term Light Duty Assignment**

*Revised July 1, 2020*

(a) A LTLDA temporarily allows an employee with documented temporary medical limitation(s) or restriction(s), which affect the ability to perform one or more of the essential functions, and requires the waiver of one or more essential functions of the employee's current classification and position, to remain working or return to work after an injury or illness. An LTLDA is intended for utilization when employees cannot be accommodated with an RA. An LTLDA is subject to the following:

- (1) An LTLDA shall not exceed 90 calendar days. Extensions will be considered case-by-case, based on a written request from the employee and supporting documentation from the employee's health care provider. However, in no circumstance shall an extension be granted if it would make the total duration of an LTLDA, TMWA, or any combination of the two, exceed 360 calendar days for the same injury or illness.
- (2) An LTLDA is not a right or entitlement, but is based on availability and operational needs.
- (3) An LTLDA shall be based on the employee's medical limitation(s) or restriction(s), employee's classification, and the needs of the Department.
- (4) Employees placed in an LTLDA shall maintain all mandatory professional licensure, certification, training, and qualifications appropriate to their regular-duty classification provided the professional licensure, certification, training, or qualifications are not in conflict with any documented medical limitation(s) or restriction(s).
- (5) An LTLDA would generally be to an assignment with limited inmate/parolee contact and less strenuous than the employee's regular assignment.
- (6) It is the employee's responsibility to provide immediate notice if restriction(s) or limitation(s) change. An LTLDA may not be authorized if the employee's health care provider fails to specify a termination date of the limitation(s) or restriction(s).
- (7) The HA may request a Department-ordered Fitness for Duty Evaluation (per GC 19253.5) if the potential exists that the employee's medical limitation(s) or restriction(s) may be deemed permanent.
- (8) Duties and/or essential functions associated with LTLDA shall be made available to the health care provider.
- (9) For institutions, the HA shall establish and maintain a DOM Supplement.
- (10) The RTWC and HA or designee shall work together to: (1) identify a potential LTLDA, (2) monitor and track the duration of approved LTLDAs, and (3) document approved LTLDAs in writing to include acknowledgement between the employee, the employee's LTLDA Supervisor and the HA or designee, utilizing the CDCR Form 3050, Limited Term Light Duty or Temporary Modified Work Assignment – Offer, (4) monitor and process extension requests timely.
- (11) Upon identifying the LTLDA position or post and prior to placement, the employee shall be required to sign the CDCR Form 8019, Nepotism/Fraternalization Policy Acknowledgement, per DOM Section 33010.25.
- (12) Employees shall not engage in outside employment that is inconsistent with their medical limitation(s) or restriction(s).

(13) Overtime is not permitted while in an LTLDA.

(14) Swaps are not permitted while in an LTLDA.

(15) Order of the LTLDA priority will be determined by the date and time medical substantiation describing the employee's limitation(s) or restriction(s) is received by the Return to Work Office (email, fax, in person). Tiebreakers shall be made by state service seniority.

(16) Fraud, Misuse, or Abuse: Any employee who willfully makes false statements, misrepresents circumstances, or fails to disclose material facts, shall be subject to progressive discipline up to and including termination, in addition to civil, criminal, or pension consequences.

(17) Refusal by an eligible employee to accept an LTLDA may result in the employee being placed on leave status, paid by using available leave credits, and/or unpaid, if the employee has limitation(s) or restriction(s) that prevent them from performing the essential functions of their position with or without an RA. Refusal may also result in the loss of workers' compensation wage loss benefits, such as Industrial Disability Leave, Enhanced Industrial Disability Leave, or Temporary Disability.

(18) All LTLDA denials (initial or extension requests) shall be submitted to the Division of Adult Institutions Associate Director or comparable Division designee within three business days for a second level review which will include RTWSS.

(19) For California Correctional Health Care Services (CCHCS), LTLDA denials (initial or extension requests) that are appealed by the employee shall be submitted to CCHCS, Disability Management and Support Services, Section Chief, within three business days for a second level review which may include CCHCS Office of Legal Affairs and/or the HA.

#### **31040.4.7.1 Fitness for Duty**

The purpose of a Fitness for Duty Evaluation is to determine the employee's capability of performing the essential function(s) of his or her position and classification through a medical or mental health examination mandated by the HA, and performed by a Board certified physician. The results of this evaluation will be used to determine whether the employee has limitations on his or her ability to perform the essential function(s) of the employee's position, or any other position in CDCR. (Government Code, Section 19253.5.)

Any Fitness for Duty Evaluation processed by CDCR must be job-related and consistent with a business necessity. The evaluation must be limited to determining whether there are functional limitation(s) that require(s) RA.

A Fitness for Duty Evaluation shall be considered, in consultation with OEW, for various reasons, including, but not limited to, the following:

- The employee refuses to consent to communications between the RTWC and his or her health care provider or to provide the requested medical documentation;
- The employee's health care provider refuses to review the list of essential functions and provide written documentation of the employee's work restrictions;
- Evidence that the employee with a disability has exhausted leave under the CFRA and/or FMLA, WCA, or other federal, State, or employer leave provisions, but is still unable to perform the essential functions of his or her position with or without an RA;
- Evidence from a third party, or information from the employee directly, that, due to medical or psychological limitations, he or she cannot perform the essential function(s) of his or her position with or without an RA;
- The employee displays behavior that causes a safety or security concern for himself or herself, and/or the staff, inmates, wards, or parolees;
- The employee or employee's health care provider(s) submits insufficient medical information, after requests from the RTWC to the employee or his or her health care provider(s);
- Sufficient medical information should include: documentation of the existence of functional limitations affecting the employee's ability to perform the essential functions of his or her position; the need for an RA; the estimated duration of the RA; and the health care provider's expertise to certify the employee's functional limitations or need for an RA;
- The medical documentation is not from a health care provider with the expertise to certify the employee's functional limitations or need for an RA;
- Conflicting or disputed medical information is received from health care providers or experts;
- Indication that the medical documentation is fraudulent; or
- The employee is not treated by a health care provider, as defined in Section 31040.4.3.9.

Prior to ordering a Fitness for Duty Evaluation on an employee, approval must be obtained from the EHW, Associate Director, who will review the information submitted by the HA justifying the need for the Fitness for Duty Evaluation. The HA must be able to articulate the reasons for the evaluation that:

- Are job related; and
- Indicate the employee may jeopardize the safety or security of the institution, facility or program; or
- Create a credible question about the employee's ability to perform the essential functions of their job, with or without a RA.

After the HA, in consultation with OEW, approves the Fitness for Duty Evaluation, the local RTWC shall work with the OEW to procure the Fitness for Duty Evaluation provider.

Upon receipt of the Fitness for Duty Evaluation report, the HA and designated institution staff (i.e. RTWC or designee) shall consult with the assigned OEW Liaison Analyst, Manager, and EHW, Associate Director, along with the assigned OLA Attorney, if necessary, to analyze and discuss the findings, a possible plan for the employee's return-to-work, or other options as follows:

- Resuming the interactive process discussions with the employee and reviewing available options;
- Identifying if the employee needs an accommodation; or
- If the employee is unable to return-to-work to his or her classification with or without a RA, a transfer, demotion, disability retirement, or termination shall be explored, and appropriate action shall be taken, consistent with Government Code, Section 19253.5.

#### **31040.4.8 Temporary Modified Work Assignment**

*Revised July 1, 2020*

(a) A TMWA temporarily allows an employee with documented temporary medical limitation(s) or restriction(s), which affect the ability to perform one or more of the essential functions, and requires the waiver of one or more essential functions of the employee's current classification and position, to remain working or return to work after an injury or illness. A TMWA is intended for utilization when employees cannot be accommodated with an RA or an LTLDA, and provides employees the opportunity of a temporary assignment with duties that meet the employee's documented medical limitation(s) or restriction(s).

(1) The HA may authorize a TMWA without regards to the employee's classification or position. A TMWA is only offered as a transitional, short-term program to employees who are expected to be returned to regular-duty status within the time frames specified in this section.

(2) A TMWA shall not exceed 90 calendar days. Extensions will be considered case-by-case, based on a written request from the employee and supporting documentation from the employee's health care provider. However, in no circumstance shall an extension be granted if it would make the total duration of a TMWA, LTLDA, or any combination of the two, exceed 360 calendar days for the same injury or illness.

(3) A TMWA is not a right or entitlement, but is based on availability and operational needs.

(4) TMWAs shall be based on the employee's medical limitation(s) or restriction(s), and the needs of the Department.

(5) Employees placed in a TMWA shall maintain all mandatory professional licensure, certification, training, and qualifications appropriate to their regular-duty classification provided the professional licensure, certification, training, or qualifications are not in conflict with any documented medical limitation(s) or restriction(s).

(6) Employees resuming regular-duty shall be retrained when applicable.

(7) TMWAs would generally be to assignments with limited inmate/parolee contact and less strenuous than the employee's regular assignment.

(8) A vacant position or post is not needed when assigning a TMWA.

(9) Probationary employees who are placed in a TMWA shall be considered temporarily absent from their appointment classification and shall be subject to the probationary period extension provisions of CCR Title 2, Article 14, Section 321.

(10) It is the employee's responsibility to provide immediate notice if restriction(s) or limitation(s) change. A TMWA may not be authorized if the employee's health care provider fails to specify a termination date of the limitation(s) or restriction(s).

(11) The HA may request a Department-ordered Fitness for Duty Evaluation (per GC 19253.5) if the potential exists that the employee's medical limitation(s) or restriction(s) may be deemed permanent.

(12) Duties and/or essential functions associated with a TMWA shall be made available to the health care provider.

(13) For institutions, the HA shall establish and maintain a DOM Supplement.

(14) The RTWC and HA or designee shall work together to: (1) identify a potential TMWA, (2) monitor and track the duration of approved TMWAs, and (3) document approved TMWAs in writing to include acknowledgement between the employee, the employee's TMWA Supervisor, and the HA or designee, utilizing the CDCR Form 3050, (4) monitor and process extension requests timely.

(15) Upon identifying a TMWA and prior to placement, the employee shall be required to sign the CDCR Form 8019, per DOM Section 33010.25.

(16) If an employee is assigned to a TMWA and an LTLDA subsequently becomes available which meets their medical limitation(s) or restriction(s), the employee will be moved to the available LTLDA.

(17) Peace Officer employees shall only perform non-peace officer functions while assigned to a TMWA. During a TMWA post or shift, employees shall not wear a uniform, shall not display a badge, and shall not use or have under their control safety equipment, including but not limited to, restraint gear, chemical agents, batons, firearms, or operate an enforcement vehicle.

(18) Employees assigned to a TMWA will essentially be an extra employee working in an assigned area with temporary additional workload needs performing meaningful work. The number of TMWA available will vary dependent on the level of meaningful work available at individual work locations.

(19) Employees shall not engage in outside employment that is inconsistent with their medical limitation(s) or restriction(s).

(20) Overtime is not permitted while in a TMWA.

(21) Swaps are not permitted while in a TMWA.

(22) Eligibility for pay differentials may change while in a TMWA.

(23) Eligibility for a range change may change or be delayed while in a TMWA.

(24) Order of the TMWA priority will be determined by the date and time medical substantiation describing the employee's limitation(s) or restriction(s) is received by the Return to Work Office (email, fax, in person). Tiebreakers shall be made by state service seniority.

(25) Fraud, Misuse, or Abuse: Any employee who willfully makes false statements, misrepresents circumstances, or fails to disclose material facts, shall be subject to progressive discipline up to and including termination, in addition to civil, criminal, or pension consequences.

(26) Refusal by an eligible employee to accept a TMWA may result in the employee being placed on leave status, paid by using available leave credits, and/or unpaid, if the employee has limitation(s) or restriction(s) that prevent them from performing the essential functions of their position with or without an RA. Refusal may also result in the loss of workers' compensation wage loss benefits, such as Industrial Disability Leave, Enhanced Industrial Disability Leave, or Temporary Disability.

(27) All TMWA denials (initial or extension requests) shall be submitted to the Division of Adult Institutions Associate Director or comparable Division designee within three business days for a second level review which will include RTWSS.

(28) For CCHCS, TMWA denials (initial or extension requests) that are appealed by the employee shall be submitted to the CCHCS, Disability Management and Support Services, Section Chief, within three business days for a second level review which may include CCHCS Office of Legal Affairs and/or the hiring authority.

#### **31040.4.9 Medical Rejection on Probation**

A probationary employee may be rejected during probation for medical reasons if it is determined that the employee has functional limitations that prevent the employee from performing the essential functions of his or her job, with or without a RA.

A medical rejection on probation shall require the approval of the HA, after consulting with the EHW, Associate Director.

#### **31040.4.10 Disability Retirement**

It is the policy of the CDCR to comply with State of California disability retirement laws and to provide information regarding disability retirement benefits through the California Public Employees' Retirement System (CalPERS) to an employee, upon request, or when the employee can no longer perform the essential functions of his or her position with or without a RA. Disability retirement, if approved, allows for a monthly pension and continuation of health benefits.

Disability Retirement is a benefit for employees of the State of California as defined under the Government Code, Sections 21150-21176. The CalPERS determines an employee's eligibility for a disability retirement. Eligibility is determined upon receipt of an application for disability retirement and medical evidence that a member is substantially incapacitated from his or her usual duties. If the employee is eligible, CalPERS provides a monthly retirement allowance payable to the employee for life, or until recovery from a disabling injury or illness allows a person to return to his or her previous employment.

If the disability is the result of a job-related illness or injury, and the employee is a State safety, State peace officer/firefighter, or State industrial member, he or she may be entitled to an industrial disability retirement.

Employees shall be informed that disability retirement and industrial disability retirement are considered temporary separations resulting in mandatory reinstatement rights to their classifications, should they recover from the disabling injury or illness and are able to perform the essential functions of their previously held positions or classifications. There is no minimum age requirement for disability or industrial disability retirement, and no minimum service requirement for an industrial disability retirement.

If the HA, after considering the conclusions of medical reports from the employee's health care provider(s) or the results of a Fitness for Duty Evaluation, concludes that the employee is unable to perform the work of his or her present position, or any other position in the CDCR, and the employee is eligible and does not waive the right to retire for disability, the HA shall file an application for disability retirement on the employee's behalf. The HA shall give the employee 15 calendar days written notice of its intention to file such an application and a reasonable opportunity to respond to the appointing power prior to the appointing power's filing of the application. (Government Code, Section 19253.5.)

Upon filing the application for disability retirement, the HA may remove the employee from the job and place the employee on involuntary leave status. The employee may use any accrued leave during the period of the involuntary leave. If the employee's leave credits and other entitlements are exhausted, or if they do not provide benefits at least equal to the estimated retirement allowance, the HA shall pay the employee an additional temporary disability allowance, so that the employee receives payment equal to the retirement allowance. CDCR shall continue to make all employer contributions to the employee's health plans during the period of the involuntary leave. (Government Code, Section 19253.5.)

CDCR shall submit an employer-generated disability retirement application on behalf of an employee if all of the following occur:

- The employee is vested and entitled to retirement benefits through CalPERS and has not waived his or her right to those benefits;
- The employee is unable to perform the essential function(s) of his or her position, or any other position within the CDCR statewide; and
- There is no RA available in his or her current, or any other, position. (Refer to Section 31040.4.5.)

All applications for disability retirement filed on behalf of an employee must be approved by the EHW, Associate Director, and are processed through the OEW, with the assistance of the assigned RTWC and the HA.

Upon receipt of a notification that an employee's application for disability or industrial disability retirement has been denied, and the employee has not previously service retired, the HA and RTWC must take immediate steps to determine if the employee will be returned to pay status. In consultation with the RTWC, the HA shall immediately contact the employee, in writing, to inquire whether the employee wishes to return to work and arrange for a reporting date. The employee will remain off pay-status only if he or she advises of his or her intent to appeal CalPERS' decision or provide a current off-work health care provider's note, at which point the interactive process resumes. If the employee states an intent to return to work and the HA questions the employee's ability to safely perform all essential functions of the job, the HA or RTWC shall contact their OEW liaison/analyst immediately for guidance.

If the HA has evidence, after an employee's return to work from retirement, that an employee is unable to perform the essential function(s) of the employee's position, with or without a RA, or if the employee's continued employment adversely impacts CDCR operations, because the employee's behavior creates an imminent risk for others in the workplace, the HA shall request a Fitness for Duty Evaluation, subject to OEW's approval. (Refer to Section 31040.4.8.)

#### **31040.4.11 Medical Termination**

For an employee who, due to a disability or medical condition, has work restrictions that prevent him or her from performing the essential functions of his or her job, or any job in CDCR, either with or without a RA, and is not

vested through CalPERS, or otherwise waives his or her right to disability retire, it is the policy of the CDCR to process a medical termination from State employment. This is an administrative action that separates an employee when all other medical options (e.g., RA, medical leave of absence provided under CFRA or FMLA, or disability retirement) have been exhausted, or discussed with the employee and determined inappropriate under the specific circumstances of the employee's employment status and medical condition or disability.

A medical termination shall be considered only if all of the following apply:

- The employee can no longer perform the essential functions of his or her classification with or without a RA;
- There are no funded, vacant positions in the employee's current classification for which the employee is qualified and can perform the essential functions with or without a RA;
- The employee is unable to perform the essential functions of any other position in the CDCR anywhere in the State, for which he or she meets the minimum qualifications, with or without a RA;
- CDCR cannot provide an RA without undue hardship; and
- The employee: is ineligible for, or waives the right to, disability retirement; refuses to cooperate when CDCR files for disability retirement on his or her behalf or has been denied disability retirement (after waiving or exhausting his or her appeal rights), and still refuses; or is unable, for medical reasons, to return to work.

Prior to the HA serving a notice of medical termination on an employee, consultation with the EHW, Associate Director, or RTWSS Chief, shall occur, including the review of appropriate documentation (including, but not limited to, the employee's request for RA, documentation of the interactive process, medical reports, and a list of essential functions of the employee's job/position). OEW, in consultation with the OLA, will draft the appropriate Notice of Medical Action – Termination document and forward it to the HA for finalization, signature, and service to the employee. This document shall give the employee written notice of the medical action and appeal rights, at least 15 calendar days prior to the effective date of the medical termination.

#### **31040.4.12 Reinstatement**

An employee who is subjected to a medical action such as a demotion, termination, or disability retirement (voluntary or involuntary), retains mandatory reinstatement rights to the civil service position from which the medical action was taken. These rights may be exercised by the employee if the employee provides sufficient medical evidence that the functional limitations from which he or she previously suffered, and which impacted his or her ability to perform the essential functions of that classification, with or without a RA, are no longer present.

An employee seeking mandatory reinstatement from disability retirement must initially seek approval from CalPERS. A request for such reinstatement, including all supporting medical documentation, must be addressed to the HA or assigned RTWC, who shall then contact the OEW for assistance.

An employee seeking reinstatement after a medical termination, transfer, or demotion must initially seek approval from the State Personnel Board (SPB). In approving or ordering the reinstatement, the SPB may require the satisfactory completion of a new probationary period.

#### **31040.4.13 Other Options**

A disabled or injured employee, when he or she is unable to perform the essential functions of his or her current position, may be entitled to additional benefits or employment opportunities; such as, but not limited to, the following:

- Unpaid leave under the CFRA or FMLA relating to a serious medical condition for up to 12 weeks;
- An unpaid leave of absence for medical reasons, at the discretion of the HA, for a period not to exceed one year. Extension of an unpaid leave of absence for a rank-and-file employee may be granted in accordance with the applicable bargaining unit contract, federal and State laws. Prior California Department of Human Resources' approval is required for an extension of an unpaid leave of absence beyond one year for excluded employees. CDCR is not required to provide an indefinite leave of absence as a RA;
- Use of existing leave balances;
- Pregnancy leave for up to four months, with a right to return to the original or exact same job, if the position still exists;
- Non-Industrial Disability Insurance payments administered by the California Employment Development Department (EDD);
- State Disability Insurance payments administered by EDD;

- Temporary Total Disability/Industrial Disability Leave for workers' compensation injuries administered and adjusted through the State Compensation Insurance Fund; or
- Voluntary medical termination.

### **31040.5 Substance Abuse Testing Programs**

#### **31040.5.1 Policy**

It is the policy of the CDCR that employees comply with the departmental substance testing programs. The Department's commitment is to help ensure that the workplace is free from the effects of drug and alcohol abuse.

#### **31040.5.2 Purpose**

The purpose of this policy is to provide information regarding the administration of the staff substance testing program for the purpose of clarity and uniformity within the Department. The Substance Abuse Testing Section (SATS) is responsible for maintaining and coordinating the CDCR's staff substance testing programs and policies. The SATS was developed to meet the substance testing requirements of Governor's Executive Order D-58-86, the Federal Department of Transportation (DOT) regulations, California Department of Human Resources (CalHR) rules, collective bargaining agreements and the State's Implemented Terms.

The testing programs include: Federal DOT (for safety sensitive commercial drivers); Bargaining Unit 6 Peace Officers (covered by Memorandum of Understanding (MOU) or the State's Implemented Terms); Excluded and Exempt Peace Officers, and reasonable suspicion.

#### **31040.5.3 Substance Abuse Programs – Defined**

Substance collecting and testing is conducted in accordance with standards established by the Substance Abuse and Mental Health Service Administration (SAMHSA), the Federal Motor Carrier Safety Administration and accepted industry standards approved by the CalHR. Alcohol testing is conducted using an evidential breath testing device and the method of determining the presence of a drug is by collection and analysis of a urine sample.

- **Federal Department of Transportation (Safety Sensitive Commercial Drivers)**

Under the Federal DOT regulations, departmental employees who must possess a Commercial Driver's License and are performing safety sensitive duties are subject to drug and alcohol testing requirements. These requirements include random, reasonable suspicion, pre-employment, post accident, pre-duty, return-to-duty, and follow-up testing. Employees whose vehicles meet the Federal requirements for testing for a commercial driver include those required to operate a vehicle with a gross vehicle weight rating in excess of 26,000 pounds; those required to drive a vehicle designed to carry 16 or more passengers (including the driver); or those required to operate a vehicle of any size when used in the transportation of a placardable amount of hazardous material.

CDCR employees in the DOT program are in a consortium pool of commercial drivers stored at the CalHR with other State departments. Names are randomly selected by the CalHR's computer software program. The SATS obtains the testing notices from CalHR's Testing Program Coordinator and forwards them to the Local Substance Abuse Testing Coordinator for distribution.

In addition to random substance testing, a negative substance test result is required prior to assignment to safety sensitive functions as follows:

#### Pre-Duty

Prior to a current employee being assigned to a position requiring the operation of a commercial motor vehicle, he/she must submit to a controlled substance and alcohol test. The negative test result must be found prior to the first day in the assignment.

#### Pre-Employment

A pre-employment controlled substance test will be required of any new hire including list appointments, transfers, reinstatements, and retired annuitants following a break in service prior to appointment to a safety sensitive position. A negative test result must be found prior to the first day of performing a safety sensitive function.

Other types of safety sensitive driver testing:

#### Post-Accident

Following an accident involving a commercial motor vehicle, a post-accident test will be administered to the commercial driver if either of the following exists: 1) the driver was performing a safety sensitive function involving the vehicle and the accident involved a loss of human life; or 2) the driver received a citation under State or local law for a moving traffic violation arising from the accident and the accident resulted in bodily injury with immediate medical treatment away from

the scene and/or resulted in disabling damage to any vehicle requiring the vehicle to be transported or towed.

#### Return-to-Duty

Employees who have engaged in prohibited conduct under the federal DOT regulations must submit to and pass a return-to-duty test prior to resuming the performance of safety sensitive duties.

#### Follow-Up

Following a determination that a driver is in need of assistance, each employer shall ensure that the driver is subject to a minimum of six unannounced follow-up alcohol and/or controlled substance tests during the first twelve months following his/her return to work as directed by a Substance Abuse Professional (SAP) service. DOT regulations require that an employee who tests positive for drugs and/or alcohol must be referred to a SAP for evaluation. If it is determined that education or treatment is needed, the SAP will refer the employee to an appropriate program and follow-up to ensure completion.

- **Bargaining Unit 6 Peace Officers**

Random drug and alcohol testing conducted per prevailing MOU or the State's Implemented Terms.

- **Excluded and Exempt Peace Officers**

California Code of Regulations (CCR) 599.960 – 599.966 require random drug and alcohol testing of excluded and exempt State employees who are peace officers under Part 2, Title 3, Chapter 4.5, Sections 830.2(d) and 830.5, of the Penal Code.

- **Reasonable Suspicion**

Departmental employees designated by the CDCR as working in sensitive positions may be tested for reasonable suspicion. Reasonable suspicion is the good faith belief based on specific articulable facts or evidence that an employee may have violated the policy prescribed in CCR 599.960(b) and that substance testing could reveal evidence related to that violation. Reasonable suspicion provisions exist only when an employee is on duty or on standby for duty. A finding of reasonable suspicion is based on direct observation concerning the appearance, behavior, speech, and/or body odor of the employee. These findings must be documented using the Reasonable Suspicion Checklist (CDCR Form 1874).

Sensitive positions include all departmental peace officer positions, as defined beginning with Section 830 of the Penal Code, and all civil service positions located at a State correctional institution, juvenile facility, camp, correctional hospital, parole outpatient clinic, parole office, and community correctional facility.

### **31040.5.4 Substance Abuse Testing Section – Administration**

The SATS is responsible for establishing and maintaining the CDCR's staff substance abuse testing programs and has the following primary responsibilities:

- Coordinates the implementation, compliance, and auditing of the SATS' policies and procedures for the substance testing programs.
- Maintains random pool databases and executes random selections. The SATS with the Institution Personnel Officers and Office of Personnel Services, properly maintains the pools of eligible employees for the various testing programs; and executes, distributes, and coordinates with the field the random draws for the DOT (executed by CalHR), BU 6 (database located at CalHR) and the Excluded and Exempt Peace Officer testing programs. Names are randomly selected by a computer software program and are forwarded by the SATS to the Local Substance Abuse Testing Coordinator for distribution.
  - Provides training and education to departmental management and staff in accordance with the requirements cited in DOM Section 31040.5.1. Training includes New Employee Orientation, Basic Supervision, Advanced Supervision, Management Training, and the Parole Academy. On-site training is also provided for Local Substance Abuse Testing Coordinators, Designees and Administrative Officers of the Day, as well as managers, supervisors, and executive staff.
  - Provides timely and appropriate management consultation and technical assistance to departmental management and staff.
  - Acts as a liaison with other appropriate State departments and outside contractors.

#### **Local Substance Abuse Testing Coordinator**

The Local Substance Abuse Testing Coordinator (LSATC) has the overall responsibility of coordinating the testing program at the local facility and consulting with the SATS regarding policies and procedures. The LSATC



notifies supervisors of staff scheduled for tests (the SATS coordinates the testing when the LSATC is selected for random testing), receives test results from the SATS and informs the appointing authority or the Designee of a positive test result. The LSATC is also responsible for maintaining a current list of DOT commercial drivers for their facility.

#### **Designee**

An individual at a classification no lower than management. The Designee shall act as the management representative who is the final authority in determining whether reasonable suspicion exists. The Designee makes the decision whether substance testing will be conducted. If the Designee is not available, the Administrative Officer of the Day may act in the capacity of the Designee provided he or she has been trained by the SATS in this regard. A Designee shall be available every day of the year.

#### **31040.5.5 Substance Abuse Testing Section – Policy Notification**

##### **Bargaining Unit 6 Peace Officers, Excluded and Exempt Peace Officers, and Sensitive Positions**

Prior to inclusion in a pool, each employee in a random testing pool must be given the testing policy and procedures and the EAP pamphlet. In acknowledgment of receipt and understanding of the aforementioned, employees are required to sign a Rank and File (BU 6) Signature Sheet (CDCR Form 1889) or an Excluded and Exempt Peace Officers Signature Sheet (CDCR Form 1889A). Employees who could be tested for reasonable suspicion must sign the Notice of Possible Substance Abuse and Alcohol Testing for Designated Sensitive Positions (CDCR Form 1875). All employees subject to substance testing are required to sign a bulletin that includes advisory information on the use of drugs obtained in a foreign country.

An Employee Substance Testing Education Video is available for viewing in the In-Service Training Office. Division of Adult Parole Operations personnel are directed to contact their designated LSATC to view the video. All other locations should contact the SATS to view the video.

##### **Safety Sensitive Commercial Drivers**

Prior to appointment to a safety sensitive driving position requiring a Commercial Driver's License, the applicant will be notified of the DOT pre-employment testing requirements at the time of interview. Hiring commitments are contingent on a negative test result. The applicant will be provided the DOT alcohol and drug rules, CDCR policy, substance abuse professional service counseling information, and the EAP pamphlet. Upon a negative test result, the applicant is to complete the Federal DOT Employee Signature Sheet (CDCR Form 1888), if hired.

#### **31040.6 Revisions**

The Associate Director, Office of Employee Disability Management, or their designee shall ensure that the content of this Article is accurate and current.

#### **References**

*Revised July 1, 2020*

Government Code Sections 3527(b), 12926, 12940, 12945, 19050.8, 19170, 19253.5, 19253.5(1)(d), 19261, 19572, and 19991.6.

California Labor Code Sections 139.48, 1030 – 1033, and 6400 – 6413.

CCR, Title 15, Sections 3391, and 3436.

CCR, Title 8, Sections 3203, 5110 and 14300 – 14400.

CCR, Title 2, Sections 52.3, 53.2, 321, 426, 11035 et seq., 11065, 11066, 11087, and 11093.

DOT, Federal Motor Carrier Safety Regulations, Controlled Substances and Alcohol Use and Testing, Part 382, Title 49, Code of Federal Regulations, Part 40.

U.S. Occupational Safety and Health Act of 1970, 29 USC 654.

SAMHSA, Mandatory Guidelines for Federal Workplace Drug Testing Programs, Sub-part B, Section 2.4, Parts, (e) and (f), 59 Federal Register 29916.

DPA, Article 29, Substance Abuse, Rules 599.960 – 599.966.

Governor's Executive Order D-58-86.

State of California Penal Code Part 2, Title 3, Chapter 4.5, Sections 830.2(d) and 830.5.

FMLA 29 U.S.C. 2601, et seq. & FMLA regulations, 29 CFR 825

Pregnancy Discrimination Act of 1978

Prevailing MOU.

State's Implemented Terms.

#### **References specific to Return to Work Programs:**

29 U.S.C. § 2601 et seq.; 38 U.S.C. §§ 4301 et seq.; 42 U.S.C. §§ 12101-12213;

20 C.F.R. §§ 1002.198, 1002.225, 1002.226;

Civil Code, § 56.20(a);

Government Code, §§ 12900-12993, 19253.5, 19991.1, 19786, 21150 - 21176;

Labor Code, §§ 1030-1033;

CCR, Title 2, §§ 11035, 11040, 11042, 11050, 11065, 11067, 11068, 11069;

CCR, Title 15, § 3436.

#### **Revision History**

Revised: May 7, 2012.

Revised Sections 31040.4 and 31040.7: June 15, 2015.

Revised: Sections 31040.4.4.4, 31040.4.4.5, 31040.4.7, and 31040.7: July 1, 2020.

Effective: Section 31040.4.8: July 1, 2020.

Revised Subsection 31040.4.6 February 18, 2021.

Sections 31040.3 through 31040.3.2.14 are deleted: September 13, 2021.

### **ARTICLE 5 — PARAPROFESSIONAL**

*Revised October 4, 1994*

#### **31050.1 Policy**

The Department shall work closely with colleges and universities of the State and participate in federally funded programs to maximize the effectiveness and efficiency of correctional programs and for the betterment of persons received as staff from these resources. Through liaison with colleges and universities, the Department shall:

- Recruit academically qualified employees.
- Provide for the academic and professional development of existing employees.
- Make correctional goals and methods known to the academic community by:
  - Increasing and coordinating departmental employee contact with various college and university departments which have an interest in correctional programs (Social Welfare, Criminology, Sociology, Police Science, etc.).
  - Encouraging cooperative training efforts such as courses offered in correctional facilities and use of departmental employees as guest lecturers or instructors on campus.
  - Providing for the placement of students who are interested in a correctional career.

#### **31050.2 Purpose**

This section describes job classifications and federally funded programs for the recruitment and development of paraprofessional employees.

#### **31050.3 Responsibility**

Hiring authorities shall develop and implement evaluative techniques and methods for the selection and assignment of paraprofessional employees.

The Department's TSB and the HRS shall assist by providing whatever material, information, etc., is needed to carry out plans regarding college liaison or intern and training programs.

#### **31050.4 Federally Funded Programs**

The Work Incentive Program (WIN) is administered jointly by the U.S. Departments of Labor and Health and Human Services. The Department's Selection and Standards Branch coordinates all departmental involvement in the WIN program.

#### **Work Incentive Program**

The Department participates in two types of WIN training:

- OJT experience. The Department contracts with WIN to provide a work situation wherein enrollees can prepare for and obtain permanent employment. Under this program, WIN enrollees receive their regular grant from local welfare departments and incentive pay from WIN.
- Focused Recruitment Program (FRP). Under this Career Opportunity Development Program, the Department contracts with the Employment Development Department and the SPB to hire WIN eligibles.

The Department's Selection and Standards Branch recruits, tests, and hires the departmental FRP personnel. This branch advises facilities of the identity of FRP personnel, and provides instructions on billing SPB for their 80 percent contribution to FRP personnel's salaries.

#### **31050.5 Job Classifications**

Appointment to these job classifications depends upon the number of positions available through funds acquired from State resources. The positions are nontesting, nonstatus classes and temporary in nature.

### Student Intern

This program is designed for the student who desires to extend the learning experience to include actual work assignments in the correctional setting. Applicants shall be enrolled in an accredited college program. The positions are not civil service and are not salaried. However, most colleges allow units of credit for this type of experience. Tenure may be for several weeks or months.

### Student Assistant

The student assistant assists regular departmental employees in services such as psychological, sociological, educational or administrative; assists in experimental and research projects by gathering data; observes and reports on departmental methods and procedures. Candidates shall produce proof of application for, or enrollment as a student in an appropriate college or university program. Work assigned to incumbents shall be directly related to their college curriculum and academic goals.

### Graduate Student

This temporary authorization class is designed to provide currently enrolled graduate students with an opportunity to familiarize themselves with the State's professional work, consistent with their course of study. The major Department use of the class has been in the law student program.

### Professional Intern

There are several ways to qualify for the class of professional intern; the most typical being registration in a recognized college or university. The professional intern functions in much the same capacity as the student assistant; however, as experience and training are acquired, responsibilities are increased. The class is nonsalaried, but maintenance items such as employee quarters may be provided if available. The local business manager and personnel representative act as coordinators for this type of appointment.

#### 31050.6 Revisions

The Deputy Director, ASD, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### 31050.7 References

None.

## ARTICLE 6 — APPOINTMENTS

*Revised January 17, 2000*

### 31060.1 Policy

Personnel appointments shall be accomplished in a uniform manner consistent with applicable laws, policies, and sound personnel practices.

### 31060.2 Purpose

This Section outlines the procedures and requirements that shall be followed for personnel appointments.

### 31060.3 Power of Appointment

*Revised February 16, 2021*

(a) The Agency Secretary is the appointing authority for all civil service positions in the California Department of Corrections and Rehabilitation (CDCR). The Receiver is the appointing authority for all civil service positions in the California Correctional Health Care Services (CCHCS).

(b) Hiring Authority – The following are delegated authority by the Agency Secretary to make civil service appointments:

(1) For CDCR:

- (A) Undersecretaries.
- (B) Assistant Secretaries.
- (C) Directors.
- (D) Deputy Directors.
- (E) Associate Directors.
- (F) Wardens.
- (G) Regional Personnel Administrators.
- (H) General Manager, California Prison Industry Authority.

(2) For CCHCS:

- (A) Chief Deputy Receiver.
- (B) Undersecretary.
- (C) Directors.
- (D) Deputy Directors.
- (E) Assistant Deputy Directors.
- (F) Regional Health Care Executives.
- (G) Chief Executive Officer.

(c) In accordance with 28 Code of Federal Regulations (CFR), part 115, standard 115.17, Hiring Authorities shall not hire or promote anyone whose job duties may put them in contact with inmates, who:

- (1) Have engaged in sexual abuse of an inmate in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution;
- (2) Have been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force or coercion, or if the victim did not consent or was unable to consent or refuse; or

(3) Have been civilly or administratively adjudicated to have engaged in the activity described immediately above.

(d) Hiring Authorities shall:

(1) Implement and enforce departmental Equal Employment Opportunity (EEO) policy.

(2) Maintain the highest standards of personnel selection.

(3) Ensure that women and ethnic minorities are represented whenever possible on all interview panels, including examination and hiring interviews.

(4) Consider substantiated incidents of sexual harassment in all hiring decisions.

(5) Provide new and prospective employees with an explanation of the following:

(A) A summary of the applicable civil service position, with salary ranges and steps.

(B) Information describing where on the California Department of Human Resources website new and prospective employees will find the following:

1. Information on benefits afforded to employees by membership in the Public Employees' Retirement System.

2. Benefits and protections provided to public employees per the State Civil Service Act.

(6) Ask all applicants and employees who may have contact with inmates directly about previous staff sexual abuse and sexual harassment of inmates, in written applications or interviews for hiring or promotions and in any interviews or written self-evaluations as part of reviews of current employees.

(e) Except for appointments requiring approval of the Agency Secretary or the Director, the hiring authority's signature constitutes departmental approval on all appointment documents.

(f) Managers and Supervisors – Managers and supervisors shall work with the headquarters personnel analyst assigned to their program, their Institutional Personnel Officer and business manager to ensure:

(1) Submittal of accurate job descriptions and organization charts, when required, with proposals for personnel actions, (i.e., establishing new positions, reclassifying existing positions).

(2) Clarification of questionable personnel issues (i.e., appropriate classification, use of hiring lists).

(3) Appropriate action is taken for personnel commitments or changes in new/borderline areas.

(4) Appointment procedures and practices are consistent with the EEO policy of the Department (see DOM Section 31010).

(5) Women and ethnic minorities are represented on all hiring interview panels whenever possible.

(6) Employment references are conducted with all prior institutional employers to gather information on substantiated allegations of staff sexual abuse or any resignation during a pending investigation of an allegation of staff sexual abuse. The efforts made shall be documented on the reference check form.

(7) Documentation on CDCR forms shall be retained for review regarding the gender and ethnic composition of all interview panels, including both examination and hiring interviews. Such documentation shall include justification in all instances in which gender or ethnic representation for an interview panel was not possible.

(8) New and prospective employees are supplied with the summary of applicable civil service benefits prior to a formalized job offer.

(9) Quarterly progress reports are submitted to appropriate division administration noting and justifying all exceptions in which representation of women or ethnic minorities was not possible for a specific interview panel.

### 31060.4 Appointments Requiring Agency

Exempt appointments require the approval of the Agency Secretary, YACA.

#### 31060.4.1 Exempt Appointments

For exempt appointments, the hiring authority shall forward the following documents to the Personnel Operations Section.

#### Hiring Authority Responsibility

- Standard (STD) Form 678, Application for Examination, and resume.
- Duty statement and organization chart for the position.
- Governor's Office application form.

#### 31060.4.2 Career Executive Assignment

The procedure for processing Career Executive Assignment (CEA) appointments is the same as for exempt appointments except:

- The following documents are not required:
  - Duty statement and organization chart.
  - Governor's Office application form.
- The memorandum from the Director shall be addressed to the Agency Secretary, YACA.

### **31060.5 Appointments Requiring Director/ Chief Deputy Director Approval**

The Director of CDC retains appointing authority for all appointments designated as "managerial" under the Ralph C. Dills Act.

Each hiring authority shall submit formal requests to appoint individuals to designated managerial positions. The "Approval-to-Appoint" memoranda shall be addressed to the Director/Chief Deputy Director and be routed through all appropriate management levels in the respective program area.

This applies to all methods of appointment including:

- Employment list appointment (Permanent or Limited-Term).
- Temporary authorization.
- Training and Development (T&D) assignments.
- Transfers.
- Permissive reinstatements.

Emergency appointments, retired annuitant appointments, and mandatory reinstatements are exempt from these procedures.

All the necessary appointment requirements such as position justification, appointment eligibility, budgetary approvals, and/or compliance with any freeze requirements (STD Form 607, Change in Established Positions; STD Form 625, Request for Certification; or CDC Form 647, CDC Personnel Action Request, as Appropriate), or the State Restriction of Appointment Procedures must be met prior to submission of the package to the Directorate.

#### **"Approval-to-Appoint" Time Frame**

The "Approval-to-Appoint" request must be received by the Chief Deputy Director's Office at Least two weeks prior to the requested date of appointment.

#### **Hiring Commitments**

Final hiring commitments cannot be made until receipt of the Director's/Chief Deputy Director's approval.

#### **Approval Process**

Upon the Director/Chief Deputy Director's approval, the "Approval-to-Appoint" package will be forwarded to the Assistant Deputy Director, OPM who will be responsible for notifying the appropriate Deputy Director and/or Warden so that the applicants and selected candidate can be notified.

The appointment shall be announced in the next issue of Correction News.

Disapproved requests shall be returned by the Director's office through the appropriate management levels to the hiring authority.

### **31060.5.1 Civil Service Appointment at or Above Staff Services Manager I, Captain, and PA-III**

The Director has delegated approval authority to the Deputy Directors for civil service appointments at or above the Staff Services Manager I (SSM-I) and PA-III level.

The hiring authority's "Approval-to-Appoint" package shall include the following:

#### **Contents of Request**

- Civil service classification of position to be filled, approved duty statement, and a current organization chart.
- A description of the recruitment efforts made to attract applicants and a statement of the efforts made to fulfill the Department's affirmative action goals.
- A summary breakdown by ethnicity, gender, and disability of all candidates interviewed on CDC Form 973, Affirmative Action Report of Appointment. In compliance with GC 8310 and 18704, this summary shall not include names of the candidates. Instead, this summary should consist of generic characteristics (gender and ethnicity) of the candidates and any apparent disabilities.
- A comparative analysis of the qualifications of at least the top three candidates.
- The name of the individual recommended for appointment and a suggested date of appointment along with a statement of reasons for recommendation.
- A current resume, the most recent performance evaluation (STD Form 636, Report for Probationary Employee, or STD Form 637,

Individual Development Plan/Performance Appraisal Summary), and a Completed STD Form 678.

### **31060.5.2 Peace officer Supervisors – Other Than List Appointments**

Individuals appointed to the classification of Sergeant, other than by list appointment, must meet specific appointment criteria stipulated in an agreement with the union. In order to be laterally transferred or placed on a T&D assignment, individuals must meet the following criteria:

#### **Appointment to Sergeant**

- Two years of custodial experience performing duties comparable to those of Officer, Group Supervisor, Youth Counselor, or Senior MTA, Correctional Facility and Senior Medial Technical Assistant, and work performed in the P&CSD's Return-to Custody and Work-Furlough facilities, as well as duties performed at city and municipal jails. Additionally, experience in the abolished Correctional Program Supervisor classification qualifies for credit towards the two-year requirement.
- Custody experience approved by the Joint Apprenticeship Committee may also qualify for credit. For example, six months credit toward the two-year custody experience requirement will be given for individuals transferring from Parole Agent, Adult Parole classifications who have completed the two-Year apprenticeship program.
- Proposed appointees who are not currently Department' peace officers must meet all legal requirements to be a peace officer and be cleared for appointment by a background investigation and preemployment medical. Successful completion of the Basic Academy is also required unless previously completed.

Proposed appointments to Sergeant positions, which are not list appointments or mandatory reinstatements **must be approved in advance** by the respective Deputy Director and the appropriate headquarters personnel operations analyst. Only appointments from employment lists, mandatory reinstatements, or of individuals who have clearly served two or more years in an Officer position do not require advance headquarters approval.

#### **Appointment to Lieutenant and Captain**

Prior written approval of the respective Deputy Director and the Chief Deputy Director is required for any appointment, other than a list appointment, to the classifications of Lieutenant and Captain. Such appointments must be fully justified in the written request.

#### **Hiring Authority Responsibility**

The hiring authority shall carefully review lateral transfers, T&D assignments, reinstatements and other forms (excluding list appointments) to the Lieutenant and Captain classifications to ensure that the applicant:

- Possesses related custody experience, including supervision of custody staff.
- Meets all legal requirements to be a peace officer and can be cleared for appointment by a background investigation and preemployment medical.

#### **Basic Academy**

Persons appointed to the Lieutenant and Captain classifications shall attend the Basic Academy if they have not previously served in a correctional peace officer classification.

### **31060.5.3 Classification Staff Representative (CSR) Appointments Process**

The process for selection of CSR is as follows:

- The Chief, Classification Services, shall canvass for interested candidates by the departmentwide job opportunity bulletin.
- All candidates shall submit, a STD Form 678, to the Chief, Classification Services, for review.
- The CSU shall pre-screen all applications for qualifying experience.
- Those applicants accepted for consideration as a CSR shall be scheduled for interviews.
- Applicants not selected for an interview shall be so notified by memorandum or telephone call.
- All CSR appointments require the approval of the Director/Chief Deputy Director.

### **31060.5.4 Ex-Offender Appointments**

*Revised July 1, 2015*

The Department prohibits discrimination on the basis of ex-offender status. However, all factors which relate to legal requirements and restraints, facility security, commitment history, and experience shall be considered. Hiring

commitments shall not be made without written approval of the Secretary or Designee.

### Licensing

Applicable certification or licensing for a position shall not be waived for ex-offenders.

### Completion of CDCR Form 1951

A CDCR Form 1951, Supplemental Application for all CDCR Employees is required of all applicants seeking employment with the Department. This form is utilized at the time the employment interview is conducted and should be completed by both internal and external candidates with the exception of peace officers applying to the same classification. Completion of the form should prevent the hiring of any ex-offenders without prior approval of the Secretary. This form will also be utilized to ensure compliance with 28 CFR, Part 115, National Standards to Prevent, Detect, and Respond to Prison Rape under the Prison Rape Elimination Act (PREA), Standard 115.17 – Hiring and promotion decisions.

Peace officer promotions or transfers to different classifications must complete the applicable sections of Form CDCR 1951 at the time of interview.

### Restricted Employment Areas

Ex-offenders shall not be hired or assigned work in areas which provide access to:

- Any records pertaining to staff.
- Sensitive personal or medical information on inmates.

These areas include, but are not limited to, the following:

- Medical.
- Personnel.
- Records.
- Accounting.
- Data processing.

### Legal Prohibition For Peace Officer Classifications

Persons convicted of a felony in this or another state may not be employed as a peace officer of this State. CCR 3291(b) lists the classes designated as peace officers in this Department.

### Procedural Responsibilities

For all hires other than initial peace officer hires, the hiring authority shall:

- Submit an “Approval to Appoint” request to the Secretary via the Chief, Office of Correctional Safety (OCS) at least 60 days prior to the requested appointment date. This shall include a copy of the ex-offender’s CI&I SSCH and the completed CDCR Form 1951 for nonpeace officer classifications.

If the individual is on parole, the request shall identify the name and address of the Parole Agent. If discharged, that date shall be indicated.

The Chief, OCS, shall:

- Review the original submittal for possible gang affiliations.
- Note the results of this review on the request.
- Forward the request to either the Director, Division of Adult Institutions, or Director, Division of Adult Parole Operations, for appropriate data if they are not the hiring authority.

If the request is approved by the affected Director, it shall be returned to the Chief, OCS, for final review.

The Chief, OCS, shall:

- Ensure completion of required materials.
- Forward approved packages to the Agency Secretary.
- Return denied packages to the hiring authority.
- Return packages with Agency Secretary’s approval/disapproval to the hiring authority.
- Ensure that a copy of all denials/approvals are sent to the Office of Internal Affairs, Office of Civil Rights.

### 31060.6 Appointments Requiring Headquarter’s Approval

Appointments requiring approval of designated headquarter’s staff are described in DOM 31060.6.1 through 31060.6.5.1.

#### 31060.6.1 Chaplain Appointments

All chaplain appointments shall be approved by the appropriate Regional Administrator, ID.

The applicant shall meet the criteria outlined in the SPB specifications before being appointed to the position of full-time or intermittent chaplain.

Muslim Chaplain. The appointee shall be currently in good standing with the American Muslim Community, verified and approved by the local resident

Imam where the applicant attends as a member. All candidates shall attach to their application a letter of certification of good standing issued by the local resident Imam.

Jewish Chaplain. The appointee shall be accredited by and in good standing with a recognized California rabbinical body. The two official ecclesiastical endorsing agencies are the Board of Rabbis of Northern California and the Board of Rabbis of Southern California.

Catholic Chaplain. The appointee shall be duly accredited by and in good standing with the Roman Catholic Church and approved by the Bishop of the diocese in which the facility is located.

Protestant Chaplain. The appointee shall be currently ordained, duly accredited by and in good standing with a nationally recognized Protestant denomination.

Native American Spiritual Leader. The appointee shall be currently recognized as a spiritual leader and in good standing with their Native American Tribe, Nation, Band or Rancheria. All candidates shall attach to their application a letter of certification of good standing issued by their Native American Tribe, Nation, Band or Rancheria.

### Intermittent Chaplains

The Department may employ, under State civil service, intermittent Catholic, Jewish, Muslim and Protestant chaplains.

### Part-Time Chaplains

The Department may contract with clergy of any faith as part-time or intermittent chaplains to provide religious services and chaplaincy activities for a small group.

### Substitute Chaplains

When a staff chaplain is on an authorized absence and a substitute chaplain cannot be obtained without cost to the State, a fee can be paid to the substitute for any single day of service.

### 31060.6.2 Retired Annuitant Appointments

*Revised November 25, 2015*

A person who has retired from state service may be appointed to a civil service position and paid a salary without being reinstated from retirement.

A person who has retired from a Career Executive Assistant (CEA) position may be temporarily employed following retirement.

### Class

- A retired annuitant shall be appointed to a position in a class in which the person had permanent or probationary status or a CEA appointment at the time of retirement or in a class to which the person could have permanently transferred, reinstated, or demoted at the time of retirement.

### Duration

- Retired annuitants are appointed for a limited duration, not to exceed 960 total hours in fiscal year.
- Returning retired annuitants (annual renewals) must be evaluated each fiscal year and require annual approval by the Office of the Secretary or designee.

### Salary

- Retired annuitants are paid at a rate substantially the same as other employees performing comparable duties.

### Benefits

- Retired annuitants are compensated only for actual time worked and shall not earn benefits of any kind (e.g., sick leave, vacation, holiday pay, personal holiday, or retirement credits).

### Impact of an RA working over the 960 hour work cap in a fiscal year

- An RA who works more than 960 hours in a fiscal year is subject to mandatory reinstatement to state service, reimbursements to California Public Employees’ Retirement System (CalPERS) and potentially other earned entitlements/benefits.

### Nature of Work

Retired annuitants may be appointed for a limited duration:

- On a short-term basis to cover emergency-related work.
- To use their special skills.
- To provide mentoring to staff, and/or knowledge transfer.

Retired annuitants may be appropriate to temporarily fill:

- Behind an employee on extended absence.

### Eligibility

To be eligible for employment as a retired annuitant, the following requirements must be met:

- The Bona Fide Separation Requirement/Normal Retirement Age (if applicable)
  - A service-retired employee of the State of California who has not yet reached “normal retirement age” must have a minimum 60 calendar-day separation from service prior to returning to employment as a retired annuitant. The definition of “normal retirement age” is the member’s benefits formula age, or, if the member retires with more than one benefit formula, the highest specified age. There must be no agreement made (either verbal or written) with an employee to return to employment as a retired annuitant prior to retirement if they have not attained “normal retirement age” as defined above.
- The 180-Day Wait Period Requirement
  - A retired person shall not be eligible for employment as a retired annuitant for a period of 180 calendar days after the date of retirement unless the appointment is necessary to fill a critically needed function and California Department of Human Resources (CalHR) approval has been obtained. **The 180 day waiting period does not apply to a retired peace officer or a retired firefighter returning as either a peace officer or firefighter.**

#### Definition of Critical Need

An immediate need for a particular skill set that only the retired annuitant can provide to complete a function for the department to meet one of the requirements outlined below and that cannot be met by a current State employee:

- Legislative Mandate
- Court Ordered Mandate
- Health and Safety Emergencies
- Fiscal Impact – Loss of Funding
- Any disruption in normal business that may result in the failure of business operations

Note: The bona fide separation requirement does apply to peace officers or firefighters that have not reached normal retirement age. Appointments to other classifications would meet the bona fide separation requirement while serving the 180-day wait period requirement since these periods run concurrently.

#### Approval

New retired annuitant appointment (not including annual renewals) requires prior approval documented on CDCR Form 1823, Retired Annuitant Hiring Approval, as follows:

- CO Academy: Director, Administrative Services
- Expert Examiner: Director, Administrative Services
- Legal Witness Testimony: General Counsel
- Special Projects/Skills: Secretary
- Mentoring/Knowledge Transfer: Secretary
- Operational Vacancies: Secretary
- Division of Juvenile Justice (DJJ) positions at facilities: Director, DJJ
- All other DJJ positions: Secretary
- Posted Positions (Adult Institutions): Director, Division of Adult Institutions
- Parole Agents with caseload: Director, Division of Adult Parole Operations
- All other Division of Adult Parole Operations’ positions: Secretary

A statement of justification is required for all retired annuitant appointment requests and must include start date (for extension, this date is the date the employee was first appointed into the position), end date, duty statement and organization chart.

Any requests to appoint a retired annuitant into a supervisory classification must include a plan for supervision of subordinate staff when the retired annuitant is not working.

Extension requests for retired annuitants that have expiration dates within the same fiscal year must document the number of hours the employee has worked.

The hiring authority is required to contact the Office of Legal Affairs and the Office of Internal Affairs to determine if the individual has prior or pending adverse actions, legal actions, or was the subject of an investigation. If so, a summary of the information is to be attached to the CDCR Form 1823, Retired Annuitant Hiring Approval that includes a detailed justification.

#### 31060.6.3 Appointment

Emergency appointments shall be justified by significant need.

- Any expanded use of emergency appointments, particularly for emergency acting assignments not supported by a significant need, are in conflict with basic constitutional provisions requiring appointments based on competitive examinations.
- All available civil service alternatives shall be considered before making emergency appointments for short duration work assignments.

Appointments which may be approved by the hiring authority are described in Sections 31060.6.2.1 through 31060.6.2.4.

#### 31060.6.3.1 Extreme Emergency

This type of appointment shall not exceed 60 working days in any 12-month period.

Extreme emergencies include fires, floods, storms, epidemics, riots, earthquakes, and other such serious situations presenting extreme peril to persons or property or seriously interrupting the performance of public business.

When an extreme emergency is declared by the Governor or the Director, appointments may be made without regard to employment lists and, if necessary, without regard to existing classes in order to prevent the stoppage of public business.

#### 31060.6.3.2 Short Duration Work

A short duration work situation is one which:

- Because of its unusual urgency, nature, volume, location(s), duration, or other special characteristics is distinct from the range of work normally performed by regular staff.
- Is not expected to be performed within the department for more than 30 working days within any 12-month period.

Short duration work assignments shall not be extended nor shall they be consecutive. Appointments may be converted to acting assignments when circumstances warrant.

Positions that are readily filled by the regular civil service process or for routine needs (i.e., vacation relief) shall not be filled by short duration appointments.

#### 31060.6.3.3 Out-of-Class Assignments

Out-of-class assignments (also called acting assignments) shall be used only as the last option when filling a position. Limited-term (LT) appointments are the appropriate means to fill critical positions on a short-term basis.

Advance planning and scheduling can reduce an operation’s dependency on out-of-class assignments. By using established certification lists, qualified employees can be appointed immediately to vacant critical positions.

Misuse of out-of-class assignments results in grievances (circumventing list procedures), higher costs (lost person hours, working on out-of-class claims), the potential loss of delegated testing authority and the centralization of approval for all out-of-class assignments. However, bonafide emergency out-of-class assignments may be used.

#### Guidelines

Managers and supervisors shall ensure that all employees are assigned duties and responsibilities that are within the scope of their classification. Employees shall not work out-of-class on a regular, ongoing basis.

Current bargaining unit language, as well as DPA Rule 599.810, states that “an employee may be required to perform work other than that described in the specification for their classification for up to 120-consecutive calendar days during a fiscal year.” This language is intended to provide appointing authorities the flexibility necessary to meet short-term, temporary staffing needs. All viable alternates shall have been exhausted before any out-of-class assignment is approved.

An employee may be assigned out-of-class work for more than 120 days if the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. **Prior approval from DPA is required.** Such assignments shall be subject to termination by the Director of DPA upon determination that other reasonable alternatives do exist.

The “120-consecutive calendar days during a fiscal year” applies to both the assignment and the individual. The same assignment cannot extend beyond July 1 or a new fiscal year resulting in an individual serving in the assignment for more than 120 calendar days. Such situations would require DPA approval to extend beyond 120 calendar days.

Recent interpretation from DPA states that good personnel management practice precludes an indefinite out-of-class assignment by rotating employees in and out of the assignment. The 120 days should be a sufficient period of time to resolve and out-of-class situation. Rotations are inappropriate and circumvent the intent of the out-of-class provisions.

The out-of-class provisions apply to both rank and file and non-represented employees. Managerial employees are not covered under DPA Rule 599.810 and there is no authorization to assign the out-of-class duties.

### Criteria

Out-of-class assignments may be made only to established positions and only if it can be demonstrated that:

- The assignment is needed to meet a specific operating need.
- The need cannot be feasibly met through civil service procedures or other administrative alternatives.
- The employee is assigned duties which are clearly outside the scope of their current class and which include the full range of duties of the assigned class. The out of class duties must be performed for more than 50 percent of the employee's time.
- The supervisor requests the employee, in writing and in advance of the assignment, to perform the duties of a higher class.

No out-of-class assignments shall be considered for approval retroactively. The grievance process is the appropriate method for employees to obtain payment if their out-of-class assignment was not approved accordance with established guidelines.

No out-of-class assignments to "MCR NONE" classes shall be approved retroactively.

### Operating Needs

An operating need may exist when leaving a position vacant results in:

- Inadequate management or supervision of a unit or function that cannot be offset from other sources.
- Risk to public health and safety.
- The interruption of public service.
- An economic loss or program delay.

### Alternatives

If a need is established, the following alternatives should be considered before an employee is given an out-of-class assignment:

- Delaying or canceling other less critical work.
- Temporarily redirecting the unit's staff, workload, or resources in order to "work around" the vacancy.
- Filling the position with a locally available person on a temporary basis through another civil service procedure such as emergency, LT, temporary authorization (TAU), or intermittent appointment.
- Modifying the duties temporarily until the position can be filled.

### Appropriate Assignments

Examples of out-of-class assignments that are viewed by the Department as appropriate consist of the following:

- An immediate assignment involving risk of life, property, or critical operation of the Department.
- Back-up for an employee absent on extended sick leave.
- A vacant position that needs temporary filling until an employment list is available.
- The assignment is temporary in nature, with no definite time period but less than 120 calendar days, and all viable recruitment efforts to fill the position have been exhausted.

### Inappropriate Assignments

Examples of inappropriate/out-of-class assignments are as follows:

- An assignment where no budgeted positions exist.
- A certification list is available so that a LT appointment could be made, the desired employee is on the list but is not reachable, or the list was canvassed but the candidate group is undesirable.
- An assignment was made to bypass the Departmental Restrictions of Appointment (DROA), State Restrictions of Appointment (SROA), and/or re-employment list process.
- The assignment can be covered by a T&D assignment, a reinstatement, an emergency appointment, or a TAU appointment.
- An intermittent pool of candidates is available.
- Changes have been made to a class specification and/or allocation standards and the employee claims to have been working in a higher classification prior to the effective date of the change.
- The employee requests some of the higher level duties for career development, personal convenience, or gain.
- In the following situations, unless pre-approved by DPA:
  - To positions or levels requiring classification pre-approval by DPA (MCR NONE).
  - To positions or levels not authorized in the appointing power's budget. Before considering pre-approval in these situations, DPA will require specific written notice from the DOF that funding is available.
  - Where the employee's class specification provides for the proposed work assignment.

- To positions or levels requiring classification pre-approval by DPA (MCR NONE).
- To positions or levels not authorized in the appointing power's budget. Before considering pre-approval in these situations, DPA will require specific written notice from the DOF that funding is available.
- Where the employee's class specification provides for the proposed work assignment.

When any of these options are considered, the Personnel Operations Analyst shall be contacted for guidance and interpretation.

### Process

The supervisor shall prepare the following documents:

- A request for approval to make an out-of-class assignment.
- A CDC Form 1821, Out-of-Class Checklist .
- A duty statement.
- An organizational chart.
- A CDC Form 1820, Out-of-Class Justification For Assignments Exceeding 120 Days .

The Out-of-Class Checklist shall provide the information necessary for the review and evaluation of the request and for completion of the Out-of-Class Justification.

The checklist will also serve as an audit trail for peer audits, payment of claims, and examination eligibility.

The document shall be forwarded to the appropriate approval levels in accordance with Section IX of the Out-of-Class Checklist.

### Approvals

All out-of-class assignments requests require the approval of the IPO or Personnel Operations Analyst to ensure that all viable alternatives have been exhausted before the request is forwarded for final approval.

Prior final approval is required for out-of-class assignments as follows:

Duration of Assignment	Documents Required	Approval Required
Up to 60 Calendar Days	Request for Approval Out-of-Class Checklist	IPO or Personnel Operations Analyst
61 to 120 Calendar Days*	The above	The above and Personnel Operations Analyst
Over 120 Calendar Days**	The Above and Out-of-Class Justification Form (2 Copies)	The Above and the Departmental Personnel Officer, the Chief Deputy Directors, and DPA

\* When the hiring authority becomes aware that the assignment may extend beyond 60 days, the Personnel Operations Section shall be notified. The written request shall be received by Personnel Operations Section no later than day 50 of the assignment.

\*\* Requests shall be received by Personnel Operations Section no later than day 100 of the assignment. The Departmental Personnel Officer shall forward approved requests to the DPA for review.

The departmental personnel officer may deny a claim if it does not meet existing criteria.

When a request is inconsistent with departmental policy, the Personnel Operations Section shall return the unapproved request directly to the hiring authority.

### Log/Record

For audit purposes each approval authority shall keep a log/record of all out-of-class assignment requests and/or out-of-class compensations claims.

### Compensation

See DOM 31150.9 for out-of-class compensation guidelines.

### 31060.6.3.3.1 Applying Out-of-Class Experience for Admittance To State Examinations

Out-of-Class experience is work experience gained in the performance of duties outside the class concept of the employee's current class of appointment.

A departmental employee, regardless of employee relation designation, may request verification of out-of-class experience once they have performed out-of-class work for 30 consecutive calendar days.

Personnel Operations analysts review these requests and apply the same standards of more than 50 percent used for out-of-class claims.

#### **Employee Requests**

An employee who wants verification shall, in writing, request the hiring authority to verify that they have accepted and performed assigned duties that were not consistent with the employee's class.

#### **Time Restraints**

Requests shall not be made:

- Prior to performing out-of-class duties 30 consecutive calendar days.
- Later than 180 calendar days after the ending of the out-of-class duties.

#### **Certification**

The hiring authority's certification shall include:

- The employee's name and social security number.
- A description of type and level of duties performed.
- A duty statement with percentages.
- A conclusion regarding whether the duties are or are not consistent with the employee's class of appointment at the time; and if not consistent, an identification of the class to which such duties are appropriate.
- A detailed explanation of the situation which necessitated the out-of-class assignment.
- An explanation of the other administrative and/or civil service options considered and why they were not used.
- A copy of the departmental memorandum from the employee's supervisor who assigned the duties to the employee.
- The dates of the out-of-class assignment.
- When the certification is for admission to an examination, the title of the examination to which the employee is applying.

#### **Approval Responsibility**

The hiring authority certification shall be forwarded to the Personnel Examining Section who shall:

- Review the verification.
- Provide the employee and the hiring authority with a memorandum advising whether the certification met SPB standards.
- Forward the certification to the Personnel Operations Analyst for analysis and recommendation of the appropriate class.
- If approved, forward the verification to the SPB.

Once approved by the Personnel Examining Section, the certification can be used as additional qualifying experience for current or future examinations by attaching a copy to the application.

#### **Appeal Rights**

If the request for verification is denied, the employee has the right to appeal the denial to the SPB.

#### **31060.6.3.4 Reinstatement After Emergency**

Permanent or probationary employees who vacate positions to accept emergency appointments shall have mandatory right of return to their former position upon the conclusion of the emergency appointment if:

- The emergency appointment is under the same appointing power as the position the employee is vacating; or,
- The employee is granted paid or unpaid leave to accept the emergency appointment.

#### **31060.6.3.5 Emergency Appointment Documentation**

For audit purposes, the hiring authority shall prepare a written justification for all emergency and short duration work appointments.

The justification shall include:

- A detailed explanation of the situation requiring the appointment.
- An explanation of the other administrative and/or civil service alternatives that were considered and why each was not used.
- The name, social security number, and current classification (if applicable) of the appointee.
- A duty statement, position title, and estimate of the number of days the appointment will be necessary.
- When appropriate, a copy of the Declaration of Emergency signed by the Governor or the Director.

The justification shall be retained in the official personnel file.

A copy shall be submitted to the Personnel Operations Section no later than 20 calendar days after the effective date of the appointment.

#### **31060.6.4 Limited-Term Appointments**

The Department has authority to make and extend LT appointments. Initial appointments shall be limited to up to one year. The extension shall be limited to up to one additional year and may be considered when a permanent appointment is likely to cause a layoff, demotion, or mandatory transfer requiring a change of residence upon the conclusion of the temporary staffing need.

#### **Requirements**

Eligible lists shall not be circumvented by a LT appointment to a permanent position. Positions which are of limited duration shall not be filled on a permanent basis since this removes the appointee from consideration for true permanent positions and bestows unwarranted permanent status.

Permanent rather than LT appointments may be more appropriate when:

- The temporary vacancy is in a classification subject to high turnover.
- New positions are established on a temporary basis pending approval of the State budget, since the positions shall be converted to permanent when the budget is adopted.

#### **Local Approval**

In the following situations, the hiring authority may authorize one or more LT appointments, provided the total time of an employee's appointment(s) does not exceed one year.

- Seasonally recurrent positions. Appointments to non-testing or TAU only classes may be made for a period of up to nine months in one transaction.
- Positions established for a specific study or survey. Research projects may require the creation of specific classes for the duration of the project.
- Temporary vacancies. A person being on a leave of absence for one year or less.
- The appointment of a permanent employee to a different position on a LT basis.

#### **Headquarters Approval**

The following appointments require advance approval from the Personnel Operations Section:

- Temporary filling of vacancies during or pending a reorganization or possible layoff situation.
- Vacancies filled in anticipation of reorganization or layoff expected to span a period of more than one year may be filled by permanent appointment.

This approval process shall ensure consistency with the Department's restriction of appointment process.

#### **Two-Year Appointments**

One-year, limited-term appointments may be extended for up to a total period of two years upon prior approval by the Chief, Personnel Management. All such requests shall be forwarded to the Personnel Operations Section at least 30 days prior to the effective date, and include the following information:

- Name, social security number, and civil service classification of employee.
- Period of time involved.
- Justification for the need to authorize a LT appointment to exceed one year.

The anticipated number of limited-term appointments, the number and location of permanent positions in the classification, turnover rate for the classification, budgetary trends, and issues which impact the Department's ability to absorb permanent employees either locally or department wide shall be considered when the justification is prepared.

#### **Justification File**

For audit purposes, the Personnel Operations Section shall file and retain for three years the hiring authority's requests and justifications for appointments to exceed one year.

#### **31060.6.5 Training and Development Assignments**

##### **Purpose**

The Department shall use T&D assignments:

- To provide employees broader experiences and skills, to improve their ability to perform in their current assignments.
- To assist employees in seeking future advancements.

- To facilitate employees' entry into different occupational fields.
- To enhance the Department's affirmative action and upward mobility goals.
- As an effective tool for upward mobility purposes.

Hiring authorities shall consider affirmative action needs and protected group deficiencies prior to the selection of an employee for a T&D assignment.

#### General Requirements

The hiring authority shall ensure a T&D assignment:

- Is consistent with the career development plan of the employee.
- Duties are significantly different than those the employee has performed in the preceding five years.
- Provides a clear management advantage to the state.
- Shall not result in a layoff or demotion at the termination of the T&D assignment.

No more than one person shall be appointed to a T&D assignment for each available vacancy.

T&D opportunities require a minimum publicity period of seven days to ensure that all interested employees are afforded the opportunity to apply. Posting may be limited to geographic areas where employees could reasonably be expected to accept the opportunity without a change in residence.

If a permanent class has not been identified for the training position, the position must be permanently allocated to an appropriate civil service class prior to considering a T&D assignment.

#### Class Relationships

As long as the SPB criteria are met, an employee may accept T&D assignments to a class with substantially the same salary to which the employee could voluntarily transfer (within two salary steps) even if they are currently on an employment list for the assigned training class.

#### Eligibility

Permanent and probationary (with prior permanent status) employees are eligible for T&D assignments. Time on a T&D assignment counts toward completion of probation. Employees on temporary or limited-term appointments shall return to their former position before being appointed to a T&D assignment.

Employees shall not be considered for T&D assignments in classes which have a promotional relationship to their current class. The class specification shall be reviewed to ensure that the individual's permanent class is not listed in the minimum qualifications (MQs) of the training class and there is no promotional relationship.

#### Higher than Three Salary Steps

T&D assignments to higher level classes (beyond three salary steps) shall only be considered as exceptions and shall meet the following additional criteria:

- The intent is to prepare the employee for a permanent career change.
- The higher salaried class is the nearest class (in salary) that will provide the appropriate training experience.
- The employee may meet the MQs of the training class prior to appointment and shall meet them by the conclusion of the assignment.
- The T&D assignment shall not circumvent the normal competitive promotional process.

#### Lower than Two Salary Steps

T&D assignments to lower-level classes (beyond two salary steps) shall be considered as exceptions and shall meet the following additional criteria:

- T&D assignments to lower-level classes shall only be used in very broad class series in which employees expect to reach the journey or supervisory level within one specialty, without having had experience in other major specialties covered by the class.

For example, a SSM I whose career had been limited to management analysis, could participate in a T&D assignment as an Associate Budget Analyst position in preparation for assumption of SSM I level duties in the budget area.

- The lower salaried class is the nearest class (in salary) that provides the appropriate training experience.
- The training experience differs from the duties the employee has previously performed, i.e., they cannot have immediate previous experience in the assigned training class.

#### Duration

T&D assignments for an individual shall not be limited in number or frequency, but shall not exceed 24 months in any consecutive 36-month period.

#### Peace Officer Training

Employees in positions designated as peace officers shall:

- Successfully participate in the required peace officer training course.
- Obtain a background clearance.
- Pass all required medical examinations and physical abilities test.

#### Formal Class Requirements

While employees are not generally required to meet the "experience and education" requirements of the training class, employees shall possess any credential, license, certificate, or other formal requirements of the class prior to assumption of the duties of the T&D assignment.

It is required that employees meet the minimum qualifications to be placed on a T&D to Sergeant, Lieutenant, or Captain. Exceptions to this requirement for T&D assignments to Lieutenant and Captain must be approved in advance, in writing, by the Director.

#### Shift Differentials/ Housing Stipends

Alternate Range 40 shift differential compensation and/or housing stipends shall be terminated when a T&D assignment does not meet established criteria/requirements.

Employees serving in CEAs shall not participate in T&D assignments to ensure that they are assigned only to those positions that have been specifically approved for inclusion in the CEA category.

#### 31060.6.5.1 Documentation and Procedural Requirements

A formal T&D assignment plan shall be prepared and submitted on a CDC Form 1825, Training and Development Plan and CDC Form 1825 A, Training and Development Request and shall include:

- The civil service class of the training position.
- The permanent classification of the employee.
- The basic objectives of the training.
- The duties to be performed.
- The training to be accomplished.
- Return rights of the employee.
- Statement that the assignment may be terminated at any time by either the employee or the Department.
- Certification that:
  - This assignment shall not result in a layoff or demotion upon its termination.
  - SROA procedures were observed.
- The signatures of the employee and the hiring authority of both the receiving and releasing organizations.

The individual's STD Form 678 and resume shall be attached.

To allow adequate processing time, the plan shall be submitted to the Personnel Operations Section at least 30 days before the reporting date.

#### Starting Date

The Personnel Operations Section may adjust the starting date on any T&D assignment. It shall be clearly understood that any T&D changes required by the Personnel Operations Section may impact such issues as relocation expenses and eligibility to participate in the proposed T&D program.

#### Approval

The T&D assignment plan shall be approved by the Personnel Operations Analyst prior to the actual reporting date of the employee.

Upon approval, the Personnel Operations Section shall retain the original T&D assignment plan and forward copies to the receiving and releasing hiring authorities and the employee.

Written notification shall be submitted to the Personnel Operations Section if:

- There are subsequent changes/revisions to the original plan.
- The assignment is terminated prior to its expiration date.

#### Position Reclassification

The reclassification of the position is required before the training is implemented.

The hiring authority shall submit a STD Form 607, to OBM so that the position is reclassified to the permanent class of the employee upon approval of the T&D assignment. The STD Form 607 shall clearly indicate that the reclassification is for T&D purposes and include the employee's name and approved T&D plan.

If the T&D assignment is denied, the STD Form 607 shall be denied at the same time and returned to the originator.



### Vacated Position

To ensure employee placement, the position vacated by the employee accepting the training assignment shall be filled on a temporary basis unless it can be clearly demonstrated that an appropriate position in the employee's "home" organization and location shall be available at the completion of the T&D assignment.

#### 31060.6.5.2 Promotion/Transfer While on a T&D Assignment

Promotion/transfer opportunities shall not be jeopardized as a result of a T&D assignment. Provisions for promoting/transferring the individual while on the training assignment are:

- The individual clearly would have been considered for promotion/transfer if not on the training assignment.
- In a promotional situation, the individual must be reachable on the eligible list and receive a bonafide job commitment.

When a firm commitment is made in a promotional or transfer situation, the offering organization shall appoint the individual and transfer the employee back to the training location to complete the training assignment. This ensures the employee mandatory right of return to the offering organization/location.

The new appointment shall not create an inappropriate training assignment. If the promotional/transfer class does not meet the training assignment criteria relative to the training class, the appointment shall not be authorized while on the training assignment; or the T&D assignment shall be terminated upon the appointment of the employee.

#### 31060.6.5.3 Termination of T&D During Staff Reductions

During staff reductions, T&D assignments shall be terminated in affected classifications and/or related positions.

Employees in an affected classification shall be:

- Appropriately included when compiling seniority lists.
- Returned to their former positions.

When the affected classification is one in which surplus employees have been identified and positions are filled with T&Ds:

- The T&D(s) shall be terminated.
- The positions filled with the most senior affected employees.

T&D assignments shall not be used to resolve staff reductions.

#### 31060.7 Restriction of Appointments

Restriction of Appointments lists are established to aid in the placement of employees facing transfer, layoff, or demotion. Both the state and the departmental restriction of appointment processes, described below, shall be followed prior to filling vacant positions.

##### 31060.7.1 State Restriction of Appointments (SROA)

The SROA policies and procedures:

- Are published periodically by the DPA.
- Shall be followed in making all appointments not specifically exempted from SROA. Questions regarding which appointments are exempt from SROA shall be directed to the IPO for the correctional facility or the Personnel Operations Section analyst for headquarter programs.

SROA eligible lists:

- Are maintained by the SPB and are issued to hiring departments.
- Contain classes of employees who, as a result of position reductions, are facing layoff or demotion if placements are not made.

##### SROA Coordinator's Responsibility

The SROA Coordinator in the Personnel Operations Section is responsible for ensuring that all policy and procedure updates are disseminated throughout the Department.

##### Institutional Personnel Officer's Responsibility

The IPO is responsible for:

- Providing consultation to institutional program staff regarding DROA requirements.
- Reviewing and approving SROA clearances for all facility appointments. The CDC Form 8022, State Restrictions of Appointment/Departmental Restrictions of Appointment Clearances Worksheet, shall be used for requesting clearances.
- Preparing SROA exemption requests following all criteria requirements listed in the SROA Policy and Procedures Manual and forwarding requests to the Personnel Operations Section analyst for review, consideration, final approval, an submission to the DPA.

- Ensuring that approved SROA clearance forms and approved SROA exemption requests are attached to all appointment documents which are not specifically exempted from SROA.

##### Personnel Operations Section Analyst's Responsibility

The Personnel Operations Section analyst is responsible for:

- Providing consultation to headquarter program staff and to the IPO regarding SROA requirements.
- Reviewing and approving SROA clearance requests for all headquarter programs.
- Reviewing, preparing, and forwarding SROA exemption requests received from either the facility or headquarter programs to the DPA.
- Ensuring that approved SROA clearance forms and approved SROA exemption requests are attached to all appointment documents that are not specifically exempted from SROA.

##### Hiring Supervisor's Responsibility

The hiring supervisory is responsible for:

- Following SROA policies and procedures.
- Completing a SROA clearance form or SROA exemption request and ensuring that it is submitted to either the IPO or the Personnel Operations Section analyst for processing.
- Ensuring that SROA clearance or exemption approval is received prior to making a hiring commitment for all appointments not specifically exempted from SROA.

##### SROA Exemption Requests

All SROA exemption requests shall:

- Provide sufficient information to support the exemption and meet all criteria requirements listed in the SROA Policy and Procedures Manual.
- Be signed by the appropriate hiring authority or any member of the Director's Executive Staff.
- Be forwarded to the Personnel Operations Section analyst for review and submission to the DPA. Requests for facilities shall be submitted to the IPO form submission to the Personnel Operations Section analyst.

#### 31060.7.2 Departmental Restriction of Appointments

The DROA process is intended to assist in the placement of surplus employees resulting from administratively approved program changes or budget-induced position reductions and to avoid a layoff.

This process applies to all appointments except:

- Emergency appointments.
- Mandatory reinstatements.
- Promotions in place that do not result in a true vacancy (e.g., Staff Services Analyst to Associate Governmental Program Analyst).

##### Departmental Placement Coordinator Responsibilities

The departmental placement coordinator shall:

- Publish and distribute the list of classes for which approval is required prior to appointment.
- Update the list as necessary.
- Upon notification from the IPO that a surplus exists, submit a memorandum to the LRB requesting union notification of the surplus.
- When the union has been notified, send an informational surplus employee memorandum to all employees in the affected classification(s).
- Review requests to fill vacancies on an exceptional basis or when no interest in the vacant position has been expressed by the DROA candidates.
- Take or recommend appropriate appointment actions.
- Actively monitor the voluntary placement of surplus employees to appropriately classified vacant positions.
- If necessary, work with the hiring authority, the Labor Relations Office and the appropriate control agencies to coordinate involuntary transfers and/or an employee layoff.

The informational surplus employee memorandum shall include a current list of vacancies in the affected employee's classification.

The employee will be given the opportunity to voluntarily seek a vacant position.

If voluntary placement options are unsuccessful, the employee shall be reassigned to a different location or a comparable classification in the same location.

### Institutional Personnel Officer Responsibilities

The IPO shall submit timely monthly lists of current and anticipated vacant positions for the classes on DROA directly to the departmental Personnel Officer.

Prior to filling a position listed on the restricted hiring list, the IPO shall take the following steps:

- Contact the IPO of the organization where the surplus exists to obtain the names and addresses of the employees on DROA.
- Send out a CDC Form 1486, Departmental Restriction of Appointment (DROA) Clearance and Waiver, to all affected employees. Telephone contacts may be made but shall be followed up with a CDC Form 1486.
- Secure approval to fill the vacancy from the Personnel Operations Analyst if no interest is expressed by the employees on DROA. This approval only applies to the DROA restrictions and is not intended to replace or supersede other hiring requirements. Such requests for approval may be by telephone but shall be confirmed in writing.
- Complete a CDC Form 1162, State of California Departmental Restriction of Appointments Confirmation Letter, for each classification.
- Submit a copy to the Personnel Operations Analyst within ten calendar days after verbal approval is received and to the IPO at the surplus institution for audit purposes.
- Retain a copy for the originator's files.

### Special Exceptions

Requests for exceptions (including LT and intermittent appointments) to this process shall:

- Be signed by the appropriate hiring authority or any member of the Director's Executive Staff.
- Be forwarded to the Personnel Operations Analyst for review and approval.
- Provide the following information:
  - The nature of the critical need and why identified DROA eligibles cannot meet the needs of the position.
  - A copy of the position duty statement.
  - The consequence if any exception is not granted.

The projected time frame for any employee to remain on the DROA list is approximately 120 days. Within this 120 days, the following activities take place:

- The classification is placed on DROA and frozen to preclude appointments to the class without obtaining appropriate DROA clearances.
- The Personnel Operations analyst notifies the employees in the affected class of the action while simultaneously notifying the LRB so they can notify the union.
- The Personnel Operations analyst actively monitors the placement of surplus employees to appropriately classified vacant positions. If the employee is not placed, they are given an official involuntary transfer notification 60 days prior to the proposed action.

### 31060.8 Peace Officer Designations

Certain departmental employees are designated as peace officers (see CCR (15)(3) 3291[b]).

#### Temporary Peace Officer Designations

Any person summoned to the aid of a uniformed peace officer shall be vested with such powers as are delegated by the summoning officer or as are reasonably necessary to properly assist such an officer.

Therefore, any employee officially assigned to act in the peace officer capacity of classifications listed in CCR (15) 3291(b) is a peace officer.

Employees assigned to perform peace officer duties or summoned to aid during an emergency are designated peace officers for the duration of the emergency or until relieved of peace officer duties.

#### 31060.8.1 Designating Additional

The Director is authorized by PC 830 to designate any non-listed employee as a peace officer. Performance of the following functions as a regular, on-going job requirement shall be a major determinant in designating non-listed employees as peace officers:

- Regular use of firearms with authorization to use deadly force and less-than-lethal devices for which specialized training is mandated.
- Transportation or supervision requiring arms and/or restraints of inmates outside of facility property.

- Investigation of felonies committed in prison as a major part of the employee's duties.
- Exercise of peace officer powers as applied to the general public as in the case of visitors or demonstrators.
- Regular supervision of a significant number of peace officers in the performance of their duties.

### 31060.8.2 Minimum Legal Standards for Peace Officer

*Revised July 19, 2012*

#### Appointments

Persons appointed to peace officer classifications shall meet all of the following minimum legal qualifications and standards prior to appointment:

- Be a citizen of the U.S. or a permanent resident alien who is eligible for and has applied for citizenship.
- Be 21 years of age or older.
- Be fingerprinted for purposes of search of local, State, and national fingerprint files to disclose any criminal record.
- Be of good moral character, as determined by a thorough background investigation.
  - Education: Equivalent to completion of the twelfth grade. Demonstrated by: (1) possession of a high school diploma issued by a U.S. Institution; (2) passing the California High School Proficiency test; (3) passing the General Education Development (GED) test meeting California high school graduation standards; or (4) possession of a college degree (Associate of Arts or higher) from an accredited college or university.

Note: Any accreditation or approval shall be from a state or local government educational agency using local or State government approved accreditation, licensing, registration, or other approval standards, a regional accrediting association holding full membership in the National Council for Private School Accreditation (NCPA), an organization holding full membership in the Commission on International and Trans-Regional Accreditation (CITA), an organization holding full membership in the Council for American Private Education (CAPE), or an accrediting association recognized by the National Federation of Nonpublic School State Accrediting Associations (NFSSAA).

This provision shall not apply to any public officer or employee who was employed, prior to the effective date of the amendment of GC Section 1031, made at the 1971 Regular Session of the Legislature, in any positions declared by law prior to the effective date of such amendment to be peace officer positions.

- Be free from any physical, emotional, or mental condition which might adversely affect the exercise of the powers of a peace officer. Physical condition shall be evaluated by a licensed physician/surgeon. Emotional and mental condition shall be evaluated by a licensed physician/surgeon or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

### 31060.8.2.1 Required For Peace Officers

*Revised June 29, 2017*

No person shall be appointed or begin training as a peace officer until a physical abilities test, background investigation, medical examination, and psychological screening have been completed and written clearance has been received from the Chief, Office of Peace Officer Selection (OPOS) or designee. For the Special Agent classification, the Deputy Director, OIA or designee shall make the final determination as to a candidate's clearance or withholding from candidacy for appointment.

#### Exceptions

The physical fitness test is required only for the Correctional Officer (CO), Youth Correctional Officer (YCO), and Youth Correctional Counselor (YCC) classifications.

A background investigation shall not be required if the applicant is:

- A peace officer currently employed by the Department.
- Being appointed by mandatory reinstatement to a peace officer classification.
- A retired annuitant who will be performing in an administrative capacity only.

### 31060.9 Peace Officer Recruitment, Evaluation, Testing, and Selection

*Revised December 27, 2010*

To ensure an effective and diverse peace officer work force, the Department shall:

- Actively recruit entrance-level applicants.
- Carefully evaluate, examine and test applicants prior to appointment, including:
  - List appointment.
  - Reinstatement.
  - Lateral Transfer.
  - T&D Assignment.
  - Other forms of appointment.

#### **31060.9.1 Office of Peace Officer Selection Functions**

*Revised June 28, 2017*

OPOS shall administer the following:

- Examinations for the CO, YCO, and YCC classifications.
- Physical fitness tests, background investigations, medical examinations, and psychological screenings pursuant to the requests of hiring authorities looking to appoint non-peace officer applicants to peace officer positions (see DOM Section 31060.9.3.3).
- Appointments of COs, YCOs, and YCCs from the eligible list.
- Reinstatements to the CO, YCO, and YCC classifications for cadets rejected from the Basic Academy.
- Coordination of requests for Criminal Identification and Information (CI&I) State Summary Criminal History (SSCH) from the State DOJ (see DOM Section 31060.18).

#### **31060.9.2 Peace Officer Recruitment**

*Revised June 28, 2017*

Various Federal and State laws, executive orders, and court decisions regulate California civil service employment and provide the basis for recruitment programs.

Peace officer recruitment shall be conducted by OPOS.

##### **Goals and Objectives**

The Department is committed to an aggressive EEO Program, recognizing the need to employ all segments of the population.

The Department intends to:

- Use to the maximum all available human resources.
- Provide EEO to all on the basis of merit and fitness, without regard to age, sex, race, national origin, religion, disability, sexual orientation, or political affiliation.
- Achieve and maintain a work force which represents by occupational group, responsibility level, and salary level the diverse ethnic and cultural groups found within the State.
- Attract qualified applicants to compete for appointment in the Department.
- Increase the overall effectiveness of our law enforcement community.
- Increase qualified minority group/affirmative action representation within the Department's law enforcement community.
- Enhance the Department's public image through advertising in all phases of the media, personal contacts with citizens in the community, and enlightening the public with regard to the operations of the Department.

#### **31060.9.2.1 Office of Peace Officer Selection Responsibilities**

*Revised June 28, 2017*

OPOS shall ensure the development and maintenance of a dynamic recruitment program to attract the most qualified applicants to compete in the selection process for entry-level peace officer classifications.

#### **31060.9.2.2 Institution/Parole Responsibilities**

*Revised December 27, 2010*

Division of Adult Institutions (DAI) and Division of Adult Parole Operations (DAPO) staff perform specific recruitment activities tailored to meet the needs of their respective communities as well as those with statewide impact.

#### **31060.9.3 Peace Officer Appointment Process**

*Revised June 28, 2017*

OPOS shall appoint qualified applicants to the CO, YCO, and YCC classifications. For each appointment, the hiring authority shall ensure that all legal and policy requirements are met prior to the effective date of the appointment.

#### **31060.9.3.1 Office of Peace Officer Selection Clearances**

*Revised June 28, 2017*

The hiring authority is to obtain the necessary OPOS clearances (see DOM Section 31060.8.2.1) prior to appointing any applicant who is not currently a departmental peace officer employee to a peace officer position by submitting CDCR Form 1923, Individual Service Request to the appropriate Selection Center.

#### **31060.9.3.2 Selection Center Service Areas**

*Revised June 28, 2017*

The Selection Centers, which are located in Sacramento, Fresno, and Rancho Cucamonga, shall provide assistance to the hiring authorities within the various regional service areas (see DOM Section 15090.2.10) as outlined below:

Northern Selection Center – Sacramento:

- Headquarters.
- CCC.
- CHCF.
- CMF.
- DAPO Northern Region.
- FSP.
- HDSP.
- MCSP.
- NACYCF.
- NCYCC.
- PBSP.
- SAC.
- SOL.
- SQ.

Central Selection Center – Fresno:

- ASP.
- CCWF.
- CCI.
- CMC.
- COR.
- CTF.
- DVI.
- KVSP.
- NKSP.
- PVSP.
- SATF.
- SCC.
- SVSP.
- VSP.
- WSP.

Southern Selection Center – Rancho Cucamonga:

- CAC.
- CAL.
- CEN.
- CIM.
- CIW.
- CRC.
- CVSP.
- DAPO Southern Region.
- ISP.
- LAC.
- RJD.
- VYCF.

#### **31060.9.3.3 Individual Service Request Process**

*Revised July 27, 2021*

(a) The Individual Service Request, CDCR Form 1923, shall be signed by one of the following: the IPO; Business Manager; Associate Warden, Business Services; Chief Deputy Warden; Warden; Parole Administrator; Regional

Parole Administrator; Assistant Deputy Director; Regional Administrator; Assistant Director; Deputy Director or designee. The signed CDCR Form 1923 shall be submitted to the Selection Center closest to the applicant's residence, Attn: Testing Unit Manager.

(b) The following shall be included with the signed CDCR Form 1923:

(1) State Examination/Employment Application (STD 678).

(2) Copy of applicant's driver's license.

(c) Upon notification by the OPOS Background Investigation Unit, applicants shall be required to submit the following items as instructed in the notification:

(1) Completed Personal History Statement questionnaire.

(2) Notarized "Authorization for Release of Information" agreement.

(3) Certified birth certificate or original naturalization certificate or approved USCIS Application for Certificate of Citizenship.

(4) Copy of marriage certificates or divorce decrees.

(5) Sealed and certified high school and college transcripts. Transcripts may be submitted via electronic mail directly from the educational facility, school district office, or by use of a secure transcript service.

(6) Copy of Proof of Valid Auto Insurance.

(7) Copy of Certificate of Release or Discharge from Active Duty (DD Form 214 (Member 4 – Long Form)).

(d) The Chief, OPOS, or designee, will notify the hiring authority by memorandum as to whether the clearance for hire is granted or withheld.

(e) If the hiring authority disagrees with the Chief, OPOS, the decision may be appealed to the Deputy Director, Peace Officer Selection and Employee Development (POSED). The hiring authority shall document the appeal in writing and submit it to the Deputy Director, POSED, for consideration and forward a copy of the appeal to the Chief, OPOS. The Deputy Director, POSED shall make a determination and forward copies of the decision to the submitting hiring authority and the Chief, OPOS.

#### **31060.9.3.4 Special Agent Individual Service Request Determinations and Appeals**

*Effective June 28, 2017*

OPOS shall conduct thorough background investigations for all OIA Special Agent candidates and compile a confidential, comprehensive background investigation summary for each candidate. The Deputy Director, OIA or designee shall review the background investigation summary along with the entire background investigation file and shall make the final determination as to the candidate's clearance or removal from consideration for appointment. Human Resources will determine candidate appointment eligibility prior to a Conditional Offer of Employment (COE). If the Deputy Director, OIA or designee determines that the candidate is cleared and the Deputy Director, OIA or designee makes a Conditional Offer of Employment (COE), the Deputy Director, OIA or designee shall provide a copy of the COE to the Chief, OPOS or designee for completion of the medical and psychological examination process. If the Deputy Director, OIA or designee determines that the candidate will be removed from consideration for appointment, the Deputy Director, OIA or designee shall notify the candidate. Human Resources shall be responsible for addressing all appeals concerning appointment eligibility. OPOS, in consultation with the Deputy Director, OIA or designee shall be responsible for addressing all appeals concerning result of background investigations.

#### **31060.10 Basic Academy**

*Revised March 20, 2020*

All appointees to the class of officer must attend the Basic Correctional Officer Academy (BCOA). Effective dates of appointments are to coincide with the first date of BCOA they are to attend.

##### **Exceptions**

Reinstating officers whose last departmental position was officer and whose break in service was less than one year. The Warden can require attendance if the training is deemed necessary.

Reinstating officers exempted from Basic Academy attendance by the Chief Deputy Director.

Officers reinstated because of a mandatory reinstatement. The Warden can require attendance if the training is deemed necessary.

#### **31060.10.1 Permanent Intermittent Officers**

*Revised December 27, 2010*

Permanent Intermittent (PI) Officers shall be given priority consistent with list eligibility or SPB Rule 277 for permanent full-time vacancies.

Within two weeks of the start of each Basic Academy, the OPOS will issue a notice to the Wardens of the eligibility standing of the PIs for full-time positions.

#### **31060.10.2 Hardship Transfers**

*Revised December 27, 2010*

Officers attending the Basic Academy requesting a hardship transfer shall submit a request to the Chief, OPOS. All other officers requesting a hardship transfer shall submit requests to the Warden of the proposed and the releasing facility. (See DOM 3310.21.1 for process.)

#### **31060.11 Good Faith Civil Service Appointments**

*Revised December 27, 2010*

A valid civil service appointment is made and accepted in "good faith" under the civil service statutes and SPB rules.

##### **To Make a Valid Appointment**

In order to make an appointment in "good faith," the Secretary and the designated hiring authorities shall meet the following requirements:

- Intend to observe the spirit and intent of the law.
- Make a reasonable and serious attempt to determine how the law is applied.
- Assure that positions are properly classified.
- Assure that appointees have civil service appointment eligibility.
- Intend to employ the appointee in the class, tenure, and location to which appointed under the conditions reflected by the appointment documents.
- Assure the Personnel Transactions staff have reference materials, training, and supervision necessary to avoid mistakes.
- Respect the rights and privileges of other persons affected by the appointment; avoid any appearance of coercing an eligible to waive rights to an appointment.

In order to accept an appointment in "good faith," an employee shall:

- Intend to serve in the class to which the employee is being appointed under the tenure, location, and other elements of the appointment as reflected by the appointment document.
- Provide the appointing power with complete factual and truthful information necessary for a proper appointment.
- Make a reasonable attempt to seek correction of any aspects of the appointment that the employee knows are illegal.

#### **31060.11.1 Sanctions for Violating Good Faith Requirements**

*Revised December 27, 2010*

Any officer or employee who knowingly violates or directs any officer or employee to violate these provisions shall be subject to any or all of the following:

- Adverse action.
- Civil sanctions.
- Criminal sanctions.

The SPB Executive Officer may cancel an illegal or improper appointment if lack of "good faith" exists on the part of either appointing power or employee.

#### **31060.12 Request to Appoint Into a Different Location**

*Revised December 27, 2010*

When making appointments to positions that are rostered in a different location than the hiring authority, the hiring authority shall use the agency code where the position is rostered on its internal appointment request document.

- This occurs, for example, when an employee of the Education and Inmate Programs Section works at the CIM, and the position is actually rostered in Sacramento County.
- This separate identification is critical for audits and seniority list requests. Seniority lists must accurately reflect all employees in affected classes and their locations.

#### **31060.14 Oath of Allegiance/Declaration of Permission to Work**

*Revised December 27, 2010*

The STD Form 689, Oath of Allegiance and Declaration of Permission to Work for Persons Employed by the State of California, shall be signed by every employee within thirty days of appointment.

##### **Citizen**

U.S. citizens shall sign the Oath of Allegiance; which shall be valid until the employee permanently separates from State employment. Validation may be made by the following:

- Executive staff, hiring authorities, personnel assistants, and those in the direct chain of command of the personnel assistants.

- Anyone who by law has the authority to administer oaths (i.e., public notaries; the Attorney General; judicial officers; and county officers like the DA, sheriff, county clerk, or justice of the peace).

No fee shall be charged by any person before whom the Oath is taken and subscribed.

#### **Noncitizen**

Non-citizen employees shall complete the Declaration of Permission to Work. If a legally employed non-citizen becomes a naturalized citizen, the Oath of Allegiance shall be completed.

#### **31060.15 Federal Employment Eligibility Verification**

*Revised December 27, 2010*

All applicants hired after November 6, 1986, shall complete and sign a U.S. Citizenship and Immigration Services (USCIS) Form I-9, Employment Eligibility Form, before being appointed.

Staff shall review and verify in accordance with directions on the back of the form.

The OPOS shall:

- Ensure completion, review and verification for all entry-level peace officer applicants including lateral transfers and reinstatements.
- Forward the completed forms to the appropriate local personnel/payroll office.

Local personnel/payroll officers shall:

- Ensure completion, review and verification of applicants for all other classifications.
- File and retain the forms (see DOM 31060.18).

#### **31060.16 Criminal Records Check**

*Revised September 2, 2021*

(a) A criminal records check is a requirement for employment with California Department of Corrections and Rehabilitation (CDCR) and includes:

- (1) Consent to be fingerprinted (live scanned).
- (2) Request for and review of the Criminal Identification and Information - State Summary Criminal History (CI&I SSCH).

(b) Process. If an appointment is expected, each applicant shall be live scanned pursuant to Department Operations Manual (DOM) section 31060.16.2 by personnel staff at the earliest possible time. For California Correctional Health Care Services staff, reference Health Care Department Operations Manual, Administrative Policy, Section 2.1 Live Scan Fingerprinting Policy and Procedure. Each live scan shall be processed as follows:

(1) The fingerprint images and personal information shall be transferred directly to the State of California Department of Justice (DOJ) through an automated transferal process made via the live scan device.

(2) A personnel staff member shall fax CDCR Form 3056, Request for Live Scan Service to the Office of Peace Officer Selection (OPOS) Live Scan Unit the day the applicant is live scanned.

(A) Note: On CDCR Form 3056, the facility or office region acronym shall be written in the space entitled "OCA No. of Receiving Location."

(B) The OPOS Live Scan Unit (LSU) shall forward the DOJ response to the originator of the request, i.e., the hiring authority or designee. The hiring authority or designee shall process the DOJ response pursuant to section 31060.16.3(f).

(c) The hiring authority or designee shall complete the CDCR Form 2164, Live Scan Response Form DOJ/FBI/Firearms provided by OPOS and shred the response from the State DOJ unless the response is a Record of Arrests and Prosecutions (RAP) sheet. If a RAP sheet is received, the RAP sheet is to be filed in a secure, confidential location by the hiring authority or designee.

(d) The hiring authority or designee shall review the DOJ responses for persons appointed to positions which allow them access to inmate records or Electronic Data Processing (EDP) terminals capable of accessing electronically stored inmate records.

#### **31060.16.1 Individuals Mandated for Live Scanning**

*September 2, 2021*

(a) Non-Sworn Personnel (NSP) – Employees in Non-Peace Officer classifications: those who are paid by the state.

(b) Peace Officer (PO) – Any Peace Officer classification including Retired Annuitants working in Peace Officer positions.

(c) All Contractors and Volunteers must be live scanned pursuant to DOM Chapter 10, Article 9.

(1) Contractors (CON) – Contractors, Sub-contractors.

(2) Volunteer (CON) – Per DOM section 101090.6.3 all provisional and regular volunteers receiving Volunteer Identification Cards (VIC) shall be live scanned.

(A) Provisional volunteers are those who provide their services under escort as determined by the Community Resources Manager and are subject to performance evaluation requirements.

(B) Regular volunteers are those who provide services on an ongoing basis and have completed six months of trial evaluation.

(d) Retired Peace Officers (RPO)/Carry Concealed Weapon (CCW) Permit – Any employee retiring and requesting a CCW permit shall be live scanned.

(1) Before live scanning an individual for a CCW permit/renewal, email the Live Scan Unit (LSU) to verify that a RPO record is not already on file. Per DOM section 31070.8.5, the CCW live scan is good for the life of the applicant, therefore when the CCW applicant returns to renew their permit every five years, the clearance information from the original live scan is sufficient to process the renewal.

(2) Each applicant requesting a new RPO live scan shall pay a CDCR \$68 processing fee. The \$68 payment is collected at the time of the live scan submission. CCW payments must be in the form of a check or money order, made to CDCR with a copy of the CDCR Form 3056 attached. Mail to the Southern California Regional Accounting Office (SRAO). Additionally, fax a copy of the CDCR Form 3056 to LSU.

#### **31060.16.2 CDCR FORM 3056 Request for Live Scan Service**

*September 2, 2021*

(a) A criminal records check is a requirement when an applicant accepts employment with CDCR. The applicant shall provide their appropriate identification and personal information when submitting the CDCR Form 3056 to the CDCR Live Scan Operator.

(b) The Live Scan Operator checks the applicant's identification, inputs the applicant's personal descriptor information, captures the applicant's fingerprints electronically, and transmits the data to DOJ. At the conclusion of the session, an Applicant Transaction Identifier (ATI) number shall be notated on the CDCR Form 3056 to identify the transaction.

(c) A staff member shall fax CDCR Form 3056 to the Office of Peace Officer Selection (OPOS), LSU the same day the applicant is live scanned.

#### **31060.16.3 Live Scan Components**

*September 2, 2021*

(a) Peace Officer (PO) and Retired Peace Officer (RPO)/Carrying Concealed Weapon (CCW) classifications have four components (Department of Justice (DOJ), Federal Bureau of Investigations (FBI), Firearms (FA), and Child Abuse Central Index (CACI).

(b) Non-Sworn Personnel, Contractor, and Volunteer classifications have two components (DOJ, FBI).

(c) All Division of Juvenile Justice (DJJ) staff must be live scanned under CACI.

(d) DJJ W/CACI Series – Non-Peace Officer, Volunteer, and Contractor classifications have three components. (DOJ, FBI, CACI).

(e) DJJ W/CACI Peace Officer classification has four components. (DOJ, FBI, Firearms, and CACI).

(f) The hiring authority shall be responsible for completing the CDCR Form 2164 and placing it in the applicant's Official Personnel File (OPF). All live scan responses unless there is a RAP sheet.

(g) If a DAI employee is transferring from one institution to another, send an inquiry to [CDCRLivescan@cdcr.ca.gov](mailto:CDCRLivescan@cdcr.ca.gov) to check for an active record on file.

(h) If a DJJ employee is transferring to a DAI facility, a CDCR Form 1797, No Longer Interested Notification, shall be submitted to the Live Scan Unit. The employee must be live scanned under DAI components DOJ, FBI and FA.

#### **31060.16.4 Record of Arrests and Prosecutions (RAP) Sheets**

*September 2, 2021*

(a) If the response is a Record of Arrests and Prosecutions (RAP) sheet or CACI response, the Institutional Personnel Officer (IPO) shall file a RAP or CACI sheet in a secured location in their office, not in the OPF.

(b) If the RAP/CACI sheet will be forwarded to the Warden or Superintendent, attach DOJ Form, Employee Statement, for signature.

(c) If an employee transfers to another facility, both the RAP and CACI shall be placed in a confidential envelope addressed to the IPO Manager of the receiving hiring authority.

(d) If the employee contractor or volunteer separates from CDCR, shred both the CACI and RAP sheet.

#### **31060.16.5 No Longer Interested Notifications (NLI) CDCR Form 1797**

*September 2, 2021*

(a) CDCR Form 1797, No Longer Interested Notification shall be submitted to the OPOS Live Scan Unit by the hiring authority for the following:

(1) Employees who are terminated, deceased, separated, or retired from the department.

(2) Contracted workers, volunteers, vendors, or other service providers whose services are no longer required by the department.

(3) Applicants who were fingerprinted but not hired by the department.

(b) When an employee, contractor, or volunteer separates from service, the hiring authority shall submit one of the following forms to the OPOS Live Scan Unit:

(1) CDCR Form 1797.

(2) Subsequent Arrest Notification stamped "No Longer Interested."

(3) DOJ/FBI RAP sheet stamped "No Longer Interested" (For OPOS Background Investigations Unit).

(c) If a Peace Officer/Non-Peace Officer employee transfers within the department, a CDCR Form 1797 is not required. When an employee separates from the department a CDCR Form 1797 is required.

(d) Pursuant to the California Penal Code section 11105.2, CDCR is required to notify the DOJ when it no longer has a legitimate interest in this subject, (i.e., the applicant is no longer interested, or was never employed; the individual's license or certification is denied or revoked; or the individual is no longer eligible to renew or re-instate the license or certificate.)

### **31060.16.6 Subsequent Arrest Notification/Firearms Restriction Notices**

*September 2, 2021*

(a) Once a CDCR employee has been live scanned, DOJ will send Subsequent Arrest Notifications or Firearms Restriction Notices to the LSU in the event the individual is arrested, detained, or a court disposition is rendered.

(b) These notifications shall be processed on the day they are received and a memorandum is forward to the Warden, Superintendent, Director, Regional Administrator, Correctional Administrator, or other qualifying Executive Management.

### **31060.17 Pre-Employment Documentation**

*Revised July 1, 2015*

The following records shall be on file in the local personnel/payroll office prior to appointment of an applicant:

- CI&I SSCH.
- Live scan.
- USINS Form I-9.
- Physical examination report.
- CDCR Form 1951, Supplemental Application for all CDCR Employees.

### **31060.18 Retention of Personnel Records**

*Revised July 1, 2015*

All applications; supplemental applications; personnel, membership, or employment referral records; and files of applicants shall be retained a minimum of two years in a confidential file.

Unsolicited applications are excluded from the retention requirement.

#### **Transferring Employees**

The following documents are retained in the separated employee's folder once the employee transfers:

- One copy of the CDC Form 647, Request for Personnel Action, or CDC Form 647-A, Request for Personnel Action-Institutions.
- One copy of the STD Form 612, Transfer Data Sheet.
- One copy of the CDCR Form 1951, Supplemental Application for all CDCR Employees
- CDC Form 648, Report of Separation.
- One copy of the separation checkout list (if used).

Other material in the Official Personnel Folder shall be purged according to the SAM 1670 and the remaining contents forwarded to the receiving location.

#### **Employment Eligibility Verification Forms**

USCIS Form I-9 shall be:

- Maintained in a file separate from the Official Personnel Folder.
- Retained for three years after the date of employment or for one year after termination of employment, whichever is later.

### **No Longer Interested Notification Forms**

A DOJ, CI&I Form 8302, No Longer Interested Notification (NLI) Form, shall be submitted to the OPOS Live Scan Unit by each personnel section on any of the following who were fingerprinted at the time of application or appointment:

- Employees who are terminated, separated, or retired from the Department.
- Contracted workers, volunteers, vendors, or other service providers whose services are no longer required by the Department.
- Applicants who were fingerprinted but not hired by the Department.

### **31060.19 Photographs**

*Revised December 27, 2010*

Current photographs shall be taken of all employees.

One photograph shall be used on the employee's personnel identification card (see DOM 31070).

One photograph shall be placed and retained in the employee's Official Personnel Folder.

#### **Responsibility**

The Personnel Transactions Section shall photograph headquarters' employees.

Facility personnel/payroll offices shall photograph facility employees.

Parole regions shall photograph their employees and forward one photograph to Personnel Transactions Section.

### **31060.20 Employee Exit Questionnaire**

*Revised December 27, 2010*

The Employee Exit Questionnaire (CDC 1144) is a tool designed to examine employee movement from and within the Department.

#### **Responsibility**

The responsibility for the Employee Exit Questionnaire rests with the Personnel Services Section.

On-site coordinators within each division, facility, and parole region shall be responsible for coordinating the distribution of the questionnaire to all employees transferring, leaving, or changing classifications. If the responsibility for coordinating the distribution of the exit questionnaire is reassigned, the name of the new survey coordinator shall be provided to the Personnel Services Section promptly.

Completion of the questionnaire is voluntary. Names shall not be used and a self-addressed envelope shall be provided for mailing the questionnaire directly to headquarters.

Information from the questionnaire shall be reviewed and evaluated by staff from the Personnel Management Branch. The results and findings of the questionnaire shall then be reported to management on a regular basis.

If an employee wishes, an exit interview may be made by the employee with the Personnel Services Section.

### **31060.21 Revisions**

*Revised December 27, 2010*

The Deputy Director, HR, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **References**

*Revised February 16, 2021*

CCR (2) (1) §§ 212, 258, 277, 300-304, and 599.810.

CCR (15) (3) §§ 3000, 3291(b), 3390, and 3404.

GC §§ 1029, 1029.1, 1031, 7290-7299.8, 12946, 12976, 18150, 18157, 18158, 18522, 19080-19083, and 21153.

PC §§ 830 and 830.6(b).

#### **Revision History:**

Revised: January 17, 2000.

Revised Sections 31060.9, 31060.10.1, 31060.10.2, 31060.11, 31060.11.1, 31060.12, 31060.14, 31060.15, 31060.19, 31060.20, and 31060.21: December 27, 2010.

Revised Section 31060.8.12: July 19, 2012.

Revised Sections 31060.3, 31060.5.5, 31060.17, and 31060.18: July 1, 2015.

Revised Section 31060.6.2: November 25, 2015.

Revised Sections 31060.9.1, 31060.9.2, 31060.9.2.1, 31060.9.2.2, 31060.9.3, 31060.9.3.1, 31060.9.3.2, 31060.9.3.3, 31060.9.3.4, 31060.16, and 31060.22: June 28, 2017.

Revised Section 31060.8.2.1: June 29, 2017.

Revised Sections 310

Revised Sections 31060.3 and 31060.22: February 16, 2021.

Revised Section 31060.9.3.3: July 27, 2021.

Revised Sections 31060.16, 31060.16.1, 31060.16.2, 31060.16.3, 31060.16.4, 31060.16.5 and 31060.16.6: September 2, 2021.

## ARTICLE 7 — PERSONNEL IDENTIFICATION CARDS

*Revised April 18, 2020*

### 31070.1 Policy

In order to maintain security and order within Department facilities and provide proof to other agencies and private citizens of an individual's relationship with the Department, departmental identification (ID) cards or memoranda shall be issued to employees, contractors, consultants, volunteers, advisory group members, and Department retirees.

### 31070.2 Purpose

This article specifies the procedural requirements for issue, retrieval, and control of departmental ID cards or memoranda.

### 31070.3 Definitions

For this article only the following definitions apply:

- (a) Employee: a person employed by the State of California, California Department of Corrections and Rehabilitation (CDCR).
- (b) Individual: an employee, volunteer, CDCR retiree, consultant, contractor, union representative, or advisory group member.

### 31070.4 Responsibilities

Local personnel offices shall:

- (a) Issuance
  - (1) Order, securely store, and issue ID cards.
  - (2) Verify completion of preemployment documentation (i.e., criminal records check, medical examination/health questionnaire, etc.). [See Department Operations Manual (DOM) Subsection 31060.]
  - (3) Maintain the hiring authority's record of issuance and retrieval of ID cards.
  - (4) Individuals shall complete and sign CDCR Form 894-A, Personnel ID Card Info, for each ID card issued to them. Individuals shall, while on duty and/or while on the grounds of a Department institution/facility, carry their identification cards on their person and produce the card upon request.

#### (b) Retrieval

Individuals shall surrender the ID card to their supervisors or local personnel offices under the following circumstances:

- (1) On or before the expiration date shown on the card.
- (2) Upon separation from the Department.
- (c) An employee transferring, promoting, or demoting within the Department shall retain the ID card until a new card is issued.
- (1) The receiving facility or headquarters shall collect and destroy the old ID card.
- (2) The receiving facility or headquarters shall email the sending location, notifying them of the date the ID card was destroyed.
- (3) The sending location shall record and maintain the date the ID card was destroyed.

#### (d) Tracking

Each hiring authority, by the local personnel, shall maintain a database, binder, or bound book for a record of information on the issue, return, and disposition of each ID card. This record shall include the following information:

- (1) Name of the individual.
- (2) Class title.
- (3) Date issued to the individual.
- (4) Serial number.
- (5) Signature of individual.
- (6) Public Employment Representative Board (PERB) or designation, (i.e., management, supervisory, confidential, rank and file, retired, temporary, or volunteer).
- (7) Expiration date.
- (8) Date the card is destroyed because of expiration, separation, transfer, promotion, demotion, or replacement issued because the card was lost, stolen, or mutilated.

### 31070.5 Features

#### (a) Photograph

New employees shall be provided an ID card with photo on the first day of employment with CDCR. Uniforms are prohibited for retired employee photos.

#### (b) Lamination

All identification cards shall be laminated.

#### (c) Titles

Civil service or exempt class titles shall be used on ID cards for all departmental employees with the exception of Career Executive Assignment positions in which case working titles are used. "Retired" will precede titles of retired employees.

#### (d) Borders (bold)

The title on each ID card has a corresponding colored border as indicated below:

- (1) Red=Management and confidential employees as defined in the California State Civil Service Pay Scales
- (2) Green=Temporary (contractors, consultants, casual laborers, non-CDCR)
- (3) Blue=Supervisory employees as defined in the California State Civil Service Pay Scales
- (4) Brown=Volunteers
- (5) Gold=Retirees
- (6) No Border=Non-Supervisory employees
- (e) Customized Artwork (bold)

The customized artwork for Peace Officers is the 7-point star. Artwork for Non-Peace Officer staff is the CDCR logo.

### 31070.6 Distribution

ID cards shall be distributed consistent with departmental standards.

### 31070.7 Lost Departmental Identification Cards

- (a) Any individual who loses the departmental identification (ID) card shall immediately report the loss by completing a Lost ID Badge form located on the Human Resources (HR) intranet site <http://intranet/ADM/DSS/hr/ops/Pages/Lost%20ID.aspx>.

(1) The completed form is to be signed by a supervisor and submitted to the hiring authority (HA).

(2) The HA will review the form and provide the signed Lost ID form to the Lost ID Coordinator.

(b) Each program is allowed two Lost ID Coordinators.

(1) The staff identified by the HA as Lost ID Coordinators will be provided access to the Department's HR intranet Lost ID site.

(2) If there are no Lost ID Coordinators, the HA shall click the "Request access to post Lost ID" link located on the Department's HR intranet Lost ID page. The link will open an email to CDCR HR Personnel Customer Service.

(c) The facility, parole region, or division Lost ID Coordinator, or HA if no Lost ID Coordinators are identified, shall:

(1) Post the information on the Department's HR intranet Lost ID page list to advise all departmental staff that the ID card has been reported lost.

(2) Send a notice to all other facilities advising of the loss. This notice shall include the individual's name and type of identification card, and any information relevant to possible misuse of the card.

(A) The notice shall specify: "Should anyone attempt to use the lost identification card to gain entrance to your facility, please confiscate the card and notify this facility/region/division at once."

(B) A copy of the notice that was sent to all facilities shall be included with the CDCR Form 894-A when requesting a replacement ID card.

(d) If a card is mutilated, lost, or stolen, a new card shall be issued immediately.

### 31070.8 Retired Peace Officer Carry Concealed Weapons Endorsement

(a) It is the policy of CDCR to allow honorably retired Peace Officers, who met the training requirement in Penal Code (PC) Section 832, and who qualified with the firearm pursuant to PC Section 25475, the privilege to carry a concealed weapon unless the privilege is denied or revoked by the agency from which they retired. PC Subsection 25460(c) requires the ID card of honorably retired Peace Officers who have applied for and been approved to carry a concealed weapon include a "Carry Concealed Weapon (CCW)" endorsement.

(b) It is the intent of the CDCR that all retiring Peace Officers who request a CCW endorsement and have not been excluded receive their retired ID cards with "CCW" endorsement on the last day of their employment.

#### 31070.8.1 Purpose

The purpose of this policy is to provide authorization for the issuance of a retired Peace Officer ID card with the endorsement authorizing permission to carry a concealed weapon, as well as provide an evaluation process to preclude or remove the CCW authorization from a retired Peace Officer excluded from lawfully or responsibly exercising the privilege to carry a concealed weapon.

#### 31070.8.2 CCW Endorsement Authority

(a) The approving authority for issuing the initial ID card with a CCW endorsement to a Peace Officer retiring from CDCR is delegated to the retiree's hiring authority, i.e., Wardens, Regional Parole Administrators (RPA), Deputy Directors (DD), or Associate Directors (AD). The



forementioned hiring authorities shall use the direction in this policy and good judgment to make the approval decisions.

(b) The authority to approve the renewal of previously approved CCW endorsements for all retired Peace Officers whose histories are clear of any disqualifying factors is delegated solely to the Captain, Emergency Operations Unit (EOU), Office of Correctional Safety (OCS). The EOU Captain has authority to deny the renewal of a CCW endorsement or revoke a previously approved CCW endorsement for any retired peace officer whose criminal, medical, or mental histories reflect any disqualifying factors.

### 31070.8.3 Initial Endorsement Procedures

Employees wishing to receive CCW endorsements on their retired Peace Officer ID cards shall submit the following documents to the Institutional Personnel Officer (IPO) (for institution employees), or the Chief, Office of Personnel Services (OPS), Headquarters CCW Liaison (HCCWL) (for headquarters and field office employees) 90-180 days prior to their retirement date:

- (a) CDCR Form 894-A.
- (b) CDCR Form 1051, Request to Carry Concealed Firearms and Questionnaire.
- (c) CDCR Form 1052, Endorsement to Carry Concealed or Loaded Firearm.
- (d) CDCR Form 1053, Authorization to Release Medical, Surgical, Psychiatric Care and Treatment Information. CDCR Form 1053 is only required for medical disability retirements and/or when the applicant answered "yes" to either questions 4,6,7 or 8 on the CDCR Form 1051.
- (e) CDCR Form 1054, Office of Internal Affairs, Carry Concealed Weapons Clearance Report.
- (f) CDCR Form 2164, Live Scan Response.
- (g) CDCR Form 3056, Request for Live Scan Service, with payment for all applicable fees.
- (1) Live scan fingerprints must be taken for all retirees requesting a CCW endorsement at the retiree's expense. Payment for all applicable fees is to be forwarded to the Southern California Regional Accounting Office (SCRAO), Attn: Cashier.
- (2) The live scan operator shall type "Retired Peace Officer" on the "Position Title of Applicant" line of the CDCR Form 3056.
- (3) The "OCA No. of Receiving Location" line shall have the institution's or unit's Originating Case Agency (OCA) acronym and the date entered (e.g. PBSP 06-15-07 or Reg. II 06-15-07).
- (4) The Live Scan operator will select the option "Retired Peace Officer/CCW Permit."
- (5) The Department of Justice (DOJ) processing fee of \$68 is required for new CCW live scans and shall be collected at the time of the live scan submission. The CCW payments must be in the form of a check or money order made payable to CDCR and attached to a copy of the CDCR Form 3056. Mail all documents to the SCRAO.
- (6) Fax the CDCR Form 3056 on the same day of the submission to (916) 255-3302 or email [CDCRLiveScan@cdcr.ca.gov](mailto:CDCRLiveScan@cdcr.ca.gov).
- (7) When "clear" responses are received by the institution or unit listed on the OCA line, the results shall be recorded on the CDCR Form 2164. The live scan results shall be included in the CCW application package for review by the hiring authority.
- (8) Upon approval of the CCW application, the "clear" live scan results shall be shredded. Live scan results with Record of Arrest and Prosecution (rap sheet) responses shall be recorded, kept and included in the application package for review by the hiring authority.
- (9) Contact the OPOS to check on pending live scan responses.
- (10) After the CDCR Form 1052 is signed and dated, the retired ID card with CCW endorsement is issued to the retiree. The original CCW application package shall be mailed to the EOU, OCS for retention. A copy is also retained by the hiring authority's Personnel Office.

#### 31070.8.3.1 Approval/Denial

(a) When the IPO or OPS HCCWL receives an initial CCW application from a retiring Peace Officer requesting a CCW endorsement, the IPO, OPS HCCWL shall perform the following procedures to process the application:

- (1) Review the employee's official personnel file (OPF) to identify any disqualifying factors for the hiring authority's consideration.
- (2) The IPO shall review the employee's Workers' Compensation case file for institution and parole employees. The OPS HCCWL shall ask the Employee Health and Wellness, Worker's Compensation Section to review the employee's Workers' Compensation case file, and report any factors/considerations.
- (3) Email CDCR Form 1054 to [CDCROIA.LitigationRequest@cdcr.ca.gov](mailto:CDCROIA.LitigationRequest@cdcr.ca.gov) mailbox for review by the Special Agent-In-Charge at the Office of Internal Affairs (OIA). OIA shall determine if the employee is currently under investigation for a prohibiting offense, indicating "clear" or "not clear" on the

CDCR Form 1054. If the response is "not clear," OIA shall document the case number on the CDCR Form 1054 and return it to the IPO/OPS HCCWL.

(b) Each of these reviews will determine if there are any of the following disqualifying factors/considerations:

- (1) Subsequent arrest notifications or Firearm Restrictions that indicate the employee has a disqualifying conviction or charge pending litigation.
- (2) The employee is retiring in lieu of termination (not being "honorably retired" per PC Section 16690 but rather "dishonorably retired"), whether or not CDCR chooses to take punitive action. An employee who knowingly retires while under investigation will be considered "dishonorably retired."
- (3) For violating any departmental rule, State or federal law, that if violated by an officer on active duty, would result in that officer's arrest, suspension, or removal from CDCR per PC Subsection 26305(d).
- (4) The employee's privilege to possess a firearm or to carry a concealed weapon has been revoked or is currently revoked.
- (5) The employee is under investigation for an offense that, if the charges were sustained, could result in an active employee's arrest, suspension, or dismissal from CDCR (PC Subsection 26305(b) (i.e., misdemeanor violations listed in PC Sections 29800-29875 and violent offenses listed in PC Sections 29900-29905).
- (6) The employee is retiring because the employee:
  - (A) has a psychological disability (PC Subsection 26305(a)).
  - (B) has been found to have a psychological disability in the adjudication of a worker's compensation claim.
  - (C) has a psychological condition indicated in any other document.

[Note: parts (B) and (C) are "factors" to be considered on a case-by-case basis.]

(c) The IPO/OPS HCCWL shall complete CDCR Form 1052 for submission to the hiring authority.

(d) The IPO/OPS shall fax the CDCR Form 1054 to the Special Agent-In-Charge (SAIC) at the Office of Internal Affairs (OIA). The OIA shall determine if the employee is currently under investigation for a prohibiting offense. The OIA shall document the information on the CDCR Form 1054 and fax it back to the IPO/OPS within two working days of receipt. If the response is "Not Clear", the OIA shall be contacted for information on which to base the approval or denial.

(e) The IPO/OPS HCCWL shall submit the completed CDCR Forms 1051, 1052, 1053, 1054, 2164, 894-A, DOJ, FBI, and Firearms results, and CDCR form 3056, Request for Live Scan, to the hiring authority for review. The CCW application package must also include all other documents upon which the decision will be based. For example, if it is a disability retirement, the California Public Employees' Retirement System (CalPERS) disability approval letter stating the medical condition would be required. The hiring authority will review the entire package and determine if the CCW endorsement is to be issued. A retired ID with CCW endorsement is to be issued on the day of retirement unless the employee has any of the listed disqualifying factors, or unless required information is still pending and/or the request was submitted less than 90 days prior to retirement. If responses have not been received within 30 days, contact OPOS LSU at [CDCRLivescan@cdcr.ca.gov](mailto:CDCRLivescan@cdcr.ca.gov) for a status check. The live scan submission process should be investigated to determine the problem. DOJ will not release any results until all 3 components are completed. The hiring authority can also show "good cause" to deny the CCW endorsement for reasons not outlined above, such as acts of violence or conduct that jeopardized the safety of the public, staff, or inmates. The hiring authority shall sign and date the CDCR Form 1052, approving or disapproving the application.

(f) If the CCW endorsement is approved, the IPO/OPS HCCWL shall:

- (1) Issue the CDCR retired ID card with the "CCW" endorsement on the back of the ID card and the notation "CCW Expires: *date*" under the picture of the retiring employee. Write the ID card number and expiration date on the CDCR Form 894-A.
- (2) The CCW expiration date is determined as five years from the date of retirement. If the retired Peace Officer did not apply for a CCW endorsement at the time of retirement, then applies at a later date and is approved, the CCW expiration date would be five years from the hiring authority's approval date.
- (3) Forward the entire application package to the EOU. The EOU CCW Coordinator shall review the CCW application package for quality control and add the retiree's name and information to the departmental CCW database.
- (g) If the CCW endorsement is denied, the hiring authority shall notify the employee by sending a registered letter containing the specific reason for denial and advise them of the appeal process, including the 15-day response time. The hiring authority will include a copy of the letter of denial, along with any supporting documentation upon which the decision was based, in the completed application package and forward it to the EOU.
- (h) An employee who has been denied may appeal in writing within 15 days following the receipt of the notice denying/revoking an endorsement to carry



a concealed weapon. Note one exception: If employee/retiree has been approved by CalPERS for disability retirements based on a psychological condition, they are not eligible to appeal the decision.

(i) The appeal shall be directed to the managerial level above the hiring authority issuing the denial. If the hiring authority issuing the denial reports to the Secretary, the appeal will be assigned to the Undersecretary of Administration for review and response. In the event the Undersecretary of Administration is the hiring authority issuing the initial denial, the appeal will be assigned to the Undersecretary of Operations for review and response. The appeal shall describe the reason(s) the decision to deny the endorsement should be reversed.

(j) The employee shall be notified in writing of the managerial decision. If the managerial decision upholds the CCW endorsement denial, the letter shall state the reason(s) why the denial is being upheld, outlining the process for the retiree to request a Good Cause Hearing (GCH) (unless a GCH is precluded by PC) and including the 15-day response time requirement (PC Subsection 26315(c)). A copy of the notice shall be provided to the EOU. If requested by the retiree, the EOU CCW Coordinator will setup and coordinate a GCH review panel pursuant to PC Section 26320. Retirees whose CCW applications have been denied and advised of the appeal process cannot reapply at a later date.

#### **31070.8.4 Other Requests for CCW Endorsements**

An honorably retired peace officer who did not request a CCW endorsement at the time of retirement and decides to obtain one later, may submit a request for a new retired ID card to the hiring authority who last supervised them. The retiree shall obtain, complete, and submit the same forms as listed in the previous subsection, including live scan fingerprints with payment for all applicable fees. The approval process shall be the same as outlined above. Upon approval or denial, the policy shall be followed as stated in the previous subsection.

#### **31070.8.5 Renewal of Endorsement**

(a) An honorably retired Peace Officer requesting the renewal of their CCW endorsement is to obtain and complete the forms listed below and submit them to EOU 60-90 days prior to the expiration date on their current retired Peace Officer ID card. A retiree may request renewal forms at any CDCR personnel office (institutions and headquarters) regardless of the hiring authority.

(b) That personnel office shall be responsible for:

- (1) Obtaining a current photo.
- (2) Verifying live scan prints are on file with OPOS LSU.
- (3) Processing CDCR Form 894-A, and
- (4) sending the entire application package to EOU CCW Coordinator for processing and approval by the EOU Captain.
- (c) The CCW renewal application shall consist of the following forms and documents:
  - (1) CDCR Form 894-A.
  - (2) CDCR Form 1051.
  - (3) CDCR Form 1052.
  - (4) CDCR Form 1053. Only required for medical disability retirements and/or when the applicant answered yes to either questions 4, 6, 7 or 8 on the CDCR 1051.
  - (5) CalPERS "approval of disability" letter if the retirement type is "disability."
  - (6) CDCR Form, 2164 and/or OPOS email verifying fingerprints are on file.
  - (7) Live scan fingerprints are required only once from each retiree, if the live scan was correctly submitted at the time of the initial CCW application.
  - (8) If they were correctly submitted for the initial CCW, they are no longer required.
  - (9) Email OPOS at [CDCRlivescan@CDCR.ca.gov](mailto:CDCRlivescan@CDCR.ca.gov) to verify the retiree's name and fingerprints are in the live scan database. Submit OPOS's verification email with the renewal CCW application.
  - (10) If the retiree's fingerprints are not in the database, the retiree must be live scanned with payment of all applicable fees. Note: If the fingerprints are deleted through the "No Longer Interested" process, there is no charge to the retiree for the re-live scan.
  - (11) See Subsection 31070.8.3 "Initial Endorsement Procedures" for live scan instructions.
  - (12) Enter "inst. - date" on the "Your Number" line.
  - (13) The OPOS Form 8016 must be faxed to the OPOS by the Live Scan operator or retiree.
  - (14) At least the DOJ and FBI responses must be received back prior to forwarding the renewal package to the OCS.
  - (15) CDCR Form 2164 is included only if Live Scan is required.
- (d) The EOU CCW Coordinator shall review the documents. The renewal application shall be approved, unless there is good cause to deny/revoke for

reasons outlined in Subsection 31070.8.3.1 of this policy. If the application is approved, the Captain, EOU, shall sign the CDCR Form 1052. The approved 1052 will be scanned/emailed or faxed to the location where the retiree will be issued a new retired ID card, with CCW endorsement. The expiration date is calculated as five years from the date of approval. That expiration date and the ID number shall be written on CDCR Form 1052 by the Personnel Office and faxed or scanned/emailed back to the EOU for entry into the database.

(e) If, for administrative or procedural purposes, an extension of the privilege to carry a concealed firearm is necessary, the Captain, EOU, may authorize an extension of up to 90 days.

#### **31070.8.5.1 Denial of a Request for Renewal or Revocation of**

(a) If the CCW renewal application is denied, upon request, a Good Cause Hearing panel will be convened, if eligible for appeal.

(b) If the CDCR receives a subsequent arrest notification from DOJ that reflects that a retiree with a CCW endorsement or a retiree requesting renewal of a CCW endorsement has been arrested or convicted of a prohibiting offense, the report is to be referred to the EOU. The EOU shall determine if the CCW endorsement is to be revoked or the renewal denied.

(c) If the CCW endorsement is to be denied or revoked, the EOU shall notify the retiree in writing of the action and advise the retiree of the appeal process, if eligible. The EOU shall inform the retiree that the card is no longer valid and direct the retiree to immediately surrender their CCW endorsed retired ID card to a CDCR facility, where they shall have a new retired ID card issued without the CCW endorsement.

(d) A retiree who has been denied may appeal in writing following the same procedure and time constraints delineated in this policy for the denial of an initial application. During the appeals process, the CCW endorsement is NOT valid. If a CCW application is denied and the retiree has completed the appeal process, a CDCR Form 1797, No Longer Interested (NLI), shall be submitted to OPOS LSU.

#### **31070.8.6 Firearms Qualifications**

Every PC Subsection 830.5 honorably retired correctional Peace Officer who has been issued a CCW endorsement shall qualify annually with the concealed firearm, beginning in the calendar year of the date of issue. Those correctional Peace Officers listed in PC Subsections 830.2(d)(1) and (2) are exempt from this requirement.

#### **31070.9 Revisions**

The Deputy Director, Human Resources; the Chief, Office of Correctional Safety; or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **References**

CCR, Title 15, Division 3, Sections 3291 and 3414.

DOM Sections 31040, 31060, 33010, and 55050.

PC Sections 830.2(d)(1), 830.2(d)(2), 830.5, 16360, 16690, 25455(c), 25460(c), 25470, 25475, 26300-26325, and 29900-29905.

#### **Revision History**

Revised: October 3, 2013.

Revised: April 18, 2020.

Revised Section 31070.8.3.1(i): November 5, 2021.

### **ARTICLE 8 — LEAVE CREDIT AND OVERTIME MANAGEMENT**

*Revised November 12, 2014*

#### **31080.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) shall manage employee leave credits and overtime use in a manner that provides efficient control, accountability, and fiscal responsibility.

#### **31080.2 Purpose**

This Article provides standard policy and practices to ensure that CDCR employees understand their roles in the efficient management and use of leave credits and overtime.

Included in this Article are directives to ensure that employee overtime is allowed only when required to provide the safe and efficient operation of the CDCR.

If any provision in this Article is in conflict with collective bargaining agreements, the collective bargaining agreements shall prevail as they relate to the specific represented group.

#### **31080.3 Definitions**

##### **Sick Leave**

Sick leave is the absence of an employee or qualifying family member due to illness or injury, which is serious enough that the employee is unable to work.

## Vacation

Vacation is planned time off work with pay, using accrued vacation or annual leave credits, or other leave credits, excluding sick leave. The limit on the number of hours that may be accumulated during a calendar year is established by:

- The appropriate collective bargaining agreement for represented employees.
- Department of Personnel Administration (DPA) rules for non-represented employees.

## Holiday

Official State Holidays are those days declared in accordance with DPA rules or by gubernatorial proclamation. Provisions are applied in accordance with DPA rules and applicable collective bargaining agreements.

## Overtime

Overtime is critical and unavoidable work scheduled outside of the normal work hours of an employee, for which payment is at a higher level than usual earnings as defined in the various collective bargaining agreements for represented employees, or by the Fair Labor Standards Act (FLSA) for non-represented employees.

Depending upon their Work Week Group (WWG) designation, managers and employees exempt from FLSA or collective bargaining agreement provisions may not be eligible for overtime compensation regardless of the number of hours worked.

### 31080.4 Institutional Overtime/Sick Leave Management Review Process

Each Warden shall establish an Overtime/Sick Leave Management Review (OSLMR) Process. In this process, managers and employees from custody and business services shall meet and evaluate the institution's custody overtime management and sick leave use on a daily basis. The Warden or designee shall chair the OSLMR meeting. The managers and employees shall assess the institution's progress toward reducing overtime and sick leave usage reduction goals, in accordance with this Article, and review all overtime expenditures on a monthly basis.

In order to document the OSLMR, managers and employees shall maintain meeting minutes. The minutes shall include the date of the meeting, participants' names and civil service classifications, and the general findings/actions. The minutes shall not include confidential employee information.

### Sick Leave Management Duties

The managers and employees shall review absences from the previous day to determine if coverage was appropriate and shall:

- Assign specific supervisors the responsibility for following-up on the welfare of an employee who appears to be developing a recognizable pattern of sick leave use/abuse (e.g., frequent days in conjunction with weekend/regular day off), or for any other reason as determined by the review process.
- Update the Bargaining Unit 6 Extraordinary Use of Sick Leave (EUSL) list to include those employees who have established a pattern of extraordinary sick leave use/abuse pursuant to the collective bargaining agreement. The agreement specifies that a pattern of "Extraordinary Use of Sick Leave" exists if an employee has more than five (5) occasions of sick leave usage which total nine (9) or more days of sick leave use within the prior twelve-consecutive-month period. Or, if an employee has three (3) or more separate occasions of sick leave in the prior twelve-consecutive-month period in conjunction with his/her established regular days off. Or an employee attempts to use sick leave on a date which the employee previously requested a different form of leave covered by the collective bargaining unit agreement, but was denied. Employees who participate in the Annual Leave Program shall not be placed on the EUSL. Sick leave used under the Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), or California Labor Code (LC), Section 233 shall not be considered when determining if a pattern of extraordinary use of sick leave exists.

### Overtime Management Duties

The OSLMR shall review the previous days' use of overtime due to unplanned absences to determine if all reasonable alternatives were considered before overtime was authorized, and if overtime was necessary to maintain the safe and efficient operation of the institution/region or affected area.

This review will utilize information from the Watch Office Tracking System, Personnel Post Assignment Schedule System, and any other available information, which would provide relevant data.

### 31080.5 Non-institutional overtime/sick leave management

In areas other than institutions/facilities (e.g., Parole Regions; Headquarters; Health Care Services operations within institutions) where overtime and sick leave usage are high, a review process similar to that of the OSLMR shall be utilized to monitor these activities on a monthly basis.

### 31080.6 Institutional Overtime Avoidance Pool

Each institution shall develop an Overtime Avoidance Pool (OTAP) consisting of permanent full-time employees. The number of permanent full-time employees in the OTAP will vary by institution and must be re-evaluated and adjusted regularly (at least quarterly) based on the needs of the institution. The number of OTAP permanent full-time employees needed in a specific classification at an institution is determined by:

- Establishing the average number of permanent full-time employees, by watch and classification, who have been absent during the previous 12-month period due to the following:
  - Long-term sick.
  - Industrial Disability Leave.
  - Non-Industrial Disability Leave.
  - Other extended leave.
- Adding this average to the fewest number of daily sick calls, by watch and classification, in the prior six-month period.
- Subtracting the number of sick leave relief positions already established and filled in those classifications with budgeted sick leave relief.
- Adding the fewest number of overtime positions paid on a daily basis for ongoing assignments, which are in addition to the Post assignment schedule in the previous three months. (Examples might include: transportation, hospital guarding.)

#### 31080.6.1 Appointment Of The Overtime Avoidance Pool

The Personnel Office shall make appointment of OTAP positions in the following order:

- Into vacant positions not identified in the Institutional Vacancy Plan or otherwise identified as "salary savings" as defined in collective bargaining agreements.
- Into Institutional Vacancy Plan or "salary savings" positions.
- Into the 902 Temporary Help Blanket.

OTAP employees shall be assigned to specific watches with varied hours and regular days off and used exclusively for overtime avoidance.

### 31080.7 Leave Credit/Overtime Appointing Authority Responsibilities

Each appointing authority shall have overall responsibility for the management and control of employee leave credit (holiday, vacation, annual leave, sick leave, and other accrued leave) use and overtime management in his/her assigned area of responsibility, and shall:

- Ensure that all managers and supervisors are informed of leave credit, overtime management, and vacation scheduling procedures as outlined in this Section, collective bargaining agreements, DPA rules, all applicable laws and rules including, but not limited to, FLSA, FMLA, CRFA, and LC, Section 233.
- Provide managerial oversight of the sick leave, vacation, overtime, and vacancy management process to ensure that it is applied in a fair and consistent manner which conveys to all employees the importance of prudent leave credit use.
- Ensure employees are allowed to use leave credits consistent with their classification, budgeted relief, and operational considerations relative to the efficient operation of the institution and impacted work areas.
- Ensure that vacation/annual leave balances are monitored so that employee leave balances shall not exceed the maximum allowable. When it is determined that an employee's balance has or will exceed the maximum allowable, additional opportunities to take time off during the calendar year shall be allowed.
- Ensure that sufficient OTAP positions are established and filled in order to cover anticipated absences above the budgeted relief.

#### 31080.7.1 Manager and Supervisor Responsibilities for Leave Credit and Overtime

*Revised October 15, 2020*

(a) Each manager and supervisor shall have direct responsibility for the management of employee leave credit use and overtime management in their assigned area of responsibility and shall:

- (1) Be knowledgeable of all aspects of CDCR's leave credit and overtime management policy including vacation scheduling, sick leave, leave balances, and overtime approval processes.

- (2) Be knowledgeable of all applicable laws, rules, regulations, California Government Code, and collective bargaining agreements.
- (3) Ensure that employees are aware of the process to request and schedule holiday, vacation, or other leave in accordance with this Article.
- (4) Ensure the Family and Medical Leave Act (FMLA) Coordinator is notified of any employee's need for FMLA or CFRA and have the employee complete CDCR Form 3051, Employee Request for Family and Medical Leave Act (FMLA) California Family Rights Act (CFRA) and/or California Pregnancy Disability Leave (PDL), or complete the form on the employee's behalf if the employee is unable to do so. If the employee is absent for more than three consecutive days of work, the manager or supervisor shall immediately complete the CDCR 3051 and send to the FMLA Coordinator. The employee must be notified of their eligibility for FMLA or CFRA within five business days.
- (5) Provide that all budgeted positions (not designated for salary savings or included in the Institution Vacancy Plans) are established, filled, and scheduled to cover employee absences in such a manner as to avoid unnecessary overtime expenditures.
- (6) Pre-approve all overtime and ensure that every alternative has been considered prior to granting overtime approval.
- (7) Designate the level of approval required for authorizing overtime.
- (8) Determine the maximum number of employees in various classifications that can take vacation and/or holiday leave at the same time within the assigned work areas. For posted positions, the budgeted relief for those positions determines this number. If an MOU contains different requirements, the MOU will take precedence.
- (b) Sick leave management responsibilities include, but are not limited to:
  - (1) Monitoring the effect of sick leave related absenteeism within the assigned work area in order to mitigate this effect whenever possible.
  - (2) Maintaining accurate records of employee absences relating to sick leave and evaluating these absences to determine if there is a developing pattern of use or abuse, which needs to be discussed with the employee.
  - (3) Speaking to employees who call in sick and at that time, when appropriate, notify the employee that verification from a physician or other licensed health care provider must be submitted in accordance with collective bargaining agreements and all other applicable laws, rules, and regulations.
  - (4) Redistributing the absent employee's workload, when necessary, to ensure that priority work is completed on time.
  - (5) Ensuring that CDCR Form 998-A, Employee's Record of Attendance is received from each employee, as required, and substantiation attached where applicable. Review and approve the employee's CDCR Form 998-A for use of leave credits only after having ascertained that the absence is for an authorized reason. If disapproved, the reasons for the disapproval will be given to the employee in writing.
  - (6) Setting a good example for employees by using sick leave only when absolutely necessary for personal and family health care needs.
- (c) Vacation, annual, and holiday leave credit management responsibilities include, but are not limited to:
  - (1) Reviewing the list of vacation, annual, and holiday leave credit balances issued by the Personnel Office for employees assigned to their work areas. Ensure leave reduction plans are submitted during vacation request or bid timeframes for employees who are near or over the maximum allowable number of accrued leave credits. Leave reduction plans must be completed and submitted on CalHR Form 138, Leave Reduction Plan.
  - (2) Ensuring employees who are near or over the maximum allowable number of accrued leave credits are requesting more leave than an employee accrues in a year.
  - (3) Returning all leave reduction plans that do not have enough leave requested to the employee for revision.
  - (4) Providing operational oversight for the leave system within their assigned area.
  - (5) Monitoring leave credit balances and encouraging employees to use accrued leave credits throughout the calendar year to ensure accrued balances remain within the established maximum limits without adversely affecting the safe and efficient operation of the work area.
  - (6) Approving requests for leave in accordance with departmental policy and procedures; the provisions of collective bargaining agreements, laws, rules and regulations; and operational need and constraints imposed in the case of licensed employees. A written notice of approval to take leave shall be provided to employees at the time of approval.
  - (7) Routing documentation of the denial to the Hiring Authority or their designee for awareness and continuing to work with the employee to identify and review alternate dates and times, in instances where an employee's leave reduction plan must be denied due to operational needs.
- (d) For institutions allowing requests for holiday leave, the following shall apply:

- (1) Designate whether requests from Correctional Officers, Sergeants, or Lieutenants to use holiday leave credit will be submitted in writing or by telephone.
- (2) Written requests will be time and date stamped or noted upon receipt.
- (3) Telephone requests will be recorded electronically using a system which specifies the time the message was received.
- (4) A file or log shall be maintained noting the time and date each request was received and whether it was approved or placed on a standby list. Designate the location(s) where employees shall submit requests or the telephone number employees shall call to request approval to use leave credit.
- (5) Ensure that approval for an employee to use holiday leave credit does not result in overtime being required (except in an institution when a first watch commander is absent on holiday time off).
- (e) Overtime management responsibilities include, but are not limited to:
  - (1) Maintaining accurate records of employee overtime used and track the reasons overtime was required.
  - (2) Requesting or authorizing overtime only after ascertaining that there is an absolute need affecting the safe and/or efficient operation of the institution, facility, region, department, or work area.
  - (3) Ensuring that work is distributed in such a manner as to avoid the need for overtime except in rare, unforeseen circumstances.
  - (4) Ensuring all overtime is pre-approved by a designated manager or supervisor who will ensure that every other alternative has been considered prior to granting overtime approval. Within an institution, being ordered to stay on post beyond the normal end of shift or scheduled to work overtime by the Watch Office, Correctional Sergeant, or Lieutenant constitutes pre-approval.

### **31080.7.2 Leave Credit/Overtime Personnel Office Responsibilities**

#### **The Personnel Office is responsible for the following:**

- Submitting STD Form 607 to establish all budgeted positions.
- Providing Department Heads, major Work Area Managers, and the Institutional Personnel Assignment Office with a monthly listing of employees who report to them and the accrued leave balances of those employees.
- Verifying FMLA/CFRA eligibility and sending appropriate notices to employees within the required timeframe. Once a request has been received from either the employee or his/her supervisor, a notice of eligibility must be mailed to the employee within five (5) business days.
- Verifying that all employees are charged appropriate leave credits for time used.

#### **Vacation Leave**

- In the institutions, forwarding a list to the Personnel Assignment Office by October 1 of each year, of the current accrued vacation/annual leave balances for Correctional Officers, Sergeants, and Lieutenants. This listing will be used during the annual vacation time bidding process.

#### **Overtime Management**

- Ensuring that overtime is recorded accurately and appropriate payments are made to employees.

#### **Holiday Leave**

- Informing all employees of any additional holidays declared by gubernatorial proclamation.

### **31080.7.3 Institutional Leave Credit/Overtime Personnel Assignment Office Responsibilities**

The Personnel Assignment Office has the responsibility to establish and fill all Correctional Officer, Sergeant, and Lieutenant posts including relief (with the exception of those in the Institutional Vacancy Plans). The Personnel Assignment Office shall schedule Correctional Officer coverage for long-term sick, long-term vacancies, vacations, or any other vacancy for which there is sufficient advance notice. Such coverage shall be assigned in such a manner as to avoid overtime whenever possible.

#### **The Personnel Assignment Office shall have the additional following responsibilities:**

##### **Sick leave**

- Provide coverage for pre-scheduled/pre-approved Correctional Officer, Sergeant, and Lieutenant sick leave absences longer than one week in duration.

##### **Vacation leave**

- Conduct the vacation bid process and then track the vacations for the Correctional Officer, Sergeant, and Lieutenant classifications.
- Ensure that the coverage provided for posted position vacations is consistent with the budgeted relief for the respective classification.

### **31080.7.4 Institutional Leave Credit/Overtime Custody Captain Responsibilities**

#### **Vacation**

The Custody Captain has the overall responsibility for the annual vacation bidding process for Correctional Officers, Sergeants, and Lieutenants as specified in the collective bargaining agreements and this Article of DOM.

#### **Holiday**

The Custody Captain will approve holiday time off for Correctional Lieutenants and Sergeants based on the number of holiday relief positions assigned by watch and day and/or the availability for cross coverage. Requests for time off will be submitted to the Custody Captain through the normal chain of command.

### **31080.7.5 Institutional Leave/Overtime Watch Office Responsibilities**

Filling behind leave that has not been pre-scheduled/pre-approved. The Watch Office is responsible for the daily coverage for Correctional Officers, Sergeants, and Lieutenants who call in sick or for any other unplanned absence, using resources in the following priority order:

- Internal coverage (i.e., reassignment of employees when post workload has been temporarily eliminated, such as when there are no inmates on the facility yard due to a lock down).
- Utility days.
- OTAP (including Retired Annuitants).
- Other budgeted reliefs not already assigned to cover a post for that day (e.g., sick leave, vacation, or holiday).
- Permanent Intermittent Employee (PIE).
- Voluntary Overtime.
- Involuntary Overtime.

**The Watch Office is responsible for:**

#### **Sick**

- Taking daily sick calls from Correctional Officers, Sergeants, and Lieutenants.
- Notifying employees when a medical verification is required.

#### **Holiday**

- Handle the day-to-day administration and approval of holiday time off for Correctional Officers based on the number of holiday relief positions assigned by watch and day.

#### **Overtime**

- Ensure that voluntary and involuntary overtime is administered according to the provisions of the specific collective bargaining agreements and the regulations of the specific WWG regarding FLSA.

### **31080.7.6 Institutional Leave Credit/Overtime Correctional Officer Responsibilities**

The Correctional Officer's responsibilities are as follows:

#### **Holiday**

- Making every attempt to use holiday credit within twelve months of accrual.
- Providing written notice at least forty-eight (48) hours prior to canceling approved holiday leave.

### **31080.7.7 Institutional Leave Credit/Overtime Food Manager Responsibilities**

The Correctional Food Manager/Assistant; Food Manager/Supervising Cooks are responsible for the following:

#### **Overtime**

- Scheduling daily coverage for Supervising Cooks I who call in sick or for any other unplanned absence.

### **31080.7.8 Institutional Leave Credit/Overtime Health Care Services Designated Supervisor Responsibilities**

The Designated Supervisor at Institutional Health Care is responsible for the following:

#### **Sick**

- Taking daily sick calls from health care employees, notifying employees when a medical verification is required, and for providing daily coverage for those vacancies created by the sick call, as necessary.

#### **Overtime**

- Scheduling daily coverage for Nurses who call in sick or for any other unplanned absence. When there is no designated supervisor for Health

Care Services on duty, (i.e., first watch) the Watch Office may assist in arranging coverage for MTAs and Nurses.

### **31080.7.9 Leave Credit/Overtime Employee Responsibilities**

The employees' responsibilities are as follows:

- Submitting a completed, signed CDCR Form 998-A, Employee's Attendance Record, which accurately reflects all leave taken during the month, to the Personnel Office on or before the third working day after the end of the pay period, in which the leave was taken.
- Ensuring that he/she has sufficient accrued leave credits to cover a planned absence.

#### **Sick**

- Ensuring that all sick leave requested is necessary to provide for personal medical needs or that of a qualifying family member.
- Ensuring that all sick leave requested is for an authorized reason based on laws, (including, but not limited to, FMLA, CFRA, LC 233) policy, regulations, or collective bargaining agreements.
- Providing medical verification when instructed to do so in accordance with laws, policy, regulations, or collective bargaining agreements.

#### **Vacation**

- Submitting a vacation request each year following the established procedures for their classification and/or assignment.
- Monitoring accrued vacation/annual leave balances and ensuring that sufficient vacation time is requested so that accrued balances do not exceed established maximums.

#### **Overtime**

- Working overtime only if this is pre-approved by the designated supervisor.

Employees who have questions about leave usage may contact the Personnel Office for further information.

### **31080.8 Leave Scheduling**

Leave scheduling shall:

- Be consistent with the needs of the work area.
- Ensure an adequate work force to maintain the security and/or operation of the work area.
- Be by seniority as defined in applicable collective bargaining agreements or DPA rules for non-represented employees.

#### **31080.8.1 Vacation**

*Revised March 24, 2022*

The following process shall be followed for requesting and/or approving vacations:

##### **(a) Correctional Officers**

(1) The Personnel Assignment Office shall publish a schedule of available vacation periods by October 1 of each year. The length of vacation periods may vary from institution to institution (e.g., one week, two weeks, or three weeks). Each institution will determine the vacation periods based on the number of Correctional Officers (COs) and the number of vacation relief positions established in the budget.

(2) Vacation request forms shall be made available to COs by October 1 of each year, which must be completed and returned to the site designated on the form within 30 calendar days of issuance. It is the responsibility of all employees to complete and submit a vacation request form each year. COs shall make their selections on the vacation request form by numbering the periods they desire in descending order of priority (e.g., first choice is numbered "1," second choice is numbered "2").

(3) Correctional Sergeants assigned to posts for which there is no budgeted vacation relief shall participate in the vacation bidding process along with all other Correctional Sergeants. No later than 30 calendar days before the time of the approved vacation, if it is determined that they will still be assigned to such posts at the time of their approved vacations, those vacation periods will open up as standby vacations for other institutional employees.

(4) The approved vacation schedule will be posted by December 1 of each year. Once an employee has been given an approved vacation period, they may not trade that vacation period with another employee as a mutual swap.

(5) COs may notify the Personnel Assignment Office if they wish to cancel approved vacations by submitting a written request no less than 30 calendar days prior to the scheduled vacation.

(6) After the annual vacation bidding process is completed, COs may submit requests for additional vacations should additional vacation periods, known as "standby vacations," become available due to cancellations, retirements, promotions, separations, transfers, or other circumstances.

**(b) Correctional Sergeants and Correctional Lieutenants**

(1) The Custody Captain shall publish a schedule of available vacation periods for all Correctional Sergeants and Lieutenants by October 1 of each year.

(2) Vacation request forms shall be made available to Correctional Sergeants and Lieutenants by each October 1. These forms must be completed and returned to the site designated on the form within 30 calendar days of issuance. It is the responsibility of all employees to complete and submit a vacation request form each year. Correctional Sergeants and Lieutenants projected to exceed the maximum accrual of vacation or annual leave credits in the scheduled calendar year must complete a vacation request form with a leave reduction plan.

(3) Correctional Sergeants assigned to posts for which there is no budgeted vacation relief shall participate in the vacation bidding process along with all other Correctional Sergeants. No later than 30 calendar days before the time of the approved vacation, if it is determined that they will still be assigned to such posts at the time of their approved vacations, those vacation periods will open up as standby vacations for other institutional employees.

**(4) No-Relief Post Lieutenants Vacation Scheduling**

(A) Lieutenants assigned to No-Relief (NR) posts shall submit vacation requests to the hiring authority or designee for review and approval.

(B) The following lieutenant positions are designated as NR Posts:

1. Assignment or Time Management,
2. Inmate Assignments,
3. In-Service Training,
4. Investigations, and
5. Public Information Officer or Administrative Assistant

(C) In the event a lieutenant assigned to a NR post is subsequently reassigned to a post with relief, all preapproved vacation requests shall be honored in the new assignment.

(D) If a lieutenant with preapproved vacation is reassigned from a NR post, overtime shall only be utilized for coverage behind the reassigned lieutenant's vacation if no relief is available to cover.

(5) Correctional Sergeants and Lieutenants shall be assigned vacations on a seniority basis. Remaining vacation periods shall be assigned without consideration of seniority to Correctional Sergeants and Lieutenants who fail to submit a vacation request form or improperly complete the form. The approved vacation schedule shall be posted by December 1 of each year.

(6) Correctional Sergeants and Lieutenants may request to cancel approved vacations by submitting a written request to the Custody Captain through the normal chain of command no less than 30 calendar days prior to the approved dates. Correctional Sergeants and Lieutenants projected to exceed the maximum accrual of vacation or annual leave credits in the scheduled calendar year shall not be permitted to cancel vacations unless alternate vacation periods can be accommodated.

(7) After the annual vacation bidding process is completed, institutional employees may submit requests for additional vacations should additional vacation periods, known as "standby vacations," become available due to cancellations, retirements, promotions, separations, transfers, or other circumstances.

**(c) Standby Vacations for Correctional Officers, Correctional Sergeants, and Correctional Lieutenants**

(1) Standby vacations for which there are no existing bids shall be offered to employees in the following priority order:

(A) Employees whose vacation or annual leave credits are over the established maximum limits or are projected to go over these limits by the end of the calendar year, shall be notified by and required to submit a leave reduction plan to the designated manager or supervisor. These employees shall have first priority for standby vacation periods with the highest priority being given to employees with the highest leave balances.

(B) Employees who had not been awarded vacations during the bidding process (transfers-in, employees who had not yet completed six months of state service, employees who were off on long-term sick leave, NDI, or IDL, etc.).

(C) Employees who had requested additional vacations during the applicable vacation period, on seniority basis.

**(d) All Other Employees**

(1) By January 15 of each year, or in accordance with the employee's MOU, all employees (except Correctional Officers, Sergeants, and Lieutenants) shall submit to their managers or supervisors, in writing, their vacation requests for the remainder of that calendar year through February of the following year. Employees projected to exceed the maximum accrual of vacation or annual leave credits in the scheduled calendar year must submit a leave reduction plan utilizing CalHR Form 138 with their completed vacation request form.

(2) On or before February 15 of each year, managers and supervisors shall review the vacation requests.

(3) Vacations shall be awarded based on operational need, the safe and/or efficient operation of the work area, and the number of employees by classification that may be on vacation at the same time in the designated work area.

(4) When the number of employees requesting vacation for a specific time exceeds the number that can be on vacation at the same time, vacations shall be awarded by State service seniority.

(5) Employees shall be informed of the approved vacation schedule by February 20 of each year.

(6) An employee may submit additional requests for vacation throughout the year. These shall be considered on a timely basis by the designated managers or supervisors and granted whenever possible based on operational need and the safe and/or efficient operation of the work area.

(7) Employees who wish to cancel scheduled vacations must notify their designated managers or supervisors in writing no less than 30 calendar days prior to the scheduled vacation.

**31080.8.2 Holiday**

Refer to the collective bargaining agreement, as it shall be the controlling factor if the provisions of Government Code (GC) 19853 are in conflict.

Holidays falling on an employee's day off shall be credited to an employee pursuant to current administrative practices, collective bargaining agreement provisions, and consistent with GC 19853.

**The following process shall be followed for requesting and/or approving holiday time off:**

**Correctional Officers**

A schedule of available holiday time off for Correctional Officers shall be developed for each institution by watch, based on the number of budgeted holiday relief positions at that institution. These should be assigned proportionately among all three watches based on the number of staff assigned to each watch.

All Correctional Officers will submit requests to use holiday time off at the designated time and location, approved by the appointing authority. Generally, requests for holiday time off must be submitted no later than thirty (30) days before the time off unless otherwise specified by the Custody Captain. Correctional Officer requests for holiday time off will be approved by the Watch Office on a first come, first served basis.

A Correctional Officer may notify the Watch Office of a desire to cancel scheduled holiday time off by submitting a written request to the Watch Office no later than 48 hours before the scheduled time off.

**Correctional Sergeants/Correctional Lieutenants assigned to posts for which there is budgeted holiday relief:**

A schedule of available holiday time off for Correctional Sergeants and Lieutenants assigned to posts with budgeted holiday relief will be developed for each institution/work area based on the number of budgeted relief positions for that institution/work area or the availability of appropriate coverage.

Correctional Sergeants or Lieutenants assigned to posts with budgeted holiday relief will request holiday time off from the Custody Captain through the normal chain of command. Generally, requests for holiday time off must be submitted no later than thirty (30) days before the time off. Requests for holiday time off will be approved on a first come, first served basis, for Correctional Sergeants or Lieutenants.

**Correctional Sergeants/Correctional Lieutenants assigned to posts for which there is no budgeted holiday relief:**

Correctional Sergeants and Lieutenants assigned to posts for which there is no budgeted holiday relief will request holiday time off from the designated supervisor.

Requests will be approved whenever possible, depending upon operational need, and the safe and efficient operation of the institution/work area.

Requests will be approved on a first come, first served basis based on available coverage and the safe and efficient operation of the institution/work area.

**All other Employees**

All other employees will request holiday time off from designated supervisors. All employees not in positions for which there is budgeted holiday relief will take the holidays off as they occur.

Requests will be approved whenever possible, depending upon operational need and the safe and efficient operation of the institution/work area. Requests will be approved on a first come, first served basis.

Full time employees who are required to work on a holiday shall be entitled to pay and/or compensating time off in accordance with the assigned WWG and collective bargaining agreement.

Less than full time employees will be entitled to partial holidays, holiday credit and/or compensation in accordance with the assigned WWG and collective bargaining agreement.

### **31080.9 Family Medical Leave Act (FMLA) and California Family Rights Act (CFRA)/Pregnancy Disability Leave (PDL)**

*Revised December 23, 2021*

(a) FMLA and CFRA established an entitlement for employees who have a minimum

of 12 months of State service and who have physically worked a minimum of 1250 hours in the year immediately preceding the date the leave is to begin, to a job-protected leave, for up to 12 work weeks in a calendar year (January to December) due to any of the following reasons (except for military caregiver leave):

- (1) Health conditions relating to pregnancy or childbirth (FMLA and PDL).
- (2) Birth and care of a newborn child or placement of a child in the employee's home for adoption or foster care (known as bonding leave).

(3) Care for the employee's qualifying family member who has a serious health condition. Qualifying family members are as follows:

- (A) Spouse, child, or parent (FMLA and CFRA).
- (B) Domestic partner, grandparent, grandchild, or sibling (CFRA).
- (4) Employee's own serious health condition (FMLA and CFRA).

(5) Qualifying Exigency Leave related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States.

(b) FMLA and CFRA established an entitlement for employees who have a minimum of twelve (12) months of State service and who have physically worked a minimum of 1250 hours in the year immediately preceding the date the leave is to begin, to a job-protected leave, for up to 26 work weeks within a twelve-month period, for Military Caregiver Leave to care for ill or injured family members in the military.

(c) Twelve work weeks means the equivalent of 12 of the employee's normally scheduled work weeks.

(d) A presumption of a serious health condition exists under the definitions of the FMLA and CFRA after an absence of more than three consecutive days of work because the employee or employee's family member is incapacitated or the employee or the family member is hospitalized overnight. A serious health condition may also exist if the absence involves ongoing or follow-up care by a health care provider, or if a chronic health condition is so serious that, if not treated, could reasonably be expected to result in the employee or the employee's family member being absent from work for more than three consecutive days.

(e) An employee may elect to use any accrued leave credits in lieu of taking an unpaid leave. When FMLA, CFRA, and/or PDL is for the employee's own serious health condition, sick leave credits shall be used first before using other leave credits. The employee may choose to take unpaid leave (i.e., dock) for any approved FMLA, CFRA, and/or PDL time usage.

(f) The employee will not be required to use sick leave credits when caring for a family member with a serious health condition. The use of other leave credits for such an absence shall be at the employee's discretion. However, sick leave credits cannot be used for the employee bonding with a new child, or the placement of a child with an employee in connection with adoption or foster care.

(g) Leave taken for bonding must be taken within one year of the birth of the child, or from the date of the child's placement in the home for adoption or foster care placement. Intermittent bonding leave is leave taken in separate periods of time, or leave that reduces the employee's normal weekly or daily work schedule. Intermittent bonding leave must be taken in a minimum of two week increments up to the maximum of 12 weeks; however, a request for leave of less than two weeks on any two occasions may be granted.

(h) Approval to use leave credits for bonding with a new child of the employee, placement of a child in the employee's home for adoption or foster care, or to care for a family member with a serious health condition is subject to the provisions of collective bargaining agreements, California Department of Human Resources (CalHR) rule, and Labor Code, section 233.

(i) PDL is part of California's Fair Employment and Housing Act (FEHA). It entitles a pregnant employee to four months (17.33 weeks) of leave while disabled by pregnancy-related health conditions. The employee's benefits are covered for up to four months. PDL runs concurrently with FMLA but not CFRA since CFRA does not consider pregnancy-related disabilities a serious health condition. The requirements for PDL are: (1) being pregnant, and (2) employed by the State for one day. Qualifying events for PDL:

- (1) Prenatal visits and care.

(2) Severe morning sickness.

(3) Any pregnancy-related disability.

(4) Bed rest ordered by the doctor.

(5) Child birth and recovery from child birth.

(6) Employee is unable to perform one or more essential functions of their job due to pregnancy or pregnancy-related conditions.

(j) Time taken for a pregnancy, or a pregnancy-related condition, does not count toward the 12 work week CFRA entitlement, however, such a leave is protected by the PDL provisions of the FEHA, and under FMLA.

(k) Employees seeking to use FMLA and/or CFRA leave are required to provide 30 days advance notice of the need to take FMLA and/or CFRA leave when the need is foreseeable and such notice is practicable. When intermittent leave is needed to care for one's self or a family member's serious health condition, and if for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the work place operations. If leave is unforeseeable, the employee must provide notice as soon as practicable.

(l) When provided with sufficient information of an employee's need for leave, or if an employee is absent for more than three consecutive days of work, the supervisor shall contact the FMLA Coordinator to request the employee be provided with an FMLA packet. To request a packet an employee or supervisor may complete the CDCR Form 3051, Employee Request for FMLA, CFRA, and/or PDL, and submit to the FMLA Coordinator, or send a request via email to the FMLA Coordinator. The FMLA Coordinator shall be informed immediately as the employee shall be notified of their eligibility for FMLA, CFRA, and/or PDL within five business days. The supervisor is responsible for making sure the FMLA Coordinator has been notified of the employee's need for FMLA, CFRA, and/or PDL.

(m) If the request for use of FMLA, CFRA, and/or PDL appears to meet the qualifying criteria and the employee is eligible for FMLA, CFRA, and/or PDL, the employee is to be provided with the CDCR Form 2201, Certification of Health Care Provider for FMLA and/or CFRA, or the CDCR Form 3052, Certification of Health Care Provider for Pregnancy Disability Leave, to forward to the treating health care provider. The employee is responsible for providing a complete and sufficient health care certification to the FMLA Coordinator within 15 calendar days. In certain instances an extension may be granted beyond 15 days. The CDCR Form 2201 and CDCR Form 3052 are not mandatory, and another version of certification can be issued by the health care provider. The certification will be sufficient if the following is indicated:

- (1) Contact information and signature of the health care provider.
- (2) The date the serious health condition commenced.
- (3) The probable duration of the condition.
- (4) For the employee's own health condition, information showing that the employee cannot perform the essential functions of the job.
- (5) For leave to care for a family member, a statement of the care that is needed, or that the serious health condition warrants the participation of a family member to provide care during the treatment or supervision of care.
- (6) For intermittent leave, information showing the medical necessity and the frequency and duration for intermittent or reduced schedule leave.
- (n) The employer cannot require the employee or health care provider to indicate a specific diagnosis of the condition necessitating the leave. The treating health care provider will determine, based on an evaluation, if the employee (or the employee's family member) has a health condition that qualifies as "serious" under the definition of the FMLA, CFRA, and/or PDL. The certification must be maintained as a confidential document.

(o) Medical recertification for FMLA, CFRA, and/or PDL is required for the following reasons:

- (1) Upon expiration of the time originally estimated for the leave duration, and additional leave is requested.
- (2) A change in the duration of the leave or frequency of intermittent absences.
- (3) A change in the nature or severity of the condition.
- (4) Leave is grossly exceeding the approved frequency and duration.
- (5) Information has been received casting doubt on the validity of the certification or reason for absence.

(A) If there is a good faith, objective reason to doubt the validity of a medical certification for the employee's medical condition, then CDCR/CCHCS may require a second or third medical opinion, at the department's expense. In all cases, the requirement to furnish a health care recertification can be no more restrictive than that outlined in the applicable collective bargaining agreements.

(p) Absences which qualify for leave taken under the provisions of FMLA, CFRA, and/or PDL, will not be counted against an employee for purposes of determining excessive sick leave use or abuse or when considering the employee for promotion, out-of-class assignment, or used as a basis for adverse actions.

(q) When an employee is grossly exceeding the frequency and duration of leave they are approved for under FMLA, CFRA, and/or PDL, their supervisor may request an FMLA Coordinator to contact the employee and request a recertification be completed. A recertification request may be requested if there is a documented pattern of overuse. Example: Approval of 1-2 days per month. Employee uses 4-6 days per month for 3 consecutive months. The employee is allowed a minimum of 15 calendar days to provide the recertification after the employer's request. Absent extenuating circumstances, if the employee fails to timely return the recertification, despite the opportunity to cure any deficiencies, the employer may deny FMLA and/or CFRA leave until a sufficient certification or recertification is provided.

(r) Additional details for processing FMLA, CFRA, and/or PDL are included in the CDCR FMLA Desk Manual. Each Personnel Officer, Employee Relations Officer, FMLA Coordinator, and Return to Work Coordinator has copies of this manual.

#### **31080.10 California Labor Code (LC) Section 233**

Under LC 233 an employee shall be permitted to use, in any calendar year, not less than one half of one year's accrual of the employee's accrued and available sick leave to attend to the illness of a child, parent, or spouse of the employee.

The employee is protected from discipline of discrimination for using sick leave for these purposes under this Labor Code.

#### **31080.11 Revisions**

The Deputy Director, Human Resources, shall ensure that the content of this Article is accurate and current.

#### **References**

Department of Personnel Administration Rules.

California Code of Regulations (15)(3).

Collective Bargaining Agreements.

Family Medical Leave Act.

Fair Labor Standards Act.

Labor Code, Section 233.

Government Code, Section 19853.

#### **Revision History**

Revised: November 12, 2014.

Revised Sections 31080.7.1 and 31080.8.1: October 15, 2020.

Revised Section 31080.9: December 23, 2021.

Revised: Section 31080.8.1(b): March 24, 2022.

### **ARTICLE 9 — EMPLOYEE DEATH**

*Revised October 10, 2013*

#### **31090.1 Policy**

The Department shall provide for the compassionate and timely response to an employee death, and shall always attempt to adhere to the wishes of the survivors.

#### **31090.2 Purpose**

The purpose of this Section is to ensure the efficient, expeditious, and compassionate manner in which an employee death is handled and to clarify the protocol, obligations, and human side of CDCR's policy to the employee's survivors.

#### **31090.3 Disclaimer**

If provisions in this Section conflict with any statute or MOU, the statute or MOU shall prevail as it relates to the specific represented group. Any exceptions to this policy will be considered at the Deputy Director level of Human Resources.

#### **31090.4 Definitions**

##### **Active Employee**

Means an employee of CDCR who is not retired or otherwise transferred or separated from CDCR employment.

##### **CDCR Representative**

Means the employee designated by the hiring authority to represent CDCR to the deceased employee's family. The representative will usually be an administrator from Division of Adult Institutions (DAI), Division of Juvenile Justice (DJJ), Division of Adult Parole Operations (DAPO), or Administrative

Programs who will exemplify CDCR's compassion, sympathy and concern for the survivor's situation and who is familiar with the contents of this Section.

##### **Family**

Means, solely for the purpose of this Section, the spouse and other immediate family members who are beneficiaries of the deceased employee.

##### **Hiring Authority**

Means the Warden, Regional Parole Administrator, Superintendent, Director, Deputy Director or Associate Director, etc., for whom an employee works.

##### **In-The-Line-Of-Duty Death**

Means when an employee (peace officer or non custody staff) carrying out his/her duties dies as a result of an unlawful act of an inmate or parolee, or responding to an inmate or parolee incident.

##### **Off-Duty Death**

Means when an employee (peace officer or non custody staff) dies while not on duty. This includes when an off-duty employee is on CDCR grounds, or is traveling on official state business. An exception is when an off-duty peace officer dies while acting in an official law enforcement capacity (as determined by CDCR, after a thorough evaluation of the facts surrounding the death).

When there is a question whether an employee's death is in-the-line-of-duty or on-duty, the Secretary will make the final determination.

An employee who dies while en route to or from work is an off-duty death.

##### **On-Duty Death**

Means when an employee (peace officer or non custody staff) dies while at work, but not as a result of an unlawful act of an inmate or parolee, or responding to an incident. Typically, these deaths would be of an accidental nature, health-related (the result of an illness or other health condition) or result from natural causes.

##### **Special Circumstances**

Means those circumstances surrounding the death of an employee, which would reasonably lead one to believe that media attention may be focused on CDCR, or that person's employment with CDCR (e.g., an employee who is murdered while attempting to prevent a robbery in progress).

#### **31090.5 In-The-Line-Of-Duty Death**

Upon notification of an employee's death the hiring authority shall establish a team of staff to deal with the variety of associated tasks. This team may include the deceased employee's immediate supervisor, a member of the Peer Support Program (PSP), a personnel transaction representative and other members as determined by the hiring authority or his/her designee.

The PSP shall be activated in accordance with DOM 31040.3.2. Members of the PSP team can assist the hiring authority with the policies in this article.

##### **Notification of Family**

Whenever possible, a CDCR management representative and/or the employee's supervisor shall, in-person, notify the family of the employee's death. If appropriate, a co-worker close to the deceased and a PSP chaplain may also be present.

The CDCR representative shall:

- Ask to enter the residence and inform the family in a plain and concise manner; express condolences; and provide pertinent information regarding the circumstances surrounding the death. Any questions by the family may be addressed at this time. If this notification is to be made at a family member's place of work, a private area should be arranged in advance by the CDCR representative at an appropriate time.
- Discuss with the family CDCR's involvement with funeral arrangements. The family will determine the level of CDCR's participation in the funeral. The CDCR representative will offer the Department's assistance to the family in making funeral arrangements.
- If the deceased was a correctional peace officer, inform the family of funeral arrangement options for peace officers.
- Discuss available resources, services, and benefits, e.g. Employee Assistance Program (EAP), Correctional Peace Officers Foundation (CPOF), etc.
- Determine with the family if arrangements should be made for someone to remain with the family until relieved by another family member or friends.
- At the family's request, assist in arranging for child care with a provider who is acceptable to the family.
- If the family requests assistance to be isolated from the media and the public, staff may be assigned to screen telephone calls.
- As appropriate and necessary, arrange for police protection for the family.



- Arrange with the family an appropriate time to discuss all other pertinent matters.

### **Hospital Attendance**

If the employee dies in a hospital and the family requests, the CDCR representative shall transport or arrange for transportation of the family to the hospital and provide support. The CDCR representative will coordinate with medical personnel to provide the family with information regarding the death. The hospital's Patient Services Coordinator will be asked to designate a private waiting area for the family. It is important for the family to be given as much information as possible regarding the death to prevent misinformation.

### **Notification Of Secretary**

The employee's death shall be reported to the Chief, Office of Personnel Services (OPS). The following information shall be provided:

- Employee's name
- Civil service classification
- Work location
- Total State and CDCR service
- Date of birth
- Date of death
- Cause of death
- Death category (in-the-line-of-duty; on-duty; or off-duty)
- Next-of-kin
- Relationship
- Next-of-kin's address

The Chief, OPS, shall be responsible for ensuring that the Secretary is notified as soon as practical.

### **Notification of Governor**

The death of an active employee shall be reported to the Governor's Office by the Chief, OPS.

In addition, for employee deaths occurring under special circumstances, the Secretary may advise the Governor's Office.

### **Letter of Condolence - Hiring Authority**

The hiring authority shall send a letter of condolence to the family.

### **Letter of Condolence - Secretary**

In addition to the letter of condolence from the hiring authority, the Chief, OPS, shall prepare a letter of condolence to the family for the Secretary's signature.

### **Workers' Compensation Analyst/Return to Work Coordinator**

The Health and Safety Officer, the field/institution return-to-work coordinator, or Headquarters (HQ), Office of Legal Affairs (OLA), and Workers' Compensation (WC) Unit shall work with the OPS or the local personnel officer to ensure all pertinent information is provided to the family regarding workers' compensation benefits.

This shall include:

- Coordinating the completion and submission of Employee's Report of Occupational Injury or Illness (SCIF Form 3067) and Employee's Claim for Workers' Compensation Benefits (SCIF Form 3301) to the appropriate SCIF office.
- Notifying the California Department of Industrial Relations (DIR), Division of Workers' Compensation, of the employee's death and completing DIR Form 510, Notice of Employee Death. The completed form shall be forwarded to DIR, Death Without Dependents, P.O. Box 422400, San Francisco, California 94142.
- Immediately notifying the nearest district office of the Division of Occupational Safety and Health Administration of the employee's death, but no later than 8 hours after the formal notification of death. Notification information shall include:
  - Time and date of accident.
  - Employer's name, address, and telephone number.
  - Name and job title of person reporting the accident.
  - Address of the site of the accident or event.
  - Name and address of employee.
  - Nature of injury.
  - Location where injured or deceased employee was moved.
  - Identify and list other law enforcement agencies present at site of accident.

- Description of accident and whether the accident scene has been preserved or altered.
- Information regarding the benefits available from the EAP program shall be provided to the family.

### **Displaying the Flag**

The State flag at headquarters and at each facility shall be displayed at half-mast from the time of notification of death until immediately after the employee's funeral (DOM 51090.16).

### **Draped Badges**

Upon notification of the death of an employee and until immediately after the funeral, each hiring authority may authorize his/her peace officer staff to wear their badges draped pursuant to the Department Operations Manual (DOM) Section 33020.

### **Funeral Arrangements**

As determined by the family, CDCR may or may not have some level of participation in an employee's funeral. Each employee's death will be handled on a case-by-case basis.

The CDCR shall inform outside law enforcement agencies of pending funeral services and communicate the wishes of the family. The Office of Public and Employee Communications and or field PIO shall inform the media and communicate the wishes of the family.

The CDCR participation in a funeral may include any one or more of the following:

- Uniformed honor guard.
- Pallbearers.
- Attendance by CDCR employees.

If CDCR is to participate in the funeral, staff shall coordinate as needed with the funeral director.

### **Funeral Attendance**

Department representation at the funeral services of any employee who dies in-the-line-of-duty is desirable.

Staff may attend an employee's funeral on State time with authorization of the hiring authority. The number of employees permitted to attend the funeral shall be governed by CDCR's needs as determined by the hiring authority.

When the funeral is beyond the immediate geographic area, the hiring authority may approve attendance on State time, using a State vehicle.

### **Funeral Uniform**

When uniform staff who are not participating as the honor guard attend the funeral of a CDCR or other law enforcement agency employee in an official capacity, the CDCR Class "A" uniform shall be worn including the draped departmental regulation badge. The DOM Section 33020 describes how the departmental regulation badge shall be draped and the Class "A" and honor guard uniforms.

### **Overtime And Travel Expenses**

Claims for overtime and/or travel expenses to attend the funeral of an employee who died in-the-line-of-duty shall be pre-authorized in writing by the requesting employee's hiring authority. The employee may then submit the Request for Travel/Relocation Advance (CDCR Form 1082) and/or Authorization for Extra Hours (STD 682).

### **Family Liaison**

The hiring authority shall designate a staff person to act as liaison to the family. This may be the CDCR representative or another staff member who shall discuss with the family benefits, collection of state-issued property, and return of personal effects.

### **Personnel Office Responsibilities**

Personnel staff are responsible for the following:

- Reviewing the employee's official personnel file and other employment records to determine final pay and benefits for which beneficiaries are eligible.
- Meet personally with family to discuss information regarding appropriate benefits and final pay.
- Notify the following of the employee's death:
  - Chief, OPS.
  - Chief, Office of Employee Wellness.
  - PERS.
  - SCO.
  - CalHR, Savings Plus Program office (if applicable).
  - CPOF – Custody Staff (if peace officer).



- Appropriate employee union or associations, insurance companies, or credit unions (if applicable).
- Process final pay and other appropriate disbursements or collections (e.g., outstanding accounts receivable, salary or travel advances, or garnishments); and release any warrants in accordance with the provisions of SAM §8477.25.
- Provide the family with a listing of the deceased's payroll deductions and contacts for benefits, which may include the following:
  - Basic benefits.
  - Social security benefits.
  - Savings bonds.
  - Deferred compensation.
  - Tax-sheltered annuities.
  - Life insurance.
  - Health, dental, and vision.
  - Special benefits (depending upon the employee's retirement category and nature of death).
  - Retirement benefits for State Peace Officers/Firefighters, Safety, Industrial, or Miscellaneous members of the PERS including burial expenses.
  - Workers' compensation benefits.
  - United States Department of Justice death benefits.

### 31090.6 On-Duty Death

Upon notification of an employee's death the hiring authority shall establish a team of staff to deal with the variety of associated tasks. This team may include the deceased employee's immediate supervisor, a member of the PSP, a personnel transaction representative, and other members as determined by the hiring authority or his/her designee.

The PSP shall be activated in accordance with DOM 31040.3.2. Members of the PSP team can assist the hiring authority with the policies in this article.

#### Notification of Family

Whenever possible, a CDCR management representative and/or the employee's supervisor shall, in-person, notify the family of the employee's death. If appropriate, a co-worker close to the deceased and a PSP chaplain may also be present.

The CDCR representative shall:

- Ask to enter the residence and inform the family in a plain and concise manner; express condolences; and provide pertinent information regarding the circumstances surrounding the death. Any questions by the family may be addressed at this time. If this notification is to be made at a family member's place of work, a private area should be arranged in advance by the CDCR representative at an appropriate time.
- Discuss with the family CDCR's involvement with funeral arrangements. The family will determine the level of CDCR's participation in the funeral. The CDCR representative will offer the Department's assistance to the family in making funeral arrangements.
- If the deceased was a correctional peace officer, inform the family of funeral arrangement options for peace officers.
- Discuss available resources, services, and benefits, e.g. EAP, CPOF, etc.
- Determine with the family if arrangements should be made for someone to remain with the family until relieved by another family member or friends.
- At the family's request, assist in arranging for child care with a provider who is acceptable to the family.
- If the family requests assistance to be isolated from the media and the public, staff may be assigned to screen telephone calls.
- As appropriate and necessary, arrange for police protection for the family.
- Arrange with the family an appropriate time to discuss all other pertinent matters.

#### Hospital Attendance

If the employee dies in a hospital and the family requests, the CDCR representative shall transport or arrange for transportation of the family to the hospital and provide support. The CDCR representative will coordinate with medical personnel to provide the family with information regarding the death. The hospital's Patient Services Coordinator will be asked to designate a private waiting area for the family. It is important for the family to be given

as much information as possible regarding the death to prevent misinformation.

#### Notification of Secretary

The employee's death shall be reported to the Chief, OPS. The following information shall be provided:

- Employee's name.
- Civil service classification.
- Work location.
- Total State and CDCR service.
- Date of birth.
- Date of death.
- Cause of death.
- Death category (in-the-line-of-duty, on-duty; or off-duty).
- Next-of-kin.
- Relationship.
- Next-of-kin's address.

The Chief, OPS, shall be responsible for ensuring that the Secretary is notified as soon as practical.

#### Notification of Governor

The death of an active employee shall be reported to the Governor's Office by the Chief, OPS.

In addition, for employee deaths occurring under special circumstances, the Secretary may advise the Governor's Office.

#### Letter of Condolence - Hiring Authority

The hiring authority shall send a letter of condolence to the family.

#### Letter of Condolence - Secretary

In addition to the letter of condolence from the hiring authority, the Chief, OPS, shall prepare a letter of condolence to the family for the Secretary's signature.

#### Workers' Compensation Analyst/Return to Work Coordinator

The Health and Safety Officer or the field/institution return-to-work coordinator, HQs, OLA, WC Unit shall work with the OPS or the local personnel officer to ensure all pertinent information is provided to the family regarding workers' compensation benefits. This shall include:

- Coordinating the completion and submission of SCIF Form 3067, and SCIF Form 3301, to the appropriate SCIF office.
- Notifying the DIR, Division of Workers' Compensation, of the employee's death and completing DIR Form 510. The completed form shall be forwarded to DIR, Death Without Dependents, P.O. Box 422400, San Francisco, California 94142.
- Immediately notifying the nearest district office of the Division of Occupational Safety and Health Administration of the employee's death, but no later than 8 hours after the formal notification of death. Notification information shall include:
  - Time and date of accident.
  - Employer's name, address, and telephone number.
  - Name and job title of person reporting the accident.
  - Address of the site of the accident or event.
  - Name and address of employee.
  - Nature of injury.
  - Location where injured or deceased employee was moved.
  - Identify and list other law enforcement agencies present at site of accident.
  - Description of accident and whether the accident scene has been preserved or altered.

#### Displaying the Flag

For institution employees who die while on duty, the Governor shall determine if it is appropriate to have the State flag flown at half-mast on the day of the funeral (DOM 51090.16).

#### Draped Badges

Upon notification of the death of an employee and until immediately after the funeral, each hiring authority may authorize his/her peace officer staff to wear their badges draped pursuant to DOM §33020.

#### Funeral Arrangements

If requested by the family, CDCR may provide assistance in making funeral arrangements.

### Funeral Attendance

Department representation at the funeral services of any employee who dies on duty is desirable.

Staff may attend an employee's funeral on state time with authorization of the hiring authority. The number of employees permitted to attend the funeral shall be governed by CDCR's needs as determined by the hiring authority.

When the funeral is beyond the immediate geographic area, the hiring authority may approve attendance on state time, using a state vehicle.

### Funeral Uniform

When uniform staff who are not participating as the honor guard attend the funeral of a CDCR or other law enforcement agency employee in an official capacity, the CDCR Class "A" uniform shall be worn, including the draped departmental regulation badge. The DOM §33020 describes how the departmental regulation badge shall be draped and the Class "A" uniform.

### Overtime And Travel Expenses

Claims for overtime and/or travel expenses to attend the funeral of an employee who died on duty shall be pre-authorized in writing by the requesting employee's hiring authority. The employee may then submit a CDCR 1082 and/or a STD 682.

### Family Liaison

The hiring authority shall designate a staff person to act as liaison to the family. This may be the CDCR representative or another staff member who shall discuss with the family benefits, collection of state-issued property, and return of personal effects.

### Personnel Office Responsibilities

Personnel staff are responsible for the following:

- Reviewing the employee's official personnel file and other employment records to determine final pay and benefits for which beneficiaries are eligible.
- Meet personally with family to discuss information regarding appropriate benefits and final pay.
- Notify the following of the employee's death:
  - Chief, OPS.
  - Chief, OEW.
  - PERS.
  - SCO.
  - CalHR, Savings Plus Program office (if applicable).
  - Appropriate employee union or associations, insurance companies, or credit unions (if applicable).
  - CPOF – Custody Staff (if peace officer).
- Process final pay and other appropriate disbursements or collections (e.g., outstanding accounts receivable, salary or travel advances, or garnishments); and release any warrants in accordance with the provisions of SAM §8477.25.
- Provide the family with a listing of the deceased's payroll deductions and contacts for benefits, which may include the following:
  - Basic benefits.
  - Social security benefits.
  - Savings bonds.
  - Deferred compensation.
  - Tax-sheltered annuities.
  - Life insurance.
  - Health, dental, and vision.
  - Special benefits (depending upon the employee's retirement category and nature of death).
  - Retirement benefits for State Peace Officers/Firefighters, Safety, Industrial, or Miscellaneous members of the PERS including burial expenses.
  - Workers' compensation benefits.
  - United States Department of Justice death benefits.

### 31090.7 Off-Duty Death

The CDCR may assist the family in obtaining appropriate state benefits and may offer assistance to family members in making funeral arrangements, if requested.

Upon notification of an employee's death the hiring authority shall establish a team of staff to deal with the variety of associated tasks. This team may include the deceased employee's immediate supervisor, a member of the PSP

team, a personnel transaction representative, and other members as determined by the hiring authority or his/her designee.

The PSP shall be activated in accordance with DOM 31040.3.2. Members of the PSP team can assist the hiring authority with the policies in this article.

### Notification of Family

If CDCR is the first to have confirmed knowledge of an employee's off-duty death, whenever possible, a CDCR management representative and/or the employee's supervisor shall, in-person, notify the family of the employee's death. If appropriate, a co-worker close to the deceased and a PSP chaplain may also be present. The CDCR representative shall:

- Ask to enter the residence and inform the family in a plain and concise manner; express condolences; and provide pertinent information regarding the circumstances surrounding the death. Any questions by the family may be addressed at this time. If this notification is to be made at a family member's place of work, a private area should be arranged in advance by the CDCR representative at an appropriate time.
- Discuss with the family CDCR's involvement with funeral arrangements. The family will determine the level of CDCR's participation in the funeral. The CDCR representative will offer the Department's assistance to the family in making funeral arrangements.
- If the deceased was a correctional peace officer, inform the family of funeral arrangement options for peace officers.
- Discuss available resources, services, and benefits, e.g. EAP, CPOF, etc.
- Determine with the family if arrangements should be made for someone to remain with the family until relieved by another family member or friends.
- At the family's request, assist in arranging for child care with a provider who is acceptable to the family.
- If the family requests assistance to be isolated from the media and the public, staff may be assigned to screen telephone calls.
- As appropriate and necessary, arrange for police protection for the family.
- Arrange with the family an appropriate time to discuss all other pertinent matters.

### Notification of Secretary

The employee's death shall be reported to the Chief, OPS. The following information shall be provided:

- Employee's name.
- Civil service classification.
- Work location.
- Total State and CDCR service.
- Date of birth.
- Date of death.
- Cause of death.
- Death category (in-the-line-of-duty; on-duty; or off-duty).
- Next-of-kin.
- Relationship.
- Next-of-kin's address.

The Chief, OPS, shall be responsible for ensuring that the Secretary is notified as soon as practical.

### Notification of Governor

If an active employee's off-duty death occurs under special circumstances, the Secretary may advise the Governor's Office.

### Letter of Condolence - Hiring Authority

The hiring authority shall send a letter of condolence to the family.

### Letter of Condolence - Secretary

In addition to the letter of condolence from the hiring authority, the Chief of OPS shall prepare a letter of condolence to the family for the Secretary's signature.

### Funeral Arrangements

If requested by the family, CDCR may provide assistance in making funeral arrangements.

### Funeral Attendance

Department representation at the funeral services of any employee who dies off-duty is desirable.

Staff may attend an employee's funeral on state time with authorization of the hiring authority. The number of employees permitted to attend the funeral shall be governed by CDCR's needs as determined by the hiring authority.

When the funeral is beyond the immediate geographic area, the hiring authority may approve attendance on state time, using a state vehicle.

#### **Funeral Uniform**

When uniform staff who are not participating as the honor guard attend the funeral of a CDCR or other law enforcement agency employee in an official capacity, the CDCR Class "A" uniform shall be worn, including the draped departmental regulation badge. The DOM §33020 describes how the departmental regulation badge shall be draped and the Class "A" uniform.

#### **Overtime And Travel Expenses**

Claims for overtime and/or travel expenses to attend the funeral of an employee who died off-duty are not authorized.

#### **Family Liaison**

The hiring authority shall designate a staff person to act as liaison to the family. This may be the CDCR representative or another staff member who shall discuss with the family benefits, collection of state-issued property, and return of personal effects.

#### **Personnel Office Responsibilities**

Personnel staff are responsible for the following:

- Reviewing the employee's official personnel file and other employment records to determine final pay and benefits for which beneficiaries are eligible.
- Meet personally with family to discuss information regarding appropriate benefits and final pay.
- Notify the following of the employee's death:
  - Chief, OPS.
  - Chief, OEW.
  - PERS.
  - SCO.
  - CalHR, Savings Plus Program office (if applicable).
  - Appropriate employee union or associations, insurance companies, or credit unions (if applicable).
  - CPOF – Custody Staff (if peace officer).
- Process final pay and other appropriate disbursements or collections (e.g., outstanding accounts receivable, salary or travel advances, or garnishments); and release any warrants in accordance with the provisions of SAM §8477.25.
- Provide the family with a listing of the deceased's payroll deductions and contacts for benefits, which may include the following:
  - Basic benefits.
  - Social security benefits.
  - Savings bonds.
  - Deferred compensation.
  - Tax-sheltered annuities.
  - Life insurance.
  - Health, dental and vision.
  - Special benefits (depending upon the employee's retirement category and nature of death).
  - Retirement benefits for State Peace Officers/Firefighters, Safety, Industrial, or Miscellaneous members of the PERS including burial expenses.
  - Workers' compensation benefits.
  - United States Department of Justice death benefits.

Reference the appropriate Memorandum of Understanding (MOU) for any other benefits.

#### **31090.8 Death While Traveling On Official State Business**

If an employee dies while traveling on official state business, reimbursement may be claimed for actual and reasonable expenses incurred in returning the deceased to his/her place of burial or his/her assigned office/institution, whichever is less. Reimbursement shall be in accordance with the provisions of §599.636 (for represented employees) or 599.636.1 (for excluded employees) of the CalHR regulations.

#### **31090.9 Attendance at Funeral Of Retired Department Of Corrections Employee**

Staff may attend a retired employee's funeral on State time with the prior authorization of the hiring authority. The number of employees permitted to

attend the funeral shall be governed by CDCR's needs. Claims for overtime and/or travel expenses are not authorized.

#### **31090.10 Attendance at Funeral Of Outside Law Enforcement Or Public Official:**

Staff may attend on State time, and with the use of a State vehicle, the funeral of a public official or law enforcement official from an outside agency with the advance authorization of the hiring authority. Prior approval of the hiring authority is also required for any claims of overtime and/or travel expenses.

#### **31090.11 Attendance at Funeral of a Co-Worker's Family Member**

Staff who wishes to attend the funeral of a co-worker's relative may do so with the prior approval of their supervisor, on a case-by-case basis. Claims for overtime and/or any expenses are not authorized.

#### **31090.12 When an Employee's Death Is Imminent**

If any active employee has five or more years of state service or qualifies for retirement and his/her death is imminent, personnel staff shall contact PERS Benefits Services Division, Office of the Ombudsman, immediately. The PERS staff will expedite the retirement processing and explain the best options to the family.

#### **31090.13 Return of Personal Property**

The CDCR representative shall be responsible for ensuring the return of all personal property to the survivors. The deceased employee's desk, locker, bulletin boards, office space, and other appropriate areas should be inspected for any personal items. The CDCR representative shall discuss with the hiring authority the appropriate disposition of any material that may be embarrassing or painful to the family.

#### **31090.14 Return of State-Issued Property**

The CDCR representative shall be responsible for the collection and inventory of the deceased employee's state-issued property. Permission shall be obtained from the family to remove State-issued property from the deceased's residence. If the deceased lived alone, the person identified on the Emergency Notification Form shall be contacted to obtain permission to remove state property from the deceased employee's residence.

If the family refuses to relinquish state property, the hiring authority shall determine appropriate recovery efforts.

#### **31090.15 Long Term Family Support**

The responsibility of CDCR to the family does not end at the funeral. CDCR staff shall remain sensitive to the needs of the family and provide necessary follow-up and long term support. OEW offers the PSP team of trained staff to help families through traumatic events that have taken place at work.

#### **31090.16 Revisions**

The Deputy Director, HR, or designee shall ensure that the content of this Section is accurate and current.

#### **31090.17 References**

GC §§ 11030.1; 12479; 13959-13974.1; 19859.3; and 21490-21635.

LC, Article 4, §§ 4700-4702, Death Benefits.

Public Safety Officers Benefit Program Act of 1976, and as amended.

Law Enforcement Officers' Information Guide for Federal Benefits (under 5 USC 8101, et seq., as extended by 5 USC 8191, et seq.).

SAM §§ 0772, 2580.2, 8477.1-8477.26, 8477.3-8477.32.

Title 2, California Code of Regulations, Sections §§ 599.636, 599.636.1 and 599.506.

DOM §§ 33010, 33020 and 31040.3.2.

U.S. Department of Justice, 1996 Pamphlet 564/49109 (CA721 & CA722).

Personnel Action Manual Section 6.9, Personnel Action.

CalPERS Benefits Booklets: Benefits for State Industrial Members; Benefits for State Safety Members; and Benefits for State Peace Officers/Firefighters.

CalPERS Retirement System Booklet: Beneficiary Designations and Election and Survivor Benefits.

CalPERS Circular Letters regarding the death of an employee are available through CalPERS, Letters No. 400-533, dated: 06/20/93 and 400-021, dated: 07/26/93.

California Public Employees Retirement System (CalPERS) – PERS State Reference Guide @ [www.calpers.ca.gov](http://www.calpers.ca.gov)

CalHR Personnel Transactions Manual, Sections 590-594, Death, provides information regarding lump sum payment.

CalHR Compensation Plus booklet provides a summary of primary benefits for managerial, supervisory and confidential employees and provides some information on employee death.

DOM Section 31040.3.2 Peer Support Program

DOM Chapter 5, Article 9 Display of the United States and State Flags  
 Correctional Peace Officer Foundation, (CPOF) @ <http://cpof.org/>  
 CCR, Title 8, Section 342(a)

## ARTICLE 10 — CONFLICT OF INTEREST

*Revised July 12, 2013*

### 31100.1 Policy

Employees and appointed officials of the Department, California Prison Industry Authority (CALPIA), Prison Industry Board (PIB), Board of Parole Hearings (BPH), and Division of Juvenile Justice shall neither make nor participate in making governmental decisions which may affect their own economic interests.

### 31100.2 Purpose

This section specifies the requirements and categories for disclosure of economic interests and identifies those positions within the Department, CALPIA, and PIB, which are subject to the disclosure requirements.

### 31100.3 Responsibility

Incumbents of designated positions, based on the assigned category, shall complete and file with their local personnel office a Statement of Economic Interest, Form 700.

The local personnel office shall forward these forms to the Filing Officer - the Deputy Director, Human Resources (HR).

The Filing Officer or designee shall:

- After retaining a copy, forward the original statements of the following persons to the Fair Political Practices Commission:
- California Department of Corrections and Rehabilitation Secretary.
- Members of boards and commissions, BPH, State Commission of Juvenile Justice, and Juvenile Parole Board.
- PIB members.
- Retain the original statements of all other employees for public inspection.

### 31100.4 Submittal of Statement of Economic Interest

All incumbents of current designated positions shall file annual statements no later than April 1 each year for the preceding calendar year.

Incumbents of positions which become designated by an amendment of the Conflict of Interest Code shall file initial statements within 30 days after the effective date of the amendment.

Persons who are appointed (from an open or promotional employment list or by transfer, reinstatement, demotion, or any other means) to designated positions shall file assuming office statements as follows:

- Within 30 days of the date of nomination or effective date of appointment if subject to State Senate confirmation; or
- Within 30 days of the effective date of appointment to any other designated position.
- Filing deadlines for filers under active military duty - if a person is under active military duty as defined in the Service Member's Civil Relief Act, the deadline for the annual Form 700 is 30 days following his/her return to office. The individual or his/her representative must notify the filing officer in writing prior to the filing deadline that he/she is subject to the federal statute and is unable to meet the applicable deadline, and provide the filing officer verification of his/her military status.

### Leaving Office Statement

Each person who leaves a designated position shall file a leaving office statement within 30 days after leaving.

### 31100.5 Disqualification

#### Self-Disqualification

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

1. Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;
2. Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;
3. Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms

available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

4. Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or
5. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$440 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

### Exception

No person in a designated position shall be prevented from making or participating in any decision if the participation is legally required for the decision to be made. The fact that the vote of a person who is on a voting body is needed to break a tie does not make the participation legally required for purposes of this section.

### 31100.6 Manner of Disqualification

In the case of a person who is the head of an agency, this determination and disclosure shall be made in writing to the appointing authority. When a person in a designated position determines that he or she should not make a governmental decision because of an economic interest, the determination not to act shall be accompanied by disclosure of the economic interest.

### Head of Agency Board/Commission Members

If the person is a board or commission member, the determination and disclosure shall be entered into the official record at the meeting during which consideration of the decision takes place.

### Other Persons

In the case of other persons, this determination and disclosure shall be made in writing to the person's supervisor.

- Upon receipt of the determination and disclosure, the supervisor shall immediately reassign the matter to another person.
- After reassignment of the matter, the supervisor shall forward the determination and disclosure with a notation of the reassignment to the local personnel office for forwarding to the Filing Officer.

### 31100.7 Revisions

The Deputy Director, HR shall ensure that the content of this section is accurate and current.

### 31100.8 References

CCR (2) § 18730.

GC § 81000 et. seq.

CCR (15) (7) § 7001

## ARTICLE 11— SMOKING – NONSMOKING AND TOBACCO

*Revised August 22, 2005*

### 31110.1 Policy

To provide a healthful, comfortable, and productive work environment for employees, the Governor of the State of California has prohibited cigarette, cigar, and pipe smoking in all State-owned, leased, or occupied buildings. In addition, the Secretary, under the authority of Penal Code § 5030 and 5058, has prohibited the use and possession of all tobacco products at all institutions and facilities that house or detain inmates, with the exception of residential staff housing when inmates are not present. Employees shall not use or possess tobacco products in the presence of inmates. Tobacco products for personal use off institution/facility grounds shall be secured in a locked private vehicle. Smoking is also prohibited in all State passenger vehicles and any other mobile-enclosed equipment. Tobacco product advertising is not allowed inside any State-owned or occupied building unless it is contained in a program, leaflet, newspaper, magazine, or other written material lawfully sold, brought, or distributed within a State building. Posting of any tobacco product or smoking advertisement is prohibited (posters, signs, written, or visual material). Smoking is not allowed within 20 feet of a main entrance, exit, or operative window of a public building.

### 31110.2 Purpose

This Article designates the Department's responsibilities in providing a smoke-free environment for all employees.

### Collective Bargaining Disclaimer

If any non-statutory provision of this Article conflicts with collective bargaining agreements, the collective bargaining agreement shall prevail as it

relates to the specific represented group unless legal exceptions or required legislative action apply.

### **31110.3 Responsibility**

All employees shall:

1. Adhere to and enforce this Policy.
2. Attempt to resolve disagreements informally.
3. Bring to the attention of the appropriate supervisor any conflicts which cannot be resolved informally.

All supervisors shall ensure that:

- No smoking occurs in a State-owned, leased, or occupied building.
- No smoking is allowed within 20 feet of a main entrance or exit or operative window of a building.
- No smoking occurs in any State-owned passenger vehicle. Smoking is also prohibited in all other State-owned mobile equipment including light and heavy trucks, cargo and passenger vans, buses, and any other mobile equipment with an enclosed drive/passenger compartment.
- No smoking or tobacco possession occurs at any institution/facility that houses or detains inmates except for residential staff housing when inmates are not present. Employees shall not use or possess tobacco products in the presence of inmates.

Staff possession or use of smoking or tobacco products, as defined in this Policy, shall be subject to the progressive disciplinary process. Any staff involved with the distribution of smoking or tobacco related products, as defined in this Policy, for an inmate and/or for personal gain, shall be subject to adverse action as defined in Department Operations Manual, Chapter 3, Article 22, Adverse Personnel Actions.

Hiring authorities shall establish local smoking and tobacco policies, which are consistent with the provisions of this Section and the Governor's Executive Order W-42-93, Government Code (GC) sections 7596 through 7598, 19994.30 through 19994.35, and Section 5030.1 of the Penal Code.

### **31110.4 Definition**

Smoke or smoking means inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, or smoking paraphernalia used for consuming the smoke of tobacco or any other burning product.

Tobacco product means any product that contains tobacco, the prepared leaves of any plant belonging to the nicotiana family, which shall include, but not be limited to, cigarettes, loose tobacco, cigars, snuff, chewing tobacco, or any other preparation of tobacco, tobacco substitutes, smoking paraphernalia, and all other items developed or processed for the primary purpose of facilitating the use or possession of tobacco or tobacco related products as well as packaging material. Packaging material includes, but is not limited to, snuff or cigarette containers.

### **31110.5 Smoke Breaks**

Time taken away from an employee's work station shall not exceed the total time an employee is otherwise authorized to take for rest periods. Smoke breaks are in lieu of regular breaks or rest periods and shall be permitted at the discretion of the supervisor.

### **31110.6 Smoking and Tobacco Areas**

*Revised March 22, 2012*

Smoking areas shall be designated for the purpose of departmentally approved inmate religious ceremonies by the respective facility head. Smoking and tobacco use are permitted in state-owned housing serving as the primary residence for State employees when inmates are not present. Smoking and tobacco use in temporary residential space at correctional training academies and in Staff Quarters at conservation camps will be permitted only in designated areas with designated times to be determined by local operational procedures.

### **31110.7 Nonsmoking and Non-Tobacco Areas**

Signs shall be posted at entrances of all areas designated "no smoking" or "no tobacco products use or possession," along with a citation of the authority requiring such prohibition.

No person shall smoke in any building, areas of any building, or group of buildings owned, leased, or utilized by the Department, with the exception of state-owned housing serving as the primary residence for State employees, when inmates are not present. This shall include, but is not limited to, institutions, facilities, conservation camps, community correctional, reentry, furlough and restitution centers, and family visiting units.

Smoking or tobacco possession is prohibited at any institution/facility that houses or detains inmates except for residential staff housing when inmates are not present.

### **31110.8 Smoking/Tobacco Cessation Assistance**

The Department urges smokers to contact the local chapter of any not-for-profit smoking cessation organization such as the American Lung Association for more information about smoking and tobacco cessation programs. These programs provide for a supportive environment in which employees can quit smoking and tobacco use through education.

The Department's Office of Risk Management shall periodically distribute helpful literature for those interested in such programs. Additional information can be obtained from the local and/or departmental Employee Assistance Program Coordinator, Headquarters.

### **31110.8.1 Training**

The Department may offer smoking and tobacco cessation programs using existing employee training funds for presentation during normal working hours.

Upon initial employment, all hiring authorities shall inform employees about the smoking and tobacco use prohibition, the areas where smoking or tobacco use is permitted, and the availability of smoking and tobacco cessation programs. Enrollment in a smoking or tobacco cessation program is voluntary.

### **31110.9 Smoking Complaints**

Resolution of any smoking or tobacco product disagreement on behalf of an employee may be pursued through the Department's complaint process. Refer to the applicable bargaining unit contract or excluded employee complaint form for the process to file a complaint.

Disputes relating to this Policy are subject to the provisions of Department of Personnel Administration Rule 599.859 for non-represented employees and the various bargaining unit contracts for represented employees.

### **31110.10 Revisions**

The Chief Deputy Secretary, Adult Operations, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

### **31110.11 References**

GC §§ 7596 through 7598, 19994.30, 19994.33, and 19994.35.

Penal Code § 5030.1.

Governor's Executive Order W-42-93.

CCR (15), §3187, 3188, and 3189.

Management Memorandum 93-30.

DPA Rule 599.859.

## **ARTICLE 12 — STAFF MEETINGS**

*Effective January 21, 1989*

### **31120.1 Policy**

Staff meetings shall be held to bring about better communication.

### **31120.2 Purpose**

This section establishes format and distribution of staff meeting minutes.

### **31120.3 Schedule**

Staff meetings shall be scheduled as follows:

- Major divisions As deemed necessary in an institution by division head.
- Other units As deemed necessary by supervisor.

### **31120.4 Minutes**

Brief minutes of the meeting of divisions within institutions shall be prepared as soon as possible but no later than seven days from the meeting date.

#### **31120.4.1 Format**

The format shall be:

(NAME OF INSTITUTION)

Minutes of \_\_\_\_\_ Staff Meeting

(Date)

Present \_\_\_\_\_

Dr. \_\_\_\_\_

(position titles unnecessary)

Absent \_\_\_\_\_

Chairperson \_\_\_\_\_

Time Commenced \_\_\_\_\_

Time Adjourned: \_\_\_\_\_

1. (Short title of item underlined)

Summarize discussion of item to include salient points; show disposition; as assignment is made, specify to whom: report policy decisions.

2. \_\_\_\_\_

3. \_\_\_\_\_

Use both sides of paper if minutes are more than one page in length.

Approval of Chairperson \_\_\_\_\_

Signature of Reporter

### 31120.5 Distribution

Institution: to staff and bulletin boards as appropriate.

Central Office: see Section 12050.8 of this manual.

### 31120.6 Revisions

The Deputy Director, Institutions Division, shall ensure that the content of this section is accurate and current.

### 31120.7 References

ACA Standard 2-4014.

## ARTICLE 13 — SALARY AND COMPENSATION

*Revised May 30, 2012*

### 31130.1 Policy

All employees of the Department shall be compensated fairly and impartially.

### 31130.2 Purpose

This Section provides for the following:

- Extra compensation for employees using bilingual skills ten percent or more of the time.
- Salary-related Victims Compensation and Government Claims Board (VCGCB) claims from employees.
- Special hiring rates for persons with extraordinary qualifications.
- Determination of salary rates for permissively reinstated employees and merit salary adjustment dates upon reinstatement after a permanent separation.
- Compensation for out-of-class assignments.
- Physical fitness incentive pay.
- Housing stipends.

### 31130.3 Disclaimer

If any provision in this section is in conflict with a Memorandum of Understanding (MOU), the MOU shall prevail as it relates to the specific represented group.

### 31130.4 Bilingual Certification/Pay

The Department shall provide bilingual services when a substantial portion of its clientele is non-English speaking or hearing impaired.

#### 31130.4.1 Biennial Language Survey

The Dymally-Alatorre Bilingual Services Act (Act), Government Code 7290-7299.8 et seq., requires each State agency conduct a survey of each of its local offices to determine the following:

- The number of public contact positions in each local office or facility.
- The number of bilingual employees in public contact positions and the language they speak other than English.
- The number and percent of non-English speaking persons served by incumbents in public contact positions in each local office or facility broken down by native languages.
- The number of anticipated vacancies in public contact positions over the following year.
- Whether the use of other available options, including contracted telephone-based interpretation services, in addition to bilingual staff in public contact positions, is serving the language need of non-English speaking clientele.
- A listing of all written materials required to be translated pursuant to GC 7295.4 et seq., identifying which have been translated and languages into which they have been translated.
- The number of additional qualified bilingual public contact staff, if any, needed at each local office to comply with the Act.
- Any other relevant information requested by the SPB.

The survey results shall be reported on forms provided by the SPB and is due to the SPB no later than October 1 of each even numbered year.

#### 31130.4.2 Departmental Plan

Pursuant to GC 7290-7299.8 et seq., the Office of Personnel Services (OPS) evaluates survey results and submits an Implementation Plan to the SPB no later than October 1 of each odd numbered year which includes the following:

- The name, position, and contact information of the employee designated by the Department to be responsible for overseeing implementation of the plan.

- A description of the Department's procedures for identifying written materials that needs to be translated.
- A description of the Department's procedures for identifying language needs at local offices and assigning qualified bilingual staff.
- A description of how the Department recruits qualified bilingual staff.
- A description of any training the Department provides to its staff on the provision of services to non- or limited-English-speaking individuals.
- A detailed description of how the Department plans to address any deficiencies in meeting the requirements of the Act including, but not limited to, the failure to translate written materials or employ sufficient numbers of qualified bilingual employees in public contact positions at local offices, the proposed action to be taken to address the deficiencies, and the proposed dates by when the deficiencies can be remedied.
- A description of the Department's procedures for accepting and resolving complaints of an alleged violation of the Act.
- A description of how the Department complies with any federal or other State laws that require the provision of linguistically accessible services to the public.
- Any other relevant information requested by the SPB.

### 31130.4.3 Requirements

The Bilingual Pay Program provides a monthly pay differential for State employees who use bilingual skills on a continuing basis averaging ten percent of the time. The ten percent includes the actual time spent conversing or interpreting in a second language and related activities performed with the specific bilingual transaction. To receive the pay differential, an individual must first successfully complete a bilingual fluency examination to become certified bilingual.

Upon successful certification, employees with their supervisor's concurrence shall submit a Bilingual Pay Authorization, STD Form 897, justifying ten percent use of their bilingual skills in their position, and proof of successfully passing a bilingual examination in a specific language.

### 31130.4.4 Responsibility

OPS conducts the biennial language survey and ensures implementation of policy governing the Bilingual Services Program.

OPS administers the Bilingual Pay Program.

Local testing offices administer the language fluency examination.

### 31130.4.5 Process

Employees interested in taking a language fluency examination shall:

- Obtain an Application for Examination, STD Form 678, from the local or Central Office personnel office.
- Complete the application with the following:
  - The applicant's name, address, and social security number.
  - The language in which the applicant is to be tested.
  - The applicant's work location e.g., institution, parole region, etc.
  - Signature of applicant.
- Submit the application to the local or Central Office personnel office.

### 31130.4.6 Establishment or Change of a Bilingual Position

Bilingual Pay Authorization, STD Form 897, proof of successfully passing a bilingual examination in a specific language, duty statement, and an organization chart which identifies the position, shall be forwarded by local personnel staff to the OPS, Personnel Analyst liaison assigned to that area, when any of the following conditions apply:

- Changes in Position Number. Any change in Unit Code, Classification Code, and Serial Number Code.
- Reassignments. Promotions, transfers from one class to another or change in post assignment which no longer requires use of ten percent bilingual skills.
- New (Bilingual) Positions. Bilingual pay for a position has never been requested.
- Refilling a Vacant (Bilingual) Position. A position is approved and the previous incumbent received bilingual pay.
- Termination of Bilingual Pay. A bilingual position ceases to qualify based on criteria given in this Section.
- Change in Incumbent's Work Address. If an incumbent was receiving bilingual pay based on the need for such skill in one location and is transferred to another location, bilingual pay must be justified again for the new location.

### 31130.5 Salary-Related VCGCB Claims

VCGCB Rules Sections 624, 630, 631, and 632 provide the general standards for filing claims against the State.

### **31130.5.1 Approval of Claims**

Each claim shall be submitted to the Deputy Director, Division Administrative Services (DAS), for approval.

### **31130.5.2 Presentation of Claims**

All claims for money or damages against the State shall be presented to the VCGCB under the following conditions:

- An appropriation or a State fund is available but has been rejected by the State Controller.
- The appropriation made or fund designated is exhausted.
- The settlement is provided for by statute or constitutional provision but no appropriation or fund is available.
- Settlement is not otherwise provided for by statute or constitutional provision.
- On express contract.
- The taking or damaging of private property for public use within the meaning of Section 19 of Article I of the Constitution.
- Based upon the negligent act or omission by a State officer, servant or employee or for the dangerous condition of State property.
- Any other injury for which the State is liable.

### **31130.5.3 Contents of Claims**

All claims or amendments shall be signed by the claimant or representative. Facts shall be stated in simple, concise language without legal phraseology.

### **31130.5.4 Who May File**

Hiring authorities shall initiate and submit VCGCB claims on an Equity Claim, BC Form 1-B, in quadruplicate, to the Chief, Accounting Services, Attention: VCGCB Claims Coordinator, for situations where improper pay or no pay has been issued because of administrative error or other factor.

Employees and former employees also have the right to file an Equity Claim, BC Form 1-B, in triplicate, directly with the VCGCB. However, such claims are referred by the VCGCB to the Department for a recommendation.

### **31130.5.5 Claim Format**

Each claim shall include:

- A claim form with:
  - A brief statement describing the reason for the claim.
  - Specific description of how the claim amount was computed.
- A brief cover memo with:
  - The recommendation requested.
  - A brief explanation of the circumstances, problems or errors that led to the need for the VCGCB claim.
  - What specific steps have been taken to prevent a recurrence.
  - The party to whom payment is to be made; e.g., either the claimant or the Department.
  - A statement on revision of funds if the claim includes payment for a prior fiscal year and the funds have reverted. The funds revert two years following the last day an appropriation is available for encumbrance unless the Director of Finance reverts the funds during that two-year period (see GC Section 16304.1).
- All supporting documentation; e.g., Bilingual Pay Authorization Form, Disability Pay Request Form, Payroll Adjustment Form, or other documents as appropriate.

When more than one claim of the same type is being submitted, the hiring authority or designee shall submit all like claims as a package using one cover memo.

### **31130.5.6 Review**

Upon receipt of the claim, Central Office staff shall make any necessary salary verifications and prepare a letter for the signature of the Deputy Director, DAS, or his/her designee, recommending approval or disapproval of the claim.

If approval is recommended by the Department, the letter and original claim shall be forwarded to the VCGCB for review and processing. A copy of the letter shall be sent to:

- Originating hiring authority.
- Employee (claimant).
- Department's VCGCB Claims Coordinator.

If disapproval is recommended by the Department, the letter shall be sent to the employee (claimant). A copy of the letter shall be sent to:

- Originating hiring authority.
- Department's VCGCB Claims Coordinator.

Disapproved claims shall not be forwarded to the State VCGCB, unless submitted directly by an individual.

### **31130.5.7 VCGCB Process**

Upon approval and complete processing of the claim, the VCGCB issues payment or authorization for payment, according to the specific payment instructions recommended by the Department.

If the recommendation instructs that payment be made directly to the Department, the VCGCB directs its communication (pay warrant or authorization for pay) to the Department.

If the recommendation requests payment directly to the employee, the VCGCB upon approval of the claim, addresses its communication (pay warrant or authorization for pay) directly to the employee, and sends a copy to the Department.

If the claim is disapproved, the VCGCB notifies the Department and/or the claimant, as appropriate, indicating the basis for the disapproval and the claimant's legal rights/options for appeal.

### **31130.5.8 Appeal of VCGCB Decision**

Within six months from receipt of the rejection notice, the claimant may:

- Request a rehearing. A rehearing is granted only with the stipulation and agreement that the claimant provides new information not previously considered by the VCGCB.
- File suit in small claims court, if the dollar amount is within the limits allowable by law.
- File suit in a superior court, if the dollar amount exceeds the limits for small claims court.

### **31130.6 Hiring-Above-Minimum (HAM) Salary Rates for Extraordinary Qualifications**

*Deleted September 11, 2009*

Section Reserved

#### **31130.6.1 Delegated Classifications**

*Deleted September 11, 2009*

Section Reserved

#### **31130.6.2 Approval**

*Deleted September 11, 2009*

Section Reserved

#### **31130.6.3 Standards**

*Deleted September 11, 2009*

Section Reserved

#### **31130.6.4 Determining the Amount of Adjustment Established Rate**

Once the hiring authority determines that a special hiring rate is necessary to attract an outstanding individual, the hiring authority shall decide which hiring rate to request.

In order to be competitive with other employers, yet offer no more than is necessary, the actual rate granted is an established rate between the minimum and maximum for the class nearest (above or below) to the individual's present salary or other valid job offers. This is any established rate between the existing steps for the class if it will more closely approximate a realistic appraisal of the individual's background and salary history.

#### **Limitations**

Special hiring rates are usually limited to two steps above the minimum of the salary range, i.e., the third salary step. When the position has limited promotional opportunity, use of hiring rates above that rate limits the Department's ability to use merit salary adjustments to recognize employee growth and encourage initiative.

Adjustments above the third step shall be processed only when the factors of extraordinary qualifications, present salary, or prospective job offers make a strong case for the particular individual.

#### **Determining the Above-Minimum Rate**

The individual's monthly salary (or highest bona fide job offer) is compared to the State's pay ranges in determining the maximum amount to authorize. Money earned through part-time employment is counted in determining the above-minimum rate only when the individual would lose this income by coming to work for the Department.

When an individual's total income covers periods substantially less than twelve months and that individual does not work for the remainder of the year, the income is considered as the function of the number of months worked; e.g.,

\$10,000 per year for a ten month work year is considered as \$1,000 per month. When there is additional income from a second job from which the individual must resign, that should be added to the total and the full year considered.

#### **Consideration of Other Offers**

Other competitive salary offers from State agencies shall not be used as justification for exceeding these other offers for above minimum rates. When the provisions outlined here are applied correctly, above minimum rates authorized for outstanding qualifications for a given individual shall be identical for all State agencies using the class.

#### **Moving Expense**

The salary shall not include a bonus to the candidate to come to the State; however, when relocation involves an unusual moving expense, an above minimum rate may be justified where use of the candidate's qualifications is particularly critical to the Department's program. Advance approval by DPA is required in these cases.

#### **Applicable Authorizations**

Under delegation, an individual ordinarily cannot receive above minimum steps under more than one special salary authorization. Regarding entrance into college recruitment classes, it may be found that an individual possesses superior scholastic achievement. Also, there may be a general hiring "plus" rate authorized on the basis of recruitment difficulty. The Department decides which of the applicable authorizations is needed to acquire the individual.

#### **Required Explanation**

If the rate approved for the individual does not fall at one of the normal steps within the salary range for that class, the hiring authority shall provide the appointee with an explanation of the possible effect on movement through the salary range under DPA rules.

#### **Corrective Salary Action**

Special adjustments for outstanding qualifications are not a substitute for corrective salary action for a class. If there are a number of vacancies in a given class and recruitment is difficult, recruitment "plus" differential or special corrective salary action for the class may be necessary.

#### **31130.6.5 Exceptions to Standards**

Requests for rates higher than those authorized under these provisions shall outline the reasons why the request for exception should be approved. Final salary commitments shall not be made prior to DPA's approval of exceptions to these provisions.

#### **31130.7 Permissive Reinstatement Salary Rates**

The following guidelines and standards shall be used in determining salary rates for employees who have resigned or retired from State service and who are being permissively reinstated back into State service.

#### **31130.7.1 Maximum Salary Rate**

The hiring authority shall first determine the highest potential salary rate provided for by the DPA Rule 599.677. Upon the hiring authority's determination that it is in the best interest of the State, a former employee who permissively re-enters State service may receive a salary above the minimum rate, provided that the reinstatement or appointment is:

##### **Same Class**

- To the same class. The salary rate shall not exceed the rate in the salary range received at the time of separation adjusted for the salary range changes for the class since separation.

##### **Different Class/Same**

- To a different class with substantially the same salary range as that of the class from which separated. The salary rate shall not exceed the rate the employee could receive if reinstated or reappointed to the same class from which separated.

##### **Different Class/Lower Salary Range**

- To a different class with a lower salary range than the class from which separated. The employee may receive any rate in the salary range not to exceed the salary rate last received in the class from which separated adjusted for salary range changes of the later class since the separation.

#### **31130.7.2 Actual Salary Rate**

The rate in the salary range an employee receives on reappointment or reinstatement shall be related to the employee's value to the State. The hiring authority shall determine the former employee's value to the State as follows:

- Expertise in a particular area in relation to the vacancy. Talent, ability or skill as demonstrated by previous job experience. The scope, depth, and recency of such experience are more significant than length.
- The degree to which an employee exceeds minimum qualifications shall be a guiding factor rather than a determining one. When a large number

of prospective employees possess considerably more experience than the minimum, it may not be necessary to appoint above the minimum to acquire unusually well-qualified people.

- The qualifications of State employees already in the same or closely related classes shall be carefully considered since questions of salary equity may arise.
- Recruitment difficulty for the classification and for the geographic area of the vacancy shall be a major determining factor.

#### **31130.8 Merit Salary Adjustment Dates**

Merit salary adjustment dates for persons who reinstate following a separation from State service shall be established in accordance with DPA Rule 559.687.

#### **31130.9 Out-of-Class Compensation**

Employees designated managerial or exempt are not covered by specific provisions governing out-of-class assignment and are not entitled to out-of-class compensation.

#### **Represented Employees**

A number of negotiated MOUs provide for compensating represented employees for temporary out-of-class acting assignments. Refer to the specific MOU and DPA Rule 599.810.

#### **Supervisory/Confidential**

Supervisory and confidential employees who are assigned out-of-class acting assignments may be compensated for performing duties of a higher classification if:

- The assignment is made in writing prior to performing the duties, and the employee is given a copy of the assignment.
- The Director certifies that funds are available within the Department's current budget.
- The employee assumes the full range and scope of duties of the higher class.
- The employee performs such duties for more than 15 consecutive working days but no more than 120 calendar days in a fiscal year. (Paid time off shall not break the continuity of work in the higher class.)

An employee may be assigned out-of-class work for more than 120 days during a fiscal year only if the Department files a written statement with DPA.

#### **Assignment Process**

See Section 31060 of this manual for temporary out-of-class acting assignment and approval process.

#### **Pay Differential**

Supervisory or confidential employees performing in a higher class for more than 15 consecutive working days shall receive a five percent pay differential or the differential the employee would receive if promoted to the higher class, whichever is greater, for the duration of the assignment.

These pay differentials are not part of an employee's base pay for the purpose of other salary transactions related to subsequent appointments.

#### **Payment**

The supervisor of an employee working an out-of-class assignment submits a memorandum to the local personnel office at the end of each pay period. The memorandum shall contain the following information:

- Name of unit or division.
- Name of employee.
- A statement clarifying the reason(s) for the out-of-class assignment.
- Signed copy of approved out-of-class assignment.
- Dates employee worked and number of hours, if less than full-time.
- Signature of supervisor.

A denial of an out-of-class compensation claim by the departmental personnel officer may be appealed directly to the Chief Deputy Director, DAS.

#### **31130.10 Physical Fitness Incentive Pay Program (PFIPP)**

*Deleted May 30, 2018*

Section Reserved

#### **31130.11 Housing Stipend**

Specified employees may be eligible for a housing stipend if employed at certain specified institutions as follows:

- Employees in Bargaining Unit 6 shall receive compensation in accordance with the provisions of the Bargaining Unit 6 Memorandum of Understanding.
- Supervisors and managers of employees in Bargaining Unit 6 shall receive compensation in accordance with the provisions of a pay letter issued by the DPA.



**31130.12 Revision**

The Deputy Director, Human Resources, shall ensure that the content of this Article is accurate and current.

**31130.13 References**

GC §§ 7290 - 7299.8, 13921, 16304.1, 19780, 19836, 19991.4, and 19991.7.  
CCR (2) §§ 599.677, 599.687(d), 599.810, 624, 630, 631, and 632.

**ARTICLE 14 — INTERNAL AFFAIRS INVESTIGATIONS**

*Effective January 2007*

**31140.1 Policy**

Every allegation of employee misconduct within the California Department of Corrections and Rehabilitation (CDCR or Department) shall be promptly reported, objectively reviewed, and investigated when appropriate.

**31140.2 Purpose**

To ensure allegations of employee misconduct are addressed and investigations are conducted in a fair and consistent manner.

**31140.3 Definitions**

**Allegation Inquiry** – The collection of preliminary information concerning an allegation of employee misconduct necessary to evaluate whether a matter shall be referred to the Central Intake Unit.

**Appointing Power** - The Secretary of the Department.

**Assistant General Counsel (AGC)** – An individual responsible for managing the Employment Advocacy and Prosecution Team (EAPT) in the Department's Office of Legal Affairs (OLA).

**Assistant Secretary, Office of Internal Affairs (OIA)** - An individual responsible for the operation and functions of the OIA.

**Bureau of Independent Review (BIR)** – A unit within the Office of the Inspector General (OIG) responsible for contemporaneous public oversight of the Department's investigative and disciplinary processes.

**Case Management System (CMS)** – An electronic system that allows real-time documentation on investigative case activity and allows various participants within the employee disciplinary process to monitor cases and record key decisions and due dates. The CMS tracks all investigative requests, case acceptance and rejections, and case activity on all Internal Affairs investigations, as well as direct adverse actions that impose penalties without an investigation.

**Central Intake Panel (CIP)** – A collection of stakeholders led by the OIA that ensures all referred allegations of employee misconduct are evaluated consistently and assigned appropriately throughout the Department. Individuals who participate regularly in the CIP include, but are not limited to, the following: Assistant Secretary, OIA, or designee; Chief Assistant Inspector General (CAIG), BIR, or designee; AGC, EAPT, or designee; assigned Special Agents; and other pertinent Department representatives. The Assistant Secretary, OIA, has the authority to initiate Internal Affairs investigations and is ultimately responsible for the acceptance and rejection of all cases that come before the CIP.

**Central Intake Unit (CIU)** – A team of Special Agents, supervisors, and support staff within the OIA responsible for receiving, screening, and analyzing allegation inquiries for presentation to the CIP.

**Chief Assistant Inspector General (CAIG)** – An individual responsible for the operation and functions of the BIR, OIG.

**Deputy Inspector General** – An investigator employed by the OIG.

**Designated Cases** - Those cases assigned to the Vertical Advocates, including matters involving staff integrity and/or dishonesty, abuse of authority, sexual misconduct, use of force in which an inmate suffers death or serious injury, use of deadly force, serious allegations made against supervisors, and high profile or dismissal cases assigned to the Vertical Advocate by the AGC.

**Employee Relations Officer (ERO)/Disciplinary Officer** – An employee designated by the Hiring Authority to coordinate adverse actions.

**Employment Advocacy and Prosecution Team (EAPT)** - The team in the Department's OIA responsible for operation of the Vertical Advocacy Program.

**Hiring Authority** – The Undersecretary, General Counsel, Chief Information Officer, or any Assistant Secretary, Executive Officer, Chief Deputy Secretary, Director, Deputy Director, Associate Director, Warden, Parole Administrator, Superintendent, Superintendent of Education, Assistant Superintendent of Education, Health Care Manager, Regional Health Care Administrator, or any other person authorized by the appointing power to hire, discipline, and dismiss staff under his/her signature authority. The Administrator at the Richard A. McGee Correctional Training Center shall

serve as the Hiring Authority for Correctional Officer Cadets. The appointing power includes a Hiring Authority for purposes of this Article.

**Investigation** - The collection of evidence that supports or refutes an allegation of misconduct, including criminal investigations, administrative investigations, retaliation investigations, or allegation inquiries.

**Locally Designated Investigator(s)** - A local investigator or a team of local investigators who meet the requirements to conduct Internal Affairs investigations and who perform allegation inquiries and conduct local Internal Affairs investigations as delegated and assigned by OIA regional offices.

**Office of Civil Rights (OCR)** – The entity with authority to investigate complaints related to Equal Employment Opportunity (EEO) issues.

**Office of Internal Affairs** - The entity with authority to investigate allegations of employee misconduct.

**Senior and Special Assistant Inspectors General (SAIG)** – Attorneys employed by the BIR who report to the CAIG.

**Vertical Advocacy Model** – A system that ensures legal representation for the Department during the investigative and employee disciplinary process in order to hold staff accountable for misconduct by way of thorough and complete internal investigations, principled decision-making, assessment of the investigations, and consistent and appropriate discipline.

**Vertical Advocate** – An EAPT attorney assigned to one or more specific Hiring Authority locations to consult with investigators and Hiring Authorities concerning investigative findings, disciplinary decisions, and to prosecute designated cases.

**31140.4 Responsibility****31140.4.1 Appointing Power**

The appointing power shall ensure compliance with the Department's Internal Affairs investigatory policy and procedures.

**31140.4.2 Chief Deputy Secretary**

Each Chief Deputy Secretary shall be responsible for ensuring compliance with the Department's Internal Affairs investigatory policy and procedures within his/her respective area.

**31140.4.3 Office of Internal Affairs**

The OIA is responsible for determining which allegations of staff misconduct warrant an Internal Affairs investigation and for completing all investigations in a timely and thorough manner.

**31140.4.4 Assistant Secretary, OIA**

The Assistant Secretary shall be responsible for the following:

- Overseeing the Department's investigative program and ensuring systemwide implementation of the Internal Affairs investigatory policy and procedures;
- Establishing guidelines, priorities, training, and management systems to ensure an efficient and effective Internal Affairs operation;
- Participating in the development, implementation, and evaluation of strategic and operational plans;
- Coordinating with the CAIG, or designee for cases monitored by the BIR and the AGC, EAPT, for designated cases;
- Coordinating with and informing the appropriate Chief Deputy Secretary, the Undersecretary, and the Secretary regarding high-profile investigations being monitored by the BIR.

**31140.4.5 Chief, OIA**

Each Chief shall be responsible for the following:

- Overseeing the Department's Internal Affairs investigative program and ensuring systemwide application of the Internal Affairs investigatory policy and procedures;
- Participating in the strategic and operational plans;
- Coordinating with the CAIG or designee on cases monitored by the BIR and the AGC or designee for designated cases;
- Elevating cases to the Assistant Secretary, OIA, as necessary.

**31140.4.6 Special Agent-In-Charge (SAC)**

Each Special Agent-In-Charge shall be responsible for the following:

- Overseeing operations of the OIA Headquarters or regional office as well as the local Internal Affairs investigations in the respective region;
- Cooperating with and providing continual real-time consultation among OIA, the Vertical Advocate for designated cases, and the BIR for cases the BIR is monitoring;
- Ensuring OIA staff assigned to conduct investigations are properly trained and qualified;

- Monitoring all cases under his/her control to ensure cases are being investigated in a timely manner;
- Serving as a liaison between the OIA and Hiring Authorities regarding personnel investigations.

#### **31140.4.7 Senior Special Agent**

Each Senior Special Agent shall be responsible for the following:

- Assigning and supervising Internal Affairs investigations conducted by Special Agents or locally designated investigators;
- Cooperating with and providing continual real-time consultation among OIA, the Vertical Advocate for designated cases, and the BIR for cases the BIR is monitoring.

#### **31140.4.8 Special Agent**

Special Agents shall be responsible for the following:

- Conducting investigations in a manner that provides a complete and thorough presentation of all facts regarding the allegation or complaint;
- Cooperating with and providing continual real-time consultation with OIA, the Vertical Advocate for designated cases, and the BIR for cases the BIR is monitoring;
- Providing the Hiring Authority with consultation on investigative reports and providing a complete recitation of the facts, while refraining from conjecture or opinion;
- Updating case activity in the CMS.

#### **31140.4.9 Central Intake Unit**

The CIU, consisting of OIA personnel, shall ensure all referred acts of employee misconduct are analyzed and presented to the CIP, and the CIP shall ensure that all referred acts of misconduct are evaluated consistently and assigned appropriately throughout the Department.

#### **31140.4.10 Hiring Authority**

Each Hiring Authority shall be responsible for the following:

- Ensuring each allegation of employee misconduct is logged (regardless of whether the allegation is referred for investigation), receives prompt attention, and is addressed appropriately;
- Requesting investigations and direct adverse action by completing and forwarding to OIA CDC Form 989, Confidential Request, for Internal Affairs Investigation/Notification of Direct Adverse Action;
- Reviewing investigative reports, determining investigative findings, and making determinations of appropriate discipline;
- Notifying each subject in writing following the Hiring Authority's determination of investigative findings. Refer to DOM Chapter 3, Article 22, Section 33030.13.2, "Investigative Closure Memorandum," for direction regarding notification to the subject of an investigation;
- Notifying each complainant, including citizen, inmate, or employee complainants, in writing, of the finding on the original complaint within thirty (30) days of the determination of the disposition of the investigation regarding the original complaint. The Hiring Authority shall not notify the complainant of specific investigative findings, but shall make a separate finding on the original complaint. At no time should the specifics related to any personnel action be discussed with the complainant in the matter. The notification of the finding on the complaint shall be limited to whether the original complaint is sustained, not sustained, exonerated, or unfounded;
- Coordinating and consulting with the Vertical Advocate for designated cases and the SAIG for cases monitored by the BIR before making investigative findings or disciplinary determinations and prior to approving any settlement agreements.

#### **31140.4.11 Supervisors and Managers**

Each supervisor and manager shall be responsible for referring alleged misconduct and requests for investigation or adverse action to the Hiring Authority immediately following discovery of facts which may constitute misconduct.

#### **31140.4.12 Locally Designated Investigators**

Locally designated investigators shall be responsible for the following:

- Conducting investigations, as assigned by OIA regional offices, in a manner that provides a complete and thorough presentation of all facts regarding the allegation or complaint;
- Maintaining integrity and the confidentiality of the investigative process, unless prior approval to discuss a case with the Hiring Authority is obtained through the SAC;

- Cooperating with and providing continual real-time consultation among OIA, the Vertical Advocate for designated cases, and the BIR for cases the BIR is monitoring;
- Identifying issues related to allegations of employee misconduct and assisting the Hiring Authority, Vertical Advocate for designated cases, and the SAIG for cases monitored by the BIR;
- Updating case activity in CMS.

#### **31140.4.13 Vertical Advocate**

The Vertical Advocate shall be responsible for the following:

- Coordinating with the assigned investigator for designated cases for the duration of an investigation and evaluating completed investigations for legal sufficiency to prosecute an administrative action;
- Monitoring and coordinating with the ERO/Disciplinary Officer the adverse action process for all designated cases, from the onset of an investigation, including calculation of statute of limitations expiration dates;
- Providing legal consultation for all designated cases to the assigned investigator, including developing the investigative plan, assisting with preparation of investigative interviews, and attending investigative interviews, as appropriate, to assess witness demeanor and credibility;
- Providing legal consultation to the Hiring Authority on all designated cases and coordinating with the SAIG for cases monitored by the BIR.

#### **31140.4.14 Office of Civil Rights**

The OCR may initiate investigations when an employee files a complaint with the OCR regarding discrimination, harassment, or EEO related retaliation. Following completion of OCR's evaluation, and if the OCR determines that an OIA investigation may be necessary, the OCR shall forward a copy of the intake document and all related information to the OIA for investigation consideration.

#### **31140.5 Employee Expectations & Reporting**

Each employee, regardless of classification or rank, shall adhere to the Department's Employee Performance Standards as defined in DOM, Section 3, Article 22, Subsection 33030.3. Each employee shall report misconduct or any unethical or illegal activity in a timely manner. Failure to report employee misconduct or any unethical or illegal activity in an investigation or allegation inquiry shall be grounds for corrective action, disciplinary action, or both. Employees shall not make false statements when questioned, interviewed, or in reports submitted.

##### **31140.5.1 Employee Duty to Cooperate**

Each employee of the CDCR is required to comply and cooperate as follows:

- If requested to make a statement in any official internal investigation conducted by the Department, employees shall make full, complete, and truthful statements. Failure or refusal to make statements or making false statements during Department Internal Affairs investigations may result in disciplinary action.
- Employees shall not take any action which would interfere with, delay, distort, or unduly influence any official investigation conducted by the Department or any other government agency. Any employee who knowingly gives false evidence, withholds evidence, or interferes in any way during such an investigation, or requests or encourages another to do so, may be subject to disciplinary action.
- Employees have a duty to cooperate with investigators of the Department and with officials from other law enforcement agencies who are conducting a criminal investigation. Employees shall make full, complete, and truthful statements. Failure to cooperate may result in disciplinary action.

#### **31140.6 Authority to Conduct Investigations**

Pursuant to Government Code Section 11182, the Secretary of the Department delegates the authority to initiate and conduct investigations to the Assistant Secretary, OIA.

#### **31140.7 Requirements for Hiring Internal Affairs Investigators**

Investigators shall be hired in accordance with Penal Code Sections 6065 (b)(1) and 6126.1(c).

#### **31140.8 Required Training**

All Internal Affairs investigators shall complete investigation training and be certified as mandated by Penal Code Section 6126.1 and the OIA Investigation Training Requirements. In addition, Internal Affairs investigators shall complete advanced investigative training as outlined in the OIA Investigation Training Requirements.

### **31140.9 Filing an Allegation of Employee Misconduct with a Hiring Authority**

Information regarding alleged employee misconduct shall be reported promptly by staff to a supervisor or other appropriate departmental, governmental, or law enforcement entity. If information is reported verbally to a supervisor, the staff person shall also submit a written report to the supervisor. The supervisor shall prepare a separate written report regarding the allegation(s) and shall submit his/her report and the staff person's report to the Hiring Authority or to the Hiring Authority's supervisor if the allegation(s) are against the Hiring Authority. Such reports shall include all pertinent information concerning the allegation(s), the timeline, and the source(s) of the information.

Any allegation of misconduct which is believed by staff to constitute an emergency shall be reported immediately to a supervisor, locally designated investigators, or the OIA. In the event of such an emergency, staff shall follow-up with the written report within one (1) day of learning of the information. Some instances that constitute an emergency are as follows:

- Possible loss of life or serious bodily injury;
- Serious breach of facility security;
- Further aggravation of a potentially dangerous situation;
- Activities which seriously compromise or jeopardize an investigation;
- An illegal activity which may occur imminently.

### **31140.10 Reporting Misconduct and Protecting Employees from Retaliation**

To encourage and protect employees that confront and report serious misconduct, the Department has strengthened its policies and procedures to provide additional protections beyond those included in the California Whistleblower Protection Act (Government Code section 8547 et seq.) and other California protective statutes. This reporting of misconduct process and the protection offered by the Department are detailed in the Department's "Policy and Procedure for Reporting Serious Misconduct and Protecting Employees from Retaliation." The procedures may be obtained by contacting the OIA.

### **31140.11 Inmate, Ward, or Parolee Complaints Against Staff**

All inmate, ward, or parolee complaints against staff shall be processed in accordance with DOM, Section 54100.

### **31140.12 Complaints by Members of the Public Against Department Employees**

Pursuant to Penal Code Section 832.5, it is the policy of the Department, as an employer of peace officers, to have a procedure for investigating a complaint by a member of the public against its peace officers.

Any person, other than an inmate, ward, parolee, or departmental employee, who wishes to file a complaint of misconduct by a departmental peace officer as defined in the California Code of Regulations (CCR), Title 15, Section 3291(b), shall be advised to submit a complaint. Complaints of misconduct will normally be recorded on a CDCR Form 2142, Citizen's Complaint Against Employee of the California Department of Corrections.

A complaint may be made at any time, day or night, to any on-duty departmental supervisor. The complainant may also choose to mail or deliver his/her complaint directly to the Hiring Authority or any Department Head. Whenever possible, the complainant shall be requested to personally meet with or talk to the Hiring Authority or designee at the time of the original complaint.

Upon initial receipt of a complaint by a member of the public, the supervisor accepting the complaint shall confirm the complaint involves a Department employee(s). Complaints determined to involve personnel from other agencies shall be forwarded to the appropriate authority through the appropriate chain of command. The supervisor accepting the complaint shall prepare a Citizen's Complaint Receipt Acknowledgment and forward it to the complainant within five (5) working days.

Upon receipt of a written complaint or CDCR Form 2142 from a member of the public, the departmental supervisor accepting the complaint shall forward the complaint to the Hiring Authority for review. The Hiring Authority shall evaluate the complaint and determine whether the issue is supervisory in nature, if a CDC Form 989 is required, or if a written response to the member of the public will suffice. If the complaint is regarding sexual harassment or discrimination based on race, gender, national origin, religion, sexual orientation, or disability, the complaint shall be referred to the OCR for investigation and appropriate disposition.

Complaints and reports and findings relating to the complaints made by members of the public shall be retained for a period of at least five (5) years pursuant to Penal Code Section 832.5 (b).

### **31140.13 Logging Allegations of Employee Misconduct**

The Hiring Authority or designee shall log each allegation of employee misconduct, regardless of whether the allegation is referred for investigation, on the CDCR Form 2140, Internal Affairs Allegation Log. The log shall be incident-driven; therefore, more than one employee can be listed under one log entry. Log numbers shall be assigned using a standard logging system, utilizing the following format: **ABC-001-06**.

- The first identifier "ABC" indicates the institution (i.e. CMF), field office, or other work site by the acronym.
- The second identifier "001" indicates the sequential number. The sequence continues throughout the year.
- The third identifier indicates the calendar year in which the allegation of misconduct was initiated for action.

To ensure department-wide standardization and compliance with departmental audit tools, the CDCR Form 2140 shall be utilized by each Hiring Authority for tracking.

### **31140.14 Allegation Inquiry**

Allegation inquiries shall be conducted at the direction of the Hiring Authority when there is an allegation of misconduct, which if true could lead to adverse action, and the subject(s), allegation(s), or both are not clearly defined or more information is necessary to determine if misconduct may have occurred. Each allegation inquiry shall be promptly performed by locally designated investigators approved by the OIA or OIA investigators. A written allegation inquiry report shall be provided to the Hiring Authority and shall document the collection of preliminary information that supports or refutes alleged misconduct. All applicable sections of Memoranda of Understanding (MOU) related to personnel investigations shall be followed.

The Hiring Authority, or designee, shall indicate on the CDCR Form 2140, in the designated area, if an allegation inquiry is being conducted and the resulting action from the allegation inquiry (e.g., referred to CIU for investigation, processed as a CDC Form 602, Inmate/Parolee Appeal Form, or found to not have merit).

If, during the course of the allegation inquiry, sufficient information is obtained to warrant an Internal Affairs investigation, the locally designated investigators approved by the OIA or the OIA investigator shall notify the Hiring Authority. The Hiring Authority shall forward a CDC Form 989 to the OIA CIU requesting an Internal Affairs investigation. If the allegation inquiry reveals sufficient evidence for the Hiring Authority to impose direct adverse action, the Hiring Authority shall forward a CDC Form 989 to the OIA CIU requesting to impose direct adverse action.

### **31140.15 Requests for Internal Affairs Investigation**

The CDC Form 989 and the corresponding Documents and Materials checklist shall be promptly completed and forwarded to the OIA CIU, by the Hiring Authority for processing as soon as is reasonably practical. The Hiring Authority shall complete the CDC Form 989 and shall submit copies of all documents and materials pertinent to the request. Original documents and evidence shall be maintained by the requesting Hiring Authority unless otherwise agreed to and ordered by the SAC.

The Hiring Authority or designee shall note the complainant's name and contact information, the supervisor/manager who discovered the misconduct, and the discovery date as follows:

- (1) Complainant: Individual (inmate, ward, parolee, citizen, staff, or other) who brought the misconduct allegation to the attention of CDCR staff.
- (2) Discovery: Date that an uninvolved manager or supervisor observed, was advised of, or otherwise discovered the misconduct.

The Hiring Authority or designee shall note any special information on the CDC Form 989 such as the employee being placed on administrative time off, temporarily reassigned pending the investigation, issued a firearm restriction, or other pertinent information. The CDC Form 989, with supporting documentation, shall be forwarded to the OIA CIU by special mail processing (express/receipts) or personal delivery. The transmittal envelope shall be sealed and clearly marked "CONFIDENTIAL" with appropriate return address information.

A limited exception to the Central Intake requirements exists for urgent matters involving potential employee misconduct requiring immediate investigative action. If immediate investigative action is believed to be necessary, the Hiring Authority shall request assistance from the OIA Regional Office. If OIA is unable to respond, the Hiring Authority may take independent action but is required to report such action to the OIA Regional Office no later than the next business day.

### **31140.16 Review, Evaluation, and Disposition**

The CIU shall review each CDC Form 989 and all supporting documentation and shall evaluate and make a determination regarding each matter within thirty (30) calendar days.

Requests for investigation shall receive a case number and be evaluated using a priority approach. Outcomes of the evaluation are as follows:

- **Accepted for Investigation**

Allegations of misconduct accepted by the CIU for investigation shall be forwarded to one of the OIA regional offices for assignment. Once received, the OIA regional will assign the investigation as follows:

- Assign the investigation to a Special Agent from the OIA regional office within ten (10) calendar days;
- Assign the investigation to a locally designated investigator within ten (10) calendar days. The investigation shall be supervised and monitored by a Senior Special Agent from the respective OIA Regional Office.

The SAC, CIU, shall provide written acceptance of the case by memorandum to the Hiring Authority. The memorandum shall include the OIA regional office with case responsibility and the CMS case number. This acceptance memorandum shall remain a permanent record in the Internal Affairs investigator's case file.

- **Referred for Investigation**

These cases contain allegations that are more appropriately investigated by other entities (i.e., outside law enforcement, the OIG, or OCR).

- **Returned to the Hiring Authority Without Investigation**

Investigation requests may be returned to the Hiring Authority for failing to provide all necessary information, for failing to meet the criteria for an Internal Affairs investigation, or when the CIU determines no investigation is warranted. These requests are returned to the Hiring Authority with a recommendation for the following:

- **Direct Discipline/Supervisory Action:**

If misconduct is sufficiently well-documented, the case may be referred back to the Hiring Authority for direct adverse action with consultation from an assigned Vertical Advocate for designated cases or in consultation with the Vertical Advocate for all other cases. If the Vertical Advocate or ERO/Disciplinary Officer determines that a subject interview or other interview(s) is necessary, the Vertical Advocate or ERO/Disciplinary Officer shall notify the CIU and request an interview(s). Locally designated investigators are not authorized to initiate investigations or conduct interviews without approval of OIA.

Some misconduct should be addressed by taking corrective action, such as training, policy or procedure change, or other progressive discipline measures.

- **Further Investigation or Inquiry Required:**

Some requests for investigation may require the Hiring Authority to provide additional information or investigation. When the CIU determines insufficient information or documentation was submitted with the CDC Form 989, CIU staff shall contact the Hiring Authority or designee and request additional information. The requested information and/or documentation shall be provided to the CIU within ten (10) calendar days, if the information is available.

- **No action:**

Some requests may not warrant any corrective or adverse action.

For requests returned without investigation, a memorandum shall be completed by the SAC and forwarded to the Hiring Authority. The memorandum shall include a detailed explanation for the action taken and shall direct the Hiring Authority, as appropriate, to determine the appropriate disciplinary action while taking into account any prior misconduct by the employee or corrective action imposed. A copy of the memorandum shall be retained in the CIU file. In addition to responding in writing, the SAC shall be available to the Hiring Authority to discuss the decision for the return of the investigation. The Hiring Authority may appeal the decision in writing to the Chief, OIA, Headquarters Operations, promptly following issuance of a returned case memorandum.

#### 31140.17 Case Assignment

When a request for investigation is accepted, the case shall be assigned to an OIA regional office (Headquarters, Northern, Central, or Southern). If the case is assigned by the OIA region to a locally designated investigator, the case shall receive a case number and be supervised by a Senior Special Agent from the OIA regional office. The locally designated investigator shall complete the case and return it to the Senior Special Agent for final review before it is noted as complete in the CMS.

#### 31140.18 Logging Allegations

In accordance with Penal Code Section 6065(b)(2), all Internal Affairs allegations or complaints, whether investigated or not, shall be logged into CMS and numbered sequentially on an annual basis. The log shall specify, but not be limited to, the following information: The sequential number of the allegation or complaint, the date of receipt of the allegation or complaint, the location or facility to which the allegation or complaint pertains, and the disposition of all actions taken, including any final action taken. The log shall be made available to the Inspector General.

#### 31140.19 Case Management System

The OIA Information Technology personnel shall maintain, control, and secure an electronic CMS for purposes of security and efficiency and to allow real-time documentation of case activity by investigators, Vertical Advocates, and ERO/Disciplinary Officers. In addition to capturing information during the course of an investigation, the CMS will capture post-investigation information, such as case findings, disciplinary action, and legal action.

Users include OIA Central Intake staff; OIA staff, Vertical Advocates, BIR, Hiring Authorities, ERO/Disciplinary Officers, and designated local Internal Affairs investigators. The OIA may, at its discretion, grant CMS access to other Department staff having significant roles in the employee disciplinary process. For purposes of security and investigative integrity, the OIA shall also have the sole authority to grant or remove access to the CMS for any CDCR employee.

The OIA shall create and maintain a user manual for the CMS that shall provide detailed operating procedures for OIA employees and other authorized CMS users.

1. **New Cases**

As investigative requests are evaluated by the CIU, the request/case shall be opened in CMS and key information, such as allegation, case type, and initial case decisions shall be recorded in CMS. If an investigation is opened, case assignment information shall be entered in CMS.

2. **Ongoing Cases**

Investigators and authorized users shall use CMS to record case activity, monitor case progress, and provide a real-time record of decisions. Other authorized users may use CMS to monitor case activity or record pertinent actions, activities, and decisions.

3. **Closing Cases**

Investigators, Vertical Advocates, and Hiring Authorities shall refer to and comply with DOM, Section 3, Article 22 regarding investigative review and case closure.

#### 31140.20 Criminal Investigations

A criminal investigation should be conducted for an allegation of employee misconduct when there is reason to believe the employee has committed a violation of criminal law and an outside law enforcement agency is not conducting an investigation. The CIU shall identify and document the potential criminal violation and the facts and evidence represented in support of the complaint. The CIU shall refer the case to a SAC for the respective region who will assign the criminal investigation to a Senior Special Agent for supervision.

Upon case initiation, the Senior Special Agent or the Special Agent shall confer with the Vertical Advocate, for designated cases, and the SAIG for cases monitored by the BIR. Upon completion of the investigation, if probable cause exists to believe that a crime has been committed, the investigation shall be referred to the appropriate agency for prosecution.

Criminal investigations shall be conducted in compliance with all laws, regulations, and departmental policies.

#### 31140.21 Administrative Investigations

An administrative investigation shall be conducted into allegations of staff misconduct that are violations of policy, procedure, or law. Administrative investigations may be conducted concurrently or subsequent to a criminal investigation. The determination of whether to conduct the administrative investigation concurrently with the criminal investigation shall be made by the Senior Special Agent in consultation with the Vertical Advocate and BIR in conjunction with the prosecuting agency. In addition, the prosecuting agency shall be consulted prior to any compelled subject interview when criminal charges or court proceedings are pending. If the prosecuting agency requests the Internal Affairs investigation be delayed pending criminal prosecution, that request shall be documented in the case file and in CMS. An administrative investigation, adverse action, or both, shall not be delayed unless it clearly would jeopardize the criminal prosecution.

In an administrative investigation, an employee does not have a right to refuse to answer questions likely to lead to the discovery of relevant evidence as determined by the investigating entity. When the employee is compelled to answer these questions, the answers cannot be used against the employee in a

criminal or state court civil proceeding subject to certain exceptions. In an administrative investigation of a peace officer involving possible criminal conduct, the peace officer shall be advised of his/her constitutional rights before questioning, followed by the “Lybarger warning” if he/she refuses to answer the questions on the grounds the answer may be self-incriminating. [Refer to Government Code Section 3303 (f) and (h).]

#### **31140.22 Retaliation Investigations**

OIA is responsible for investigating retaliation as defined under the California Whistleblower Protection Act and other California retaliation protective statutes, except for retaliation associated with EEO complaints and processes which fall under the responsibility of the OCR. EEO related retaliation complaints that are received by OIA shall normally be forwarded to OCR for review and consideration.

Upon receipt, the OIA CIU shall conduct a review and analysis of all non-EEO related retaliation complaints. Each complaint shall be evaluated on its merits to determine if a prima facie case of retaliation can be established.

In order for a complaint or referral for investigation to establish a prima facie case of retaliation and be accepted by OIA, the following must be established:

- That an employee directly or indirectly used or attempted to use official authority or influence for the purposes of intimidating, threatening, coercing, commanding, or attempting to intimidate, threaten, coerce, or command for the purpose of interfering with the reporting of an improper governmental activity or making a protected disclosure; **or**
- That the employee: a) made a disclosure to a manager or supervisor of what is believed to be an improper governmental activity; b) was or is cooperating in an investigation of improper governmental activity; or c) refused to obey an illegal order or directive; **and**
- The alleged retaliator was aware of the protected activity, protected disclosures, or failure to obey an illegal order; **and**
- The employee subsequently suffered reprisal, retaliation, threats, coercion, intimidation, or similar acts; **and**
- There was a causal connection between the protected disclosure, protected activity, or refusal to obey an illegal order and the adverse acts.

#### **31140.23 Workers Compensation Fraud Investigations**

The OIA is responsible for investigating Workers' Compensation fraud. Penal Code Section 550 and Insurance Code Section 1871.4 define the law relating to Workers' Compensation insurance fraud.

It is a felony to present a false or fraudulent claim to receive Workers' Compensation benefits. Fraud can occur at any time during the life of a Workers' Compensation claim; from the initial filing of the claim, to false statements to the employer, doctor, medical care personnel, physical therapist, claim representative, or anyone else involved in the administration of the claim and the determination of available benefits. Fraud can occur even if the initial injury was legitimate and the filing of the claim was warranted if the employee later makes a material false statement or misrepresentation.

#### **31140.24 Deadly Force Investigations**

The OIA investigates all reported use of deadly force incidents resulting in injury and all reported uses of nondeadly force resulting in death or fatal injury. These deadly force incidents do not generally include inmate assault/battery on staff or warning shots in an institution/facility setting. The OIA shall deploy separate Deadly Force Investigation Teams (DFIT) to conduct criminal and administrative investigations as soon as is reasonably practical after receiving a report of such an incident.

##### **1. DFIT-Criminal Team**

The DFIT-Criminal Team conducts deadly force criminal investigations either independently or in conjunction with appropriate local law enforcement agencies or district attorney's office. In some cases and locations, the criminal investigation will be conducted by the local law enforcement agency in accordance with MOU's between the Department and the local law enforcement agency. In these cases, the DFIT-Criminal Team will monitor the progress of local law enforcement and assist when appropriate.

##### **2. DFIT-Administrative Team**

The DFIT-Administrative Team conducts deadly force administrative investigations as required to determine whether the use of force complied with department policies and procedures and to identify any need for policy, procedure, training and/or equipment modifications. The DFIT-Administrative Team refers and presents the completed investigation to the Deadly Force Review Board for disposition.

The OIA shall also refer to CCR Section 3268.1 for additional guidance and requirements governing deadly force investigations.

#### **31140.25 Employee Representation Rights**

Employees are entitled to representation during investigative interviews consistent with MOU's, Public Safety Officers Procedural Bill of Rights Act, and other State and federal laws. A personal advisor, attorney, or another state employee designated by the subject or witness may attend any interview that may lead to adverse action. Employees who are possible subjects or witnesses in the investigation are excluded as employee representatives.

#### **31140.26 Temporary Authorization (TAU) Appointments**

Employees with a temporary authorization (TAU) appointment status are not entitled to have a representative present during an interview which is preparatory to a separation from the TAU appointment. However, if a proposed action against an employee in this status is attributable to a specific incident that would have resulted in an adverse action, investigatory interviews shall be handled like adverse action cases and employee representation shall be allowed as prescribed by law.

#### **31140.27 State Time**

Use of State time for investigative matters shall be approved by the employee's supervisor. Absent an emergency, employees may request and shall be allowed reasonable State time by the supervisor to contact/secure a representative and to discuss the matter prior to any meeting/interview that may lead to adverse action. The employee shall also be allowed reasonable State time to prepare for the interview/meeting with the representative.

#### **31140.28 Statute of Limitations**

Government Code Section 3304(d) and (g) for public safety officers and Government Code Section 19635 for nonpublic safety employees shall be adhered to regarding statute of limitations for administrative investigations.

#### **31140.29 Memoranda of Understanding**

In addition to complying with the provisions of law and regulation, OIA staff shall also adhere to conditions detailed in the various bargaining unit MOU's. All investigators shall be familiar with the employee investigation requirements of these agreements and their application to the investigation process.

#### **31140.30 Investigator's Field Guide**

Internal Affairs investigations shall be conducted with due diligence and completed in a timely manner in accordance with the law, applicable MOU's, and the OIA's Investigator's Field Guide.

#### **31140.31 Subject Interviews**

All departmental employees under investigation and subject to interview by an investigator shall be informed of the following before such interview: (1) Name and classification of the investigator; (2) Name and classification of all other persons to be present during the interview; and (3) The nature of the investigation in sufficient detail to allow the employee to respond to the allegations.

#### **31140.32 Witness Interviews**

If during a witness interview, facts are discovered that indicate the witness may have committed misconduct, the OIA investigator shall immediately discontinue the interview, even if the facts/admissions are not related to the incident being investigated. The OIA investigator shall reschedule the interview applying all employee procedural safeguards related to a subject of investigation/inquiry.

#### **31140.33 Recording Interviews During an Investigation**

During OIA investigations, all noticed employee interviews concerning matters that could lead to an adverse action shall be audiotape-recorded.

Any audiotape recording of a noticed investigatory interview shall be as follows:

- Made openly and with the full knowledge of the employee being interviewed;
- Completely documented as part of the final report; and
- Retained for later transcription, if needed.

An employee being interviewed as the subject of an investigation may audiotape-record any portion of the interview and have access to the Department's audiotape recordings if any further proceedings are contemplated or prior to any further interrogation at a subsequent time. If a subject audiotape-records the interview, he/she may retain possession of his/her audiotape upon the conclusion of the interview.

An employee being interviewed as a witness of an investigation may audiotape-record the interview, but may not retain the original or a copy of the audiotape recording. Digital recorders shall not be allowed in witness interviews, unless the employee agrees to relinquish possession of the recorder at the end of the interview. The employee shall have access to the audiotape recordings made by the Department and the employee before any subsequent interview.

All audioteape recordings shall be retained with the original investigative/inquiry report. Audio recordings are part of the investigative/inquiry report and are confidential.

This Section does not apply to surreptitious recordings conducted during a criminal investigation.

#### **31140.34 Criminal Investigations - Witness Assertion of Fifth Amendment Privilege Against Self-Incrimination**

A witness in a criminal investigation has the right to assert his/her Fifth Amendment privilege against self-incrimination when: (1) He/she has reasonable grounds to believe that his/her testimony may be used against him/her in the criminal matter under investigation or in a future criminal proceeding; or (2) That his/her testimony might uncover other evidence against him/her in a criminal matter.

Witnesses cannot assert the Fifth Amendment privilege against self-incrimination solely to protect others from possible criminal prosecution or solely to avoid providing information to investigators.

#### **31140.35 Administrative Immunity from Disciplinary Action**

Requests to confer administrative immunity during an investigation must be processed in accordance with the CDCR's Policy on Immunity during Internal Affairs Investigations. The policy may be obtained by contacting the OIA.

#### **31140.36 Criminal Misconduct Discovered During an Investigation/Inquiry**

If an investigation or allegation inquiry reveals a possible violation of criminal law, the OIA investigator shall present the facts of the case to the Regional SAC.

- The SAC shall coordinate with the CIU so that the additional allegation can be presented to the CIP. If urgent circumstances exist that require immediate investigative response, the SAC should initiate such action and advise the CIU subsequently.
- If approved by the CIP, a criminal investigation by OIA shall be conducted, and the case presented to the local prosecuting agency for possible prosecution if there is probable cause to believe a crime has been committed.
- When criminal prosecution is possible, the designated Special Agent should consult with the prosecuting authorities before interviewing the involved employees.
- If, in a criminal case, the prosecuting agency declines to prosecute, this fact and the reason for the decision not to prosecute shall be documented in the CMS by the assigned investigator.

#### **31140.37 Administrative Misconduct Discovered During an Investigation/Inquiry**

If an investigation/inquiry of alleged employee misconduct reveals possible additional misconduct, the OIA investigator shall present the facts of the case to the SAC. The SAC shall promptly notify the Hiring Authority and consult with the Vertical Advocate to determine if the additional allegations should be included with the existing investigation/inquiry or presented to the CIP. After consultation with the SAC, additional allegations shall be added if appropriate and the investigation of the additional allegations shall be conducted by OIA.

#### **31140.38 Confidentiality of Investigations**

All investigative records of the OIA are confidential. OIA investigators, locally designated investigators, OIA support staff, and others involved in an investigation/inquiry shall not discuss with others, except Department legal counsel and the OIG, any aspect of any investigation/inquiry record without approval of OIA.

All other Department staff not mentioned above involved in an investigation/inquiry, including witnesses and administrators, shall not discuss any aspect of any investigation without approval of OIA excepting discussions with their employee representative and legal counsel.

#### **31140.39 Correspondence Relating to Any Internal Affairs Investigation**

All correspondence related to any Internal Affairs investigation shall be clearly marked "CONFIDENTIAL." Correspondence includes, but is not limited to, reports, evidence, recordings, photographs, documents, or investigative material concerning any Internal Affairs investigation. When sending correspondence through the United States Postal Service, departmental mail, United Parcel Service, or other courier service, such material shall be sealed in a manner designed to prevent or reduce unauthorized access.

#### **31140.40 Investigative Report**

All reports shall be submitted in the standard format provided by the OIA beginning with a statement of the allegation or complaint, shall provide all relevant facts, and shall include the investigator's signature. The report shall

address material contradictions, but shall not include any conclusions regarding disposition of the investigation.

#### **31140.41 Distribution of Investigations**

Upon completion of each Internal Affairs investigation, the investigator shall forward the investigative report, all supporting documents, investigative notes, and case file documents to the SAC; the Vertical Advocate for designated cases; and the SAIG for cases monitored by the BIR. For designated cases and cases monitored by the BIR, the forwarding and distribution of copies shall be undertaken consistent with DOM, Section 3, Article 22. The investigator shall store his/her investigative report in CMS.

For all other cases, upon approval of the completed investigation, the Regional SAC shall forward a complete copy, including a copy of all exhibits, investigative notes, and case file documents to the Hiring Authority who requested the investigation. In the event that the requesting Hiring Authority became a witness or a subject of the completed investigation, the investigative report and supporting documentation shall be forwarded to the Hiring Authority's immediate supervisor.

Upon completion of any additional investigation that may be requested by the Hiring Authority, Vertical Advocate for designated cases, or the SAIG for cases monitored by the BIR, the Regional SAC should forward a letter to the subject of the investigation advising the subject that the investigation has been referred to the Hiring Authority. The Hiring Authority shall review the investigation package, determine the investigative findings, and initiate disciplinary action, if necessary, consistent with DOM, Section 3, Article 22.

A complete copy of the investigation and case file shall be maintained by the OIA.

#### **31140.42 Maintenance of Investigation/Inquiry Records, Files, and Complaints**

All reports, documents, evidence, and other materials or information relative to any investigation shall be processed and stored in a manner precluding unauthorized access or disclosure (refer to Penal Code Sections 832.7 and 832.8, and Evidence Code Sections 1043 and 1046).

The Hiring Authority shall ensure the proper maintenance and security of investigation/inquiry records and files pursuant to Penal Code Sections 832.5 and 832.7.

#### **31140.43 Purging Investigation/Inquiry Records**

Investigation records shall be purged and destroyed as provided in the Records Retention Schedule. Purging may be postponed if litigation or potential litigation is pending, or if there are other justifiable reasons. The OIA shall forward a request, by memorandum, regarding approval/disapproval to purge investigative records to the Hiring Authority of each employee investigation and to the OLA. The Hiring Authority and OLA shall review current litigation with appropriate staff before authorizing, in writing, the purging of these records.

#### **31140.44 Revisions**

The Assistant Secretary, OIA, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **31140.45 References**

GC §§ 3303(f) and (h), 3304(d) and (g), 8547, 11182, 19635.

PC §§ 550, 832.5, 832.5(b), 832.7 and 832.8, 6065(b)(1), 6065(b)(2), 6126.1, 6126.1(c).

EC §§ 1043 and 1046.

IC § 1871.4.

CCR (15) § 3268.1 and 3291(b).

Madrid v. Tilton, (USDC. No C90-3094 TEH) December 2006.

Fifth Amendment.

Public Safety Officers Procedural Bill of Rights Act.

California Whistleblower Protection Act.

### **ARTICLE 15 — RELEASE OF PAYROLL WARRANTS**

*Revised September 3, 2013*

#### **31155.1 Policy**

It is the policy of the Department that all employees receive a payroll warrant each payday. For all fulltime and fractional timebase employees, payday is the last working day of each pay period (Master Payroll). For intermittent/hourly employees, payday is no later than the 15th day of the following month. These dates may be affected by any late payroll adjustments (e.g., late dock).

State Administrative Manual (SAM) 8580.2 states that when a pay period ends on a normal workday (Monday through Friday), departments may release salary warrants anytime on that day after the employee has completed the work for the pay period. When the pay period ends on a Saturday, Sunday, or a holiday, departments may release salary warrants anytime on the last preceding normal workday (Monday through Friday) provided the employee has completed the work for the pay period. If employees are going to deposit or cash their warrants prior to the issue date, they should be cautioned to do so just before bank closing time, or 4:00 p.m., on those days when the banks are open until 6:00 p.m.

Generally, Master Payroll warrants are not to be released until the completion of work on payday or before 3:00 p.m. on payday, whichever is earlier. Payroll warrants released earlier, or at 3:00 p.m., shall not be deposited or cashed before 4:00 p.m.

In the event of staff use of informal administrative time off as granted by the Governor, payroll warrants shall not be released earlier than 12:00 noon of the last working day in December.

SAM provides for salary advances only when errors or delays in submitting or processing documents make it impossible for the State Controller's Office (SCO) to prepare and deliver proper payroll warrants within a reasonable amount of time. The Memorandum of Understanding (MOU) limit the number of annual salary advances, and identify the time frame in which late dock salary advances shall be issued.

### **31155.2 Purpose**

This Article sets forth the procedures for the early release of payroll warrants and the release of payroll warrants after normal work hours, and addresses late dock salary advances.

### **31155.3 Direct Deposit**

Employees may avoid this process by signing up for Direct Deposit (DD) of their payroll warrants. It is strongly urged that employees make arrangements for DD of their payroll warrants. STD Form 699, Direct Deposit Enrollment Authorization, may be obtained from the Personnel Office. The bank routing number from the financial institution will be necessary. It will take approximately 30 to 45 days from the time the SCO receives the STD Form 699 to credit the employee's payroll warrant to the designated bank account.

### **31155.4 Early Release of Payroll Warrant**

Payroll warrants may be approved for early release, but no earlier than one day prior to the normal payday. Early release of the Master Payroll warrants may be allowed for the following reasons:

- Employees are required to travel on State business on payday.
- Employees are called away on personal emergencies or for unforeseen urgent matters on payday.

#### **Acceptable Reasons**

Examples of personal emergencies or unforeseen urgent matters include, but are not limited to, the following:

- Death in the immediate family.
- Medical emergency or sudden illness in the family.
- Acts of vandalism which have caused significant damage to a vehicle which requires immediate repair.
- Emergency home repairs due to unforeseen events such as fire, flooding, storm damage, theft, or vandalism.

Good judgment should be used in requesting and approving early release of payroll warrants.

#### **31155.4.1 Responsibilities of an Employee Requesting an Early Release of a Payroll Warrant**

To request an early release of a payroll warrant, an employee shall complete a CDCR Form 1816, Request for Early Release of Payroll Warrant, and include:

- The need for an early release of a payroll warrant with sufficient explanation of the circumstances, i.e., away from the work place on payday due to State business travel, personal emergency, or unforeseen urgent matter and not on leave status.
- Employee's signature stating the payroll warrant will not be deposited or cashed before 4:00 p.m. on the official payday.

Early release of payroll warrants shall not be approved if the employee is:

- Utilizing leave credits for other than personal emergency or unforeseen urgent matters on payday.
- On extended sick leave.

Employees in these situations have the following options:

- Provide a self-addressed, stamped envelope in which to have their payroll warrant mailed.

- Initiate DD with their bank or credit union.
- Designate, in writing, another person (including the designated person's social security number) to pick up the employees' payroll warrant(s) for them.
- Obtain their payroll warrant upon returning to the workplace.

Employees with flexible work schedules may not request early release of their payroll warrant because payday falls on one of their Regular Days Off (RDO). If employees are on a mandatory 4/10 timebase, the accounting office will release their payroll warrants upon completion of their work shift, at the end of the pay period, but not more than one day before payday, and only if payday falls on one of their RDOs.

**Note:** Violations of the early warrant release policy may result in suspension of all early releases of payroll warrants at the facility, parole region, or headquarters. If control agencies note widespread violations,

CDCR may be suspended from releasing any payroll warrants early.

#### **31155.4.2 Designation of an Early Release Request Reviewer**

Wardens shall designate a staff member, at a level of Correctional Business Manager I or above, to review all CDCR Form 1816s for their respective facilities.

Since payroll warrants of parole region staff are normally mailed to the parole region offices prior to payday, each Regional Parole Administrator shall be responsible for the approval of any early release of payroll warrant requests for their respective regions. Regional Parole Administrators may designate their Deputy Regional Parole Administrator or their Assistant Regional Parole Administrator to review all CDCR Form 1816s for their respective parole regions.

The Chief of Accounting Management Branch, headquarters, is the designated reviewer for headquarters' unit's early releases.

#### **31155.4.3 Responsibilities of the Supervisor of the Requestor**

Prior to signing and forwarding the CDCR Form 1816, it is the responsibility of the supervisor of the requestor to:

- Review the request.
- Verify the personal emergency or unforeseen state of urgency for appropriateness.
- Verify the employee will be away from his or her work site on State business on payday.
- Verify the employee has sufficient leave credits available to cover the completion of work in the pay period.
- If approved, sign the CDCR Form 1816 and forward it to the designated reviewer with all the appropriate supporting documentation.
- If denied, return the CDCR Form 1816 to the employee.

#### **31155.4.4 Responsibilities of the Designated Reviewer**

Prior to signing and forwarding the CDCR Form 1816, the designated reviewer shall:

- Review the request for appropriateness.
- Request further verification, if necessary.
- If approved, sign the CDCR Form 1816 and forward it to the accounting office or to the parole unit office with all of the appropriate supporting documentation.
- If denied, return the CDCR Form 1816 to the employee.
- Maintain a copy of each CDCR Form 1816 (approved or denied).

#### **31155.4.5 Responsibilities of the Accounting Office / Parole Unit Supervisor**

The accounting office or parole unit supervisor for the parole region shall:

- Notify the employee when the payroll warrant may be picked up.
- Maintain a warrant log of the payroll warrant number, employee name, and signature of employee when he or she picks up the payroll warrant. Substitutions for a warrant log must receive prior approval from the Chief of Accounting Management Branch in headquarters.

#### **31155.5 Late Dock Salary Advance**

When an employee does not receive a payroll warrant on payday, the Department agrees to issue a salary advance, consistent with the MOU and Department policy and under the following conditions:

- When errors or delays occur in processing the payroll documents through no fault of the employee, a salary advance shall be issued on payday for an amount close to the actual net pay.
- For represented employees, the number of salary advances allowed per calendar year is defined in the bargaining unit contract. If the employee

has not exceeded the maximum number of salary advances allowed by their respective MOU, a salary advance for the amount close to actual time worked in the pay period shall be issued within five workdays after payday.

- An employee with late dock who has exceeded the maximum number of salary advances allowed by his/her respective MOU shall receive his/her corrected SCO payroll warrant when it has been reissued by SCO.

### **31155.6 Release of a Payroll Warrant After Hours, Weekends, or Holidays**

This section only pertains to 24-hour facilities. There shall be no provisions for release of payroll warrants after-hours, weekends, or holidays for headquarters staff.

Wardens should establish procedures for releasing payroll warrants other than on normal workdays (Monday through Friday) and normal work hours (8:00 a.m. to 5:00 p.m.) and ensure that:

- Staff (e.g., control room or assignment staff) are not designated to handle payroll warrants if their duties are incompatible with the requirements regarding the handling of payroll warrants. (See DOM 31155.6.1.)
- A warrant issuance log is maintained by the above-designated staff. The warrant issuance log shall include the warrant number, printed employee name, and the signature of the employee whose payroll warrant is being released.
- In lieu of the above warrant issuance log, a printed alpha roster with the names and social security numbers of all employees may be used. Warrant numbers must be printed on the roster.
- The facility designates a secured area where the payroll warrants shall be locked safely when unattended and available only to the designated staff.
- The facility establishes procedures to transfer custody of the payroll warrants and the warrant issuance log:
  - Between designated staff at each change of shift.
  - When the payroll warrants and warrant issuance log are picked up from and returned to the accounting office.

This procedure shall require the designated staff to be fully accountable for payroll warrants at all times; and that the undistributed payroll warrants and the completed warrant issuance log will be returned by the designated staff to the accounting office on the first normal workday after the weekend and/or holiday when the accounting office opens.

Unless a facility is unable to meet all of the above requirements or has other extenuating circumstances that would prohibit implementation, all Wardens are strongly urged to implement a process for releasing payroll warrants after-hours, on weekends, and holidays. Implementation of such procedures shall not result in additional cost to the State, nor affect institutional security.

If a facility cannot meet any one of the above requirements, the Warden may seek an exemption from the requirement if an alternative means is established to compensate for that requirement. Exemption from any of the above requirements shall be made in writing to:

California Department of Corrections and Rehabilitation  
Associate Director - Accounting  
Sacramento Management Branch

It is strongly recommended that all accounting offices extend their hours each payday to accommodate as many of the different shifts/work schedules as possible and minimize the need to establish procedures for releasing payroll warrants during weekends or holidays. Payroll warrants released shall not be deposited or cashed prior to 4:00 p.m. on payday.

### **31155.6.1 Designation of Staff to Distribute and/or Handle Payroll Warrants**

Per SAM 8580.1, State agencies will observe the following separation of duties in designating persons who can certify or process personnel documents to SCO, Division of Personnel and Payroll Services. Persons designated by agencies to receive salary warrants from SCO, or to distribute salary warrants to employees, or to handle salary warrants for any other purpose will not be authorized to process or sign any of the following personnel documents:

- STD Form 603, Absences Without Pay Report.
- STD Form 634, Absence and Additional Time Worked Report.
- STD Form 666, Payroll Exceptions Report.
- STD Form 672, Time and Attendance Report.
- STD Form 674, Payroll Adjustment Notice.
- STD Form 680A, Personnel Action Request.

Additional forms that shall not be processed or signed by persons designated to distribute or handle payroll warrants are:

- CDCR Form 998-A, Employee's Record of Attendance.
- STD Form 671, Miscellaneous Payroll/Leave Actions.
- State Controller's CD Form 113-B, Proof of Lost or Destroyed Payroll Warrant and Request for Issuance of Duplicate Warrant.

As outlined in Accounting Standards Board (ASB) 1991-6, and in SAM 8080 for the purposes of separation of duties and adequate internal control, payroll warrants shall not be disbursed by the person who authorized the disbursement, nor by the person who prepared the warrant.

### **31155.6.2 Responsibilities of the Institution/Facility and Accounting Office**

The accounting office shall prepare a warrant issuance log that identifies the total number of payroll warrants turned over to the designated staff. The warrant issuance log shall be released to the staff member(s) designated by the Warden. The designated staff will sign for the payroll warrants.

On the first normal workday after the weekend or the holiday, the accounting office will receive the warrant issuance log and the undistributed payroll warrants from the designated staff. The accounting office will be responsible for verifying the warrant issuance log against the remaining payroll warrants.

Leaving the payroll warrants for an extended period of time outside the accounting office with another unit is not recommended.

### **31155.7 Revisions**

The Deputy Director, Human Resources, or designee is responsible for ensuring that the contents of this Article are kept current and accurate.

### **31155.8 References**

SAM §§ 8080, 8580.1, 8580.2, and 8595.

ASB 1991-6.

## **ARTICLE 16 — MANAGERIAL PERFORMANCE APPRAISAL SYSTEM**

*Effective April 22, 1991*

### **31160.1 Policy**

Public concern regarding the cost of government has motivated legislators and public administrators to increase the efficiency and effectiveness of government. One point of focus has been in the area of employee performance appraisals.

Recent advancements in the development of appraisal methods have renewed efforts to make better utilization of this powerful management tool, especially as it applies to managers. Performance appraisal properly carried out enhances clarification of job duties and responsibilities.

### **31160.2 Purpose**

The Managerial Performance Appraisal System (MPAS) provides more effective management by recognizing superior performers (through bonuses), and serving as an incentive for managers to strive toward efficiency and prepare them for promotion. The program is designed to communicate and clarify work objectives; provide a standardized method of reporting work performance; distinguish between superior, good, and poor performers; and help deal with below standard managerial performance.

### **31160.3 Participants**

Participation in MPAS is mandated by GC 19992.8 through 19992.14. Exceptions to non-participation shall be approved by the Chief Deputy Director. The MPAS Coordinator shall be provided with written notification of such action.

### **Classification of Participants**

Permanent or limited-term employees in a designated managerial classification. A managerial classification is defined as an employee having significant responsibilities formulating or administering Department programs and policies as mandated in GC 3513 (e). Exempt employees, except those designated as higher level reviewers, are also included.

### **Ineligible Participants**

Non-managerial employees who are serving on training and development assignments to designated managerial classes are ineligible to participate, as are managerial employees who are on training and development assignments to non-managerial classes. Similarly, employees on acting assignments to designated managerial classes are not eligible to participate.

### **Separated Employee Participants**

Managers who retire, leave State service or voluntarily demote to a non-managerial position are also covered if they participate in the minimum appraisal period as defined below. Additionally, managers assigned



temporarily outside their parent organization or those who transfer between departments are covered if they meet the minimum appraisal period requirements.

#### **Immediate Supervisor**

The supervisor who is responsible for rating the manager quarterly and annually.

#### **Designated Higher Level Reviewer**

The appointing authority, or the Chief Deputy Director/Director, who makes final evaluation and bonus decisions.

The designated higher level reviewer (Warden, RPA, Deputy Director, Chief Deputy Director or Director) reviews the quarterly and final rating and nominates bonus recipients. These individuals are exempt from MPAS as their role presents a potential conflict of interest.

#### **31160.4 Appraisal Period**

The MPAS appraisal period begins July 1 and concludes June 30 each year. Evaluations are due at the end of every third month (September, December, March and June) with the final or annual evaluation also due by June 30.

#### **Minimum Appraisal Period**

The minimum appraisal period is 90 days. Managers employed for less than 90 days during an appraisal year will not be included in the program.

#### **Minimum Bonus Appraisal Period**

The minimum participation period for bonus eligibility is 180 days. Appraisal quarters may be added together to meet the 180-day minimum. Routine vacation and sick leave are not subtracted from the 180 days; however, extended leave of 60 days or more is subtracted.

#### **31160.5 Appraisal Process**

Appraisals shall be based on organizational goals. Each manager will be assessed on their contribution toward the accomplishment of those goals. Organizational goals shall be translated into annual work plans consisting of critical elements for each manager.

##### **31160.5.1 Work Plans**

Each manager shall have a work plan prepared and approved prior to the beginning of the appraisal year. A narrative or memorandum style is acceptable. This plan is developed by the manager and their supervisor, signed as acceptable by both and shall contain the performance elements to be accomplished by the manager during the year.

When MBO goals relate to the manager's scope of responsibility, MPAS work plan elements should incorporate the departmental Management by Objective (MBO) goals.

Any revision to the work plan should be entered within the quarter in which they are effective and initialed by both the supervisor and manager.

Managers appointed after submission of annual work plans will assume the work plan previously developed for the position of a pertinent one exists or will prepare/revise within 90 days of their appointment.

##### **31160.5.2 Critical Elements**

The critical element of a work plan is one of such importance that accomplishment of it is essential to the work unit's mission.

#### **Criteria**

Each manager's work plan shall contain at least three critical elements. The DPA recommends that no more than seven critical elements be developed.

Critical elements should represent the main thrust of the manager's position and meet the following criteria:

- Give a precise definition of the expected accomplishment.
- Be Challenging, attainable and within the manager's control
- Be clearly stated in terms of needs, specific results, and time periods for each critical element.
- Be subject to reliable periodic measurement that the projected effort is on course and on time.

Critical elements must have "milestones" that can be measured each quarter. This will enhance the review and rating process as well as point out needed modifications to the work plan. Example, "...complete an on site audit of each institution's appeal procedure for compliance with policies, procedures, at the rate of three institutions per quarter, with a report on the first three institutions due September 30, 1991."

Managers are encouraged to develop critical elements that will span the entire 12-month period to provide a better basis for evaluation. Each work plan should include a minimum of one critical element that expires in June. Work plans whose critical elements are all scheduled for completion prior to June do not allow for complete quarterly evaluations and ratings.

#### **31160.5.3 Noncritical Elements**

MPAS replaces the use of individual development plans for designated managers. Plans for self-development and/or training to be accomplished during the appraisal year shall also be included in the work plan as "non-critical elements". These elements shall not be a determining factor for bonus nomination, as the final ratings shall be based on accomplishment of the critical elements only.

Supervisors may continue to provide performance evaluation summaries for subordinate managers to document their performance in areas beyond the scope of MPAS.

#### **31160.5.4 Evaluation Standards**

Evaluations are based on each manager's self-assessment that are prepared quarterly. These self-assessments should provide specific information on the manager's progress toward meeting the critical elements of the work plan. The self-assessments are submitted to the rater for review and form the basis for the manager's quarterly and final summary ratings.

The Managers' General Standard (MGS) provides the yardstick by which managers are measured regarding accomplishment of their critical elements. The yardstick provides fair, equitable and consistent expectations for basic types of activities that are relevant to all state managers. Use of the MGS critical elements does not preclude adding standards for specific accomplishments of a manager's job.

While these standards can be used to hold managers accountable for performance in these areas, the decision to grant a bonus must be supported by "Fully Successful" or above performance on critical elements.

Managers who believe that any element is the MGS does not apply to their duties may submit written justification as to why they should not be appraised on that element. Exceptions however, should be infrequent.

#### **Rating Levels**

Five rating levels are used:

- Outstanding.
- Exceeds Fully Successful.
- Fully Successful.
- Minimally Successful.
- Unsatisfactory.

Most ratings for valued, competent managers will be "Fully Successful," which is the level of performance expected of a manager. Relatively few managers should fall into the remaining categories.

#### **31160.6 Rating and Review Process**

Progress reviews shall be discussed with each manager quarterly and any time their performance falls below the "Fully Successful" level.

#### **Responsibility of Participants**

At the end of each quarter, the participating manager shall prepare and submit a self-evaluation and any supporting documentation to their supervisor for review. The supervisor should address the self-assessment in the progress discussion and consider the documentation when assigning the rating. If, due to intervening priorities, a quarterly objective cannot be met, the work plan due dates should be revised, objectives should be deleted, or new objectives should be included.

#### **Responsibility of Supervisor**

Ratings will be assigned at all formal reviews. These ratings shall be recorded on the Managerial Performance Appraisal Summary and signed by the supervisor and managerial employee. The recommended rating and any employee comments shall be submitted to the designated higher level reviewer at each institution, parole region or headquarters unit, and ultimately to the respective deputy director.

#### **Responsibility of Higher Level Reviewer**

The higher level reviewer shall:

- Determine if the ratings are factually accurate, properly documented, and consistent with their own impression of how the employee's performance meets the MGS.
- Consider any employee comments/appeals and determine what impact, if any they should have on the ratings.
- Consider all submitted ratings collectively to ensure that the managerial rating standards are being consistently applied and that the overall group of ratings effectively and accurately distinguish the various levels of performance that are present within the rating group.

Any changes in the ratings shall be supported by written comments and must be communicated back to the employee and supervisor. Employees shall also be provided an opportunity to submit comments/appeals on ratings that are lowered.

Each division shall establish a system or location for retention and retrieval of substantiating documents for audit purposes, (e.g., having division coordinators retain the documentation; having the rater retain the actual documentation and submit a summary of the employee's progress with the quarterly review; or submitting the documentation with the quarterly review and returning it to the rater after review by the deputy director.) EC&ISD coordinates the appraisal/bonus process for managers reporting to the Directorate.

#### **Semi-Annual Review**

A semi-annual summary report of work plans, reviews and ratings will be submitted by each division to the Department Coordinator at the end of the second quarter. The Department Coordinator will consolidate these reports and advise the Chief Deputy Director of the status to the program.

#### **Final Review**

Overall ratings for the entire appraisal year are assigned at the end of the fourth quarter and are included as part of the fourth quarter progress review discussion.

Appraisals shall be given to all managers transferring to another department, upon departure, if the period worked exceeds 90 days in the current appraisal year. This report will be included in the year-end appraisal.

The organization that a manager is permanently assigned to at the end of the appraisal year shall prepare the final appraisal unless otherwise requested by the manager. A manager at their discretion may receive consideration from another department or organizational unit where they served during the year by submitting a written request to that department or organizational unit on or before June 30. The manager shall also at their discretion submit a copy of this request to the department where they are currently assigned.

#### **31160.7 Responsibilities**

The following are the specific responsibilities for all participants in the MPAS.

##### **Participants' Responsibilities**

###### **Work Plans:**

- Prior to the beginning of the appraisal year, each manager shall prepare and submit a designated manager Work Plan and Managerial Performance Appraisal Summary, STD Form 750, for the fiscal year. Managers appointed after the beginning of the appraisal year must either assume the existing work plan for their position or prepare/revise on within 90 days of appointment.
- Work plans shall include critical and noncritical elements.
- Each manager and their supervisor shall discuss the work plan. Both must signify acceptance of the plan by signing the STD Form 750, Part A.
- Work plans are subject to deputy director concurrence.

###### **Quarterly Review/Final Appraisal Summary:**

- Each manager prepares a self-evaluation of progress in meeting established objectives. The evaluation and any supporting documentation is submitted to their supervisor prior to the review discussion.
- A formal discussion between the manager and supervisor shall be held each quarter to review progress in meeting, or not meeting, the established objectives. Ratings shall be assigned at each formal review. Both the manager and supervisor shall initial and date the assigned rating on the STD Form 750.
- Work plans may be revised at the time of the quarterly review. Revised plans shall be signed by both the employee and supervisor and are subject to deputy director concurrence.
- An exit review shall be conducted and a rating assigned when an employee vacates a managerial position if the appraisal period exceeds 90 days.

##### **Supervisors' Responsibilities**

###### **Work Plans:**

- Supervisors must ensure that a work plan and STD Form 750 are completed before the beginning of the appraisal year for each manager under their supervision, or within 90 days of appointment is after the beginning of the appraisal year.
- A discussion of the work plan takes place. Both the manager and supervisor must signify acceptance of the plan by signing Part A of the Form 750.
- Work plans are subject to the deputy director's concurrence, and copies must be submitted to the deputy director, by the Division, Institution and Parole Region MPAS Coordinators.

###### **Quarterly Reviews:**

- At the conclusion of each quarter a discussion of the employee's progress in meeting his or her established objectives shall be held and a rating assigned.
- Changes to the work plan may be made at this time and are subject to the procedure outlined under "Work Plans".
- Prior to the discussion, the supervisor reviews the self-evaluation and any substantiating documentation submitted by the employee. This information should be considered when assigning the quarterly rating.
- An exit review must be conducted and a rating assigned when an employee vacates a managerial position if the appraisal period exceeds 90 days.

#### **31160.7.1 Division, Institution MPAS Coordinators' Responsibility**

Deputy Directors and Institution Wardens shall appoint an MPAS coordinator.

The Division/Institution MPAS Coordinators shall act as the liaison for managers and raters; monitor the completion and submission of work plans, quarterly reviews, semi-annual rating summaries, final appraisals, substantiating documentation and bonus awards and recommendations; and disseminate information to managers, raters and deputy directors, as appropriate.

###### **Work Plans:**

- Verify that each eligible managerial employee prepares a work plan and STD Form 750 for the fiscal year prior to the beginning of appraisal year.
- Verify that a work plan is completed or revised within 90 days when a managerial employee is newly appointed or a previously vacant managerial position is filled. Work plans may be transferred to an employee filling a position where a work plan was previously completed.
- Verify that the work plan is signed by both the employee and the rater signifying acceptance of the terms of the plan (the signature blocks are found in Part A of the STD Form 750).
- Maintain a log of work plans received.

###### **Quarterly Reviews:**

- Quarterly reviews of performance are mandatory. Coordinators ensure completion and submission of these reviews within 15 days after the end of the quarter.
- Log the rating.
- Ensure that reviews are done for employees who terminate employment, transfer, promote or demote (to a nonmanagerial position) within the division, institution and parole region or to another division or agency.

###### **Semi-Annual Report:**

- A semi-annual summary report of reviews and ratings is forwarded to the Department MPAS Coordinator following the end of the second quarter.

###### **Final Appraisal Summary:**

- Ensures completion and submission of the final appraisal summary for all participants.
- Submits final appraisal summaries (for those employees being recommended for bonus awards) and all supporting documentation to the Department MPAS Coordinator.

#### **31160.7.2 Deputy Director's Responsibility**

The work plans for each designated manager within the division, institution and parole region are reviewed by the deputy director or designee for compliance with the criteria described in Section 31160.5.1. Exceptions to participation shall be reviewed and approved by the deputy director prior to submittal to the Chief Deputy Director. When necessary, the work plan is returned to the manager for additional information, clarification or milestones. When changes are necessary, a new plan is prepared and signed, or the employee and rater may initial changes made to the original work plan.

Final appraisal summaries and supporting documentation are submitted to the deputy director at the end of the appraisal year.

Each deputy director may recommend up to 20% of the managers within the division for bonus award consideration.

Bonus nominations are submitted to the Chief Deputy Director. An executive summary of each manager's accomplishment and an explanation of the significance to Department is prepared and submitted in lieu of actual supporting documentation. This summary, the STD Form 750, a copy of the original work plan and any revisions to the work plan must be sent to the Department MPAS Coordinator.

#### **31160.8 Department MPAS Coordinator**

The Department MPAS Coordinator (Personnel Office staff member) shall act as liaison for the Division MPAS Coordinators and disseminate information regarding DPA and the Department's policies and procedures relative to MPAS. Additionally, the Department MPAS Coordinator shall:

- Monitor completion of work plans, semi-annual reviews and ratings, final appraisal summaries, supporting documentation, bonus award recommendations and bonus awards.
- Analyze the above for consistency and adequacy and work with the Division MPAS Coordinators and/or deputy director when changes are necessary. This shall include reviewing bonus nomination packages, and returning for further clarification or forwarding for the Director's approval.
- Prepare participating manager listings semi-annually and distribute to Division Coordinators.
- Prepare semi-annual status report for the Chief Deputy Director.
- Prepare year-end summaries for the Chief Deputy Director regarding bonus recommendations, funding and award allocations.
- Gather work plans and supporting documentation of bonus recipients from divisions, institutions and parole regions for DPA audit purposes. Respond to DPA inquiries and prepare reports as necessary.
- Prepare congratulatory letters for Director's signature. Advise the headquarters personnel transactions office of bonus payment procedures.
- Monitor the payment procedure to assure checks and congratulatory letters are delivered in timely manner.

### 31160.9 Documentation Required for Rating Levels

When performance is reported as "Unsatisfactory," it shall be accompanied by documentation that includes a recommendation for adverse action such as salary reduction, demotion, separations, etc.

Ratings of "Minimally Successful" require an explanation of the deficiencies and what steps are being taken to resolve the deficiencies.

If the "Unsatisfactory" or "Minimally Successful" rating is due to mitigation circumstances, adverse action is not necessary; however, an explanation of the circumstances shall accompany the appraisal.

"Exceeds Fully Successful" ratings require an explanation as to how the performance is notably better than "Fully Successful," e.g., what high quality work was completed ahead of scheduled deadlines with less than normal supervision.

"Outstanding" ratings require documentation demonstrating that an exceptionally high quantity and quality of work was performed with little or no supervision.

### 31160.10 Bonus Nomination/ Selection Process

Bonus determinations are made on a case-by-case basis in comparison with the accomplishments of other managers in the organization. Managers who receive ratings of "Exceeds Fully Successful" or "Outstanding" throughout the year are eligible for bonus awards.

In exceptional cases, an employee may be rated "Fully Successful" on quarterly reports and nominated to receive a bonus. In these rare situation where the critical elements of the work plan, in and of themselves, are so significant that fully successful performance far surpasses outstanding performance on objectives of a more routine or common nature, the employee may be recommended for a bonus. In such cases, the deputy director must provide supporting documentation that clearly justifies why the bonus is warranted.

Typically, managers receiving less than fully successful on any quarterly report will not be recommended for a bonus.

The Department has established bonus awards for 20 percent of its qualifying participants. To equitably distribute the awards, the bonuses shall be allocated each year on a pro rata basis to each division, institution, and parole region calculated on the number of participants with 180 days or more in the program. This means that the total number of bonus awards allocated to each division, institution, and parole region shall be based on 20 percent of their participants.

Bonus awards may range from \$1,250 to \$5,000; however, the Department typically limits the maximum amount to \$2,500. Awards over \$2,500 may be granted in extremely rare cases and must be supported by exceptional justification.

Bonus award amount guidelines:

Outstanding	\$2,000 to \$2,500
Exceeds Fully Successful	\$1,500 to \$2,000
Fully Successful	\$1,250 to \$1,500

Bonus award decisions shall consider all qualifying performance during the appraisal year, including those occurring in other departments or organizational units. Managers who retire, leave state service or voluntarily demote to a non-managerial position may be considered for a bonus if the period worked exceeds 180 days.

The final appraisal, with all required substantiation attached, shall be submitted to the deputy director. The deputy director will review each appraisal and select managers for bonus nominations.

### Bonus Nomination Package

The bonus award nomination package shall include:

- An executive summary of the manager's accomplishments and the significance to the Department. This summary should specify how the manager met or exceeded the critical elements in their work plan and how the accomplishment of the critical elements benefited the Department. The summary should also include the recommended bonus amount and a brief explanation if the amount exceeds the guidelines. This will assist in post-audit reviews by DPA.
- The completed appraisal summary form that contains all the quarterly rating as well as the final rating and participant's signatures.
- The original work plan with any revisions.
- Any actual documentation such as self-evaluations, legal documents, graphs, charts or other records should be retained by the division.

Nomination packages are submitted to the Chief Deputy Director, by the Department MPAS Coordinator, for final approval by September 20. The Director and Chief Deputy Director retain final authority for all bonus award decisions. Awards shall be determined by November 1 and payments shall be made by December 15.

Bonus checks are issued by the SCO. The Department MPAS Coordinator will work with Personnel and Payroll Services to request the bonus warrants, prepare a letter of congratulations for the Director's signature, and distribute the checks and letters for presentation to the nominees. The awards may either be sent by mail or made in person, at the discretion of the Warden or deputy director.

### 31160.11 Appraisal Appeal Process

The appraisal appeal process provides managers an opportunity to appeal their appraisal. The basis for an appeal is that the performance appraisal report was used to abuse, harass or discriminate against the managerial employee.

### 31160.12 Revisions

The Deputy Director, Administrative Services is responsible for ensuring that this section is current and accurate.

### 31160.13 References

GC §§ 19992.8 - 19992.14.

CCR (2) (1) §§ 599.796 and 599.796.1.

## ARTICLE 17 — PERSONNEL EXAMINING

*Revised January 5, 1993*

### 31170.1 Policy

Examinations for the establishment of eligible lists shall be competitive and administered in a uniform manner consistent with applicable laws, policies, and sound personnel practices.

### 31170.2 Purpose

This section outlines the procedures and requirements that shall be followed for examinations and identifies sections/units involved in examining for The Department.

### 31170.3 Definitions of Testing Options

Testing options available to administer state examinations are as follows:

#### Decentralized Testing

SPB grants civil service testing authority to departments for promotional and service-wide open examinations for classifications unique or primary to a specific department.

#### Delegated Testing

A department under the SPB's decentralized testing program is granted authority to delegate civil service testing for classifications specific to one location to enable timelier, more cost effective eligible lists when candidate numbers are typically small.

#### Open Examination

Utilized when examining for entry-level, specialized or technical classes and the qualified candidate group is outside of state service working in private

industry. Career Credits do not apply. Veterans Preference Credits are applied to the open list only if the examination is an entry-level examination (requiring less than a Bachelor's Degree and two years' experience).

#### **Open & Promotional**

Utilized when there is an identified, qualified promotional group which is not of adequate size to meet the needs of the department. In this examination, two eligible lists are established (a promotional list and an open list). The promotional list shall be used before the open list. Career Credits do not apply. Veterans Preference Credits are applied to the open list only if the examination is an entry-level examination (requiring less than a Bachelor's Degree and two years' experience).

#### **Open Non-Promotional**

Utilized to open competition to both State and private industry employees to produce eligible lists with more highly qualified candidates. Career Credits are applied to the final score of state employees with permanent status. Veterans Preference Credits may apply.

#### **Promotional**

Utilized when a qualified candidate group of adequate size is within state service. Career Credits and Veterans Preference Credits do not apply.

#### **Subdivisional**

Limits competition to those employed in a specified division or organizational unit within a department that has its own appointing authority.

#### **Statewide**

Administered throughout the State in locations where examining facilities are available. This applies to open exams that have positions throughout the State, such as the Telecommunications Technician classification. In this instance, a CDC Form 631, Conditions of Employment, shall be used to determine the location preference of the candidates.

#### **Spot or Local**

Administered in a county or a specific geographic location such as Los Angeles County for the purpose of establishing an employment list to fill vacancies in the particular location. Spot or local examinations can be administered either on an open or promotional basis.

#### **Area**

An area examination is restricted to a certain geographic location such as San Francisco Bay Area, Northern or Southern California, Sacramento/Yolo Counties. The counties are to be adjoining and candidates shall take the examination for that area only. This applies mainly to open examinations.

#### **Departmental**

Limits competition to qualified competitors employed in a specific department.

#### **Multi-Departmental**

Limits competition to those employed within agency, such as Department of Water Resources, State Water Resources Control Board, and the Air Resources Board or specific departments, such as the Franchise Tax Board and the Department of Finance.

#### **Service-wide**

Allows all qualified state employees to compete without regard to the department in which they work. This type of examination would be administered by SPB and departments with decentralized testing authority.

### **31170.4 Common Examination Procedures**

Laws and rules that govern the administration of examinations within the State's civil service merit system are complied with through the testing entities within the Department.

#### **31170.4.1 Examination Application Acceptance Policy**

Examination bulletins publicize final filing dates designed to allow a reasonable time for interested persons to file an application on or before the final filing date.

Strict adherence to filing dates is required by the SPB.

Applicants should be encouraged to file early to ensure timely receipt of their applications.

#### **31170.4.2 Timeliness Determination**

If a mailed application is received after the final filing date, the cancellation date stamped on the envelope by the USPS is used to determine whether the application was mailed on or before the final filing date. To avoid dispute, applicants who mail at a USPS Office should obtain a certificate of mailing receipt. This is acceptable proof that the application was submitted in a timely manner. The applicant shall ensure the application is postmarked on or before the final filing date.

Applications placed in interdepartmental mail and not received on or before the final filing date shall be considered LATE applications and will be rejected from the examination.

Following are the conditions under which late applications typically shall **not** be accepted:

- The applicant claims they did not see the bulletin because of distribution problems within the reporting unit.
- The applicant gave an application to another person to turn in to the office that is administering the examination, but it is not received on or before the final filing date.
- The applicant claims the application was mailed, placed in interdepartmental mail, or hand-delivered to the Personnel Examining Section (PES) or other CDC testing offices on or before the final filing date.

A late application shall be accepted under these conditions only:

- If the applicant has a written statement from a USPS official or other witness who verifies the application was mailed on time.
- If the application is postmarked after the final filing, and the USPS verifies in writing this was caused by USPS error.

Following are the conditions under which late applications **may** be accepted:

- The hiring authority verifies in writing that the examination bulletin was not received by the local testing office because of bulletin distribution problems - prevented the employee from being properly notified.
- The unit manager verifies the employee was away from their work during the entire publicity period.
- The application delay was caused by the PES or field office staff error (for instance, an application was returned to an applicant in error).
- Though submitted in error to SPB, the personnel office of another State agency, or another local testing office, the application was either postmarked or date stamped by the State agency or local testing office on or before the final filing date.

#### **31170.4.3 Examination Bulletin Distribution**

Examination bulletins are sent to all reporting units in CDC's headquarters (including off-site units), facilities and parole offices.

The local manager shall ensure that all examination bulletins are posted in a place visible to all employees and the public.

Employees shall be responsible to keep themselves informed of testing for classifications currently being administered.

#### **31170.4.4 Testing Information**

Examinations scheduled for testing are listed and recorded for easy public access by various state agencies. Recorded message lines are provided by state agencies, including CDC and SPB, and in the California State Telephone Directory. When telephone numbers become obsolete, individuals can contact the State of California Operator on a state telephone line for current information by dialing "0" or on a public telephone by dialing the following:

Sacramento (916) 322-9900  
(916) 657-9900

Los Angeles (213) 620-3030

(California Integrated Telecommunications Network (CALNET) replaces ATSS system.)

Current testing information for CDC and SPB is available from the following sources:

- CDC's Examination Line: (916) 322-2694.
  - Announces examinations being administered by CDC's PES and promotional examinations that SPB is currently administering which includes CDC.
  - TDD\* Line (California Relay Service) 1-800-735-2922
  - (TDD is a Telecommunications Device for the Deaf. The California Relay Service relays calls between a person using a TDD and any other telephone user within the State).

CDC examination and other job opportunity bulletins may be accessed through the Department's Intranet Website: <http://intranet/index.html>.

SPB's Information Center:

General Information:

The SPB maintains a 24-hour recorded telephone information System that allows callers to access a variety of employment and examination information regarding State civil service. In order to utilize this automated system, you must call from a touch tone telephone. If you do not have a touch-tone

telephone, you may request information through the mail. All requests for information must include a self-addressed, stamped, No. 10 envelope and should be sent to:

State Personnel Board  
P.O. Box 944201  
Sacramento, CA 94244-2010

The SPB has information lines in the following areas:

Los Angeles: (213) 620-6450  
San Diego: (619) 237-6163  
San Francisco: (415) 557-7871  
Sacramento: (916) 445-2689

Examination information for all departments may also be accessed through the Internet at the following Website: <http://www.spb.ca.gov>.

#### **31170.4.5 Examination Data Inspection**

Test questions, books, scoring keys, and written test answer sheets used to test competitors when administering examinations cannot be reviewed under SPB Rules 187 and 190. These items are standardized for use in other examinations.

#### **31170.4.6 Prohibition of Individuals from Influencing the Examination Process**

Employees shall not use their personal influence to aid or hinder any applicants with whom they have a family or close personal relationship (i.e., an association with an individual by blood, adoption, marriage, cohabitation, etc.) or a working relationship. This policy is consistent with the Department's existing policy on nepotism.

**Note:** The April 30, 1992 memorandum, "Preparing for Civil Service Examinations" issued by the Department's PES, outlines the departmental policy regarding preparation for examination process if any competitors are disadvantaged by not having the same access to tutoring, help, and/or aids. The best preparation is the day-to-day guidance and direction received on the job.

Employees shall not:

- Aid or hinder any Applicant in any phase of a civil service examination or hiring process because of such relationship.
- Furnish any person with information intended to improve or injure that person's chances during the application or examination phases.
- Defeat, deceive, or obstruct any other person's right of examination, application, or employment.
- Willfully and falsely mark, grade, estimate, or report upon the examination standing of any person examined or certified.
- Participate in the examination or hiring interview of any person with whom they have such relationships.
- Practice deception or fraud with regard to any person's identity in connection with any examination, application, or request to be examined.
- Obtain examination questions/materials before, during, or after an examination for purpose of preparing candidates for examinations.
- Use unfair means to cause or attempt to cause any eligible candidate to waive any rights under these regulations.

#### **31170.4.7 Conduct of Employees with Family or Personal Relationships with Competitors.**

To avoid the appearance of improper influence, employees with a family or personal relationship to any competitor shall not participate in any phase of the examination process, including but not limited to:

- Planning.
- Application review of minimum qualifications.
- Question development.
- Written examination proctor.
- Organizational review committee (ORC).
- Qualifications Appraisal (QAP)
- Serve as a rating or reviewing supervisor of the competitor.
- Participate in discussions or ratings of the competitor.

If an employee serving on an ORC, QAP, or participating in the discussion or rating of competitors finds one of the competitors is one with whom they have a family or close relationship, the employee shall not participate in the interview, observation, discussion, or rating of the competitor by leaving the room.

If serving in any capacity in the examination or hiring process an employee discovers a competitor with whom they have a family or close relationship, the employee shall contact PES for direction.

Employees selected to participate in the State civil service examination process shall maintain the competitive and confidential nature of the examination process. Any appearance of improper influence could jeopardize the integrity of the examination resulting in examination appeals from the candidate group and, ultimately, grounds to void an examination.

Violation of the provisions of this section:

- May result in criminal prosecution.
- Shall be cause for adverse action.

#### **31170.5 CDC Examination Services Sections/Units**

CDC Examining Sections/Units are:

- Personnel Examining Section (PES).
  - Personnel Examining - Headquarters.
  - RTLU.
- Facility Regional/Local Testing Offices (LTO).
- Selection and Standards Branch (See DOM 31060).
  - Officer Recruitment and Selection Section.
  - Testing Centers.
  - Background Investigation Unit (known as BIU).

#### **31170.6 Personnel Examining Section (PES) Examining Role**

This section administers CDC's civil service testing programs, exclusive of entry-level peace officer (Officer, CC-I and PA-I) testing and recruitment. This section conducts major promotional and service-wide open examinations for classifications unique or primary to CDC under the decentralized selection program. Examinations are administered out of the Sacramento PES Headquarters.

##### **31170.6.1 PES Location and Telephone Numbers**

Personnel Examining Section

1050 - 20th Street

Sacramento, CA 95814

(916) 322-2694

TDD Relay Service for the Deaf or Hearing-Impaired:

1-800-735-2922

Should these telephone numbers become obsolete, refer to the California State Telephone Directory or contact the State of California Telephone Operator as indicated in DOM 31170.4.4.

##### **31170.6.2 PES Objective**

PES is the central point for CDC promotional and service-wide open examination administration. PES' objective is to ensure examinations are held to provide qualified candidates to fill CDC vacancies statewide.

##### **31170.6.3 PES Oversight**

PES oversees the examining for Department and provides, by the RTLU, oversight and assistance to the local testing offices.

##### **31170.6.3.1 PES Headquarters' Responsibilities**

- Provide promotional and service-wide open examinations for CDC; identify annual examination needs; develop bulletins and advertise to inform public and CDC employees of upcoming examinations; review applications for minimum qualifications; administer written tests; coordinate and orient qualification appraisal interview panels; provide evaluations of education and experience (E&E); develop eligible lists; and develop necessary test materials with the aid of subject-matter expert consultants including written tests, interview questions, E&E criteria, etc.
- Address SPB concerns on all appeals from applicants/competitors participating in CDC headquarters' examinations. Review, analyze, and recommend either support or denial of appellant claims.
- Process withholds of eligibles from employment lists when examination problems are identified, such as falsification of applications, clerical error resulting in failure of examination, or dismissal from State service.
- Participate in internal audits of regional/local testing offices to identify facilities' or divisions' compliance with the State's civil service merit system laws and rules.

##### **31170.6.3.2 RTLU Examining Role**

Provides technical assistance, guidance and training for delegated examinations administered by the facility regional/local testing offices statewide.

**31170.6.3.2.1 RTLU Location and Telephone Number**

Regional Testing Liaison Unit  
1050 - 20th Street  
Sacramento, CA 95814  
(916) 322-2545

If telephone numbers become obsolete, refer to DOM 31170.4.4.

**31170.6.3.2.2 RTLU Objective**

RTLU is the central point for all facility local/regional testing office requests for technical assistance and training, development of statewide policies and procedures to enhance the regional/local testing concept, and administer examinations primarily for entry-level classifications that are locally recruited, such as instructors, medical personnel, supervising cooks, and trade workers.

**31170.6.3.2.3 RTLU Responsibilities**

Provide functional oversight and training to Institutional Personnel Officers (IPO) and regional/local testing office staff in examining procedures which include:

- Identifying annual examination needs; developing and distributing examination bulletins; establishing application review standards; administration of written tests, qualification appraisal interview panels and multiple panels (when appropriate); scoring of evaluations of E&E; development of eligible lists; securing confidential test materials; and ensuring the integrity of examinations administered.

The RTLU also performs the following functions:

- Develops guidelines and procedures to enhance the ability of the regional/local testing offices to perform their functions efficiently and in compliance with established standards which govern the State's civil service selection process.
- Participate in internal audits of regional/local testing offices to:
  - Identify a facility's compliance with the State's civil service merit system and areas where additional training is required
  - Provide guidance in the correction of identified problems.
- Address SPB concerns on all appeals from applicants/competitors participating in regional/local testing office examinations. RTLU shall review, analyze, and recommend either support or denial of appellant claims on the part of the regional/local testing offices.
- Process withhold of eligibles from employment lists when examination problems are identified, such as falsification of application, clerical error which erroneously resulted in granting a passing score when in fact the competitor failed the written test; or dismissal from State service which was overlooked during application review or which occurred after completion of the examination.
- Serve as a resource to IPOs and regional/local testing office staff on any delegated testing related issues.
- Provide test guidelines, questions, written test books, E&E criteria, etc., upon request from regional/local testing offices to administer their delegated examinations and meet hiring needs.
- Develop necessary test materials with the aid of subject-matter expert consultants when materials are not available for use by regional/local testing offices.
- Evaluate critical statewide program needs and assist in the development of recommendations for resolution and implementation.
- Assist in the staffing process within regional/local testing offices when requested by IPO.
- Participates in the transition of the delegated testing program responsibility and examination history files from P&CD's NPAU to the local testing offices.

**31170.8.1 Facility Regional/LTO Locations and Telephone Numbers**

The facilities in **Bold** type indicate regional testing offices.

**Avenal State Prison**  
1 Kings Way  
P.O. Box 8  
Avenal, CA 93204  
(559) 386-0587

**California Correctional Institution**  
24900 Highway 202  
P.O. Box 1031

**California State Prison, Corcoran**  
4001 King Avenue  
P.O. Box 8800  
Corcoran, CA 93212-8800  
(559) 992-8800

**California State Prison, San Quentin**  
San Quentin, CA 94964  
(415) 454-1460

**Tehachapi, CA 93581**  
(661) 822-4402

**California Institution for Women**  
16756 Chino-Corona Road  
P.O. Box 6000  
Corona, CA 91718  
(909) 597-1771

**California Men's Colony**  
Highway 1  
P.O. Box 8101  
San Luis Obispo, CA 93409-8101  
(805) 547-7889

**California Correctional Center**  
711-045 Center Road  
Susanville, CA 96130  
P.O. Box 832  
Litchfield, CA 96117  
(530) 257-2181

**California Institution for Men**  
14901 Central Avenue  
P.O. Box 128  
Chino, CA 91710  
(909) 597-1821

**California Medical Facility**  
1600 California Drive  
P.O. Box 2000  
Vacaville, CA 95696-2000  
(707) 448-6841

**California Rehabilitation Center**  
5<sup>th</sup> Street and Western  
P.O. Box 1841  
Norco, CA 91760  
(909) 737-2683

**California State Prison, Sacramento**  
Prison Road  
P.O. Box 290010  
Represa, CA 95671-0010  
(916) 985-8610

**Calipatria State Prison**  
7018 Blair Road  
P.O. Box 5001  
Calipatria, CA 92233-5001  
(760) 348-7000

**Chuckawalla Valley State Prison**  
19025 Wiley's Well Road  
P.O. Box 2289  
Blythe, CA 92226  
(760) 922-5300

**Deuel Vocational Institution**  
23500 Kasson Road  
P.O. Box 400  
Tracy, CA 95378-0400  
(209) 835-4141

**Mule Creek State Prison**  
4001 Highway 104  
P.O. Box 409099  
Ione, CA 95640  
(209) 247-4911

**Central California Women's Facility**  
23370 Road 22  
P.O. Box 1501  
Chowchilla, CA 93610-1501  
(559) 466-8055

**Correctional Training Facility**  
Highway 101-N  
P.O. Box 686  
Soledad, CA 93960-0686  
(831) 675-2411

**California State Prison, Solano**  
2100 Peabody Road  
P.O. Box 4000  
Vacaville, CA 95696-4000  
(707) 451-0182

**Centinela State Prison**  
2302 Brown Road  
P.O. Box 731  
Imperial, CA 92251-0731  
(760) 337-7900

**High Desert State Prison**  
475-750 Rice Canyon Road  
Susanville, CA 96127-0750  
P.O. Box 400  
Standish, CA 96128  
(530) 251-5100

**North Kern State Prison**  
2737 West Cecil Ave.  
P.O. Box 5007  
Delano, CA 93216-5007  
(805) 721-2345

**Salinas Valley State Prison**  
31625 Highway 101  
P.O. Box 1020  
Soledad, CA 93960-1020  
(831) 678-5500

**Wasco State Prison-Reception Center**  
701 Scofield Ave.  
P.O. Box 8800  
Wasco, CA 93280-8800  
(661) 758-8400

**Northern California Women's Facility**  
7150 Arch Road  
P.O. Box 213006  
Stockton, CA 95213-9006  
(209) 943-1600

**Academy**  
9850 Twin Cities Road  
Galt, CA 95632  
(209) 744-5000

**Sierra Conservation Center**  
5100 O'Byrnes Ferry Road  
P.O. Box 497  
Jamestown, CA 95327  
(209) 984-5291

**Pelican Bay State Prison**  
**5905 Lake Earl Drive**  
**P.O. Box 7200**  
**Crescent City, CA 95532-7200**  
**(707) 465-1000**

**R. J. Donovan Correctional Facility**  
**480 Alta Road**  
**San Diego, CA 92073-9200**  
**(619) 661-7819**

**Parole & Community Services Division**  
**1515 "S" Street – Room 212N**  
**P.O. Box 942883**  
**Sacramento, CA 942830001**  
**(916) 323-0283**

**Folsom State Prison**  
**Prison Road**  
**P.O. Box 71**  
**Represa, CA 95671**  
**(916) 985-2561**

**Pleasant Valley State Prison**  
**24863 West Jayne Ave.**  
**P.O. Box 8506**  
**Coalinga, CA 93210**  
**(559) 935-4966**

**California State Prison, Los Angeles**  
**44750 60<sup>th</sup> Street West**  
**Lancaster, CA 93536-7620**  
**(661) 729-2000**

**California Substance Abuse Treatment Facility-State Prison**  
**900 Quebec Ave.**  
**P.O. Box 7100**  
**Corcoran, CA 93212-7100**  
**(559) 992-7022**

**Ironwood State Prison**  
**19005 Wiley's Well Road**  
**P.O. Box 2229**  
**Blythe, CA 92226**  
**(760) 921-3000**

**Valley State Prison for Women**  
**21633 Avenue 24**  
**P.O. Box 99**  
**Chowchilla, CA 93610-0099**  
**(559) 665-6100**

### 31170.8.2 LTO Objective

The LTO's objective is to ensure that examinations are held to provide eligible lists to fill vacancies in the facilities for specific spots and/or regions.

### 31170.8.3 LTO Responsibilities

Among the LTO's responsibilities are administering delegated examinations for facilities/regions to include distribution of examination bulletin, application review, administration of written tests, coordination and monitoring of qualification appraisal interview panels, scoring of E&Es, and development of eligible lists and examination history files.

### 31170.9 Personnel Examining Revisions

The Deputy Director, HR or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

### 31170.10 Personnel Examining References

SPB Laws & Rules

SPB Selection Manual

SPB Technical Selection Memoranda

Delegated Testing Manual

DOM §§ 31010 and 31060.

## ARTICLE 18 — GENERAL TRAINING

*Revised April 5, 2022*

### 32010.1 Policy

The department shall establish and maintain a program of employee training in which all employees shall participate to accomplish the mission, goals, and objectives of the department. Employee training shall be accomplished according to stated policy and within budgetary restraints. Training shall be on state time when possible. Compensation for overtime worked for training purposes shall comply with the Fair Labor Standards Act (FLSA).

### 32010.2 Purpose

This section provides a convenient source of departmentally approved training methods, standards, applications, and establishes policy for the planning, implementation, and evaluation of planned training activities.

### 32010.3 Disclaimer

When provisions of this Article are in conflict with the provisions of a Memorandum of Understanding (MOU), the MOU shall supersede.

### 32010.4 California State Training Program

(a) The State Training Policy was developed in 1978 by the State Personnel Board and departmental training officers. Laws relating to training can be found in the Government Code, sections 19995-19995.4.

(b) **Training Defined:**

The process whereby California Department of Corrections and Rehabilitation (CDCR) employees, either individually or in groups, participate in a formalized, structured course of instruction to acquire knowledge, skills, and abilities for their current or future job performance. These organized activities shall contain measurable learning objectives that can be evaluated in a classroom setting or verified by completing On-the-Job Training.

(c) The Commission on Correctional Peace Officer Standards and Training (CPOST) was established under the California Penal Code, sections 13600 through 13603. CPOST shall review all training as defined in those sections. This includes newly implemented or current training that has been substantially revised which is utilized to change or modify the knowledge, skills, and abilities for rank-and-file state correctional peace officers, as well as first and second line state correctional peace officers. CPOST will not review training as described in policy and informational memoranda that does not change essential functions or behavior norms in carrying forth a specific duty or job.

### (d) Job-Required Training

Job-required training is designed to assure adequate performance in a current assignment. This includes orientation training made necessary by new assignments or technology, refresher training, and training mandated by law or other state authority.

### (e) Job-Related Training

Job-related training is designed to increase job proficiency or improve performance above the acceptable level of competency established for a specific job assignment and prepares the employee to assume increased responsibilities in their current assignment.

### (f) Upward Mobility Training

Designed to provide career movement opportunity for employees within classifications or job categories designated by the department as upward mobility classifications. Includes training to facilitate movement of employees from designated classifications into other classifications with increased career opportunities.

### (g) Career-Related Training

Designed to assist in the development of career potential and is intended to help provide an opportunity for self-development and achievement of the department or state's mission and may be unrelated to a current job assignment.

### (h) In-Service Training (IST)

Any formalized classroom training sponsored and conducted by any state agency for the training and development of state employees.

### (i) Centralized Training

The scope of the course content that covers department policies, procedures, and state and federal legal issues.

### (j) Local or Field Training

Training designed specifically to meet the needs of a particular group, facility, or office, and presented directly to local employees.

### (k) On-the-Job Training (OJT)

Formal training conducted by a supervisor (or a designated employee with the required expertise under the direction of a supervisor) at the job site, or in a classroom setting while the employee is working.

### (l) Computer-Based Training (CBT)

Any training that can be delivered or accessed via computer utilizing the department's training portal. CBT shall not be utilized as the primary method of instruction for any kinesthetic-based instruction (i.e., physical training) including, but not limited to, methods of arrest or control, or procedures related to any use of force options.

### (m) Out-Service Training (OST)

Any formal training which is sponsored by a non-state agency, and is open to the private sector, as well as state civil service employees. Sponsoring agencies maintain control over the course content for OST.

## 32010.5 Goals and Objectives

(a) The goal of departmental training is to ensure a well-trained, quality workforce.

(b) The objectives are to:

(1) Use best practices to provide training for departmental personnel that shall enable them to function at their optimum performance level.

(2) Work with primary stakeholders to meet all legal and legislative training mandates in a timely and comprehensive manner.

(3) Provide and maintain quality control through coordination and standardization of basic training programs.

(4) Monitor and evaluate all training programs to ensure:

(A) Quality of presentation.

(B) Applicability to the work place.

(C) Allotted class time is sufficient for presentation.

(D) Improvement of performance and increased productivity.

(E) Impact on safety awareness.

(F) Overall impact on organization.

- (5) Respond to the changing needs of the department by coordinating and conferring with primary stakeholders on new training programs, and modifying existing programs to meet these needs.
- (6) Improve training practices and procedures through internal management control systems.

### **32010.6 Internal Administrative Responsibility**

#### **(a) Deputy Director, Peace Officer Selection & Employee Development (POSED)**

The leadership of the Office of Training and Professional Development (OTPD) falls under the direction of the Deputy Director of POSED, or designee.

- (1) The Deputy Director, POSED, or designee, shall be responsible for:
  - (A) The overall management of departmental training programs and ensuring that the department's training goals and objectives are met. Any departmentally required or mandated training not included in this chapter shall be coordinated through the Deputy Director, POSED, or designee, prior to any decision or agreement to provide the training.
  - (B) Determining POSED and Advanced Learning Institute (ALI) training needs, auditing courses currently being presented at POSED Academies (adult, parole, and juvenile) and training programs (Basic and Advanced Supervision, Sergeants and Lieutenants Academies), and functions as an administrative liaison between the CPOST, POSED, administrators, and institutional and headquarters training managers. These functions may be delegated to the appropriate administrators.
  - (2) The Deputy Director, POSED, or designee, and staff shall:
    - (A) Evaluate and assist in the development and implementation of training programs and development of standardized course content.
    - (B) Ensure CDCR meets the training standards required by the CPOST.
    - (C) Liaison for In-Service Training (IST) Managers, Assistant Managers, and headquarters' Training Coordinators (TCs).
    - (D) Assist the Directors, Wardens, Regional Parole Administrators (RPAs) and Superintendents in accomplishing their training goals and objectives.
    - (E) Schedule assessments of each facility, parole region, and headquarters' training units to ensure compliance with policy, procedures, and training plans.
    - (F) Ensure timely implementation and overall quality of training programs for headquarters' personnel.
    - (G) Prepare and distribute to each Warden, RPA, Superintendent, IST Manager, and TC listings of legally or legislatively mandated training.
    - (H) Provide direct supervision to the Administrators of POSED and ALI.
    - (I) Provide supervision to staff assigned to OTPD and ALI who carry out specific training analysis; plan, design, and implement training, to ensure that scheduled training programs are delivered as planned.
    - (J) All divisions and units shall submit a training plan, relative to their specific mission, for review by the Deputy Director, POSED, or designee on an annual basis.

#### **(b) Division of Adult Institutions (DAI)**

The Director, DAI, in concert with POSED, shall establish the objectives, policies, and general content for DAI training. The overall training objectives shall focus on the employee's knowledge, skills, and abilities that will maximize the carrying out of the department's mission in a safe, efficient, and effective manner.

#### **(c) Division of Adult Parole Operations (DAPO)**

The Director, DAPO, in concert with RPAs and POSED, shall establish the objectives, policies, and general content for DAPO training. The overall training objectives shall focus on the employee's knowledge, skills, and abilities that will maximize the carrying out of the parole mission in a safe, efficient, and effective manner.

#### **(d) Division of Juvenile Justice (DJJ)**

The Director, DJJ, in concert with the Integrated Behavior Treatment Model (IBTM) Administrator, juvenile facility Superintendents and POSED, will establish the objectives, policies, and general content for DJJ training. The overall training objectives (Department Operations Manual (DOM) 32010.5) shall focus on the employee's knowledge, skills, and abilities that will maximize the carrying out of the DJJ mission in a safe, efficient, and effective manner.

#### **(e) Additional Directors**

Directors are responsible for the implementation of all training programs and activities of good quality within their jurisdictions. They may regularly review the accomplishments and needs of the training programs.

#### **(f) Wardens, Superintendents, or Division Training Unit (DTU) Parole Administrator**

Each Warden, Superintendent, or DTU Parole Administrator should establish a Training Advisory Committee (TAC).

- (1) The TAC should meet on a quarterly basis and as often as the Warden, Superintendent, or DTU Parole Administrator designates, and shall advise the

Warden, Superintendent, or DTU Parole Administrator on matters related to facility or division training.

- (2) The Warden, Superintendent, or DTU Parole Administrator should determine the membership of the TAC.

- (3) The committee chairperson shall ensure minutes of each meeting are prepared.

#### **(g) IST Managers and Assistant Managers**

IST Managers and their assistants shall:

- (1) Report directly to the Warden, Superintendent, or a designee at the level of Chief Deputy Warden (CDW) or above.
- (2) Implement the Annual Off-Post Training Schedule.
- (3) Develop and implement formalized classroom instruction or on-the-job-training to meet local operational needs, legal requirements, and individual employee job performance needs.
- (4) Provide the resources and services necessary to ensure planned training is implemented in a professional, effective, and cost-efficient manner.
- (5) Ensure all training for employees and instructors is recorded in the departmentally approved electronic tracking system.
- (6) Maintain required training records and files.
- (7) Submit required reports within established deadlines.
- (8) Ensure instructors receive required training.
- (9) Monitor the quality of instruction.
- (10) Ensure that training resources are used only for authorized purposes.
- (11) Serve as vice chairperson of the local TAC.
- (12) Enroll newly appointed peace officers as required by the local level into the Correctional Peace Officer Apprenticeship Program (CPOAP).
- (13) Maintain apprenticeship agreements for all enrolled apprentices in the employee's training file.
- (14) Provide training as needed to new apprentices, supervisors, and managers in the operation and administration of the CPOAP.
- (15) Review progress of the Local Apprenticeship Program (LAP).
- (16) Ensure all employees scheduled to attend off-site training meet all of the prerequisite criteria for the specific courses scheduled.
- (17) Ensure information is distributed within the institution regarding scheduled training courses.

#### **(h) DJJ Training Officers and Staff**

The DJJ Training Officers and staff shall:

- (1) Report directly to the Youth Authority (YA) Administrator, IBTM Programs and DJJ Training Unit.
- (2) Implement the Annual Off-Post Training Schedule.
- (3) Develop and implement formalized classroom instruction or OJT to meet local operational needs, legal requirements, and individual employee job performance needs.
- (4) Provide the resources and services necessary to ensure planned training is implemented in a professional, effective, and cost-efficient manner.
- (5) Ensure all training for employees and instructors is recorded in the departmentally approved electronic tracking system.
- (6) Maintain required training records and files.
- (7) Submit required reports within established deadlines.
- (8) Ensure instructors receive required training.
- (9) Monitor the quality of instruction.
- (10) Ensure that training resources are used only for authorized purposes.
- (11) Facilitate meetings with the facility Superintendents as needed.
- (12) Enroll newly appointed peace officers as required by the local level into the CPOAP.
- (13) Maintain apprenticeship agreements for all enrolled apprentices in the employee's training file.
- (14) Provide training as needed to new apprentices, supervisors, and managers in the operation and administration of the CPOAP.
- (15) Review progress of the LAP.
- (16) Ensure that all employees scheduled to attend off-site training meet all of the prerequisite criteria for the specific courses scheduled.
- (17) Ensure that all trainers scheduled to train the various DJJ and IBTM-specific courses meet all of the prerequisite criteria for training each course.
- (18) Ensure that information is distributed within the facilities regarding scheduled training courses.

#### **(i) DAPO Training Coordinators (TC)**

Each DAPO TC shall:

- (1) Ensure that all training mandated by law, departmental, or division policy is provided to appropriate staff in the division.
- (2) Process Employee Training Requests (CDCR Form 854).
- (3) Register employees for courses.
- (4) Track division, branch, unit, or office allotments and expenditures.
- (5) Act as a source of training information for supervisors and employees.
- (6) Maintain the training program database and track all completed training for their unit as described in DOM section 32010.8.4.



(7) Ensure all training for employees and instructors is recorded in the departmentally approved electronic tracking system.

(8) Maintain employee training records

(9) Coordinate both the in-service and out-service training activities of headquarters' employees.

(A) Other training related positions may be assigned as appropriate by the Director, DAPO.

**(j) Headquarters' Training Coordinators (TC)**

(1) The term "headquarters" includes all other division satellite offices, regional headquarters and field offices throughout the state.

(2) Each headquarters' TC shall:

(A) Coordinate and enroll staff into the courses required per the annual training schedule.

(B) Process Employee Training Requests (CDCR Form 854).

(C) Register employees for courses.

(D) Track division, branch, unit, or office allotments and expenditures.

(E) Act as a source of training information for headquarters-based supervisors and employees.

(F) Maintain the training program database and track all completed training for their unit as described in DOM section 32010.8.4.

(G) Assist with ensuring employee compliance with all mandated training.

(H) Ensure all training for employees and instructors is recorded in the departmentally approved electronic tracking system.

(I) Maintain employee training records (according to CDCR's Records Retention Schedule).

(J) Coordinate both the in-service and out-service training activities of headquarters' employees.

**(k) Department Managers and Supervisors**

All Managers and Supervisors shall:

(1) Assess training needs and requirements of their subordinates, and provide them with training that is structured for improvement in areas where job performance deficiencies exist, and provide the acquisition of new knowledge or skills.

(2) Prepare probationary and annual performance evaluations that include a report of the employee's completed training hours, achievements, efforts, and needs. These reports are to be requested through the division's IST Manager or TC.

**(l) Employees**

Individual employees shall:

(1) Attend all training identified and required by their immediate supervisor, RTC, TC or IST Manager, which shall include annual training mandates.

(2) Training requirements for Retired Annuitants, Contractors, Volunteers and Student Assistants shall be at the discretion of the local hiring authority, or designee.

**32010.7 External Administrative Responsibility Commission on Correctional Peace Officer Standards and Training (CPOST)**

(a) The CPOST shall develop, approve and monitor training standards of rank-and-file and supervisory correctional peace officers.

(b) The Executive Board of the CPOST shall be composed of six regular voting members as follows:

(1) Three members from, appointed by, and representing the management of, the CDCR, one of whom shall represent the DJJ or the Division of Rehabilitative Programs.

(2) Three members from, and appointed by the Governor upon recommendation by, and representing the membership of the California Correctional Peace Officers Association (CCPOA). Two of which shall be rank-and-file persons from state Bargaining Unit 6 and one member shall be supervisory.

**32010.8 Use of Training Resources**

(a) The departmental training resources shall be allocated in the following priority order:

(1) Job-required training.

(2) Job-related training.

(3) Upward-mobility training.

(4) Career-related training.

**32010.8.1 Training Resources**

Available training sources include:

**(a) In-Service Training (IST)**

IST courses or activities are sponsored and conducted by the department or other state departments, individually or in joint agreement, for the purpose of developing the skill, knowledge, and abilities of state employees.

(1) IST may be designed specifically to meet the needs of a particular group, facility, or office and presented directly to local employees. When close

control of course content, learning processes, instructor standards, evaluation methods, and adherence to legal or other mandates is required, IST is used to ensure accountability.

(2) A departmentally approved course outline or lesson plan shall be used to conduct training. All lesson plans shall be forwarded to the Office of Training and Professional Development (OTPD) for review and approval. The Deputy Director of POSED, or designee, may authorize a departmental program or unit to approve training on a case by case basis.

**(b) On the Job Training (OJT)**

OJT is provided to employees in either a classroom or work setting to ensure acceptable levels of performance, knowledge, and abilities, and to correct deficiencies. When appropriate, IST Managers, and TCs are encouraged to fully utilize this type of training as opposed to on-site or off-site training that does not fall within the trainee's regular work hours.

**(c) Computer Based Training (CBT)**

CBT is a method for employees to receive training that may include, but is not limited to site-specific, departmental, or career development training via a computer utilizing the department's training portal. This may be conducted on-site or off-site, but should be completed within the trainee's regular work hours. CBT shall be considered a form of OJT.

**(d) On-Site Formal Training**

Any locally presented training activity, on-site formal instruction, seminars, and workshops, for which training credit is to be given, shall be recorded on a CDCR Form 844, Training Participation Sign-in Sheet. Employees shall complete the required information and the instructor shall ensure that the completed forms are received by the IST Manager or TC. The IST Manager or TCs shall credit each attending employee's training record per DOM section 32010.8.4 and retain the CDCR Form 844, Training Participation Sign-In Sheet, according to the departmental retention schedule requirements.

**(e) Off-Site Training**

Employees shall arrange with the IST Manager, or TC for appropriate certification of any instruction, seminar, or workshop presented away from the employee's place of work for which training credit is to be allowed. Upon receipt of the arranged certification, the training manager shall credit the employee's training record per DOM section 32010.8.4. A copy of the certificate of completion shall be placed in the employee's training file.

**(f) Out-Service Training (OST)**

OST is any formal training sponsored by a non-state agency and is open to the private sector, as well as state civil service employees. Such training includes courses and activities:

(1) Offered through accredited colleges or universities.

(2) Conducted by private consultants, firms, or other non-state agencies, such as federal or local governments or special interest groups (i.e., associations, professional groups, etc.).

(3) OST training for the purpose of meeting departmental needs for scientific, technical, professional, and management skills shall be evaluated, and processed as follows:

(A) Training shall be necessary and of direct value to the department and relevant to the employee's general field of work.

(B) Training shall provide knowledge, skills, or abilities that cannot be cost-effectively acquired through departmental IST as defined in this chapter (exclusive of specialized training).

(C) Training with the purpose of covering subject matter not sufficiently or recently encompassed in the employee's previous education, or experience or of which the employee would not normally be expected to know prior to their present position.

(4) Employees participating in OST may have credit for such training applied toward their annual training requirements on an hour-for-hour basis. In order to receive credit, the following requirements shall be adhered to:

(A) Requests shall be accompanied by a document verifying satisfactory completion of the training.

(B) The training shall be clearly labeled "out-service training" in the employee's training history file.

(C) IST Managers or TCs shall credit the employee's training record per DOM section 32010.8.4.

**32010.8.2 Training Personnel**

(a) At the discretion of the hiring authority, all In-Service Training (IST) Manager positions should be filled on a permanent basis by a staff member at a second-line supervisory classification such as a Correctional Lieutenant, Training Officer II (for Department of Juvenile Justice (DJJ)), or designee.

(b) Training manager positions within the Division of Adult Parole Operations should be appointed from the rank of Parole Agent II or higher.

(c) Assistant IST Managers, where authorized, should be appointed from the rank of Correctional Sergeant, or Senior Youth Correctional Counselor for DJJ.

(d) IST instructors shall complete a specialized training course for part-time trainers (e.g., Training-for-Trainers [T4T]) approved by the Deputy Director, POSED, or designee. For this certification to remain valid, the instructor must teach a minimum of (4) hours per calendar year (January-December).

(e) Subject-Matter-Experts (SME) may be used to assist in the presentation of training under the direction of the training manager, coordinator, or training program administrator. To be considered as a SME, an individual shall meet one of the following criteria:

- (1) Minimum three-years full time experience in subject matter.
- (2) Possesses a degree or certificate in a specific subject matter.
- (3) Previous experience as a trainer in the subject matter.
- (4) Recognition by the department as an expert in the subject matter.

(f) Personnel who attend a specialized course of instruction provided by a vendor external to CDCR with the intent to provide instruction to departmental staff shall submit a copy of their certificate of completion that identifies the area of expertise and duration of certification. Obtaining an external certification does not automatically waive a departmental certification.

#### **32010.8.2.1 Courses Requiring Additional Instructor Certification**

Instructors who teach courses that require additional certification beyond the general Training-for-Trainers, must have current instructor certificates in the specified subjects, in their training file (e.g., CPR, Range, Expandable Baton, etc.).

#### **32010.8.2.2 In-Service Training (IST) Course Content**

(a) A course outline or lesson plan is required for all classes. When departmentally approved lesson plans exist, they shall be used.

(b) Training managers are allowed to consolidate training subjects and programs within the established departmental requirements to meet facility, or parole region needs or budget limitations, except where otherwise specified by a judicial mandate.

#### **32010.8.2.3 Instructor Training Credit**

Instructors shall receive training credit toward their annual participation requirements when teaching, except when instructor recertification is required (e.g., Expandable Baton, Range).

#### **32010.8.3 Record Keeping Forms**

The following forms shall be used to record training requests and participation:

(a) CDCR Form 844, Training Participation Sign-In Sheet.

(1) No more than one course of instruction shall be recorded on a CDCR Form 844. Any CDCR Form 844 with more than one subject should not be accepted by the division/unit training office.

(2) The CDCR Form 844 shall not be required if training attendance is directly recorded utilizing the departmentally approved electronic tracking system.

(b) CDCR Form 854, Employee Training Request.

(1) Use is required only if the requested training falls outside the approved annual training plan or annual training requirements. This form shall be completed and forwarded to the Training Coordinator for each division.

#### **32010.8.4 Record of Training**

(a) For each training activity conducted, the following records shall be maintained:

(1) CDCR Form 844 or electronic training attendance as recorded directly in the departmentally approved electronic tracking system shall be used for all In-Service Training (IST).

(2) CDCR Form 844 or electronic training attendance as recorded directly in the departmentally approved electronic tracking system, or the unit-approved training documentation for on-the-job training.

(3) A record of score achieved through a written test or performance demonstration of the learned skill.

(4) DAS Form 103-A, Apprentice Daily Record shall be used for all enrolled Apprentices or recorded directly in the departmentally approved electronic tracking system.

(b) The IST Manager or Training Coordinator shall ensure all training is recorded in the departmentally approved electronic tracking system.

#### **32010.9 Assessments**

(a) The Deputy Director, POSED, or designee, shall order or conduct periodic assessments of all training operations within the scope of their responsibility.

(b) Wardens, Superintendents, RPAs, In-Service Training Managers, and headquarters' Training Coordinators shall be provided notice prior to the assessment.

#### **32010.10 Minimum Required Training**

Annually, the Deputy Director of POSED shall evaluate and determine the training requirements for all CDCR custody and non-custody staff. The institutional Off-Post Training Schedule and Annual Headquarters Training Schedule will be distributed to the Wardens, Superintendents, Division Training Unit Parole Administrators, In-Service Training Managers, headquarters Training Coordinators, Division of Adult Parole Operations Regional Training Coordinators, and Division of Juvenile Justice training officers.

##### **32010.10.1 Training Requirements**

(a) Training of employees shall be completed during regular work hours, when possible, or on the employees' off-duty hours when necessary. Compensation for training shall comply with existing policies, law, and Memorandums of Understanding in accordance with applicable collective bargaining agreements. Within budgetary constraints, the required training shall be provided by the department and accomplished by the employee.

(b) It is a condition of employment that all employees complete the training required for their job classification, or position. Employees who fail to meet these training requirements may have their merit salary award denied or be subject to other administrative sanctions such as employee discipline.

##### **32010.10.2 Training Compliance**

(a) Training compliance should be based on a twelve (12) month calendar year (January-December), in accordance with the institution, headquarters unit, and Division of Adult Parole Operations Division or region training schedule.

(b) If annual training requirements are not attained before the end of December of the current calendar year, the employee shall be considered out of compliance with annual training mandates and may be subject to employee discipline.

(c) Division of Juvenile Justice training compliance should be based on a twelve (12) month fiscal year calendar in accordance with the Facility, and Integrated Behavior Training Model training schedule and the Memorandum of Understanding.

(d) This section shall be applied in accordance with the Annual Weapons Reliquification Requirements under DOM section 32010.19.3.

##### **32010.11 New Employee Orientation (NEO)**

(a) All employees new to the department, regardless of job classification, shall receive orientation training. A NEO schedule with specific course subjects shall be distributed annually. Additional subject requirements are at the discretion of the local hiring authority or Deputy Director, POSED, or designee.

(b) In accordance with the Bargaining Unit 6 Memorandum of Understanding, new Correctional Officers will have four weeks of NEO (160 hours).

##### **32010.12 Correctional Sergeants and Correctional Lieutenants**

The Correctional Sergeant and Correctional Lieutenant Academies each consist of 40 hours of training provided by the Advanced Learning Institute or designee. All Sergeants and Lieutenants are required to complete their appropriate academy as required per Penal Code section 13602.

##### **32010.13 Probationary Employees**

(a) Entry-level, probationary employees of the department shall complete the training requirements of their job classification before the end of their probationary period, or earlier, as specified.

(b) An employee who provides acceptable certification of having previously completed a requirement shall receive credit, and not be required to repeat the training.

(c) Employees who fail to complete any portion of required training may be rejected on probation.

(d) Probationary employees are required to receive orientation training in addition to the requirements for certain job classifications. The following classifications shall adhere to the additional requirements listed below:

##### **(1) Correctional Counselors**

(A) Newly hired Correctional Counselor staff without current peace officer certification shall pass all requirements of Penal Code (PC) section 832 as provided at the academy, within 90 days of appointment and prior to performing peace officer duties.

(B) The Correctional Peace Officer Apprenticeship Program (CPOAP) (3600 work process hours and 24 qualifying months).

##### **(2) Parole Agents**

(A) Basic Parole Agent Academy (BPAA)

(B) The CPOAP (3600 work process hours and 24 qualifying months).

### (3) Fire Captains

Fire Captains shall be trained in accordance with DOM section 52090.6. Training shall include:

(A) The requirements of PC section 832 and chemical agents training as provided at the academy within 90 days of appointment and prior to performing peace officer duties.

(B) The CPOAP (3600 work process hours and 24 qualifying months).

### (4) Correctional Officers

(A) The Basic Correctional Officer Academy (BCOA) prior to performing peace officer duties.

(B) The CPOAP (3600 work process hours and 24 qualifying months).

### (5) Youth Correctional Officer, Youth Correctional Counselor, Parole Agent I/Casework Specialist

(A) Basic Correctional Juvenile Academy

(B) The CPOAP (3600 work process hours and 24 qualifying months).

### 32010.14 Non-Custody Staff Required Annual Training

#### (a) Institutional and Facility Non-Custody Employees

All institution non-custody employees, at a minimum, shall receive annual training

as follows:

- (1) California Public Records Act (CPRA)
- (2) Communicable Disease Prevention
- (3) Court Compliance Training
- (4) Equal Employment Opportunity (EEO) and Sexual Harassment Prevention
- (5) Emergency Operations
- (6) Escape Prevention
- (7) Fire and Life Safety
- (8) Information Practices Act (IPA)
- (9) Information Security Awareness (ISA)
- (10) Injury Illness Prevention Program (IIPP)
- (11) Prison Rape Elimination Act (PREA)
- (12) Suicide Prevention
- (13) Tuberculosis (TB) Testing and Quiz
- (14) Use of Force (UOF)
- (15) Other subjects as deemed appropriate by the Deputy Director, POSED, hiring authority or designee, or any other legal mandates

#### (b) All Headquarters Non-Custody Employees

All headquarters' non-custody employees, at a minimum, shall receive annual training as follows:

- (1) CPRA
- (2) EEO and Sexual Harassment Prevention
- (3) Emergency Operations
- (4) IPA
- (5) ISA
- (6) IIPP
- (7) Other subjects as deemed appropriate by the Deputy Director, POSED, hiring authority or designee, or any other legal mandates

### 32010.15 Correctional Officer, Correctional Sergeant, Correctional Lieutenant, Correctional Counselor I, Correctional Counselor II Specialist, Fire Chief, and Fire Captain Required Annual Training

(a) For the purpose of this section, peace officers include the following classifications: Correctional Officer, Correctional Sergeant, Correctional Lieutenant, Correctional Counselor I, Correctional Counselor II Specialist, Fire Chief, and Fire Captain.

(b) Peace officer employees shall be provided a minimum of 48 hours of annual training pursuant to the current annual training schedule, approved by the Deputy Director, POSED, or designee.

(c) Annual training shall be the primary delivery system for peace officers to maintain compliance with Penal Code section 832 and other mandated training or applicable contract language.

(d) Peace officer classifications shall, at a minimum, receive annual training as follows:

- (1) Alarm response
- (2) California Public Records Act (CPRA)

(3) Cardiopulmonary Resuscitation & First Aid Recertification (CPR/FA)

(4) Chemical Agents

(5) Communicable Disease Prevention

(6) Court Compliance Training

(7) EEO and Sexual Harassment Prevention

(8) Emergency Operations

(9) Escape Prevention

(10) Expandable Baton Annual Training (not mandatory for Fire Chief or Captain)

(11) Fire and Life Safety

(12) Firearms Requalification (see DOM section 32010.19.3 Requalification chart)

(13) Less-Lethal Launcher Requalification (see DOM section 32010.19.11. Not mandatory for Fire Chief or Fire Captains)

(14) Heat Related Pathologies

(15) Lethal Electrified Fence (if applicable)

(16) Suicide Prevention

(17) Tuberculosis (TB) Testing and Quiz

(18) Use of Force (UOF)

(19) Other subjects as deemed appropriate by the Warden, hiring authority or designee, or any other legal mandates

#### (e) Division of Adult Parole Operations (DAPO)

All DAPO peace officer classifications, at a minimum, shall receive annual training as follows:

- (1) CPRA
- (2) CPR/FA
- (3) Chemical Agents
- (4) Communicable Disease Prevention
- (5) EEO and Sexual Harassment Prevention
- (6) Emergency Operations
- (7) Expandable Baton Annual Training
- (8) Fire and Life Safety
- (9) Firearms Requalification
- (10) IPA
- (11) ISA
- (12) IIPP
- (13) TB Testing/ Quiz
- (14) UOF

(15) Other subjects as deemed appropriate by the Director, hiring authority or designee, or any other legal mandates

(A) All Parole Agents assigned to DAPO shall comply with weapons requalification as stated in current DAPO firearms policy. In addition, those who are armed shall fire a diminished light course annually for familiarization and training (not qualification).

(B) All Parole Agents assigned to DAPO shall receive training in Parole Agent Safety and Tactics (PAST), in accordance with Bargaining Unit 6, Memorandum of Understanding.

#### (f) Division of Juvenile Justice (DJJ)

All DJJ peace officer classifications, at a minimum, shall receive annual training as follows:

- (1) Alarm Response
- (2) CPRA
- (3) CPR/FA
- (4) Chemical Agents
- (5) Communicable Disease Prevention
- (6) Court Compliance Training
- (7) EEO and Sexual Harassment Prevention
- (8) Emergency Operations
- (9) Escape Prevention
- (10) Expandable Baton Annual Training
- (11) Heat Related Pathologies
- (12) Fire and Life Safety
- (13) Firearms Requalification (specified post's only)

(A) DJJ designated armed peace officer staff shall receive training in the use of weapons quarterly.

- (14) IPA
- (15) ISA
- (16) IIPP
- (17) PREA
- (18) Stress Reduction Management
- (19) Suicide Prevention
- (20) TB Testing and Quiz
- (21) UOF
- (22) Other subjects as deemed appropriate by the Superintendent, hiring authority or designee, or any other legal mandates.

**(g) Office of Correctional Safety (OCS)**

All OCS peace officer classifications shall, at a minimum, receive annual training as follows:

- (1) CPRA
- (2) CPR/FA
- (3) Chemical Agents
- (4) Communicable Disease Prevention
- (5) EEO and Sexual Harassment Prevention
- (6) Emergency Operations
- (7) Fire and Life Safety
- (8) Firearms Requalification
- (9) IPA
- (10) ISA
- (11) IIPP
- (12) TB Testing and Quiz
- (13) UOF
- (14) Other subjects as deemed appropriate by the Chief, OCS or designee, or any other legal mandates

**(h) Office of Internal Affairs (OIA)**

All OIA peace officer classifications, at a minimum, shall receive annual training as follows:

- (1) CPRA
- (2) CPR/FA
- (3) Chemical Agents
- (4) Communicable Disease Prevention
- (5) EEO and Sexual Harassment Prevention
- (6) Emergency Operations
- (7) Expandable Baton Annual Training
- (8) Fire and Life Safety
- (9) Firearms Requalification
- (10) IPA
- (11) ISA
- (12) IIPP
- (13) PREA
- (14) TB Testing and Quiz
- (15) UOF
- (16) Other subjects as deemed appropriate by the Chief, OIA or designee, or any other legal mandates

**(i) Statewide Transportation Officers and Extradition Agents**

All Transportation Officers and Extradition Agents (excluding Institution Transportation Units only), at a minimum, shall receive annual training as follows:

- (1) Alarm Response
- (2) CPRA
- (3) Chemical Agents
- (4) CLETS Training
- (5) Communicable Disease Prevention
- (6) Court Compliance Training
- (7) Driving in Inclement Weather
- (8) EEO and Sexual Harassment Prevention
- (9) Emergency Operations
- (10) Escape Prevention
- (11) Expandable Baton Annual Training
- (12) Fire and Life Safety

- (13) Firearms Requalification
- (14) Heat Related Pathologies
- (15) IPA
- (16) ISA
- (17) IIPP
- (18) Para-Transit Vehicle Operations (Transportation Hub Officers only)
- (19) PREA
- (20) Suicide Prevention
- (21) TB Testing and Quiz
- (22) UOF
- (23) Other subjects as deemed appropriate by the Chief, Transportation Unit or designee, or any other legal mandates

**(j) Management Peace Officer and Administrative Officer-of-the-Day (AOD)**

**Management Peace Officer and AOD classifications, at a minimum, shall receive annual training as follows:**

- (1) CPRA
- (2) Chemical Agents
- (3) Communicable Disease Prevention
- (4) Court Compliance Training
- (5) EEO and Sexual Harassment Prevention
- (6) Emergency Operations
- (7) Escape Prevention
- (8) Fire and Life Safety
- (9) IPA
- (10) ISA
- (11) IIPP
- (12) PREA
- (13) Suicide Prevention
- (14) TB Testing and Quiz
- (15) UOF
- (16) Weapons Familiarization
- (17) Other subjects as deemed appropriate by the Warden, hiring authority or designee, or any other legal mandates

**32010.16 Supervisory and Managerial Training**

- (a) All supervisors and managers shall complete initial supervisory or managerial training, pursuant to the Government Code (GC) sections 19995.4(b) and (c) or 19995.4(d).
- (b) All supervisors and managers shall complete at least 2 hours of classroom or other effective interactive training and education regarding sexual harassment prevention pursuant to GC section 12950.1.
- (c) All supervisors and managers shall complete 20 hours of leadership training biennially, pursuant to GC section 19995.4.
- (d) Those staff entering a Career Executive Appointment (CEA) position, shall be required to complete initial training pursuant to California Government Code (GC) section 19995.4(e).
- (e) CEAs shall complete 20 hours of leadership training biennially, pursuant to GC section 19995.4.

**32010.17 Curriculum**

**(a) Office of Training and Professional Development (OTPD) Instructional Design Unit (IDU)**

- (1) The OTPD's IDU oversees the development, revision, and maintenance of curriculum for the Peace Officer Selection and Employee Development (POSED) adult, parole, and juvenile basic academies, and the Advanced Learning Institute (ALI) for basic and advanced supervision trainings, and Sergeants and Lieutenants academies).
- (2) IDU staff shall update curriculum to reflect current policies, procedures, laws, and regulations.
- (3) The OTPD processes curricula modifications and archives lesson plans.

**(b) Consultation Services**

- (1) OTPD provides consultation services throughout the department to assist with training needs.
- (2) OTPD shall provide guidance, feedback, and quality assurance to units and divisions within the department that are developing training for targeted audiences.

**(c) Lesson Plan Development**

(1) The IDU develops new lessons, revises existing materials, assists stakeholders with consultative design in certain training areas, and develops e-Learning modules.

(2) A Training Assessment Worksheet is submitted to begin the new lesson development or revision process.

(3) A request for minor modifications can be made by submitting a request to modify training materials.

**(d) Subject-Matter-Expert (SME)**

(1) A SME is an individual who exhibits the highest level of expertise in performing a specialized job, task, or skill within the organization.

(2) Expertise may be gained by experience, education, or through teaching the subject matter. Recognition is achieved by publication of articles, presentations at conferences, or by recommendations of others working in this field with knowledge of the individual's mastery of the subject. For criteria that defines a SME, see DOM section 32010.8.2.

**32010.18 General Firearms and Weapons Certification for all Divisions**

(a) For the purposes of this section, all language (i.e. lesson plans, policy, CPOST) specific to the use and training in firearms and weapons on or off-duty, shall be established in collaboration with the Office of Correctional Safety.

(b) The execution of mandates set forth in policy related to the use of departmental ranges, Rangemasters, or Tactical Firearms Instructor (TFI) for off-duty weapons requalification shall be the responsibility of the local hiring authority, or designee.

(1) This shall include managing any appeals, adverse personnel actions, and general recordkeeping, in accordance with the current Memorandum of Understanding.

**32010.19 Weapons Training**

(a) The importance of training in the safe and proper use of weapons authorized in Restricted DOM section 55050 cannot be over emphasized. The In-Service Training Manager or Training Coordinator must ensure that all custody staff are properly certified in firearms and less lethal weapons, prior to assignment.

(b) It is essential that each individual who may issue, use, or supervise the use of departmental weaponry be fully trained in procedures, policy, and safety matters relating to the weapons.

(c) All persons designated as peace officers under Penal Code sections 830.2 or 830.5, and those so designated by the Secretary, prior to assuming peace officer duties, shall at the minimum successfully complete the department's qualification requirements.

**32010.19.1 Weapons Qualification**

(a) At the discretion of the hiring authority, all personnel subject to Penal Code (PC) section 832 training, and other designated officials requiring such training, shall successfully complete the weapons qualifications course mandated at the specific academy attended.

(1) Standards shall meet PC, department policy, and job-related requirements.

**(b) Penal Code (PC) Section 832 Training**

Every appointed peace officer shall:

(1) Complete training required by Penal Code (PC) section 832 prior to exercising peace officer powers.

(2) Trainees shall complete the required Firearms qualification course with a minimum score of 80 percent on the handgun, pass the Arrest and Control Techniques course, and pass the Peace Officer Standards and Training (POST) PC section 832 written exam with a minimum score of 75 percent.

(A) One retest is authorized.

(B) Failure on the retest shall result in the employee being returned to the sending facility without PC section 832 certification.

(C) The employee may attempt to again qualify by returning to PC section 832 training and repeat the course that was failed.

(3) Failure to successfully complete the course shall result in the termination of that appointment within the peace officer classification.

(4) PC subsection 832(e) requires individuals who previously completed a PC section 832 course to re-qualify prior to exercising peace officer powers, if they have a 36 months or more break in service as a peace officer within the state of California.

**32010.19.2 Instructor Requirements**

**(a) Rangemasters**

The Office of Training and Professional Development (OTPD) manages the CDCR range training program and provides Rangemaster and Rangemaster Proctor training in accordance with departmental standards.

(1) Candidates for the Rangemaster Chemical Agents instructor course shall meet eligibility requirements outlined by OTPD prior to enrollment.

(2) Candidates shall be peace officers with current first aid and CPR, Training-for-Trainers, and Use of Force certifications prior to enrollment.

(3) The entire approved course shall be successfully completed prior to issuance of a certificate of completion.

(4) All Rangemasters shall be trained and qualified in the safe operations of double-action revolvers, rifles, semi-automatic pistols, less lethal launchers, and chemical agents.

(A) Once completed satisfactorily, Rangemasters are then authorized to act as Rangemasters at their institutional range, under the supervision of the hiring authority, or designee.

(B) Rangemasters shall maintain full authority for range activities and may exclude or expel any participant from the range for good cause.

(5) Rangemasters are subject to a requalification assessment every five years by a Rangemaster Proctor to remain in this capacity.

(A) To attend Rangemaster Proctor training, staff must be a currently qualified Rangemaster. Once Rangemaster Proctor training is completed satisfactorily, Rangemaster Proctors are then authorized to act as Rangemaster Proctors at their institutional range, under the supervision of the hiring authority, or designee.

(B) Rangemaster Proctors must maintain Rangemaster status to remain in the Proctor capacity.

(6) For the purposes of department firearm qualifications, Rangemasters are only authorized to conduct the course(s) of fire, based on the training curriculum they received certification for.

**(b) Tactical Firearms Instructor (TFI):**

The Office of Correctional Safety (OCS), Emergency Operations Unit (EOU) manages tactical and range training programs and provides (TFI) training and certification primarily for Crisis Response Team (CRT) members and OCS in accordance with department standards.

(1) All TFIs shall be trained and qualified in the safe operations of all departmental OCS or CRT firearms and less lethal weapons, to include double-action revolvers. Once completed satisfactorily, TFIs are then authorized to act as TFIs at department range trainings, under the supervision of the hiring authority, or designee.

(A) TFIs shall maintain full authority for range activities and may exclude or expel any participant from the range for good cause.

(B) CRT TFIs must be active members in order to facilitate tactical or range training and quarterly qualifications.

(C) TFIs are authorized to conduct off-duty qualifications.

(2) For the purposes of department firearm qualifications, TFIs are only authorized to conduct the course(s) of fire, based on the training curriculum they received certification for.

**(c) Entry Operations Instructors (EOI):**

The OCS, EOU manages the entry training programs and provides EOI training and certification. EOI certification is primarily for CRT members and OCS.

(1) CRT Entry Operations Instructors shall be certified as TFIs and trained in the safe operations of all departmental firearms.

(A) Once completed satisfactorily, EOIs are authorized to provide entry operations training to staff, under the supervision of their hiring authority, or designee.

(B) EOIs shall maintain full authority for tactical entry activities and may exclude/expel any participant from training for good cause.

**32010.19.3 Firearms Requalification Requirements**

(a) All employees subject to Penal Code section 832 training shall quarterly or annually demonstrate satisfactory knowledge of firearms policy and usage. Requalification shall be accomplished through a performance evaluation and minimum departmental scoring proficiency per designated unit.

(1) Requalification requirements are based upon level of responsibility, duties performed, and weaponry appropriate to the function.

**(b) Annual Firearms Requalification**

Annual firearms requalification shall operate on a 12-month period in accordance with the institution or unit training schedule.

(1) Employees subject to annual firearms qualifications shall maintain their qualifications within this period.

(2) If qualifications are not attained before the end of the 365 day period in addition to a four-week grace period, the employee shall be considered out of compliance with annual qualification mandates.

**(c) Quarterly Firearms Realignment**

Quarterly firearms realignment shall operate on a three-month period in accordance with the institution or unit training schedule.

(1) Employees subject to quarterly firearms qualifications shall maintain their qualifications within this period.

(2) If qualifications are not attained before the end of the succeeding month following this three-month period, the employee shall be considered out of compliance with quarterly qualification mandates.

(3) Specialized Unit is defined as Statewide Transportation Unit, Institutional Transportation Unit, Armory, Rangemasters, Tactical Firearms Instructors, K-9 Units, Investigative Services Unit, Institutional Gang Investigative Units, Crisis Response Team (CRT), Office of Training and Professional Development, and Office of Peace Officer Selection Rangemasters.

(A) Specialized units are required to qualify with the semi-automatic handgun at a higher proficiency. Specialized units as defined shall qualify at minimum of 80 percent on the departmental 45 round course. A score of 80 percent is 36 out of 45.

(B) If an employee assigned to a specialized unit fails to demonstrate minimum proficiency on the departmental 45 round handgun course of fire at 80 percent, the Range Remediation Policy, as defined in DOM section 32010.19.4 shall be enacted to determine eligibility to maintain their position in the specialized unit.

(4) Failure to successfully complete the mandatory weapons realignment, in addition to remediation, shall result in loss of peace officer status.

Institution <i>Realignment Requirements</i>	<i>Quarterly/Annual</i>	
	Mini-14	Handgun
Correctional Counselor I	X	
Correctional Counselor II	X	
Fire Captain		X
Fire Chief		X
Correctional Officer	X	X
Correctional Sergeant	X	X
Correctional Lieutenant	X	X

**32010.19.4 Compliance Realignment Requirements**

(a) All designated In-Service Training (IST) Managers and Training Coordinators (TCs) shall review the minimum firearm qualification and realignment requirements of all personnel covered by this section on a quarterly basis.

(1) The IST Manager or TC shall notify the employee's direct supervisor in writing of impending realignment dates at least 30 days in advance. Utilization of the monthly training calendar to satisfy advance written notice of requirements is acceptable.

(2) First-line supervisors shall work with the IST Manager or TC to ensure that their subordinates meet these minimum qualification/realignment requirements.

(b) Each peace officer shall maintain current weapons' certification as outlined in this section.

**(c) Range Remediation Policy**

Peace Officers, other than Parole Agents, who fail the first attempt, but have otherwise demonstrated an adequate level of operational knowledge with the firearm or launcher, may be given another opportunity. This determination shall be made by the Rangemaster.

**(d) Notification of Failure to Meet Range Realignment**

**(1) Adult Institutions**

(A) Those who fail to realign after this additional opportunity and those whom the Rangemaster determines do not appear to have sufficient proficiency after the initial attempt, shall be required to complete remediation training prior to being scheduled for further realignment attempts.

(B) Arrangements may be made to conduct the training during the employee's regular duty hours. In those situations where the training must be conducted on the employee's off-duty hours, this time shall be considered time worked and compensable under the Fair Labor and Standards Act (FLSA) requirements.

(C) The employee shall not be permitted to work in an armed post or any other assignment that requires the employee to be armed until minimum realignment requirements are completed.

(D) These employees shall receive a memorandum of failure to meet range realignment. A copy shall be sent to IST and the Captain only. The notification shall advise the employee that:

1. The employee appears deficient in the necessary skills to realign and shall be assigned to two hours of firearm or launcher familiarization and training. This remediation shall be weapon specific and based on the techniques specific to that weapon.

2. If, after two hours of remediation training, the employee again fails to realign, they shall be scheduled for up to two additional remediation sessions. All remediation and realignment must be completed within the allocated 60 days.

3. Failure to meet the firearm or launcher requirements within a 60-day period shall result in termination of the employee's appointment as a peace officer, unless exempted by a temporary waiver. Employees assigned to specialized units that require a higher minimum proficiency qualification shall be removed from the unit.

**(2) Special Agent**

Special Agents and Office of Correctional Safety (OCS) peace officers who fail to realign after the additional opportunity and those whom the Rangemaster or TFI determines do not appear to have sufficient proficiency after the initial attempt, shall complete remediation training prior to being scheduled for further realignment attempts.

(A) These employees shall receive a memorandum of failure to meet range realignment. A copy will be sent to the Office of Internal Affairs Chief, Field Operations, or OCS Chief. The notification shall advise the employee that:

1. The employee appears deficient in the necessary skills to realign and shall be assigned to two hours of firearm familiarization and training. This remediation shall be weapon specific and based on the Rangemaster or TFI lesson plan.

2. Special Agents and OCS peace officers who do not qualify within 30 calendar days of the quarter in which they failed their division's designated qualification period shall be placed on leave without pay for no longer than two months.

3. Failure to qualify within this period shall result in the Special Agent or OCS peace officer being separated from the Special Agent or OCS peace officer classification, unless exempted by a temporary waiver.

(B) If, after two hours of remediation training, the employee again fails to realign, they shall be scheduled for up to two additional remediation sessions. All remediation and realignment must be completed within the allocated 30 days.

(C) Arrangements may be made to conduct the training during the employee's regular duty hours. In those situations where the training must be conducted on the employee's off-duty hours, this time shall be considered time worked and compensable under the FLSA requirements.

(D) The employee shall not be permitted to work in an assignment that requires the employee to be armed until minimum realignment requirements are completed.

**(3) Parole Agent**

Parole Agents who are armed as a condition of employment and who do not qualify within 30 calendar days of the quarter in which they failed shall be placed on leave without pay for no longer than two months.

(A) Failure to qualify within this period shall result in the Parole Agent being separated from state service per the Bargaining Unit Memorandum of Understanding.

**(4) Temporary Waiver**

(A) Special circumstances may warrant a temporary waiver of weapons realignment requirements. Upon approval of the hiring authority and subject to concurrence by the appropriate Director, a temporary waiver may be considered for any one of the following reasons:

1. Authorized leave of absence

2. Detached duty

3. Illness

4. Physical injury

5. Pregnancy

6. Psychological trauma affecting the employee's ability to comply with realignment requirements.

(B) The waiver shall be reviewed at intervals of no more than one year. Upon expiration of the waiver, the employee shall complete requalification requirements within 60 days as described in DOM section 32010.19.3.

### 32010.19.5 Course of Fire

(a) The courses of fire as described in DOM sections 32010.19.5.1 through 32010.19.5.3, and 32010.19.11 shall be utilized as the standard to demonstrate basic weapon competency, except for those staff working in specialized units as defined in DOM section 32010.19.3. Silhouette targets shall be used for rifles and handguns.

#### (b) Scoring Policy

If participants have fewer hits on their target than the course allows but still achieve a qualifying score, they will not be required to re-shoot.

If participants have more hits on their target than the course allows and also have a qualifying score, they will be required to re-shoot without penalty. The original shoot will not count as one of the allowed qualifying attempts.

The target scoring policy and procedures for each department course listed in DOM sections 32010.19.5.1 through 32010.19.5.3 are located in the IST Firearms Qualifications Lesson Plan.

### 32010.19.5.1 Departmental 25 Round Rifle Course (Ruger, Mini-14)

Distance	Time	Position	Total Rounds
50/*25 Yards	30 Seconds	Standing	5
50/*25 Yards	45 Seconds	Kneeling	5
100/*50 Yards	45 Seconds	Standing	5
100/*50 Yards	60 Seconds	Barricade or Kneeling	5
100/*50 Yards	60 Seconds	Kneeling	5
* Max distances for 50-yard ranges			Total 25

Note: This course of fire requires the B-21 range target at 100-yard ranges and a B-21x (reduced size B-21) range target for ranges with only 50-yard capability. A passing score is 88 of 125 possible (70 percent) within the scoring area of the target.

### 32010.19.5.2 Departmental 45 Round Handgun Course

String	Distance	Position	Special	Type	Reps	Total Rounds	Time in Seconds
1	3 Yards	Standing	Two Handed Grip	Two rounds to body, step laterally, two rounds to body	1	4	5.0
2	3 Yards	Standing	Step laterally after 2 rounds	Failure Drill; 2 rounds body, step laterally and 1 to head	3	9	5.0
3	7 Yards	Standing	Step laterally after 2 rounds	Failure Drill; 2 rounds body, step laterally and 1 to head	4	12	6.0
4	7 Yards	Standing Support Hand Unsupported	Starting position is unholstered at Low Ready	Two rounds to body	2	4	5.0
5	7 Yards	Standing Strong Hand Unsupported	Strong Hand only, from the holster	Two rounds to body	2	4	5.0
6	15 Yards	Standing	Two handed grip	Two rounds to body, step laterally, two rounds to body	2	8	8.0
7	15 Yards	Standing to Kneeling	Any kneeling position	Two rounds to body, kneel down, two rounds to body	1	4	8.0
						Total 45	

Note: This course of fire requires the B-21 range target. A passing score is 31 "hits" (70 percent) within the center scoring area of the target. The 80 percent pass rate for this course is 36 hits within the center scoring area. In addition to qualifying with the department 45 round course, participants must annually demonstrate adequate semi-automatic handgun (SAH) manipulation skills by achieving a qualifying score of 48 or better (80 percent) with the SAH manipulation skills checklist located in the Rangemaster Instructor Manual.

### 32010.19.5.3 POST 36 Round Handgun Course (Penal Code section 832 and Off-Duty Handgun Course)

Distance	Time	Position	Total Rounds
3 Yards	30 Seconds	Standing	12
7 Yards	30 Seconds	Standing	12
15 Yards	45 Seconds	Standing	12
			Total 36

Note: This course of fire requires the B-27 range target. A passing score is 29 "hits" (80 percent) within the seven-ring portion of the target.

### 32010.19.6 Quarterly Proficiency Requirements

(a) All departmental peace officers who are issued a departmental weapon or carry a departmental approved weapon as part of their regular or special assignment such as armed posts, transportation, Crisis Response Team (CRT), Special Housing Unit, Special Agents, etc., or any other previously designated officials considered to require such training shall complete a proficiency course on a quarterly basis prior to assuming the post. This course shall be with the weapon or weapons issued, or maintained in the armed post, assignment or position.

(b) Each division or specialized unit shall determine the quarterly proficiency requirements above the standard courses of fire and techniques that meet their specific need.

(1) The quarterly standards and courses of fire shall be reviewed annually by the appropriate hiring authority for consistency with departmental policy.

### 32010.19.7 Departmental Firearms Off-Duty Handling and Storage

Personnel required by the department to retain departmental firearms while off duty shall be provided training in the proper handling and safe storage of these firearms in accordance with Restricted DOM section 55050.

### 32010.19.8 Use of Department Firearm Ranges by Off-Duty Personnel

(a) The department shall allow access to its ranges for the qualification of off-duty firearms to those peace officers designated by Penal Code (PC) section 830.5(c). The conditions stipulated in these rules shall apply when utilizing a department firing range.

(1) Persons designated above continue to retain the option of qualifying with off-duty firearms on private ranges.

(2) These qualification requirements are voluntary and shall occur only during a person's off-duty hours. It is the responsibility of the individual, not the facility, to maintain their eligibility.

#### (b) Range Availability

Each facility with an authorized and state-certified Rangemaster shall establish a minimum of two days per month range sessions at predetermined times during which persons designated above may qualify with their personal firearm(s) which they intend to carry off-duty.

(1) Cancellation of scheduled sessions may occur because of inclement weather conditions or lack of participants. In the event a session is cancelled, the facility does not have to schedule a make-up session and all fees paid by the participants for that cancelled session shall be returned to them.

#### (c) Cost to Participant

Participants are required to pay a fee to use departmental ranges, except when the off duty firearm is also the approved duty firearm. Exact cost shall be determined by the current Memorandum of Understanding.

#### (d) Access to the Range

Each facility shall prepare a "Guide to Off-Duty Firearm Qualification" which shall be made available to persons desiring utilization of the range. This guide shall include, but is not limited to, the following:

- (1) Contact person or position and telephone number for information concerning the program.
- (2) Types and color of clothing prohibited if the range is on prison property.
- (3) To whom fees shall be paid and when.
- (4) Procedures for transporting firearm and ammunition to the range if the range is on prison property.
- (5) The specific procedures as to how an eligible person shall participate in and, if necessary, schedule an off-duty firearm qualification session.
- (6) Participants shall have in their possession at the time of entry to a facility/range of CDCR a valid employee identification card from their department which indicates the employee's peace officer status, or a written designation by the employee's hiring authority, or designee, which authorizes that employee to carry a concealed off-duty firearm.

**(e) Weapons and Ammunition**

Only concealable handguns consisting of .22 to .45 caliber (includes 9mm and 10mm) shall be used on department ranges. No single action revolvers, blackpowder firearms, shotguns, or rifles shall be permitted.

- (1) All ammunition shall be supplied by the participant. Only factory loaded or reloaded ammunition shall be accepted. Snake loads and loads that exceed industry standard are not acceptable rounds and shall not be permitted.
- (2) Prior to use, all firearms and ammunition shall be inspected by the Rangemaster or Tactical Firearms Instructor. Any weapon or ammunition deemed unacceptable or unsafe shall be removed from the range and not used. Each participant shall provide their own off-duty weapon with a strong side hip holster.

**(f) Qualification Requirements**

- (1) Minimally, the approved off-duty 36 round handgun course, as specified in DOM section 32010.19.5.3, shall be used. Alternatively, and only upon request by the participant, the departmental 45 round course as specified in DOM section 32010.5.2, may be utilized for off-duty firearm qualifications.
- (2) There shall be no classroom session.

Participants shall receive the CDCR Form 1799, Range Safety Rules from the In-Service Training office.

- (3) Participants shall sign a CDCR Form 1798, Annual Acknowledgement Receipt of Penal Codes Related to Possession and Use of Off-Duty Firearms, acknowledging that they have read and understood all applicable PC sections relating to possession or use of off-duty firearms by off-duty staff.
- (4) In addition, participants shall acknowledge in writing that the handgun they are using has not been modified and that it meets manufacturer's specifications (exception: handgrips and sights).

**(g) Recordkeeping**

The facility shall maintain a copy of the participant's official score sheet for six months. If the participant fails to qualify, the reason shall be documented on the score sheet. It is the participant's responsibility to maintain current qualification.

- (1) The participant upon attaining a passing score shall be provided a CDC Form 1803, Off-Duty Firearm Quarterly Qualification Certification that documents the quarterly qualification. Participants that qualify with authorized off-duty firearms at non-departmental ranges are required to provide a completed copy of their CDC Form 1803 to their respective Training Coordinator as soon as practical.

**(h) Off-Duty Disqualifying Factors**

The employee's hiring authority or designee may deny, suspend, or revoke for good cause a person's right to carry an off-duty concealable firearm.

- (1) Persons permitted to carry firearms pursuant to PC section 830.5(c) shall meet the training requirements of PC section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual to maintain their eligibility to carry an off-duty firearm.
- (2) Carrying a firearm off-duty without maintaining the quarterly qualification shall constitute good cause to suspend or revoke that person's right to carry firearms off-duty.

**(i) Appeal of Revocation of Authorization to Carry Off-Duty Firearms**

Within 15 working days of receipt of a notification that an individual's authorization to carry an off-duty concealable firearm has been suspended, revoked, or denied, the individual may appeal the decision. If an individual decides to appeal the decision, the appeal shall be in writing, and served on the appropriate Director or Chairperson who issued the decision. Persons are

prohibited from carrying a concealable firearm off-duty during the appeal period.

**(j) Adverse Personnel Action**

Pursuant to PC sections 830.5 and 25400, carrying a concealed loaded firearm without maintaining the quarterly qualification is prosecutable and the employee may be subject to adverse personnel action at the discretion of the hiring authority or designee.

**32010.19.9 Use of Non-Departmental Firearm Ranges for Off-Duty Qualification**

(a) Departmental peace officers shall have the option of qualifying at other than departmental ranges as outlined in the Memorandum of Understanding. The following policies shall be adhered to when utilizing this option.

- (1) Only concealable handguns consisting of .22 to .45 caliber shall be used. No black powder guns, shotguns, rifles or single action revolvers shall be used.
- (2) Only factory loaded or reloaded ammunition shall be used. Snake loads and loads that exceed industry standard are not acceptable rounds, and shall not be used.
- (3) Minimally, the handgun course of fire, as specified in DOM section 32010.19.5.3 should be used. In the event that the range facility being used for the qualification session cannot accommodate the said course of fire, every attempt should be made to utilize an equivalent course of fire to ensure that the participant demonstrates an adequate level of proficiency. Nothing shall prevent the peace officer from qualifying with a course of fire that indicates greater proficiency or is required for duty by the unit in which the peace officer is assigned.
- (4) Individuals administering the qualification attempt shall possess a Rangemaster or Firearms Instructor accreditation or equivalent from a reputable shooting organization recognized in the United States.
- (5) The participant, upon attaining a passing score shall provide to the person supervising the qualification attempt, a CDCR Form 1803, Off-Duty Firearm Quarterly Qualification Certification that shall be signed by the certifying individual, which shall include the accreditation of the individual.
- (6) It is the participant's responsibility to submit, and maintain annually, a copy of the CDCR Form 1798, Annual Acknowledgement Receipt of Penal Codes Related to the Possession and Use of Off-Duty Firearms, and a copy of the CDCR Form 1803. The completed CDCR Form 1798 and CDCR Form 1803 shall be maintained in the employee's In-Service Training file, at the location where the participant is employed.

**32010.19.10 Weapons Qualification Card**

- (a) All persons designated as peace officers under Penal Code section 830.5 and those so designated by the Secretary who are required to requalify with weapons, at least annually, shall carry upon their person at all times, while on duty a CDC Form 861, Weapons Qualification Card.
- (b) This card shall be issued by the individual facility or parole region and shall provide verification of successful completion of required firearms requalification training.
- (c) Each employee shall notify the supervisor at the time of assignment to an armed position if the requalification or quarterly proficiency requirement has not been met within the preceding 90 days.

**32010.19.11 Less Lethal Weapons**

- (a) Training in the use of less lethal weaponry is required for personnel authorized to use or supervise the use of these weapons per Restricted DOM section 55050.

**(b) Launcher Certification Requirements**

Personnel authorized to use departmental launchers shall successfully complete the standard course of training prior to the use of any launcher. Training shall include policy, procedure, use, safety, and effects of use.

- (1) Annual Launcher Qualification Requirements: At minimum, Correctional Officers, Correctional Sergeants, and Correctional Counselor Is shall qualify annually with the launcher.
- (2) Quarterly Requalification requirements with the launcher shall be in accordance with DOM section 32010.19.6.

**(c) Annual Launcher Requalification**

Annual launcher requalification shall operate on a 12-month period in accordance with the Institution/Unit training schedule.

- (1) Employees subject to annual launcher qualifications shall maintain their qualifications within this period.
- (2) If qualifications are not attained before the end of the 365 day period in addition to a (4) week grace period, the employee shall be considered out of compliance with annual qualification mandates.

**(d) Quarterly Launcher Requalification**



Quarterly launcher requalification shall operate on a three-month period in accordance with the Institution/Unit training schedule.

(1) Employees subject to quarterly launcher qualifications shall maintain their qualifications within this period.

(2) If qualifications are not attained before the end of the succeeding month following this three-month period, the employee shall be considered out of compliance with quarterly qualification mandates.

**(e) 40mm Launcher Qualification Course.**

Distance	Time	Position	Total Rounds
25 Yards	N/A	Standing	3
			Total 3

(1) Note: This course of fire requires a rubber human size silhouette. A passing score is two (2) out of three (3) rounds impacting the Zone 1 target area. Three rounds of duty 40mm direct impact sponge round will be used for qualification. Training rounds deemed by the Rangemaster to provide similar accuracy as a duty 40mm direct impact sponge round may be utilized for qualifications. During range remediation, duty rounds shall be used.

(2) If the participant fails to qualify on the first attempt, but has otherwise demonstrated an adequate level of operational knowledge with the launcher, they may be given another opportunity. This determination shall be made by the Rangemaster. The participant will have three additional qualification attempts. If the participant fails to qualify after the three additional attempts, the Range Remediation Policy shall be enacted (See DOM section 32010.19.4).

(3) Although there are other impact rounds that are fired for familiarization, the 40mm direct impact sponge round is the only round utilized for qualification. (See Restricted DOM section 55050, Exhibit A for approved 40mm direct impact sponge rounds and training rounds.)

**(f) Munitions**

(1) Personnel designated to use munitions as stated in Restricted DOM, section 55050 shall be trained in the use, employment, safety, and effects of this resource prior to usage.

**(g) Baton Certification Requirements**

Personnel authorized to use departmental batons shall successfully complete the standard course of training prior to issuance or use of any baton. Training shall include policy, procedure, use, safety, and effects of use.

**(h) Recertification Requirements**

(1) Annually, each person qualified to use departmental batons shall successfully complete (2) hours of annual training in the use and certification of a baton, as well as (2) hours of annual proficiency training. If an individual fails the recertification course they shall remediate the recertification course.

(A) Recertification shall be completed in accordance with DOM section 32010.10.2 Training Compliance.

(B) If qualifications are not attained within a 365 day period in addition to a (4) week grace period, the employee shall be considered out of compliance with annual qualification mandates.

(C) Individuals whose baton certification has lapsed shall take the recertification course, which is determined by the Deputy Director of Peace Officer Selection and Employee Development (POSED), to demonstrate competency. If competency is not demonstrated after completion of the recertification course, then the individual shall complete the remediation course.

(D) If an individual fails the remediation course, they shall be required to complete the approved Basic Correctional Officer Academy certification course.

**(i) Instructor Requirements**

Candidates for the baton instructor course shall meet eligibility requirements outlined by the academy prior to enrollment.

(A) Candidates shall be peace officers with current first aid, CPR, Training-for-Trainers, and use of force certifications, prior to enrollment. The entire approved course shall be successfully completed at the academy prior to issuance of a certificate of completion.

(B) Baton instructors shall teach a minimum of (8) hours of training per year to remain current in their certification. Anyone failing the recertification course shall be required to repeat the initial instructor certification course before being utilized as an instructor.

**32010.20 Revisions**

The Deputy Director, Peace Officer Selection and Employee Development, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**References**

MOU for Bargaining Unit 6.

GC §§ 12950.1, 14740, 14770 – 14774, 19400 – 19406, 19995-19995.4.

PC §§ 830.2, 830.5, 832, 13601-13603, 22820 and 25850.

SAM §§ 0751, 1610, 2580.2, and 2590.2.

DOM 54040.4

**Revision History**

Revised: December 4, 2018.

Revised: April 5, 2022.

**ARTICLE 19 — BASIC ACADEMY TRAINING**

*Revised March 20, 2020*

**32020.1 Policy**

The Office of Training and Professional Development (OTPD), under the oversight of Peace Officer Selection and Employee Development (POSED), utilizes the Richard A. McGee Correctional Training Center (R.A. McGee CTC) and Stockton Training Center (STC) as training sites. OTPD staff provides effective entry-level custody training in compliance with statutes, laws, regulations, policy, and collective bargaining agreements.

**32020.2 Purpose**

This Article identifies the role of the OTPD Academies (adult, parole and juvenile).

**32020.3 Objectives**

The objectives of OTPD are:

- To carry out the mandates of statutes, laws, regulations, policies, and collective bargaining agreements.
- To assist in the training and evaluation of youth and adult correctional peace officer cadets and adult parole agent students.
- To refine and expand the professional knowledge and skills of the attending training participants.
- To meet standards of accreditation as defined by the Commission on Peace Officer Standards and Training (POST). To carry out the mandates of statutes, laws, regulations, policies, and collective bargaining agreements.

**32020.4 Definitions**

- **Basic Correctional Officer Academy (BCOA)** – Courses structured for employees hired for adult Correctional Officer classifications.
- **Basic Correctional Juvenile Academy (BCJA)** – Courses structured for employees hired for Youth Correctional Officer, Youth Correctional Counselor, Casework Specialist, and Institutional Parole Agent classifications.
- **Basic Parole Agent Academy (BPAA)** – Courses structured for employees hired for Adult Parole Agent classifications.
- **Cadet** – A newly appointed correctional peace officer cadet attending the BCOA or BCJA.
- **Student** – A newly appointed parole agent attending the BPAA.

**32020.5 Responsibilities**

- **Peace Officer Selection and Employee Development (POSED)**  
The Deputy Director, Peace Officer Selection and Employee Development, shall have administrative oversight of OTPD training programs.
- **Deputy Director, POSED.** The Deputy Director, POSED, is responsible for policy development, management oversight, and evaluation of employee development programs based on competencies associated with successful job performance and alignment of such programs with strategic business goals and objectives. The overall program direction is delegated to the Academy Administrator, R.A. McGee CTC.
- **Academy Administrator.** Under the direction of the Deputy Director, POSED, the Academy Administrator oversees the operation of all OTPD Academies held at the R.A. McGee CTC or STC, and ensures compliance with CDCR policies and procedures.
- **Academy Commander.** Under the direct supervision of the Academy Administrator, the Academy Commander (Captain) directs the daily operation and overall supervision of the BCOA and BCJA.
- **BCOA Instructors.** Under the general supervision of a Correctional Lieutenant, BCOA instructors teach classroom and field classes in

various subject matters. BCOA instructors monitor and rate cadet performance and enforce OTPD and departmental rules and regulations. BCOA instructors prepare a written probationary report for cadets attending the BCOA, including both an assessment of academic achievement and the general performance of each cadet as an entry-level correctional peace officer.

- **BCOA Cadets.** During their training period, cadets will comply with the expectations and practices established by the BCOA. These expectations and practices shall be written and included in the Cadet Handbook which is provided to each cadet prior to the first day of training.
- **BCJA Instructors.** Under the general supervision of a Correctional Lieutenant, BCJA instructors teach classroom and field classes in various subject matters. BCJA instructors monitor and rate cadet performance and enforce OTPD and departmental rules and regulations. BCJA instructors prepare a written probation report for cadets attending the BCJA including both an assessment of academic achievement and the general performance of each cadet as an entry-level youth peace officer.
- **BCJA Cadets.** During their training period, cadets comply with the expectations and practices established by the BCJA. These expectations and practices shall be written and included in the Cadet Handbook, which is provided to each cadet prior to the first day of training.
- **BPAA Administrator.** In coordination with the Academy Administrator, the BPAA Administrator directs the overall supervision of the BPAA.
- **BPAA Commander.** Under the direction of the BPAA Administrator, the BPAA Commander (Parole Agent III) directs the daily operation of the BPAA.
- **BPAA Coordinators (Parole Agent II Supervisors).** Under the direction of the BPAA Commander, the BPAA Coordinators (Parole Agent II Supervisors) direct the daily operation of the BPAA. BPAA Coordinators monitor and rate student performance and enforce BPAA and Departmental rules and regulations. BPAA Coordinators prepare a written probation report for students attending the BPAA. BPAA Coordinators shall initiate any written progressive discipline, if necessary.
- **BPAA Coordinators (Parole Agent II Specialists).** Under the direction of the BPAA Commander, the BPAA Coordinators (Parole Agent II Specialist) direct the daily operation of the BPAA. BPAA Coordinators monitor and enforce BPAA and Departmental rules and regulations.
- **BPAA Instructors.** Under the general direction of BPAA Coordinators, BPAA instructors teach classroom and field classes in various subject matters. BPAA instructors shall adhere, monitor, and enforce academy and Departmental rules and regulations.
- **BPAA Students.** Newly appointed Parole Agents attending the BPAA may be assigned to the R.A. McGee CTC for the period of their training. During this period, BPAA students will comply with the expectations and practices established by the Division of Adult Parole Operations. These expectations and practices shall be written and included in the BPAA Student Handbook, which is provided to each student prior to the first day of training.

#### **32020.6 Basic Correctional Officer Academy (BOAC) Training**

Basic Correctional Officer Academy – 13 weeks of training as provided by POSED. This course of study complies with requirements contained in Penal Code (PC) sections 832 and 22820.

##### **32020.6.1 Reinstatement and Returning Peace Officer Training**

(a) When correctional lieutenants, sergeants, correctional counselors, and officers return from an extended absence of at least 12 months or more, the following training requirements shall be applied:

- (1) Employees returning from an extended absence between 12 and less than 36 months shall attend off-post training, and any other courses deemed necessary at the employee's institution.
- (2) Employees returning from an extended absence which lasts between 36 and 60 months shall attend a 4 week mini-academy provided by POSED and pass an examination in accordance with PC sections 832 and 22820 (if the PC 832 certificate has expired). Employees returning from such an absence shall also attend required off-post training and any other courses deemed necessary at the employee's institution.
- (3) Employees whose absence lasts longer than 60 months shall attend and successfully complete all components of the BCOA and pass an examination in accordance with PC sections 832 and 22820 (if the PC 832 certificate has expired).

##### **32020.6.2 Correctional Counselor Academy Training**

Newly hired Correctional Counselors (CCIs) without prior Division of Adult Institution peace officer experience shall successfully complete a 7 week academy provided by POSED, which includes 2 weeks of PC section 832 training.

(a) Peace Officers transferring from the Division of Adult Parole Operations (DAPO) into the CCI classification) without prior Division of Adult Institution peace officer experience shall successfully complete a 5 week academy, provided by POSED.

#### **32020.7 Basic Parole Agent Academy (BPAA) Training**

(a) Parole Agents shall successfully complete a Basic Parole Agent Academy (BPAA) that includes PC sections 832 and 22820 requirements prior to permanent assignment to a parole unit. Every appointed peace officer shall:

- (1) Graduate from the BPAA upon appointment into the parole agent classification.
- (2) Complete the required firearms qualification course with a minimum passing score of 80 percent with a DAPO division issued firearm. On the malfunction firearms qualification course, BPAA students must pass the course with a minimum passing score of 80 percent with no more than two shooter errors while clearing a malfunction.
- (3) Pass each maneuver of the Arrest and Control Methods/Defensive Tactics Competency course.

##### **32020.7.1 Reinstatement and Returning Parole Agent Training**

(a) Employees returning to the parole agent classification series from re-employment status, workers' compensation status, extended sick leave, reinstatement from retirement status, or other extended absence from performing the duties of the parole agent classification series will be required to attend the following training:

- (1) Any employee who has not performed the duties of the parole agent classification for less than 12 months will require refresher training as determined by the Regional Parole Administrator.
- (2) Any employee who has not performed the duties of the parole agent classification between 12 and less than 36 months will require completion of a full BPAA, a modified BPAA, or refresher training as determined by the DAPO Director.
- (3) Any employee who has not performed the duties of the parole agent classification for 36 months or longer requires completion of a full BPAA and passage of an examination in accordance with PC sections 832 and 22820. If an employee fails to successfully complete all components of the BPAA, the employee will be non-punitively dismissed for failing to meet the minimum qualifications of the parole agent classification.
- (b) Upon return to the parole agent classification series any current probation, apprenticeship or Field Training Program requirements must be met. Compliance with these guidelines will ensure staff is properly trained in new procedures and protocols.

##### **32020.7.2 Exception for Re-taking PC Section 832 Examination**

(a) Any correctional peace officer who is returning from a break in service of three years or longer as a California peace officer shall be required to again pass the examination approved under PC section 832 unless he or she:

- (1) Is returning to a management position that is at the second level of supervision or higher.
- (2) Has successfully requalified for a basic course through the Commission on Peace Officer Standards and Training.
- (3) Has maintained proficiency through teaching the course described under Penal Code section 832, subdivision (a).
- (4) During the break in California service, was continuously employed as a peace officer in another state or at the federal level.
- (5) Was continuously employed as a custodial officer after being appointed as a peace officer pursuant to Penal Code section 830.1, subdivision (c).

*These exceptions do not apply to weapons qualification examinations.*

#### **32020.8 Weapons Qualification**

(a) All personnel subject to training and other designated individuals requiring such training shall successfully complete a weapons qualifications course mandated per PC section 830.5, subdivision (d). Standards shall meet Penal Code, CPOST, Department policy, and job-related requirements.

(b) Cadets and students attending the BCOA or BPAA who fail to complete mandatory weapons qualifications shall be rejected on probation.

#### **32020.9 Uniforms and Grooming Standards**

(a) The CDCR uniform and grooming standards are defined in the Department Operations Manual (DOM) Chapter 3, Article 21, Uniforms/Employee Grooming Standards.

(1) BCOA instructors may have specialized tactical and range uniforms, as approved by the Academy Administrator.

(2) BCOA and BCJA cadets shall adhere to the uniform and grooming standards defined in DOM Chapter 3, Article 21.

(3) BPAA instructors may have specialized tactical and range attire. All specialized tactical and range attire shall be approved by the BPAA Administrator. BPAA students shall adhere to the BPAA attire as defined in Bargaining Unit 6 MOU.

#### **32020.10 OTPD Curriculum**

All POSED approved courses will be developed by OTPD's Instructional Design Unit, and will be in compliance with the standards prescribed by Penal Code (PC) sections 830-832, 13601, POST and the Commission on Correctional Peace Officer Standards and Training (CPOST).

##### **32020.10.1 Testing**

All cadets and students attending an academy under POSED shall attain at least the minimum scores established by CDCR and POST.

##### **32020.10.2 Re-Testing**

(a) Cadets and students not achieving a passing score on any written examination shall be provided with an opportunity to retake the same, or similar, written examination one time only. Additional instruction, remediation and supervision may be provided prior to re-testing.

(b) Cadets and students not achieving a passing score during the firing portion of the firearms training shall be given an opportunity to re-test with the weapon(s) one time only. Additional instruction, remediation and supervision may be provided prior to re-testing.

(c) Cadets and students not achieving a passing score on a performance-based evaluation shall be provided with an opportunity to retake the same, or similar, performance-based evaluation one time only. Additional instruction and supervision may be provided prior to re-testing.

##### **32020.10.3 Cadet and Student Probationary Report**

(a) Each cadet and student shall be continually evaluated during the course of instruction. The evaluation shall give specific attention to the following areas of interest:

- (1) General academic performance.
- (2) Professional appearance and behavior.
- (3) Relationships with people.
- (4) Punctuality.
- (5) Attendance.
- (6) Quality of the final product of assigned tasks.
- (7) Response to directions and constructive criticism.

(b) The BCOA and BCJA cadet's assigned Company Commander (BCOA/BCJA instructor) shall prepare the first written probationary report, upon successful completion of the Academy. BPAA supervisory staff will complete the first probationary report of each BPAA student upon successful completion of the Academy.

##### **32020.11 Rejection and Dismissal**

(a) Cadets and students may be rejected on probation for the following:

- (1) Failing an examination and the subsequent re-test.
- (2) Unacceptable performance, behavior, or conduct, as delineated by Academy or departmental policies and procedures.
- (3) Missing mandatory instruction, as defined by Academy or POST requirements.

(b) OTPD staff will initiate rejection on probation actions for BCOA and BCJA cadets. The hiring authority for BPAA students will initiate rejection on probation actions.

##### **32020.12 Resource Sites**

(a) Firearms exercises shall be conducted at a qualified range approved by the Academy Administrator.

(b) Local institutions will be used by OTPD to familiarize cadets at the BCOA and BCJA cadets with various institutional settings. The Cadet On-Site Institutional Training (COSIT) field practicum visits in the institutions are subject to the approval of the warden, superintendent, or designee of the hosting institution and the availability of employees.

##### **32020.13 Revisions**

The Deputy Director, POSED, or designee shall ensure that the contents of this Article are accurate and current.

##### **32020.14 References**

BU 6 MOU.

PC Sections 830-832, 13601, and 22820.

POST Guidelines.

##### **Revision History**

Revised: March 11, 2002.

Revised: April 23, 2010.

Revised: December 6, 2016.

Revised: March 20, 2020.

## **ARTICLE 20 — PERSONNEL POLICIES**

*Revised November 20, 2013*

### **33010.1 Policy**

The Department shall, through the provisions of this Article:

- Assure a uniform and equitable basis for employer/employee relations.
- Maintain open channels of communications that permit the exchange of information and ideas in a cooperative manner to ensure increased departmental efficiency and the well-being of employees.
- Further the understanding of rights, and obligations of the Department and employee organizations.

### **33010.2 Purpose**

This Article specifies requirements for employer/employee relationships.

#### **33010.2.1 Employee Notification**

Each institution, parole region, and community correctional facility shall establish a policy for the purpose of employee notification. It is the responsibility of each Warden, Regional Parole Administrator (RPA), and Community Correctional Center Administrator to establish procedures to notify employees at work of personal emergency situations. Personal emergencies that require employee notification shall be routed to the area manager/supervisor who will determine if the situation warrants immediate employee notification.

### **33010.3 Disclaimer**

If any provision in this Article is in conflict with a Memorandum of Understanding (MOU), Side Letter Agreement, Arbitration Award, Public Employment Relations Board (PERB) Decision, Settlement, or Local and/or Statewide Agreement, this Article shall not prevail as it relates to the specific represented group.

### **33010.4 Management Team**

Employees designated as manager, supervisor, or confidential shall be members of the management team.

"Supervisors" and "supervisory employees" refer to persons designated as supervisors pursuant to the State Employer Employee Relations Act (SEERA). Persons not so designated are not supervisors within the meaning of SEERA, even if their working or class title includes the term "supervisor," and shall not be considered part of the management team for the purpose of this Article.

The management team shall:

- Relate with all employee organizations and their official representatives, regardless of title or classification, as equals on all matters within the scope of representation.
- In good faith, abide by all terms, conditions, or provisions of all MOUs in effect.
- Give consideration to the viewpoints submitted by individual employees and organized employee groups in connection with the development of policy and in determining courses of action relating to employer/employee relations.

### **33010.5 Employees Right to Organize**

The State recognizes the right of State employees to join and participate in organizations of their own choosing and be represented by such organizations in their employment relations with the State.

In order to guarantee this right, the management team shall not:

- Impose, threaten to impose, cause, or allow any type of reprisals on employees because of their exercise of rights guaranteed them by SEERA, departmental policy, MOU, or any other applicable law or rule.
- Conduct any type of business relating to wages, hours, or working conditions of unit employees with any organization except the exclusive representative.
- Participate in handling grievances on behalf of employees.
- Participate in meet-and-confer sessions on behalf of rank and file employees.
- Influence, cause to be influenced, interfere with, or in any way condone the influence of internal affairs of a rank and file employee representative organization.
- Influence, cause to influence, interfere with, or in any way allow the influencing of the unit election process.

- Contribute to any organization financial or any other type of support that is used for representation of rank-and-file employees.

Rank and file employees shall not:

- Participate in handling grievances on behalf of supervisory employees.
- Participate in meet-and-confer sessions on behalf of supervisory employees.

### **33010.5.1 Rights of Employees**

Rank and file employees shall have the right to:

- Form, join, and participate in the activities of employee organizations of their own choice for the purpose of representation on all matters of employer/employee relations.
- Refuse to join or participate in activities of organizations.
- Withdraw from organizations.
- Represent themselves individually in their employment relations.

Supervisory employees have the right to:

- Form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of supervisory employer/employee relations.
- Refuse to join or participate in the activities of employee organizations.
- Represent themselves individually in their employment relations.

Employees shall not be granted preferential treatment or have equitable treatment withheld because of either membership or non-membership in employee organizations.

### **33010.5.2 Exclusive Representatives**

The Department recognizes and agrees to meet with designated stewards and staff of the exclusive representatives on the following:

- Administration of the contract.
- Employee discipline cases.
- Informal settlement conferences or formal hearings conducted by the Public Employment Relations Board.
- Matters scheduled for hearing by the Victim Compensation and Government Claims Board.
- Terms and conditions of employment.

### **33010.5.3 Bona Fide Associations**

The Department shall recognize other employee organizations providing they are registered and approved by California Human Resources (CalHR) as bona fide associations.

A bona fide association is an organization that is comprised primarily of employees and former employees of agencies of the State and which:

- Does not represent State employees on matters within the scope of representation.
- Is not affiliated with an employee organization.
- Remains neutral in representational elections among State employees on the selection of an employee organization as an exclusive bargaining agent.

If an employee organization wishes to represent employees and there is some question regarding its status, the hiring authority shall contact the Office of Labor Relations (OLR) for clarification.

### **33010.6 Access to Work Locations**

Reasonable access to employee work locations during working hours shall be granted:

- To employee organization officers and representatives on employment relations matters.
- Where specific problems exist which necessitate the officer/representative seeing the work location to understand the situation.
- Access to work locations shall not include visits for the purpose of solicitation of membership or routine contact.
- The restrictions or limitations shall be for legitimate State purposes, such as safety, security, potential work disruption, undue State costs, etc.
- No restrictions or limitations shall be applied, or not applied, on the basis of any antipathy or sympathy for or against employee organizations in general or particular.

#### **Approval**

Representatives shall obtain the approval of the appropriate official or their designee before entering an employee work location. Requests shall be made through the employee relations office. The appropriate officials are:

- An institution – Warden or Superintendent.
- DAPO Regional Headquarters - Regional Parole Administrator.
- DAPO Headquarters – Deputy Director, Division of Adult Parole Operations.
- Headquarters - Assistant Secretary, Office of Labor Relations.
- DAPO Parole Unit - Unit Supervisor.
- DAPO Parole Outpatient Clinic - Chief Psychiatrist.
- CalPIA Central Office - General Manager.
- CCHCS Headquarters – Chief, Labor Relations Unit

### **33010.6.1 Barred Access**

Each Warden/Superintendent shall prepare a list of work locations to which access for the purpose of contact with an employee shall be barred because of security reasons. The list shall be:

- Kept to a minimum consistent with institution security.
- Available at the office of the Warden/Superintendent for inspection by representatives.

Armed posts shall generally be excluded from visits by representatives.

A disagreement between an employee organization and a Warden/Superintendent as to reasonableness of denying access to any given location shall be referred to the Assistant Secretary (AS), OLR for review and determination.

If a representative wishes to contact an employee assigned to a prohibited area, the meeting shall be arranged on the employee's own time unless the organization will furnish qualified relief acceptable to the institution. Overtime funds are not available to permit an employee to be relieved for consultation.

### **33010.6.2 Escorted Access**

It is anticipated that employee organization representatives will be permitted access to most areas of the institution with the appropriate escort.

### **33010.6.3 Other Access**

Contact with an employee on the job shall be in a manner that eliminates the possibility of incidents or breaches of security.

Representatives shall receive equal access treatment whether or not they are the Department employees.

Representatives, employees of the Department or not, are subject to all laws, rules, and regulations governing entrance to and behavior within a correctional institution/facility.

Employees may be allowed to engage in employee or organization business during working hours without loss of pay only when the business is specifically authorized by the appropriate MOU or Department Operations Manual (DOM).

Employees' "own time" or "non-working hours" are lunch periods, regularly scheduled rest periods, and time before and after work.

Access to a work location may be denied or delayed for reasons including safety, security, work load requirements, or other legitimate circumstances.

When access is denied, reasonable alternatives should be provided to allow representatives to communicate with employees (e.g., providing space in a cafeteria or elsewhere in the institution/facility).

If an employee representative requests meeting room space, an effort shall be made to comply with the request as long as space is available and the granting of the request will not violate any established rules, regulations, or policy.

### **33010.6.4 Trespass**

See CCR (Title 15) Section 3289.

### **33010.7 Posting and Distribution of Information**

Representatives may post, distribute, or place organization material in institution/appropriate parole office (district, unit, etc.) mail boxes when:

- Prior approval of the appropriate administrator or employee relations officer as listed in DOM 33010 has been received.
- The material does not advocate:
  - Unlawful or illegal activity.
  - Violation of departmental rules or regulations.
- Material is not obscene, defamatory, lewd, vulgar, libelous, or slanderous.
- Such activities do not adversely affect institutional security or operation.

Approval to post or circulate material shall not in any way constitute endorsement by the Department of any of the statements contained in the material.

**33010.8 U.S. Mail**

The Department shall allow employee organizations to send U.S. mail to employees at work addresses and shall make every effort to deliver mail to employee mail boxes if:

- The mail is sent to the specific institution/parole office address.
- The volume of mail does not increase to the point that additional resources are necessary to process it.

**33010.9 Use of State Facilities and Time**

Uniform standards of treatment shall be applied to all employee organizations concerning the use of State facilities, equipment, and work time.

Employee organizations may be granted the use of State facilities for organization meetings composed of the State employees, provided such meetings are outside regularly scheduled working hours and space is available.

State time shall not be used for conducting or participating in employee organization business affairs including dues collection, organization meetings, and membership campaigns.

All services provided employees through any employee organization involving use of institution facilities, grounds, equipment, or inmates shall be approved in writing by the Warden/Superintendent.

Employees may, during assigned working hours, use a reasonable amount of State time to prepare and present grievances and to meet with management on issues and problems.

Time spent by representatives on representation activities shall not qualify for, or result in, overtime compensation.

**33010.10 Release of Information**

Non-confidential information pertaining to employer/employee relations may be made available to representatives, upon request.

Each employee shall have the right to review the contents of his or her personnel file.

Review of any portion of an employee's personnel file by a representative requires written authorization of the employee.

The DOM, Administrative Bulletins, and other statements of policy are not confidential and shall be made available for review upon request.

In case of disagreement between an employee or employee organization and a representative of the Department as to the confidentiality of a given piece of information, the matter shall be referred to the Secretary through the Assistant Secretary, Office of Labor Relations.

**33010.11 Grievance Procedure**

Employees shall attempt to reach acceptable solutions to problems or complaints through informal discussion with their supervisor and if necessary the supervisor's supervisor.

Equal Employment Opportunity representatives are available to assist in resolution of issues on an informal basis.

If informal discussions fail to resolve the issue, a formal grievance may be filed as follows:

**33010.11.1 Process**

- Represented employees shall use STD. Form 630, Employee Contract Grievance, in accordance with the provisions of the appropriate MOU.
- Excluded employees shall use STD. Form 631, Excluded Employee Grievance, in accordance with procedures on the back of the form.

**33010.11.2 Health and Safety Grievance**

A health and safety grievance may be filed as follows:

- Represented employees shall file in accordance with the provisions of the appropriate MOU.
- Excluded employees shall use STD Form 631, in accordance with the procedures outlined on the back of the form.

**33010.12 Incompatible Activities and Outside Employment**

See CCR (Title 15) Section 3413.

**33010.13 Confidentiality of Employee Personnel Files**

Information from employee personnel files shall be disclosed in accordance with the provisions of DOM 13040 and 13050 of this manual.

**33010.14 Employee Housing**

Employee quarters shall primarily be used to:

- Provide temporary housing for new employees while they seek permanent housing.
- House interns and trainees.

If necessary to vacate rooms for these purposes, the person(s) with the longest occupancy shall be asked to vacate.

CalHR defines housing accommodations.

Monthly rental rates are determined by the CalHR or by negotiation with the bargaining units.

Only those articles of household furnishings included in the "Maximum List of Basic Furnishings for Housekeeping Quarters to be Provided by the State," prepared by Department Of Finance (DOF), may be supplied to housekeeping apartments and homes.

**33010.15 Vacation Credits**

The limit on the number of hours that may be accumulated during a calendar year is established by:

- The appropriate MOU for represented employees.
- CalHR rules for nonrepresented employees.

**33010.15.1 Vacation Credit Carry-Over**

*Revised September 29, 2020*

**(a) Represented Employees**

(1) By January 15, or in accordance with the employee's MOU, of each calendar year, represented employees not subject to a vacation bid process whose vacation or annual leave balances exceed, or could exceed the maximum amount (i.e., leave cap) by December 31, the vacation or annual leave cap allowed by their MOU shall submit a leave reduction plan to their manager or supervisor for approval to bring their vacation or annual leave balance to within the amount permitted prior to January 1 of the following year. Leave reduction plans shall be submitted on the CalHR Form 138, Leave Reduction Plan.

(2) Represented employees who are subject to a vacation bid process whose vacation balance exceeds, or could exceed by December 31, the leave cap allowed by their MOU must submit a leave reduction plan in accordance with the bid process to bring their vacation or annual leave balance below the leave cap.

(3) If an employee fails to submit a leave reduction plan or adhere to an approved plan, the employee's manager or supervisor shall order the employee to take sufficient vacation to reduce the actual or projected vacation balance to below the leave cap.

(4) If it is unavoidable that the employee cannot use the scheduled vacation time due to emergency, sick leave, or unanticipated operational needs, the employee shall be allowed to reschedule the vacation time.

(5) Employees whose vacation or annual leave balances exceed their leave cap on January 1 shall not have the excess deducted from their balances.

**(b) Non-Represented Employees**

(1) By January 15 of each calendar year, non-represented employees not subject to a vacation bid process whose vacation or annual leave balances exceed, or could exceed by December 31, the vacation or annual leave cap permitted by CalHR rules shall submit to their manager or supervisor for approval a leave reduction plan to bring their vacation or annual leave balance to the amount permitted prior to January 1 of the following year. Leave reduction plans shall be submitted on the CalHR Form 138, Leave Reduction Plan.

(2) Non-represented employees who are subject to a vacation bid process whose vacation balance exceeds, or could exceed by December 31, the maximum amount allowed by CalHR rules shall submit a leave reduction plan following the bid process to bring their vacation or annual leave balance below the leave cap.

(3) If the employee fails to take off the required number of days or hours by January 1, the appointing power shall require the employee to take off the excess hours at the convenience of the Department during the following calendar year.

(4) If it is unavoidable that the employee cannot use the scheduled vacation time due to emergency, sick leave, or unanticipated operational needs, the employee shall be allowed to reschedule the vacation time.

(5) Non-represented employees whose vacation or annual leave balances exceed their maximum leave cap on January 1 shall not have the excess deducted from their balances.

**33010.15.2 Catastrophic Leave Program**

The Catastrophic Leave program was established in 1985 for excluded (non-represented) employees by CalHR Rules 599.925 and 599.925.1 and in 1988 for represented employees by their respective bargaining unit contracts. Under this program, employees may receive paid leave donations if:

- They are suffering from an incapacitating illness/injury (nonwork related) and are financially burdened because they have depleted all of their accrued leave credits.
- They need to take an extended period of time off from work to care for an incapacitated family member and they are financially burdened because they have depleted all of their accrued leave credits.

- They are unable to work because of the effect of a natural disaster on their principal residence (in a county declared as a State of Emergency by the Governor) and they are financially burdened because they have depleted all of their accrued leave credits (excluding sick leave).
- They are taking extended time off after childbirth and are financially burdened, because they have depleted all of their accrued leave credits (excluding sick leave).

The following are general Catastrophic Time Bank (CTB) provisions. The Secretary has delegated authority to approve/deny CTB request and to review appeals as follows:

Division	Initial Request	Appeals
Executive Office	Undersecretary	Secretary
Institutions	Warden /Superintendent	Director
DAPO Regions	Regional Parole Administrator	Director
DAPO Headquarters	Deputy Director	Director
Legal Affairs	Chief Deputy General Counsel	Assistant Secretary/ General Counsel
Facility Planning, Construction, and Management	Deputy Director	Director
Administrative Services	Deputy Director	Director
Correctional Health Care Services	Director	Undersecretary

- To establish a CTB, a CDC Form 868, Catastrophic Time Bank (CTB) Request, shall be completed and submitted to the employee's local personnel office by the employee or the employee's representative if the employee is incapacitated. All requests to establish a CTB are subject to CalHR laws and rules/contract provisions. Note: CTB requests shall not be processed without the consent of the employee or the employee's representative; this is to protect the employee's right to privacy.
- Upon receipt of the CTB request, the approval authority has five working days in which to review the request, approve/deny the CTB, and forward the form to the appropriate local personnel office.
- The approval authority shall name the person(s) designated to advertise for donations at the time the CTB request is approved. The responsibility may be delegated to a single individual or several persons.
- To make CTB donations, employees shall complete and submit a CDC Form 869, Catastrophic Time Bank Donation Authorization, to the CTB recipient's personnel office. All CTB donations from nonrepresented employees are subject to their contract provisions. Exceptions to the CalHR laws and rules/various contract provisions must be requested and approved.
- If there is an indication of a substantial change in the nature of the illness/injury, the local Return-to-Work Coordinator (RTWC) or Medical Officer (MO) (on a case-by-case-basis), may be contacted by personnel office staff. The RTWC/MO shall then contact the recipient/representative within three working days to obtain the medical status of the ill/injured person, verify the continued need for CTB leave, and notify the local personnel office when a decision is reached.
- CTB donations shall not be used to augment any benefits received due to a work-related injury or illness.
- Personnel office staff shall direct all questions regarding appeals to the headquarters OLR's.
- In all cases where the CTB recipient dies, donations shall not be accepted unless dated and signed on or before the date of death of the recipient.

All unused donations received through the date of death of the recipient shall become part of the recipient's estate.

- Upon expiration of the CTB for a reason other than death, all unused donations shall be returned to donors on a last received first returned basis, 60 days after the employee returns to work.

### 33010.16 Employee Holidays

Holidays to which all employees are entitled are as follows:

- First day of January.
- Third Monday of January.
- Third Monday of February.
- Last Day of March
- Last Monday of May.
- Fourth day of July.
- First Monday of September.
- Eleventh day of November.
- Fourth Thursday of November.
- Day after Thanksgiving.
- Twenty-fifth day of December.
- Day chosen by an employee (Personal Holiday).
- Every day appointed by the Governor of this State for a public fast, Thanksgiving, or holiday.
- When a holiday falls on a Sunday, the following Monday shall become the holiday.
- If November 11 falls upon a Saturday, the preceding Friday shall be the holiday.

Refer to the MOU as it shall be the controlling factor if the provisions of Government Code (GC) 19853 are in conflict with the bargaining agreement.

The legal holidays may be observed or celebrated in the institutions, in accordance with approved practices. This does not imply that all legal holidays shall be observed by work stoppage or special programs for the inmate population.

#### 33010.16.1 Holiday Time Credit

Holidays falling on an employee's day off shall be credited to an employee pursuant to current administrative practices, contract MOU provisions, and consistent with GC 19853.

Special holiday pay provisions for employees working shifts other than Monday through Friday, who work on holidays, are specified in the MOUs.

### 33010.17 Exchange of Duty Assignments

Employees may be permitted to exchange hours and/or days of work if allowed by their respective bargaining unit MOU.

#### Process

SWAP requests shall be:

- Submitted no less than 24 hours in advance.
- Signed by both employees.
- Approved by immediate supervisor(s).
- Completed within the timeframes outlines in the respective bargaining unit MOU.

Employees exchanging SWAPS shall not be entitled to any additional compensation that they would not otherwise receive.

For example:

- Overtime.
- Overtime meals.
- Holiday pay/credit.
- Shift differential.

#### 33010.17.1 Employee Responsibility

Employees shall be responsible for work assignments they accept.

Failure to report for SWAPS may result in SWAP restriction and/or administrative action in accordance with the respective bargaining unit MOU.

### 33010.18 Watch Assignment Preference by Seniority

Watch assignment preference by seniority shall:

- Apply to Lieutenants, Sergeants, and Officers.
- Apply to 60 percent of the positions on each watch.
- Not apply to camps and Community Correctional facilities.
- Post assignments by each watch shall be at management's discretion.

The following Lieutenant positions shall be exempt from watch preference:

- Personnel Assignment.
- In-Service Training.
- Public Information Officer/Administrative Assistant.
- Investigations.

Assignment of probationary employees shall be based on their training needs. The Public Information Officer position requires the participation of the AS, Office of Public and Employee Communications, in the selection/interview process.

Watch preference shall be based on the lieutenant's seniority within the classification at the time of the request. Participation is voluntary and those who elect to participate must submit their request to the Custody Captain by November 30 of each year. Lieutenants shall be placed into the designated available assignments by watch in February of each year. All assignments shall be published on the Custody Personnel Movement Sheet.

Relief position determination shall be based on the watch in which the majority of work shifts occur. For example, two Second Watch shifts and three Third Watch shifts is considered a Third Watch assignment.

Lieutenants removed from an administratively assigned position shall be assigned at the discretion of the Warden. However, the assignment may not result in the displacement of a Lieutenant who was assigned to the watch by seniority bid.

Lieutenant assignment rotations shall occur in two year intervals. Exceptions to the two year rotation may be made by the Warden for operational necessity. Retention of a Lieutenant in a specific assignment beyond four years shall be approved in writing by the respective Regional Administrator (RA).

Lieutenant positions outside the institutions, such as Camp Commanders, Background Investigations, etc., shall be filled by an impartial and competitive hiring process.

#### **33010.18.1 Rosters by Seniority**

Each institution shall maintain a seniority roster of:

- Lieutenants.
- Sergeants.
- Senior Youth Counselors (DJJ)
- Youth Correctional Counselors (DJJ)
  - Officers.
- Probationary Lieutenants.
- Probationary Officers.
- Probationary Sergeants.
- Permanent Intermittent (PI) Officers.
- Watch assignments.

#### **33010.18.2 Seniority Status**

*Revised August 16, 2016*

The Officers' (including intermittent employees) seniority shall be in accordance with MOU, Bargaining Unit 6.

Seniority for employees (including intermittent employees) in all other bargaining units shall be in accordance with their respective MOUs.

Correctional Sergeant and Correctional Lieutenant seniority shall be based on:

- Total service in class as a permanent employee without a break in service; or
- Any qualifying pay periods earned in limited-term assignments, in class, if the employee changes tenure from limited-term to permanent without a break in service.

When a limited-term assignment is terminated or when an employee is rejected on probation, i.e., Captain back to Correctional Lieutenant and/or Correctional Lieutenant back to Correctional Sergeant, the seniority accrued in the higher classification shall be calculated into the former supervisory classification to which the employee is returning.

An employee who accepts a transfer to a non-custody classification but does not leave the Department shall receive credit for the previous seniority earned upon returning to his or her former classification.

Ties in seniority shall be broken first by considering an employee most senior based on combining total class seniority with the total continuous state service. If a tie still exists, it shall be broken by examining the last four digits of each employee's social security number. The employee with the

highest four digits will be considered the most senior. For example, last four digits 6321 are higher than last four digits 1978.

A break in State service (as defined by CCR, Title 2, Division 1, Section 6.4) of 12 months or more shall result in the loss of all seniority credits.

#### **33010.19 Permanent Intermittent (PI) Requirements**

Each institution shall maintain a roster of PI Officers.

The number of hours a PI may work may be increased to ensure that the institutions have sufficient PIs to cover their needs. To exceed 1,500 hours in any calendar year, requires written departmental approval.

#### **33010.20 Seniority for Vacation Scheduling**

Vacation scheduling for rank and file employees shall be in accordance with their respective MOU for the bargaining unit.

Vacation scheduling for excluded employees and rank and file employees, when not specifically addressed in their MOU, shall:

- Be by seniority in grade (i.e., total service in classification at any institution/facility or office).
- Be consistent with the needs of the institution/facility.
- Ensure an adequate work force to maintain the security and operation of the institution/facility or parole region.

#### **33010.21 Employee Opportunity Transfer**

The Department recognizes the benefit of allowing represented employees the opportunity to make voluntary lateral job transfers.

The needs of the State shall be given first priority when a vacant position is filled. The needs include, but are not limited to:

- Special skills.
- Abilities.
- Aptitudes.

The Department shall have the right to fill vacant positions using the existing eligible or promotional lists, voluntary or involuntary transfers, reassignments, or other selection methods.

#### **Process**

Employees desiring interdepartmental transfer shall submit a CDC Form 923, Employee Opportunity Transfer Application, with a STD Form 678, State Application Form, attached. Parole Agents desiring interdepartmental transfer shall submit a CDCR Form 923-PART, Parole Agent Request for Transfer, with a STD Form 678 attached, to the hiring authority's Regional Parole Headquarters. Requests shall be in compliance with the appropriate MOU.

When a hiring authority elects to fill a vacancy through a transfer, the selection shall be as specified in the appropriate MOU.

The effective date of transfer shall be agreed upon by the sending and receiving hiring authority, but no later than 30 days following approval.

#### **Time Credits**

When transferring employees have an accumulation of compensating time off, holiday credits, or other administrative time, the employee should be allowed to use this time prior to transfer. If it is not possible, the employee shall be allowed to transfer credits.

Use and/or transfer of credits shall be agreed upon by the sending and receiving hiring authority.

Incidents affecting the employees' performance occurring between the time of transfer approval and the transfer date shall immediately be brought to the attention of the receiving hiring authority.

#### **Adverse Action Pending**

The Assistant Secretary of the Office of Labor Relations shall review and approve any request for transfer of an employee who has an adverse action pending.

#### **33010.21.1 Hardship Transfer**

Employees who demonstrate a hardship may be considered for transfer to another institution/facility/program.

The hiring authority at the sending and receiving institution/facility/program may refuse to approve a hardship transfer request.

A hardship transfer shall only be allowed when the following criteria have been met:

- Circumstances creating the hardship developed after the employee reported to the institution/facility/program.
- Circumstances are related to the employee's immediate family (including spouse, children, step-children, parents, parents-in-law) residing in the employee's immediate household.

- Circumstances involve health or personal problems expected to continue for at least 90 days.
- Circumstances have been documented by physician's statement or other official records.
- Alternatives to the hardship transfer have been explored and determined to be not feasible.
- The hiring authority at the receiving institution/facility/program reviewed the employee's personnel file and is willing to accept transfer, subject to the availability of a suitable job opening.

### 33010.21.2 Probationary Employees

Generally, transfer requests shall only be considered if the employees have permanent status in their present classification. This allows:

- The employee to demonstrate he/she can satisfactorily perform the duties of the class in which he/she is serving probation prior to being moved to different surroundings and new supervisors.
- Opportunity to consistently evaluate the employee's work performance and his/her ability to perform the work of the class.

Requests shall be reviewed to determine if it is preferable to delay transfer until completion of probation.

The hiring authority at either the sending or receiving institution/facility/program may refuse such transfer.

Hardship transfers for custody classifications occurring within the probationary period require the approval of the Director, Division of Adult Institutions.

For employees transferred in current probationary class, the length of probation remains unchanged.

- If the requested transfer is to another class, the employee shall meet the standards governing transfers between civil service classes.
- Serve a new probationary period unless waived by the hiring authority under provisions of the GC.

### 33010.22 Involuntary Transfer

An appointing power may involuntarily transfer employees to vacant positions (under the jurisdiction of the Department to deal with Budget reductions and the impact of resulting layoffs, changes in office function or location, reorganization, or the activation of new work sites (e.g., parole offices, facilities). There may be additional causes, however the decision to implement involuntary transfers as a solution are management-initiated and may be in the same or a different geographical location. When such a transfer reasonably requires an employee to change residence, the appointing power shall give the employee written notice of transfer 60 days prior to the effective date of the transfer. Departmental policy prescribes that an employee subject to an involuntary transfer which does not require a change in residence shall be given 30 days advance notification.

#### 33010.22.1 Authority

GC:

- GC 19841 provides the right to moving and relocation expenses when all criteria are met.
- GC 19050.5 states that involuntary transfer of an employee may be made to a different classification under the jurisdiction of the appointing power, however, advance approval of the CalHR is required.
- GC 19994.1 states that 60 days written advance notice of involuntary transfer is required, unless the employee waives this right, when a change in the employee's residence is reasonably required.
- GC 19994.2 states that the CalHR may determine the method by which employees are selected for involuntary transfer when two or more employees are involved.

CalHR:

- CalHR Rule 434 describes involuntary transfer between classification: When the transfer between classifications is not voluntary on the part of the employee, the classification to which the employee is transferred shall have prior executive officer (CalHR) approval.
- Rule 599.714 defines "reasonably required to relocate" as stated in GC 19994.1. The employee is reasonably required to change residence, and therefore, receives 60 days advance written notice of involuntary transfer, when the following criteria are met:
  - At least 35 miles between the old headquarters and the new headquarters.
  - At least 35 miles between the old residence and the new headquarters.

Regardless of whether the employee chooses to change residence, a 60-day written advance notice must be given when the above criteria are met.

Additionally, an employee is entitled to moving and relocation expenses when all of the following criteria are met:

- At least 35 miles between the old headquarters and the new headquarters.
- At least 35 miles between the old residence and the new residence.
- At least 35 miles between the old residence and the new headquarters.
- The new residence shall not be farther from the new headquarters than the old residence is from the new headquarters.

For further information on moving and relocation expenses, contact the Travel Coordinator at the CDCR Corcoran Regional Accounting Office, Travel Unit.

#### MOU:

If this policy is in conflict with a MOU reached pursuant to GC 3517.5, the MOU shall be controlling without further legislative action, except if the MOU requires the expenditure of funds, it shall not become effective unless approved by the Legislature in the annual Budget Act.

### 33010.22.2 Policy, Standards, and Guidelines

#### General Policy

It is the policy of the Department to minimize employee hardship resulting from management-initiated organizational changes by attempting to accommodate such employees via voluntary means prior to involuntary means.

A "Notice of Involuntary Transfer" will be issued only after the Department has attempted to place the employee through the Departmental Restriction of Appointments (DROA) process (when practical\*). The DROA process is administered by the Office of Workforce Planning (OWP). The employee(s) is informed in writing of his/her surplus status in the Department and the available options are explained. For further information on the DROA process, contact OWP.

A department may place its employees on the State Restriction of Appointments (SROA) list and designate them as surplus only when CalHR has recognized that the department is in a layoff mode. Placement on the SROA list is limited by CalHR Rule 599.854.1 to those employees who are actually subject to layoff or demotion in lieu of layoff. Employees facing involuntary transfer do not meet the aforementioned criteria and therefore are not eligible for SROA.

- \*In the event of an office closure (e.g., Parole Unit, Office, Facilities), program abolishment, or downsizing, the time involved to offer the DROA process to the affected employees may not be practical. The impending closure of an office, program abolishment, or downsizing may necessitate that the involuntary transfer process be initiated immediately. However, this type of urgent need should be rare. Office closure, program abolishment, or downsizing should be a well-planned management decision which includes the appropriate amount of lead time to effectuate employee placement and give optimum advantage and opportunity to the affected employee(s). A minimum of 90 days advance written notice to OWP will ensure sufficient time for preparation.

### 33010.22.3 Responsibilities

#### Organization

The organization (e.g., parole region, facility) experiencing the budget reduction, closure of an office, deactivation, etc. provides OWP with a written notice describing the cause of the surplus and need for involuntary transfer and sends a copy to the Office of Labor Relations (OLR) and the Regional Accounting Office. The classifications and the names of all employees holding appointments in those classifications shall be listed. Any special circumstances surrounding the need for involuntary transfer should be explained. A contact person from the organization shall be identified to act as liaison between the organization and OWP on the process. CDC Form 1822, Involuntary Transfer Worksheet, and Request to Implement Involuntary Transfer Process are to be completed and attached to the memorandum to OWP. It is imperative that OWP be notified as soon as the anticipated involuntary transfer of employees is realized. Ninety days advance written notice will ensure sufficient time for OWP to effect the involuntary transfer of surplus staff. This advance notice will relieve the organization of their surplus situation in a timely manner.

#### Office of Workforce Planning

Upon receipt of written notice of an anticipated need to involuntarily transfer employees, OWP staff will review the request, outline the process, and meet with organization staff to discuss the process.

There may be specific Bargaining Unit (BU) requirements, seniority calculations, or other considerations to be made prior to the movement of



employees. It is essential to carefully review the current MOU for the method of seniority calculation to be used for involuntary transfer.

The need to involuntarily transfer employees often varies in that a “surplus” of employees may or may not require that the seniority of all employees in the classification is calculated to ensure that the least senior employees are transferred.

Following are conditions under which involuntary transfer may be necessary:

- There are 50 employees in the classification of Office Assistant (OA) (Typing) (T) and the program has 50 authorized budgeted OA (T) positions. The program is required to reduce their OA (T) positions by 10 percent which equates to five positions. In order to identify the five least senior employees who will be subject to involuntary transfer to vacant OA (T) positions elsewhere in the Department, seniority must be calculated for all 50 employees. OWP will order seniority from CalHR and effectuate the involuntary transfer of the five least senior employees.
- The closure and movement of an office.
- A field office is being closed due to the conclusion and nonrenewal of the lease. Another office in another location has been obtained and leased for a lesser cost. Transferring the employees to the new office location would not necessitate seniority calculations, as long as all the employees are being transferred to the same location (new office). However, the employees and affected unions must be given notice consistent with policy, applicable laws, and MOUs. OWP would initiate the notices.
- Abolishment of a program.
- A vocational program is abolished. There are two positions and both are filled. This classification is used elsewhere in the Department. The classification is frozen through the DROA process.
  - OWP staff and the Institutional Personnel Officer explore options available to the affected employees such as voluntary transfer to other classifications.
- If there are other vacant positions in this classification in the Department, OWP will order seniority scores from CalHR and implement the involuntary transfer of staff. If the vacant positions exist in separate locations, the most senior employee is offered first choice.
- OWP prepares and assures the delivery of CDC Form 1822, in accordance with this policy, applicable laws, MOUs, or other negotiated agreements between the State and the unions.

#### Office of Labor Relations

The OLR receives a copy of the initial notice sent to OWP of the possible involuntary transfer of employees. The OLR staff reviews any MOU restrictions or requirements with regard to those represented employees affected by an involuntary transfer. Notification of the union(s) is made by OLR staff. If requested by the union, a meet-and-confer on impact will be scheduled. A coordinated effort between OWP and OLR is essential to effectuate a smooth transition of affected employees.

#### Accounting Services

The Relocation Coordinator located at Sacramento Accounting Office (SAO) receives a copy of the initial notice sent to OWP of the possible involuntary transfer of employees. The SAO will address any concerns of the employee(s) regarding claiming relocation and moving reimbursement after CDC Form 1822 has been delivered. Upon authorization for the move, the SAO will send a moving and relocation package to the employee. The STD Form 255, Moving Service Authorization, is included in the package to the employee.

The employee may receive relocation payment or reimbursement of actual and necessary moving, traveling, lodging, and meal expenses when the employee is required to change residences, as a result of an involuntary transfer for the advantage of the State or a transfer in lieu of layoff.

The actual and necessary relocation expenses incurred by a relocating employee, both before and after the change of residence, are defined and controlled pursuant to the State Administrative Manual (SAM) 0721 through 0774, 3800 through 3885, 8572.1 and DPA Rules 599.714 through 599.724.

Actual and necessary moving expenses include the following (the amounts are subject to change; consult with the SAO for current per diem rates, etc.):

- Meals, lodging, and incidental expenses while locating a permanent residence at the new headquarters within the limits of CalHR Rules 599.721 and 599.722. Relocation per diem is allowed up to a maximum of 60 days and shall terminate immediately upon establishment of a permanent residence.
  - The BU contract should always be referenced to obtain per diem and other expense allowances at the time the transfer is to be made.

- Although some expenses do not require receipts in order to receive reimbursement, the employee should retain sufficient documentation as proof that the amounts claimed do not exceed actual expenses in the event they are audited by the Internal Revenue Service.
- Movement of household goods are allowed within the limitations of CalHR Rules 599.718 and 599.719.
- Expenses incurred for dissolution of the household and/or establishment of the new household are allowed in accordance with CalHR Rule 599.715.
- Expenses incurred for the actual and necessary cost to sell a residence will be reimbursed as determined by prevailing practices within the area of the sale and within the limitations of CalHR Rule 599.716.
- The settlement of an unexpired lease agreement up to the maximum of one year will be reimbursed within the limitations of CalHR Rule 599.717.

When involuntary transfer is utilized in lieu of employee layoff and/or due to budget reductions, the Department may negotiate a lesser relocation package than the procedures listed above. The above procedures and rules are governed by CalHR, SAM, and the employee’s BU contract; however, the Department has the discretion to modify or eliminate certain portions of the relocation expense reimbursement with the agreement of CalHR and the appropriate BU. An example of a modified package may include 30 days of per diem expense, 30 days of storage, movement of household goods, and the elimination of the sale of residence reimbursement.

Upon receipt of a Std. Form 262, Travel Expense Claim, the SAO will process the claim within 30 days.

#### Employee

The employee may waive the 30-day or 60-day notice and choose to report to the new headquarters at an earlier date; however, no employee shall be coerced or forced to waive his/her right to such notice. Employees shall be assured that they will not be subject to reprisal, if they do not waive this right. An employee has the right to file an appeal with CalHR, if he/she believes the involuntary transfer is being made for the purpose of harassment or discipline.

An employee faced with involuntary transfer cannot elect to voluntarily demote and displace a lower senior employee in order to remain at the “old headquarters.”

An employee who refuses an involuntary transfer may seek a permissive transfer to another agency; seek a permissive transfer to a vacant position in the Department; resign in lieu of the transfer; or retire, if eligible. If the employee fails to report to the new headquarters as instructed, he/she may be separated (Absent Without Leave {AWOL}) five working days after the effective date of the involuntary transfer (in accordance with the California Supreme Court decision *Coleman vs. DPA and General Services*), or be subject to other types of adverse action.

For BU 6 employees, the MOU recognizes additional procedural steps when processing an AWOL separation. Therefore, the Department may elect to use the Adverse Personnel Action procedures to process an AWOL separation for BU 6 employees. When making a determination as to which process to use, program staff should consult with OLR and OWP for guidance.

#### 33010.23 Examination Application Acceptance Policy

Examination bulletins publicize final filing dates designed to allow a reasonable time for interested persons to file an application on or before the final filing date.

Strict adherence to filing dates is required by the CalHR.

Applicants are encouraged to file early to ensure timely receipt of their applications.

#### 33010.23.1 Timeliness Determination

If a mailed application is received after the final filing date, the cancellation date stamped on the envelope by the post office is used to determine whether the application was mailed on or before the final filing date. The applicant shall ensure the application is postmarked on or before the final filing date.

Applications placed in interdepartmental mail and not received on or before the final filing date shall be considered to be LATE applications. To avoid this, mail at a post office and obtain a certificate of mailing receipt. This is acceptable proof that the application was submitted timely.

Following are the conditions under which late applications typically shall not be accepted:

- The applicant claims he/she did not see the bulletin because of distribution problems within the reporting unit.

- The applicant gave an application to another person to turn in to the office that is administering the examination, but it is not received on or before the final filing date.
- The applicant claims the application was mailed, placed in interdepartmental mail, or hand-delivered to the Office of Workforce Planning (OWP) or the local testing office on or before the final filing date.

A late application may be accepted under this condition only if the applicant has a written statement from a post office official or other witness who verifies the application was mailed on time.

- Application is postmarked after the final filing:
  - If the post office verifies, in writing, this was caused by post office error, the application shall be accepted.

Following are the conditions under which late applications may be considered:

- The hiring authority verifies in writing that the examination bulletin was not received by the local testing unit because of bulletin distribution problems and prevented the employee from being properly notified.
- The unit manager verifies the employee was away from his/her work during the entire publicity period.
- The application delay was caused by OWP or field office staff error (for instance, an application was returned to an applicant in error).
- The application was submitted in error to the CalHR or to another state department's Personnel Office and was either postmarked on or before the final filing date or date stamped by that department's personnel office.

### 33010.23.2 Examination Bulletin Distribution

Examination bulletins are sent to all reporting units in Headquarters (including off-site units), institutions, and Regional Parole Headquarters and parole units. The local manager shall ensure all examination bulletins are posted in a place visible to all employees.

Employees shall be responsible to keep themselves informed of testing for classes currently being administered.

### 33010.23.3 Testing Information

Office of Workforce Planning (OWP) Front Counter  
Number (916) 322-6791

Office of Peace Officer Selection (OPOS) Customer Service Phone  
Number 866-232-5627

- Northern Selection Center (Sacramento)  
(916) 255-2500 – Testing  
(916) 255-2500 – Background Investigation
- Central Selection Center (Fresno)  
(559) 445-6141 – Testing  
(559) 445-5770 – Background Investigation

### 33010.24 Reduced Worktime Policy

The Department shall make available, to the extent feasible, reduced worktime to requesting employees.

Employees shall submit a request to the appropriate hiring authority.

The hiring authority shall make a written response within 30 days either granting approval or explaining why reduced worktime is not feasible.

#### 33010.24.1 Impact Consideration

Reduced worktime schedules may impact:

- Costs.
- Service to public/clients.
- Health and safety.
- Administrative considerations.
- Supervision.
- Span of control.
- Workload.
- Other factors.

Planning and scheduling may minimize or eliminate the impact, and the request may be feasible.

When impact is of significant extent, and planning and scheduling does not alleviate the impact, the requests may not be feasible.

### 33010.24.2 Peace Officer Exclusion

Employees in peace officer classifications shall be precluded from reduced worktime provisions.

### 33010.25 Nepotism/Fraternization

*Revised June 29, 2020*

The Department has established policies to counteract nepotism and fraternization in the workplace.

#### (a) Policy

It is the policy of CDCR to recruit, hire, and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules, and regulations. This policy is intended to uphold the merit principle of civil service by preventing and prohibiting preferential treatment or bias due to personal relationships. Nepotism is antithetical to a merit-based personnel system and staff shall not use their personal relationships to aid or hinder others in the employment setting. CDCR reserves the right to initiate mandatory reassignments, employee transfer, or take other administrative action to avoid or correct situations where the potential for employment decisions based on nepotism exists.

#### (b) Personal Relationship Defined

For purposes of this section, personal relationships include, but are not limited to, an association with another individual by blood, adoption, foster arrangement, cohabitation, current or previous marriages (including in-laws), registered domestic partnership, or romantic relationships.

#### (c) Hiring Authority, Manager, or Supervisor Responsibilities

The hiring authority, manager, or supervisor must ensure their candidates and employees are aware of the departmental nepotism and fraternization policy, including reporting requirements. The hiring authority, manager, or supervisor shall consider the nepotism and fraternization policy prior to making employment decisions. The hiring authority, manager, or supervisor must inform candidates of the nepotism and fraternization policy at the time of interview. As part of the interview process for any position, regardless of whether the candidate is a current employee, each candidate shall be required to sign a CDCR Form 8019, Nepotism and Fraternization Policy Acknowledgement form to confirm their understanding of this policy. In addition, the hiring authority, manager, or supervisor must take appropriate action to correct violations of this policy. The hiring authority, manager, or supervisor is responsible for requesting an exception/appeal to the policy if necessary (refer to Exception/Appeal Procedures below). Exceptions/appeals to the policy may be granted under limited circumstances.

#### (d) Employee Responsibilities

- (1) Upon hire employees shall complete and submit a CDCR Form 8019 to their hiring authority, manager, or supervisor.
- (2) Employees shall immediately notify the hiring authority or their respective supervisor when an employment decision is in conflict with the departmental nepotism and fraternization policy. It is the employee's responsibility to read and adhere to the nepotism and fraternization policy.

#### (e) Employment Settings

- (1) Employment settings refer to the working relationships of employees and their supervisors. Employees involved in personal relationships may work in the same program, section, or unit as the person with whom they have a personal relationship, however, in accordance with applicable State employment laws and collective bargaining agreements employment settings shall not exist where an employee would:

- (A) Work for the same first-line supervisor as the person with whom they have a personal relationship.
- (B) Have a direct (first line supervisor), or indirect (second line supervisor) supervisory relationship as the person with whom they have a personal relationship.
- (C) Work under a hiring authority with whom they have a personal relationship, regardless of departmental separation.

#### (f) Employment Decisions

- (1) Employment decisions refer to the full array of assessments and actions that involve CDCR and employees and their employment. Employees involved in personal relationships may work in the same program, section, or unit as the person with whom they have a personal relationship, however, employment decisions shall not be made where an employee involved in a personal relationship would:
- (A) Audit the work of, or exercise fiscal control over a person with whom they have a personal relationship, regardless of organizational separation.
  - (B) Hire, promote, transfer, or approve an out-of-class, or re-assignment of a person with whom they have a personal relationship.
  - (C) Participate in the selection process, including assisting with the development of screening criteria and/or interview questions, or serve on a hiring panel of a person with whom they have a personal relationship.
  - (D) Develop, administer, or rate a civil service examination of a person with whom they have a personal relationship.
  - (E) Initiate an administrative investigation or be involved in the discipline process of a person with whom they have a personal relationship.

(F) Assign work to a person with whom they have a personal relationship, except in a rare emergency situation.

(G) Prepare, conduct, or contribute information on a performance appraisal of a person with whom they have a personal relationship.

(H) Approve overtime or any other compensated time/pay of a person with whom they have a personal relationship, when it is on a voluntary basis and another supervisor is available.

(I) Approve vacation, sick, or any other type of leave of a person with whom they have a personal relationship, when another supervisor is available.

(J) Grant or deny permission to attend a conference or other work-related event of a person with whom they have a personal relationship.

(K) Approve reimbursement for work related expenses of a person with whom they have a personal relationship.

(L) Adversely affect or influence the safety, security, or morale of employees of a program, section, or unit.

(M) Adversely affect or influence the fair and impartial supervision and evaluation of employees.

**(g) Exception/Appeal Procedures**

(1) When the employment setting or employment decision violates the departmental nepotism and fraternization policy, the hiring authority, manager, or supervisor shall request and receive approval prior to making an employment decision. Actions to remediate noncompliance may include an involuntary transfer of employees, in accordance with applicable State employment laws and collective bargaining agreements. Under no circumstances should an employee participate in the defined employment decisions with an employee, applicant, or candidate with whom they have a personal relationship.

(2) The exception/appeal procedures are as follows:

(A) A written request shall be submitted through the immediate manager or supervisor to the hiring authority, which clearly defines the personal relationship, and the benefit(s) to the State that an exception/appeal would provide (e.g., overcoming a recruitment difficulty or obtaining a uniquely skilled person).

1. For CDCR: Exception/appeal requests involving the hiring authority (Regional Administrator, Deputy Director, Superintendent, etc.) shall be submitted to the next higher level within the hiring authority's chain of command or equivalent, and then to the applicable second higher level within the hiring authority's chain of command or equivalent to render a decision.

2. For CDCR: Exception/appeal requests involving the Warden shall be submitted to the applicable Associate Director or equivalent, then to the applicable Deputy Director or equivalent, and then to the applicable Director or equivalent to render a decision.

3. For CCHCS: Exception/appeal requests involving the hiring authority shall be submitted to the next level within the hiring authority's chain of command. All exception/appeal requests shall be reviewed by the CCHCS Office of Legal Affairs via the Deputy Director, Human Resources, to render a decision.

(B) Each exception/appeal request shall be reviewed to assess the potential for, and degree of impact upon the following:

1. Safety, security, and morale of the employees in the program, section, or unit.

2. Fair and impartial supervision and evaluation of the employee by the supervisor in the program, section, or unit.

3. Basis of merit and fitness in accordance with civil service statutes, rules, and regulations.

(C) A written response to the exception/appeal request will be completed within ten (10) working days.

1. If the exception/appeal request is approved, a copy of the approved document(s) shall be forwarded to the appropriate personnel officer. The personnel officer shall place a copy of the approval document(s) in the hiring and recruitment package and in the respective employee's official personnel file.

2. If an exception/appeal is granted, there shall not be any employment decisions made by the related employees. Another manager or supervisor shall be responsible for employment decisions except in an extremely rare documented circumstance.

3. If the exception/appeal request is denied, a written explanation of the basis for the denial, shall be provided to the candidate or employee. A copy of the denial document(s) shall be forwarded to the appropriate personnel officer. The personnel officer shall place a copy of the denial document(s) in the hiring and recruitment package, and if applicable, into the respective employee official personnel file. Every effort shall be made to avoid relocation expenses. If an employee must relocate to meet the Department's nepotism and fraternization policy, the Department shall pay any associated relocation expenses. (Refer to the CalHR Rules and Regulations.)

**(h) Retention**

All Nepotism and Fraternization forms, and any exception/appeal approvals or denials, shall be forwarded to the personnel officer for filing in either the official personnel file or the hiring and recruitment file.

**33010.25.1 Incarcerated Relatives/Associates**

When an employee becomes aware that any relative, or person with whom the employee has or has had either a personal or business relationship, has been committed to or transferred to the jurisdiction of the Department, the employee shall immediately notify in writing the employee's institution head, Superintendent, or Deputy/Assistant Director (AD).

The employee shall provide written notification by filling out CDCR Form 2189. This form can be obtained in the Personnel Office or institutional Watch Office. The employee will provide completed CDCR Form 2189 to the institution head, Superintendent, or Deputy/Assistant Director.

One copy of the completed CDCR Form 2189 will be kept in the employee's Official Personnel File (OPF), and one copy shall be kept in the affected inmate's Central File.

The copy of CDCR Form 2189 that is placed in the employee's OPF shall be confidential and maintained in a sealed envelope at the back of the file. Access to this form within the employee's OPF will be limited to authorized personnel only.

**33010.26 Prohibition of Personal Influence**

Employees shall not use their personal influence to aid or hinder any individual in any phase of a civil service examination or hiring process because of a family or close personal relationship.

Employees shall not:

- Participate in the hiring or promoting of any person with whom they have a close personal relationship.
- Aid or hinder any individual in any phase of a civil service examination or hiring process because of such relationship.
- Defeat, deceive, or obstruct any other person's right of examination, application, or employment.
- Willfully and falsely mark, grade, estimate, or report upon the examination standing of any person examined or certified.
- Furnish any person with information improving or injuring chances of that person's examination or application.
- Practice deception or fraud with regard to any person's identity in connection with any examination, application, or request to be examined.
- Obtain examination questions/materials before, during, or after an examination for purpose of preparing candidates for examinations.
- Use unfair means to cause or attempt to cause any eligible to waive any rights under these regulations.

**33010.26.1 Appearance of Improper Influence**

To avoid the appearance of improper influence, employees with such a relationship to any competitor shall not participate in any phase of the examination process including but not limited to:

- Planning.
- Question development.
- Preliminary Review Committee (PRC).
- Oral interview panel.
- Serve as a rating or reviewing supervisor of the competitor.
- Participate in discussions or ratings of the competitor.

If an employee serving on a PRC, oral interview panel, or participating in the discussion or rating of competitors finds one of the competitors is one with whom he/she has a family or close relationship, the employee shall leave the room and not participate in the interview, observation, discussion, or rating of that competitor.

If an employee serving in any capacity discovers a competitor is one with whom he/she has a family or close relationship, the employee shall contact OWPS for direction.

Employees selected to participate in the State Civil Service examination process shall maintain the competitive and confidential nature of the examination process. Disregard for examination integrity can result in examination appeals from the candidate group and may ultimately be grounds to void an examination.

Violation of the provisions of this Section:

- May be a misdemeanor.
- Shall be cause for adverse action.

**33010.27 Service Awards**

Pursuant to GC 19849.9, employees completing 25 or more years of State service and retiring employees who have at least 25 years of State service as of the effective date of their retirement qualify for a service award consisting of a framed certificate and their choice of any one of the items offered by and described in the catalog provided by the contracting vendor.

Employees who are being awarded under this program shall be presented a memento within one year of completion of 25 years of State service or within 60 days of their retirement date. (See DOM Chapter 3, Article 3, Employee Awards.)

#### **33010.27.1 Personnel's Responsibility**

The local personnel office shall:

- Notify the unit timekeeper/supervisor via a CDC Form 1785, Service Award Eligibility Notification, of employees who are within at least 2 months of attaining 25 years of State service or who have 25 years of State service as of the effective date of retirement and are qualified to receive a retirement memento.

#### **33010.27.2 Supervisor's Responsibility**

The employee's supervisor shall:

- Make the contracting vendor's catalog available to the employee.
- Arrange for the ordering of a selected award/memento from the contracting vendor as follows:

#### **Headquarters and Division of Adult Parole Operations**

Submit a CDC Form 954, Intraoffice Requisition (IOR). A copy of CDC Form 1785 shall be attached to CDC Form 954. All orders shall include the information outlined under "Ordering Instructions" in the vendor's catalog.

#### **Institution/Facilities**

Supervisors are responsible for ensuring the award is ordered according to the institution/facility's established procedure.

- Prepare a 25-year service anniversary/retirement letter for the Secretary's signature.
- Submit the letter through the chain of command to the appropriate Warden/Superintendent, RPA, Health Care Manager, or DD for signature.

#### **33010.27.3 Manager's Responsibility**

The appropriate DD, Warden/Superintendent, Regional Parole Administrator, Chief Executive Officer, or his/her designee shall:

- Check with the following offices to ensure the proposed 25-year anniversary or retirement letter accurately reflects the employee's employment record with the Department, including prior positions:
  - OPS (for prior or pending adverse actions against the employee).
  - OLA (for prior or pending legal actions in which the employee is a plaintiff or defendant and for prior or pending workers' compensation litigation).
  - OIA (for pending or prior internal affairs investigations where the charges against the employee were sustained).
- Every employee who completes 25 years of State service or retires from the Department shall receive the appropriate letter signed by the Secretary. However, the letter shall be personalized, meaningful, and relevant. For example, the letter for an employee who retires because of a disability should contain this information and should be consistent with the employee's length of State service and the circumstances of the retirement (without specifically stating the nature of the employee's disability). If an employee recently has been formally disciplined (i.e., with a formal reprimand, suspension, demotion, or reduction in pay) for misconduct, the letter should simply acknowledge the retirement or completion of 25 years of service. An employee who has made significant contributions to the Department and/or who has an exemplary employment record should be recognized in the letter.

#### **33010.27.4 Standards**

A retirement and service anniversary letter shall receive careful consideration to ensure it is a personalized, meaningful, and relevant document that demonstrates appreciation and respect for the employee's years of service.

Letters shall be prepared for the Secretary's signature and be consistent with procedures outlined in the Secretarial Handbook Section 2-3000.

Letters shall contain information on the employee's:

- Service history.
- Pertinent work history.
- Appropriate biographical information.

#### **33010.27.5 Retirement Resolution**

Upon request from the employee or the employee's unit, the local personnel office shall print a retirement resolution and shall forward the resolution to the employee's unit or home address.

The following information is needed to complete the resolution:

- Name of retiree.
- Total State service (number of months).
- Year State service began.
- Initial title or position with the State.
- Initial department.
- Title and department at time of retirement.
- Indicate luncheon or dinner if applicable.
- Date of event if applicable.
- Date of presentation.

#### **33010.28 Presentation**

The hiring authority shall provide for appropriate presentation of letters, certificates, resolutions, and service awards.

#### **33010.28.1 Employee Retirement and Death Benefits**

PERS provides retirement or death benefits that could be applicable to an employee. For more specific information, the following pamphlets are available from your local personnel office or Public Employees Retirement System (PERS):

- PERS Benefits for State Miscellaneous Members.
- PERS Benefits for State Industrial Members.
- PERS Benefits for State Safety Members.
- PERS Benefits for State Peace Officers/Fire Fighters.

Retirement information includes:

- Service credit.
- Eligibility.
- Allowance formula and calculation.
- Final compensation.
- Optional settlement with survivor continuance.
- Estimates.
- Health insurance.

#### **33010.28.2 Disability Retirement**

State Miscellaneous members with five years of service are eligible to apply for disability retirement if they cannot work because of illness or injury.

State Industrial, Safety, Peace Officer, and Firefighter members may apply for:

- Disability retirement if illness or injury is nonjob related. (Member needs a minimum of five years of service.)
- Industrial disability retirement if illness or injury is job related.

#### **33010.28.3 Social Security**

Employees/survivors shall contact the local social security office to determine what benefits may be available under that program.

#### **33010.28.4 Public Safety Officers' Benefit Act Of 1976**

Law Enforcement Assistance Administration (LEAA) is authorized to pay a \$50,000 death benefit to the eligible survivor of a public safety officer who died as a "direct and proximate result of personal injury sustained in the line of duty."

Claims are filed by the Department on behalf of the survivor, but the survivor may elect to file directly to LEAA.

#### **33010.28.5 Term Life Insurance**

A State sponsored term life insurance policy is available to certain excluded employees below the age of 70.

Enrollment is automatic for eligible employees.

Additional information is available through the local personnel offices and CalHR.

#### **33010.28.6 Other Benefits**

GC 13959 through 13969.1 provides benefits and assistance to victims who sustain injuries or death as a result of a crime or violence.

GC 13970 through 13974 provides benefits to private citizens who incur injury, death, or property damage under the following circumstances:

- In the course of preventing the commission of a crime against another person or property.
- In apprehending a criminal.

- In assisting a peace officer in his/her duties.
- In rescuing a person in immediate danger.

Further information relative to these indemnities may be obtained from the Victim Compensation and Government Claims Board.

### **33010.29 Hardship Salary Advances**

In accordance with provisions of the SAM 8595, a hardship salary advance may be issued to an employee before the employee's regular monthly, bimonthly, or intermittent payday. The hardship salary advance shall be based on the net amount of the employee's regular base salary and shall only be for serious, unforeseeable hardship.

It is the policy of the Department that all employees receive a paycheck each payday. For all permanent employees, except intermittent or hourly employees, this is the last working day of each pay period. For intermittent, hourly, or temporary employees, this is no later than the fifteenth calendar day of the month providing the attendance documents are received in the Personnel Office timely.

A request for hardship salary advance is not an automatic option nor is it intended to be a simple loan made available to the employee. The Department cannot legally loan employees' money to cope with the economic difficulties or temporary inconveniences that occasionally fall upon every individual. A hardship salary advance cannot be a substitute for adequate personal financial management.

The circumstances during which a request for a hardship salary advance is made shall have the following characteristics:

- The situation or event was such that it caused an immediate emergency or economic hardship on the employee or those economically dependent upon the employee.
- The situation or event was such that the employee could not have reasonably planned or prepared for it in advance.
- The employee has exhausted all conventional means of obtaining necessary funds elsewhere (savings, credit union, bank, etc.). A hardship salary advance shall only be the last resort.
- A description of the situation or event that warranted the request for a hardship salary advance is clearly provided with adequate supporting documentation.
- The amount of the request is clearly documented and does not exceed the net salary earned to date by the employee. The amount allowable for a hardship salary advance shall be based on the employee's net regular base salary, excluding overtime, physical fitness, bilingual, recruitment, and retention pay, etc. The maximum amount available shall be the regular wages earned to date during the calendar month of request.
- A hardship salary advance has not been requested for the prior 12-month period. Hardship salary advances shall be limited to one for any 12-month period.

#### **Acceptable Reasons**

The following is a listing of some of the acceptable reasons for applying for a hardship salary advance:

- Acts of vandalism that have caused significant damage to vehicle or residence that require immediate repair.
- Emergency home repairs due to unforeseeable events such as fire, flooding, storm damage, theft, or vandalism.
- Emergency medical expenses due to serious injury or prolonged illness.
- Death in the immediate family.

#### **Unacceptable Reasons**

The following is a listing of examples of unacceptable reasons for hardship salary advances:

- Moving expenses.
- School expenses.
- Vacation expenses.
- Being away from the office on payday.
- Routine vehicle maintenance or vehicle repair as a result of normal usage.
- Automobile loan or lease payments.
- Monthly rent or mortgage payment.
- Other items that the employee should have planned and/or budgeted for since they are recurring, predictable expenses.

The above lists are not meant to be exhaustive, but rather examples. Good judgment shall be used in requesting and in approving hardship salary advances.

### **33010.29.1 Process**

Wardens/Superintendents shall designate a staff member (minimum level is the Business Manager) to review all hardship salary advance requests for their respective facilities.

The Chief of the Office of Accounting Services shall be the reviewer for headquarters and for DAPO (Headquarters and Regional Parole offices). The employee shall submit a written request to his or her supervisor for a specific amount with sufficient explanation of the circumstances to indicate that it is an unforeseeable emergency and some supporting documentation that all other means of obtaining the necessary funds have been exhausted. In addition, the employee shall sign a CDCR Form 1161, Authorization for Repayment of Payroll Revolving Fund/Hardship Salary Advance.

### **33010.29.2 Responsibilities**

#### **Supervisor of Requestor**

Prior to signing and forwarding the hardship salary advance request, the supervisor of the requestor shall:

- Review the request.
- Verify the unforeseeable emergency if appropriate.
- Verify that all other means of obtaining necessary funds have been exhausted.
- Verify that CDCR Form 1161 was filled out and attached.
- Verify the actual emergency expense or the net salary earned to date, whichever is less.
- If approved, sign the request and forward it to the designated reviewer with all appropriate supporting documentation.
- If denied, return the request to the employee.

#### **Designated Reviewer**

Prior to signing and forwarding the hardship salary advance request, the designated reviewer shall:

- Review the request for appropriateness.
- Request further verification if necessary.
- If approved, sign the request and forward it to the personnel office (with all appropriate supporting documentation).
- If denied, return the request to the employee.
- Maintain a copy of each request (approved or denied).

#### **Personnel Office**

The personnel office shall:

- Determine the vacation leave, sick leave, dock, etc., that the employee has used in that particular month.
- Determine that the amount requested does not exceed the net salary earned to date. Determination may be based on payroll records of prior pay period or other appropriate method.
- Determine the employee's normal mandatory and voluntary payroll deductions. A participant of the Direct Deposit (DD) Program shall cancel their participation in the DD Program prior to the hardship salary advance being issued.
- May reduce the request so that the amount does not exceed the salary earned and/or net pay of the prior pay period.
- Notify the accounting office in writing to issue a revolving fund check.
- Recover the amount of the hardship salary advance from the employee's next payroll warrant or, if necessary, from subsequent payroll warrants (i.e., overtime, physical fitness pay, uniform allowance, future pay warrants, etc.).

#### **Accounting Office**

In addition to the normal revolving fund requirements, the Accounting Office shall:

- Issue the revolving fund check as approved by the Personnel Office.
- Notify the employee when the check can be picked up.
- Follow normal collection procedures to clear the salary advance in a timely manner.

### **33010.30 High Stress Assignments**

High stress assignments are those in controlled housing units requiring direct and continuous contact with inmates confined therein because they present too great a management problem for housing in general population settings. Such housing unit assignments include, but are not limited to, the following:

- Security Housing Units.
- Administrative Segregation Units.

- Psychiatric Services Units.
- Protective Housing Units.

### 33010.30.1 Selection

Employees shall:

- Be carefully evaluated before such assignment.
- Have demonstrated a high degree of maturity, tolerance, and ability to cope with stressful situations.

### 33010.30.2 Duration

High stress assignments shall be limited to no longer than two years.

Exceptions may be made by the Warden/Superintendent when:

- The employee indicates a desire to remain.
- The employee's performance is completely satisfactory and does not reflect the effect of undue stress.

### 33010.30.3 Supervision

Supervisors shall:

- Evaluate the performance of employees on a continuous basis.
- Act promptly to remedy stress-related problems that appear to adversely affect the employee's physical and mental health and effectiveness.
- Take remedial action including placement in a less stressful assignment in or outside of the unit.

### 33010.31 Personnel Records

Only those personnel records which are necessary, relevant, timely, or required by law shall be collected and maintained.

Personnel records shall be maintained no longer than the period of time required by law or in accordance with the approved Department retention period established for the record.

#### 33010.31.1 Definition

Any record maintained under an individual's name by their employing agency and containing records relating to the following:

- Personnel data, including marital status, family members, educational and employment history, or similar information.
- Election of employee benefits.
- Employee advancement, appraisal, or discipline.
- Complaints or investigations of complaints pertaining to the manner in which the employee participated or was perceived to have participated.
- Summary criminal history information.
- Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

#### 33010.31.2 Public Information

Pursuant to CC 1798 et seq., and the Information Practices Act, the following employee information is considered "public" and may be released upon request:

- Name.
- Employing agency and name of unit.
- Work location and office phone number.
- Civil service classification.
- Job description, duties, and responsibilities.
- Salary range and gross salary rate.
- Time base.
- Tenure.
- Date appointed and/or separated.
- Cost to the State for training, travel, and/or attendance at conferences.

#### 33010.31.3 Adverse Comments

GC 3305 provides that no comment adverse to a public safety officer's interest shall be entered in any file used for personnel purposes without the employee's having first read, signed, and dated the document. The Director has extended the application to all Department employees. If the employee refuses to sign, the fact is noted on the document and it is then signed by a witness (usually the supervisor presenting the memorandum) prior to it being placed in the file.

The employee has 30 calendar days in which to file a response to any adverse comment. If a response is made, it shall be attached to the document that contains the adverse comment.

#### 33010.31.4 Disclosure

PC 832.7, GC 6254, and CC 1798 protect the confidentiality of personnel records and strictly limit their disclosure. Information from employee personnel records (other than public information) shall be disclosed only as follows:

- To individuals whose official duties require they process or review such records including, but not limited to:
  - Personnel staff.
  - Hiring supervisors/managers including Wardens, RPA's, and Executive Staff or their designees.
  - Employee Relations Officers.
  - Return-to-Work-Coordinators.
  - Department investigators.
  - Attorneys representing the Department.
- In accordance with PC 832.5, 832.7, and 832.8; EC 1043; and GC 6254, the employee shall be immediately informed of the service of a subpoena or court order requesting the release of personnel records. Advice of legal counsel will be sought where legality of disclosure is in question.
- With a release signed by the employee to whom the record pertains. The employee's signature shall be verified with that on file.

#### 33010.31.4.1 Medical Records

Medical records are confidential and are maintained in such a manner so as to protect that confidentiality. These records are generally exempt from inspection other than by personnel staff.

#### 33010.31.4.2 Internal Investigations

If a review of the personnel records is required during an internal investigation, the reviewer shall obtain authorization from the Secretary, or designee before the review can be granted.

TYPE OF OFFICIAL INVESTIGATION	DESIGNEE
Third Level Complaints/ Grievances	Assistant Secretary, Office of Labor Relations
Discrimination or Sexual Harassment complaint	Chief, Office of Civil Rights Operations
Background Investigations	Chief, Office of Peace Officer Selection
Criminal and/or Administrative Investigations	Deputy Director, Office of Internal Affairs

Additionally, attorneys from the OLR are authorized to review personnel records.

#### 33010.31.4.3 Supervisory Files

To maintain a system of comprehensive and effective record keeping, supervisors may keep an informal personnel file on their premises in addition to the OPF maintained by the personnel office. This informal file shall be subject to the same provisions as the OPF.

#### 33010.31.4.4 Work Performance Inquiries

Supervisors may comment on the work performance of subordinates or former subordinates and respond to inquiries from third parties about a subordinate's or former subordinate's qualifications, as long as such comments are founded in documentation. A supervisor may indicate whether a subordinate or former subordinate would be considered for rehire. Personal or confidential information shall not be disclosed unless authorized by the individual to whom it pertains (CC 1798.50).

#### 33010.31.4.5 Employee Access to Personnel Records

GC 18573 permits an employee to examine employment records relating to their State service. All of the material, except for the following, may be reviewed:

- Any medical information determined to be confidential under CC 1798.40 (i.e., information containing custodian of the record reasonably determines that disclosure of the information would be medically or psychologically detrimental to the individual) or medical file material which is protected by the attorney/client privilege. An employee may authorize disclosure of medical information to their physician. In turn, the physician may disclose to the employee any information they deem appropriate.

- Any confidential information contained in an applicant's background investigation file.

#### **33010.31.4.6 Employee Representative Access**

Personnel records may be reviewed by an employee's representative with the written permission of the employee and proper identification of the representative. Any and all information available to the employee shall also be available to the representative.

#### **33010.31.5 Review Process**

An appointment should be made with the personnel office staff or other office holding the file.

The reviewer shall present identification to the personnel office staff prior to reviewing any personnel record.

Original OPF's shall not be removed from the personnel office area designated as the review area and may be reviewed only in the presence of an authorized personnel office employee.

Travel to the employee's personnel office and time required for travel and review of the employee's records shall be at the expense and on the time of the employee. An employee may request a copy of the record to which they have a right to access, be mailed to their office. The copy will be mailed in a sealed envelope marked "Personal and Confidential."

#### **33010.31.6 Inspection Log**

Each employee's OPF shall contain an inspection log. Any person reviewing the file shall sign and date the log, indicating the reason for review (in accordance with the law).

#### **33010.32 Release of Regular Pay for Permanent Intermittent Employees**

All positive pay employees shall receive their regular pay for the appropriate number of hours worked in the pay period (including paid leave and holiday pay) no later than the 15th day of the following month. If the 15th day falls on a Saturday, the release date will be adjusted to the preceding workday. If the 15th day falls on a Sunday or holiday, the release date shall be adjusted to the following workday.

If an SCO warrant is not issued by the deadline, a request to issue a revolving fund check (salary advance) will be sent by the personnel office to the respective accounting office on that date.

#### **33010.32.1 Exceptions**

Release of checks for positive attendance regular pay may be delayed beyond the 15th day of the month for the following reasons:

- Late receipt of CDCR Form 998-A, Employee's Attendance - Record and Personnel Post Assignment System (PPAS) Worksheet.
- Late receipt of proper appointment documentation.
- Delay in mail delivery (outside the control of the Department).

#### **33010.33 Revisions**

The Deputy Director, Human Resources, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **References**

*Revised August 16, 2016*

CC §§ 1798–1798.50 and 1798.40.

CCR (2) (1) §§ 6.4, 599.737, 599.738, 599.742, 599.742.1, and 599.752.

CCR (15) (3) §§ 3289, 3406, and 3413.

EC §§ 1043.

GC §§ 3305, 6254, 13959, 13960, 13962–13966, 13970–13974, 18573, 19849.9, 19853, and 19991.4.

Governor's Executive Order R29–71.

Information Practices Act of 1977.

PC §§ 832.5, 832.7, and 832.8.

Personnel Transaction Manual § 656.

SAM §§ 0721–0774, 3800–3885, 8572.1, and 8595.

Secretarial Handbook.

#### **Revision History**

Revised: November 20, 2013.

Revised Section 33010.18.2: August 16, 2016.

Revised Section 33010.25: June 29, 2020.

Revised Section 33010.15.1: September 29, 2020.

*Revised April 30, 20021*

#### **33020.1 Policy**

All designated personnel shall wear regulation uniforms or work clothing and adhere to grooming standards as prescribed by the Director of the California Department of Corrections and Rehabilitation (CDCR), Adult Operations, or their designee, while on-duty or on official State business. Items not specifically addressed in Department Operations Manual (DOM), chapter 3, article 21, are considered unauthorized.

#### **33020.2 Purpose**

This Article establishes uniform, and/or dress requirements, and grooming standards for specified employees.

#### **33020.3 CDCR Uniform Specification Handbook**

Consistent design specifications for individual uniform, garments, and accessories shall be incorporated and distributed as a standardized statewide document, and shall henceforth be referred to as the "CDCR Uniform Specification Handbook." Refer to this handbook and DOM, Chapter 3, Article 21, for all uniform, garment, and accessory specifications.

#### **33020.3.1 Disclaimer**

If any provision in DOM, Chapter 3, Article 21 or the CDCR Uniform Specification Handbook conflicts with a Memorandum of Understanding (MOU), the MOU shall prevail as it relates to the specific represented group.

#### **33020.4 Responsibility**

##### **(a) Wardens and Regional Parole Administrators**

(1) Each hiring authority shall designate specific assignments where custodial personnel have been exempted from wearing a uniform, or are not required to wear a uniform full-time.

(2) Any exception to the standardized approved uniforms or equipment shall be requested in writing and forwarded to the appropriate Deputy Director for review and approval. The Deputy Directors' approval shall be obtained prior to implementation.

##### **(b) Inspections**

(1) Each hiring authority shall:

(A) Establish a scheduled day during each week of annual Off Post Training (OPT), for Uniform-of-the-Day inspections. All custody staff will be inspected during their annually assigned OPT. Uniform-of-the-Day inspections for rank and file will be conducted weekly by the In-Service Training (IST) Lieutenant or Sergeant, the sergeants will be inspected by the IST Lieutenant and the lieutenants will be inspected by the Custody Captain. Inspections will be documented in the IST training file to ensure all uniformed staff are in full compliance with all uniform standards. Annual inspections shall not be scheduled on the same day as range or baton qualifications.

(B) Uniform-of-the-Day: The custody staff member's Uniform-of-the-Day is the approved uniform per the Uniform Specification Handbook they wear at their assigned post.

1. Custody staff working public posts (Visiting, Entrance Building, Transportation, Medical Guarding, etc.), including relief positions worked weekly, will be inspected in their Class A uniform.

2. Custody staff in regular non-public posts, will be inspected in their Class B uniform or Line Duty Shirt (LDS) with Line Duty Cargo Pant (Class C). One piece jumpsuits are not authorized for the annual inspection. Specialized units (Statewide Transportation, K-9 Officers, In-Service-Training staff, and Fire Camp Personnel) will be inspected in their unit approved uniform.

3. If an officer is unable to present themselves in a required uniform due to unforeseeable circumstances (i.e., gassing or the uniform is in evidence) they may present a receipt indicating the correct uniform has been purchased and may schedule a time with their supervisor to demonstrate uniform inspection compliance.

4. Supervisors are not precluded from individual discussions with officers or individual discussions with staff regarding the conditions of their uniforms or attire.

5. An official Class A hat is no longer required to be worn during an inspection of the Class A uniform; however, the Blazer Dress Jacket or Ike Jacket is still required, per the CDCR Uniform Specification Handbook.

(C) Enforce dress codes and personal grooming standards for all employees per DOM, chapter 3, article 21, Uniforms and Employee Grooming Standards.

##### **(c) Supervisors and Managers**

(1) Supervisors and managers are expected to set a positive example for all staff regardless of classification. They are responsible for monitoring compliance of the departmental dress code and grooming standards.

(2) Supervisors and Managers shall:

## **ARTICLE 21 — UNIFORMS AND EMPLOYEE GROOMING STANDARDS**

- (A) Conduct daily uniform and grooming inspections of all immediate subordinate staff.
- (B) Instruct employees to correct violations of uniform and grooming standards.
- (C) Report in writing to their immediate supervisor, any violation an employee fails to correct in a reasonable amount of time.

**(d) Uniformed Employees**

- (1) All uniform personnel shall:

- (A) Purchase and maintain all required uniforms, accessories, and equipment except items specifically exempted by this DOM article or the appropriate MOU.
- (B) Furnish their own collar insignia, shoulder insignia, sleeve chevrons, shoulder patches, hat shield, and other required uniform equipment.
- (C) Maintain their uniform and approved equipment in clean, neat, and serviceable condition.
- (D) Wear the uniform in a manner that displays a professional approach to their assignment and is representative of the prestige of the CDCR.
- (E) Keep in mind that individual actions reflect on the entire Department as they represent the CDCR in the public view.

**(e) Non-peace Officer Employees**

- (1) Clothing and Jewelry:

- (A) Non-peace officer employees shall wear clothing that is clean, neat, in good repair, and fits properly. All clothing and jewelry should project a professional and positive image.
- (B) In an institutional setting:
  1. Blue denim clothing or clothing similar to that worn by inmates shall not be worn.
  2. Jewelry should be kept to a minimum and should enhance a professional image.
  3. There will be no jewels, ornaments, rings or studs worn on visible facial areas other than the ear.

**(f) Unauthorized Use of Departmental Uniforms**

- (1) Employees shall not wear CDCR uniforms in any situation that would bring discredit to the CDCR including, but not limited to:
  - (A) Purchasing or drinking alcoholic beverages in public.
  - (B) Entering a tavern, gambling hall, or nightclub (except if necessary in the performance of assigned duties).
  - (C) Participating in political activities.
  - (D) Participating in demonstrations or pickets.
  - (E) Engaging in selling or soliciting activities.
  - (F) Engaging in any other action or behavior which reasonable persons would deem inappropriate for a uniformed peace officer, e.g., conducting non-departmental business.

**33020.5 Uniform Allowance**

- (a) The regulations of the Department of General Services and current MOUs provide for uniform replacement allowances for various classes.
- (b) The allowance amounts and other regulations vary depending on whether the uniform is worn on a full-time or less-than-full-time basis. In order to qualify for uniform replacement allowances, employees shall:
  - (1) Be employed in one of the following classifications:
    - (A) Correctional Officer.
    - (B) Correctional Sergeant.
    - (C) Correctional Lieutenant.
    - (D) Correctional Captain.
    - (E) Correctional Institution Fire Captain.
    - (F) Correctional Facility Fire Chief.
    - (G) Registered Nurse, Correctional Facility.
    - (H) Dental Assistant, Correctional Facility.
    - (I) Baker I, Correctional Facility.
    - (J) Baker II, Correctional Facility.
    - (K) Butcher/Meat Cutter II, Correctional Facility.
    - (L) Cooks, Correctional Facility.
    - (M) Supervising Cook I, Correctional Facility.
    - (N) Supervising Cook II, Correctional Facility.
    - (O) Vocational Instructors (I and baking).

- (2) Be enrolled in a formalized training and development assignment at an institution performing the duties of one of the above named classes and requiring a uniform be maintained.

- (3) Complete one calendar year of service in a class and assignment as described above. Qualifying periods before and after non-qualifying periods shall be added together to compute a calendar year of service and to establish a new qualifying anniversary date. Non-qualifying periods include long-term temporary absences (one or more full pay periods), such as leave of absences, temporary disability, or nonindustrial disability leave.

- (4) Rank and file uniformed probationary custodial employees shall receive a uniform allowance in accordance with the provisions contained in the collective bargaining agreement.

**33020.6 Personal Grooming Standards**

All employees, regardless of their assignment, shall be clean and well groomed.

**33020.6.1 Correctional Peace Officer Grooming Standards**

- (a) The following minimum guidelines are adopted for all Correctional Peace Officers: Some classifications have an exemption; refer to DOM Section 33020.6.2, Exemptions for Peace Officer Classifications.

**(1) Hair**

- (A) Hair shall not be styled or combed forward any lower on the forehead than the eyebrow, measured from the high point of the eyebrow, and shall not be visible on the forehead when the uniform hat is worn.
- (B) Hair style and length shall not impede, restrict, or detract from the proper wearing of the uniform hat.
- (C) Hair style and color shall not distract from the uniform.
- (D) Employee's hair shall not extend below the bottom of the collar. If the hair is long, it shall be worn up in a neat style. No decorations in the hair are permitted and hair clips and pins shall closely match the color of the hair.

**(2) Facial Hair**

- (A) Neatly trimmed sideburns and mustaches are permitted as follows:
  1. Sideburns shall not extend below the bottom of the ear and shall end with a clean shaven horizontal line. The maximum width at the bottom of the sideburns shall not exceed 1½ inches.
  2. Mustaches shall not extend more than ½ inch below the corners of the mouth, nor below the vermilion border of the upper lip, or extend more than ¾ inch above the corner of the mouth. Waxed ends or points shall not be allowed.
  3. Upon the employee's personal physician verification of a skin irritation or disorder, a beard, not to exceed one inch in length, may be permitted. Goatees are not authorized.

**(3) Fingernails**

Fingernails shall not extend more than ¼ inch beyond the tips of the fingers. Nails shall be neat and clean. Fingernail polish, if worn, shall be clear. Colored fingernail polish is not permitted.

**(4) Cosmetics**

Employees may wear cosmetics that blend with or match the natural skin tone of the employee. False eyelashes are not permitted.

**(5) Jewelry**

- (A) A total of two rings may be worn on the fingers. A set of wedding and engagement rings shall be considered one ring. Reimbursement value to be per Department of Personnel Administration (DPA) rules, but shall not exceed \$100.
- (B) Only medical alert bracelets may be worn.
- (C) Neck chains or necklaces shall not be permitted while on duty except for religious medals that may be worn if covered by the uniform shirt. Medical alert medals may also be worn on a chain. However, no more than one chain shall be worn.
- (D) Employees shall not wear rings, stud earrings, other jewelry decorations or ornaments on or in the nose or tongue while in uniform. Additionally, there will be no jewels, ornaments, rings, or studs worn on the visible facial areas other than the earlobe.
- (E) Employees may wear simple stud-type earrings only. Only one matching earring shall be worn in each earlobe.
- (F) Wristwatches may be worn. Watches worn on chains or pinned to the uniform are not permitted. Pocket watches are allowed without a chain or lanyard. Reimbursement values to be per DPA rules, but shall not exceed \$100.

**33020.6.2 Exemptions for Peace Officer Classifications**

- (a) The CDCR has several peace officer classifications that are excluded from the departmental professional dress and grooming standards. Professional



dress and personal grooming standards specifically addressing hair length and facial hair contained in this section shall not apply to:

- (1) Any peace officer in the Parole Agent series.
- (2) Any peace officer in the Special Agent series.
- (3) Any peace officer assigned to the Office of Correctional Safety.
- (b) Employees shall keep hair, beards, and mustaches clean and neatly groomed.

### **33020.6.3 Non-peace Officer Employees Grooming Standard Guidelines**

In an institutional setting, the following grooming standard guidelines shall apply:

#### **(a) Hair**

Hair shall be styled in a fashion which shall not impair vision or create a safety hazard in the work area. Employees shall keep hair, beards, and mustaches clean and neatly groomed.

#### **(b) Fingernails**

Fingernails shall be neat, well-trimmed, and enhance a professional image. Fingernail length and polish shall be appropriate for the specific assignment or task being performed.

### **33020.7 Regulation Uniform-Custody**

(a) The following regulation custody uniforms, garments, and accessories are approved for use:

- (1) Class "A" blazer dress jacket.
- (2) Class "A" Ike jacket.
- (3) Class "A" executive's coat (optional Captain and above).
- (4) Class "A and B" long and short sleeve shirt.
- (5) Class "A and B" trouser.
- (6) Class "A" hat (refer to DOM Section 33020.7.2).
- (7) Class "B or C" cap (refer to DOM Section 33020.7.2).
- (8) Class "B" sweater (optional).
- (9) Class "C" line duty cargo pant.
- (10) Class "C" long and short sleeve line duty shirt.
- (11) Black leather belt.
- (12) Black clip-on or velcro fastened tie, or criss-cross tie (solid color).
- (13) It is mandatory for all uniformed staff to wear a regulation tie with the Class "A" uniform, or when wearing a long sleeve shirt with Class "A" trousers.
- (14) It is optional, and at the employee's discretion, to wear a regulation black tie when wearing the Class "B" Uniform, a long sleeve shirt with Class "B" trousers, or when wearing a non-class "A" outer jacket or sweater.
- (15) Load Bearing Suspenders: Black nylon or leather. Load Bearing Suspenders may be worn with the Class "B or C" uniform at the employee's discretion. Load Bearing Suspenders may be worn with the Class "A" uniform in emergency situations.
- (16) Black socks (solid color).
- (17) Undershirt shall be a crew neck, T-shirt style, solid white in color, and of a smooth finish.
- (18) Black plain-toe shoes or boots conservatively designed without buckles (solid color).
- (19) Regulation departmental badge.
- (20) Departmental nameplate (white letters on black plate).
- (21) Tie bar or tie tack (gold in color).
- (22) Whistle, gold in color, metal only.
- (23) CDCR identification card.
- (24) Rain gear (for Class "A, B or C" uniforms) shall be a one or two piece raincoat or rainsuit, CDCR forest green in color, or equivalent as follows:
- (25) The one-piece raincoat is most applicable for uniform staff not assigned to long periods outdoors.
- (26) The two-piece rainsuit is most applicable for uniform staff assigned to work assignments primarily outdoors.
- (27) Foul weather jackets (refer to the 2 types below).
- (28) Class "B or C" waterproof.
- (29) Class "B or C" ¾ length waterproof.
- (30) Trooper cap (refer to DOM Section 33020.7.2).
- (31) Campaign hat (refer to DOM Section 33020.7.2).
- (32) Jumpsuit (refer to DOM Section 33020.9.3).

(33) Departmental Transportation Unit uniform (refer to DOM Section 33020.9.4).

(34) Crisis Response Team (CRT) uniform (refer to DOM Section 33020.9.8).

(b) Departmental rank insignia shall be attached to regulation jumpsuits, shirts, and jackets.

### **33020.7.1 Official Class "A" Uniform**

(a) The below specified uniform shall be worn by Correctional Captains, Correctional Lieutenants, Correctional Sergeants, and Correctional Officers when identified as the appropriate uniform for the post or work assignment. The Director, Deputy Directors, Associate Directors, Wardens, Chief Deputy Wardens and Associate Wardens have the option of wearing this uniform:

- (1) Class "A" blazer dress jacket or the Class "A" Ike jacket.
- (2) Class "A" executive's coat (optional for Director, Deputy Directors, Associate Directors, Wardens, Chief Deputy Wardens, Associate Wardens and Captains).
- (3) Class "A" trouser.
- (4) Class "A" short or long sleeve shirt.
- (5) Black leather belt.
- (6) Black clip-on or velcro fastened tie, or criss-cross tie (solid color).
- (7) Black socks (solid color).
- (8) Class "A" hat.
- (9) Black plain-toe shoes or boots.
- (10) Regulation departmental badge.
- (11) Departmental nameplate (white letters on black plate).
- (12) Tie bar or tie tack (gold in color).
- (13) Whistle, gold in color, metal only.
- (14) CDCR identification card.
- (15) Raincoat (when applicable).

### **33020.7.2 Uniform Hat and Cap**

#### **(a) Class "A" Dress Hat**

All on-duty uniformed custody personnel may wear the Class "A" hat on any official business where a Class "A" uniform is required and is being worn. For staff that are required to wear a Class "A" uniform for duties on-grounds, or who voluntarily choose to wear a Class "A" uniform, the Class "A" hat is optional. However, the Class "A" hat shall be available to the on-duty staff member.

#### **(b) Class Cap**

The Class "B and C" cap may be worn with the Class "B or C" uniform, or with an appropriate optional uniform as approved by the hiring authority. The cap shall be worn in a bill-forward position. The Class "B or C" cap shall not be worn with the Class "A" uniform jacket, and shall be worn and maintained in a manner that shall not bring discredit to the uniform or the CDCR.

#### **(c) Campaign Hat**

The Campaign hat may only be worn with the Class "A" uniform. The Campaign hat must be worn with the approved metal hat shield.

#### **(d) Trooper Cap**

The Trooper cap may be worn with the Class "B or C" uniform, or an approved optional uniform and shall only be worn with approval of the Warden.

#### **(e) Boonie Cap**

May only be worn with the Class "C" uniform and is designed solely for non-public contact positions as protection from the sun. The cap must be worn with the seven point star badge patch sewn to the front.

#### **(f) Aussie Breeze Hat**

May only be worn with the Class "B" uniform or Class "C" uniform and is designed solely for non-public contact positions as protection from the sun. The cap must be worn with the seven point star badge patch sewn to the front.

#### **(e) Beanies**

May only be worn with the Class "C" uniform and is designed solely for non-public contact positions as protection from the cold. The beanies must be worn with the seven point star badge patch sewn to the front.

### **33020.7.3 Cadet Uniforms**

The daily cadet uniform shall be determined by the Academy Administration. The cadet uniform will be an approved Departmental Uniform as outlined in DOM 3 Section 3020.7. For graduation from the Basic Correctional Officer Academy, the Class "B" uniform shall be purchased and worn by all cadets (refer to DOM Section 33020.7).

### **33020.8 Optional Uniforms - Custody**

Regulation custody uniforms and optional uniforms shall be as specified in this Section. Employees authorized to wear an optional uniform shall not wear or utilize a Class "A" hat.

#### **33020.8.1 Class "B" Uniform**

Refer to DOM Section 33020.7 for individual Class "B" uniform garments. For individual Class "B" garment specifications refer to the CDCR Uniform Specification Handbook.

#### **33020.8.2 Class "C" Uniform**

Refer to DOM Section 33020.7 for individual Class "C" uniform garments. For individual Class "C" garment specifications refer to the CDCR Uniform Specification Handbook.

#### **33020.8.3 Maternity Uniforms**

(a) Uniformed personnel may wear the maternity uniform after the employee receives physician's written confirmation of pregnancy. The peace officer may continue to wear this special uniform for 90-days following childbirth.

(1) Pregnant uniformed personnel are authorized to wear a pullover maternity jumper and to alter the waist of their uniform slacks for maternity purposes. Each employee shall bear the expense of clothing construction and alteration.

(2) The uniform blouse or shirt and slacks shall be worn under the maternity jumper. The regulation tie shall be worn in accordance with DOM, chapter 3, article 21.

(3) A regulation dome badge shall be worn on the maternity jumper above the left breast. Refer to the CDCR Uniform Specification Handbook for maternity uniform specifications.

#### **33020.9 Special Custody Uniforms and Equipment**

Special uniforms and equipment for the custody series shall be as specified in this Article. Individual garment specifications may be referred to in the CDCR Uniform Specification Handbook. Items not specifically addressed in DOM, chapter 3, article 21 are considered unauthorized.

#### **33020.9.1 Security Squad and Escape Detail Uniforms**

Institutions having special security squads or escape pursuit teams whose duties take them into various crawl spaces, tunnels, attics, etc., shall purchase and maintain a maximum of three coveralls per employee assigned to this function.

#### **33020.9.2 Safety Helmets or Hardhat**

##### **(a) Safety Helmets**

Safety helmets may be purchased as response equipment. The helmets shall be utilized as needed during emergency situations.

##### **(b) Hardhats**

When full hardhat protection is required, round green fiberglass or plastic hats with small visor in front may be used. Aluminum hats are not authorized. One plastic hat per employee assigned to the security squad shall be purchased and provided by the hiring facility.

#### **33020.9.3 Jumpsuits**

(a) Jumpsuits may be purchased at staff expense and worn in all nonpublic contact post or assignments.

(b) Wardens shall apply discretion and apply the nonpublic contact standards in assessing whether a Class "A" or Class "B" uniform requirement applies to a particular post and or position, whereby declaring it a public contact post. Refer to the CDCR Uniform Specification Handbook for the jumpsuit specifications.

#### **33020.9.4 Departmental Transportation Unit Uniform**

(a) The approved departmental Transportation Unit uniform consists of:

- (1) Black jumpsuit (long sleeves only and always worn in bloused fashion).
- (2) Boots.
- (3) Black leather belt.
- (4) Departmental metal badge (no cloth badges).
- (5) Class "B" cap (optional).

(b) Refer to the CDCR Uniform Specification Handbook for the departmental Transportation Unit uniform specifications.

#### **33020.9.5 Funeral Uniform**

The official departmental uniform authorized for wearing at the funeral of another Correctional Peace Officer, or any other law enforcement official when attending in an official capacity, shall be the full Class "A" uniform. This shall, in all cases, include the draped departmental regulation dome badge.

#### **33020.9.6 Draped Badges Funeral/Mourning Period**

(a) The departmental regulation dome badge shall be draped in the approved manner at all correctional institutions immediately upon the determination that

a Correctional Peace Officer has been killed in the line of duty. Such draping shall continue through the day of the funeral or as deemed appropriate by the Director.

(1) No draping of the departmental regulation dome badge shall occur for other than Correctional Peace Officers killed in the line of duty except as authorized by the institution head.

(2) The draping of the Badge shall be a ¾ inch wide band of black elastic cloth placed over the bottom portion of the badge covering the number on the badge. This is the tradition of peace officers showing their unity after the tragic loss of a fellow peace officer.

Example:



#### **33020.9.7 Honor Guard Uniform**

(a) Each institution at the Warden's discretion may establish a uniformed Honor Guard for ceremonial functions. Such Honor Guard shall be attired, when performing in the Honor Guard's official capacity, as stated in this Section. Honor Guard members are responsible for maintaining their own uniform, accessories, and accouterments.

(b) The Class "A" uniform shall be worn when serving in the Honor Guard at approved Honor Guard functions. Each institution shall provide or purchase the items listed as "Honor Guard Accouterments."

(c) Due to the high visibility of personnel assigned to an Honor Guard Unit, the Honor Guard uniform, accessories, and accouterments shall be maintained and worn in excellent condition.

(d) Prior to any use of the Honor Guard, an inspection of the unit shall be conducted by the Honor Guard Commander or their designee to establish that each member is attired uniformly, and will hold the CDCR and themselves in the highest esteem. If weapons or duty belts, for example, are deemed appropriate, care must be taken to assure uniformity.

(e) Refer to the CDCR Uniform Specification Handbook for the Honor Guard uniform designations and for all garment, accessory, and accouterment specifications.

##### **(f) Team Members**

- (1) One Honor Guard Commander.
- (2) One Assistant Honor Guard Commander.
- (3) One Rifle Team Instructor.
- (4) Seven Rifle Team Members.
- (5) One Color Guard Instructor.
- (6) Three Color Guard Team Members.
- (7) One Institutional flag bearer.
- (8) One Guidon.
- (9) One Communications Officer.
- (10) One Quartermaster.
- (11) Two Team Members.

(g) The number of members may increase should the institution elect to establish a "Drum and Bugle Corps" for taps, proper cadence, and to compliment a paramilitary marching unit.

##### **(h) Drum and Bugle Corps**

(1) If a Drum and Bugle Corps is established, the following musical instruments may be utilized:

- (A) One bass drum and sticks.
- (B) One triton drum unit and sticks.
- (C) Three snare drums and sticks.
- (D) Two bugles or trumpets.

**(i) Authorized Flags and Flag Equipment**

- (1) One Ceremonial Flag of the United States (3' x 5') with staff, American Eagle top mount, harness (flag carrying device), and stand.
- (2) One California State Flag with staff, spear top mount, harness, and stand.
- (3) One Institutional Flag with staff, harness, and stand.
- (4) One Guidon (flag or pennant signifying specific Honor Guard Unit).
- (j) When carried in procession with another flag or flags, the Flag of the United States shall have the place of honor at the right; or when there is a line of other flags; our national flag may be in front of the center of that line. At all times every precaution shall be taken to prevent the flag from becoming soiled. It shall not be allowed to touch the ground or floor, or to brush against objects.
- (k) When the flag is displayed from a staff projecting horizontally, the union (blue field) of the flag shall go clear to the peak of the staff.
- (l) At no time shall the Flag of the United States be dipped in salute. Other flags such as the State of California Flag, Institutional Flag, and Guidon shall be dipped "To the Color" (Flag of the United States) during the playing of the national anthem and during the "Pass in Review."
- (m) Flags of the United States used to cover caskets shall measure 5' x 9 1/2'. Each institution shall be responsible for providing this flag to the family of the deceased.
- (n) When the flag is used to cover a casket at funerals or ceremonies honoring a person deceased, it shall be placed so that the union is at the head and over the left shoulder. The flag shall not be lowered into the grave or allowed to touch the ground.

**(o) Weapons and Ammunition**

Departmental weapons and ammunition, as authorized in DOM Section 55050, are approved for use by the Honor Guard.

**(p) Events**

- (1) Each institution may elect four public events in their local community in which the Honor Guard will participate.
- (2) The Honor Guard may be used for any National or State event, CDCR event, or other agency events as authorized by the Warden and approved by the Regional Administrator.
- (3) The Honor Guard, with the authorization of the Warden, may perform burial ceremonies for any staff member or public figure when asked by the families or community.
- (4) The Honor Guard members will be relieved of duty and their posts covered according to the institution's policy and, when appropriate, may utilize State vehicles for transportation.

**33020.9.8 Crisis Response Team Uniform**

- (a) The official uniform and insignia for Crisis Response Team (CRT) shall be that which is approved and authorized by the Emergency Operations Unit (EOU). The CRT uniform shall be worn by CRT members only, and only when activated for deployment or training.
- (b) The CRT uniform designations, insignia, accessory items, and specifications shall be maintained by the Chief, EOU, Office of Correctional Safety.

**33020.10 Regulation Uniform Fire Chief and Fire Captain**

- (a) Regulation Fire Chief and Fire Captain uniforms shall be addressed in this DOM Article. For individual garment and accessory specifications, refer to this DOM Article and CDCR Uniform Specification Handbook, CDCR Fire Service Uniforms. Items and insignia not specifically addressed within DOM, chapter 3, article 21 and the CDCR Fire Service Uniforms section of the Uniform Specification Handbook are considered unauthorized. All on-duty CDCR Fire Staff shall wear Class "B" uniforms at minimum while in public and conducting business at CDCR administrative buildings including Headquarters. Civilian attire is not authorized while on duty.
- (b) Departmental Fire Department shoulder patches shall be sewn onto regulation dress shirts and all coats and jackets.
- (c) All approved uniform and Personal Protective Equipment (PPE) garments shall be National Fire Protection Association (NFPA) compliant when applicable and marked appropriately via patches, silk screen, embroidery, etc. with departmental insignia as described in the CDCR Uniform Specification Handbook, CDCR Fire Service Uniforms, to include Turnouts, Wildland Nomex, Helmets, Class "A", Class "B" Uniforms, T-Shirts, Long Sleeves, Sweatshirts, Hoodies, Hats, Beanies, etc.
- (d) The following regulation Fire Chief and Fire Captain uniforms, garments, and accessories are approved for use:
  - (1) Fire Chief Class "A" coat.
  - (2) Fire Chief and Fire Captain Class "A" trouser.

- (3) Fire Chief and Fire Captain Class "A" dress shirt.
- (4) Fire Chief and Fire Captain Class "A" hat.
- (5) Fire Chief and Fire Captain Class "B" trouser.
- (6) Fire Chief and Fire Captain Class "B" light weight jacket with or without lining (optional).
- (7) Fire Chief and Fire Captain foul weather jacket (optional).
- (8) Fire Chief nameplate (blue lettering on gold plate).
- (9) Fire Services jacket and raincoat (optional).
- (10) Fire Captain dress and work shirt (Class "A" and Class "B").
- (11) Fire Captain "A" trouser.
- (12) Fire Captain Class "A and B" hat.
- (13) Black leather belt, (Chief gold buckle, Captain silver buckle).
- (14) Station boots black steel-toe boots without buckles (NFPA compliant).
- (15) Black socks (solid color).
- (16) Regulation badge and collar insignia.
- (17) Black clip-on or Velcro fastened tie (solid color).
- (18) Fire Captain nameplate (blue lettering on silver plate).

**33020.10.1 Official Uniform Fire Chief Class "A"**

- (a) The below noted uniform shall be worn by all CDCR Fire Chiefs, when appropriate.
  - (1) Regulation double-breasted coat.
  - (2) Regulation trousers.
  - (3) Black leather belt with gold buckle.
  - (4) Black clip-on or Velcro fastened tie.
  - (5) Round top, white vinyl, Class "A" hat with insignia.
  - (6) Regulation long sleeve shirt, white, with shoulder patches.
  - (7) Black plain-toe patent leather shoes; black socks (solid color).
  - (8) Regulation Fire Chief Badge; hat and collar insignia.
  - (9) Fire Service shoulder patch attached to regulation shirt and coat.
  - (10) Nameplate (blue lettering on gold plate).

**33020.10.2 Official Uniform Fire Captain Class "A"**

- (a) The below noted uniform shall be worn by all CDCR Fire Captains, when appropriate.
  - (1) Regulation double-breasted coat, black with insignia.
  - (2) Regulation trousers, black in color.
  - (3) Regulation long sleeve shirt, white, with shoulder patches.
  - (4) Black leather belt with silver buckle.
  - (5) Regulation Class "A" Fire Captain hat, black with insignia.
  - (6) Black plain-toe patent leather shoes; black socks (solid color).
  - (7) Regulation Fire Captain badge and collar insignia.
  - (8) Black clip-on or Velcro fastened tie.
  - (9) Departmental Fire Department shoulder patch attached to regulation shirt and jacket.
  - (10) Departmental nameplate (blue lettering on silver plate).

**33020.11 Optional Uniform - Fire Chief and Fire Captain**

- (a) Specifications for the optional uniform, which may be worn by the Fire Chief and Fire Captains may be referred to in the CDCR Uniform Specification Handbook and include the following garments, but not limited to:
  - (1) Single Layer Nomax Trousers, dark midnight navy blue (Fire Chief and Fire Captains).
  - (2) Light weight jacket (Fire Chief and Fire Captains).
  - (3) Lining (Optional).
  - (4) Foul weather jacket (Fire Chief and Fire Captains).
  - (5) Work uniform trousers (Fire Chief and Fire Captains).
  - (6) Jacket and raincoat (Fire Services).

**33020.11.1 CDCR Fire Service Honor Guard Uniform**

- (a) Each institution, at the Warden's discretion, may allow a uniformed Honor Guard fire staff member to participate for ceremonial functions. Such Honor Guard shall be attired, when performing in the Honor Guard's official capacity, as stated in this section. Honor Guard members are responsible for maintaining their own uniform, accessories, and accoutrements.
- (b) The Class "A" uniform shall be worn when serving in the Honor Guard at approved Honor Guard functions. Each institution shall provide or purchase the items listed as "Honor Guard Accoutrements."

(c) Due to the high visibility of personnel assigned to an Honor Guard Unit, the Honor Guard uniform, accessories, and accoutrements shall be maintained and worn in excellent condition.

(d) Prior to any use of the Honor Guard, an inspection of the unit shall be conducted by the Honor Guard Commander or Fire Chief, Office of Correctional Safety to establish that each member is attired uniformly, and will hold the CDCR and themselves in the highest esteem.

(e) Refer to the CDCR Uniform Specification Handbook, CDCR Fire Service Uniforms for the Honor Guard uniform designations and for all garment, accessory, and accoutrement specifications.

**(f) Team Members**

- (1) One Honor Guard Commander.
- (2) One Assistant Honor Guard Commander.
- (3) One Color Guard Instructor.
- (4) Color Guard Team Members.
- (5) One flag bearer.

(g) The number of members may increase should CDCR Fire Honor Guard elect to establish a "Drum and Bugle Corps" for taps, proper cadence, and to compliment a paramilitary marching unit.

**(h) Drum and Bugle Corps**

(1) If a Drum and Bugle Corps is established, the following musical instruments may be utilized:

- (A) One bass drum and sticks.
- (B) One triton drum unit and sticks.
- (C) One snare drum and sticks.
- (D) One bugle or trumpet.

**(i) Authorized Flags and Flag Equipment**

(1) One Ceremonial Flag of the United States (3' x 5') with staff, American Eagle top mount, harness (flag carrying device), and stand.

(2) One California State Flag with staff, spear top mount, harness, and stand.

(3) One Guidon (flag specific Fire Honor Guard).

(4) Polished axes, pike poles, and ceremonial bell.

(j) When carried in procession with another flag or flags, the Flag of the United States shall have the place of honor at the right; or when there is a line of other flags; our national flag may be in front of the center of that line. At all times every precaution shall be taken to prevent the flag from becoming soiled. It shall not be allowed to touch the ground or floor, or to brush against objects.

(k) When the flag is displayed from a staff projecting horizontally, the union (blue field) of the flag shall go clear to the peak of the staff.

(l) At no time shall the Flag of the United States be dipped in salute. Other flags such as the State of California Flag, and Guidon shall be dipped "To the Color" (Flag of the United States) during the playing of the national anthem and during the "Pass in Review."

(m) Flags of the United States used to cover caskets shall measure 5' x 9 1/2'. Each institution shall be responsible for providing this flag to the family of the deceased.

(n) When the flag is used to cover a casket at funerals or ceremonies honoring a person deceased, it shall be placed so that the union is at the head and over the left shoulder. The flag shall not be lowered into the grave or allowed to touch the ground.

**(o) Events**

(1) The Honor Guard may be used for any National, State, Local, CDCR event, or other agency events as authorized by the Wardens, and coordinated by the OCS, and Fire Chief.

(2) The Honor Guard, with the authorization of the Wardens, may perform burial ceremonies for any staff member or public figure when asked by the families or community.

(3) The Honor Guard members will be relieved of duty and their posts covered according to the institution's policy and, when appropriate, utilize State vehicles for transportation.

**33020.12 Uniform Accessories**

Only approved accessories and equipment as described in DOM, chapter 3, article 21 shall be worn on or with the uniform. Items not specifically addressed within this DOM Article are considered unauthorized. For item specification, refer to the CDCR Uniform Specification Handbook

**33020.12.1 Departmental Awards**

(a) The CDCR has authorized the awarding and wearing of medals and ribbons to Correctional Peace Officers for both individual and unit awards (refer to DOM, chapter 3, article 3). These awards, in the order of their seniority, are:

The Medal of Valor; The Corrections Star (Gold); The Corrections Star (Silver); The Corrections Star (Bronze), The Distinguished Service Medal, and the Unit Citation.

(1) Non-departmental awards and citations may be worn upon approval of the Warden. (2) Awards shall be worn on the Class "A" jacket as follows:

(A) 1/4 inch above the right breast pocket. The regulation nameplate shall be placed 1/4 inch above the award(s).

(B) If one award ribbon is worn, it shall be centered on the pocket between the regulation nameplate and the pocket.

(C) If two award ribbons are worn, they shall be placed end-to-end with the senior ribbon to the inside and centered on the pocket between the regulation nameplate and the pocket.

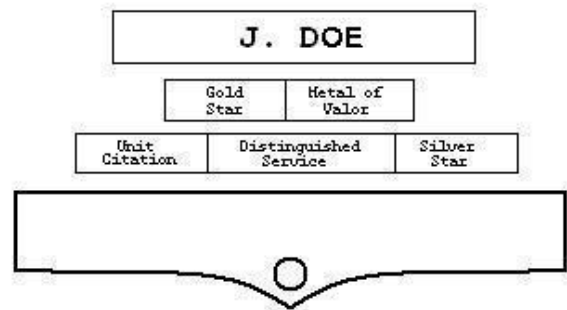
(D) If three award ribbons are worn, they shall be placed end-to-end with the senior ribbon to the inside and centered on the pocket between the regulation nameplate and the pocket.

(E) If four award ribbons are worn, there shall be one row of three ribbons on the bottom as above. The fourth ribbon, most senior, shall be placed singularly and centered above the row of three ribbons with the regulation nameplate 1/4 inch above it. The two rows of ribbons shall be 1/8 inch apart.

(F) If five award ribbons are worn, there shall be one row of three ribbons on the bottom and one row of two ribbons centered on the top. They shall be 1/8 inch apart with the regulation nameplate 1/4 inch above them.

(G) If six medals are worn, there shall be one row of three medals on the bottom and one row of three medals on the top. They shall be 1/8 inch apart with the regulation nameplate 1/4 inch above them.

(3) The complete set of ribbons and the order of their placement on the Class "A" jacket is as illustrated.



(4) State Medal of Valor Pin, 25-Year Service Pin, and other State service or award pins shall be worn only on the Class "A" jacket and shall be centered 3/4 inch above the nameplate. If two pins are worn, they shall be centered 1/4 inch apart and 1/4 inch above the nameplate.

(5) The service emblem, employee organization pin, and the Safety Award Pin may be worn as a tiepin. Other tiepins or tie clasps may be worn but shall be small and plain without stones or other decorations. They also shall be gold in color in keeping with the gold color of all other metal accessories. Tiepins depicting handcuffs, pigs, guns, etc., shall not be worn.

**33020.12.2 Hat Shields**

Departmental hat shields shall be worn by uniformed Correctional Officers, Correctional Sergeants, Correctional Lieutenants, Correctional Captains, Fire Captains Class "A" and Fire Chiefs Class "A". Refer to the CDCR Uniform Specification Handbook for hat shield specifications.

**33020.12.3 Departmental Shoulder Emblems**

(a) The CDCR has approved two styles of shoulder emblems (patches), one for uniformed Correctional Peace Officers and one for designated fire service employees.

(1) The shoulder patch shall be attached on the left and right sleeves of all uniform coats, jackets, shirts, jumpsuits, and coveralls (with the exception of rain gear).

(2) Shoulder patches shall be kept in good condition. When no longer in good condition, they shall be replaced.

(3) Employees shall be responsible for purchasing their own shoulder patches. Refer to the CDCR Uniform Specification Handbook for shoulder emblem placement and specifications.

**33020.12.4 Nameplate**

(a) All uniform personnel and other personnel who have direct contact with inmates, e.g., teachers, counselors, cooks, nurses, etc., shall wear and clearly display a nameplate.

(1) Nameplates shall be phenolic engraving stock, 3 inches long, by ¾ inch wide, by 3/32 inch thick, with white letters on black stock. The corners may be slightly rounded to protect the wearer's clothing. The name letter size shall be ¼ inch high and shall be composed of the first initial of the first name, followed by a space, followed by the entire last name, centered both top to bottom and side to side. Regulation nameplate shall be worn on the outer garment unless an exception is made by the Warden.

(2) A cloth name label sewn onto the garment is an acceptable substitute for the plastic nameplate for those peace officers wearing jumpsuits, LDS, battle jackets, and rain gear. Cloth name labels shall adhere to the following specifications:

(A) The name label shall have the initial of the staff member's first name, followed by a space, followed by the entire last name;

(B) The name label shall be secured (sewn) above the right breast pocket;

(C) The name label shall have yellow lettering;

(D) The background of the name label shall be silver tan or olive drab, green, matching the color of the garment.

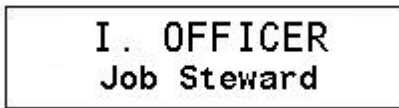
(E) The name label shall have ½ inch letters and one-inch tape.

**(b) Exceptions**

(1) Fire service employees may be allowed to have a Maltese or EMT insignia on the left side of their nameplate, if they qualify for them.

(2) A job steward or board member may add that title to the nameplate as has been the practice (illustrated below). The cost shall be incurred by the employee. The lettering size of such title shall be ½ inch high. When placed on the nameplate, the grouping of name and title shall be centered both top to bottom and side to side.

Example:



**33020.12.5 Service Stripes**

(a) Service stripes shall be worn on the left sleeve of the Class "A" jacket and on the left sleeve of the long sleeve shirt. One service stripe shall be worn for each three years of service as a Correctional Peace Officer. Refer to the CDCR Uniform Specification Handbook for service stripes placement and specifications.

**(b) Maltese Cross (Institutional Fire Staff)**

For each five years of service with the CDCR, uniformed institutional fire service employees shall wear a Maltese cross on the left sleeve of the Class "A" jacket and on the left sleeve of the Class "B" long sleeve shirt. The crosses shall be affixed ¾ inch above the departmental stripe of the jacket and ¾ inch above the cuff of the shirt in horizontal row(s).

**(c) Service Stars (Headquarters Fire Staff Only)**

Refer to the CDCR Uniform Specification Handbook, Fire Service Uniforms.

**33020.12.6 Rank Insignia**

(a) Collar rank insignia shall be worn by Correctional Captains, Correctional Lieutenants, Correctional Sergeants, Fire Chiefs, and institution Fire Captains. Acting sergeants shall wear collar rank insignia only.

(1) Correctional Captains, and Correctional Lieutenants shall wear rank insignia on the epaulets of regulation jackets and coats.

(2) Collar rank insignia is optional for Associate Warden, Chief Deputy Warden, Warden, Associate Director, Deputy Director and Director.

(3) Refer to the CDCR Uniform Specification Handbook for rank insignia placement and specifications.

**33020.12.7 Sleeve Chevrons, Correctional Sergeant**

(a) Correctional Sergeant chevrons shall be worn on each sleeve of the uniform jacket and short and long sleeve shirt. Chevrons shall be three gold stripes on a black background of cotton twill.

(b) Refer to the CDCR Uniform Specification Handbook for sleeve chevron placement and specifications.

**33020.12.8 Regulation Tie**

(a) The regulation tie specifications shall be as follows:

(1) Solid black only, no design or decorative texture.

(2) Smooth surfaced, dry clean only fabric.

(3) Not to exceed 18 inches in length or to fall below the belt line.

(4) Clip-on fastener or Velcro fastener types only. Tie shall not be square cut on bottom.

(5) References: Broome 455-BO-3, or equivalent.

**33020.12.9 Official CDCR Belt buckle**

(a) The Director has approved an official CDCR belt buckle. This buckle is the only buckle that may be worn in place of the standard belt buckle other than the Warden approved institutional belt buckle.

(b) Refer to the CDCR Uniform Specification Handbook for the official CDCR belt buckle specifications

**33020.12.10 Regulation Shoes**

(a) Employees may wear shoes or boots that meet the following general specifications as items of the regulation uniform:

(1) Black leather, plain toe, conservatively designed. No buckles. No design in the leather, shall be smooth texture.

(2) In addition to the plain toe, the toe design shall be round without a bead encircling the toes.

(3) Shall approximate dress military styling. Shoes shall be shined at all times.

(4) Heel not to exceed 1½ inches in height.

(5) No tennis shoes, cowboy, engineer, cap style military jump boot or logger-style boots.

(6) No steel toe shoes or boots (with the exception of the steel-toe shoe permitted in 33010.10(14)).

(7) Tactical style tan boots, suede and nylon-like material, with tan rubber soles. No buckles. No design in the leather.

(8) Tactical style black boots, leather and nylon-like material. No buckles. No design in the leather.

**33020.12.11 Miscellaneous Accessories for Uniform Staff**

(a) The below-specified accessories may be worn with the regulation uniform as appropriate:

(1) Sam Browne belt, black with basket-weave design. Metal shall be gold in color.

(2) Nylon duty belt, snaps shall be black in color.

(3) Key pouches and clips black leather shall have gold snaps or clips, nylon shall have black snaps or clips. Chains or lanyards are not permitted.

(4) Enclosed snapping handcuff case. Black leather with basket-weave design or nylon.

(5) Flashlight holder shall be nylon or leather, black in color. Ring type holders shall be on black leather. Metal shall be gold or black in color.

(6) Monadnock expandable baton holder shall be front draw, auto lock, textured or basket weave finish. Holder shall be black in color.

(7) Flashlight shall be black in color, either Streamlight Stinger or mini-mag. Flashlight should not exceed 10 inches in length.

(8) Gloves shall be smooth black leather only with no "cut-outs." Both the body of the gloves and the fingers shall remain intact. No alteration of the gloves shall be permitted. Wrist high to 2 inches above the wrist in length. May be lined for warmth. Shall approximate the reference in appearance. References: Damascus #302, or equivalent.

(b) No other accessories shall be worn while in uniform without the approval of the Warden.

(c) There shall be no glass cases or other holders worn on or carried on the belt or affixed to the uniform except as approved by the hiring authority.

**33020.13 Departmental Badges**

(a) In accordance with the requirements of Penal Code (PC) Section 830.10, the Director has ordered the wearing and possession of the approved departmental regulation dome badge by all uniformed peace officer staff, with the exception of fire department peace officer staff.

(1) Uniformed staff includes all custody classification employees where the CDCR considers the uniform as part of their job description. All uniformed staff shall wear the regulation dome badge on the outer garment at all times while on-duty unless exception is made by the Warden.

(2) Uniformed fire department peace officer staff shall wear the regulation fire shield in lieu of the regulation dome badge.

(3) Non-uniformed staff designated as peace officers shall possess the approved departmental flat badge.

**(b) Training Requirements**

(1) In accordance with Penal Code (PC) Section 832, all staff designated as peace officers must meet the PC 832 Peace Officer Standards and Training (POST) requirements prior to being assigned a number and issued a departmental badge. The PC 832 training requirement is met by successfully

completing the CDCR's pre-service academy training (i.e., Basic Correctional Officer Academy (BCOA), PC 832 Course, or Division of Adult Parole Operations (DAPO) Academy).

(2) Staff, who are not assigned a number and issued a departmental badge at the completion of their pre-service academy training, shall provide verification of POST certification prior to being assigned a number and issued a departmental badge. Additionally, staff shall provide proof that there has been no break in service since the time POST certification was obtained.

#### **33020.13.1 Procedure for Issuing Badges**

(a) The administrator of the Richard A. McGee Correctional Training Center (CTC) shall establish and maintain an accurate and automated record of all departmental badges issued to peace officer employees, excluding the DAPO. The CTC shall issue a badge number to each qualified employee in the peace officer classification in ascending sequential order.

(1) Once a peace officer employee is assigned a badge number, they shall retain their assigned number throughout their entire departmental career.

Badge numbers and badges (State-issued and optional) are assigned and issued solely by the CTC.

(2) Under no circumstance shall badge numbers be assigned, issued, or transferred at the CDCR facility level.

#### **(b) Regulation Dome Badge**

The CDCR shall purchase and provide to each uniformed peace officer employee, through the CTC, a numbered regulation domed badge upon the employee's successful completion of the CDCR's pre-service academy training.

#### **(c) Regulation Fire Shield**

The CDCR shall purchase and provide to each uniformed fire department peace officer employee, through the CTC, a numbered regulation fire shield upon the employee's successful completion of the CDCR's pre-service academy training.

#### **(d) Flat Pocket Badge**

The CDCR shall purchase and provide each non-uniformed peace officer employee, through the CTC, a numbered flat pocket badge upon the employee's successful completion of the CDCR's pre-service academy training.

#### **(e) Optional Badge**

(1) All permanent employees, who meet the requirements of PC Sections 830.10 and 832, may purchase an optional dome and flat pocket badge(s) that meet departmental specifications if they so desire, but shall bear the cost of the optional badge(s). The optional badge shall bear the same number as the assigned State-issued badge. The total number of badges that can be possessed by any departmental peace officer shall not exceed two dome badges and one flat badge.

(2) All orders for optional badges purchased at the employee's expense shall be placed through the departmental badge coordinator located at the CTC, via the institutional badge coordinator.

#### **(f) DAPO**

The DAPO shall provide special badges to all Parole Agents and Parole Administrators. All badges shall be purchased through the current contracted vendor. The Director, DAPO shall establish and maintain an accurate and automated record system for accountability of the DAPO badge number assignments.

#### **(g) Autonomous Branches or Units**

(1) Peace officers (with the exception of Parole Agents) assigned to any of the autonomous units or branches within the CDCR shall retain their assigned departmental badge number, and submit to the CTC for the appropriate classification ribbon.

(2) Peace officers not in possession of a departmental badge number shall be assigned a number by the CTC with the appropriate classification ribbon, provided all training requirements have been met.

(3) Autonomous units and branches include, but are not limited to, Background Investigations Unit, Classification Services Unit, Inmate Appeals Branch, Office of Correctional Safety Unit, Office of Internal Affairs, Regulation and Policy Management Branch, and Selection and Standards Branch.

(4) Refer to the previous entry "DAPO" for Parole Agent badge request.

#### **(h) Loaner Badges**

(1) All loaner badges are issued by the CTC to CDCR facilities for the sole purpose of assigning to employees on a temporary basis while they are awaiting their assigned badge from the current vendor (i.e., addition or removal of ribbons or badge replacement).

(2) The CDCR facility is responsible for the temporary assignment, tracking, retrieval, and accountability of all loaner badges assigned to their facility.

(3) Loaner badges shall contain an "L" in the badge number. Any badge not containing an "L" in the number is not considered a loaner badge and should be returned to the CTC immediately for disposition.

#### **33020.13.2 Control of Badges**

(a) Due to the inherent threat to departmental security and the possible unlawful uses of peace officer badges, strict controls shall be maintained regarding departmental accountability and employee responsibility in the issue, use, and maintenance of departmental badges.

(1) It is unlawful for any person, including employees of the CDCR not employed in a peace officer classification, unless temporarily assigned to perform peace officer duties and having met the POST requirements, to wear, exhibit, use, or otherwise possess a departmental badge or a facsimile thereof without specific authority to do so. Employees shall not sell or otherwise transfer their badge to any other person.

#### **(b) Responsibility**

Departmental employees possessing State-issued or personal optional badges shall be held specifically responsible for the proper use and control of these badges. Loss or damage of departmentally issued or optional badges resulting from employee negligence, or willful failure to report loss of State-issued or optional badge, shall be cause for adverse action.

#### **(c) Automated Badge Record System**

The CDCR has developed an Automated Badge Record System (ABRS) that is located at the CTC. The CTC will be responsible for conducting all business pertaining to the assignment of badge numbers for all peace officer employees (with the exception of peace officers in the Parole Agent series). In the event of a discrepancy in badge number assignments, the number identified as the employee's, as documented in the ABRS, shall supersede any number carried by an employee or institution.

#### **(d) Uniform Inspections**

In conjunction with the DOM Section 33020.4, Inspections, all institutions shall conduct an annual audit of their assigned peace officers' badges. The audit shall provide employee's name, last four digits of their social security number, badge number, and total number of badges possessed. Badge numbers shall be obtained through visual verification. All audits shall be forwarded to the Departmental Badge Coordinator at the CTC upon completion. Current rosters can be obtained from the CTC prior to conducting the audit.

#### **(e) Lost or Stolen**

(1) In the event that a State-issued or optional badge is lost, stolen, or damaged, the employee responsible for the badge shall submit a detailed written report of the circumstances within 24 hours of the discovery.

(2) The report shall be submitted to the senior administrator of the CDCR facility where the employee is assigned.

(3) DAPO staff shall submit the report to the appropriate Regional Administrator.

(4) Headquarter staff shall submit the report to the Chief, Office of Investigative Services.

(5) The senior facility administrator, upon knowledge that a badge has been lost or stolen, shall:

(A) Cause a notice to be placed at the entrance gates of all institutions and copies of the notice to be mailed to local law enforcement agencies, facility's badge coordinator, and the CTC. The notice shall contain the badge number, type of badge (dome or flat pocket), and the specific circumstances surrounding the loss or theft of the badge.

(B) After investigation and considering the facts submitted, determine whether the loss or damage was due to negligence of the responsible employee and party responsible for replacement.

(C) Take appropriate action as indicated by the circumstances revealed during the inquiry.

(D) The facility's badge coordinator shall order a replacement badge from the CTC.

(6) Replacement badges (State or employee's expense) shall not be ordered prior to 30-days from discovery to insure that every attempt is made to recover any lost or stolen badge.

(7) These procedures for replacement in no way restrict the CDCR facility from issuing a loaner badge to the responsible employee until the replacement badge is delivered to the facility.

(8) Lost or stolen optional badges shall not be replaced by the CDCR. The employee, however, retains the right to submit a claim through the established Victim Compensation and Government Claims Board procedures if

circumstances warrant.

(A) Authorization to replace a lost or stolen optional badge may be withheld by the Warden if such loss was as a result of negligence in exercising proper control over the badge.

(B) Replacement may be permitted, at the expense of the employee, after a 30 day waiting period.

**(f) Damaged**

(1) The damaged badge shall be replaced with a badge bearing the same number as the original State-issued badge.

(2) After investigation and considering the facts submitted, the senior facility administrator shall make a determination whether the damaged badge will be replaced by the CDCR or the employee.

(3) The facility badge coordinator shall forward the damaged badge and report to the CTC for destruction and order the replacement through the CTC.

**(g) Promotions or Transfers**

(1) All peace officer employees receiving promotions or transfers to another CDCR facility shall retain their State-issued and optional badge(s).

(2) The receiving CDCR facility shall have the ribbon of the employee's promotional rank or classification, if appropriate, affixed at the bottom of one existing badge.

(3) The institution or other CDCR facility shall issue the employee a loaner badge until the original badge is received from the vendor with the appropriate ribbon of rank or classification affixed.

(4) The original badge shall then be returned to the employee and if the employee was assigned a loaner badge, it shall then be returned by the employee.

**(h) Termination of State Service**

(1) All correctional peace officer employees terminating State service, transferring to a non-peace officer classification within the CDCR, or transferring to another State agency shall surrender all badge(s) (State-issued and optional) to the CDCR facility badge coordinator processing the personnel action.

(2) Information regarding the total number of badges the separating employee has in possession can be obtained from the Departmental Badge Coordinator located at the CTC.

(3) All badges, including employee's name, type of separation, and effective date shall be returned to the CTC for disposition.

(4) Reimbursement for optional badges can be obtained by completing a STD. 262-A, Travel Expense Claim, through the separating institution's accounting office.

**(i) Retirement from State Service**

(1) Correctional peace officer employees retiring from State service shall surrender their State-issued badge to the facility's badge coordinator, and may request a retired flat badge with holder upon arrival of their retirement.

(2) The retired badge procedure is not automatic and should be initiated by the CDCR facility's badge coordinator.

(3) Retiring employees possessing any optional badge(s) may surrender them to the facility's badge coordinator for reimbursement at the current, fair market value. Current, fair market value is defined as the prices charged by the contracted vendor at the time of retirement.

(4) Reimbursement of any optional badge(s) is not automatic; it is the responsibility of the retiree to submit a Travel Expense Claim to their accounting office for reimbursement.

(5) All badges, including name, type of retirement, and effective date shall be forwarded to the CTC by the facility's badge coordinator for disposition.

(6) Irresponsible or unethical conduct, or conduct which brings discredit upon yourself or the CDCR, shall result in forfeiture of all rights and privileges associated with the issuance of the badge and will require immediate surrender of the badge.

(7) Under no circumstances are badges assigned to retired peace officers to be retained by the CDCR facility and utilized as loaner badges.

**(j) Deceased Employee**

(1) In the event of a Correctional Peace Officer employee's death, all State-issued and optional badge(s) shall be relinquished to the processing CDCR facility.

(2) Upon written request by the Warden or designee, the State-issued badge may be retained by the processing CDCR facility for the sole purpose of affixing it to a plaque or other symbol of remembrance.

(3) With the written approval of the Director, the badge number of a deceased Correctional Peace Officer can be assigned or reassigned to a family member.

(4) All badges, including name, type of separation, and effective date shall be forwarded to the CTC for disposition.

(5) Under no circumstances are badges assigned to deceased Correctional Peace Officers to be retained by the CDCR facility and utilized as loaner badges.

**33020.13.3 Specifications**

All uniformed personnel and non-uniformed employees designated as peace officers pursuant to California Code of Regulations (Cal. Code Regs.), title 15, division 3, shall receive a departmental badge. For badge specifications, refer to this DOM Article and the CDCR Uniform Specification Handbook.

**33020.14 Regulation Uniform – Food Services Employees**

(a) All supervising cooks, bakers, butcher/meat cutters, and food services workers shall wear the departmentally approved uniform to distinguish them from inmates assigned to food services duties.

(1) Regulation food service uniforms shall consist of:

(A) Trouser.

(B) Shirt.

(C) Cap.

(D) Jacket.

(E) Jumpsuit (brown).

(F) Shoes.

(G) Smock.

(2) The following items are mandatory accessories:

(A) Belt, brown or black in color.

(B) Key ring holder.

(C) Whistle.

(D) Departmental nameplate.

(3) The following items are non-mandatory accessories:

(A) Alarm holder.

(B) Flashlight.

(b) Individual garment specifications may be referred to in the CDCR Uniform Specification Handbook. Items not specifically addressed within this DOM Article are considered unauthorized.

(c) Food service employees shall report to their assignment in clean uniforms that are in good condition.

**33020.15 Protective Vests**

(a) Protective Vests are California Department of Corrections and Rehabilitation (CDCR) approved items of safety equipment designed and manufactured to resist penetration of bullets, inmate or youth manufactured knives, ice picks, and other sharp objects. Protective vest types include Ballistic Vests, Combination Vests, and Stab Resistant Vests. The individual level and type of protection offered by these protective vests is dependent upon the individual vest characteristics.

(b) For CDCR peace officer employees, the ability to wear a protective vest is an essential function of the job regardless of the regular wear expectations of their individual post or duty assignment. Each CDCR peace officer might at any time be assigned to a post or be required to participate in a specific operation wherein vest wear is mandatory.

**33020.15.1 Definitions**

(a) **Ballistic Vest:** A ballistic vest is designed to cover specific portions of the wearer's body to resist penetration by a bullet.

(b) **Combination Vest:** A combination vest is designed to cover specific portions of the wearer's body to resist penetration by inmate manufactured knives, ice picks, other sharp objects and bullets.

(c) **Cover:** A vest cover is the holder for the vest panel. The cover shall be appropriately sized to maintain the position of the panel upon the wearer's body as designed by the manufacturer.

(d) **CDCR owned vests, covers, or both:** A CDCR owned vest, cover, or both purchased by the CDCR is State property. Each CDCR owned vest, cover, or both shall be maintained by the employee to whom they are issued in accordance with CDCR mandates. The vest, cover, or both shall stay under the control of the issued employee until the vest, cover, or both is replaced with another CDCR owned vest, cover, or both, or the employee purchases a personally owned vest, cover, or both, the employee separates from the CDCR, or the employee transfers to another CDCR division or unit that requires a different type of vest, cover, or both than the employee was issued, or where vest wear is not mandatory as described in this section.

(e) **Personally owned vests, covers, or both:** A personally owned vest, cover, or both is a vest or cover that an authorized employee (as noted in this section) chooses to purchase and maintain at their own expense.

(1) A personally owned vest, cover or both must meet or exceed the requirements of the specific vest type.

(2) Personally owned vest covers that are used with CDCR owned vest panels must be specifically designed to fit the specific CDCR owned vest panel.

(3) It is the responsibility of each employee that purchases a personally owned vest, cover or both to notify the Vest Control Person (VCP) prior to wearing the vest, cover or both to work so that inventory control measures can be initiated.

(4) The employee shall also provide that vest, cover or both to the VCP annually for inspection at the time and date established by the VCP.

(f) **Stab Resistant Vest:** A stab resistant vest is designed to cover specific portions of the wearer's body to resist penetration by inmate manufactured knives, ice picks, and other sharp objects.

(g) **Standby Vest Pool:** Each institution, division, facility, or unit shall maintain a Standby Vest Pool. The Standby Vest Pool shall contain sufficient vest and cover types, amounts, and sizes, at the discretion of each Warden, Superintendent, or Division Head, to supply to personnel who are temporarily required to wear a vest as described in this section.

(1) Standby Vest Pool vests will be issued to:

(A) Employees who are required to wear a vest but have not been permanently issued a vest. If such an employee works full time in a unit wherein vest wear is mandatory (as defined in this policy), the Warden, Superintendent, or Division Head may elect to issue a vest from the Standby Pool to that employee for the duration of their assignment in the unit.

(B) Employees who do not have their permanently issued vest with them when they report for duty.

(C) Employees or official visitors that enter Special Housing Units, as described in this policy.

(2) Correctional Training Center or Stockton Training Center employees and cadets that use Standby Pool Vests shall wear these vests under the outer uniform shirt or jumpsuit.

(h) **Vest Control Person:** The institutional, facility, division, or unit VCP shall manage and maintain, under the responsibility of the respective Warden, Superintendent, or Division Head, the institution, division, or unit inventory of CDCR and personally owned vests, covers, or both. It will be the responsibility of each institutional, facility, division, or unit VCP to coordinate their needs with the CDCR VCP. The CDCR VCP shall have overall responsibility for managing the departmental vest inventory.

(i) **Vest panel:** A vest panel is the protective material held by the vest cover.

### **33020.15.2 Wear Authorizations and Requirements**

#### **(a) Ballistic Vest:**

##### **(1) Wear Authorizations:**

(A) The Ballistic Vest is authorized for wear by the following employees:

1. Office of Correctional Safety.
2. Office of Internal Affairs.
3. Division of Adult Parole Operations agents.
4. Basic Correctional Officer Academy Firearms Instructors.

##### **(2) Wear Requirements:**

(A) The Ballistic Vest shall be worn only in the manner prescribed by the manufacturer and the CDCR.

(B) For normal wear, the Ballistic Vest shall be worn concealed under the outer uniform shirt, blouse, or shirt, or jumpsuit for the duration of the shift unless otherwise provided for in this section.

(C) Once a CDCR owned Ballistic Vest has been issued to an employee, wear of the vest is mandatory while that employee is on duty unless otherwise approved by the appropriate Division or Office Head.

(D) Outer wear of the Ballistic Vest is authorized only with the use of a CDCR approved outerwear cover (e.g. tactical, firearms instructor, or raid vest) and when there is an identified operational need to do so.

(E) If an employee chooses to purchase a personally owned Ballistic Vest, cover, or both, the wear requirements are the same as those pertaining to a CDCR owned vest.

#### **(b) Combination Vest**

##### **(1) Wear authorizations:**

(A) The Combination Vest is authorized for wear by the following employees:

1. Community Correctional Facility (CCF) and Modified Community Correctional Facility (MCCF) peace officers who have transportation responsibilities.
2. Juvenile Justice Conservation Camp peace officers who have transportation responsibilities.
3. Crisis Response Team (CRT) members or Juvenile Justice Tactical Team members.
4. Adult Operations Transportation Unit and Juvenile Justice Transportation Unit Correctional Officers, Youth Correctional Officers, Sergeants, Lieutenants, and Captain.
5. Adult Operations or Juvenile Justice institutional or facility transportation team Correctional Officers, Youth Correctional Officers, Sergeants, Lieutenants, or other CDCR peace officers.
6. Adult Operations, Institutional Investigative Services Unit Correctional Officers, Sergeants, and Lieutenants.
7. Medical Guarding Unit or hospital coverage Correctional Officers, Youth Correctional Officers, Sergeants, and Lieutenants.
8. Basic Correctional Officer Academy Firearms Instructors.

##### **(2) Wear Requirements:**

(A) The Combination Vest shall be worn only in the manner prescribed by the manufacturer and the CDCR.

(B) For normal wear, the Combination Vest shall be worn concealed under the outer uniform shirt, blouse, shirt, or jumpsuit for the duration of the shift unless otherwise provided for in this section.

(C) Outer wear of the Combination Vest is authorized only with the use of a CDCR approved outer wear cover (e.g. tactical, firearms instructor, or raid vest) and when there is an identified operational need to do so.

(D) Once a CDCR owned Combination Vest has been issued to an employee, wear of the vest is mandatory while that employee is on duty unless otherwise approved by the appropriate Division or Office Head.

(E) If an employee chooses to purchase a personally owned Combination Vest, cover, or both the wear requirements are the same as those pertaining to a CDCR owned vest.

#### **(c) Stab Resistant Vest**

##### **(1) Wear authorizations:**

(A) The Stab Resistant Vest is authorized for wear by the following employees:

1. All institutional or facility Correctional Officers, Youth Correctional Officers, Correctional Counselors, Youth Correctional Counselors, Senior Youth Correctional Counselors, Institutional Parole Agents, Supervising Casework Specialists, Sergeants, and Lieutenants.
2. Other employees as mandated in the Stab Resistant Vest Wear Requirements section.
3. Any employee who chooses to purchase a personally owned Stab Resistant Vest or cover.

##### **(2) Wear Requirements:**

(A) The Stab Resistant Vest shall be worn only in the manner prescribed by the manufacturer and the CDCR.

(B) For normal wear, the Stab Resistant Vest shall be worn concealed under the outer uniform shirt, blouse, shirt, or jumpsuit for the duration of the shift unless otherwise provided for in this section.

(C) Once a CDCR owned Stab Resistant Vest has been issued wear of the vest is mandatory while that employee is on duty unless provided for in this section.

(D) If an employee chooses to purchase a personally owned Stab Resistant Vest, cover, or both the wear requirements are the same as those pertaining to a CDCR owned Stab Resistant Vest.

(E) Correctional Training Center or Stockton Training Center Stab Resistant Vests shall be worn concealed under the outer uniform shirt, blouse, shirt, or jumpsuit.

#### **(d) Special Units**

(1) The following requirements for wear of a Stab Resistant Vest in designated special units shall be complied with:

- (A) All CDCR employees, regardless of personnel classification, entering a Security Housing Unit (SHU), Administrative Segregation Unit (ASU), Temporary Detention Unit (TDU), Condemned Housing Unit, or Psychiatric Services Unit (PSU), shall wear a Stab Resistant Vest when the employee is:
1. In direct contact of inmates, youth, or patients within the aforementioned units (unrestrained or restrained).
  2. Escorting inmates, youth, or patients housed within the aforementioned units anywhere on institution grounds.



### 3. On the aforementioned unit tiers.

(B) Stab Resistant Vest wear requirements shall extend to all official visitors (including but not limited to contractors, religious advisors, outside law enforcement personnel, legal representatives, etc.) of each unit as described in this section. Stab Resistant Vest temporarily issued from a unit, institution, facility or division Special Unit Standby Vest Pool are approved for outer wear.

(C) Correctional Officers, Youth Correctional Officers, Correctional Counselors, Youth Correctional Counselors, Senior Youth Correctional Counselors, Institutional Parole Agents, Casework Specialists, Sergeants or Lieutenants entering a unit such as a Correctional Treatment Center (CTC), Outpatient Housing Unit (OHU), General Acute Care Hospital (GACH), Intermediate Care Facility (ICF), or any Department of Mental Health (DMH) Unit or Facility, shall wear a Stab Resistant Vest when the employee is:

1. In direct contact with inmates, youth, or patients within the aforementioned units (unrestrained or restrained).
2. Escorting inmates, youth, or patients housed within the aforementioned units anywhere on institution grounds.
3. On the aforementioned unit tiers.
4. All other staff entering a unit such as a CTC, OHU, GACH, ICF, or any DMH Unit or Facility, shall have the option to wear a Stab Resistant Vest (obtained from the Standby Pool or from the respective VCP when the employee is:

- a. In direct contact with inmates, youth, or patients within the aforementioned units (unrestrained or restrained).
- b. Escorting inmates, youth, or patients housed within the aforementioned units anywhere on institution grounds.
- c. On the aforementioned unit tiers.

#### (e) General Information

(1) Correctional Officers, Youth Correctional Officers, Youth Correctional Counselors, Senior Youth Correctional Counselors, Institutional Parole Agents, Casework Specialists, Sergeants, and Lieutenants assigned to Juvenile Justice facilities in areas other than described in the above "Stab Resistant Vest", "Wear Requirements" section, and Adult or Juvenile Justice Conservation Camps shall wear Stab Resistant Vests while on duty, unless otherwise authorized by the Division or Office Head, Adult Operations, or Division or Office Head, Juvenile Justice.

(2) Stab Resistant Vests shall be worn if the aforementioned Correctional Officer, Youth Correctional Officer, Youth Correctional Counselor, Senior Youth Correctional Counselor, Institutional Parole Agent, Casework Specialist, Sergeant, or Lieutenant enters an Adult Operations institution secure perimeter during the course of the performance of their duties, unless otherwise authorized by the Division or Office Head, Adult Operations, or Division, or Office Head, Juvenile Justice.

(3) Correctional Officers, Youth Correctional Officers, Youth Correctional Counselors, Senior Youth Correctional Counselors, Institutional Parole Agents, Casework Specialists, Sergeants, and Lieutenants who work in Adult Operations or Juvenile Justice female institutions or facilities in areas other than described in the above "Stab Resistant Vest", "Wear Requirements" section, shall be issued a vest unless otherwise authorized by the Division or Office Head, Adult Operations, or Division or Office Head, Juvenile Justice and as specified in the respective DOM Supplement as described in DOM Section 33020.16.6.

(4) Committee members in any SHU, ASU, TDU, PSU, Inter Disciplinary Treatment Team, Juvenile Justice Administrative Committee (JJAC), CTC or OHU shall wear a Stab Resistant Vest unless otherwise authorized by the Division or Office Head, of Adult Operations or Division or Office Head, Juvenile Justice and as specified in the respective DOM Supplement as described in DOM Section 33020.16.6.

(5) It is the intent of the CDCR, based upon available funding, to provide the appropriate vest to designated peace officer employees upon, or as soon as possible, after their graduation from their academy. Supervisors have the authority to verify that an employee is wearing their vest in accordance with the mandates of this policy.

(f) **Refusal to wear a vest:** As vest wear is an essential function of the job for CDCR peace officer personnel, and mandated for all employees in specific units as identified in this policy, any employee who has been issued, either permanently or temporarily, a protective vest and then refuses to wear the vest in accordance with CDCR mandates, shall be subject to progressive disciplinary action.

(g) **Non-possession of issued vest:** In the event that an employee who has been issued a vest, or is mandated to wear a vest, is not in possession of their vest when reporting for duty, the following shall occur:

(1) If a Standby Pool Vest is available, a vest may be temporarily issued to the employee for the duration of that employee's shift. In the event the employee's

vest has been lost or stolen, this might require the assignment of a Pool Vest to that employee.

(2) The employee may be sent home to retrieve the vest on their own time prior to being allowed to report for work. This decision shall be made at the discretion of the Warden, Superintendent, Division Head, or their designee.

(3) Progressive disciplinary action shall be initiated.

(A) When a protective vest has been issued to an employee but is not being worn (e.g. off duty or on-duty periods wherein wear is not mandated), the vest shall be stored in locations that prevent inmate, youth, parolee access.

(B) The storage area should be climate controlled, not be subject to extreme high or low temperatures or excessive humidity, and should allow for vest storage in accordance with the manufacturer's wear and care recommendations.

(C) Care must be taken to prevent the vest from being stolen while off duty.

#### 33020.15.3 Procurement

(a) The CDCR VCP shall be responsible for coordinating the purchasing and scheduling for sizing dates of CDCR protective vests from vendors identified by approved contracts.

(b) Institutions, divisions, facilities, or units shall ensure that an appropriate quantity and size selection is available for their Standby Pool. The VCP shall adhere to policy and procedure governing the procurement of equipment.

(c) As protective vests are received by the institution, division, facility, or unit from the manufacturer, the required inventory processes will be accomplished as quickly as possible to facilitate expedient availability of the protective vest to the end user.

#### 33020.15.4 Accountability and Replacement

(a) The procedures for accountability and replacement of CDCR and personally owned protective vests are as follows:

##### (1) Accountability

(A) Each Warden, Superintendent, or Division Head shall appoint a VCP who shall receive, inventory, and manage the institution's, division's, facility's or unit's protective vests program. The VCP shall provide monthly CDCR vest inventory reports (including specific information related to inventory discrepancies) directly to the Chief Deputy Warden, Division Head, or Chief of Security, who is responsible for the accountability of the institution's, division's, facility's or unit's protective vests.

(B) The VCP shall maintain an ongoing inventory of all CDCR and personally owned vests in their area of responsibility via the CDCR approved vest inventory tracking program. The institution, division, facility, or unit VCP shall submit a quarterly inventory report to the CDCR VCP. The institution, division, facility, or unit head shall ensure the accuracy of this report.

(C) The CDCR Form 2155, CDCR Personal Protective Vest Issuance Acknowledgement Form, shall be used to facilitate protective vest inspection. The institution, division, facility, or unit VCP shall maintain the CDCR 2155 for the duration of use of each vest.

(D) Each CDCR owned vest or cover shall be documented on the CDCR 2155.

(E) Personally owned vests, covers, or both must be presented by the employee to the VCP prior to use and then annually thereafter for review. The VCP shall inspect the personally owned vest, cover, or both to ensure that it complies with CDCR requirements. The VCP shall then input the personally owned vest, cover, or both cover into their inventory. Any employee who chooses to wear a personally owned vest, cover, or both must surrender any CDCR owned vest, cover, or both in their possession to the VCP.

(F) The institution, division, facility, or unit VCP shall annually verify the inventory and wear ability of each CDCR or personally owned vests, covers, or both in their area of responsibility. This will require a physical inspection of each protective vest and cover. The CDCR Form 2154, CDCR Protective Vest Inspection Form, shall be used to facilitate protective vest inspection. The institution, division, facility, or unit VCP shall maintain the CDCR 2154 for the duration of use of each vest.

(G) If the VCP determines a CDCR owned vest, cover, or both used by an employee is not serviceable, the VCP shall inform the employee they are no longer authorized to wear the non-serviceable vest or cover. The VCP shall issue the employee a CDCR owned pool vest, cover, or both. The VCP shall note this fact on the CDCR 2155 and provide the employee with a signed copy of the CDCR 2154.

(H) If the VCP determines a personally owned vest, cover, or both used by an employee (who would normally be issued for regular use a CDCR owned vest) is not serviceable, the VCP shall inform the employee they are no longer authorized to wear the non-serviceable vest, cover or both. The VCP shall issue the employee a replacement CDCR owned vest, cover or both. The VCP shall note this fact on the CDCR 2155 and provide the employee with a signed

copy of the CDCR 2154. The employee may acquire another personally owned vest, cover, or both at their expense to replace the disapproved vest, cover, or both.

(I) If the VCP determines that a personally owned vest, cover, or both used by an employee not mandated to wear a vest, cover, or both is no longer serviceable, the employee shall be informed that they are no longer authorized to wear that personally owned vest, cover, or both. The VCP shall note this fact on the CDCR 2154 and provide the employee with a signed copy of this form. The employee may acquire another personally owned vest, cover, or both at their expense to replace the disapproved vest, cover, or both.

(J) In the event an employee who has been issued a CDCR owned vest and cover or who has purchased a personally owned vests, covers, or both transfers to or is placed at a different CDCR institution, division, facility, or unit, they shall be allowed to take their CDCR owned vest, covers, or both, or personally owned vest, covers, or both with them. The affected VCP shall ensure all CDCR procedures regarding property transfer are used to track the transfer of such vests, covers, or both. The sending VCP shall ensure the receiving VCP receives a copy of the CDCR 2155 or CDCR 2154 related to that employee's vest.

(K) In the event an employee who has been issued a CDCR owned vest or cover transfers to or is placed at a CDCR institution, division, facility or unit where vest wear is not regularly required (i.e. Headquarters) or if a different type of vest (combination vest or ballistic vest) will be issued to the transferring employee by the receiving unit, the VCP shall ensure the transferring employee's CDCR owned vest, covers, or both is confiscated and, if the vest, covers, or both are serviceable, that they are placed into the sending institution's, division's, facility's or unit's Standby Vest Pool or are appropriately used as deemed necessary by the VCP or CDCR VCP.

(L) The VCP under the guidance of the institution, division, or facility head, shall issue a vest from the Standby Vest Pool to an employee who undergoes any significant body shape change or weight change that would render their issued vest ineffective. If the employee's originally issued vest is serviceable, it will be placed into the Standby Vest Pool or be used appropriately as deemed necessary by the VCP or CDCR VCP.

(M) In the event an employee that has been issued a CDCR owned protective vest retires, resigns, or otherwise separates from the CDCR, the CDCR owned vest, cover, or both shall be surrendered to the VCP during the check-out process. If the employee's vest is serviceable, it will be placed into the Standby Vest Pool or be used appropriately as deemed necessary by the VCP or CDCR VCP.

(N) Vest inventories shall be facilitated via the use of the CDCR 2154 and 2155. The VCP shall maintain the CDCR 2154 and 2155 for the duration of use of each vest and for three years after the disposal of each vest.

(O) The CDCR VCP shall work in coordination with the institution, division, facility, or unit VCPs to maintain an accurate CDCR protective vest inventory. The CDCR VCP shall ensure that excess protective vest inventories at any CDCR site are identified and, if required, transferred to another site that might need these protective vest resources before any supplemental protective vest purchase is initiated.

## **(2) Replacement**

Replacement of the CDCR protective vest panels and covers shall be accomplished as follows:

(A) Vest covers shall be replaced by the institutions, divisions, facilities, or units when the covers are no longer serviceable. The VCP shall ensure that worn CDCR owned vest covers are replaced before the cover becomes unable to maintain the position of the vest panels upon the body of the wearer as designed by the manufacturer.

(B) CDCR owned vest panels shall be replaced prior to the expiration of manufacturer's warranty period.

(C) Personally owned vest panels shall be replaced at the employee's expense prior to the expiration of the manufacturer's warranty period. If the employee mandated to wear a vest chooses to not purchase another personally owned vest, cover, or both, the VCP shall ensure this employee is issued a CDCR owned vest, cover, or both.

(D) CDCR owned or personally owned vests, panels, covers determined to be unserviceable due to normal wear shall be documented in the institution's, division's, facility's, or unit's vest inventory program with the following information:

- (1) Manufacturer.
- (2) Vest model number.
- (3) Type and threat level (Spike III, Ballistic II, etc.).

(4) Serial number of vest panels. If there are different serial numbers on the front and back panel of the same vests, these shall be separately noted with a designation of "F" for the front panel and "B" for the back panel.

- (5) Lot number.
- (6) Manufacture date.
- (7) Male or Female vest.
- (8) Name of assigned staff.
- (9) Job classification.
- (10) Date placed into service.
- (11) Current unit in which used.
- (12) Type of damage sustained.
- (13) Remedial action (disposed, etc.).

(E) CDCR owned or personally owned vests, panels, covers determined to be unserviceable due to damage beyond normal wear (such as being collected for evidentiary reasons), but not due to negligence shall be documented in the institutions, divisions, facilities or units monthly VCP inventory report with the following information:

- (1) Manufacturer.
- (2) Vest model number.
- (3) Type and threat level (Spike III, Ballistic II, etc.).
- (4) Serial number of vest panels. If there are different serial numbers on the front and back panel of the same vests, these shall be separately noted with a designation of "F" for the front panel and "B" for the back panel.
- (5) Lot number.
- (6) Male or Female vest.
- (7) Name of assigned staff.
- (8) Job classification.
- (9) Date placed into service.
- (10) Current unit in which used.
- (11) Type of damage sustained.
- (12) Brief description of circumstance and corrective action, if any.
- (13) Remedial action (disposed, placed into evidence, etc.).

(F) CDCR owned vests, panels, covers determined to be unserviceable due to negligence, intentional destruction, lost, stolen or damaged will be reported verbally and in writing by the affected employee to the VCP by the next business day and the VCP shall issue the employee another CDCR vest, panel, or cover if person is required to be personally issued a vest. The written report from the employee must include a complete statement of circumstances surrounding the incident that led to the negligence, destruction, or loss. This information shall be contained in the institutions, divisions, facilities or unit's monthly VCP inventory report with the following information:

- (1) Manufacturer
- (2) Vest model number
- (3) Type and threat level (Spike III, Ballistic II, etc.).
- (4) Serial number of vest panels. If there are different serial numbers on the front and "F" for the front panel and "B" for the back panel.
- (5) Lot number.
- (6) Male or Female vest.
- (7) Name of assigned staff.
- (8) Job classification.
- (9) Date placed into service.
- (10) Current unit in which used.
- (11) Type of damage sustained.
- (12) Brief description of circumstance and corrective action, if any.
- (13) Remedial action (disciplinary action, etc.).

(G) Lost, stolen or damaged CDCR protective vests shall be replaced in accordance with the State Administrative Manual, Section 8643, "Lost, Stolen, or Destroyed Property".

(H) Disposal of protective vests and covers must be coordinated through the CDCR VCP and be accomplished in accordance with CDCR policy and other applicable regulations.

## **33020.15.5 Training**

(a) The CDCR VCP shall provide training to persons assigned as a VCP. A VCP cannot conduct annual vest inspections unless they have received VCP training.

(b) Upon issuance of a CDCR owned vest, covers, or both, the VCP shall provide On the Job training (OJT) on the wear and care of the vest. Each In-Service Training Manager, Unit Training Coordinator, Officer or Regional

Training Coordinator shall establish and maintain appropriate documentation reflecting this OJT. The proof of training record shall be maintained in the employee's training file.

(c) If an employee chooses to purchase a personally owned vest, cover, or both, the VCP shall coordinate with the IST Manager, Unit Training Coordinator, or Officer the appropriate training for that employee when the VCP becomes aware of this vest.

### **33020.15.6 DOM Supplements**

(a) Each department, institution, division, facility, or unit that has protective vests in its inventory shall establish and review annually a DOM Supplement entitled "Protective Vests" that shall include the specific department, institution, division, facility, or unit procedures for vest program management.

(b) These might include, but are not be limited to:

(1) The resources required to provide protective vests for off-institution or facility duties (Medical Guarding Units, hospital coverage, transportation teams, etc.) and the procedures for issuance of these vests from the Standby Vest Pool.

(2) Identification of a vest storage location(s): each institution, division, facility, or unit shall designate a location for their Standby Vest Pool. Each location:

(A) Shall prevent inmate, youth, or parolee access to vest panels.

(B) Should be climate controlled, not be subject to extreme high or low temperatures or excessive humidity, and should allow for vest storage in accordance with the manufacturer's wear and care recommendations.

(3) Designation of a VCP by position title and number.

(4) Procedures for conducting inventories.

(5) Procedures for procurement and replacement of vests or covers, as required. Replacement must occur before the manufacturer's warranty expiration date.

(6) The procedures and requirements for using the CDCR 2154.

(7) The procedures and requirements for using the CDCR 2155.

(8) Standby Vest Pool management, issuance, and return procedures. These shall include the specific procedures for cleaning and care, including:

(A) The designation of an employee, by duty assignment, to be responsible for the cleaning and maintenance of the Standby Vest Pool vest panels and covers.

(B) Provisions to ensure that the Standby Vest Pool vest panels are cleaned in accordance with the manufacturer's specifications and without inmate youth, or parolee contact. Vest covers can be laundered by inmate, youth, or parolees with appropriate supervision.

(9) A detailed schedule for cleaning Standby Vest Pool components (cover and panels). In Standby Vest Pool situations, protective vests that have been worn shall be cleaned at least weekly. Protective vests shall be cleaned before they are reissued if they are contaminated. This may require the acquisition of extra covers to facilitate the required cleaning.

(10) Specific identification of a contracted cleaner if there are not resources available at the respective site to facilitate protective vest cleaning in accordance with this section. This should also include the required inventory process (including transport to and from the cleaner) to ensure accountability. Cleaning requirements might require the purchase of additional covers.

### **33020.16 Revisions**

The Chief, Office of Correctional Safety or their designee shall ensure that the content of this DOM Article is accurate and current, in regards to vest. Director of DAI or their designee shall ensure that the content for uniforms and grooming standards of this DOM Article is accurate and current.

### **References**

*Revised July 27, 2010*

PC Sections 830.10 and 832

Cal. Code Regs., Title 15, Division 3, Section 3291(b)

California State Administrative Manual, Section 8643

### **Revision History**

Revised subsection 33020.7.3 March 25, 2010

Revised subsection 33020.6.2 July 27, 2010

Revised subsection 33020.9.2 August 9, 2011

Revised Article April 30, 2021

## **ARTICLE 22 — EMPLOYEE DISCIPLINE**

*Effective January 2006*

### **33030.1 Policy**

All disciplinary action shall be imposed in a fair, objective, and impartial manner, and the California Department of Corrections and Rehabilitation (Department) shall consistently apply accepted principles of due process and progressive discipline when corrective or adverse action is imposed.

### **33030.2 Purpose**

To ensure effective and efficient departmental operations and employee adherence to reasonable and acceptable rules of conduct and performance.

### **33030.3 Employee Performance Standards**

#### **33030.3.1 Code of Conduct**

As employees and appointees of the Department, we are expected to perform our duties, at all times, as follows:

- Demonstrate professionalism, honesty, and integrity;
- Accept responsibility for our actions and their consequences;
- Appreciate differences in people, their ideas, and opinions;
- Treat fellow employees, inmates, wards, parolees, victims, their families, and the public with dignity and respect;
- Respect the rights of others and treat them fairly regardless of race, color, national origin, ancestry, gender, religion, marital status, age, disability, medical condition, pregnancy, sexual orientation, veteran status, or political affiliation;
- Comply with all applicable laws and regulations;
- Report misconduct or any unethical or illegal activity and cooperate fully with any investigation.

#### **33030.3.2 General Qualifications**

All employees are subject to the requirements as specified in the California Code of Regulations (CCR), Title 2, Section 172, General Qualifications, which states, in pertinent part, the following:

*All candidates for, appointees to, and employees in the state civil service shall possess the general qualifications of integrity, honesty, sobriety, dependability, industry, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume the responsibilities and to conform to the conditions of work characteristic of the employment, and a state of health, consistent with the ability to perform the assigned duties of the class.*

#### **33030.3.3 Law Enforcement Code of Ethics**

Peace officers employed by the Department are held to a higher standard of conduct on and off duty, as specified in the Law Enforcement Code of Ethics and the peace officer oath. The Law Enforcement Code of Ethics is as follows:

*As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all people to liberty, equality and justice.*

*I will keep my public and private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or my Department. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life. I will be exemplary in obeying the law and the regulations of my department.*

*I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities, organizational associations or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.*

*Confidential information received in my official capacity shall remain undisclosed unless disclosure is necessary in the performance of my duty. I will never engage in acts of corruption, bribery, insubordination or the obstruction of justice, nor will I condone such acts by other peace officers. I will immediately report acts of misconduct by staff of my department and cooperate with all legally authorized agencies and their representatives in the pursuit of justice.*

*I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.*

*I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am serving as a law enforcement officer. I will constantly strive to achieve these objectives*

*and ideals, dedicating myself before all present to my chosen profession... law enforcement.*

### 33030.4 Definitions

**Adverse Action** - A documented action, which is punitive in nature and is intended to correct misconduct or poor performance or which terminates employment.

**Affected Employee** - An individual who is the subject of adverse action.

**Appointing Power** - The Secretary of the Department.

**Assistant General Counsel (AGC)** - An individual responsible for managing the Employment Advocacy and Prosecution Team (EAPT) in the Department's Office of Legal Affairs.

**Bureau of Independent Review (BIR)** - A unit within the Office of the Inspector General responsible for contemporaneous public oversight of the Department's investigative and disciplinary processes.

**Charging Package (Also known as the "Skelly package")** - All documentation used to substantiate the charges in the action and which is presented to the employee with the Preliminary or Final Notice of Adverse Action. This material may include but is not limited to the following: the investigative report; applicable policies, procedures, and Government Code sections; records of training the employee has attended; job descriptions; and duty statements and/or post orders that are related to the charges. This package does not include the CDCR Form 402, Hiring Authority Review of Investigation, and CDCR Form 403, Justification of Penalty.

**Chief Assistant Inspector General (CAIG)** - An individual responsible for the operation and functions of the BIR.

**Corrective Action** - A documented non-adverse action (verbal counseling, in-service training, on-the-job training, written counseling, or a letter of instruction) taken by a supervisor to assist an employee in improving his/her work performance, behavior, or conduct.

**Designated Cases** - Those cases assigned to the Vertical Advocates, including matters involving staff integrity and/or dishonesty, abuse of authority, sexual misconduct, use of force in which an inmate suffers death or serious injury, use of deadly force, serious allegations made against supervisors, and high profile or dismissal cases assigned to the Vertical Advocate by the AGC.

**Employee Counseling Record** - A written record of counseling, documented on a CDC Form 1123, between a supervisor and subordinate which provides formal instruction about laws, rules, policies and employer expectations.

**Employee Relations Officer (ERO)/Disciplinary Officer** - An employee designated by the Hiring Authority to coordinate adverse actions.

**Employment Advocacy and Prosecution Team (EAPT)** - The team, formerly known as the Employment Law Unit, responsible for operation of the Vertical Advocacy Model in the Department's Office of Legal Affairs.

**Executive Review** - A secondary, management-level review conducted to resolve a significant disagreement(s) regarding an investigative finding, proposed disciplinary penalty, or settlement agreement.

**Hiring Authority** - The Undersecretary or General Counsel or any Chief Deputy Secretary, Executive Officer, Chief Information Officer, Assistant Secretary, Director, Deputy Director, Associate Director, Warden, Superintendent, Health Care Manager, Regional Health Care Administrator, or Regional Parole Administrator authorized by the appointing power to hire, discipline, and dismiss staff under his/her signature authority. The Administrator at the Richard A. McGee Correctional Training Center shall serve as the Hiring Authority for Correctional Officer Cadets. The appointing power is a hiring Authority, for purposes of this Article.

**In-Service Training (IST)** - Formal training conducted departmentally and/or at the direction of the Hiring Authority and usually conducted away from the employee's work site.

**Letter of Instruction (LOI)** - A written document, which outlines requirements for an employee to advance his/her job performance or conduct to an acceptable level.

**Notice of Adverse Action** - Notification to the affected employee of the charges against him/her, the adverse action penalty, and the effective date.

**Office of Internal Affairs (OIA)** - The entity within the Department with authority to investigate allegations of employee misconduct.

**On the Job Training (OJT)** - Training conducted by a supervisor (or a designated employee with the required expertise under the direction of a supervisor) at the job site while the employee is working.

**Preliminary Notice of Adverse Action** - Notification required of some Hiring Authorities in accordance with the Bodiford Settlement Agreement, to an affected employee regarding charges against him/her and the intent to impose adverse action. This notification summarizes the specific subsections of the Government Code that have been violated, as well as the actions that

constituted the violation. For Hiring Authorities mandated to serve a Preliminary Notice of Adverse Action, the charging package shall also be served with this notice.

**Senior and Special Assistant Inspectors General (SAIG)** - Attorneys employed by the BIR who report to the CAIG.

**Skelly Hearing** - An informal proceeding in which the employee, together with his or her representative, is provided a predeprivation opportunity to respond to management regarding the charges in the Notice of Adverse Action. The employee may present any arguments for amending a pending adverse action before the action becomes effective. *Skelly* Hearings are required at the request of the affected employee for the following: adverse actions; rejections during probation; non-punitive actions resulting in the employee's dismissal or demotion; and transfers for purposes of punishment and/or in conjunction with an adverse action.

**Skelly Letter** - A document transmitted to an affected employee, following the *Skelly* Hearing, stating the Hiring Authority's final decision regarding the imposition of a disciplinary penalty.

**Skelly Officer** - A noninvolved manager, usually at the level of a Correctional Administrator, who will make a recommendation to the Hiring Authority after a *Skelly* Hearing to amend, modify, withdraw, or sustain the pending adverse action. The *Skelly* Officer must be a management employee above the organizational level of the disciplined employee's supervisor unless that person is the employee's appointing power in which case the appointing power may respond to the employee or designate another person to respond. Unless the affected employee waives his/her right to have a noninvolved manager serve as the *Skelly* Officer, the *Skelly* Officer shall not be the person who completed the CDC Form 989, Internal Affairs Investigation Request; who signed the employee's Notice of Adverse Action; or who participated in the decision to take adverse action.

**Summary of Adverse Action** - A summary compiled by the ERO/Disciplinary Officer of allegations of misconduct, from the evidence contained in an investigative report and other documents.

**Vertical Advocacy Model** - A system that ensures legal representation for the Department during the entire investigative and employee disciplinary process in order to hold staff accountable for misconduct by way of thorough and complete internal investigations, principled decision-making and assessment of the investigations, and consistent and appropriate discipline.

**Vertical Advocate** - An EAPT attorney assigned to one or more specific Hiring Authority locations to consult with the investigators and Hiring Authorities concerning investigative findings, disciplinary decisions, and to prosecute designated cases.

### 33030.5 Responsibility

#### 33030.5.1 Appointing Power

The appointing power shall ensure implementation and compliance with the Department's employee discipline policy and programs.

#### 33030.5.2 Hiring Authority

Each Hiring Authority shall be responsible for the following:

- Taking adverse action whenever warranted by an employee's behavior/conduct;
- Ensuring adverse actions are imposed in a fair, objective, and impartial manner and are consistent with this policy, the principles of just cause, and due process;
- Submitting CDC Forms 989 to the OIA including those cases in which direct adverse action is taken without an investigation;
- Reviewing investigative reports, determining investigative findings, and completing CDCR Form 402;
- Determining and justifying appropriate penalty level for employee misconduct by utilizing the Employee Disciplinary Matrix and completing the CDCR Form 403;
- Executing and causing the Notice of Adverse Action to be served on employees;
- Consulting with the Vertical Advocate, for designated cases, and the SAIG for cases the BIR is monitoring, regarding sufficiency of investigations and appropriateness of penalty;
- Consulting with the Vertical Advocate, for designated cases, and the SAIG for cases the BIR is monitoring, before agreeing to any modification, stipulation, or withdrawal affecting the proposed action and before approving any settlement agreement;
- Participating in Executive Review, as necessary, and forwarding material, as appropriate, for Executive Review;
- Informing the Vertical Advocate, for designated cases, and the SAIG, for cases the BIR is monitoring, of any new case developments.

Each Chief Deputy Secretary shall be responsible for the following:

- Participating in Executive Review, as necessary;
- Coordinating with the CAIG and the AGC on matters referred for Executive Review;
- Elevating high-profile cases to the Secretary and Undersecretary, as necessary.

The Chief Information Officer and General Counsel and each Assistant Secretary, Executive Officer, Director, Deputy Director, and Associate Director shall be responsible for the following:

- Facilitating and participating in Executive Review, as necessary;
- Coordinating with the CAIG and the AGC on matters referred for Executive Review;
- Coordinating with and informing the appropriate Chief Deputy Secretary, Undersecretary, or Secretary regarding high-profile cases being monitored by the BIR and especially for cases where there is significant disagreement regarding a penalty level and/or settlement agreement;
- Approving requests for Administrative Time Off (ATO);
- Elevating cases to the appropriate Chief Deputy Secretary, Undersecretary, and Secretary, as necessary.

### 33030.5.3 Supervisors and Managers

Each supervisor and manager shall be responsible for the following:

- Supervising the performance, behavior, and conduct of subordinate staff and imposing corrective action as necessary;
- Filing documentation related to corrective action in the employee's supervisory file;
- Reviewing the employee's supervisory file for documentation of any corrective actions for similar misconduct occurring within one (1) year, prior to the imposition of corrective or adverse action;
- Referring alleged misconduct and requests for investigation or adverse action to the Hiring Authority immediately following discovery of facts which may constitute misconduct;
- Serving as a *Skelly* Officer, as necessary.

### 33030.5.4 ERO/Disciplinary Officer

The ERO/Disciplinary Officer shall be responsible for the following:

- Monitoring and coordinating the adverse action processes;
- Drafting Notices of Adverse Action, in consultation with the Vertical Advocate for all non-designated cases;
- Arranging for proper service and review of adverse action documentation;
- Providing a copy of the declaration of service and serving all adverse actions to affected employees;
- Assisting the Vertical Advocates in hearing preparation for designated cases, including service of subpoenas on witnesses;
- Scheduling and attending *Skelly* Hearings and assisting the *Skelly* Officer with administrative duties as requested;
- Representing the Hiring Authority in all non-designated cases and supporting the Vertical Advocate in all designated cases before the State Personnel Board (SPB);
- Coordinating with the Hiring Authority, Vertical Advocate, SPB representatives, affected employees and employee representatives, and other individuals and entities as appropriate;
- Maintaining an accurate log of all formal discipline served and providing copies of the log and all documents relevant to pending actions quarterly to the Office of Personnel Services Employee Discipline Unit;
- Maintaining an accurate log of all contacts by employees at the worksites (for which the ERO/Disciplinary Officer is responsible) regarding contacts about potential testimony and subpoenas the employee has received;
- Retaining adverse action documentation, including CDCR Form 403, in the Adverse Action File.

### 33030.5.5 Vertical Advocate

The Vertical Advocate shall be responsible for the following:

- Monitoring and coordinating the adverse action process for all designated cases, from the onset of an investigation;
- Calculating statute of limitations expiration dates;

- Consulting with and advising the Hiring Authority and ERO/Disciplinary Officer on all cases, as requested by the Hiring Authority;
- Providing legal consultation for all designated cases to the assigned investigator, including developing the investigative plan, preparation of investigative interviews, and attending investigative interviews as appropriate to assess witness demeanor and credibility;
- Providing legal consultation to the Hiring Authority on all designated cases and coordinating with the SAIG, for cases the BIR is monitoring, regarding application of the Disciplinary Matrix to determine the appropriate penalty;
- Drafting Notices of Adverse Action (in consultation with the ERO/Disciplinary Officer and the SAIG) for all designated cases;
- Participating in Executive Review, as necessary;
- Attending *Skelly* Hearings for all designated cases;
- Representing the Department for designated cases in disciplinary matters before the SPB;
- Drafting settlement agreements for all designated cases;
- Assisting the Hiring Authority and ERO/Disciplinary Officer in drafting settlement agreements and reviewing the form and substance of each proposed settlement agreement drafted by the Hiring Authority and/or the ERO/Disciplinary Officer, prior to the Hiring Authority entering into any settlement;
- Coordinating with the SAIG, for cases the BIR is monitoring, at each step of the investigative and disciplinary process;
- Coordinating with the Hiring Authority, SPB representatives, and other individuals and entities as appropriate;
- Maintaining accurate records of assignments and documenting in the legal database all communications with the Hiring Authority and SAIG regarding disciplinary penalties; the *Skelly* Hearing; the *Skelly* Officer's recommendation; the outcome of Executive Review; settlement agreements; SPB Hearings; and any appellate proceedings;
- Documenting in the legal page of the CMS all communications with the investigator, Hiring Authority, and SAIG regarding investigative reports and investigative findings.

### 33030.5.6 Office of Personnel Services, Human Resources

Personnel Services staff and/or local personnel staff shall be responsible for the following:

- Processing adverse actions as indicated by the Hiring Authority on the Notice of Adverse Action;
- Filing and retaining Final Notices of Adverse Action in employee official personnel files for three (3) years unless the retention period is reduced by the Hiring Authority after the *Skelly* Hearing or otherwise agreed to by stipulated settlement.

Office of Personnel Services, Employee Discipline Unit, staff shall be responsible for the following:

- Collecting and maintaining the official departmental copies of all adverse action documents separate and apart from those held in the Official Personnel files;
- Maintaining statistical information and generating reports on adverse actions using the Case Management System;
- Drafting adverse actions and representing the Department before the SPB for non-designated cases emanating from the Headquarters Offices and Divisions, Juvenile Justice Divisions, and all Parole Regional Offices.

### 33030.6 Managerial Employees

Supervisors or managers appointed after January 1, 1984, as a designated managerial employee, but who are not in a career executive category, are subject to the provisions in Government Code section 3513 et seq. (Ralph C. Dills Act). The managerial employee may be disciplined for any cause except for a cause constituting prohibited discrimination as found in Government Code sections 19700 through 19703.

### 33030.7 Peace Officer Procedural Bill of Rights

All employees designated by the Penal Code as peace officers, both probationary and permanent, are fully guaranteed their Peace Officer Procedural Bill of Rights (Government Code sections 3300 through 3311) during any adverse action procedure, including related interviews and investigations.

### 33030.8 Causes for Corrective Action

Not all inappropriate behavior will require the imposition of disciplinary action. In some cases, corrective action and documentation may be more appropriate and must generally be issued within thirty (30) calendar days of discovering inappropriate behavior or poor performance. [For use of force incidents, Letters of Instruction must generally be issued within thirty (30) days from when the Institution Executive Review Committee concludes its review of the incident.] The purpose of corrective action is to help an employee change problem behavior or performance before discipline is necessary and may be imposed for any employee conduct or performance that is correctable by means of counseling and/or training (up to and including a Letter of Instruction). Corrective action may precede adverse action or an adverse action penalty may include corrective action. For peace officers covered by the Bargaining Unit 6 Agreement, behaviors that resulted in corrective action may not be used as cause for adverse action but may be cited in an adverse action for subsequent violations to prove the employee knew about a statute, regulation, or procedure or to prove that the employee has engaged in a pattern of violating a statute, regulation, or procedure within the past year. Corrective actions may also be used to rebut the employee's claim that he/she did not know about a statute, regulation, or procedure and/or expectation.

#### 33030.8.1 Types of Corrective Action

##### 33030.8.1.1 In-Service Training (IST)

When IST is ordered, the supervisor or manager shall complete section one of the memorandum form "Order for Formal IST or Documentation of OJT." Orders for IST shall direct the employee to report to the IST Training Manager, Assistant IST Training Manager, or other departmental training officer for completion of specific IST by a specified date. When formal training is ordered, the employee is responsible to report to the appropriate Training Manager and complete the training prior to the due date set for the completion of the training. Orders for formal IST and completed IST documentation shall be filed in the employee's supervisory file.

##### 33030.8.1.2 On the Job Training (OJT)

When OJT is ordered, the supervisor shall complete section two of the memorandum form "Order for Formal IST or Documentation of OJT" and shall complete the CDCR Form 844, Training Participation Sign-In Sheet. The employee shall be given the opportunity to sign the CDCR Form 844 to indicate his or her participation in discussion and acknowledge receiving and understanding the training provided. Orders for OJT and completed OJT documentation shall be filed in the employee's supervisory file.

##### 33030.8.1.3 Employee Counseling Record

The supervisor or manager shall meet with the employee and discuss his or her conduct or performance level and complete a CDC Form 1123, Employee Counseling Record. In the Action Plan section of the CDC Form 1123, the supervisor or manager shall indicate any training the supervisor or manager has provided to the employee or indicate training directed to the employee to attend, specifying the training the employee is required to complete and the length of time the employee is allowed to complete the training. The employee shall be given the opportunity to sign for a copy of the CDC Form 1123. Follow-up discussions with employees who receive a CDC Form 1123 shall occur and shall be documented and placed in the employee's supervisory file. The CDC Form 1123 shall be filed in the employee's supervisory file.

##### 33030.8.1.4 Letters of Instruction

An LOI may not deprive employees of pay or benefits (e.g., removal from a position, loss of differential pay). The LOI shall be prepared on a memorandum and shall (1) state the expected performance standards to be met; (2) provide a plan to meet expected performance; and (3) indicate time frames to meet the expectation. The memorandum shall be as follows:

- Entitled "Letter of Instruction;"
- Clearly addressed to employee;
- Clearly state the nature and circumstances of the problem;
- Cite previous discussions with employee;
- Include an explanation of why the employee's conduct is considered inappropriate, and what conduct would have been appropriate;
- Clearly state exactly what standards of performance are expected from the employee;
- Include results of face-to-face discussion;
- Develop a plan and set a date, not to exceed one year, by which the employee is to meet the expected performance.

The LOI shall be signed by the supervisor and presented to the employee for his/her signature. A copy of the signed LOI shall be provided to the employee. The Hiring Authority shall sign the space "Approved for Placement in

Personnel File." A copy of the LOI shall be forwarded to the ERO/Disciplinary Officer and to the local personnel office for placement in the employee's official personnel file and the employee's supervisory file.

Follow-up discussions with employees who receive an LOI shall occur and be documented and filed in the employee's supervisory file. [See *Otto v. Los Angeles Unified School District* (2001) 89 Cal. App. 4th 985]

#### 33030.8.2 Initiating Corrective Action

The responsible supervisor/manager shall review the employee's supervisory file for documentation of any prior corrective actions for similar misconduct occurring within the past one (1) year. The one-year period runs from the date of issuance of the corrective action (e.g., LOI). Corrective actions that are beyond the one-year period shall not be considered in this review. If prior corrective actions exist, supervisors/managers shall review each corrective action to determine if referral for adverse action is more appropriate than issuance of another corrective action.

#### 33030.8.3 Documentation Retention

- Orders for and documentation regarding completion of OJT and IST and CDC Form 1123 shall be retained in the employee supervisory file for one (1) year from date of issuance.
- LOIs shall be retained in the employee's personnel and supervisory files for one (1) year from the time management should reasonably have known of the incident resulting in the LOI or once all of the requirements in the LOI have been met, whichever is earlier.
- The Hiring Authority may set forth certain conditions of performance to be completed by the employee for a specified period of time prior to consideration of the early removal of the document.
- If an employee submits a rebuttal to an LOI, the rebuttal shall be retained with the LOI in the employee's personnel file or the supervisory file.

#### 33030.9 Causes for Adverse Action

Pursuant to Government Code section 19572, each of the following constitutes cause for discipline of an employee, or of a person whose name appears on any employment list:

- Fraud in securing appointment.
- Incompetency.
- Inefficiency.
- Inexcusable neglect of duty.
- Insubordination.
- Dishonesty.
- Drunkenness on duty.
- Intemperance.
- Addiction to the use of controlled substances.
- Inexcusable absence without leave.
- Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
- Immorality.
- Discourteous treatment of the public or other employees.
- Improper political activity.
- Willful disobedience.
- Misuse of state property.
- Violation of this part or of a board rule.
- Violation of the prohibitions set forth in accordance with section 19990.
- Refusal to take and subscribe any oath or affirmation that is required by law in connection with the employment.
- Other failure of good behavior either during or outside of duty hours, which is of such a nature that it causes discredit to the appointing authority or the person's employment.
- Any negligence, recklessness, or intentional act that results in the death of a patient of a state hospital serving the mentally disabled or the developmentally disabled.
- The use during duty hours, for training or target practice, of any material that is not authorized for that use by the appointing power.
- Unlawful discrimination, including harassment, on any basis listed in subdivision (a) of section 12940, as those bases are defined in sections 12926 and 12926.1, except as otherwise provided in section 12940,

against the public or other employees while acting in the capacity of a state employee.

- Unlawful retaliation against any other state officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of, the Attorney General or any other appropriate authority, any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related to the job.

### **33030.10 Employee Representation Rights**

Employees with permanent or probationary status (regardless of time base) are entitled to representation at all stages of the adverse action process. This representation may be provided by the exclusive representative (union) for rank-and-file employees. For all non-represented employees, a personal advisor, attorney, or another state employee may attend the interview that may lead to adverse action. This is appropriate during *Skelly* or appeal hearings related to the adverse action. Employees who are possible subjects or witnesses in the investigation are excluded as employee representatives.

#### **33030.10.1 Temporary Authorization (TAU) Appointments**

Employees with TAU appointment status are not necessarily entitled to have a representative present during an interview which is preparatory to a separation from the TAU appointment. However, if a proposed action against an employee in this status is attributable to a specific incident that would have resulted in an adverse action, investigatory interviews shall be handled like adverse action cases and employee representation shall be allowed.

#### **33030.10.2 State Time**

Use of state time is restricted and shall be approved by the affected employee's supervisor.

- Absent an emergency, employees may request and shall be allowed reasonable state time by the supervisor to contact/secure a representative and to discuss the matter prior to any meeting/interview regarding an adverse action.
- The employee shall also be allowed reasonable state time to prepare for the interview/meeting with the representative.
- Job stewards shall be allowed reasonable time for the purpose of representing employees during working hours without loss of compensation. No other employee representative shall be allowed to confer with employees on state time.

### **33030.11 EAPT Processing of Cases**

The AGC, or designee, shall assign designated cases to a Vertical Advocate immediately following the case being accepted for investigation by Central Intake. The AGC shall document the case assignment in the Case Management System (CMS) and the ProLaw Database (legal database). Following assignment by the AGC, the Vertical Advocate shall be responsible for the continual update of the CMS legal page until transfer of the investigation to the Hiring Authority. Upon transfer of the investigation to the Hiring Authority, the Vertical Advocate shall ensure that the case is entered into the legal database and shall be responsible for continual update in that database until closure of the case. The legal database shall cross-reference the investigation number in order to track the case through the CMS and the legal database.

As soon as operationally feasible, but no later than twenty-one (21) calendar days after the assignment of a case, the Vertical Advocate shall contact the assigned investigator for designated cases and the assigned SAIG, for cases the BIR is monitoring, to discuss the elements of a thorough investigation of the alleged misconduct. All contacts with the assigned investigator and the SAIG shall be documented by the Vertical Advocate on the CMS legal page or in the legal database.

### **33030.12 Statute of Limitations**

As soon as operationally possible, but no later than twenty-one (21) calendar days following assignment of a case, the Vertical Advocate shall confirm in the CMS the date of the reported incident, the date of discovery, the statute of limitations expiration date, and any exceptions to the statute of limitations known at that time. The Vertical Advocate shall consult with the assigned investigator and the SAIG, for cases being monitored by the BIR, if the deadline for filing the adverse action should be modified. The factors to consider in making an assessment of timeliness are as follows:

#### **33030.12.1 Peace Officers**

According to Government Code section 3304 (d), the following applies:

*Except as provided in this subdivision and subdivision (g), no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken for any act, omission, or other allegation of misconduct if the investigation of the allegation is not completed within one year of the public agency's discovery*

*by a person authorized to initiate an investigation of the allegation of an act, omission, or other misconduct. This one-year limitation period shall apply only if the act, omission, or other misconduct occurred on or after January 1, 1998. In the event that the public agency determines that discipline may be taken, it shall complete its investigation and notify the public safety officer of its proposed disciplinary action within that year, except in any of the following circumstances:*

- *If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year time period.*
- *If the public safety officer waives the one-year time period in writing, the time period shall be tolled for the period of time specified in the written waiver.*
- *If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.*
- *If the investigation involves more than one employee and requires a reasonable extension.*
- *If the investigation involves an employee who is incapacitated or otherwise unavailable.*
- *If the investigation involves a matter in civil litigation where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.*
- *If the investigation involves a matter in criminal litigation where the complainant is a criminal defendant, the one-year time period shall be tolled during the period of that defendant's criminal investigation and prosecution.*
- *If the investigation involves an allegation of workers' compensation fraud on the part of the public safety officer.*

Government Code section 3304 (g) states the following:

- *Notwithstanding the one-year time period specified in subdivision (d), an investigation may be reopened against a public safety officer if both of the following circumstances exist:*
  - *Significant new evidence has been discovered that is likely to affect the outcome of the investigation.*
  - *One of the following conditions exist:*
    - *The evidence could not reasonably have been discovered in the normal course of investigation without resorting to extraordinary measures by the agency.*
    - *The evidence resulted from the public safety officer's predisciplinary response or procedure.*

### **33030.12.2 Non-Peace Officer Employees**

According to Government Code section 19635, the following applies:

*No adverse action shall be valid against any state employee for any cause for discipline based on any civil service law of this state, unless notice of the adverse action is served within three years after the cause for discipline, upon which the notice is based, first arose. Adverse action based on fraud, embezzlement, or the falsification of records shall be valid, if notice of the adverse action is served within three years after the discovery of the fraud, embezzlement, or falsification.*

### **33030.13 Investigation Review**

Upon completion of the investigative report for designated cases, the investigator shall provide a copy of the investigative report and all supporting documentation to the Vertical Advocate, for designated cases, and the SAIG, for cases monitored by the BIR, for review. As soon as operationally possible, but no more than twenty-one (21) calendar days following receipt of the investigative report, the Vertical Advocate shall review the investigative report and supporting documentation and provide feedback to the assigned investigator. This feedback shall address the thoroughness and clarity of the report, shall provide recommendations regarding any Peace Officer Bill of Rights or union contract issues, and shall recommend additional investigation that may be necessary to complete the investigative report. The Vertical Advocate shall provide a written confirmation of these discussions (i.e. memorandum or e-mail) to the investigator, with a copy to the Hiring Authority and SAIG. The investigator shall forward a copy of the written confirmation of these discussions to his/her OIA case supervisor. The Vertical Advocate shall document all related communications in the legal page of the CMS.

Following completion of the review process above, the investigator shall provide the investigative report to the Hiring Authority. As soon as operationally possible, but no more than fourteen (14) calendar days following

receipt of the final investigative report, the Hiring Authority shall review the investigative report and supporting documentation. The Hiring Authority shall consult with the Vertical Advocate, for all designated cases, and the SAIG, for all cases monitored by the BIR when reviewing the investigation and making investigative findings. The following shall be considered:

- Whether the investigation is sufficient;
- Whether the allegation(s) in the investigation are founded or not;
- Whether corrective or disciplinary action is supported by the facts;
- If disciplinary action is supported by the facts, what penalty is appropriate within the parameters of the Disciplinary Matrix;
- What causes for discipline under Government Code section 19572 are supported by the factual findings;
- What recommendations are made by the SAIG, for cases the BIR is monitoring.

The Vertical Advocate shall document all related communications in the legal page of the CMS including, specifically, his/her recommendations to the Hiring Authority regarding the investigative findings.

For investigations that are sufficient, the Hiring Authority shall indicate the findings on CDCR Form 402 for each allegation and shall indicate whether corrective or disciplinary action shall follow. The CDCR Form 402 shall be forwarded to the ERO/Disciplinary Officer. The ERO/Disciplinary Officer shall (1) record the findings in the CMS database, and either (2) initiate corrective or disciplinary action as directed by the Hiring Authority, for non-designated cases or (3) forward a copy of the CDCR Form 402 to the Vertical Advocate, for designated cases, to initiate disciplinary action. If there is significant disagreement regarding investigative findings on a designated case or a case monitored by the BIR, the CDCR Form 402 shall not be completed until Executive Review has concluded (Refer to section 33030.14 "Executive Review.")

For investigations that are insufficient, the Hiring Authority shall document requests for additional investigation on the CDCR Form 402 and shall forward the CDCR Form 402 to the ERO/Disciplinary Officer. The ERO/Disciplinary Officer shall retain the original CDCR Form 402 in the Adverse Action file and shall forward a copy of the CDCR Form 402 to the assigned investigator; the Central Intake Unit; the appropriate OIA regional office; the Vertical Advocate for designated cases; and SAIG for cases monitored by the BIR. The investigator shall provide to the Hiring Authority the requested information or complete additional investigations as soon as operationally possible.

#### **33030.13.1 Investigative Findings**

The findings of each allegation shall be determined by the Hiring Authority in consultation with the Vertical Advocate for designated cases and the SAIG for cases the BIR is monitoring. The findings and their explanations are as follows:

- **NO FINDING:** The complainant failed to disclose promised information to further the investigation; the investigation revealed that another agency was involved and the complainant has been referred to that agency; the complainant wishes to withdraw the complaint; the complainant refuses to cooperate with the investigation; or the complainant is no longer available for clarification of facts/issues.
- **NOT SUSTAINED:** The investigation failed to disclose a preponderance of evidence to prove or disprove the allegation made in the complaint.
- **UNFOUNDED:** The investigation conclusively proved that the act(s) alleged did not occur, or the act(s) may have, or in fact, occurred but the individual employee(s) named in the complaint(s) was not involved.
- **EXONERATED:** The facts, which provided the basis for the complaint or allegation, did in fact occur; however, the investigation revealed that the actions were justified, lawful, and proper.
- **SUSTAINED:** The investigation disclosed a preponderance of evidence to prove the allegation(s) made in the complaint.

#### **33030.13.2 Investigative Closure Memorandum**

Upon conclusion of each internal affairs investigation, the ERO/Disciplinary Officer shall transmit an "Internal Affairs Investigation Closure" memorandum to each subject of an investigation. The closure memorandum shall be signed by the Hiring Authority, shall outline the findings for each specific allegation, and shall be transmitted after the Hiring Authority completes CDCR Form 402 and prior to the imposition of disciplinary action. The ERO/Disciplinary Officer shall forward the original closure memorandum to the subject of the investigation, forward copies to the Vertical Advocate for designated cases and the SAIG for cases monitored by the BIR, and shall retain a copy of the closure memorandum in the Adverse Action file.

#### **33030.14 Executive Review**

The purpose of Executive Review is to resolve significant disagreements between stakeholders about investigative findings, imposition of a penalty, or settlement agreements. Executive Review may be requested by the Hiring Authority, Vertical Advocate, AGC, SAIG, or CAIG and may be in person or via teleconference. Participants shall include, but are not limited to the following: the Hiring Authority; the Hiring Authority's supervisor, or designee; the AGC, or designee; and the CAIG, or designee.

In all cases, Executive Review shall be concluded prior to the statute of limitations expiration date. When Executive Review is initiated, completion of the CDCR Forms 402 or 403, service of the Final Notice of Adverse Action or *Skelly* Letter, and/or approval of the settlement agreement shall be delayed until the Executive Review is concluded and a determination has been made regarding investigative findings, imposition of a penalty, or details of the settlement agreement. If Executive Review is requested, the Hiring Authority shall immediately forward the CDCR Forms 402 and 403 (as applicable), the investigative report (if an investigation was conducted), and the proposed settlement agreement (if applicable) to his/her supervisor; the AGC; and the CAIG. The Hiring Authority's supervisor, or designee, shall schedule the Executive Review and shall notify the appropriate Chief Deputy Secretary, as necessary, following each Executive Review and provide all requested information. If a decision cannot be reached through Executive Review, the Hiring Authority's supervisor shall immediately elevate the matter to the appropriate Chief Deputy Secretary or higher for resolution.

#### **33030.15 Types of Adverse Action Penalties**

The five types of penalties for adverse actions are as follows:

##### **33030.15.1 Letter of Reprimand**

A letter of reprimand is the lowest level of penalty in the adverse action process and may be used when an action greater than corrective action is necessary. A letter of reprimand shall be retained as an official part of the employee's personnel record.

##### **33030.15.2 Salary Reduction within the Salary Range of the Class**

A salary reduction may be one (1) or more salary steps down to the minimum salary of the employee's class and is usually utilized in place of a suspension of an employee whose continued service on the job is necessary.

##### **33030.15.3 Suspension without Pay**

Suspension shall be specified in working days and may incur a penalty level from one (1) work day to several pay periods. The suspension is considered a temporary separation during which the employee does not work and salary is docked for the specified period of time. Any holiday falling within the time period is not counted as a working day. An employee's service credits and health benefits may be affected, depending upon the length of the suspension.

If Work Week Group E or SE employee receives a suspension penalty, it shall not be for a period of less than five (5) working days, unless the union contract provides otherwise.

##### **33030.15.4 Demotion to a Lower Class**

Demotions shall occur when continued service is of value, but the employee is not working at the expected level of the classification. A demotion shall be imposed only when the employee qualifies for and can be expected to do a satisfactory job at the lower level. Demotion may be to any salary in the next lower class that does not exceed the salary the employee last received; however, it is possible to demote to any lower class, within the promotional chain, at a lower than maximum salary. The Notice of Adverse Action must contain the exact salary for each class. A demotion may be permanent or temporary. If temporary, the employee automatically returns to the higher class on the date specified and at the salary step determined by the Hiring Authority. If permanent, the employee can compete for a promotion at a later date.

##### **33030.15.5 Dismissal from State Service**

Dismissal is appropriate for exceptionally serious misconduct, misconduct that is not correctible through discipline, or misconduct which immediately renders the individual unsuitable for continued employment. Dismissal may or may not be preceded by other forms of adverse action (i.e. progressive discipline). (See CCR, title 2, section 211 for additional information.)



**33030.16 Employee Disciplinary Matrix Penalty Levels**

<b>1</b> Official Reprimand	<b>4</b> Salary Reduction 10% for 3-12 months <b>or</b> Suspension w/o pay for 6-24 work days	<b>7</b> Suspension w/o pay for 49-60 work days
<b>2</b> Suspension w/o pay for 1-2 work days	<b>5</b> Salary Reduction 5% for 13-36 months <b>or</b> Suspension w/o pay for 13-36 work days	<b>8</b> Demotion to a lower class
<b>3</b> Salary Reduction 5% for 3-12 months <b>or</b> Suspension w/o pay for 3-12 work days	<b>6</b> Salary Reduction 10% for 13-24 months <b>or</b> Suspension w/o pay for 26-48 work days	<b>9</b> Dismissal

Work Week Group E and SE employees shall not receive a suspension of less than five (5) work days, unless the union contract provides otherwise.

**33030.17 Applying the Employee Disciplinary Matrix**

Sufficient evidence establishing a preponderance is necessary before any disciplinary action can be taken. The Employee Disciplinary Matrix shall be the foundation for all disciplinary action considered and imposed by the Department and shall be utilized by the Hiring Authority to determine the penalty to impose for misconduct. No favor shall be afforded simply because of an employee's rank, and managers, supervisors, and sworn staff may be held to a higher standard of conduct. Off duty misconduct for non-sworn staff requires a nexus between the employee's behavior and the employment.

The Employee Disciplinary Matrix is based on the assumption that there is a single misdeed at issue and that the misdeed is the employee's first adverse action. The Matrix provides a base penalty within a penalty range. The base penalty (represented with bold and underlined text) shall represent the starting point for an action. The Hiring Authority shall impose the base penalty unless aggravating or mitigating factors are found. The Hiring Authority or designee is not required to impose an identical penalty in each case because there are a variety of factors which may influence the Hiring Authority to take stronger action in one case than it does in another. The appropriate level of penalty within the specified range shall be based on the extent to which the employee's conduct resulted in or, if repeated, is likely to result in harm to public service; the circumstances surrounding the misconduct; and the likelihood of recurrence.

A single misdeed may result in several different violations of the Government Code. It is the nature of the misconduct and aggravating or mitigating factors, as discussed below, which determine the final penalty included in the Notice of Adverse Action and not the number of Government Code sections cited in the Notice of Adverse Action.

Multiple acts of misconduct may occur during a continuing event, contiguous or related events, or may be entirely independent of each other. When multiple acts of misconduct occur, the Employee Disciplinary Matrix shall be used to determine which single act warrants the highest penalty. The penalty range for the most severe charge shall be utilized, and other acts of misconduct are considered as aggravating circumstances that may increase the penalty up to and including dismissal.

**33030.18 Mitigating and Aggravating Factors**

Aggravating and mitigating factors shall be considered and may increase or decrease the penalty within the penalty range. Aggravating or mitigating factors may not pertain directly to the circumstances of the misconduct but shall be relevant. Rarely will mitigating circumstances exonerate employees; however, mitigating circumstances may be used to reduce the penalty that might otherwise be imposed. Aggravating circumstances may increase a penalty to dismissal, for misconduct where dismissal is not included in the penalty range. Mitigating circumstances may decrease a penalty to corrective action for misconduct only when penalty level number 1 (Letter of Reprimand) is the expected penalty within the penalty range.

The following mitigating factors shall be considered when determining a penalty:

- The misconduct was unintentional and not willful;
- The misconduct was not premeditated;
- The employee had a secondary and/or minor role in the misconduct;
- Based upon length of service, experience, policy directives, and the inherent nature of the act, the employee may not have reasonably understood the consequences of his/her actions;
- Commendations received by the employee;
- The employee was forthright and truthful during the investigation;
- The employee accepts responsibility for his/her actions;
- The employee is remorseful;
- The employee reported the harm caused and/or independently initiated steps to mitigate the harm caused in a timely manner.

The following aggravating factors shall be considered when determining a penalty:

- The misconduct was intentional and willful;
- The misconduct was premeditated;
- The employee had a primary and/or leadership role in the misconduct;
- Based upon length of service, experience, policy directives, inherent nature of the act, the employee knew or should have known that his/her actions were inappropriate;
- Serious consequences occurred or may have occurred from the misconduct;
- The misconduct was committed with malicious intent or for personal gain;
- The misconduct resulted in serious injury;
- More than one act of misconduct forms the basis for the disciplinary action being taken;
- The employee was evasive, dishonest, or intentionally misleading during the investigation;
- The employee does not accept responsibility for his/her actions;
- The employee did not report the harm caused and/or attempted to conceal the harm through action or inaction;
- The employee has sustained other related adverse action(s).

**33030.19 Employee Disciplinary Matrix**

The following list of charges and causes for disciplinary action is representative only and is not all inclusive.

<b>The base penalty is bolded and underlined.</b>	
<b>A. ATTENDANCE</b>	<b>PENALTY</b>
1) Excessive tardiness. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty)	<u>1</u> 2 3
2) Unauthorized absence. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 j, Inexcusable Absence without Leave)	<u>1</u> 2 3
3) Abuse of sick leave. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 f, Dishonesty)	<u>1</u> 2 3
<b>B. CODE OF SILENCE OR RETALIATION</b>	<b>PENALTY</b>
1) Intentional failure to report misconduct by another employee. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 o, Willful disobedience) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 <u>5</u> 6 7 8 9
2) Intimidation, threats, or coercion that could interfere with an employee's right to report misconduct or an act of retaliation for reporting misconduct. (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior) (Gov. Code § 19572 x, Retaliation)	4 5 <u>6</u> 7 8 9
3) Making false or intentionally misleading statements during a criminal or administrative investigation or inquiry by any agency. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 o, Willful disobedience) (Gov. Code § 19572 t, Other Failure of Good Behavior)	7 8 <u>9</u>
4) Any independent act(s) which prevents or interferes with the reporting of misconduct. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 o, Willful disobedience) (Gov. Code § 19572 t, Other Failure of Good Behavior)	7 8 <u>9</u>
5) Any involvement in a coordinated effort with other employees to prohibit the reporting of misconduct. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 o, Willful disobedience) (Gov. Code § 19572 t, Other Failure of Good Behavior)	7 8 <u>9</u>
<b>C. CONTROLLED SUBSTANCES</b>	<b>PENALTY</b>
1) Use or possession of controlled substances on or off duty, unless medically prescribed. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 i, Addiction to the Use of a Controlled Substance) (Gov. Code § 19572 r, Violation of Gov. Code § 19990) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 5 6 7 8 <u>9</u>
2) Sale of illegal drugs or narcotics. (Gov. Code § 19572 i, Addiction to the Use of a Controlled Substance) (Gov. Code § 19572 r, Violation of Gov. Code § 19990) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<u>9</u>

<b>D. CONDUCT or INEFFICIENCY</b>	<b>PENALTY</b>
1) Discourtesy toward inmates, other employees, or the public. (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<u>1</u> 2 3
2) Endangering self, fellow employees, inmates, or the public by violation of Departmental training, laws, or ordinances. (Gov. Code § 19572 b, Incompetency) (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 <u>2</u> 3
3) Leaving assigned post without supervisor approval. (Gov. Code § 19572 b, Incompetency) (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 t, Other Failure of Good Behavior) (Gov. Code § 19572 u, Negligence)	1 <u>2</u> 3
4) Distraction from duty. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 o, Willful disobedience) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<u>1</u> 2 3
5) Participating in illegal gambling on duty. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 <u>2</u> 3
6) Unauthorized use of position in the Department, uniform, or equipment on behalf of a political candidate or issue. (Gov. Code § 19572 n, Improper Political Activity) (Gov. Code § 19572 r, Violation of Gov. Code § 19990) (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 <u>2</u> 3
7) Inappropriate involvement in a law enforcement matter. (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 <u>2</u> 3
8) Improper access to confidential information. (Gov. Code § 19572 r, Violation of Gov. Code § 19990) (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 <u>2</u> 3 4
9) Improper transmittal of confidential information with malicious intent or for personal gain. (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 r, Violation of Gov. Code § 19990) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 5 6 <u>7</u> 8 9
10) Disruptive, offensive, or vulgar conduct which causes embarrassment to the Department. (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior)	2 <u>3</u> 4
11) Asleep while on duty. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 t, Other Failure of Good Behavior) (Gov. Code § 19572 u, Negligence)	2 <u>3</u> 4
12) Use or abuse of over-the-counter or prescription drugs while on duty which impairs an employee's ability to discharge his/her duties. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<u>3</u> 4 5 6
13) Intimidation, threats, or assault (without the intent to inflict serious injury) toward a member of the Department. (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior) (Gov. Code § 19572 w, Discrimination) (Gov. Code § 19572 x, Retaliation)	3 <u>4</u> 5 6
14) Battery against a member of the Department with the intent to inflict injury. (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior) (Gov. Code § 19572 w, Discrimination) (Gov. Code § 19572 x, Retaliation)	7 8 <u>9</u>

<b>D. CONDUCT or INEFFICIENCY (CONTINUED)</b>	<b>PENALTY</b>
<b>15) Making insults to anyone pertaining to race, color, national origin, ancestry, sex (i.e., gender), religion, marital status, age, disability, medical condition, pregnancy, sexual orientation, veteran status, or political affiliation.</b> (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior) (Gov. Code § 19572 w, Discrimination)	<b>3 <u>4</u> 5 6</b>
<b>16) Harassing anyone based upon race, color, national origin, ancestry, sex (i.e., gender), religion, marital status, age, disability, medical condition, pregnancy, sexual orientation, veteran status, or political affiliation.</b> (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior) (Gov. Code § 19572 w, Discrimination)	<b>4 5 <u>6</u> 7 8 9</b>
<b>17) Sexual misconduct involving staff, up to and including harassment.</b> (Gov. Code § 19572 k, Conviction of a Felony or a Misdemeanor Involving Moral Turpitude) (Gov. Code § 19572 l, Immorality) (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<b>4 5 <u>6</u> 7 8 9</b>
<b>18) Over-familiarity with an inmate(s)/parolee(s).</b> (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 l, Immorality) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<b>4 <u>5</u> 6 7 8 9</b>
<b>19) Sexual misconduct with an inmate(s)/parolee(s).</b> (Gov. Code § 19572 k, Conviction of a Felony or a Misdemeanor Involving Moral Turpitude) (Gov. Code § 19572 l, Immorality) (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<b><u>9</u></b>
<b>20) Solicitation of prostitution.</b> (Gov. Code § 19572 l, Immorality) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<b>6 <u>7</u> 8 9</b>
<b>21) Drunkenness on duty.</b> (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 g, Drunkenness on Duty) (Gov. Code § 19572 h, Intemperance) (Gov. Code § 19572 t, Other Failure of Good Behavior) CCR, title 15, §3410	<b>4 5 <u>6</u> 7 8 9</b>
<b>22) Use of identification or position in the Department to solicit a gratuity or privilege.</b> (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 r, Violation of Gov. Code § 19990) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<b>3 4 <u>5</u> 6 7</b>
<b>23) Operating the employee's personal vehicle, state vehicle, or state equipment for state business while under the influence of alcohol or illegal prescription drugs.</b> (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 g, Drunkenness on Duty) (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<b>4 5 6 7 8 <u>9</u></b>
<b>24) Bringing contraband into a security area for personal use.</b> (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<b>3 <u>4</u> 5 6</b>
<b>25) Bringing contraband into a security area for an inmate and/or for personal gain.</b> (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<b>7 8 <u>9</u></b>
<b>26) Failure to observe and perform within the scope of training.</b> (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<b>1 2 <u>3</u> 4 5 6</b>

<b>D. CONDUCT or INEFFICIENCY (CONTINUED)</b>	<b>PENALTY</b>
27) Intentional failure to intervene or attempt to stop misconduct by another employee. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 o, Willful disobedience) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 <u>5</u> 6 7 8 9
28) Felony criminal conviction. (Gov. Code § 19572 k, Conviction of a Felony or a Misdemeanor Involving Moral Turpitude) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<u>9</u>
<b>E. INTEGRITY</b>	<b>PENALTY</b>
1) Petty theft. (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 k, Conviction of a Felony or a Misdemeanor Involving Moral Turpitude) (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 t, Other Failure of Good Behavior)	3 - 6 Penalty shall be relative to value and circumstances.
2) Grand theft. (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 k, Conviction of a Felony or a Misdemeanor Involving Moral Turpitude) (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 t, Other Failure of Good Behavior)	7 - 9 Penalty shall be relative to value and circumstances.
3) Making false or intentionally misleading statements to a supervisor. (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 5 <u>6</u> 7 8 9
4) Making false or intentionally misleading statements to a public safety officer on or off duty. (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 5 6 7 8 <u>9</u>
5) Any form of cheating on a civil service examination, including but not limited to unauthorized possession, use, or distribution of examination material or participating in an examination for another person. (Gov. Code § 19572 a, Fraud in Securing Appointment) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 l, Immorality) (Gov. Code § 19572 t, Other Failure of Good Behavior)	6 7 8 <u>9</u>
6) Falsification of time records or financial record for fraudulent purposes. (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	6 7 8 <u>9</u>
7) Falsification or making intentionally misleading statements in official reports or records. (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	6 7 8 <u>9</u>
8) Falsification of application or omission of information for employment or promotion when it materially affects acceptance or rejection for employment or promotion. (Gov. Code § 19572 a, Fraud in Securing Appointment) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	6 7 8 <u>9</u>
9) Falsification, alteration, or planting of evidence. (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	6 7 8 <u>9</u>
10) False testimony under oath. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<u>9</u>
<b>F. FAILURE TO COMPLY</b>	<b>PENALTY</b>
1) Failure to report employment outside the Department. (Gov. Code § 19572 r, Violation of Gov. Code § 19990)	<u>1</u> 2 3
2) Failure to attend required training. (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 o, Willful disobedience)	<u>1</u> 2 3

<b>F. FAILURE TO COMPLY (CONTINUED)</b>	<b>PENALTY</b>
3) Accepting employment outside the Department which imposes a conflict of interest or having financial interest in any contract made by an employee in their official capacity or by any body or board of which the employee is a member. (Gov. Code § 1090) (Gov. Code § 19572 r, Violation of Gov. Code § 19990)	3 4 <u>5</u> 6
4) Failure to follow lawful instructions or refusal to act as lawfully directed by a supervisor or higher ranking official. (Gov. Code § 19572 b, Incompetency) (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 o, Willful disobedience)	3 4 <u>5</u> 6
5) Refusal to submit to or take any oath or affirmation required by law or ordinances. (Gov. Code § 19572 s, Refusal to Take an Oath)	<u>2</u>
6) Refusal to take a medical examination or to submit to chemical testing, as required by civil service rules, ordinances, or lawful order. (Gov. Code § 19572 e, Insubordination) (Gov. Code § 19572 o, Willful disobedience)	<u>2</u>
<b>G. MISUSE OF STATE EQUIPMENT or PROPERTY</b>	<b>PENALTY</b>
1) Unauthorized use of state telephones or photocopy equipment for personal use. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 r, Violation of Gov. Code § 19990) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<u>1</u> 2 3
2) Failure to carry required equipment. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<u>1</u> 2 3
3) Misuse or non-use of issued equipment. (Gov. Code § 19572 p, Misuse of State Property)	<u>1</u> 2 3
4) Misappropriation of state equipment, property, supplies, or funds. (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 – 9 Penalty shall be relative to value of misappropriation and circumstances..
<b>H. OFF DUTY INCIDENTS</b>	<b>PENALTY</b>
1) Failure to report off duty arrest to the Hiring Authority. (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 <u>2</u> 3
2) Drunk or disorderly conduct in public. (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 <u>2</u> 3
3) Off duty drunk driving. (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 <u>2</u> 3
4) Off duty drunk driving with collision. (Gov. Code § 19572 h, Intemperance) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 <u>5</u> 6
5) Carrying an unauthorized weapon off duty. (Gov. Code § 19572 t, Other Failure of Good Behavior)	3 4 <u>5</u> 6
6) Domestic violence. (Gov. Code § 19572 k, Conviction of a Felony or a Misdemeanor Involving Moral Turpitude) (Gov. Code § 19572 l, Immorality) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 5 <u>6</u> 7 8 9
7) Intimidation, threats, or assault of a private citizen without intent to inflict serious injury. (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior)	3 <u>4</u> 5 6
8) Battery of a private citizen with intent to commit injury. (Gov. Code § 19572 m, Discourteous Treatment of Public/Other Employees) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 5 <u>6</u> 7 8 9

<b>I. TRAFFIC RELATED INCIDENTS WHILE ON DUTY</b>	<b>PENALTY</b>
1) Dangerous or negligent driving. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 <u>2</u> 3
2) Dangerous or negligent driving with collision. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 t, Other Failure of Good Behavior)	3 4 <u>5</u> 6
3) Dangerous or negligent driving with collision and injuries. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 5 6 <u>7</u> 8
<b>J. USE of FORCE</b>	<b>PENALTY</b>
1) Unreasonable use of force. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	<u>1</u> 2 3
2) Significant unreasonable use of force likely to cause injury. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 <u>5</u> 6
3) Significant unreasonable use of force likely to cause serious injury. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	6 7 8 <u>9</u>
4) Employee's failure to report his/her own use of force. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	2 3 4 <u>5</u> 6
5) Employee's failure to report his/her own unreasonable use of force. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 5 6 7 8 <u>9</u>
6) Employee's failure to report use of force witnessed. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	2 3 4 <u>5</u> 6
7) Employee's failure to report unreasonable use of force witnessed. (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 f, Dishonesty) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 5 6 7 8 <u>9</u>
<b>K. WEAPONS – LETHAL &amp; LESS-LETHAL WHILE ON DUTY</b>	<b>PENALTY</b>
1) Misuse or non-use of available weapon(s). (Gov. Code § 19572 b, Incompetency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 v, Inappropriate Target Practice)	1 <u>2</u> 3
2) Careless handling of duty weapon(s) resulting in discharge of weapon(s). (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 t, Other Failure of Good Behavior)	1 <u>2</u> 3
3) Inappropriate display of weapon(s). (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 <u>5</u> 6
4) Gross negligence in handling of duty weapon(s). (Gov. Code § 19572 c, Inefficiency) (Gov. Code § 19572 d, Inexcusable Neglect of Duty) (Gov. Code § 19572 p, Misuse of State Property) (Gov. Code § 19572 t, Other Failure of Good Behavior)	4 5 6 <u>7</u> 8 9

### 33030.20 Imposition of Penalty and Consultation

After determining the investigative findings, or in cases where direct adverse action is taken without an investigation, the Hiring Authority shall consult with the Vertical Advocate, for all designated cases, and the SAIG, for all cases monitored by the BIR when determining a penalty. The following shall be considered:

- The seriousness of the misconduct;
- Harm or potential harm to the public service;
- The circumstances surrounding the misconduct;
- The likelihood of recurrence;
- Whether or not progressive discipline has been taken in the past;
- Other mitigating or aggravating circumstances.

The Hiring Authority shall justify and document each penalty on the CDCR Form 403. The completed CDCR Form 403 shall be signed by the Hiring Authority at least fourteen (14) calendar days before service of the Notice of Adverse Action and shall be forwarded to the ERO/Disciplinary Officer. The ERO/Disciplinary Officer shall retain the original CDCR Form 403 in the Adverse Action file and shall forward a copy to the Vertical Advocate for designated cases and to the SAIG for cases monitored by the BIR. For designated cases, the Vertical Advocate shall provide to the Hiring Authority, SAIG, and AGC a written confirmation (i.e. memorandum or e-mail) of penalty discussions with the SAIG. The Vertical Advocate shall also document all communications related to penalty imposition in the legal database.

For all cases for which the penalty is dismissal, the ERO/Disciplinary Officer or Vertical Advocate shall provide to the AGC and the Hiring Authority shall provide to his/her immediate supervisor the following: written notification (i.e. memorandum or e-mail) regarding the proposed penalty; a copy of the CDCR Form 403; and any other requested documentation. The Hiring Authority shall delay service of the Final Notice of Adverse Action for three (3) business days following transmittal of the written notification, so there is time for Executive Review to be requested. At this time, the AGC, or designee, shall make a determination whether the non-designated dismissal case will be assigned to a Vertical Advocate for prosecution before the SPB. This determination shall be based upon factors including the complexity of the case and whether the actual behavior prior to the investigation warrants a dismissal. The AGC shall notify the Vertical Advocate and the Hiring Authority of the case assignment and the reasons for the determination.

### 33030.21 Setting the Effective Date of the Action

After consulting with the employee's personnel/payroll office, the Hiring Authority shall determine the effective date(s) of the adverse action after allowance for the *Skelly* period [minimum of five (5) working days or twenty (20) calendar days for managers]. For cases the BIR is monitoring, the effective date shall be at least twenty-one (21) calendar days following the date of service of the Notice of Adverse Action. Consideration shall be given to the following:

- Suspensions shall be computed on a 24-hour work day basis, excluding legal holidays and regular days off. Holidays are not considered working days for suspension. There is no pay for a holiday occurring during a period of suspension. Holidays occurring during a period of suspension in effect increase the penalty by one day and such scheduling shall be avoided whenever possible. (Example: Four working days suspension for the period of July 1, \_\_, 0800 hours, through July 6, \_\_, 0759 hours; employee loses five (5) days pay).
- Time absent on suspension may delay the employee's next merit salary adjustment and may affect the earnings of vacation and sick leave credits (refer to DOM or a personnel specialist).
- In computing reductions in salary, the effective date of reduction shall coincide with the beginning of a pay period and amounts shall coincide with the existing salary range.
- Effective dates for all actions involving pay issues shall be coordinated with the employee's personnel/payroll office to avoid overpayment situations.
- The effective date of the adverse action may only be modified if the Hiring Authority serves to the affected employee a written amendment to the Notice of Adverse Action.

### 33030.22 Adverse Action Documentation

Adverse action documentation shall be completed, in all cases, prior to the statute of limitations expiration date. The Vertical Advocate shall monitor due dates and provide legal advice to the Hiring Authority and the

ERO/Disciplinary Officer for all cases. The Vertical Advocate shall draft the Notice of Adverse Action for all designated cases and shall forward a draft Notice of Adverse Action to the SAIG for cases monitored by the BIR. For all other cases, the Vertical Advocate shall consult with the ERO/Disciplinary Officer upon request regarding other Notices of Adverse Action drafted by the ERO/Disciplinary Officer.

When drafting a Notice of Adverse Action the ERO/Disciplinary Officer, in consultation with the Vertical Advocate, shall ensure the following:

- Each cause(s) for discipline supported by the facts is included.
- At least one Government Code section is cited as a cause for each act of misconduct.
- All the facts in support of the causes for discipline are included.
- All facts fall within the statute of limitations.
- All facts are alleged with sufficient specificity to meet the requirements of SPB Precedential Decision No. 91-04, In re: Korman.
- When required under the Bodiford Settlement, the employee was served with a Preliminary Notice of Adverse Action and all supporting documentation, at least 24- hours prior to service of the Notice of Adverse Action.
- If the subject employee is a peace officer, he or she is being served with the Notice of Adverse Action within thirty (30) calendar days of the decision to take disciplinary action.
- The employee's rights and entitlements are included, as follows:
  - *Skelly* Rights:
    - Notice of the proposed action.
    - Notice of the reasons for the proposed action in writing at least five (5) working days before the adverse action becomes effective [twenty (20) calendar days for managers].
    - A copy of the charges on which the action is based in sufficient detail for the employee to prepare a defense.
    - A copy of all materials upon which the action is based, including any documents, photographs, tape recordings, video tapes, complete investigative reports (e.g., reports and other materials that the Hiring Authority relied upon in forming the decision to take the action).
    - The right to respond to a manager who was not involved in the investigation of the action currently being taken against the employee.
    - The right to be represented when responding to the Hiring Authority imposing the discipline.
    - Right to appeal to the SPB.
- The notice includes other appropriate considerations, such as:
  - Training received;
  - Prior counseling received;
  - Prior discipline;
  - A statement that peace officers are held to a higher standard with regard to honesty and integrity and that his or her actions have not met this standard.

### 33030.23 Adverse Action Documentation - Summary of Adverse Action

The Summary of Adverse Action shall be completed for non-designated cases by the ERO/Disciplinary Officer as follows:

(a) Work History: A biographical summary of the employee's employment history:

- (1) Location and dates of assignment.
- (2) Prior adverse actions with causes and dates listed.
- (3) Special commendations (restricted to departmental commendations or commendations from other agencies). Do not include routine letters of thanks or routine training certificates of accomplishment.
- (4) Incident reports-commendable and censurable. (Include any current Letters of Instruction.)
- (A) Chronological Summary of the Investigation: Write the summary as briefly and concisely as possible. Supporting reports, documents, and complete statements should be included as exhibits and referenced in the chronological summary.

1. The summary shall be in chronological sequence based on the steps taken by the investigator beginning with receipt of the information that precipitated the investigation.



2. Briefly describe each act of misconduct that supports the allegation.
3. Obtain dates, times, and the names of supervisors conducting corrective interviews. Copies or corrective memorandums, incident reports, etc., shall be included as exhibits.

(B) Summary of Witnesses Statements: Prepare a list of witnesses as follows:

1. Include the witness' full name and, if the witness is a State employee, his/her civil service classification title.

2. Below each name, identify the facts of the case for which the witness shall testify.

3. Briefly summarize witness' statements in the sequence they were developed. The summary should contain all pertinent points contained in the statement.

(C) Attachments: All documents gathered during the investigation including signed statements, transcripts, vouchers, receipts, performance reports, incident reports, photographs, and CDC Form 602 (Inmate/Parolee Appeal Form).

### 33030.23.1 Documentation Format

Clerical support staff, under the supervision of the ERO/Disciplinary Officer, shall compile adverse action documentation as follows:

(a) Type the Preliminary Notice of Action on the departmental form memorandum.

(b) Type Notice of Adverse Action on Department letterhead as follows:

(1) The type of notice shall appear in capital letters and shall be centered four spaces below the letterhead.

(2) The employee's name, civil service classification, worksite name and location (including institution or parole region, if applicable) are typed in block style at the left-hand margin, four spaces below the title. A Confidential Department Employee Information Sheet shall be attached and contain current home address and social security number.

(3) Divide the body of the formal notice into sections indicated by Roman numerals as identified below:

(A) Statement of the Nature of the Adverse Action.

(B) Effective Date of This Adverse Action.

(C) Statement of Causes.

(D) Statement of Facts.

(E) Notice and Progressive Discipline.

(F) Statement as to Right to Answer and Appeal.

(G) Statement as to Right to Respond to Your Appointing Power.

(c) Include notations explaining the meaning of abbreviations used in supporting documentation and, in the signature block of the notice, the typed name, work location, business address and telephone number of the Hiring Authority.

### 33030.23.2 Declaration of Service

The ERO/Disciplinary Officer, or his/her assistant, shall be responsible for completion of Declaration of Service for the following documents provided to an employee either by mail or in person:

- Preliminary Notice of Adverse Action;
- Notice of Adverse Action;
- Notice of Automatic Resignation (AWOL separation);
- Response to resignation;
- Stipulation for resignation in lieu of adverse action;
- "Notice of Leave of Absence Pending Investigation (ATO)";
- Notice of Rejection During Probationary Period.

Notices of Adverse Action and Preliminary Notices of Adverse Action shall be sent via United States Postal Service (USPS) as registered mail with return receipt requested. Clerical support staff shall coordinate the adverse action documentation as follows:

1. Address an envelope to the employee's current home address and type in capital letters in the lower left corner of the envelope the words, "Return Receipt Requested."
2. Attach to each notice a bar-coded red Label 200 (available for registered mail from an USPS office). The label shall be placed above the delivery address and to the right of the return address (or to the left of the delivery address on parcels).
3. Type the information required on the PS Form 3811, Domestic Return Receipt, and affix the PS Form 3811 to the back of the sealed envelope/parcel. The name and address of the Hiring Authority is typed on the front in the space under "Return to."

4. When returned, the PS Form 3811 shall be filed with the copy of the Notice of Adverse Action or Preliminary Notice of Adverse Action.

### 33030.24 Skelly Hearing Process

All department employees shall be offered a *Skelly* Hearing prior to imposition of any adverse action, including disciplinary transfers, so the affected employee may respond to the charges contained in the Notice of Adverse Action. Employees waive his/her right to a *Skelly* Hearing by not formally requesting a *Skelly* Hearing.

#### 33030.24.1 Notice and Request for Skelly Hearing

Notice of the right to a *Skelly* Hearing prior to the effective date of the action shall be provided at least five (5) working days prior to the effective date of the action and twenty (20) calendar days for managers that are being disciplined (pursuant to Government Code section 19590). This period of time is known as the "*Skelly* Period." If any provision of the policy is inconsistent with a bargaining unit Memorandum of Understanding (MOU), the MOU prevails.

#### 33030.24.2 Skelly Hearing

The *Skelly* Hearing is attended by the following: *Skelly* Officer; affected employee; employee's representative if the employee requests a representative; the ERO/Disciplinary Officer, or other designee representing the Hiring Authority; the ERO/Disciplinary Officer's assistant or other person designated to take notes; the Vertical Advocate for all designated cases; and the SAIG for cases the BIR is monitoring.

The ERO/Disciplinary Officer shall coordinate all *Skelly* Hearings and shall ensure the comprehensive taking of minutes. The minutes from each *Skelly* Hearing shall remain in the ERO/Disciplinary Officer's file. Tape recordings of the *Skelly* Hearing shall not be permitted.

Affected employees who request a *Skelly* Hearing shall be notified of the identity of the *Skelly* Officer. The *Skelly* Officer shall review the Notice of Adverse Action or other charging document and all supporting materials prior to the *Skelly* Hearing. The *Skelly* Officer shall listen to and review the affected employee's side of the story and shall allow the affected employee the opportunity to present arguments that the adverse action should not be sustained or should be reduced in some way.

If an affected employee chooses to waive the right to a noninvolved manager acting as the *Skelly* Officer and requests that the Hiring Authority that took the action act as the *Skelly* Officer, the employee may do so within the *Skelly* period by signing a CDCR Form 3028, Waiver of Non-Involved *Skelly* Officer.

When reviewing the imposition of discipline, the *Skelly* Officer shall consider whether the action is as follows:

- Timely;
- Based on the proper statutory cause;
- Supported by the facts.

The affected employee shall be allowed representation during the *Skelly* Hearing. The affected employee and/or the employee's representative may present to the *Skelly* Officer either in writing or orally or both. The employee also may submit affidavits. However, the *Skelly* Officer has the right to restrict any oral presentation that is argumentative or repetitive.

The *Skelly* Hearing is not an evidentiary proceeding; therefore, the affected employee does not have the right to confront the Department's witnesses or call witnesses on the employee's behalf. The *Skelly* Officer may ask clarifying questions, as are appropriate. The *Skelly* Officer is not subject to examination by either the affected employee or the employee's representative, and is not required to provide any response to the information submitted by the affected employee or the employee's representative except to acknowledge receipt.

The Vertical Advocate, unless precluded by a scheduling conflict, shall attend the *Skelly* Hearing for all designated cases. During the *Skelly* Hearing, the Vertical Advocate shall observe the proceedings but not give legal advice to the *Skelly* Officer. The ERO/Disciplinary Officer shall be available to provide technical assistance to the *Skelly* Officer, if needed. The SAIG may also attend the *Skelly* Hearing for cases that the BIR is monitoring. The *Skelly* Officer shall remain objective and make an independent recommendation to the Hiring Authority. The Vertical Advocate shall remain available to participate in any settlement discussions as the department's representative. The Vertical Advocate shall consult with the SAIG present at the *Skelly* Hearing, and provide legal advice to the Hiring Authority regarding any new information and legal arguments that emanated from the *Skelly* process.

#### 33030.24.3 Skelly Officer's Recommendations

The affected employee shall not be informed of the *Skelly* Officer's recommendation to the Hiring Authority. The affected employee shall be advised at the *Skelly* Hearing that the final recommendation will not be

announced at the *Skelly* Hearing but shall be conveyed to the Hiring Authority. The *Skelly* Officer's recommendation shall be conveyed to the Hiring Authority as soon as possible but no more than two (2) business days following the *Skelly* Hearing.

The *Skelly* Officer may make one of the following recommendations to the Hiring Authority:

- The action should proceed without modification;
- The action should be amended, modified, or reduced;
- The action should be withdrawn in its entirety.

After the initial *Skelly* Hearing and before making one of the above recommendations, the *Skelly* Officer may also request one/both of the following from the Hiring Authority:

- A response from the Hiring Authority with regard to any issue raised by the employee;
- That additional investigation be conducted.

If the *Skelly* Officer makes a recommendation other than that the action proceed without modification, the *Skelly* Officer must clearly state in writing each mitigating or aggravating fact or factor that the *Skelly* Officer considered relevant to his/her decision. The *Skelly* Officer's recommendation should be based on the employee's/representative's presentation and response to the charges, and the Hiring Authority's response, if any.

The affected employee will be advised if the Hiring Authority undertakes further investigation at the request of the *Skelly* Officer. If the *Skelly* Officer requests a response from the Hiring Authority and/or additional investigation, the Hiring Authority shall make every effort to complete any further investigation and to respond to the *Skelly* Officer within five (5) business days. The *Skelly* Hearing will not be considered concluded until the response from the Hiring Authority and/or additional investigation is provided to the *Skelly* Officer. The effective date of the adverse action originally served shall not change unless the Hiring Authority serves a written amendment to the Notice of Adverse Action.

#### **33030.24.4 Settlement Discussions at the *Skelly* Hearing**

During the *Skelly* Hearing, the affected employee may discuss his/her willingness to accept some discipline or other action at a level different than that imposed by the Hiring Authority or may communicate his/her willingness to resolve the adverse action directly with the Hiring Authority. The *Skelly* Officer shall not discuss these matters with the affected employee. Instead, the *Skelly* Officer shall excuse him/herself or shall suggest that the affected employee, the employee's representative, and the Department's representative(s) privately discuss the possibility of settlement. These discussions shall not be used as evidence by either side if the matter does not end in settlement.

When a *Skelly* Hearing is suspended pending settlement negotiations, the parties should complete and sign the CDCR Form 3029, Suspension of *Skelly* Hearing. If discussions result in a settlement and the affected employee waives any right to appeal the matter further (including to the SPB and Superior Court), no further *Skelly* Hearing is required and the *Skelly* Officer's obligations are concluded. If the discussions do not result in settlement, the *Skelly* Officer shall return and complete the *Skelly* Hearing.

#### **33030.25 Hiring Authority's Final Decision Regarding Imposition of Penalty**

If the Hiring Authority proposes any post-*Skelly* penalty modification for a designated case, the Hiring Authority shall provide to the Vertical Advocate, SAIG, and AGC the following: (1) a written confirmation of penalty discussions (i.e. memorandum or e-mail) with the SAIG, including the Hiring Authority's proposed penalty modification and (2) a copy of the *Skelly* Officer's written recommendation. The Hiring Authority shall delay service of the *Skelly* Letter for three (3) business days following transmittal of the written notification, so there is time for Executive Review to be requested. The Vertical Advocate shall document all communications related to penalty imposition in the legal database.

For a post-*Skelly* action to completely withdraw any penalty or to modify any dismissal penalty, the Vertical Advocate shall provide to the AGC and the Hiring Authority shall provide to his/her immediate supervisor the following: written notification (i.e. memorandum or e-mail) regarding the proposed penalty; a copy of the CDCR Form 403; and any other requested documentation.

Unless further investigation is needed or Executive Review is requested, the *Skelly* Letter indicating the final decision of the Hiring Authority regarding disciplinary penalty shall be served to the affected employee within five (5) working days of the Hiring Authority's receipt of the *Skelly* Officer's recommendation.

#### **33030.26 Settlement Agreements**

The Hiring Authority or designee has the authority to settle all cases. However, prior to approving a settlement of a designated case the Hiring Authority shall consult with the assigned Vertical Advocate and the SAIG, for cases the BIR is monitoring, regarding both the form and substance of settlement agreements. If a settlement agreement is proposed during a hearing, the terms of the settlement shall be approved by the Hiring Authority, following consultation with the Vertical Advocate for designated cases and the SAIG for cases the BIR is monitoring. The Vertical Advocate also shall consult with and obtain approval from his/her EAPT supervisor to settle any case. If the Vertical Advocate has obtained pre-hearing approval of settlement parameters, and the proposed settlement is within those parameters, the Vertical Advocate does not need to contact a supervisor for settlement authority at the time of the hearing.

The Vertical Advocate shall draft settlement agreements for all designated cases and cases assigned by the AGC and shall assist the Hiring Authority and ERO/Disciplinary Officer with drafting settlement agreements when requested. Settlement agreements may also be prepared by the employee's representative, with the approval and assistance of the Vertical Advocate in designated cases. All settlement agreements signed by CDCR representatives shall include the relevant clauses set forth in section 33030.26.2 below and require signature approval of all parties concerned.

The Vertical Advocate shall have a proactive role during settlement negotiations, shall review each term of a proposed settlement, and shall be available to advise the Hiring Authority on the appropriateness of all settlement agreements. Terms that are contrary to accepted Department policies and procedures shall not be incorporated into any settlement agreement. The Vertical Advocate shall research the existence of any other pending cases that involve the appellant (e.g., workers' compensation claims, civil lawsuits, whistleblower protection actions) and shall recommend global settlement of any or all cases as appropriate. The Vertical Advocate shall document all communications related to settlement agreements/penalty imposition in the legal database.

If the Hiring Authority proposes a settlement agreement for a designated case, or a case the BIR is monitoring, that includes withdrawal of any penalty or modification of any dismissal, the Hiring Authority shall provide to the Vertical Advocate, his/her immediate supervisor, the AGC, and the SAIG the following: written notification (i.e. memorandum or e-mail) regarding the proposed settlement; a copy of the CDCR Form 403; a copy of the proposed settlement; and any other requested documentation. Approval of the settlement agreement by the Hiring Authority shall be delayed for three (3) business days following transmittal of the notification, so that there is time for Executive Review to occur.

#### **33030.26.1 Factors to Consider Prior to Agreeing to Settle**

When a Hiring Authority considers whether or not settlement is warranted, the following factors shall be considered:

- The gravity of the conduct that brought about disciplinary action;
- The risk of harm to the public service if such misconduct recurs;
- Whether any court orders or corrective action plans have an impact on the decision to settle the disciplinary action;
- Whether, in accordance with the principle of progressive discipline, the settlement continues to have the effect of preventing future misconduct;
- Whether mitigating factors or other evidence, including evidence of remorse, were already considered at the *Skelly* Hearing, or as part of the underlying investigation;
- The length of the State service of the employee;
- Whether or not the employee has a record of prior discipline;
- Whether conditions can be obtained through settlement (i.e., drug and alcohol testing and counseling, anger management counseling, etc.) that cannot be obtained solely through continued prosecution of the adverse action;
- Flaws and risks in the case (including evidentiary problems, problems with witness availability, questions of law, etc.) not considered or known at the time of the preparation of the adverse action, or which have been exacerbated since the filing of the Notice of Adverse Action;
- The finality that settlement brings to a case.

#### **33030.26.2 Essential Settlement Language**

In addition to a recitation of the unique terms for any particular agreement, the settlement agreement documentation shall include the following key clauses:

**Standard clauses:**

*APPELLANT, by his/her signature on this document, agrees to withdraw his/her Appeal to the NOTICE OF ADVERSE ACTION effective [insert date] and to waive any right he/she may have to appeal the NOTICE OF ADVERSE ACTION either before the State Personnel Board or any court of law which might have jurisdiction over the matter. Specifically, APPELLANT waives any rights he/she may have as set forth in sections "[insert number]" and "[insert number]" of the NOTICE OF ADVERSE ACTION; and, Code of Civil Procedure, Part 3, title 1, section 1067 through 1110 b, inclusive.*

*APPELLANT, by his/her signature on this document, and in exchange for such consideration as is set forth in this STIPULATION AND RELEASE, releases, acquits and forever discharges the State of California, the California Department of Corrections and Rehabilitation, and its agents, representatives, employees, successors and assigns, of and from any and all demands, actions, causes of action, claims of any kind or nature whatsoever, known and unknown, anticipated or unanticipated, past or present, and any claim under state or federal law including, but not limited to, claims under the Fair Employment and Housing Act, Title VII of the 1964 Civil Rights Act, and/or the Age Discrimination in Employment Act, which may exist as of the date hereof in connection with or arising out of the actions taken by the Department regarding this NOTICE OF ADVERSE ACTION.*

*APPELLANT is familiar with and has read the provisions of California Civil Code section 1542, and expressly waives to the fullest extent of the law any and all rights he/she may otherwise have under the terms of that Code section which reads as follows:*

*"A general release does not extend to claims which the creditor does not know of or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."*

*APPELLANT executes this release without reliance upon any statement or representation by the DEPARTMENT, or its representatives except as set forth in this document. APPELLANT is of legal age and is legally competent to execute this release. APPELLANT accepts fully the responsibility therefore, and executes this release after having read the STIPULATION AND RELEASE. After having been advised and having the opportunity to discuss it thoroughly with APPELLANT'S representative, [insert name], APPELLANT understands its provisions and enters into this STIPULATION AND RELEASE voluntarily.*

*This STIPULATION AND RELEASE is freely and voluntarily entered into, and APPELLANT hereby authorizes and orders his/her representatives of record to withdraw his/her appeal of the NOTICE OF ADVERSE ACTION, effective [insert date], currently pending before the State Personnel Board (Case No. [insert number]), as agreed in paragraph "(insert paragraph number)" of STIPULATION AND RELEASE.*

**If the Appellant is age forty years or older:**

*APPELLANT represents that he/she has been notified that he/she has the right to consider this STIPULATION AND RELEASE for at least twenty-one (21) calendar days before its execution. APPELLANT expressly waives this right.*

*APPELLANT shall have the right to revoke this STIPULATION AND RELEASE for seven (7) calendar days after its execution, and understands that this STIPULATION AND RELEASE does not become effective or enforceable until that revocation period has expired.*

**If an agreement includes a removal of an action at a specified time in the future:**

*Even though RESPONDENT agrees to remove the adverse personnel action from APPELLANT'S personnel file in accordance with the terms and conditions set forth in paragraph [insert number] of this agreement, APPELLANT is aware and understands that RESPONDENT can, at its option, use this adverse action for purposes of progressive discipline if APPELLANT receives an adverse action in the future.*

**If the Appellant has agreed to resign:**

*On [insert date], APPELLANT agrees that he/she will be deemed to have resigned. This resignation is irrevocable and is not contingent on the action of any other State agency, or in the future. Appellant further agrees, as part of the consideration and inducement for execution of the STIPULATION AND RELEASE, to never apply for or accept employment with the California Department of Corrections and Rehabilitation (CDCR), or any entity providing services to inmates or wards within the CDCR. If the Department inadvertently offers appellant a position, appellant breaches this agreement by accepting a position with the Department. APPELLANT shall be terminated at such time as is convenient to the Department and excluded from all institutions, and APPELLANT hereby waives any right APPELLANT may have to appeal that termination and/or exclusion in any forum.*

**33030.26.3 Documenting the Settlement Process**

When a settlement is read into the record at a hearing, the above required language shall be read into the record accurately and shall include appropriate modifications as specified in the settlement agreement. The Vertical Advocate or ERO/Disciplinary Officer shall indicate on the record the names of the representatives who have agreed to this settlement.

Anytime a settlement agreement is reached, the Vertical Advocate or the ERO/Disciplinary Officer shall complete a CDC Form 3021, SPB Case Settlement Report, and shall forward the CDC Form 3021 to the AGC and to the SAIG for all cases monitored by the BIR. The CDC Form 3021 shall be utilized for audit purposes. The name of the manager providing settlement authority shall be reported under the "Name of Final Decision Maker" heading of the CDC Form 3021.

**33030.27 Use of ATO**

An employee shall only be placed on ATO as follows:

- He/she has been charged with a felony;
- He/she is suspected of smuggling contraband;
- He/she has shown unacceptable familiarity with inmates or parolees;
- He/she has seriously jeopardized the security of the institution;
- He/she has committed any other serious infraction of the CCR;
- The proposed discipline is dismissal.

Use of ATO should be considered when the employee's continued presence at the work site will adversely affect the security or management of the facility. However, when possible, an alternative assignment should be considered rather than placement on ATO.

**33030.27.1 Request for ATO**

*Revised July 9, 2013*

The Hiring Authority shall request to place an employee on ATO as follows:

- All requests for placing an employee on ATO shall be approved through the Hiring Authority's supervisor, by telephone or in person.
- Initial approval for ATO by the Hiring Authority's supervisor shall be granted for a period not to exceed five (5) working days.
- The requesting unit shall notify the Office of Legal Affairs (OLA), Employment Advocacy and Prosecution Team (EAPT) immediately and the ERO/Disciplinary Officer shall initiate a written request.

In order to place an employee on ATO, the Hiring Authority shall provide notification of ATO pending investigation to the affected employee.

The Hiring Authority shall contact his/her supervisor prior to the employee's fifth (5th) working day on ATO to request to continue an employee on ATO beyond five (5) working days. For requests to continue an employee on ATO beyond ten (10) working days, the Hiring Authority shall contact his/her supervisor prior to the employee's tenth (10th) working day on ATO. If the Hiring Authority's supervisor approved the request to continue an employee on ATO beyond ten (10) working days, the Hiring Authority's supervisor shall notify the appropriate Director that an employee is to be continued on ATO beyond ten (10) working days.

If it is determined that an employee should be continued on ATO beyond thirty (30) working days, the Director shall notify the appropriate Undersecretary prior to the employee's twenty-fifth (25th) business day on ATO. The Director shall instruct the OLA, EAPT, to request approval from the California Department of Human Resources (CalHR) in writing, prior to the twenty-fifth (25th) working day.

**33030.27.2 Calculation of ATO Period**

The ATO period shall commence when the Hiring Authority has obtained approval from his/her supervisor, and the employee has been effectively notified of his/her placement on ATO status. If an employee on ATO is to return to work, he/she shall be contacted and ordered to do so. There should be no confusion regarding either the expectation that the employee return to work or the reporting date and time. The Hiring Authority shall confirm the order in writing.

**33030.27.3 ATO Notices and Employee Responsibilities**

When placed on ATO, an employee shall be given a written notice that contains the following:

- The employee is still an employee of the Department and shall be available during the normal business hours of the Department (i.e., Monday through Friday, 8:00 a.m. 12:00 p.m. and 1:00 p.m. to 5:00 p.m.). The employee's lunch hour shall be from 12:00 p.m. to 1:00 p.m. Any state holidays observed during the work week shall be exempt.
- The employee shall be available by telephone.
- The employee may leave the immediate area to complete necessary errands (i.e., medical appointments or other necessary business that

normally can only be completed during the business day). However, the employee must respond to the Department's attempt to contact him/her within a reasonable period of time. The reasonableness of the employee's response shall be determined by the type of errand, distance traveled and any other factors peculiar to the area which might affect the employee's ability to return the telephone call.

- The expectation is that, generally, the response time of the employee shall be less than two (2) hours.
- Emergency situations may affect this timeframe and are subject to Hiring Authority approval.

#### **33030.27.4 State Property**

When an employee is placed on ATO, the Hiring Authority shall require that the employee surrender all state-issued property including weapons, state identification, badge(s), keys, vests, and any other items related to employment.

#### **33030.27.5 Peace Officer Authorization**

If a peace officer is placed on ATO, the Hiring Authority may, based on the circumstances, rescind the peace officer authorization to carry a concealed weapon off duty. The rescission notice shall be in writing and given to the employee.

#### **33030.28 Vertical Advocate's Preparation for the SPB Hearing**

Upon notification from the SPB that an appeal has been filed, the ERO/Disciplinary Officer and/or the Vertical Advocate shall notify the Hiring Authority and shall prepare for the SPB Hearing. The Vertical Advocate shall represent the Department at SPB Hearings for all designated cases. In all cases presented by the Vertical Advocate, the ERO/Disciplinary Officer shall provide administrative support to the Vertical Advocate including, but not limited to, service of witness subpoenas.

The Vertical Advocate shall prepare for the SPB Hearing, including the following, as appropriate:

1. Prepare the defense by confirming:
  - a. Due process compliance, including notice, documentation, *Skelly* Hearing (if requested) and proper service.
  - b. Deadlines, statutes of limitations, and other critical time requirements.
2. Contact the appellant's representative to discuss relevant issues, including defenses, potential for settlement, etc.
3. Make discovery requests.
4. Respond to discovery requests.
5. Draft pre-hearing motions (e.g., motion to dismiss for failure to file a timely appeal).
6. Respond to pre-hearing motions.
7. Identify witnesses, including experts, and assess what testimony they can provide.
8. Request that the witnesses review any transcripts of their interviews to ensure their accuracy.
9. Contact the ERO/Disciplinary Officer for the issuance of subpoenas to witnesses and experts.
10. Interview witnesses, as necessary (i.e., if the Vertical Advocate has not participated in the investigative interview).
11. Select witnesses to testify.
12. Prepare witnesses in person, including the assigned investigator, for testimony at the SPB Hearing.
13. Visit the location of the incident leading to the disciplinary action.
14. Identify exhibits to be introduced at the SPB Hearing and request reproduction of the exhibits by the ERO/Disciplinary Officer.
15. Assess the current strengths and weaknesses of the Department's case, whether and how the weaknesses can be overcome, and develop a strategy for the case.
16. Assess the current strengths and weaknesses of the appellant's case, including what his or her defenses are likely to be and how to counter them. For example, consider the following:
  - a. What were the appellant's defenses during the *Skelly* Hearing?
  - b. Who did the appellant subpoena?
  - c. To what can the appellant's witnesses testify?
  - d. Other possible defenses, including:
    1. Statute of limitations violations.
    2. No nexus between wrongful act and employment with the Department.

3. No progressive discipline.
4. The appellant is the subject of disparate treatment, retaliation, or discrimination.
5. The appellant previously has been disciplined for the same incident(s).

17. Prepare a hearing binder, including the following:
  - a. Exhibit list and a copy of each exhibit.
  - b. Witness list in the order in which they will testify.
  - c. List of witness contact numbers.
  - d. Opening Statement Outline.
  - e. Direct and cross-examination questions and, when appropriate, the anticipated answers.
  - f. Closing Argument Outline.
  - g. Applicable precedential decisions, statutes, regulations, etc.
18. Research potential legal issues.
19. Draft briefs, when necessary, utilizing and augmenting where appropriate the EAPT brief bank.
20. Communicate with the SAIG, for cases the BIR is monitoring, including whether the SAIG will attend the SPB Hearing.
21. Consult with the assigned SAIG regarding SPB Hearing strategy.

#### **33030.28.1 Role of the Vertical Advocate at the SPB Hearing**

At the SPB Hearing, the Vertical Advocate shall prosecute the adverse actions as follows:

1. Present the evidence through witness testimony, stipulating only when the facts are not in dispute and there is no possibility of weakening the case to be presented.
2. Within ethical limits, present evidence in the best light possible for the Department.
3. Challenge testimony presented by the appellant, including challenges to "expert" testimony by assessing the following:
  - a. If the witness is an "expert" as defined by statute and case law.
  - b. If the "expert's" testimony is incompatible with his or her employment.
  - c. Whether the "expert's" testimony should be challenged on the basis that it is irrelevant, calls for speculation, or calls for an opinion on the truth or falsity of certain statements.

If required by the SPB or the circumstances, the Vertical Advocate shall do the following:

1. Prepare a written closing argument;
2. Brief legal issues that arose during the SPB Hearing and require a decision. To ensure consistency in briefing, the Vertical Advocate shall review and update any briefs available in the EAPT brief bank;
3. Present briefing and oral argument to the members of the SPB.

Following the SPB Hearing, the Vertical Advocate shall do the following:

1. Maintain contact with the Hiring Authority until the case is closed;
2. Confer with the SAIG for cases the BIR is monitoring;
3. File a petition for rehearing, as appropriate;
4. When the SPB sustains the action or the merit appeal is denied, prepare the file for archiving as follows:
  - a. Organize the file so that information is readily available should the appellant petition for a rehearing or petition for a writ of mandate;
  - b. Close the file only after the petition for rehearing has been resolved or the 30-day filing period for the petition for rehearing has expired.
5. Consult with the Hiring Authority's Personnel Office regarding all back pay issues, including the following:
  - a. Obtaining calculations of back pay due to the employee.
  - b. Challenging overpayments.
  - c. Defending the Department's position at SPB back pay hearings.
6. Refer the case to the EAPT Appeals Committee when appropriate under the EAPT Post SPB Hearing Writs and Appeals Policy.

### 33030.28.2 Review of the SPB Decision

A committee comprised of the AGC, an EAPT Supervisor, and an attorney specializing in writs and appeals shall convene to review all SPB decisions that modified or revoked the adverse action. The assigned Vertical Advocate shall present the case to the EAPT Appeals Committee for discussion, and the BIR shall be invited to all committee meetings. In cases presented to the SPB by contract counsel, a Vertical Advocate shall be assigned to present the case to the EAPT Appeals Committee.

The EAPT Appeals Committee shall do the following:

1. Meet monthly, unless there are no cases to consider. Additional meetings will be scheduled, as needed.
2. Notify the BIR regarding all committee meetings.
3. Determine whether to seek review of the SPB decision.
4. In making its decision to seek review of the SPB decisions, the committee will consider:
  - a. The recommendation of the Vertical Advocate assigned to the case and the SAIG, for cases the BIR is monitoring.
  - b. The likelihood of prevailing on appeal.
  - c. The egregiousness of the SPB's decision on legal or factual issues.
  - d. Whether the case has a potential collateral estoppel impact on other litigation.
  - e. Whether other departmental concerns are implicated.
  - f. The fiscal risks implicated in the pursuit of an appeal.
  - g. The potential precedential impact of the decision to appeal or not to appeal.
  - h. Unit workload and the availability of external resources.
  - i. Such other facts as may be present in the particular case under consideration.
5. Solicit and discuss strategies to shape the decisional law governing the SPB.
6. Identify legal and procedural issues encountered at administrative hearings (i.e., SPB, DPA, Unemployment Insurance Appeals Board, Workers' Compensation Appeals Board, etc.) that are in need of resolution.
7. The committee's decision to seek or not to seek permission to file a writ petition shall be communicated to the Hiring Authority and the CAIG for cases the BIR is monitoring. A decision to seek permission to file a writ petition requires that the communication include advice that the SPB decision being appealed is not final until the appeal has been resolved. Also, in appropriate cases, a stay shall be sought from the appellate court.

The assigned writs and appeals attorney is responsible for preparation of any Governor's Office Action Request (GOAR) and the writ petition. Workload considerations may require the Vertical Advocate to accept this responsibility, under the direction of the writs and appeals attorney.

1. The GOAR shall be prepared, and its circulation for approval commenced, within five (5) business days of the assignment.
2. When the GOAR is approved, the writs and appeals attorney (or assigned Vertical Advocate) shall, within fifteen (15) business days:
  - a. Order the SPB Hearing transcript.
  - b. Prepare and serve the petition for a writ.
3. As appropriate, at the time of the filing of the writ petition, the writs and appeals attorney (or assigned Vertical Advocate) will file an *ex parte* application for a stay of the SPB decision.
4. The writs and appeals attorney (or assigned Vertical Advocate), in consultation with the BIR attorney for cases the BIR is monitoring, shall prepare a memorandum to the Hiring Authority, as soon as the matter is final (either by acquiescence to the decision, settlement, or completion of any appeal). The memorandum shall include specific guidance of what steps must be taken, if any, to satisfy the final decision or settlement.

### 33030.29 Testimony by Department Employees

Any employee of the Department who is contacted by any person regarding his/her potential testimony or who is subpoenaed as a witness in any matter shall notify, in writing and within one (1) business day of being contacted, the Litigation Coordinator and the ERO/Disciplinary Officer at his/her worksite. The employee also shall provide a copy of the subpoena to the Litigation Coordinator and the ERO/Disciplinary Officer immediately upon receipt.

The ERO/Disciplinary Officer shall maintain a log of these contacts and shall determine immediately whether there is a pending disciplinary matter for which this subpoena was issued. The ERO/Disciplinary Officer shall notify the employee of the requirements of California Code of Regulations, Title 15,

Section 3413. If a disciplinary matter is pending, the ERO/Disciplinary Officer shall immediately send, via facsimile, a copy of the subpoena to the appropriate Vertical Advocate. The Litigation Coordinator shall determine immediately whether there is a civil or criminal action pending and shall notify and forward a copy of the subpoena to the assigned Deputy Attorney General or contract counsel and to the Office of Legal Affairs attorney monitoring the matter.

### 33030.30 Duress or Undue Influence

No one shall exert undue influence or subject employees to duress in order to obtain a resignation. Care must be taken to avoid making statements that could be the basis for an appeal by the employee to have a resignation set aside on grounds it was obtained by duress, undue influence, or excessive persuasion.

The following elements are characterized as excessive persuasion:

- Discussion of the resignation at an unusual or inappropriate time.
- Consummation of the resignation in an unusual place.
- Insistent demand that the transaction be completed at once.
- Extreme emphasis on unfavorable consequences of a delay.
- The use of multiple persuaders by the Department against the employee standing alone.
- Denial of the time or the opportunity for the employee to consult an advisor.

### 33030.31 EAPT Reporting

On a quarterly basis and commencing March 1, 2006, the EAPT shall prepare and submit to the appointing power a report that includes the following information:

- Number of adverse actions by type of discipline;
- Number of direct (without an investigation) adverse action by type;
- Number of adverse actions with an investigation by type;
- Number of actions where the discipline was sustained by the *Skelly* Officer;
- Number of actions where the *Skelly* Officer recommended modification of the discipline:
  - Number that the Hiring Authority accepted the recommendation.
  - Number that the Hiring Authority rejected the recommendation.
- Number of settlements reached prior to the SPB decision;
- SPB decisions:
  - Number of cases where SPB upheld the original discipline.
  - Number of cases where SPB modified the original discipline.
- Number of cases where SPB revoked the discipline.

### 33030.32 Disciplinary Audits

The effectiveness of the Department's disciplinary process shall be reviewed in an annual audit prepared by the Office of Legal Affairs, in conjunction with the OIA. The audit shall assess the adequacy of the monitoring of the statute of limitations and shall assess training needs by evaluating the following: the effectiveness of each Vertical Advocate; the appropriateness and thoroughness of the investigation, report, penalty, Notice of Adverse Action, and settlement; and the policy issues involved and/or at stake.

### 33030.33 Revisions

*Revised October 25, 2010*

The General Counsel, OLA, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

### 33030.34 References

SPC Rules.

DPA Rules.

ACA.

CCR (15).

Madrid v. Woodford, (USDC. No CV90-03094 TEH) December 2005.

## ARTICLE 23 — EMPLOYEE SERVICES

*Effective December 28, 1989*

*Updated June 14, 2011*

### 33040.1 Policy

The Secretary, subject to the approval of the Director of General Services, is authorized by GC 11013, to establish certain concessions for the benefit of the institutional employees under his/her jurisdiction.

**33040.2 Purpose**

This Article establishes procedures for the provision of services to employees by the institutions for the convenience of the State.

**33040.3 Services**

Services supplied to employees shall be established by the Warden and shall be equally available to all employees.

All services shall be rendered at the employee's own risk. The institution and the Department shall not assume liability for loss, damage, or destruction of employee's property.

All employee services shall be of no cost to the state and shall be available to employees as a fringe benefit.

No services shall be provided for non-employees which require their physical presence. Non-employees may use the employee dining room or snack bar when accompanied by an employee. This privilege is subject to gate clearance and may be revoked any time.

Wardens may request additional services by submitting a proposal and operational plan for the Director's approval.

**33040.4 Service Charges**

*Revised October 28, 2015*

Service charges shall be established for each authorized service to employees as abatement for costs incurred by the state. Service charges may be on an actual or estimated basis.

When it is inappropriate to designate a special service charge, donations to the IWF shall be accepted.

Authorized employee services shall be operated on a nonprofit basis by institutional staff.

**33040.5 Supplemental Procedures**

Wardens and RPAs shall establish supplements to this procedure to govern the operation and use of employee services made available to employees in accordance with applicable laws and subject to the approval of the Secretary or his/her designee.

All supplements or modifications of procedures shall be forwarded to the Secretary or his/her designee for approval.

Specialized instructions contained in other forms or documents shall be referred to and approved by the Secretary or his/her designee.

Instructions shall include, but are not limited to, the following:

- Coupon purchase areas.
- Delivery areas.
- Hours of operation.
- Security procedures.
- Accounting procedures.
- Eligible individuals.
- Location of waiting lists.
- Limits of liability.
- Associate Warden, Business Services, responsibility.
- Instructions for the processing of donations to IWF.
- Methods for the collecting of the costs of materials and supplies utilized.

**33040.6 Employee Association Operated Canteens and Concessions**

Canteens or concessions may be established at State facilities pursuant to GC 11013, W&I 4314, and PC 5005 and 5006. This Article shall not apply to canteens or concessions exempt from DGS approval nor to vending stands for the blind established by the Division of Rehabilitation of the Blind, Department of Rehabilitation.

Canteens or concessions which require the approval of the DGS shall, in addition, comply with the statutory provisions under which they are established. Whether operated by a private contractor, an employee nonprofit corporation, or by the institution, the following conditions shall be met:

- The State shall be reimbursed for the actual cost of equipment, space, utilities, maintenance, and administrative services furnished by the institution. Reasonable estimates may be used where it is not possible or feasible to determine such costs accurately.
- The institution shall have the power to determine the operation of, and regulate the prices and merchandise sold at, the canteen and concessions.
- All books and records of the canteens or concessions shall be subject to audit by the State at any time.

- Each canteen or concession shall furnish the institution with a list of items for sale and prices to be charged. All items and prices are subject to the approval of the Warden.
- The canteens or concessions shall comply with all applicable statutes, health laws, rules and regulations of the Department.
- The State, its officers, and employees shall be released from liability for personal injury to the canteen or concession lessee, lessee's employees and guests, arising out of the lessee's occupation of the demised premises.
- The location of the canteen or concession may be changed at the Warden's discretion.
- The prices charged by the canteen or concession shall not exceed those charged by similar businesses in the vicinity of the institution except where the volume of business makes this impractical.
- No repairs or alterations of the premises shall be made without written consent from the institution.
- The State (institution) or the lessee may terminate the agreement upon 90 days written notification. Willful violation of rules, regulations, or terms of the agreement by the lessee, shall be grounds for immediate cancellation of the agreement and removal of the lessee.
- The State shall not be liable for any debts or claims that arise from the operation of the canteen or concession.

**33040.7 Sale of State Products**

The direct sale or disposal to an employee of any article, materials, or supplies owned, produced, or manufactured by the Department is prohibited except where specifically authorized by law.

**33040.8 Gratuities**

No gift, tip, or reward shall be offered by an employee or accepted by an inmate for any reason.

**33040.9 Revisions**

The Director, DAI, or designee shall ensure that the content of this Article is current.

**33040.10 References**

GC § 11013.

PC §§ 5005 and 5006.

CCR §§ 3420-3425.

W&I 4314.

## ARTICLE 24 — EMPLOYEE ASSISTANCE PROGRAM AND PEER SUPPORT PROGRAM

*Effective September 13, 2021*

**33050.1 Policy**

The Office of Employee Wellness (OEWS) provides a safe, accessible, and connective space for proactive wellness support, education, and resources for all California Department of Corrections and Rehabilitation (CDCR) and California Correctional Health Care Services (CCHCS) employees, and is responsible for policy development and administration of the Employee Assistance Program in compliance with applicable laws and the department's Peer Support Program.

**33050.2 Purpose**

This Article sets forth the policies of the Employee Assistance Program and the Peer Support Program administered within the OEWS.

**33050.3 Employee Assistance Program**

(a) The Employee Assistance Program (EAP) is provided by the state of California and administered by the California Department of Human Resources as part of the State's commitment to promoting employee health and well-being to all State employees. The EAP is available to assist employees and their eligible family members in identifying and gaining control over personal problems which can, and often do, affect both family life and job performance. The EAP is both voluntary and confidential.

(b) Services

(1) Employees and their eligible dependents shall be able to access services through a toll-free number 24 hours a day, 7 days a week, 365 days a year.

(2) Employees who are appointed full-time or part-time regardless of their bargaining unit designation are eligible for EAP services. Contracted employees on State payroll who are eligible for benefits are eligible for EAP services. An employee, their spouse/registered domestic partner, and eligible

dependents are entitled to receive a specified number of sessions per contract year.

(3) The state of California contracts directly with a provider for EAP services. There is no cost to the employee or their family members for the initial authorized sessions if the employee/Department uses the contracted provider. The level of service and number of counseling sessions per contract year, for which an employee is eligible, is determined by the bargaining unit to which the employee belongs.

(c) Confidentiality

(1) Confidentiality is strictly maintained as required by law.

(2) The legal exceptions are the same as those that guide all clinicians:

(A) When authorized by written consent of the employee.

(B) If a member expresses intent to commit child or elder abuse, or expresses plausible suicidal or homicidal intent.

(C) If a court order (subpoena) requires a clinician to reveal otherwise confidential information.

(d) EAP Referrals

(1) There are three ways that EAP services can be assessed:

(A) Self-Referral - This type of referral occurs as a result of an employee recognizing a problem in either his/her own or a dependent's life. As a result of this recognition, the employee may contact the service provider for assistance.

(B) Informal Referral (Supervisor Recommendation) - This type of referral occurs when the supervisor recognizes an employee struggling with a personal problem; or if the employee has asked for assistance in solving a problem. The supervisor or manager may suggest that the employee contact the EAP.

(C) Formal Supervisor Referral - A formal referral is utilized when there is no improvement in an employee's work performance or other areas of deficiency which were discussed in their informal corrective meeting. The supervisor will work directly with the contractor's Management Consultant (MC). The MC will advise the supervisor of the best way to approach the employee regarding the EAP. In addition, the MC will provide guidance to help the supervisor prepare a formal letter and meet with the employee to present the problem and the expectations. Participation in this program is still voluntary. A Supervisor's Handbook is available from departmental EAP Coordinators. The handbook provides specific guidelines for making a formal supervisory referral.

(e) Use of State Time

(1) The Department allows State time off for an employee to consult with the EAP clinician up to two sessions following the acceptance of a formal supervisory referral. This shall be documented on CDCR Form 998-A as "administrative time off."

(2) For all other referrals, the employee shall be granted the time off required through the use of earned leave credits. However, the employee shall make every attempt to arrange EAP counseling outside of work hours.

### **33050.3.1 Departmental EAP Coordinator's Responsibility**

(a) The departmental EAP Coordinator is the Office of Employee Wellness (OEW). The OEW is responsible for establishing and maintaining the CDCR's Employee Assistance Program and shall:

(1) Implement, promote, and manage the CDCR's EAP.

(2) Provide assistance to EAP Coordinators statewide pertaining to specifications of the EAP.

(3) Coordinate EAP training and orientation sessions, as needed.

(4) Act as a liaison with other appropriate agencies.

(5) Ensure that a separate contract between CDCR and the contractor is in place for Critical Incident Stress Debriefings and special fee-for-services trainings.

### **33050.3.2 Local EAP Coordinator's Responsibility**

(a) Under the appointment of the hiring authority, the local EAP coordinator shall:

(1) Coordinate and administer EAP at their designated location and consult with OEW regarding policies and procedures.

(2) Provide assistance and training to employees in all aspects of the EAP program.

(3) Ensure complete confidentiality of all information obtained from and about employees and their family members.

### **33050.3.3 Immediate Counseling Services**

(a) Immediate counseling is available 24-hours-a-day through the departmental EAP to all CDCR staff by using the toll free telephone number.

(1) The caller shall:

(A) State they are an employee of the Department and their call is of an emergency or crisis nature.

(B) Be connected via telephone immediately with a licensed clinician.

(2) The caller may contact OEW to assist with facilitation, if needed, during normal business hours.

### **33050.3.4 Post-Incident Counseling**

OEW will provide a non-departmental licensed mental health professional who is Psychological First Aid (PFA) trained to debrief and assist staff following an incident, upon request. OEW will incur the costs associated with providing the counselor.

### **33050.3.5 Continued Care**

Continued psychological care is available on a voluntary basis through the EAP. The employee can choose to continue to see the same PFA trained clinician or may elect another licensed mental health professional using their EAP benefits. The employee's eligible family members also have the option of utilizing the same clinician using their EAP benefits.

### **33050.3.6 Contracting for Services**

OEW shall maintain the master contract for the Department to provide non-departmental licensed mental health professionals who are PFA trained to debrief and assist staff following an incident.

### **33050.4 Peer Support Services**

(a) The Peer Support Program (PSP) serves to provide an empathetic listening ear, and facilitate pathways to professional help or as a result of the following situations:

(1) Physical assault.

(2) Sexual assault.

(3) Hostage incident.

(4) Causing injury/death to person(s).

(5) Illness, death, and suicide.

(6) Substance use; or

(7) Involvement in onsite and offsite critical incidents.

(b) Employee's Workers' Compensation Benefits

(1) The Peer Support Program is separate and distinct from Employee's Workers' Compensation Benefits as defined in DOM section 31020.7.5.1, which shall be followed to provide eligible employees with benefits.

### **33050.4.1 Peer Support Program Confidentiality**

(a) Except as otherwise provided in this section, a communication made to a Peer Support Team (PST) member while providing peer support services is confidential. A record kept by a PST member relating to the provision of peer support services by the PST or a PST member is confidential. PST members shall, prior to providing services, inform the employee of the confidentiality policy to include limitations and exceptions.

(b) PST members shall be advised that confidentiality will be strictly maintained except in the following circumstances:

(1) If the employee authorizes disclosure in writing.

(2) If the PST member reasonably believes that disclosure is necessary to prevent death or substantial bodily harm or if the information obtained suggests that the employee is a danger to themselves or others.

(3) If the information obtained relates to the abuse of children or of the elderly.

(4) If the employee's conduct constitutes a violation of state or federal law, or if a violation of departmental policy is admitted.

(5) In response to a valid subpoena.

(6) If the disclosure is required by law or by court order; or

(7) An employee's intent to defraud or deceive an investigation into a critical incident is revealed.

(c) If questions or concerns arise, members shall adhere to departmental policy and in addition, contact the PST Administrator, PST Leader, or the statewide PSP Manager.

(d) If there is a breach in confidentiality the PST member must immediately consult with the PST Administrator. Revealing of confidential information, unless expressly permitted as noted in this article, may result in an immediate remedial response, which may include removal of the PST member and permanent disqualification from participating in any PSP services within the Department.

### **33050.4.2 Peer Support Program Organizational Structure**

(a) PSP is supported in various ways by the Office of Employee Wellness (OEW), CDCR executives, worksite leadership, and statewide peer support staff.

(b) The OEW PSP unit shall be made up of at a minimum the Statewide PSP Manager, Statewide PSP Coordinator, and a Mental Health Professional.

(c) **Worksite Leadership**

(1) Each Hiring Authority, which includes the Warden, Regional Parole Administrator (RPA), Division of Juvenile Justice (DJJ), Superintendent, Director/ or Assistant Secretary or designee, shall:

(A) Ensure that a local PSP is available and consistent with the goal of the program defined in this article and is in the employee's and Department's best interest.

(B) Select a PST Administrator, at the minimum level of a manager. The PST Administrator is responsible for oversight of the local PST.

(C) Select the PST members according to processes and procedures outlined in DOM section 31040.4.7.

(D) Ensure compliance with DOM and applicable laws.

(E) Ensure coordination between OEW, the local PST and other program resources; and

(F) Ensure PST members receive the required OEW-designated training.

**33050.4.3 Peer Support Team**

(a) **Compensation**

(1) PST services may occur on or off-duty. PST members are employee volunteers and do not maintain a paid on-call status, therefore; PST Administrators, PST Leaders, and members are not eligible for on-call or call back compensation when providing PST services. Overtime may be authorized upon approval from the Hiring Authority or their designee as applicable.

(b) **Composition**

(1) The PST shall be comprised of the appropriate number of PST members, and shall be based on worksite demographics to include, but not limited to, worksite type, number of employees, employee disciplines and classifications, level of custody, and other related considerations.

(2) When possible, PST members shall reflect:

(A) Diversity in job classifications representing all work areas of each worksite.

(B) Diversity related to ethnicity, gender, race, age, sexual orientation, and physical abilities.

(3) The PST shall be comprised of:

(A) One voluntary PST Administrator.

(B) One voluntary PST Leader.

(C) Employee volunteers who are committed to providing support on or off duty.

(4) Critical Incident Response Team (CIRT) leaders and members may be PST members. However, CIRT activations take priority over PST call outs. Therefore, teams shall be adequately staffed to ensure coverage if CIRT is activated simultaneously.

(5) The PST Administrator shall take efforts to maintain a minimum of 15 members including the PST Leaders.

(6) The PST shall not exceed 50 members.

(7) The PST Administrator in collaboration with the worksite Hiring Authority will ensure PST coverage is consistent with shift coverage and the size of the facility, parole region, or division.

(8) For worksites with less than 100 employees, a Hiring Authority may determine the minimum and maximum number of members for peer support coverage that is consistent with the size of the facility, shift coverage, parole region, and division.

(9) The Hiring Authority in conjunction with the PST Administrator or Leader may work with the Statewide PSP Manager to amend the limits of team members on a case-by-case basis.

**33050.4.4 Peer Support Team Administrator**

(a) The PST Administrator shall be appointed by the worksite Hiring Authority or designee. This is a secondary volunteer position with no expectation of remuneration. PST Administrators may serve up to a three-year tenure and may, upon completion of that term, apply for an extension up to an additional three years of tenure. Additional extensions may be granted after a review with the worksite leadership and the OEW Statewide PSP Coordinator.

(1) In addition to the requirements for all PST members, PST Administrator applicants or those selected shall meet the following eligibility criteria:

(A) Be employed by CDCR;

(B) Be at the managerial level;

(C) Not be on probation; and

(D) Receive an endorsement from their supervisor.

(2) PST Administrators shall:

(A) Assume the role of the PST Leader when the Team Leader is unable to do so.

(B) Ensure PSP is available to all employees.

(C) Oversee the PST Leaders' activities related to the program.

(D) Ensure updates to the PST roster are maintained on a monthly basis and submitted to the Statewide PSP Coordinator.

(E) Sign and adhere to the Peer Support confidentiality participation agreement and adhere to all policies and procedures.

(F) Communicate with the Statewide PSP Coordinator as necessary for assistance, clarification, or support.

(G) Adhere to the OEW PSP Manual.

(H) Ensure new PST members receive Basic Peer Support training as identified in DOM section 31040.4.12. prior to assuming PST member responsibilities, including call-outs.

(I) Ensure PST members receive required annual training as listed in DOM section 31040.4.12.

(J) Utilize the standardized selection process outlined in DOM section 31040.4.7 for selecting team members.

(K) Oversee the management of the PST in accordance with PSP policies, procedures, and processes.

(L) Ensure the PST Leader organizes and conducts, at a minimum, quarterly team meetings covering team issues and relevant peer support content areas.

(M) Ensure a smart device/cellphone is available for the PSP Team Leaders.

(N) Adhere to proper utilization of the SharePoint site.

**33050.4.5 Peer Support Team Leaders**

(a) PST Leader(s) shall be appointed by the PST Administrator. PST Leaders are considered at-will voluntary secondary positions, with no expectation of remuneration. The local administration, Statewide PSP Manager, or Statewide PSP Coordinator may remove an employee from this position in accordance with DOM section 31040.4.8.

(1) The PST Leader shall:

(A) Ensure that an updated list of PST members and contact information is provided to the Warden, Regional Parole Administrator, Superintendent, Watch Commander, Administrative Officer of the Day (AOD), and the Statewide PSP Coordinator on a monthly basis.

(B) Sign and adhere to the Peer Support confidentiality participation agreement and adhere to all policies and procedures.

(C) Upon activation, notify the PST Administrator of the incident, and that the PST is responding. Activation of off-duty PST members must receive prior approval from the Hiring Authority or their designee.

(D) Adhere to the OEW PSP Manual.

(E) Assist in determining which member(s) will respond to the designated location.

(F) Deploy team members.

(G) Instruct team members to inform the peer they are assisting, prior to discussion, what the limitations and expectations are regarding the information revealed, as noted in DOM section 31040.4.1.

(H) Adhere to the training requirements outlined in DOM section 31040.4.12.

(I) Employ the standardized selection process outlined in DOM section 31040.4.7 for selecting team members,

(J) Record incidents into the PSP SharePoint site as soon as feasible but not to exceed three calendar days after the call out occurred.

(K) Conduct, at a minimum, quarterly meetings.

**33050.4.6 Peer Support Team Members**

(a) Employee volunteers who serve as PST members serve at-will, therefore the member can resign or the PST Administrator can remove a member, for cause, from the PST without notice. Peer support services may occur on or off-duty. PST members do not maintain paid on-call status, therefore; PST members are not eligible for on-call or call-back compensation when providing PST services. Overtime is only authorized upon approval from their Hiring Authority.

(1) PST members shall:

(A) Sign and adhere to the Peer Support confidentiality participation agreement and adhere to all policy and procedures.

(B) Provide confidential peer support services to the affected employee(s) at the request of either the individual employee, the referral by the employee's supervisor, the Hiring Authority, or the PST Leaders.

(C) Attend and successfully complete training as required in DOM section 31040.4.12.



(D) In accordance with DOM section 31040.4, and without negating their assigned classification, make themselves available to provide peer support services when approached by employees for peer support.

(E) Attend meetings as requested by the PST Administrator, PST Leader, or Statewide PSP Coordinator.

(F) Assist in the facilitation of training requested by the PST Administrator or PST Leaders.

(G) Adhere to the OEW PSP Manual.

(H) Be willing to manage time effectively for minimal impact on primary classification duties.

(I) Maintain satisfactory performance evaluations.

(J) Notify the PST Leaders of potential conflict of interest/ or roles when providing peer support to individuals who they work with, directly or indirectly supervise, or have a personal relationship with.

(K) Record incidents into the PSP SharePoint site as soon as feasible but not to exceed three calendar days after the call out occurred.

#### **33050.4.7 Peer Support Team Selection Process**

(a) Employees interested in applying to volunteer as a PST member are required to participate in the competitive selection process.

(1) Applicants shall:

(A) Complete and submit a PST member application.

(B) Submit a letter of interest.

(C) Receive an endorsement from their supervisor.

(D) Participate in the interview process, if selected to do so.

(2) A selection panel shall be formed for the screening and processing of applications, interviews, and member selection. The selection panel shall include:

(A) PST Administrator.

(B) PST Leaders.

(3) The Hiring Authority may designate additional or alternative personnel to take part in the selection process if deemed appropriate. Additional or alternative personnel may represent the majority worksite demographics.

#### **33050.4.8 Peer Support Team Separation**

All members of the PST are employee volunteers who serve at-will at the discretion of the worksite Hiring Authority and the PST Administrator. The PST Administrator, in consultation with the worksite Hiring Authority and Statewide PSP Manager, may request that a PST member be removed when it has been determined that they acted in violation of law, Department policy, or they demonstrate failure to adhere to Peer Support Program guidelines outlined in the PSP manual.

#### **33050.4.9 Peer Support Team Resignations**

A PST leader or member may resign from the PST by submitting a written resignation to the PST Administrator. For efficiency and to maintain the PSP, 30 days advance written notification is encouraged.

#### **33050.4.10 Peer Support Team Activation**

The PSP can be activated by a request from the Watch Commander, Administrative Officer of the Day, Regional Parole Administrator, or Superintendent; or by the PST Administrator or PST Leaders who can notify and gain approval for activation from the Watch Commander, Administrative Officer of the Day, Regional Parole Administrator, or Superintendent of the incident.

#### **33050.4.11 Debriefing Peer Support Team Members**

(a) The PST Leaders shall hold a debriefing of the PST as soon as possible and prior to the team member(s) going off duty, unless physically or medically unfeasible. If a PST Leader is unavailable, a previously designated and trained team member shall assume the responsibilities. The PST Leaders or designee shall give the team member(s) detailed information about:

(1) Employee Assistance Program.

(2) Community resources.

(3) Law Enforcement Chaplains.

(4) Supportive Assistance for Employees Program.

(5) CDCR Wellness app.

(b) The pertinence of these services shall be explained to the team. If necessary, and approved by the Hiring Authority, the PST Leader may request services from departmental or non-departmental counseling professionals to support team members during the debrief. These requests shall be routed to the OEW Statewide PSP Manager.

#### **33050.4.12 Required Peer Support Program Training**

(a) New Member Basic Peer Support training shall be completed prior to the employee assuming their PSP duties. Training shall be documented and provided to OEW.

(b) New Member Basic Peer Support Training

(1) A one time, minimum of 24 course hours, of New Member Basic Peer Support Training is required for employees prior to utilization in their capacity as Peer Supporters. Training shall occur within three months of approval as a PST member. Within 12 months of completion of the new member training, and annually thereafter, the following is required:

(A) A minimum of eight hours of PSP member training.

(B) 12 hours of on-the-job training or other Peer Support-related training.

(c) Peer Support Team Leader Training

(1) PST Leaders shall complete the following:

(A) A one time, minimum of 24 course hours of New Member Basic Peer Support Training is required prior to utilization in the capacity as a Peer Support Team Leader.

(B) A minimum of 12 hours of leadership and advanced Peer Support training per calendar year.

(C) 12 hours of on-the-job training or other Peer Support-related training per calendar year.

(d) Peer Support Team Administrator Training

(1) PST Administrators shall complete the following:

(A) A one time, minimum of 24 course hours of New Member Basic Peer Support Training is required prior to utilization in the capacity as a Peer Support Team Administrator.

(B) A minimum of 12 hours of leadership and Advanced Peer Support Training per calendar year.

#### **33050.4.13 Military Peer Support Program**

The Military Peer Support Program component of the PST consists of members selected by the PSP Administrator or their designee. The Peer Support Military Liaison (PSML), when possible, shall be either a veteran of the United States Armed Forces or be a member of the National Guard or Reserves. The PSML shall provide the military employee with pre and post deployment support.

#### **33050.4.14 Peer Support Team Training For Trainers (T4T)**

All PST Leaders shall go through the Department's Training For Trainers (T4T) internal process.

#### **33050.4.15 Revisions**

The Associate Director, Office of Employee Wellness, or their designee shall ensure that the content of this Article is accurate and current.

#### **References**

Prevailing MOU.

8 CCR 3203, § 3203.

2 CCR 599.931 § 599.931.

GC §§ 8669.05 — 8669.30

GC §§ 8669.1 — 8669.7

GC § 19816.16.

#### **Revision History**

Effective: September 13, 2021.

### **ARTICLE 25 – TELEWORK PROGRAM**

*Effective July 18, 2022*

#### **33060.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) and California Correctional Health Care Services (CCHCS) shall maintain policies, guidelines, and information on the use of telework as a work option. Telework shall be initiated and formalized through an agreement between an employee and their manager or supervisor with approval of the Hiring Authority (HA) or designee. CDCR/CCHCS encourages the use of telework when consistent with the essential functions of the position and when it promotes effective and efficient business operations. The manager or supervisor, with approval from the HA, or designee, has the discretion to modify or terminate telework based on operational necessity. Failure to adhere to this policy, existing CDCR/CCHCS policies and procedures, or other federal and state laws, may be cause for terminating participation in the Telework Program and progressive discipline including, but not limited to, adverse action. Bargaining Units (BU) Memorandums of Understanding (MOU) and California Department of Human Resources (CalHR) policies shall supersede any conflicting information contained in this policy.

### 33060.2 Applicability

This policy applies to all telework activities of CDCR/CCHCS employees who utilize state-issued or personally-owned electronic equipment to connect to the CDCR/CCHCS network including, but not limited to, remote access connections to perform work on behalf of the department, such as reading or sending e-mail and viewing CDCR/CCHCS electronic or physical documents and resources. All managers or supervisors and telework employees shall adhere to the contents of this policy.

### 33060.3 Overview and Goals

(a) CDCR/CCHCS recognizes the business, societal, and personal benefits that an effective telework program may provide, while considering the safety of CDCR/CCHCS information assets. Telework may allow flexibility for employees to accomplish their work via office-centered or remote-centered telework schedules. This policy is established pursuant to Government Code sections 14200-14203, which requires every state department to incorporate telework as an option when it is both practical and beneficial to the department.

(b) The goals of the CDCR/CCHCS telework program are to:

- (1) Encourage participation of eligible employees.
- (2) Reduce required state office space.
- (3) Improve employee retention and recruitment.
- (4) Maintain or improve employee productivity.
- (5) Reduce state environmental impacts, such as traffic congestion.
- (6) Maintain or improve customer service.

#### 33060.3.1 Liability

(a) Alternate work locations are an extension of the department's workspace only when used for state business. All existing workplace health and safety rules, as well as existing employment laws, rules, and policies apply to the alternate work location the same as when staff physically report to the office.

(b) The department is not responsible for any injuries to family members, visitors, or other guests at the employee's alternate work location.

(c) In-person business meetings shall not be conducted at a location designated as an alternate work location.

### 33060.4 Definitions

#### (a) Alternate Work Location

The term alternate work location refers to the approved work location other than the office. Alternate work location could be an employee's residence or other approved site.

#### (b) Dedicated Workstation

The single equipment complement provided to employees to perform state business, including computing, telephone, and ergonomic equipment.

#### (c) Dependent Care

The term dependent care refers to the support and nurturing of persons who cannot meet their own needs, such as children, functionally impaired adults, or the elderly.

#### (d) Information Assets

All categories of information (confidential, personal, sensitive, or public), all forms of information (paper or electronic), information technology (IT) facilities, equipment, and software owned or leased by state agencies.

#### (e) Office (Headquarters)

The term office refers to the location, state building, or official worksite that would be the employee's work location if not teleworking.

#### (f) Office-Centered Telework

A teleworker is considered Office-centered if they work more than fifty percent from the office. Office-centered teleworkers maintain a dedicated workstation in the office and utilize their own equipment or department provided mobile equipment for teleworking at their designated alternate work location.

#### (g) Remote Access

The connection of an information asset (e.g., computing equipment) from an alternate work location to an information asset on a state IT infrastructure.

#### (h) Remote-Centered Telework

A teleworker is considered Remote-centered if they work fifty percent or more of their time from an alternate work location. Remote-centered teleworkers shall have their dedicated workstation located at their designated alternate work location. Remote-centered teleworkers shall use shared space when working in the office.

#### (i) Shared Space

Shared space is a work area that is used on an individual basis by multiple people. Alternatives may include hoteling or shared cubicles.

### (j) Telework

The terms 'telework,' 'teleworking,' 'telecommute,' and 'telecommuting' are defined as a work flexibility arrangement established between the department management and the employee under which the employee performs the duties and responsibilities of the employee's position, and other authorized activities from an approved location other than the office. In practice, telework is a work arrangement that allows an employee to perform work, during any part of regular, paid hours, at an approved alternate work location.

#### 33060.5 Guidance for Hiring Authority Evaluation of Telework

(a) All employees in positions designated by management as eligible shall be qualified to participate in the Telework Program and are authorized to participate to the fullest extent possible without diminished individual or organizational performance.

(b) HAs shall consider telework for all possible positions in which telework can promote effective and efficient business operations. The following guidance may be used to determine what functions may be appropriate for telework:

- (1) Activities that do not require physical presence, including, but not limited to, analysis, data entry, telephoning, writing and editing, design and virtual service delivery.
- (2) Responsibilities that do not require public presence.
- (3) Activities where data is not sensitive or confidential or where an information security risk assessment and resulting security approach is in place for telework access to sensitive or confidential data.

(c) Participation in the Telework Program is subject to a formal agreement by the employee and the employee's immediate manager or supervisor with the approval of the HA, or designee. At the discretion of the HA, or designee, telework requests or agreements may be denied, modified or terminated at any time based on operational need (Refer to 33060.20).

(d) Telework may be a practical work option based on a combination of factors. The determination of an employee's participation in a Telework Agreement is not dependent upon the presence or absence of any particular factor and the weight given to any particular factor is subject solely to the discretion of each HA, on a case-by-case basis including, but not limited to:

- (1) Nature of work performed.
- (2) Efficiency of work processes.
- (3) Impact on ability to provide quality customer services.
- (4) Effectiveness of existing project teams.
- (5) Utilization of office space.
- (6) Technology readiness.
- (7) Impact to employee retention.
- (8) Cost or savings to implement telework.

#### 33060.6 Telework Designations

The Telework Program provides for two types of telework designations, which are office-centered and remote-centered Telework schedules shall be approved by the manager or supervisor per the Telework Agreement. Ongoing informal telework agreements shall not be permitted.

#### 33060.7 Scheduling Telework

(a) Managers or supervisors shall consider the following when scheduling telework:

- (1) The requirements of the employee's Work Week Group (WWG) and BU MOU provisions.
- (2) The requirements of the employee's job and operational needs for the employee to be present at their office.

(b) An alternate work schedule may be approved for a telework employee according to existing policy and the applicable BU MOU.

(c) Temporary modifications to telework schedules may:

- (1) Be made at management's discretion in order to meet operational needs. If needed, an employee shall forgo telework and come into the office on a regularly scheduled telework day. The manager or supervisor shall provide 24 hours' notice whenever possible; however telework employees are expected to be able to report to the office within an amount of time deemed reasonable by the manager or supervisor or the HA based on operational necessity.
- (2) Not occur until approved by the manager or supervisor and HA or designee, documented, and appended in the Telework Agreement (Refer to 33060.20).

(d) Permanent modifications to telework schedules shall:

- (1) Not be made by the department without adequate prior notice.
- (A) The department shall endeavor to provide at least 30 calendar days' notice, but no less than 15 calendar days' notice to employees when permanently terminating or permanently modifying a Telework Agreement. This advance

notice is not required due to unforeseen operational need or by mutual agreement between the employee and management.

(B) Upon request, a copy of the termination or modification shall be provided to the applicable labor union.

(e) All procedures for calling-in, requesting and approving leave usage, overtime, Compensating Time Off or alternate work schedules shall be consistent with those used for non-telework employees.

### **33060.8 Telework Agreement**

(a) The Telework Agreement details the approved work arrangements between an employee and their manager or supervisor with the approval of the HA, or designee.

(b) The telework employee and their manager or supervisor shall both sign the written Telework Agreement, and it shall be approved by the HA, or designee, prior to the employee participating in the Telework Program.

(c) The alternate work location shall be determined prior to approval of any Telework Agreement.

(1) All CDCR/CCHCS employees shall be assigned a CDCR/CCHCS location as their designated office (headquarters). Travel expenses shall not be reimbursed for travel to the office which may be required by management on a regular or intermittent basis based on operational need.

(d) The Telework Agreement for telework shall be reviewed and renewed at least once a year (Refer to 33060.14). All essential components of a Telework Agreement (e.g., telework schedule, alternate work location, state assets to be used) shall be addressed prior to the actual start date of telework.

(e) The employee and their manager or supervisor shall read, understand, and abide by this policy, the Alternate Work Location Safety Acknowledgement, CDCR/CCHCS Confidentiality and Privacy policies, State Information Security policies, and the State Information Management Manual (SIMM) 5360-A published on the California Information Security Office (CISO) website (Refer to 33060.11).

(1) Whenever an employee is unclear about the requirements of an information security policy, standard, or procedure, they shall consult with their manager or supervisor, and the CDCR/CCHCS Information Security Office (ISO) or CCHCS Privacy Office.

(f) A new Telework Agreement shall be submitted for approval following an employee's separation of any kind including, but not limited to, a leave of absence or job change, even if the employee participated in a Telework Agreement previously.

### **33060.9 Telework Package**

(a) A complete Telework Package shall include the following forms found on the CDCR/CCHCS intranet and internet sites:

(1) STD 200, Telework Agreement

(2) Alternate Work Location Safety Acknowledgement

(3) [CDCR 855, Request for Reasonable Accommodation](#), if applicable

(4) Learning Management System (LMS) Training Transcript (reflecting completion of Information Security Awareness and Privacy Awareness)

### **33060.10 Employee Request for a Telework Schedule**

(a) The employee shall:

(1) Obtain the forms from the CDCR intranet, CCHCS intranet and internet sites (Refer to 33060.9).

(2) Ensure Information Security Awareness and Privacy Awareness training has been completed and documented within an official training record (e.g., enterprise LMS; In-Service Training office).

(3) Submit a complete Telework Package to their manager or supervisor for review and consideration (Refer to 33060.9).

### **33060.10.1 Manager or Supervisor Review and Decision of a Telework Request**

(a) The manager or supervisor along with the employee shall:

(1) Review the CDCR/CCHCS Telework Program policy, SIMM 5360-A and guidelines provided in Alternate Work Location Safety Acknowledgement.

(2) Determine the equipment needed for telework (Refer to 33060.17).

(A) Telework requests requiring a reasonable accommodation shall be reviewed by the manager or supervisor and HA on a case by case basis.

(b) The manager or supervisor shall:

(1) Complete the Manager's Telework Checklist.

(2) Send the completed Telework Package to the respective HA, or designee, for approval or denial.

(3) Notify the employee in writing if the Telework Package has been approved or denied. If approved, request for the employee the type of remote access appropriate for the essential job functions.

(4) Confirm with CDCR/CCHCS IT that setup has been completed.

(5) Inform the employee of the date authorized to start telework in accordance with the terms of the Telework Agreement.

(c) Ensure all standard CDCR/CCHCS rules apply, including policies and guidelines for connecting to CDCR assets from outside CDCR networks.

### **33060.11 Telework and Remote Access Security Standard**

(a) The HA, or designee, shall ensure the Telework Program is implemented in accordance with all applicable laws, policies, and standards for governing the protection of state information assets including, but not limited to:

(1) Information Security and Privacy.

(A) Statewide information security and policies, standards, procedures, and guidelines are issued by the CISO and are found in the State Administrative Manual, sections 5300 through 5399.

(B) Statewide and federal privacy laws, resources, and guidelines including The Health Insurance Portability and Accountability Act are found on the [Office of Attorney General website](#).

(C) Corresponding standards, procedures, and guidelines are found on the [California Department of Technology \(CDT\) website](#).

(2) Information Management.

(A) SIMM, section 5360-A provides details on the state's Telework and Remote Access Security Standard. The SIMM is available at the [CDT website](#).

*NOTE: SIMM sections 10 through 80 and section 5300 contain standards, instructions, forms, and templates that state agencies use to comply with IT policy.*

### **33060.12 Telework Employee Rights and Responsibilities**

Telework employees are responsible for the provisions set forth in this Telework Program policy and for self-certifying that the alternate work location complies with established safety requirements as listed on the Alternate Work Location Safety Acknowledgement.

(a) Telework employees have the right to:

(1) Be eligible for the same opportunities as employees not participating in telework including, but not limited to, assignments, development opportunities, promotions, awards and recognition.

(2) All provisions provided in the employee's BU MOU, which are neither enhanced nor abridged by participating in the Telework Program.

(b) Telework employees shall be responsible for:

(1) Maintaining all CDCR/CCHCS assets (e.g., systems, platforms, office tools, repositories) needed to perform the duties assigned.

(2) Securing and maintaining a reliable internet connection with sufficient bandwidth to perform job duties prior to starting telework.

(3) Being available by phone, email, or the current department standard platform for online meetings, communication (chat, voice and video calls), and collaboration (e.g., Microsoft Teams) during their designated work hours.

(4) Ensuring adherence to all applicable laws, policies, and standards including program- specific guidelines and requirements for governing the security and confidentiality of work-related documents and information while teleworking (Refer to 33060.11).

(5) Ensuring the use of state-issued equipment, software, data and supplies provided by CDCR/CCHCS is limited to authorized personnel and only for the purposes of conducting CDCR/CCHCS business.

(6) Contacting the CDCR/CCHCS IT Help Desks when experiencing technical or equipment problems to make arrangements for assistance, repair, replacement, or other options (Refer to 33060.17.1).

(7) Maintaining a professional work environment at all times while teleworking by ensuring security and confidentiality of work-related information, and reducing visual and noise distractions.

(8) Scheduling all in-person meetings at the office and not at an alternate work location.

(9) Arranging for any dependent care and other personal responsibilities to ensure working at an alternate work location does not adversely affect normal work duties or professionalism.

(10) Retrieving or returning state-issued equipment to and from the alternate work location (Refer to 33060.17.1).

(11) Reporting to their manager or supervisor as soon as possible any emergency situations that arise at the alternate work location which result in a temporary or permanent work stoppage (e.g., power outages, flooding, fire, evacuation, etc.) (Refer to 33060.14 & 33060.17.1).

(12) Completing mandatory annual Information Security Awareness and Privacy Awareness training. Failure to comply with the training requirement may result in the revocation of IT access to remote services.

(13) Participating in all requested studies, inquiries, reports and analyses relating to the Telework Program, which shall be used to monitor participation in the statewide telework program as of the effective date of the Department of General Services Statewide Telework Policy.

### **33060.13 Manager or Supervisor Responsibilities**

(a) Manager or supervisors are responsible for evaluating and monitoring telework participation to ensure:

- (1) The overall management and success of teleworking within their offices.
- (2) Job tasks are suitable for telework and appropriate for the employee's classification.
- (3) Telework is approved, denied, or revoked.
- (4) A minimum level of in-office presence, if the operational need arises.
- (5) The quality of work completed continues to meet existing program standards.
- (6) Telework Agreements align with program objectives, while maintaining or improving efficiency, productivity, customer service, and safety conditions.
- (7) Required workload is tracked and reviewed on a regular basis.
- (8) During core hours, including lunch period, necessary operational coverage is maintained.
- (9) Access to state IT infrastructure and equipment necessary to support the Telework Agreement by working with the CDCR/CCHCS IT, CDCR/CCHCS ISO, and the CDCR/CCHCS Business Services Offices to assess and provide telework technology hardware, software, equipment and supplies to telework employees.
- (10) Existing office equipment and supply items available through their division, section, or office are utilized whenever possible, or work with CDCR/CCHCS IT.
- (11) The return of CDCR/CCHCS-owned telework material, equipment, software, and supplies (if applicable) upon termination of the Telework Agreement including separation by employees.
- (12) Employees complete the annual online security awareness training.
- (13) Remote-centered telework employees have shared space available and a process for scheduling shared space for their office days.
- (14) Telework IT access permissions for subordinate staff are revoked or removed as soon as telework is terminated or is no longer needed such as when there are changes in job position, classification, or duties.
- (15) Employees come into the office when internet outages occur or alternatively use personal leave credits (Refer to 33060.17.1).

(b) Managers or supervisors are responsible for evaluating and monitoring employee performance using existing performance standards and measures to ensure:

- (1) Day-to-day performance of telework employees is the same as onsite employees, including communicating general office updates and related information to telework employees.
- (2) Telework employees comply with applicable policies regarding approval for the use of sick leave, vacation, or other leave credits, as well as any overtime worked.
- (3) Assignments, corresponding deadlines, and expected work performance are defined in detail (specific, measurable, and attainable) and in the same manner as for onsite employees.

### **33060.14 Telework Coordinator Responsibilities**

(a) Department Telework Coordinator

(1) The department head or designee shall designate a department Telework Coordinator (TC) in Human Resources to be responsible for the overall coordination and monitoring of the Telework Program as follows:

- (A) Serve as the point of contact for the Department of General Services regarding the CDCR/CCHCS telework program and its effectiveness.
  - (B) Serve as a telework subject matter expert (SME) for all program area TCs.
  - (C) Ensure an annual email announcement regarding telework eligibility is provided to all department employees.
  - (D) Work with program area TCs to ensure Telework Agreements are compliant with the statewide Telework Program.
  - (E) Develop departmental policy, guidelines, and implementation for the Telework Program.
  - (F) Serve as an advisor for department leadership regarding telework.
  - (G) Oversee and assist with completion and reporting of metrics on the Telework Program as required.
- (b) Program Area Telework Coordinator
- (1) Each HA, or designee, shall designate a program area TC to:

(A) Serve as a telework SME for management and employees within their program area.

(B) Retain copies of signed and approved initial, modified, or terminated Telework Packages including all related documents for the duration of the telework agreement plus one year following termination of telework. Copies shall be retained in the Official Personal File for the standard retention period of five years.

(C) Be responsible for coordinating and monitoring the program area's Telework Program.

(D) Assist managers, supervisors and employees in understanding and using the Telework Program policy, guidelines, and related procedures.

(E) Track annual renewal and review of Telework Agreements between telework employees and their managers or supervisors.

(F) Liaise with department TC regarding the telework program.

### **33060.15 Enterprise Information Services (EIS)/Information Technology Services Division (ITSD) Responsibilities**

(a) CDCR/CCHCS IT Services are responsible for:

- (1) Maintaining the right to monitor and journal computer activity, without notice, all telework and network activity, including email and internet activities. Telework employees, as with onsite employees, have no expectation of privacy in the use of state computer resources.
- (2) Facilitating the reuse and transfer of state-issued IT equipment meeting CDCR/CCHCS standards.
- (3) Ensuring all CDCR/CCHCS software or hardware installed for telework is in accordance with software copyright laws and compatible with CDCR/CCHCS software and equipment standards.
- (4) Ensuring state-issued equipment used for telework is properly tagged, encrypted, and solely assigned to a telework employee.
- (5) Providing assistance to managers or supervisors in defining and assessing the appropriate data communications equipment, hardware, software, services, computer needs, and other information associated with telework.
- (6) Ensuring routine maintenance and repair of CDCR/CCHCS IT assets used for telework.
- (7) Resolving connectivity and state-issued equipment problems as needed for telework activity.

### **33060.16 Telework Office Security and Safety**

(a) CDCR security incidents (e.g., lost or stolen devices) are reported to CDCR ISO and local IT representatives within 24 hours via the Security Incident Report (available on the CDCR intranet), and submitted via email to [CDCR-ISO@cdcr.ca.gov](mailto:CDCR-ISO@cdcr.ca.gov). CCHCS security incidents are reported to CCHCS ISO within 24 hours via the Information Security Incident Report form (available on the CCHCS intranet), and submitted via email to [CCHCS-ISO@cdcr.ca.gov](mailto:CCHCS-ISO@cdcr.ca.gov).

(1) If equipment becomes lost or stolen, CCHCS employees shall follow the CCHCS Lost and Stolen IT Asset Administrative Policy and Procedure.

(b) If an employee incurs a work-related injury while teleworking, workers' compensation laws and rules apply the same as they would if such an injury occurred at the office.

Work-related injuries that occur at the alternate work location are reported by completing and submitting the e3067, Employer's Report of Occupational Injury or Illness.

(c) CDCR/CCHCS shall use existing notification processes for notifying employees of emergency situations at the office.

### **33060.17 Technology Services and Equipment for Office and Alternate Work Locations and Office Supplies**

(a) CDCR/CCHCS shall provide telework employees the appropriate complement of equipment for one dedicated workstation for either office-centered or remote-centered telework to perform their essential job functions based on the business needs of the department.

(1) Telework requests requiring a reasonable accommodation shall be reviewed by the manager or supervisor and HA on a case by case basis.

(2) If approved in advance, telework employees may use their own computer equipment for telework based on the operational business needs. Per SIMM 5360A, employee-owned equipment shall only connect to authorized internet facing state IT infrastructure services through approved web-based interfaces authorized by EIS/ITSD (Refer to 33060.18).

(b) Remote-centered telework employees shall be responsible to:

(1) Furnish their work area with the appropriate furniture. CDCR/CCHCS shall not be liable for any investment in furniture for the designated alternate work location.



(2) Transport moveable items from the office, including office supplies, as needed and setup of any telework equipment at their approved alternate work location. Items lost or broken during transit could be subject to reimbursement by the employee.

(3) Follow state and CDCR/CCHCS procedures to obtain office equipment, software, office supplies, communication devices, and office services needed in their alternate work location.

(A) Office supplies shall be acquired from the office or ordered and approved through the acquisition process. In the event of extraordinary circumstances, which do not allow office supplies to be acquired from the office or ordered through the acquisition process, pre-approval in writing by a manager or supervisor is required. Reimbursements shall be made via normal departmental reimbursement procedures pursuant to all applicable laws, rules, regulations, and policies, including the Fair Labor Standards Act (FLSA), applicable MOUs, and CDCR/CCHCS accounting and travel practices.

(B) Any requests to use shared office equipment such as scanners, at an alternate work location shall be determined on a case-by-case basis. If the manager or supervisor determines the employee requires office equipment for telework purposes, the approval of the respective Deputy Director or designee and IT shall be required.

(c) Ensure all equipment used for teleworking conforms to CDCR/CCHCS asset management requirements.

(d) Business expenses shall be evaluated in accordance with existing applicable policies, laws and standards. Other business expenses may include, but are not limited to, printers, scanners, and other office supplies. Maintenance of state-owned equipment is managed the same as in the office.

(e) In accordance with CDCR/CCHCS mobile phone policies and procedures, mobile phone requests shall be submitted to CDCR/CCHCS IT through their departmental incident tracking system.

(f) If an employee needs a work phone number, they shall be provided a single phone number that can be accessed from both their alternate work location and office location.

(g) CDCR/CCHCS is not responsible for substantiating an employee's claim of tax deductions for teleworking. An employee should seek advice from a tax advisor concerning telework deductions.

#### **33060.17.1 Equipment Malfunction, Connectivity or Software Issues**

(a) In the event of equipment, connectivity, or software malfunctions, telework employees shall notify the manager or supervisor immediately to discuss alternative work assignments (Refer to 33060.12).

(b) Managers or supervisors shall determine if equipment, connectivity, or software downtime warrants having telework employees report to their office based on root cause of issue, estimated time to repair, travel time and distance to the office (Refer to 33060.13).

(c) Telework employees are responsible for returning malfunctioning or damaged state-issued equipment and assets to their office for repair (Refer to 33060.12). Managers or supervisors shall determine if travel time and distance to do so outweigh cost to ship the equipment and coordinate equipment return with IT.

(d) The CDCR/CCHCS IT Help Desks shall provide support via telephone to assist telework employees with state-issued equipment and remote desktop service.

#### **33060.18 Agreement for Use of Employee-Owned Equipment**

(a) Employees shall understand that using their personally-owned equipment subjects their hard drive, software, and any other type of electronic storage media to the possibility of subpoena or lack of privacy through legal action taken against, or by, the state in accordance with the Electronic Communication Privacy Act of 1986.

(b) Telework employees may use their personally-owned computing equipment for telework under the following conditions:

(1) The employee's personally-owned computing equipment and software comply with the SIMM 5360-A.

(2) The employee's computer resources and software ability meet IT standards and allow for required productivity and security in accordance with information security policies.

(3) The HA, or designee, approves a request for remote access as required by DOM 33060.9 Telework Package and in accordance with authorized procedures.

(4) The HA, or designee, after consulting with CDCR/CCHCS IT, provides written authorization for the employee to use their personally-owned computing equipment.

(c) Upon approval of an employee's request to use personally-owned equipment, the employee agrees:

(1) The maintenance and repairs of the personally-owned equipment remain the responsibility of the employee.

(2) The HA, or designee, does not assume any liability including, but not limited to loss, theft, or damage of personally-owned computing equipment as a result of telework-related activity.

#### **33060.19 Out of State Telework**

Out of state telework on a regular basis is prohibited. A telework schedule may be approved for an employee who is temporarily residing outside of the state. This is only applicable in situations that require temporary out-of-state telework, such as Reasonable Accommodations or qualifying circumstances pursuant to the Family Medical Leave Act or the California Family Rights Act. A CDCR/CCHCS employee who is temporarily residing in another state shall remain within the jurisdiction of the regulatory agencies and laws that are administered by virtue of being employed by the State of California and CDCR/CCHCS.

#### **33060.20 Denial, Modification or Termination of a Telework Agreement**

(a) The employee may request to terminate the Telework Agreement at any time, for any reason and when feasible, provide their manager or supervisor written notice at least 30 calendar days in advance of the requested termination date.

(1) The manager or supervisor may deny or delay the termination request for up to 14 business days or until designated office space can be secured.

(2) Upon approval of an employee's request to terminate telework, the employee shall start working at their office the next business day following the effective date of the termination.

(b) In the event the denial, modification, or termination of a Telework Agreement is deemed necessary by the department, the HA or designee shall:

(1) Endeavor to provide the employee at least 30 calendar days' notice, but no less than 15 calendar days' notice to employees when permanently terminating or permanently modifying a Telework Agreement. This advance notice is not required due to unforeseen operational need or by mutual agreement between the employee and management. The written notice shall state the reason(s) for the denial, modification or termination including, but not limited to:

(A) CDCR/CCHCS operational needs (e.g., backlog).

(B) The employee's BU MOU does not include provisions for a telework program.

(C) Unavailability of IT assets.

(D) Other circumstances which make a requested Telework Agreement inappropriate or impractical (e.g., nature of the work).

(E) Failure to adhere to the terms of the Telework Agreement.

(2) In the event of a denial, a copy of the written notification to the employee shall be provided to Labor Relations.

(c) Upon termination of a Telework Agreement, the employee's work location shall revert to their identified office, pursuant to the termination notice.

#### **33060.21 Telework Questions**

(a) Questions regarding the telework provisions of any particular BU MOU shall be directed to the CDCR Office of Labor Relations or CCHCS Labor Relations Unit.

(b) Personnel questions shall be directed to CDCR or CCHCS HR.

(c) All other questions regarding telework shall be directed to the TC, employee's manager, supervisor or HA.

#### **33060.22 Links**

California Public Contract Code

<https://leginfo.ca.gov/faces/codesTOCSelected.xhtml?tocCode=PCC>

California Department of Technology, Office of Information Security Policy, Standards, Instructions and Guidelines

<https://cdt.ca.gov/policy/>

Telework and Remote Access Security Standard SIMM 5360-A

[https://cdt.ca.gov/wp-content/uploads/2019/06/SIMM-5360-B\\_20180108.pdf](https://cdt.ca.gov/wp-content/uploads/2019/06/SIMM-5360-B_20180108.pdf)

California Department of Personnel Administration, The Computer User's Guide to an Ergonomic Workstation

<https://www.calhr.ca.gov/Documents/computer-users-guide-to-an-ergonomic-workstation.pdf>

California Correctional Health Care Services, Telework Program Frequently Asked Questions

<http://lifeline/PolicyandAdministration/ResourceManagement/HumanResources/Documents/CCHCS-Telework-FAQs.pdf>

California State Telework Guide

[https://telework.govops.ca.gov/Information Security Incident Response](https://telework.govops.ca.gov/Information%20Security%20Incident%20Response)  
[http://intranet/ei/information-security/CDCR%20ISO%20Forms/ISO SIR.pdf#search=security%20incident%20reporting](http://intranet/ei/information-security/CDCR%20ISO%20Forms/ISO%20SIR.pdf#search=security%20incident%20reporting)

### 33060.23 Revisions

The CDCR/CCHCS Deputy Director, HR, or designee, and Director, EIS, or designee shall ensure that the contents of this article are current and accurate.

#### References

Americans with Disabilities Act  
 Electronic Communication Privacy Act of 1986 Fair Employment and Housing Act  
 Civil Code, section 1798  
 Government Code, sections 11549(a) and (b), and 14200-14203 Health and Safety Code, sections 13113.7 and 13113.8  
 Penal Code, section 502  
 California State Administrative Manual, section 5360.1

#### Revision History

Article Established: July 18, 2022.

## ARTICLE 26 — STAFF MISCONDUCT ALLEGATIONS INVOLVING AN INMATE OR PAROLEE

*Effective December 28, 2022*

### 33070.1 Policy

Any person can submit a complaint of staff misconduct when they believe department staff have engaged in behavior that resulted in a violation of law, policy, regulation, or procedure, or an ethical or professional standard. Complaints alleging staff misconduct toward an inmate or parolee shall be referred to the Office of Internal Affairs' (OIA) Centralized Screening Team (CST), and then referred to the OIA Allegation Investigation Unit (AIU) for investigation, the Hiring Authority for an allegation inquiry, or the institution or program for disposition as a routine issue.

### 33070.2 Purpose

To ensure that allegations of staff misconduct toward an inmate or parolee are addressed and that allegation inquiries and investigations are sufficient, thorough, complete, and unbiased so a Hiring Authority can determine a finding for each allegation.

### 33070.3 Definitions

- (a) **Allegations Against Staff Tracking System (AASTS)** – An electronic data system used to log and track allegations of staff misconduct involving department staff.
- (b) **Allegation Decision Index (ADI)** – The list of criteria used by CST to determine whether an allegation of staff misconduct should be referred to the AIU for investigation, or to the Hiring Authority for an allegation inquiry.
- (c) **Allegation Inquiry** – The gathering of relevant facts and evidence by a Locally Designated Investigator (LDI) for a complaint that contains an allegation of staff misconduct.
- (d) **Allegation Inquiry Report** – The confidential report prepared by an LDI following an allegation inquiry.
- (e) **Allegation Investigation Unit (AIU)** – The unit within the OIA that conducts investigations into complaints alleging misconduct toward inmates and parolees as set forth in Title 15, section 3486.2, and reviews Allegation Inquiry Reports completed by LDIs.
- (f) **AIU Investigator** – An investigator within AIU assigned to conduct a confidential investigation.
- (g) **Appointing Power** – The Secretary of the department.
- (h) **Case Tracking System (CTS)** – An electronic system that allows real time documentation of investigative case activity and allows various participants within the employee disciplinary process to access documents, monitor cases, and record key decisions and due dates.
- (i) **Central Repository** – A secure collection location for submission of staff misconduct allegations documented or received by department staff. A Central Repository may be a physical location at a work site, or via an email address provided for the purpose of submitting allegations of staff misconduct.
- (j) **Centralized Screening Team (CST)** – The entity within OIA that reviews complaints to determine if the documentation contains a routine issue, alleges staff misconduct toward an inmate or parolee, or alleges staff misconduct not toward an inmate or parolee.
- (k) **Clarification Interview** – An interview conducted by CST staff when clarification is required to make a screening decision.

(l) **Complaint** – Any documentation or verbal statement received by the department, from any source, that contains a routine issue or alleges staff misconduct.

(m) **Complainant** – A person making a complaint against departmental staff.

(n) **Deputy Director, Office of Internal Affairs (OIA)** – An individual responsible for the operation and functions of the OIA.

(o) **Department Staff** – California Department of Corrections and Rehabilitation (CDCR) employees, contractors, and volunteers.

(p) **Designated Case** – A case assigned to an EAPT VA.

(q) **Employment Advocacy and Prosecution Team (EAPT)** – The entity in the OIA responsible for providing legal counsel and representation to the department during the employee investigation, discipline, and appeal processes.

(r) **Hiring Authority** – Has the same meaning in this Article as in Title 15, section 3392(a)(11).

(s) **Investigation** – The gathering of facts and evidence by an OIA Investigator.

(t) **Investigation Assignment Index (IAI)** – The index used by an AIU manager to make a decision regarding the level of AIU investigator to be assigned to conduct an investigation.

(u) **Investigation Assignment Decision** – The decision made by the AIU manager of the level of AIU investigator to be assigned to conduct an investigation.

(v) **Investigation Report** – The confidential report prepared by an OIA investigator following an investigation.

(w) **Locally Designated Investigator** – Department staff trained by OIA to collect evidence, conduct allegation inquiries, and draft Allegation Inquiry Reports.

(x) **Monitored Cases** – A case monitored by the Office of the Inspector General (OIG).

(y) **Office of Grievances (OOG)** – The entity within CDCR with the authority to log and track grievances filed by an inmate or parolee. The OOG shall ensure that all routine claims returned from the CST to the OOG are reviewed and answered.

(z) **Office of Internal Affairs (OIA)** – The entity within CDCR with the authority to investigate allegations of staff misconduct.

(aa) **Routine Issue** – Any complaint received by CST that is not identified as containing an allegation of staff misconduct.

(bb) **Screening Decision** – The decision made by CST of whether a complaint contains routine issue(s), allegation(s) of staff misconduct toward an inmate or parolee, or allegation(s) of staff misconduct not related to an inmate or parolee.

(cc) **Staff Misconduct** – Behavior engaged in by department staff that results in a violation of law, regulation, policy, or procedure, or actions contrary to an ethical or professional standard.

(dd) **Vertical Advocate (VA)** – An EAPT attorney who provides legal advice to the department during investigations and the employee discipline process for designated cases, and represents the department at administrative hearings and during any subsequent writ or appellate proceedings.

### 33070.4 Responsibility

#### 33070.4.1 Appointing Power

The Appointing Power shall ensure compliance with the OIA's internal affairs investigation policies and procedures as set forth in Title 15, sections 3486.3, and this policy.

#### 33070.4.2 Director

Each Director shall be responsible for ensuring compliance with Title 15, sections 3486-3486.3, OIA's internal affairs investigation policies and procedures, and this policy within their respective area.

#### 33070.4.3 Office of Internal Affairs, Allegation Investigations Unit

(a) Allegations of staff misconduct toward an inmate or parolee referred by CST for investigation will be handled by the OIA, AIU. The OIA, AIU shall be responsible for:

- (1) Conducting investigations into allegations of staff misconduct toward an inmate or parolee;
- (2) Ensuring allegation inquiries and investigations are sufficient, thorough, complete, and unbiased;
- (3) Reviewing allegation inquiry reports to determine which allegations of staff misconduct warrant an AIU investigation; and
- (4) Ensuring investigations are completed in a timely manner.

#### 33070.4.4 Centralized Screening Team

The CST is responsible for reviewing all documents received and making a screening decision to determine whether a complaint should be referred to AIU for investigation, or to the Hiring Authority for an allegation inquiry or disposition as a routine issue.

#### **33070.4.5 Deputy Director, Office of Internal Affairs**

The Deputy Director shall be responsible for overseeing the department's OIA, and ensuring implementation of the AIU policies, procedures, and training set forth in Title 15, sections 3486-3486.3, and this policy.

#### **33070.4.6 Chief, Allegation Investigation Unit**

The Chief, AIU shall be responsible for overseeing the department's AIU for allegations of staff misconduct toward an inmate or parolee.

#### **33070.4.7 Chief, Centralized Screening Team**

The Chief, CST shall be responsible for overseeing the CST process for screening complaints and making screening decisions.

#### **33070.4.8 Regional Administrator, Allegation Investigation Unit**

Each AIU Regional Administrator shall be responsible for overseeing operations of the AIU regional office, and the AIU Manager review of Allegation Inquiry Reports from LDIs.

#### **33070.4.9 Manager, Allegation Investigation Unit**

Each AIU Manager shall be responsible for assigning investigations to, and supervising AIU investigators, and ensuring completion of sufficient and thorough investigations and allegation inquiries for cases involving staff misconduct toward inmates or parolees.

#### **33070.4.10 Investigator, Allegation Investigation Unit**

(a) Each AIU Investigator shall be responsible for:

- (1) Investigating allegations of staff misconduct toward inmates or parolees for assigned cases, and completing sufficient, thorough, complete, and unbiased Investigation Reports; and
- (2) Cooperating and consulting with the assigned VA for designated cases, and the assigned OIG staff for monitored cases.

#### **33070.4.11 Hiring Authority**

Each Hiring Authority shall be responsible for ensuring allegations of staff misconduct toward an inmate or parolee are referred to CST for screening, reviewing completed Allegation Inquiry Reports and Investigation Reports, and determining whether corrective action or disciplinary action is imposed when warranted.

#### **33070.4.12 Supervisors and Managers**

Each supervisor and manager shall be responsible for referring verbal allegations of unnecessary or excessive use of force and staff sexual misconduct, including sexual harassment, toward an inmate or parolee to CST via the Central Repository.

#### **33070.4.13 Locally Designated Investigators**

(a) LDIs shall be responsible for the following:

- (1) Conducting allegation inquiries that are sufficient, thorough, complete, and unbiased;
- (2) Familiarizing and complying with the requirements set forth in the various State Bargaining Unit MOU applicable to the investigation process.
- (3) Cooperating and consulting with the AIU manager, and the assigned OIG staff for monitored cases; and
- (4) Authoring a confidential draft Allegation Inquiry Report with supporting exhibits attached, and providing the draft Allegation Inquiry Report via designated institution or program staff to the AIU manager for review and approval.

#### **33070.5 Employee Expectations and Reporting**

(a) Each employee, regardless of classification or rank, shall adhere to the department's Employee Performance Standards set forth in Title 15, section 3391, and be responsible for the following:

- (1) Referring all observed misconduct or any unethical or illegal activity toward an inmate or parolee to CST via the Central Repository;
- (2) Referring verbal allegations of unnecessary or excessive use of force and staff sexual misconduct, including sexual harassment, toward an inmate or parolee to CST via the Central Repository, and immediately forward the complaint to their Hiring Authority;
- (3) Advising the complainant on how to submit their complaint in writing for verbal complaints not involving unnecessary or excessive use of force and staff sexual misconduct, including sexual harassment, toward an inmate or parolee; and
- (4) Reporting alleged staff misconduct promptly to a supervisor or other appropriate departmental, governmental, or law enforcement entity. If

information is reported verbally to a supervisor, the employee shall also submit a written report to the supervisor.

#### **33070.6 Allegation of Staff Misconduct Constituting an Emergency**

(a) Any allegation of staff misconduct which is believed by department staff to constitute an emergency shall be reported immediately to a supervisor. In the event of such an emergency, staff shall submit a written report within one (1) calendar day of learning the information. Instances that constitute an emergency include, but are not limited to:

- (1) Imminent risk to personal safety including possible loss of life or serious bodily injury;
- (2) Sexual abuse or acts of sexual misconduct as defined by the federal Prison Rape Elimination Act (PREA) and the California Sexual Abuse in Detention Elimination Act;
- (3) Serious breach of the safety or security of a facility or program;
- (4) Further aggravation of a potentially dangerous situation;
- (5) Activities which would compromise or jeopardize an investigation; or
- (6) An illegal activity which may occur.

#### **33070.7 Reporting Misconduct and Protecting Employees from Retaliation**

To encourage and protect employees that confront and report serious misconduct, the department has strengthened its policies and procedures to provide additional protections beyond those included in the California Whistleblower Protection Act (Government Code section 8547 et seq.) and other California protective statutes. This reporting of misconduct process and the protection offered by the department are detailed in the department's "Policy and Procedure for Reporting Serious Misconduct and Protecting Employees from Retaliation." The procedures may be obtained by contacting the OIA and are available on the OIA web page.

#### **33070.8 Complaints by Members of the Public Regarding Staff Misconduct Toward an Inmate or Parolee**

(a) Pursuant to Penal Code (PC) section 832.5, it is the policy of the department, as an employer of peace officers, to have a procedure for investigating a complaint by a member of the public against its peace officers.

(b) Any person, other than an inmate or parolee, or departmental employee, who wishes to file a complaint of misconduct by any departmental employee, including peace officers, shall be advised to submit a complaint. Complaints of misconduct will normally be recorded on a CDCR Form 2142, Citizen's Complaint Against Employees of CDCR.

(c) A complaint may be made at any time, day or night, to any on-duty departmental supervisor. The complainant may also choose to mail or deliver their complaint directly to the Hiring Authority or any department head. Upon initial receipt of a complaint by a member of the public, the supervisor accepting the complaint shall confirm the complaint involves a department employee(s). Complaints determined to involve personnel from other agencies shall be forwarded to the appropriate authority of that agency through the appropriate chain of command.

(d) Upon receipt of a written complaint or CDCR Form 2142 from a member of the public, the departmental supervisor accepting the complaint shall submit the complaint to CST for screening via the Central Repository. The complainant shall be notified in writing by the institution or parole region that their complaint has been received within 30 calendar days of receipt. Complaints and reports and findings relating to the complaints made by members of the public shall be retained for a period of at least five years pursuant to PC section 832.5(b) and the department Records Retention Schedule.

#### **33070.9 Centralized Screening Team**

##### **33070.9.1 Referral of Complaint to the Centralized Screening Team**

(a) Department staff receiving a written complaint from a complainant alleging staff misconduct toward an inmate or parolee, shall refer the complaint to the CST via the Central Repository, and notify their supervisor to determine if the complaint contains information constituting an imminent risk to personal safety, institutional security, or involves sexual abuse or acts of sexual misconduct as defined by PREA and the California Sexual Abuse in Detention Elimination Act.

(b) Department staff shall document in writing any verbal complaints received that involve an allegation that an inmate or parolee was subject to unnecessary or excessive use of force, staff-on-offender sexual misconduct, or sexual harassment. The departmental staff receiving the complaint shall refer the complaint to CST via the Central Repository, and immediately forward the complaint to their Hiring Authority.

(c) For allegations of staff misconduct not toward an inmate or parolee, the Hiring Authority shall not refer the allegation to CST, but may initiate an allegation inquiry, impose corrective action, or request an investigation or approval of direct adverse action, pursuant to the department's regulations, policies and procedures.

### **33070.9.2 Centralized Screening Team Review and Screening Decision**

(a) When a document is received by CST, staff shall review each document, identify all issues, and determine whether the document contains:

- (1) A routine issue; or
- (2) Allegation(s) of staff misconduct toward an inmate or parolee; or
- (3) Allegation(s) of staff misconduct not toward an inmate or parolee.

(b) CST staff shall also review each document to determine if it contains information constituting an imminent risk to personal safety, or institutional security, or involves sexual abuse or acts of sexual misconduct as defined by PREA and the California Sexual Abuse in Detention Elimination Act, not previously identified by departmental staff who referred the allegation. In those instances, CST shall immediately notify the Hiring Authority of the affected institution or program for appropriate action.

(c) CST shall notify the Hiring Authority of the screening decision. Additionally, the institution or parole region shall ensure the complainant is notified in writing that their complaint has been received within thirty (30) business days of receipt.

(d) The CST shall normally route all complaints within five business days of receipt, unless the clarification interview process requires additional time.

### **33070.9.3 Clarification Interview**

CST shall conduct a clarification interview if required to make a screening decision. The clarification interview shall be conducted in a manner that provides as much privacy for the complainant as operationally feasible. The CST shall record the information obtained during the clarification interview into the appropriate information technology system.

### **33070.9.4 Routine Issues**

CST staff shall return issues identified as routine to the institution or program for a response in accordance with applicable department rules, regulations, and operational procedures.

### **33070.9.5 Staff Misconduct Toward an Inmate or Parolee**

CST shall log allegations of staff misconduct toward an inmate or parolee into the AASTS when the allegation has not already been entered by designated institution or program staff. CST shall utilize the ADI to determine whether the allegation will be referred to AIU for investigation or to the Hiring Authority for an allegation inquiry.

### **33070.9.6 Staff Misconduct Not Toward an Inmate or Parolee**

CST staff shall return issues identified as staff misconduct not toward an inmate or parolee to the Hiring Authority for disposition in accordance with applicable department rules, regulations, and operational procedures.

### **33070.9.7 Allegation Decision Index**

(a) Allegations of serious staff misconduct that are complex issues requiring specialized skills or resources to investigate shall be referred to AIU for investigation, to include all allegations listed on the ADI. When an allegation of staff misconduct toward an inmate or parolee is identified by CST, CST shall first refer to the ADI to determine if the allegation is listed in the ADI. CST shall refer allegations listed in the ADI to AIU for investigation. CST shall refer allegations not listed in the ADI to the Hiring Authority for an allegation inquiry, unless after review CST determines the allegation includes complex issues requiring specialized investigative skills or resources that warrant assignment to AIU for investigation.

(b) The ADI is as follows:

<b>ALLEGATION DECISION INDEX</b> <b>Allegations of Staff Misconduct Toward an Inmate or Parolee</b> <b>Designated for OIA Referral</b>
<b>Use of Force</b>
(1) Failure to report own or witnessed use of force
(2) Excessive or unnecessary use of force
(3) Improper use of restraints
(4) Misuse, non-use, or careless handling of duty weapon(s)
(5) Inappropriate display of duty weapons

<b>Staff Sexual Misconduct</b>
(1) Sexual misconduct with an inmate or parolee
(2) Sexual violence toward an inmate or parolee
(3) Sexual harassment toward an inmate or parolee
<b>Dishonesty</b>
(1) Destruction, fabrication, falsification, alteration, or planting of evidence, including failure to comply with body-worn camera activation requirements
(2) Perjury, material misrepresentation, falsification, or intentionally misleading statements in official law enforcement reports or records, including Rules Violation Reports <b>NOTE:</b> Allegations of perjury, material misrepresentation, falsification, or intentionally misleading statements involving a Rules Violation Report shall be routed to OIA regardless of the status of the disciplinary process. However, the investigation will not begin until the disciplinary process is complete or 60 days after the initial copy of the Rules Violation Report is issued to the inmate, whichever occurs first.
(3) Making false or intentionally misleading statements to a supervisor
<b>Discrimination/Harassment</b>
(1) Making insults to an inmate or parolee pertaining to race, color, national origin, ancestry, sex (i.e., gender or gender identity), religion, marital status, age, disability, medical or mental health condition, pregnancy, sexual orientation, veteran status, or political affiliation
(2) Harassing an inmate or parolee based upon race, color, national origin, ancestry, sex (i.e., gender or gender identity), religion, marital status, age, disability, medical or mental health condition, pregnancy, sexual orientation, veteran status, or political affiliation
(3) Discriminating against an inmate or parolee pertaining to race, color, national origin, ancestry, sex (i.e., gender or gender identity), religion, marital status, age, disability, medical or mental health condition, pregnancy, sexual orientation, veteran status, or political affiliation
(4) Repeated misuse of specified pronouns or honorifics
<b>Retaliation</b>
(1) Retaliation against an inmate or parolee due to reporting staff misconduct
(2) Retaliation against an inmate or parolee due to use of the Administrative Remedies (Grievance and Appeal) process
(3) Retaliation against an inmate or parolee due to participation in a lawsuit
(4) Retaliation against an inmate or parolee due to a request for a disability accommodation
<b>Code of Silence</b>
(1) Any involvement in a coordinated effort with other employees, inmates or parolees to prohibit the reporting of misconduct
(2) Failure to report misconduct by another employee
(3) Intimidating, dissuading, or threatening witnesses
(4) Any independent act(s) which prevents or interferes with the reporting of misconduct
<b>Integrity</b>
(1) Creating an opportunity or motive for an inmate or parolee to harm an inmate or parolee, staff, or self (e.g. suicide)
(2) Failure to intervene or attempt to stop misconduct by another employee
(3) Actions or conduct causing significant risk to institutional or public safety or security
(4) Improper access, disclosure or transmittal of confidential information



<b>Other Misconduct</b>
(1) Dangerous, negligent, or reckless driving or operating machinery on duty
(2) Endangering self, fellow employees, inmates, parolees or the public by violation of departmental training, laws, policies, directives or ordinances
(3) Misconduct resulting in significant injury or death of an inmate or parolee
(4) Threats to, intimidation of or assault of an inmate or parolee
(5) Over-familiarity with an inmate or parolee
(6) Use of position to solicit gratuities or favors from an inmate or parolee
(7) Bringing contraband into a security area for an inmate

(c) When a complaint is listed on the ADI, CST shall also route to AIU any additional allegations in the complaint directly related in time and scope.

#### **33070.9.8 Dispute Resolution Process**

If the Hiring Authority or OIG disagrees with a CST screening decision, they may request reevaluation by a CST manager and state the basis for their disagreement. If the CST Manager agrees with the Hiring Authority or OIG, they shall modify the screening decision. If the CST Manager disagrees with the Hiring Authority or OIG, they shall confirm the initial screening decision, and notify the Hiring Authority or OIG of the decision. If the Hiring Authority or OIG still disagrees with the screening decision, the Hiring Authority or OIG may elevate the screening decision to the CST Chief for review and decision. The dispute resolution process shall be initiated within 2 business days of the screening decision to ensure the timely processing of complaints.

#### **33070.9.9 Allegations Against Staff Tracking System**

All allegations of staff misconduct, regardless of source, shall be entered into the Allegations Against Staff Tracking System (AASTS).

#### **33070.10 Allegation Investigation Unit**

##### **33070.10.1 Allegation Investigation Unit Intake File**

Upon receipt of an allegation of staff misconduct from the CST, AIU staff shall analyze the complaint to determine if additional documents are needed for the intake file, assemble the available documents and recordings, and upload the intake file into the CTS for the AIU manager, EAPT and OIG to access within ten working days.

##### **33070.10.2 Notification of EAPT Designation and OIG Monitoring Decision**

Once the intake file is uploaded into CTS by AIU, EAPT and OIG staff will notify the AIU manager if the case will be designated to a VA, or monitored by the OIG, within three working days.

##### **33070.10.3 Investigation Assignment Decision and Assignment to Investigator**

(a) The AIU Manager shall review the intake file and make an assignment to an investigator in accordance with the Investigation Assignment Index (IAI) unless other case factors exist to warrant increasing the level of the investigator or justify reducing the level of investigator. Case factors the AIU Manager shall consider include:

- (1) Evidence immediately available that supports or refutes allegations;
  - (2) Number of inmates, parolees, or staff involved;
  - (3) Number of allegations raised in a single incident;
  - (4) Criminal misconduct versus administrative misconduct;
  - (5) Availability of audio or video evidence;
  - (6) Criminal statutes of limitations;
  - (7) Disciplinary statutes of limitations;
  - (8) Past allegations of same or similar misconduct against the staff member (excluding determinations of exonerated and unfounded); and
  - (9) Length of time since alleged misconduct occurred (Allegations reported more than 1 year after the alleged misconduct occurred can be assigned to a lower level investigator than noted on the index.)
- (b) A Special Agent shall be assigned to the investigation when:
- (1) Exigent circumstances exist;
  - (2) The misconduct resulted in great bodily injury or death of an inmate or parolee;
  - (3) Evidence of felony criminal conduct is present; or
  - (4) The allegation involves a high-ranking, non-civil service staff member.

(c) When a single incident involves multiple allegations of misconduct listed on the IAI, the AIU manager shall assign the case to the investigator level of the allegation requiring the highest level investigator noted in the IAI for those allegations, unless case factors exist that justify reducing the level of investigator.

(d) The AIU manager shall document their reasons for assigning an investigation to a lower level investigator than identified on the IAI.

(e) The AIU manager has the authority during the course of an investigation to reassign or co-assign any case to a higher level investigator when deemed necessary based on a change in the case factors, including but not limited to the discovery of corroborating evidence or an increase in the complexity of the investigation.

(f) The investigation assignment decision and investigator assigned shall be entered into CTS within 10 working days.

(g) If EAPT or OIG staff, disagrees with the investigation assignment decision, they shall notify the AIU manager of the disagreement, and provide a recommendation of the level of investigator to be assigned. If the AIU manager disagrees, the disagreement may be elevated to the AIU Chief for a final decision.

#### **33070.10.4 Investigation Assignment Index**

(a) The Investigation Assignment Index (IAI) is as follows:

<b>INVESTIGATION ASSIGNMENT INDEX</b>	<b>Sergeant, Lieutenant or Special Agent</b>
<b>Use of Force</b>	
(1) Failure to report own or witnessed use of force	Lieutenant
(2) Excessive or unnecessary use of force	Lieutenant
(3) Improper use of restraints	Lieutenant
(4) Misuse, non-use, or careless handling of duty weapon(s)	Lieutenant
(5) Inappropriate display of duty weapons	Lieutenant
<b>Staff Sexual Misconduct</b>	
(1) Sexual misconduct with an inmate or parolee	Lieutenant
(2) Sexual violence toward an inmate or parolee	Special Agent
(3) Sexual harassment toward an inmate or parolee	Lieutenant
<b>Dishonesty</b>	
(1) Destruction, fabrication, falsification, alteration or planting of evidence, including failure to comply with body-worn camera activation requirements	Lieutenant
(2) Perjury, material misrepresentation, falsification, or intentionally misleading statements in official law enforcement reports or records; including rules violation reports once the disciplinary process is complete or 60 days after the initial copy of the rule violation report is issued to the inmate, whichever occurs first	Lieutenant
(3) Making false or intentionally misleading statements to a supervisor	Lieutenant
<b>Discrimination/Harassment</b>	
(1) Making insults to an inmate or parolee pertaining to race, color, national origin, ancestry, sex (i.e., gender or gender identity), religion, marital status, age, disability, medical or mental health condition, pregnancy, sexual orientation, veteran status, or political affiliation	Sergeant
(2) Harassing an inmate or parolee based upon race, color, national origin, ancestry, sex (i.e., gender or gender identity), religion, marital status, age, disability, medical or mental health	Sergeant

condition, pregnancy, sexual orientation, veteran status, or political affiliation	
(3) Discriminating against an inmate or parolee pertaining to race, color, national origin, ancestry, sex (i.e., gender or gender identity), religion, marital status, age, disability, medical or mental health condition, pregnancy, sexual orientation, veteran status, or political affiliation	Sergeant
(4) Repeated misuse of specified pronouns or honorifics	Lieutenant
<b>Retaliation</b>	
(1) Retaliation against an inmate or parolee due to reporting staff misconduct	Lieutenant
(2) Retaliation against an inmate or parolee due to use of the administrative remedies (Grievance and Appeal) process	Sergeant
(3) Retaliation against an inmate or parolee due to participation in a lawsuit	Sergeant
(4) Retaliation against an inmate or parolee due to a request for a disability accommodation	Sergeant
<b>Code of Silence</b>	
(1) Any involvement in a coordinated effort with other employees, inmates or parolees to prohibit the reporting of misconduct	Special Agent
(2) Failure to report misconduct by another employee	Lieutenant
(3) Intimidating, dissuading, or threatening witnesses	Special Agent
(4) Any independent act(s) which prevents or interferes with the reporting of misconduct	Lieutenant
<b>Integrity</b>	
(1) Creating an opportunity or motive for an inmate or parolee to harm an inmate or parolee, staff, or self (i.e. suicide)	Lieutenant
(2) Failure to intervene or attempt to stop misconduct by another employee	Sergeant
(3) Actions or conduct causing significant risk to institutional or public safety or security	Lieutenant
(4) Improper access, disclosure or transmittal of confidential information	Lieutenant
<b>Other Misconduct</b>	
(1) Dangerous or negligent or reckless driving or operating machinery on duty	Sergeant
(2) Endangering self, fellow employees, inmates, parolees or the public by violation of departmental training, laws, policies, directives or ordinances	Sergeant
(3) Misconduct resulting in significant injury or death of an inmate or parolee	Special Agent
(4) Threats to, intimidation of or assault of an inmate or parolee	Sergeant
(5) Over-familiarity with an inmate or parolee	Sergeant
(6) Use of position to solicit gratuities or favors from an inmate or parolee	Sergeant
(7) Bringing contraband into a security area for an inmate	Lieutenant

### 33070.10.5 Statute of Limitations

(a) For non-designated cases, AIU shall analyze and assess the Statute of Limitations (SOL) expiration date for each assigned case, under Government Code section 3304(d) and (g) for public safety officers, and Government Code section 19635 for all state employees.

(b) For designated cases, the assigned VA shall analyze and assess the SOL expiration date for each case in accordance with DOM, Article 22, Employee Discipline.

(c) Within 10 working days from the case assignment to the investigator, the SOL expiration date shall be entered in CTS by AIU for non-designated cases, and the assigned VA for designated cases.

(d) Investigations should be completed in accordance with AIU procedures, and at least 60 calendar days prior to the SOL expiration date, unless a later completion date is approved by an AIU manager.

#### 33070.10.6 Initial Case Conference

(a) The AIU investigator shall schedule and conduct an Initial Case Conference within 10 working days of the case assignment for cases that are VA designated, OIG monitored, or both.

(b) The Initial Case Conference shall be attended by the investigator, assigned VA, and assigned OIG staff, to discuss the allegations of misconduct, elements of the various causes of action for discipline, elements of a thorough investigation for the alleged misconduct, and develop an investigative plan, including evidence to obtain and witnesses to interview.

(c) If during the Initial Case Conference, an allegation(s) of criminal misconduct is identified in the complaint, and reasonable belief exists that the misconduct occurred, the case shall be assigned to a Special Agent. If the case was initially assigned to a level less than Special Agent, the case shall be referred to an AIU manager to determine if the investigation should be assigned or co-assigned to a Special Agent.

#### 33070.10.7 Investigations Related to Criminal Misconduct

If the investigator conducting an investigation into allegations of staff misconduct toward an inmate or parolee determines there is a reasonable belief criminal misconduct has occurred, the investigator shall consult with an AIU manager. If the AIU manager concurs with the investigator's determination that there is a reasonable belief criminal misconduct has occurred, compelled subject interviews shall not be conducted. If the AIU manager determines there is not a reasonable belief criminal misconduct has occurred, the investigator may proceed with compelled subject interviews related to the administrative allegations.

#### 33070.10.8 Criminal Misconduct Discovered During an Investigation

If allegations of criminal misconduct are identified during the investigation, the investigator shall consult with an AIU manager, assigned VA for designated cases, and OIG staff for monitored cases. After consultation, if the AIU manager concurs that criminal misconduct has been identified and the investigation has been assigned to a level less than Special Agent, the AIU manager shall determine whether the investigation should be assigned or co-assigned to a Special Agent.

#### 33070.10.9 New Unrelated Allegations of Staff Misconduct Toward an Inmate or Parolee Discovered During an Investigation

New unrelated allegation(s) are allegations of staff misconduct that are separate in time or scope of the allegation under investigation. If an investigator discovers evidence of new unrelated staff misconduct toward an inmate or parolee, the investigator shall document the staff misconduct in a separate report which summarizes the facts and evidence and forward the report to CST within three business days of discovery.

#### 33070.10.10 Deadly Force Investigations

Deadly force investigations shall be conducted by the Deadly Force Investigation Teams (DFIT) in accordance with Title 15, section 3268. If an inmate or parolee alleges the use of deadly force, and the deadly force was not previously reported to OIA, AIU will conduct the investigation until it is determined that deadly force was used. If AIU determines that deadly force was used, the case shall be referred to DFIT.

#### 33070.10.11 Employee Representation Rights

Employees are entitled to representation during investigative interviews consistent with the applicable MOU, Public Safety Officers Procedural Bill of Rights Act, and state and federal law. Employees who are possible subjects or witnesses in the investigation are excluded as employee representatives.

#### 33070.10.12 Recording Interviews During an Investigation

(a) During AIU investigations, noticed employee interviews concerning matters of staff misconduct shall be audio-recorded. Any audio recording of a noticed investigatory interview shall be:

- (1) Made openly and with the full knowledge of the employee being interviewed;
  - (2) Included as part of the final report; and
  - (3) Retained in investigation file consistent with the Records Retention Schedule.
- (b) An employee being interviewed as the subject of an investigation may audio-record any portion of the interview and have access to the department's audio recordings if any further proceedings are contemplated, or prior to any further interrogation at a subsequent time.
- (c) If a subject audio records the interview, they may retain possession of the audio recording upon the conclusion of the interview.
- (d) An employee being interviewed as a witness of an investigation may audio-record the interview, but may not retain the original or a copy of the audio recording. Digital recorders shall not be allowed in witness interviews, unless the employee agrees to relinquish possession of the recorder at the end of the interview. The employee shall have access to the audio recordings made by the department and the employee before any subsequent interview.
- (e) All audio recordings shall be retained with the original investigative file. Audio recordings are part of the investigative file and are confidential.
- (f) This section does not apply to surreptitious recordings conducted during a criminal investigation.

### **33070.10.13 Investigation Report and Review**

#### **33070.10.13.1 Investigation Report Format**

All Investigation Reports shall be submitted in the standard format provided by the OIA. The report shall begin with a statement of the allegation(s) or complaint(s), shall provide all relevant facts, and shall include the investigator's signature. The report shall address material contradictions, but shall not include any conclusions regarding disposition of the investigation.

#### **33070.10.13.2 Drafting Investigation Report, and Manager Review and Approval**

(a) At the conclusion of an investigation, the investigator shall prepare a confidential draft Investigation Report that summarizes the facts and evidence gathered during the investigation, and forward a copy of the draft Investigation Report and supporting exhibits and recordings to an AIU manager for review and approval. Prior to approving the draft investigative report, the AIU manager shall review the draft Investigation Report, and supporting exhibits and recordings, to ensure the Investigation Report is sufficient, thorough, complete, and unbiased. If the Investigation Report is insufficient, incomplete, or biased, the AIU manager shall return the Investigation Report to the AIU investigator for additional investigation. The AIU manager shall provide a copy of the approved draft Investigation Report to the assigned VA for designated cases, and OIG staff for monitored cases.

(b) The assigned VA for designated cases shall review the draft Investigation Report and all supporting exhibits and recordings, and provide feedback to the AIU investigator within 21 calendar days of receipt of the draft report. The AIU investigator shall also consider any feedback provided by OIG staff regarding the draft investigation report.

(c) All Investigation Reports shall be reviewed and approved by an AIU manager. After approval, the final Investigation Report and all supporting exhibits and recordings shall be provided to the VA for designated cases, OIG staff for monitored cases, and the Hiring Authority.

(d) In the event the Hiring Authority becomes a witness or a subject of the completed investigation, the final Investigation Report and supporting exhibits and recordings shall be forwarded to the Hiring Authority's immediate supervisor. A complete copy of the investigation and case file shall be maintained by the OIA.

#### **33070.10.13.3 Referral for Prosecution**

If during the course of the investigation, potential criminal misconduct is discovered, the investigator will refer the case to an AIU manager who will determine whether probable cause exists that a crime has been committed. If so, the OIA shall refer the final investigative report and exhibits and recordings to the appropriate agency to request criminal prosecution.

#### **33070.10.14 Allegation Investigation Unit Case Tracking System**

AIU may, at its discretion, grant, deny, or remove CTS access for any CDCR employee.

### **33070.11 Allegation Inquiry**

#### **33070.11.1 Referral to Hiring Authority for Assignment**

Upon receipt of an allegation of staff misconduct from the Centralized Screening Team (CST), the Hiring Authority or designee shall review the allegation(s) and the associated documents, and assign the allegation inquiry

to an LDI. The LDI shall be at least one rank higher than the highest-ranking subject allegedly involved in the misconduct.

#### **33070.11.2 Employee Representation**

Employees are authorized representation during allegation inquiry interviews consistent with any applicable Memorandums of Understanding (MOU), Public Safety Officers Procedural Bill of Rights Act, and state and federal law. Employees who are possible subjects or witnesses in the investigation are excluded as employee representatives.

#### **33070.11.3 Notification of Interview**

(a) Departmental employees being interviewed by an LDI regarding an allegation of misconduct shall be informed of the following before such interview:

- (1) Name and classification of the LDI;
- (2) Name and classification of all other persons to be present during the interview; and
- (3) The nature of the allegations in sufficient detail to allow the employee to respond to the allegations.

#### **33070.11.4 Misconduct on Allegation Decision Index Discovered During Allegation Inquiry**

(a) If the LDI discovers evidence of staff misconduct listed in the ADI, the LDI shall cease further inquiry, document the evidence in an Allegation Inquiry Report, and refer the Allegation Inquiry Report to an AIU manager for review with notification to the Hiring Authority.

(b) The AIU manager will review the Allegation Inquiry Report to confirm the allegation is listed in the ADI before assigning it to an AIU investigator. If the AIU manager determines the allegation is not listed on the ADI, but the allegation includes misconduct that requires specialized investigative skills or resources to complete, the AIU manager will assign the allegation to an investigator for investigation. If the AIU manager determines the allegation is not listed in the ADI, and does not require specialized investigative skills or resources to complete, the case will be returned to the LDI to complete the allegation inquiry.

#### **33070.11.5 Misconduct not in Allegation Decision Index Discovered During Allegation Inquiry**

If the LDI finds evidence of staff misconduct, not listed in the ADI but which may result in adverse action, the LDI shall cease further inquiry, document the evidence in an Allegation Inquiry Report, and refer the allegation inquiry to the Hiring Authority for review. If the Hiring Authority agrees, the Hiring Authority shall refer the Allegation Inquiry Report to AIU for a determination of whether an investigation shall be conducted or direct adverse action approved. If the Hiring Authority does not believe adverse action may result, the matter shall be returned to the LDI for completion of the allegation inquiry.

#### **33070.11.6 Allegation Inquiry Report and Review**

##### **33070.11.6.1 Allegation Inquiry Report Format**

Allegation Inquiry Reports shall be submitted in the standard format, and include all relevant facts, and the LDI's signature. The Allegation Inquiry Report shall identify material contradictions, but shall not include any conclusions regarding disposition of the inquiry. The draft Allegation Inquiry Report shall be provided to the AIU manager for review and approval. Designated institution or program staff shall be responsible for updating the AASTS prior to providing the Allegation Inquiry Report to the AIU manager.

##### **33070.11.6.2 Allegation Inquiry Report Review and Distribution**

(a) The AIU manager shall review the draft Allegation Inquiry Report to determine if the report is sufficient, thorough, complete, and unbiased. The AIU manager shall then determine one of the following:

- (1) If the Allegation Inquiry Report is insufficient, incomplete, or biased, the AIU manager shall return the Allegation Inquiry Report to the LDI for additional fact gathering;
- (2) If the Allegation Inquiry Report is insufficient, but requires an investigation to complete, the AIU manager shall assign the case to an AIU investigator; or
- (3) If the Allegation Inquiry Report is sufficient, thorough, complete, and unbiased, the AIU manager shall approve the Allegation Inquiry Report and route to the Hiring Authority for review, determination of findings, and whether corrective or disciplinary action is warranted.

(b) In the event the Hiring Authority becomes a witness or a subject of the allegation inquiry, the Allegation Inquiry Report and supporting documentation shall be forwarded to the Hiring Authority's immediate supervisor.

(c) The AIU manager shall update AASTS noting the completion of the inquiry and routing of the final Allegation Inquiry Report to the Hiring Authority.

### **33070.11.6.3 Allegation Investigation Unit Review of Allegation Inquiry Report**

(a) After reviewing the Allegation Inquiry Report, if the Hiring Authority requests an AIU investigation or approval of direct adverse action, the Hiring Authority shall refer the case to AIU.

(b) An AIU manager, shall review the Allegation Inquiry Report, and in consultation with EAPT, and OIG staff for monitored cases, make one of the following decisions:

(1) An AIU investigation is necessary for the evidence to be sufficient for the Hiring Authority to make findings and impose discipline if warranted; or

(2) Further investigation is not likely to obtain additional evidence to support the imposition of discipline; or

(3) A preponderance of evidence exists for approval of direct adverse action.

(c) If the Hiring Authority disagrees with an AIU manager's decision, the disagreement may be elevated to the AIU Chief for a final decision.

### **33070.12 Maintenance of Investigation and Inquiry Records, Files, and Complaints**

Reports, documents, evidence, and other materials or information relative to any investigation or allegation inquiry shall be processed and stored in a manner precluding unauthorized access or disclosure (refer to PC sections 832.7 and 832.8, and Evidence Code sections 1043 and 1046). The Hiring Authority shall ensure the proper maintenance and security of inquiry records and files pursuant to PC sections 832.5 and 832.7.

### **33070.13 Purging Investigation and Inquiry Records**

Investigation and allegation inquiry records shall be purged and destroyed as provided in the Records Retention Schedule. Purging may be postponed if litigation or potential litigation is pending, or if there are other justifiable reasons. The Hiring Authority shall forward a request, by memorandum, regarding approval/disapproval to purge investigation and allegation inquiry records to the litigation coordinator and the OLA. The Hiring Authority and the OLA shall review current litigation with appropriate staff before authorizing, in writing, the purging of these records.

### **33070.14 Revisions**

The Deputy Director, OIA, or designee, shall be responsible for ensuring that the contents of this Article are kept current and accurate.

### **References**

Government Code sections 3303(f) and (h), 3304(d) and (g), 8547, 11182, and 19635.

Penal Code sections 550, 832.5, 832.5(b), 832.7 and 832.8, 6065(b)(1), 6065(b)(2), 6126.1, and 6126.1(c).

Evidence Code sections 1043 and 1046.

Insurance Code section 1871.4.

CCR (15) sections 3268.1 and 3291(b).

*Madrid v. Tilton*, (USDC. No C90-3094 TEH) December 2006.

Fifth Amendment, US Constitution

Public Safety Officers Procedural Bill of Rights Act.

California Whistleblower Protection Act.

### **Revision History**

Effective December 28, 2022.

## CHAPTER 4 — INFORMATION TECHNOLOGY

### ARTICLE 1 — INFORMATION TECHNOLOGY DEFINITIONS AND

#### ACRONYMS

*Revised July, 18, 2013*

#### 41010.1 Policy

The Director, Enterprise Information Services (EIS) and Executive Management of the California Department of Corrections and Rehabilitation (CDCR) recognize Information Technology (IT) as an indispensable tool of modern government. Therefore, it is the policy of the Director to support and promote the departmental use of innovative information technologies in order to increase worker productivity, improve departmental services, and strengthen the overall effectiveness of management, while saving money and reducing the overall cost of government. The definitions and acronyms contained here ensure the consistent use of IT definitions and acronyms throughout the Department Operations Manual (DOM) Chapter 4 – Information Technology.

#### 41010.2 Purpose

The purpose of the Department's IT Definitions and Acronyms policy is to ensure that proven management methods for the guidance and control of planning, acquisition, development, operation, maintenance, and evaluation of information management applications are established in a manner that provides for the most efficient, effective, and economical use of the Department's resources for IT.

#### 41010.3 Definitions

##### -A-

##### Access

Ability and means to communicate with or otherwise interact with a system, to use system resources to handle information, to gain knowledge of the information the system contains, or to control system components and functions.

##### Access Authorization

The granting of permission to execute a set of operations in a computer system.

##### Access Control

The process of granting or denying specific requests to: 1) obtain and use information and related information processing services; and 2) enter specific physical facilities (e.g., federal buildings, military establishments, and border crossing entrances).

##### Access Management Group

A group that is responsible for access permissions granted to CDCR's Information Assets, including the CDCR Network, and departmental applications and databases.

##### Accountability

The state of being liable, responsible and answerable.

##### AISO

Agency Information Security Office - Provides information security recommendations, guidance, and authority.

##### AMS

Application Maintenance and Support - Provides IT business application development, maintenance and support services spanning across all CDCR divisions, including adult and juvenile offenders, parole operations, and administration.

##### Application Disaster Recovery Plan

A plan devised to process a computer application (application) after it has been disrupted for some period of time.

##### Asset

Anything (tangible or intangible) that has value to CDCR.

##### Authentication

Authentication is the process of determining whether someone or something is, in fact, who or what it is declared to be. To access most technology services you must provide such proof of identity. In private and public computer networks (including the Internet), authentication is commonly used by requiring login passwords or passphrases; knowledge of such is assumed to guarantee that the user is authentic. Thus, when you are asked to "authenticate" to a system, it usually means that you enter your username and/or password for that system.

##### Authorization

In computing systems, authorization is the process of determining which permissions a person or system is supposed to have. In multi-user computing systems, a system administrator defines which users are allowed access to the system, as well as the level of privileges they are eligible to access (e.g., access to file directories, hours of access, amount of allocated storage space). Authorization can be seen as both the preliminary setting of permissions by a system administrator, and the actual checking of the permission values when a user obtains access. Authorization is usually preceded by authentication.

##### Availability

Assurance that the systems responsible for delivering, storing and processing information are accessible when needed, by those who need them.

##### -B-

##### Back-up

A process by which data is copied in some form so as to be available and used if the original data from which it originated is lost, destroyed or corrupted.

##### BIS

Business Information System - A fully implemented automated business management system that creates, tracks, and reports all of the Department's business transactions.

##### Blog

A web site containing frequent publications of personal thoughts and web links, coined from the words weblog, maintained for the purpose of commentary, or other material such as graphics or video.

##### BPH

Board of Parole Hearings - Conducts parole consideration; rescission, parole, revocation, and parole progress hearings for adult inmates and parolees.

##### Business Continuity Management Program

An ongoing governance process supported by senior management and resourced to ensure that the necessary steps are taken to identify the impact of potential losses, maintain viable recovery strategies and plans, and ensure continuity of products/services through exercising, rehearsal, testing, training, and maintenance.

##### Business Continuity Plan (BCP)

A plan that documents arrangements and procedures that enable an organization to respond to an event that lasts for an unacceptable period of time and return to performing its critical business functions after an interruption.

##### -C-

##### CALPIA

California Prison Industry Authority - A State-operated agency that provides productive work assignments for offenders in California's adult correctional institutions. CALPIA operates more than 60 service, manufacturing, and agricultural industries at prisons throughout California.

##### CAS

Corrections Application Solutions - Develops and maintains applications and systems used by divisions and programs throughout CDCR to support statewide offender, parole, and juvenile operations.

##### CCHCS

California Correctional Health Care Services - A department under federal receivership responsible for providing constitutionally adequate medical care to patient-inmates of the CDCR within a delivery system the state can successfully manage and sustain.

##### CDCR Network

The system of telecommunication devices, workstations, servers, and peripherals used to provide inter- and intra-facility connectivity that enable CDCR employees to access information assets and electronic communications. The CDCR Network is managed by the CDCR Enterprise Information Services (EIS) division and the Office of Technology Services (OTech).

##### Chain E-mail or Letter

E-mail sent to successive people. Typically the email contains directions for the recipient to forward the email to multiple people. The contents usually contain promises of good luck for the recipient or money if the directions are followed.

##### Classification

The assignment of information, including a document, to a category on the basis of its sensitivity concerning disclosure, modification, or destruction.

##### Client (User)

The individual or organization that utilizes a product.

**Community Transition Program (CTP)**

CTP obtains and utilizes information about offenders in order to develop and implement effective and specific reentry plans that maximize a parolee's opportunity to successfully reintegrate into the community.

**Component**

A component is defined in SAM § 5013 as any individually identified piece of hardware, such as the mainframe, tape drive, disk drive, power supply unit, controller, punch, reader, printer, modem, CRT, keyboard, remote device, and the like.

**Computer Contaminant**

Any set of computer instructions that, outside the intent and without the permission of the owner of such information, is designed to modify, damage, or destroy a computer, system, or network, or to record or transmit information within a computer, system, or network. Such contaminants include, but are not limited to, the group of self-replicating or self-propagating computer instructions commonly termed viruses, Trojans, and worms which are designed to affect computer programs or data, consume computer resources, modify, destroy, record or transmit data, or otherwise usurp the normal operation of the computer, system, or network.

**Computer Network**

Any system that provides communication among one or more computer systems and input/output devices including, but not limited to, display terminals and printers connected by telecommunication facilities.

**Computer Program or Software**

A set of instructions, or statements or related data, that when executed in actual or modified form cause a computer, system, or network to perform specified functions.

**Computer Security**

The technological safeguards and managerial procedures that can be applied to computer hardware, programs, data, and facilities to ensure the availability, integrity, and confidentiality of computer-based resources. This can also include assurance that intended functions are performed as planned.

**Computer Services**

Includes, but is not limited to, computer time, data processing, storage functions, other uses of a computer, system, or network.

**Computer System**

A device or collection of devices, including support devices but excluding calculators that are not programmable and not capable of being used in conjunction with external files, one or more of which contains computer programs, electronic instructions, input data, and output data, and which performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

**Computer-Based Tools**

Software or computer programs that improve or enable a user's ability to configure and manage IT components.

**Confidential Information**

Information maintained by State agencies that is exempt from disclosure under provisions of the California Public Records Act (PRA) (GC § 6250 et seq.) or other applicable state or federal laws. All inmate, parolee, ward, and employee information that has not been explicitly defined as public information in §3261.2 of Title 15 should be treated as Confidential Information.

**Confidentiality**

Assurance that information is shared only among authorized persons or organizations. Breaches of confidentiality can occur when data is not handled in a manner adequate to safeguard the confidentiality of the information concerned. Such disclosure can take place by word of mouth, by printing, copying, e-mailing or creating other data. The classification of the information should determine its confidentiality and the appropriate safeguards.

**Correctional Offender Management Profiling for Alternative Sanctions (COMPAS)**

Enables CDCR to perform needs assessments and follow adult offenders from their intake at the reception centers through the completion of their parole supervision requirements.

**Cost Thresholds**

Cost thresholds are the set dollar amounts assigned to agencies based on their size and past experiences with Department delegations can be found at:

[http://www.cio.ca.gov/Contact\\_Us/staff\\_assignments.html](http://www.cio.ca.gov/Contact_Us/staff_assignments.html)

**CPAT**

California Parole Apprehension Team – Enhances public safety through parole intervention and parolee-at-large apprehension.

**Critical Application**

An application that is so important to the Department that its loss or unavailability is unacceptable. With a critical application, even short-term unavailability of the information provided by the application would have a significant negative impact on the health and safety of the public or Department employees, the fiscal or legal integrity of operations, or the continuation of essential programs.

**CTA**

California Technology Agency – State of California's IT control agency.

**Custodian of Information**

An employee or organizational unit (such as a data center or information processing facility) acting as caretaker of an automated file or database.

**-D-****DART**

Desktop Advanced Research Team – Provides system level operational support of all end-point devices.

**Data**

A representation of facts, concepts, or instructions in a formalized manner suitable for communication, interpretation, or processing by humans or by automated means.

**Data Classification**

Data Classification is the conscious decision to assign a level of sensitivity to data as it is being created, amended, enhanced, sorted, or transmitted. The classification of the data should then determine the extent to which the data needs to be controlled/secured and is indicative of its value in terms of Business Assets. The classification of data and documents is essential to differentiate between that which is of little (if any) value, and that which is highly sensitive and confidential. The classification of data helps determine what baseline security controls are appropriate.

**Data Processing Equipment**

Computers, network components, and other devices that facilitate, enable, or depend upon data communications. Network devices such as, but not limited to, routers, hubs, wires, and servers are data processing equipment.

**Data Processing Systems**

A system, including computer systems and associated personnel, that performs input, processing, storage, output, and control functions to accomplish a sequence of operations on data.

**Data Security**

Protecting data from unauthorized access, modification, destruction, or disclosure.

**Data Transmission**

The conveying of data from one functional unit to one or more additional functional units through the transmission of signals by wire, radio, light beam, or any other electromagnetic means.

**DEC**

Disability Effective Communications System – An IT program created and maintained by EIS that ensures that inmate and parolee due process rights are recognized by identifying and accommodating their disabilities and effective communication special needs.

**Decentralized Applications**

Systems that run on more than one computer in geographically separated locations. The term also refers to systems that are not supported by a single organization, such as EIS.

**Defect**

A variance from specifications/standards or an attribute/function not contained in the software requirements specifications.

**Denial of Service**

An attack that prevents or impairs the authorized use of networks, systems, or applications by exhausting resources.

**Deputy Director Operations**

Responsible for all aspects of EIS's day-to-day operations.

**Development**

Activities or costs associated with the analysis, design, programming, staff training, data conversion, acquisition, and implementation of new IT applications.

**Disaster Recovery Operation**

The act of recovering from the effects of a disaster or disruption to a computer facility, and the preplanned restoration of facility capabilities.

**Disaster**

A human or natural occurrence causing destruction and distress, after which a business is deemed unable to function.

**Disaster Recovery**

The ability of an organization to respond to a disaster or an interruption in services by implementing a disaster recovery plan to stabilize and restore the organization's critical functions.

**DRP**

Disaster Recovery Plan – The management approved document that defines the resources, actions, tasks and data required to manage the technology recovery effort. Usually refers to the technology recovery effort. This is a component of the Business Continuity Plan.

**Documentation**

Information about how specific applications are constructed, maintained, and used. It includes, but is not limited to, system and program design specifications, record formats, report layouts, program source and object code, job control language specifications, run instructions, key entry instructions, and data definitions.

**DRD Tracker**

Discharge Review State Tracker – Creates a calendar-based event driven solution which allows field agents and case records staff to determine when a parolee is due for a Discharge Review.

**-E-****E-mail**

Written communication transmitted electronically using computers connected to network(s). Today's email systems are based on a store-and-forward model. Email servers accept, forward, deliver and store messages. Neither the users nor their computers are required to be online simultaneously; they need connect only briefly, typically to an email server, for as long as it takes to send or receive messages.

**EdCATS**

Education Classroom Attendance Tracking System – Allows teachers to log academic and vocational classroom hours and track milestones achieved by students while attending those classes.

**EIS**

Enterprise Information Services – A division of CDCR responsible for the enterprise-wide execution of all IT systems and services.

**Electronic Data Processing (EDP) Equipment**

EDP equipment is defined as:

- Central processing units and all related features and peripheral units, including processor storage, console devices, channel devices, etc.
- Minicomputers, microcomputers, personal computers, and all peripheral units associated with such computers.
- Special purpose systems including word processing, magnetic ink character recognition, optical character recognition, photocomposition, typesetting, and electronic bookkeeping.
- Communications devices used for data transmission such as modems, data sets, multiplexors, concentrators, switches, local area networks, private branch exchanges, network control equipment, and microwave or satellite communications systems.
- Input-output (peripheral) units (off-line or on-line) including: terminals, card readers, optical character readers, magnetic tape units, mass storage devices, card punches, printers, computer output to microfilm converters, video display units, data entry devices, FAXs, teleprinters, plotters, or any device used as a terminal to a computer, and control units for such devices.

**Encryption**

Data encryption is a means of scrambling or ciphering the data so that it can be read only by the recipient – the person(s) holding the 'key' – a password of some sort. Without the 'key,' the ciphered data cannot be opened and read.

**Enterprise Architecture (EA)**

The CDCR unit responsible for managing CDCR's enterprise architecture program, a strategic practice for maintaining the IT architecture portfolio to facilitate more informed and effective IT

decisionmaking, both strategically and operationally. This includes, but is not limited to, the Business, Application, Information/Data, Technical, and Security Architecture domains.

**eOMIS**

Electronic Offender Management Information System – A real-time application that increases the availability of accurate and complete offender information so CDCR can more efficiently manage inmates.

**ERMS**

Electronic Records Management System – A document management system that provides a digitally scanned and uploaded central records repository.

**EWACS**

Enterprise Web and Collaboration Solutions – Provides web application development, operational support, and end user support for the enterprise. Develops public and internal facing web and client-based applications that meet various business needs.

**-F-****Failure**

Inability of a product or service to perform its required functions within previously established limits.

**FIS**

Field Information System – Documents all contacts by parole agents with juvenile offenders.

**Forwarded E-mail**

E-mail resent from an internal network to an outside point, whether internal or external to CDCR.

**-G-****Guideline**

A description that clarifies what should be done and how to achieve the objectives set out in policies.

**-H-****Handheld Computer**

Synonym for Personal Digital Assistant.

**Hardening**

A defense strategy to protect against attacks by removing vulnerable and unnecessary services, patching security holes, and securing access controls.

**Hardware**

The physical equipment or machinery (computers, terminals, printers, disc drives, etc.) used in IT systems.

**HAWI**

Holds and Warrants Interface – Easily accesses parolee information to automate the issuance of holds and warrants.

**High Risk Confidential Information (HRCI)**

Non-public information that if disclosed could result in a significant harm (including financial, legal, risk to life and safety or reputational damage) to the CDCR or individual(s). Examples of HRCI include, but are not limited to, information such as the following:

- Personally identifiable information such as person's name in conjunction with the person's Social Security Number, credit or debit card information, individual financial account, driver's license number, state ID number, passport number, or a name in conjunction with biometric information;
- Personal health information such as any information about health status, provisions of health care, or payment for health care information as protected under HIPAA;
- Correctional Offender Record Information
- Information that if disclosed would "reveal vulnerabilities to, or otherwise increase, the potential for an attack on an IT system of a public agency." Examples include, but are not limited to, firewall and router configurations, server names, IP addresses, and other system configuration details;
- Any documentation of information which contains information or data within any Gang Database.
- Records of investigations, intelligence information, or security procedures. This includes, but is not limited to, information identifying confidential informants.

**-I-****Information Assets**

All categories of information existing in any form, including electronic or hard copy that is stored, used, or created by CDCR and have value to the organization.

**Information Governance**

The process of official enterprise-level decision making for CDCR information standards to ensure the effective, efficient, and secure use of CDCR information. This includes officially making and adopting Data Classification decisions for CDCR information.

**Information Integrity**

The condition in which information or programs are preserved for their intended purpose, including the accuracy and completeness of information systems and the data maintenance within those systems.

**Information Owner**

Group(s) or person(s) responsible for individual and/or collective decision-making regarding specific CDCR Information Assets. This includes decision-making regarding the appropriate use, access, controls, and Data Classifications for those Information Assets.

**Information Processing**

The systematic performance of operations upon data such as handling, merging, sorting, and computing; synonymous with data processing systems.

**Information Security**

The protection of information from a wide range of threats in order to ensure business continuity, minimize business risk, and maximize return on investments and business opportunities. Information exists in many forms: printed or written on paper, stored electronically, transmitted by post or electronic means, on films, and spoken.

**Information Security Incident**

An information security incident is indicated by a single or a series of unwanted or unexpected information security events that have a significant probability of compromising business operations and threatening information security.

**Information Security Standards and Guidelines (ISSG)**

Compilation of the standards and guidelines comprising CDCR's program to ensure the protection and security of information assets.

**Information Technology**

All computerized and auxiliary automated information handling, including: Systems design and analysis; conversion of data; computer programming; information storage and retrieval; voice, video, and data communications; requisite system controls; simulation; and, all related interactions between people and machines.

**Input-Output Unit/Device**

The equipment used to communicate with a computer; commonly termed I/O (Input/Output).

**Instant Message (IM)**

A type of communications service that enables a user to exchange text messages in real time among two or more individuals logged into a particular instant messaging system from a computer workstation.

**Integrity**

As it pertains to data, is the assurance that the information is authentic and complete. Ensuring that information can be relied upon to be sufficiently accurate for its purpose. The integrity is not only whether the data is correct, but also whether it can be trusted and relied upon.

**Internet**

The World Wide Web (WWW), consisting of a network of networks.

**Intranet**

A term that refers to a closed network of networks. In the context of CDCR, it refers to the web portal used for hosting information and documents for internal CDCR users only.

**IS**

Infrastructure Services – Creates, maintains, and supports all enterprise data activity necessary to facilitate CDCR's current and future business needs as well as provide ongoing operations, production implementation, and control in a secure manner.

**ISC**

Information Security Coordinator – Each entity's ISC is responsible for ensuring that applicable CDCR IT security policies and procedures are followed.

**IT CSFO**

IT Customer Service and Field Operations – Provides quality service, guidance and direction to customers in order to support their business

needs by implementing cost-effective, innovative technologies and adopting operational IT best practices and standards.

**ITPSP**

IT Policy and Strategic Planning – Drives enterprise IT planning efforts necessary to support the Agency's mission and future investments while ensuring compliance with national, State and local mandates.

**-J-****-K-****-L-****Law Enforcement Automated Data System (LEADS)**

Parole LEADS is a web-based computer system that provides local California law enforcement agencies with information on CDCR parolees.

**Life Cycle**

The anticipated length of time that the IT system or application can be expected to be efficient and cost-effective and can continue to meet the agency's programmatic requirements; synonymous with operational life of a system.

**LINX**

Link Investigation and Network Cross-Reference – Centralized web-based application that contains inmate gang affiliations and validation for adult offenders.

**Local Area Network**

A Local Area Network (LAN) is a computer network consisting of telecommunications devices such as routers, hubs, switches, firewalls, and computers such as workstations, servers, and peripheral devices.

**LSTS**

Lifer Scheduling and Tracking System – Supports the inmates sentenced to life parole suitability hearing process.

**-M-****Mainframe**

Refers to large computers typically housed in a data center environment and running legacy systems. Mainframe computers have security components, such as Resource Access Management Systems, integrated into the operating system and can support many hundreds of users simultaneously.

**Malicious Software**

Malicious software, or malware, is any set of computer instructions that, outside the intent and without the permission of the owner of such information, is designed to modify, damage, or destroy a computer, system, or network, or to record or transmit information within a computer, system, or network. Such contaminants include, but are not limited to, the group of self-replicating or self-propagating computer instructions commonly termed viruses. Trojan Horses and worms are designed to affect computer programs or data, consume computer resources, modify, destroy, record, or transmit data, or otherwise usurp the normal operation of the computer, computer system, or computer network. Malware includes computer viruses, computer worms, Trojan Horses, most root kits, spyware, dishonest adware and other malicious or unwanted software.

**MDO**

Mentally Disorder Offender – Database that tracks MDO holds, creates hearing schedules, generates confirmation letters for evaluators and attorneys, and tracks MDO cases.

**Mission-Critical Applications**

Applications defined by CDCR that support business activities or processes that cannot be interrupted or unavailable for the Recovery Time Objective (RTO) defined by the agency without significantly jeopardizing the organization.

**-N-****Need-to-Know**

Refers to a person having both a legitimate right and a reason to obtain information.

**NIST**

National Institute of Standards and Technology – A measurement standards laboratory which is a non-regulatory agency. NIST promotes innovation and industrial competitiveness by advancing measurement science, standards, and technology.

**-O-****OBITS**

Offender Based Information Tracking System – Mission critical master record for all juvenile offender activity that feeds information into multiple systems.

**One-Time Costs**

Costs occurring only once that are associated with the analysis, design, programming, staff training, data conversion, acquisition, and implementation of new IT applications.



**Operational Life**

See Life Cycle.

**Operations**

Activities or costs associated with the continued use of IT applications. Operations include personnel associated with computer operations, including network operations, job control, scheduling, and key entry. It also includes the costs of computer time and other resources needed for processing. See SAM Section 4819.2.

**OTech**

Office of Technology Services – Provides IT services to many state, county, federal and local government entities throughout California.

**Owner of Information**

See Information Owner.

**-P-****PACATS**

Parolee Automated Cash Assistance Tracking System – Tracks cash assistance provided to parolees throughout the state, separated by assistance type.

**PAL Trax**

Parolee At Large Tracking System – Tracks CPAT agent caseloads.

**Parole-LEADS**

See Law Enforcement Automated Data System.

**Personal Digital Assistant (PDA)**

Palm-sized computer that syncs with a computer workstation and allows users to refer to information from the workstation without having to print it out. Schedules, e-mails, documents, and spreadsheets as well as reference material such as dictionaries and phone lists can be stored and accessed as needed on the device. PDAs often are capable of wireless connectivity with LANs and the Internet.

**Personally Identifiable Information**

Personally Identifiable Information (PII) is the manifestation of an individual's first name or first initial and last name, in combination with one or more of the following:

- Social Security Number;
- Driver's license number;
- State issued ID card;
- Credit or debit card number in combination with any required security code or password that could permit access to an individual's financial account;
- Medical information, history, mental or physical condition, treatment or diagnosis by a health care professional;
- Health information, policy number or subscriber ID, unique identifier, or any information in an application and claims history, including any appeals records.

**Physical Security**

The measures designed to safeguard personnel; to prevent unauthorized access to equipment, installations, material, and documents; and to safeguard them against unauthorized access, damage, and theft.

**Post Implementation Evaluation Report (PIER)**

The review of a computer, computer system, or computer network that has been in operation for at least six months and no longer than two years for the purpose of matching the requirements of the system against what has been produced so as to ensure that stated requirements have been met.

**Policy**

Overall intention and direction as formally expressed by management.

**PPPMA**

Policy/Planning, Project Management and Acquisitions is the EIS unit responsible for EA, PPRM, QPAC, and ITPSP.

**PPRM**

Portfolio, Project and Resource Management is the EIS unit that improves the management of IT investments by utilizing project and portfolio managements tools; incorporating proven methodologies; and following best practice disciplines to assist in the identification, ranking, and justification of investments and the implementation of funded projects.

**PRAS**

Parole Restitution Application System – Tracks original court ordered restitution payments and balances.

**Privacy**

The right of individuals and organizations to control the collection, storage, and dissemination of information about themselves.

**Process**

The work activities that produce products, including the efforts of people and equipment.

**Product**

The output of a process, including the goods and services produced by individuals and the organization.

**Production Application**

A computer-based process that stores, manipulates, or reports departmental information.

**Program**

In the IT field, a program is the set of instructions by which a computer operates to accomplish a specific task.

**Program Application Manager**

Department supervisory and management staff responsible for managing or supervising employees' use of an automated file or database.

**Programming**

Detailed design encompassing the actual development and writing of program units or modules.

**Project**

A planned sequence of tasks to respond to a problem or opportunity; an activity with a beginning and an end and containing a set of resources.

**Proprietary Software**

Software packages which are developed by independent vendors and marketed to users.

**Protected Health Information**

Individually identifiable information in electronic or physical form created, received, or maintained by health care organizations such as health care payers, providers, plans, and contractors. State laws require special precautions to protect from unauthorized use, access or disclosure.

**Protected Personal Information**

Information that identifies or describes an individual and must be protected from inappropriate access, use, or disclosure as defined in applicable state and federal laws.

**Protecting Sensitive Information**

Typically means providing for one or more of the following:

- Confidentiality – Disclosure of the information must be restricted to designated parties.
- Integrity – The information must be protected from errors or unauthorized modification.
- Availability – The information must be available within some given timeframe (i.e., protected against destruction). (NIST Computer System Laboratory CSL Bulletin 92-11.)

**Public Information**

Information maintained by State agencies that is not exempt from disclosure under the provisions of state or federal laws. Public Information is open to inspection by any person during normal business hours (PRA § 6253(a)).

**-Q-****QPAC**

Quality Project Authority and Compliance – Staff in EIS that advocates for CDCR's IT projects to Control Agencies for the purpose of securing project authority and funding approval, as well as the project's successful completion.

**Quality**

The extent to which a product meets the expectations and requirements of the user.

**Quality Assurance (QA)**

(1) A staff function designed to support line management in performing the Quality Control function. As such, QA identifies the processes (both good and bad) which affect quality, and is used to advise management of such effects. A management decision may then be necessary to ensure that QC techniques are implemented and maintained; and, (2) The function that uses measurement and analysis to continually improve processing, procedures, and standards so that management can be reasonably assured of their staff following such methods, procedures, and standards, as well as staff's ability to produce products which meet specified requirements.

**Quality Control (QC)**

(1) The collection of activities to ensure that defects are neither made nor implemented. While QA monitors the processes involved in the production cycle, QC is an integral part of work and is the responsibility of each employee; and,

(2) A line function used to measure quality associated with specific products or services. QC is the responsibility of each IT area, and it is the function responsible for the quality of the work being done within a specific area or for a specific project.

**-R-****Recovery Point Objective (RPO)**

The maximum amount of data loss an organization can sustain during an event.

**Recovery Time Objective (RTO)**

The period of time within which systems, applications, or functions must be recovered after an outage (e.g. one business day). RTOs are used as the basis for the development of recovery strategies, and as a determinant as to whether or not to implement the recovery strategies during a disaster situation.

**Requirement**

The specification(s) for satisfying a user need is associated with a standard by which the satisfaction of that need can be measured.

**Resource Access Management Facility**

An application within IBM-based computer systems that reviews logons, passwords, and permissions before permitting access to information.

**Risk**

In the context of information systems, the likelihood or probability that a loss of information assets or breach of security will occur.

**Risk Analysis**

The process of identifying the vulnerabilities and threats to an organization by assessing the critical functions necessary for an organization to continue business operations, and defining the controls in place to reduce organization exposure and evaluating the cost for such controls.

**Risk Assessment**

Overall process of risk analysis and risk evaluation.

**Risk Evaluation**

The process of comparing the estimated risk against given risk criteria to determine the significance of the risk.

**Risk Management**

The process of coordinating activities to direct and control the organization with regard to risk.

**-S-****Sensitive Information**

Information maintained by State agencies that requires special precautions to protect it from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive information may be either Public or Confidential. It is information that requires a higher than normal assurance of accuracy and completeness. The key factor for Sensitive Information is that of integrity. Typically, Sensitive Information includes records of financial transactions and regulatory actions.

**Smartphone**

A cellular telephone with built-in applications and Internet access. Smartphones provide digital voice service as well as text messaging, e-mail, Web browsing, still and video cameras, MP3 players, video viewing and often video calling. In addition to their built-in functions, smartphones can run a myriad of applications, turning the once single-minded cellphone into a mobile computer.

**Software**

Programs, procedures, rules, and any associated documentation pertaining to the operation of a system. (Contrast with hardware.)

**Spam**

Unauthorized and/or unsolicited electronic mass mailings.

**Stakeholder**

A person, group, organization, member, or system who affects or can be affected by an organization's or system's actions.

**-T-****Threat**

The potential cause of an unwanted incident, which may result in harm to a system or organization.

**-U-****Unauthorized Disclosure**

The intentional or unintentional disclosure of confidential information to people inside and/or outside the CDCR who do not have authorization predicated on a "need to know" basis.

**Unit Testing**

Testing performed on a single, stand-alone module or unit of code.

**User Identification (ID)**

The logon name an individual user to access a computer or network system.

**User of Information**

An individual having specific limited authority from the owner of information to view, change, add to, disseminate, or delete such information.

**-V-****Validation**

The process of comparing a product in any stage of its development with specified requirements to determine whether the correct product is being produced.

**Virus**

Small but insidious piece of programming code that attacks computer and network systems through contaminated (infected) data files, introduced into a system via email, portable storage media or the Internet. The code attaches itself to the target computer's operating system or other programs, and may automatically replicate itself to spread to other computers or networks.

**Vulnerability**

A weakness of an asset or group of assets that can be exploited by one or more threats.

**-W-****Wide Area Network (WAN)**

Two or more LANs connected together. A communications network that uses devices over telephone lines, fiber-optics, satellite dishes, or radio waves to span a larger geographic area that can be covered by a LAN.

**Wireless**

Referring to communications transmitted without wires, such as radio, microwave, or infrared.

**Workstation**

Any device commonly called a microcomputer, personal computer, or terminal used for processing, storing, or sending information.

**Worm**

A computer worm is a standalone malware computer program that replicates itself in order to spread to other computers. Often, it uses a computer network to spread itself.

**WWW**

*An abbreviation for World Wide Web. See Internet.*

**-X-****-Y-****-Z-****41010.4 Revisions**

The Director of EIS, or designee, shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**41010.5 References**

GC §§ 6250 - 6265, and 11702 (a)

Title 15 § 3261.2

SAM §§ 4819.2, 5013, 5320.5

DOM §§ 52070.22, 52070.24

Health Insurance Portability and Accountability Act (HIPAA) of 1996

PC §§ 13100-13104

PRA § 6254.19

PRA § 6254 (f)

California Senate Bill 1386

Confidentiality of Medical Information Act, California Civil Code § 56 et seq.

Patients' Access to Health Records Act

California Health and Safety Code §§ 123100-123149.5

**ARTICLE 2 — EDP RESPONSIBILITY***Effective December 22, 1992***41020.1 Policy**

The Department's executive management is responsible for the establishment of departmental policy pertaining to the use of information technology, the prioritization of departmental resources, and strategic planning and leadership to seek out opportunities for employing information technology toward achievement of the Department's mission, goals, and objectives. Department executive leadership is responsible for ensuring that information technology is used within the guidelines contained in this manual section and those established by other control agencies.

**41020.2 Purpose**

The purpose of this policy is to ensure that departmental resources and information technology are used optimally in achieving the Department's mission, goals, and objectives. Additionally, this policy assures that uses of information technology follow the guidelines established internally by CDC management and externally by State control agencies.

**41020.3 Management Information Systems Committee***Revised October 6, 1993*

The MIS Committee shall:

- Provide executive leadership in the development of EDP projects and policy.
- Enforce compliance of the project approval process with the Department's Strategic Plan.
- Prioritize EDP projects in terms of their importance to the Department's Strategic Plan.
- Review and enforce policy and procedures in support of EDP projects.
- As individual committee members, serve as liaisons with their respective end user communities to promote, coordinate, and facilitate automation efforts, and to ensure effective communication regarding EDP-related issues throughout all levels of the Department.
- Educate management in the advantages of automation, new EDP-related technical innovations, and methods to maximize the efficiency and benefits of automation, and to minimize EDP development and operating costs.
- Provide review and approval of all information technology procurements not covered under the approved Workgroup Computing Policy.
- Provide ongoing review of CDC-approved EDP projects, terminating those projects which are no longer consistent with the Department's Strategic Plan.

Note that the MIS Committee does not make any decisions on funding of ITS projects. The committee only recommends the prioritization of these projects.

See DOM 43020.4, Information Management Annual Plan, for additional information about the role and responsibilities of the MIS Committee.

**41020.3.1 MIS Committee Composition**

The MIS Committee is comprised of the following voting staff:

- The Chief Deputy Director (Chairperson).
- Three representatives from ASD.
- Three representatives from EC&ISD.
- Five representatives from Institutions Division.
- Three representatives from P&CSD.
- One representative from P&CD.
- One representative from CalPIA.

These representatives shall be appointed for an indeterminate period.

In the absence of the Chief Deputy Director, the Deputy Director of ASD shall chair MIS Committee meetings.

The committee shall meet on a quarterly basis and more often as needed. MIS Committee meetings are generally open to all wishing to attend.

**41020.4 Responsibility MIS-SU***Revised October 6, 1993*

MIS-SU provides functional support to the MIS Committee. The MIS-SU's responsibilities include: (1) coordinating MIS Committee meeting agendas; (2) coordinating the review of proposed ITS and to furnish recommendations for MIS Committee review; (3) preparing annual updates for the Cabinet on all CDC automation efforts for the current year and on strategic planning for the coming year; (4) developing, coordinating, and participating in presentations for the committee that address current technical innovations; (5) coordinating the review of ITS concepts to ensure compliance and consonance with the budget cycle; (6) recording the actions and decisions of the MIS Committee for distribution to appropriate departmental staff; and, (7) conducting special projects as assigned by the committee.

**Departmental Workgroup Computing Coordinator**

The Workgroup Computing Coordinator's responsibilities include: (1) ensuring that workgroup computing hardware and software requests comply with departmental and control agency policy requirements; (2) preparing the appropriate certification documents for workgroup computing procurements; (3) providing assistance in the completion of workgroup computing requests; (4) maintaining the departmental Workgroup Computing Policy and Modem Policy, as well as related equipment request forms for distribution to departmental staff; (5) overseeing the personal computer Post Implementation Evaluation Report (PIER) process; (6) maintaining the departmental personal computer equipment inventory; and (7) maintaining a record of all personal computer procurements, including those justified through the use of an FSR, a CDC Internal Summary Fact Sheet, or the approved Workgroup Computing Policy.

**Department Information Security Officer**

The CDC Information Security Officer (ISO) is assigned management responsibility for overseeing and administering the Centralized Information Security Program and is charged with the responsibility of assuring the Department's compliance with the SAM 4840, Security and Risk Management; 4989.7, Security of Personal Computer Systems; and 20013, EDP Audit Requirements. This program encompasses all automated ITS for which CDC has administrative responsibility. It includes the procedures, guidelines, and safeguards that are required to protect data, confidentiality, and privacy rights and ensures the integrity, audibility, and controllability of these ITS. All new policies and revisions of existing policy relating to automated information security will emanate from this office.

**ISD**

It is the responsibility of ISD to establish and maintain the departmental EDP strategic planning process and to oversee the development of all departmental EDP policies, including assurance that such policies meet control agency guidelines. ISD is also responsible for ensuring that such considerations as compatibility and connectivity of all proposed automated projects are taken into consideration in the project approval process.

ISD is responsible for the development, maintenance, operation, and support of all departmental PC applications except Institutions Division projects, and for all automated systems requiring control agency oversight unless specifically delegated to another unit by the MIS Committee.

Under the User Project Management concept, the User Manager is responsible for all project reporting to control agencies, the user division, and the MIS Committee. ISD provides technical management and staff who work as team members accountable to the User Manager on the project and to ISD on technical issues (e.g., project schedules).

ISD is also responsible for tracking all projects approved by the MIS Committee, and ensuring that all projects comply with State reporting requirements. All project reporting to control agencies shall be coordinated through ISD, which shall maintain correspondence files on control agency reporting.

ISD shall report directly to the appropriate Division (User Manager Concept) associated with each EDP Project, and to the MIS Committee on all approved projects.

ISD is responsible for the security of information technology facilities, and for software and equipment used in automated information processing at all sites under ISD custodial responsibility. ISD also maintains the CDC Operational Recovery Plan for these systems.

ISD provides functional support and assistance on all facility automated systems (except personal computers) to facility AISAs.

ISD is also responsible for ensuring compliance with State audit requirements relating to the integrity of information assets. This includes systems auditing under ISD's custodial realm of responsibility through participation in the departmental Peer, and PFAB's auditing processes.

ISD is responsible for establishment of the Department's overall automation infrastructure and the successful use of automation within the Department.

ISD consists of five major areas: Application Development and Maintenance Section, Technology Support Section, Project Initiation Unit, CMIS Section, and the Data Center Section.

#### **Technology Support Section**

The Technology Support Section provides support services to ISD in the following areas: personnel, recruitment, staff training, budgeting, procurement, interagency agreements and contract management, quality programs, space planning, and general office support. This section also provides support services to all branches of the EC&ISD for personnel, recruitment, and training.

#### **Project Initiation Unit**

The role of the Project Initiation Unit (PIU) is to provide guidance and assistance to CDC staff in starting new information technology projects. This includes providing guidance in the development of project concept proposals, feasibility studies, and other documentation required to obtain approval of an information system project. The PIU is responsible for tracking all approved projects and ensuring that all projects comply with State reporting requirements. Functional support, assistance and direction is provided to the ISAs on all system related issues by the Applications Systems Section.

#### **Data Center Section**

The Data Center manages maintenance and support functions with the best available tools in order to increase the time that ITS are available to the users/owners. This section of ISD is responsible for the continuous operation and reliability of computer hardware, database systems software, the systems' databases, and communications networks, as well as the security of departmental ITS. As part of the Data Center, the Network Services Unit and the Hardware/Telecommunications Unit provide data communications services and support to ISD and to other functional units as needed, ensure that standard approved practices are adhered to within the Department, and provide and promote the use of consulting resources to the Department when developing new systems or planning changes to existing data facilities.

#### **CMIS Section**

The role of the CMIS Section is to develop a single automated offender information system which satisfies the needs of all users of CDC's offender information and serves as the hardware/software platform for all future systems development for the Department. Using state-of-the-art analysis techniques and project management tools, the CMIS Section is committed to providing the Department with an offender information system that meets the needs of the user community.

#### **OISB**

OISB has been designated the Department's primary provider of summary statistical information about inmates and parolees. The OISB responds to special information requests, compiles statistical reports, and prepares legislative estimates and population projections. The OISB is responsible also for coordinating the timely, accurate, and consistent coding and entry of data, and performs data integrity QC functions for OBIS and for classification, incident, and other major computerized inmate and parolee databases.

#### **Estimates and Statistical Analysis Section**

The Estimates and Statistical Analysis Section is the primary source of summary statistical information on inmates and parolees under the jurisdiction of the Department. This section ensures that the Department has accurate data upon which to base program planning and direction. It also compiles and analyzes information for special projects, court cases, special task forces or programs, and prepares periodic statistical reports about inmates and parolees used in budget planning, legislative responses, and audits. The section prepares all departmental projections of future facility and parole populations, including inmate classification levels, and all population estimates of the impact of proposed legislation, ballot initiatives, and administrative policy changes. It also reviews such information to be disseminated by other branches and divisions outside of the Department.

#### **TSS**

TSS coordinates the timely, accurate, and consistent coding and entry of data, and performs data integrity QC functions for major computerized inmate and parolee ITS.

This section provides support to the MIS Committee to facilitate the development and automation of ITS, and conducts regular audits in the field and in Headquarters to maintain the accuracy and integrity of data. The section also provides necessary training for facility and parole region OBIS operators.

#### **Business and Contract Services**

##### **BSS**

BSS is responsible for the preparation of purchase documents for all EDP equipment and data-related items that are obtained through Headquarters.

BSS shall ensure that all requests submitted for purchase are complete and that the necessary documentation, such as certifications or FSRs, is included.

BSS is the departmental contact with the DGS, Office of Procurement, for all EDP procurement.

##### **Contract Services**

The Department's Contract Services Section shall supervise contracts entered into by the Department in a manner which:

- Conserves the financial interests of the State.
- Prevents, so far as possible, any thriftless acts by employees of the Department.
- Avoids thriftless expenditures.

The Contract Services Section assists departmental staff in the development of EDP contract requests, bids, and contracts to achieve program objectives within the legal and regulatory constraints of the State, and to ensure compliance with all departmental policies and procedures.

##### **Warden/Regional Administrators**

Each Warden and RPA is ultimately responsible for the security and utilization of all automated systems and data bases in the respective facility or region. This includes the integrity and accuracy of data entered and the physical security of the data, hardware, and the system itself.

##### **Facility/Parole AISA/Regional AISA**

Under the direction of the Warden or designee, or Regional Administrator or designee, the facility or region AISA is responsible for the coordination of automated systems issues for the facility. This position acts as the primary contact for Headquarters on automation-related issues, including PC, the DDPS, and all other automated system concerns.

This position is responsible for coordination of staff training on PC applications and systems, justification and acquisition of PC equipment through use of PC, policy, local automated system application support, inmate access to computers, on-site user assistance, information system security, and QC oversight and audit coordination for all databases located in the area of assignment.

##### **Facility/Regional Information Security Coordinators**

Facility/regional Information Security Coordinators (ISC), in accordance with State and departmental security policies, are responsible to the Warden/RPA for overseeing policy and procedures on information security access at each facility.

The ISC shall work in coordination with the ISAs and the Department's Information Security Officer.

##### **Departmental Managers/Supervisors**

All managers and supervisors assigned supervision of a function automated by DDPS are responsible for:

- Preserving the security and integrity of the Department's information assets and managing the associated risks.
- Ongoing auditing to verify the accuracy and integrity of the data entered by subordinate staff.
- Ensuring that program staff and other users of the DDPS information are aware of and comply with information security policy and procedures.

##### **End Users of EDP**

Users are ultimately responsible for:

- The accuracy and integrity of the data they enter into any departmental application.
- Complying with all applicable laws, regulations, and administrative policies, as well as with any additional security policies and procedures established by the Department.
- Notifying their manager/supervisor of any actual or attempted violations of security policies, practices, or procedures.

##### **41020.5 Revisions**

The Chief, ISD, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

##### **41020.6 References**

DOM §§ 43030 and 43020.4.

**ARTICLE 4 — GENERAL INFORMATION AND POLICY***Revised October 17, 1994***42010.1 Policy**

It is the policy of the Department to create and maintain an annual ITS plan. This plan, prepared by ISD (see DOM 43010.3, Information Management Planning, Responsibilities) and approved by the MIS Committee, shall be the primary basis for structuring the use of ITS in CDC.

The annual departmental ITS plan shall, at a minimum, contain strategy for the use of:

- State data centers for departmental critical systems.
- Distributed systems for departmental critical systems.
- Microcomputers for departmental critical systems.
- Departmental telecommunications and networking systems.
- Facility PBXs for data.
- Local area networks.
- Modems.

**42010.2 Purpose**

The purpose of this policy is to disseminate the framework for the decision-making process used by the Department in deciding to apply automated solutions to the Department's operations, accounting, and communications problems.

**42010.3 ITS Selection Criteria**

It is the intent of the Department to employ the following factors when deciding whether to use CDC ITS resources to develop, design, and implement a critical departmental information system:

- The priority of the ITS request (see DOM 43000).
- The relationship to the Department's goals and objectives.
- The extent to which the application is critical to accomplishment of the Department's goals and objectives.
- The risk analysis report (see DOM 49000).
- The results of a pilot project.

The Department's strategies for use of such technologies shall be utilized to determine the design of the approved information system and the choice of hardware, software, and communication.

**42010.4 ITS Selection Process**

The Department's vehicle for selection of technological alternatives is the FSR. When preparing an FSR, the above selection criteria shall be utilized as a basis. When automation is determined to be the approach to solving a business problem, the Department shall choose the automated system which best accomplishes the tasks involved.

The Department currently maintains a multi-tiered automation platform that offers a wide spectrum of hardware/software choices and which provides several databases accessible to applications for data sharing.

A significant feature of automated systems is the ability to share data. Benefits of data sharing include the saving of valuable input time and, in many cases, may solve cost justification problems by reducing or redirecting data input time and associated personnel years.

There are many automation platforms available for expansion in the Department. However, there are also many elements listed in the selection criteria that lead to the appropriate solution. Regardless of the business problem, selection criteria, or platform (hardware/software) involved, State policy requires that the FSR shall show a cost reduction, a viable cost avoidance, increased revenue, operational necessity, or be the result of a legislative mandate before approval of the concept can become a funded project.

In many instances, the FSR may have a concurrently associated pilot project to provide specific performance, cost, and technological justification for the continuance of the project.

**42010.5 ITS Pilot Projects**

Pilot projects are scaled down versions of an overall project. They are intended to provide information on cost savings/avoidance, technology use, or performance of bench marking in order to justify implementation of the full project. A pilot project is a subset of the overall project and is subject to the same approval process as the full project.

Many projects are approved through the Office of Information Technology (OIT) and the FSR process contingent upon pilot justification of the project.

The typical contents of a Pilot Implementation and Evaluation Plan include the sections and contents described below:

**Program Performance Improvements**

This section defines the programmatic functions to be included in the pilot. It should include a description of the current processes, a description of the new processes, and a plan that includes quantified measurements for evaluating before-and-after program performance.

**Physical and Technical Characteristics**

This section describes the physical and technical characteristics of the pilot. It shall include descriptions of sites, equipment, software, and telecommunications as well as any other technical resources that are needed to complete the pilot.

**Information Requirements**

This section defines the informational processing requirements of the pilot. It should include definitions of data inputs (source, type, volume, timing, media, files, edits, etc.), processes (response times, interfaces, security, etc.), and outputs (reports and displays).

**Security Requirements**

This section addresses the process to be used to determine the potential problems and risks, the controls necessary to safeguard the information hardware and software of the pilot, and the fully-implemented system. Typically, a risk analysis as described in DOM 49030 shall supply the necessary information. The completion of this requirement is especially important since necessary security controls can often increase the required budget.

**Financial Requirements**

This section contains an estimate of all costs associated with the pilot phase of the project. Project accounting shall be defined so that actual pilot costs and benefits can be compared against estimates, and then used as a basis to refine full implementation estimates.

**Operational Recovery Requirement**

This section addresses the process to be used to determine the operational recovery requirements. A pilot project shall have an operational recovery plan just for the pilot, and shall address the issue of operational recovery of the proposed fully-implemented system. Often, operational recovery processes add to the overall cost of the project. All critical departmental systems shall have an operational recovery plan as part of their implementation (see DOM 44000).

**Management Plan**

This section contains a pilot management plan. The plan shall include:

- Pilot responsibilities.
- Pilot schedule.
- Pilot reporting and review.

Any special requirements shall be identified such as training, conversion, or impact on existing operations.

At the end of the pilot and before continuing with the project, a Post Implementation Evaluation Report (PIER) shall be completed and submitted to either the departmental MIS Committee or OIT for review. The pilot PIER shall contain an assessment of programmatic performance during the pilot. The results of the pilot PIER shall be used to re-evaluate the analysis completed for the original feasibility study and, if necessary, be used to make changes to the project FSR.

Once the pilot PIER is approved and any necessary changes are made to the original FSR, the pilot PIER shall be reviewed and the project may be initiated upon its approval.

**42010.6 Determining Priorities on ITS Requests**

One of the criteria for project selection is the priority of the ITS request. To assist in decision-making, the following schema shall be utilized when assigning a priority to a particular request for information system resources: If multiple requests exist with the same priority, each division submitting requests shall determine the order of further prioritization. For example, if there are four priority 3.1 requests then these four requests should be renumbered as 3.1.1, 3.1.2, 3.1.3, and 3.1.4 in order of further priority.

The following is a description of several different levels of priorities. These priorities can be thought of as an initial rationale for assignment of ITS design, development, and maintenance resources. Each prospective project shall be assigned one of the following priorities prior to its presentation before the MIS Committee:

**Priority 1**

- This priority level is exclusive to the maintenance of computer programs that have been designed, implemented, and installed. Resources used in this area are for the purpose of keeping existing computer-based systems functional. This priority includes routine maintenance. Any changes to production

systems requiring more than 32 person-hours shall not be considered as maintenance, but as a new request which must be justified.

#### Priority 2

- Those resource requirements over which the Department has little control. Responses to legislative action, requests from the Governor or the agency, and requests from local law enforcement for critical information are all examples of projects that are Priority 2.

#### Priority 3

- An ITS request shall be Priority 3 if the implementation of the proposed computer-based system will result in a measurable benefit to the Department. Most requests for information system resources fall within this area.

#### 42010.7 Revision

*Revised January 4, 2010*

The Assistant Secretary EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### 42010.8 References

DOM §§ 43000, 44000, and 49000.

### ARTICLE 5 — IT STANDARDS

*Revised April 9, 2002*

#### 42020.1 Policy

It is the policy of the Department to promote standardization in its information management planning and operations through adherence to applicable American National Standards Institute (ANSI), Federal Information Processing Standards (FIPS), and State standards and guidelines. All proposed application or information technology activities shall be evaluated to ensure that all hardware, software, and communications platforms comply with ANSI, FIPS, and State standards and guidelines.

#### 42020.2 Purpose

The purpose of this Policy is to facilitate the inter-organizational sharing and exchange of equipment, data, software, and personnel. The use of these EDP standards shall also facilitate communication:

- Between the Department and other State agencies.
- Between the Department and its EDP vendors.
- Between the Department and its EDP information providers/recipients.
- Among the various organizational units within the Department.

Adherence to established EDP standards should result in improved communication, improved product quality, decreased development time and costs, improved project control, and reduced maintenance costs.

#### 42020.3 Computer Programming Language Standards

Where custom programming is needed, the Department requires the use of vendor-supplied programming languages which are departmental standard languages. The language chosen for development shall be consistent with the requirements of the application and platform for which it is intended.

- For new system development on minicomputer or mainframe platforms, a high level language shall be used wherever feasible. In this case, high level languages include either a fourth generation language such as Oracle or a Computer Assisted Software Engineering (CASE) tool integrated with a COBOL code generator.
- Where a high level language is not feasible or where maintenance shall be performed on applications already written in COBOL, the COBOL programming language shall be used.
- In the personal computer (PC) area, application programming shall use either a language or compiler compatible with the dBASE standard, a fourth generation language for the PC, or a CASE tool integrated with a COBOL code generator.

Use of vendor-supplied data base management, report generation, and file manipulation packages shall be considered in the design of ITS. For data management on all platforms, the use of a vendor-supplied relational data base management system compatible with structured query language (SQL) is recommended. The in-house development of

data base management or file manipulation software is strongly discouraged and only permitted where there is no other alternative.

Normally, high level languages possess their own query language and report generation software. Wherever possible, the query language and report generator provided with the high level language shall be used. In situations where such software is not provided with the high level language or will not meet the application's needs, third party query languages and report generation software can be chosen from the wide variety of software supplied by vendors.

#### 42020.3.1 Application Generators

The Department encourages the investigation and use of application generator software.

Application generators are integrated fourth-generation language tools which permit an entire application to be generated. The most useful full-function application generators support a wide range of integrated components including a data base management system (DBMS), data dictionary, security facilities, analysis tools, query language, report generator, documentation generator, screen painter, prototyping facilitator, graphics generator, decision support or financial modeling tools, multiple end-user interfaces, high-level procedural language, data definition language, distributed processing facilities, testing tools, a micro-to-mainframe communications link, and a separate version of the tool for a personal computer.

Application generators for EDP professionals generally include a very high-level procedural language that is used to specify logical operations. These tools are usually integrated with a full-function DBMS that supports both relational and other data structures.

#### 42020.3.2 Operating Software

It is the Department's policy that standard, unmodified, vendor-supplied and maintained software aids be used in lieu of developing unique programs. The objective is to minimize and control the development of specialized programs that allocate, schedule, and control the central processing unit, memory, peripherals, communication, and data storage and retrieval.

#### 42020.3.3 Application Packages

It is the Department's policy that all feasibility studies shall have one alternative addressing the availability, usability, maintainability, and cost-effectiveness of prewritten and tested application programs in lieu of developing major programs in-house. The PC Policy in DOM 48010 addresses PC application packages. The objective is to minimize the development time and costs of major application programs when such programs are available from other sources. For some custom applications, however, in-house development may be the most viable alternative.

#### 42020.4 Systems Development Life Cycle

The Systems Development Life Cycle (SDLC) is a systematic approach to software development that defines development phases. It begins when a software product is conceived and ends when the product is in production and being maintained. It also specifies the activities, products, verification procedures, and completion criteria for each phase. It is an effective engineering management tool that can be used to help ensure that a delivered product is correct and meets the user's needs.

The Department advocates use of the SDLC approach to software development, whether the platform is mini or mainframe. However, if the system being developed is a standalone PC system, development phases may be combined or omitted so long as the delivered product meets the user's needs.

The Department has included the following phases in its SDLC: Concept Phase, Requirements Phase, Design Phase, Development Phase, Testing Phase, and Operation and Maintenance Phase.

##### 42020.4.1 Concept Phase

The Concept Phase is the initial phase of system development during which user needs are described through documentation. The user group is formed during this phase. Examples of the documentation include a statement of needs, advance planning report, project initiation memo, feasibility studies, system definition documentation, regulations, and policies and procedures relevant to the project. Deliverables for this phase include:

- The project charter.
- The project management plan.
- The initial project file.

##### 42020.4.2 Requirements Phase

The Requirements Phase is the period of time in the life cycle during which the requirements for a software product, such as functional and performance capabilities, are defined and documented. Major deliverables include the Software Requirements Specification documentation and the Baseline Report.

##### 42020.4.3 Design Phase

The Design Phase is the period of time in which the designs for architecture, software components, interfaces and data are created, documented, and verified to satisfy requirements. Major deliverables include the Detailed Design Specification,

the Test Plan, the Implementation Plan, the Users' Manual and Procedures Manual, and the Training Plan.

#### **42020.4.4 Development Phase**

The Development Phase is the period of time in the development life cycle during which a software product is created from design, documentation is tested, and errors are corrected. Major deliverables of this phase include system documentation, program documentation, program code, and test results documentation.

#### **42020.4.5 Testing Phase**

The Testing Phase is the period of time in the life cycle in which the software product is evaluated by users and technical staff to determine whether requirements have been satisfied. Tests performed include the Requirements Test, the Operational Environment Tests, the Acceptance Test, and the Pilot Test.

#### **42020.4.6 Operation and Maintenance Phase**

The Operation and Maintenance Phase is the period of time in the life cycle during which a software product is used in its operational environment, monitored for satisfactory performance, and modified as necessary to correct problems or respond to changing requirements. The Post Implementation Evaluation Report (PIER) is completed during this phase.

#### **42020.5 User Computing Within CDCR**

The standards addressed in DOM 42020.3 above, Computer Programming Language Standards, apply to end-users as well as EDP professionals, although the end-user shall not use procedural or third generation languages and shall restrict any programming activity to the personal computer.

##### **42020.5.1 Personal Computer**

The personal computer is meant to be a productivity tool to assist the user in fulfilling regular professional responsibilities.

##### **42020.5.2 Database/Spreadsheet**

A user-developed system is defined as a database or spreadsheet that is created, accessed, or updated with an off-the-shelf software application.

##### **42020.5.3 Management Approval**

Approval shall be obtained from appropriate division management prior to expending any resources on a user-developed system that is used in an official capacity by any departmental personnel.

##### **42020.5.4 Standard EDP Documentation**

In order to ensure continued operation of user-developed systems, documentation shall be provided. Documentation shall include:

- A list of application software used (e.g., dBase, Foxbase, Lotus, Quattro, etc.).
- System requirements.
- A user manual to explain:

Where the system is installed (PC location, drive, directory).

- How the system is started.
- Any macros or batch files used.
- Data entry procedures.
- Report generation.
- Backup procedures.
- File descriptions for each file used in the system:
  - File name.
  - File type (report, label, index, memo, database, spreadsheet).
- Structure of any data files:
  - Description of each data field.

Refer also to DOM 48010, Departmental Workgroup Computer Policy.

#### **42020.6 Revisions**

*Revised July 10, 2014*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **42020.7 References**

*Revised July 10, 2014*

OIT, Information Management Guideline: A Manager's Guide to End User Computing.

DOM § 48010.

## **ARTICLE 6 — QUALITY ASSURANCE AND QUALITY CONTROL**

*Revised October 17, 1994*

### **42030.1 Policy**

It is the policy of the Department to provide Quality Assurance (QA) and Quality Control (QC) functions to ensure the usability and effectiveness of all EDP applications and processes.

### **42030.2 Purpose**

The purpose of the QA function is to facilitate the continuous review and improvement of processes which underlie the creation and maintenance of automated systems and databases. The purpose of the QC function is to implement methods and practices that allow EDP products and processes to be measured against predefined standards. Together, QA and QC ensure that automated systems and their products better meet user needs.

### **42030.3 Responsibilities**

CDC recognizes that maintaining adequate, correct and current offender data is critical to departmental operations that directly affect staff, inmate, and public safety. OISB, in the ASD, is responsible for major current, proposed, and future statewide offender ITS. QA procedures to be applied to these departmental ITS include:

- Continual monitoring of the validity and currency of data contained in offender ITS;
- Establishment of methods to identify errors or inadequacies in these data; and
- Development of appropriate procedures and solutions to correct inaccuracies or out-of-date data.

The OISB does not directly implement most procedures and solutions. Rather, once a problem has been identified the OISB provides the owners of the data with tools and procedures aimed at eliminating the problem. After the owners of the data have implemented these tools and procedures, the OISB provides ongoing review of the data to ensure its accuracy, currency, and completeness.

A QA council shall be established to ensure that departmental QA policies, standards, and procedures are implemented and maintained. Responsibility for implementing QA resides with each entity (i.e., division, branch, or unit) that develops and maintains systems.

#### **QA Council**

The QA council shall be comprised of the departmental Information Security Officer (Chairperson) and representatives from each division responsible for the development and maintenance of ITS. The QA council shall:

- Develop departmental QA policies, standards, and procedures.
- Develop and implement an annual QA plan in support of the Department's strategic plan.
- Ensure that systems developed or maintained in the Department adhere to CDC QA/QC standards and procedures.
- Support programs that educate CDC staff in the importance of quality concepts and in the tools, techniques, methods, and practices that facilitate QA and QC.
- Act as a source of information on processing quality data and on the need for continued commitment to an improvement effort.
- Review industry standards (e.g., ANSI/IEEE, FIPS) to facilitate the development of departmental EDP standards.

The QA council shall meet quarterly or as needed.

#### **Division/Branch/Unit**

Accountability for QA and QC is fixed on a system by system basis. See DOM 47000, Departmental Systems, for ownership designation and fixed responsibility for QC.

OISB is responsible for data integrity in major, statewide offender ITS.

In fulfilling QA/QC responsibilities each entity shall, where applicable, ensure that:

- ITS projects are reviewed during all phases of the systems development life cycle (SDLC).
- Data integrity is developed and maintained, both in the SDLC and by the unit designated responsible for QC, on each application or database.
- User requirements are well-defined (for systems development or maintenance projects), all objectives of the work effort have been met, and results are appropriate keeping in mind each project's overall objectives.
- The ITS processes are monitored and measured for the purpose of improving these processes.
- Quality improvement programs are established and quality concepts are promoted throughout Department branches that develop and maintain ITS.

**42030.4 Definitions****Acceptance Testing**

Testing that insures a computer system meets the needs of the organization and the end-user.

**Client (User)**

The individual or organization that utilizes a product.

**Correctness**

(1) The extent to which software conforms to its specifications and standards; (2) the extent to which software is free from design and coding defects (i.e., "fault-free"); and (3) the extent to which software meets user expectations.

**Cost of Quality**

The cost of quality for a product is the sum of prevention, detection, correction, and client costs. Prevention cost is the total cost incurred during product development prior to general release. Detection, correction, and client costs are post-release costs associated with reworking due to defects. QA shall be considered cost-effective when post-release costs are reduced by an amount greater than any increase in prevention costs resulting from the inclusion of QA in the development process.

**Data Base Integrity**

The accuracy, completeness, and timeliness of information contained in a database.

**Defect**

A variance from specifications/standards or attribute/function not contained in the software requirements specifications.

**Defect-Prone Process**

A process/activity during which a high number of defects occur.

**Desk Checking**

An informal evaluation technique in which the person who developed a unit of code inspects it visually to identify possible errors or violations of development standards.

**Failure**

Inability of a product or service to perform its required functions within previously established limits.

**Integration Testing**

Testing performed on groups of modules to ensure data and control are passed properly between modules.

**Long-Term Capacity Planning**

The objective of long-term capacity planning is to develop methods and means for ensuring that hardware, system software, communications, and system design shall meet the long-term objectives for additional processing required by new applications, integration of new processors and platforms, and new generations of software. This plan encompasses a five- to seven- year period and is designed to help determine budget requirements and goals for the Department.

**Post Implementation Evaluation Report**

The review of a computer, computer system, or computer network that has been in operation for at least six months and no longer than two years for the purpose of matching the requirements of the system against what has been produced, so as to ensure that stated requirements have been met.

**Problem Reporting/ Tracking**

A process of reporting outstanding problems, having them assigned for resolution, and closing them out when the user has been notified that the problems have been solved.

**Process**

The work activities that produce products, including the efforts of people and equipment.

**Product**

The output of a process including the goods and services produced by individuals and the organization.

**Quality**

The extent to which a product meets the expectations and requirements of the user.

**QA**

(1) A staff function designed to support line management in performing the QC function. As such, QA identifies those processes, both good and bad, that affect quality, and is used to advise management of such effects.

A management decision may then be necessary to ensure that QC techniques are implemented and maintained; and

(2) The function that uses measurement and analysis to continually improve processing, procedures, and standards so that management can be "assured" of their staff following such methods, procedures, and standards, as well as their ability to produce products that meet specified requirements.

**QC**

(1) The collection of activities to ensure that defects are neither made nor implemented. While QA monitors the processes involved in the production cycle, QC is an integral part of work and is the responsibility of each employee; and

(2) A line function used to measure quality associated with specific products or services. QC is the responsibility of each ITS area and is the function responsible for the quality of the work being done within a specific area or for a specific project.

**Quality Improvement Program**

A program designed to reduce the number of defects produced.

**Regression Testing**

Testing applied after changes have been made to ensure that no unwanted changes have been introduced.

**Requirement**

The specification(s) for satisfying a user need; is associated with a standard by which the satisfaction of that need can be measured.

**Resource Management**

The determination of current and short-term needs for hardware, system performance, and communications, and the allocation of such resources to meet the overall goals and current short-term plans of the Department. Resource Management requires the gathering of data about new processing needs and applications not addressed in long-range planning, as well as any other information that impacts current system resources.

**System Testing**

A generic term that differentiates various types of higher order testing from unit testing.

**Total Quality Management**

Consists of continuous process improvement activities involving everyone in an organization—managers and workers—in a totally integrated effort toward improving performance at every level. This improved performance is directed toward satisfying such cross-functional goals as quality, cost, schedule, mission, need, and suitability. Total Quality Management, or TQM, integrates fundamental management techniques, existing improvement efforts, and technical tools under a disciplined approach focused on continuous process improvement. The activities are focused ultimately on increased client/user satisfaction.

**Unit Testing**

Testing performed on a single, standalone module or unit of code.

**Validation**

The process of comparing a product in any stage of its development with specified requirements in order to determine whether the correct product is being produced.

**Walk-Through**

A review process in which a designer or programmer leads one or more members of the development team through a segment of documentation or code that he or she has written, and other team members ask questions and make comments about technique, style, possible errors, violation of development standards, and other issues.

**42030.5 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**42030.6 References**

Quality Assurance Institute: Effective Methods For Quality Assurance In Information Systems.

DOM § 47000.

**ARTICLE 7 — INFORMATION MANAGEMENT PLANNING**

*Revised October 17, 1994*

**43010.1 Policy**

The Department has established a management planning process that is consistent with the needs, resources, and use of information technology within the Department. In compliance with the SAM 4900.2, the established management planning process:



- Is consistent with the current statewide policies contained in SAMand current management memos for managing information and information technology.
- Is linked to and supportive of CDC's overall program planning and budgeting processes.
- Involves CDC executive management and program managers, as well as those who are responsible for the use, operation, and support of ITS.
- Addresses current and projected relationships among the various aspects of information technology employed by CDC, including equipment (such as mainframes and minicomputers, personal computers, and office systems), software (such as computer languages, including fourth generation languages, and applications packages), and telecommunications.
- Relates current and planned uses of information technology to the information required for the accomplishment of CDC's mission and key programs.
- Considers means for ensuring the continuing availability of the information required to support critical programs in the event of disaster, or other unforeseen events resulting in an interruption of CDC's regular systems operation.

#### **43010.2 Purpose**

Planning includes identifying needs and opportunities, defining objectives, and determining appropriate means of achieving those objectives. The purposes of information management planning are to:

- Find ways that information technology can improve the effectiveness of CDC programs.
- Analyze the costs and benefits of information technology and allocate resources systematically.
- Clarify CDC's priorities and be able to react to changes with a minimal amount of disruption.
- Improve communication among executive managers, staff responsible for information technology, and the users of the programs.
- Provide managers with a long-term perspective on current problems that simplifies making decisions and solving problems.

In addition, planning requirements are intended to provide the Office of Information Technology (OIT) and other control and oversight organizations with the basic facts those organizations require to carry out their responsibilities concerning the use of information technology in State government.

#### **43010.3 Responsibility**

It is the responsibility of ISD to develop and maintain a departmental strategic plan. This plan shall be approved by the MIS Committee. Once approved, this plan shall serve as the road map for planned automation efforts within the Department. This plan shall be utilized to link divisional planning efforts to the goals and objectives of the division and Department. The MIS Committee shall ensure that all projects under its responsibility are consistent with and do not conflict with other planned efforts. Compatibility and connectivity shall be the shared vision of all planning.

#### **43010.4 Information Management Planning Infrastructure**

CDC has developed a formal structure for planning which includes an MIS Committee and an ongoing planning process that involves analysis, evaluation, and review of proposed projects. This project review, reporting, and evaluation process is covered in DOM Subchapter 44000, Project Review, Reporting and Evaluation. Alternately, this subchapter describes the MIS Committee, the MIS Support Unit (MIS-SU), ISD, and the role each plays in the management planning process.

#### **MIS Committee**

The MIS Committee, whose members represent the divisions within CDC and the CalPIA, is responsible for executive leadership and strategic planning in seeking out opportunities to employ information technology for the achievement of the Department's mission, goals, and objectives. The MIS Committee assesses all proposed ITS projects (ranked according to their importance to the Department's mission) to assure conformance with the Department's mission statement, strategic plan, and key programs. The committee also reviews and approves the Department's Information Management Annual Plan (IMAP) and endorses future needs identified in long-range planning documents. DOM 41020.3 describes the role of the MIS Committee.

#### **ISD**

ISD is responsible for development and maintenance of the overall strategic plan of the Department. This plan shall be the result of compiling all divisional automation needs into a single document for the prioritization of projects and alignment with the budget by the MIS Committee.

ISD is also responsible for maintaining and updating the IMAP. This includes: working with the user to develop appropriate documents for inclusion in the IMAP for those projects reportable to OIT, ensuring that the appropriate reportable project forms are completed, notifying the user once a project has been approved, whether it is delegated or non-delegated, maintaining copies of all reports, and, as appropriate, acting as a liaison between OIT and CDC project management concerning reporting requirements throughout the life cycle of the project.

#### **MIS-SU**

The MIS-SU provides functional support to the MIS Committee by coordinating MIS Committee meeting agendas, coordinating the review of proposed ITS projects, preparing annual updates for the Department cabinet on all CDC automation efforts for the current year as well as strategic planning for the coming year, and participating in the development of presentations for the committee addressing current technical innovations and coordinating the review of information system concepts to ensure compliance and consonance with the budget cycle. Refer to DOM 41020.4 for more details on the role of the MIS-SU.

#### **43010.5 Information Management Planning Process**

The Department uses the MBO approach for planning information management. The Department's mission and philosophy statement were developed based on MBO principles, and resulted from many planning sessions held to enlist ideas from numerous levels, disciplines, and segments within the Department.

Each Division formulates its own goals and objectives using departmental goals and objectives as the foundation for the effort. The CDC ITS planning process originates with the development of the strategic plan (see also DOM 43010.3). MBO goals and objectives are developed to structure the Department's efforts to achieve the purposes specified in the strategic plan. The establishment of such goals and objectives allows the identification of automation opportunities consistent with the plan, and the planning process then provides for the development of various concept statements to enable articulation of methods that may be used to benefit from the identified automation opportunities. All automation concept papers are reviewed by the MIS Committee and, if approved, become part of the IMAP. Implementation of an automation concept that requires increased or new source funding may require the preparation of a Budget Concept Statement, and a BCP may also be necessary. Establishment of certain automation projects as specified in this Chapter shall require prior approval of an FSR.

ISD shall provide the general guidelines for objectives that require automated solutions. The resulting document, the Information Systems Budget Concept Statement (IS-BCS), is submitted to ISD and the MIS-SU for review and recommendations.

ISD shall coordinate development of the IMAP, and shall maintain it to ensure that a vision of connectivity and compatibility is followed. Redundancy of data input is another area of concern, and this plan shall help ensure that a planned automation effort is coordinated within the department. Duplication of automation efforts is a costly and time-consuming waste. The IMAP shall serve as a road map for automated efforts.

The MIS Committee shall measure proposed projects against CDC's, mission and established departmental priorities so as to best prioritize and approve proposed EDP projects.

#### **43010.6 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **43010.7 References**

SAM § 4900.2.

DOM §§ 44000, 41020.3 and 41020.4.

### **ARTICLE 8 — PROJECT INITIATION AND APPROVAL**

*Revised October 17, 1994*

#### **43020.1 Policy**

It is the policy of the Department that information system proposals shall receive departmental and, as required, control agency approval before project development can proceed.

**43020.2 Purpose**

The purpose of this policy is to ensure that the Department is in compliance with all control agency requirements. The ultimate authority for approval of information technology projects lies with the Office of Information Technology (OIT), but it is the intention of the Director of OIT to delegate such approval authority selectively, to the maximum extent practicable, to the departmental director. Refer to SAM 4819.34 for the factors considered by OIT in determining whether a project can be delegated.

**43020.3 Project Initiation and Approval Process**

ITS proposals requiring a change in the Governor's budget for funding purposes shall receive departmental and control agency review and approval before project development can proceed.

**43020.3.1 Requests Requiring a Change in the Governor's Budget**

If funding for a project is already available, departmental and control agency review and approval is still necessary but the approval process is somewhat different and is discussed in DOM 43020.3.2.

Early each calendar year, MIS-SU shall distribute a memorandum to CDC Executive Staff, Wardens, and RPAs detailing the IS-BCS request process for the fiscal year beginning approximately 18 months later. This memorandum shall include a timeline containing significant deadlines which shall be met in order for a request to proceed through the approval process. The following is a general discussion of this process.

ITS proposals shall be presented to the MIS Committee utilizing the IS-BCS format. The purpose of this format is to provide sufficient information to departmental executive staff to allow for a determination of whether the proposal warrants further development as a BCP. BCPs are discussed in DOM 21010 and SAM 6100.

Refer to the following instructions when completing the IS-BCS and note that the format shall not exceed two pages in length including any supporting documentation. Requests out of compliance with the established format and instructions shall be returned to the requester without consideration.

**Statement of Problem**

Indicate as concisely as possible what problem exists or what level of service is not being provided.

**Description of Existing Operation**

Describe the current operation including a description of the criticality of the data, how or whether it is currently being collected, and the current staffing allocated to its collection, maintenance, and analysis.

**Adverse Effects of Continuing Existing Operation**

Specify what adverse effects would be experienced by continuing the existing operation. These effects should be quantified to the extent possible.

**Alternatives for Solving the Problem**

Describe several alternative methods considered to address the problem. List the pros and cons of each alternative.

**Recommended Solution**

Select an alternative. Discuss how its implementation would alleviate those problems identified above. Quantify the staffing or all other resources needed to implement the proposed change.

**Identification of Needed Resources (Estimate of Cost/Benefits)**

Although a detailed cost/benefit analysis cannot be provided until an FSR is completed, the requester should be able to provide a conservative estimate of any real savings or costs associated with the ITS concept.

IS-BCS's shall follow the normal chain of command for divisional approval prior to review by the MIS Committee.

**Timeframe**

Process

**December**

MIS-SU staff coordinate the presentation of the annual update to the Cabinet detailing all major CDC automation efforts during the previous year and strategic planning for the coming year.

**Late January**

IS-BCS's that have received division approval are submitted to MIS-SU for inclusion on the March MIS Committee meeting agenda. MIS-SU and ISD staff review the IS-BCS in terms of its conceptual integrity and consistency with the Department's approved strategic plan. ISD staff review the IS-BCS to assess its technical feasibility. MIS-SU and ISD

staff each formulate a recommendation addressing the IS-BCS for MIS Committee deliberation.

**Early March**

The MIS Committee reviews the IS-BCS and recommendations to determine whether an FSR and BCP should be developed.

**Timeframe**

Process

**Late March**

If the concept is approved at the MIS Committee meeting, the IS's FSR/BCP development may begin (see SAM Section 4920). Requester submits a New Reportable Project Form to ISD to include the project in the departmental Information Management Annual Plan (IMAP).

Also due to ISD at this time is the project's draft FSR.

**Early June**

ISD submits the IMAP to the MIS Committee for review and approval. BCPs and departmentally approved FSRs shall be submitted to OBM for initial review.

**Mid June**

Departmentally approved FSRs are submitted to the OIT for review.

**Late July**

The Department conducts hearings on BCPs from all departmental program areas to determine which proposals will go forward to Agency for review and approval. The IMAP is submitted to the OIT for a determination of the project's reporting requirements through its review of the IMAP. See SAM 4900 and DOM 43020.4 for specific information and instructions.

**Early August**

Agency conducts its review of departmentally approved BCPs to determine which proposals will go forward to the DOF for review and approval.

**September**

DOF conducts its review of Agency-approved BCPs to determine which BCPs shall result in actual project development funded by a change in the Governor's budget. DOF decisions are usually distributed by the end of December.

Project development can begin upon DOF's approval of the BCP.

**43020.3.2 Projects to be Funded with Existing Monies (No New Positions)**

ITS proposals to be funded with existing monies (no new positions) shall receive departmental and, if necessary, control agency review and approval before project development can proceed.

Refer to DOM 48010.2 for information regarding the procurement of personal computer equipment.

ITS proposals shall be presented to the MIS Committee utilizing the IS-BCS format. The purpose of this format is to provide sufficient information to departmental executive staff to enable a determination of whether the proposal warrants further development (see DOM 43010.1.1).

The IS-BCS shall follow the normal chain of command for divisional approval before it is reviewed by the MIS Committee.

After the IS-BCS has received divisional approval, it shall be submitted to MIS-SU for inclusion on the MIS Committee agenda. See DOM 41020 for additional information regarding the MIS Committee and MIS-SU.

If the IS-BCS receives MIS Committee approval and meets the requirements of a reportable project, the requester shall submit a New Reportable Project Form to ISD to include the system in the departmental IMAP. OIT shall determine the project's reporting requirements through its review of the IMAP. See SAM Section 4900 and DOM 43020.5 for specific information and instructions.

After the IS-BCS receives MIS Committee approval, the project's FSR can be prepared (see SAM Section 4920 for specific information and instructions). Upon completion and divisional approval, the FSR is due to ISD for technical review and approval.

Depending on the reporting requirements established for the project, the departmentally-approved FSR shall next be submitted to OIT for review and approval. See SAM Section 4900 and DOM 43020.5 for further details.

Project development can begin once the FSR has received departmental and, if required, OIT approval.

**43020.3.3 Non-reportable Projects Under \$50,000 to be Funded With Existing Monies (No New Positions)**

Non-reportable information technology projects under \$50,000 that are funded through redirection do not require submission of an IS-BCS. Instead, a CDC Internal Project Summary Fact Sheet (IPSFS) must be completed and forwarded to the ISD Project Initiation Unit (PIU) for review. The IPSFS must then be presented to the MIS Committee for approval. Once approval is obtained, the PIU shall

forward a copy of the approval letter to the project manager and maintain a copy in the ISD files.

#### **43020.4 Information Management Annual Plan (IMAP)**

The IMAP represents the results of CDC's planning process. It identifies those projects for which resource commitments are anticipated and, in effect, summarizes CDC plans, projects, and other activities associated with its use of information technology.

SAM Section 4900 requires that each agency involved in information technology activities prepare an IMAP.

##### **43020.4.1 IMAP Composition**

The IMAP consists of three parts:

- Part A: Overview.
- Part B: Information Technology Activities.
- Part C: Exhibits and Supporting Documents.

##### **43020.4.1.1 Part A - Overview**

Part A contains a brief description of the agency's mission, its current problems and opportunities associated with information management, and its strategy and objectives for the use of information technology.

##### **43020.4.1.2 Part B – Information Technology**

Part B provides an overview of current and proposed development projects and potential acquisition activities, with particular emphasis on those projects and activities that are relatively costly, require a BCP, or meet any of the other special criteria described in SAM Section 4902.1.

##### **43020.4.1.3 Part C - Exhibits and Supporting Documents**

Part C contains Documents that supplement the information in Parts A and B of the IMAP by providing details about the agency's organization of information management and its available resources.

##### **43020.4.2 IMAP Purpose**

The purpose of the IMAP is to ensure that CDC is systematic in identifying and satisfying its information requirements and provides OIT and other control and oversight agencies with the basic facts those organizations require to carry out their responsibilities regarding the use of information technology in State government.

##### **43020.4.3 IMAP Responsibilities**

ISD is responsible for assembling and maintaining the IMAP. ISD develops IMAP - Part A and the support documents contained in Part C. Part B of the IMAP consists of New Reportable Project Forms that are completed by the project teams involved in the information technology projects, and summaries of project status for any major projects.

##### **43020.4.4 Reportable Projects**

SAM Section 4902.1 lists the criteria used to determine if a project is considered reportable. Reportable projects require completion of a New Reportable Project Form. This form is included in Section B of the IMAP and provides OIT with information on the proposed project. OIT uses this information to determine whether approval authority for the project shall be delegated to CDC or if OIT shall retain the approval authority.

All proposed projects that do not meet the criteria in SAM Section 4902.1 are considered non-reportable projects. The costs of agency development or new acquisition projects, whether reportable or not, shall be included in the Agency Information Technology Costs spreadsheet included in Part C of the IMAP.

##### **43020.4.4.1 Definition of Reportable Project**

A Reportable Project is defined as a planned development activity or the planned acquisition of a new or enhanced information technology capability (as defined in SAM Section 4819.2) which meets one or more of the following criteria:

- The project involves total estimated development or acquisition costs that are greater than the cost threshold established for the agency (see DOM 43020.4.4.2 for further information on cost thresholds).
- The project involves a budget augmentation through submission of a BCP or Budget Revision to increase the agency's existing information technology activities.
- The project is a new system development or acquisition made in response to a legislative mandate or the project is subject to special legislative review as specified in budget control language or other legislation.
- The project involves direct public access by private sector organizations or individuals to State data bases .

- The project involves contracts for professional, managerial, or technical services (excluding services received through interagency agreements) totalling more than \$25,000.
- The project involves acquisition of one or more personal computers, personal computer software, or related peripherals, and the agency does not have an approved Workgroup Computing Policy (SAM Section 4989 et seq.).
- The project involves installation or expansion of wide area network data communication services other than those offered by the DGS, Division of Telecommunications, or a State consolidated data center as defined in SAM Section 4982.
- The project involves one or more of the following emerging technologies and more than \$25,000 will be spent on acquisition of hardware or software required for the technology:
  - Document imaging.
  - Geographic information systems.
  - Computer aided systems engineering.
  - Expert systems/artificial intelligence.

##### **43020.4.4.2 Cost Thresholds**

Cost thresholds are assigned to agencies based on their size and past experiences with information technology projects. CDC is a Category I agency; therefore any CDC project shall be a reportable project if it will cost more than \$500,000.

##### **43020.5 FSR**

CDC adheres strictly to State policy requiring that a feasibility study be conducted and a FSR be approved prior to the expenditure of resources on any information technology project. The only exception to this requirement is the justification and acquisition of personal computers and related commodities through use of the Workgroup Computing Justification Form (SAM Section 4991.1).

The term Information Technology Project is defined in DOM 41010.3, EDP Definitions.

The feasibility study shall be performed in conformance with the requirements of SAM Sections 4922 through 4927.

The FSR shall be prepared in accordance with SAM Sections 4928 through 4928.4.

The FSR shall be reviewed and approved in accordance with the general requirement of SAM Section 4819.3, State Information Management Authority and Responsibility, as well as the specific requirements of SAM Sections 4926 through 4926.5.

Refer to SAM and the handbook, "How To Conduct A Feasibility Study," published by OIT, for specific guidelines for completing each step of the process.

##### **43020.5.1 FSR Purpose**

The Feasibility Study represents the first opportunity within the project management sequence for State management to assess the full implications of a proposed information technology project. The purposes of the Feasibility Study are to:

- Determine whether a proposed project represents a justified expenditure of public resources in terms of whether it:
  - Is responsive to a clearly defined, program-related problem or opportunity.
  - Is the best of the possible alternatives.
  - Is within the technical and managerial capabilities of the agency.
  - Would provide benefits over the life of the application that exceed development and operations costs. Such benefits typically include reduced program costs, avoidance of future program cost increases, increased program revenues, or provision of program services that can be provided only through the use of information technology.
- Provide a means for achieving agreement between agency executive management, program management, and project management as to:
  - The nature, benefits, schedule, and costs of proposed project.
  - Their respective management responsibilities over the course of the project.
- Provide executive branch control agencies and the Legislature with sufficient information to assess the merits of the proposed project and determine the nature and extent of project oversight requirements.

##### **43020.5.2 Internal Approval Process**

In addition to the State policy and procedures which govern information technology projects, FSRs shall be developed and approved according to the following internal process. Once the FSR and/or CDC internal Project Summary Fact Sheet is completed and approved by the Division approving authority, it is submitted to:

- ISD, Project Initiation Unit (PIU), for technical review and recommendation.

- MIS-SU for inclusion on MIS Committee agenda.
- MIS Committee for final departmental approval.
- ISD/PIU for submission to OIT for review and approval if the project is reportable.
- ISD/PIU for preparation of certification statement (Certifications for Personal Computer systems approved through the Personal Computer Policy are prepared by the MIS-SU).
- Chairperson, MIS Committee, to sign certification.
- Deputy Director, ASD, and Assistant Director, OOC, to sign certification.

OIT's response to the Department regarding project approval/disapproval is sent directly to the Chief Deputy Director and then to ISD. Subsequently, ISD shall update the project file and route copies to the project initiator(s) and to MIS-SU.

The process differs slightly if a BCP is required. In order to ensure that the FSR is developed and approved within the mandatory time frames, refer to DOM 43020.3.1.

In addition to a project file, ISD (Systems Support) also monitors initial and subsequent equipment procurements to ensure they fall within the scope of the approved FSR or CDC Internal Summary Fact Sheet. Copies of all approved procurement documents shall be routed to the MIS-SU.

#### **43020.6 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **43020.7 References**

SAM §§ 4819.2, 4819.3, 4819.34, 4900, 4902.1, 4920, 4922 - 4928.4, 4989, 4991.1, and 6100.

OIT, Information Management Guidelines: How To Conduct A Feasibility Study.

DOM §§ 21010, 41020, 41010.3, 43010.1.1, 43020.3.1, 43020.3.2, 43020.4, 43020.5, and 48010.2.

### **ARTICLE 9 — PROJECT MANAGEMENT**

*Revised October 17, 1994*

#### **43030.1 Policy**

It is the policy of the Department to create an automation organizational structure that is conducive to the successful implementation, maintenance, and control of the EDP environment.

#### **43030.2 Purpose**

The purpose of this policy is to ensure that an EDP infrastructure is created which meets the needs of the Department and fixes responsibility and authority for the development and maintenance of EDP systems.

#### **43030.3 Responsibility**

EDP project management is project team oriented. Maintenance and development projects each have a technical project manager. New development projects also have a user project manager. Each project, whether maintenance or new development, is uniquely and individually staffed with a separate project team. DOM 43030.4 describes the structure of project teams.

#### **Team Concept**

##### **Project Team Structure**

The project team is a self-sufficient unit staffed with the appropriate technical and managerial resources to address the complexity and size of a project through its life cycle—from initiation through the development, implementation, and maintenance phases. A project team shall have the following composition:

- A core technical staff of analysts and programmers to construct the system.
- Users to participate in requirements definition, design “walkthroughs,” and test planning and execution.
- Trainers to develop user manuals and to train users.
- Administrative staff to support project tracking and management reporting.

Each project shall have a technical project manager and an associated user group. New development projects shall also have a user project

manager who shall stay with the project through implementation. The user project manager shall be responsible for “what” needs to be automated. The technical project manager shall be responsible for the technical aspects (i.e., the “how”) of the project. DOM 43030.5 (User Project Manager) and DOM 43030.6 (Technical Project Manager) outline the roles and responsibilities of the user and technical project managers, respectively.

#### **User Project Manager**

The user project manager is selected by CDC executive management from one of the functional areas affected by the project and reports to the appropriate Deputy Director on the MIS Committee.

The user project manager provides overall guidance to the technical project manager. The user project manager keeps fully apprised of the status of the project through regular written project reports from the technical project manager, although the technical project manager reports formally to ISD management.

The user project manager is fully responsible for the project and, in effect, is subcontracting for technical expertise. Therefore, this contract is with ISD rather than a specific technical project manager. This means that the usual reporting structure for ISD is maintained.

The user project manager is responsible for securing the necessary project funding and project resources. In addition, the user project manager is responsible for ensuring that the IMAP, BCS, BCP, FSR, Special Project Report (SPR), Quarterly Project Report (QPR), Post implementation Evaluation Report (PIER), and any other required documentation is prepared and approved by departmental management. ISD shall be responsible to review, log, and submit these reports to EDP control agencies as required.

The user project manager communicates project needs and priorities to the technical project manager, as reported by the user group. The user project manager is also responsible for ensuring that the user community provides the necessary time and resources required throughout the project, such as needs and requirements analysis, data conversion, and user training, as addressed in the approved project management plan.

#### **Technical Project Manager**

The technical project manager is appointed by ISD and reports to a unit manager within the Applications Systems Section who, in turn, reports to the ISD Application Systems Manager. The technical project team members report directly to the technical project manager.

The technical project manager has full authority over and responsibility for the technical aspects of the project and the technical project team members. This responsibility includes:

- Detailed planning.
- Staff recruitment and management.
- Project budget control.
- Requirements specifications.
- System design.
- Programming and testing.
- System implementation.
- Data file conversion (responsibility for this task shall be shared with user staff depending upon the resources allocated to the project and the conversion approach approved in the implementation plan).
- System maintenance.
- User training (responsibility for this task may vary depending upon the resources allocated to the project and the training approach approved in the project management plan).

#### **User Groups**

Each project (whether new development or maintenance) shall establish an associated user group comprised of representatives from the user community. The purpose of these user groups is to provide a forum for communication between the project teams and those who use the application systems, in order to facilitate more effective use of existing application systems and assist in the development of new systems.

The user group representatives prioritize requests for system enhancements, exchange information on system usage, and provide feedback on system modifications.

#### **43030.4 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **43030.5 References**

DOM §§ 43030.4 - 43030.6.

**ARTICLE 10 — PROJECT REVIEW AND BASIC POLICY***Revised October 17, 1994***44010.1 Policy**

The Department has established policy regarding project reporting and evaluation for each approved information technology project, in accordance with the requirements of SAM 4940 of the. All operating units within CDC shall adhere to the requirements set forth in the current section concerning project review, reporting, and evaluation. Additional requirements may be specified by the Office of Information Technology (OIT) in response to the Department's IMAP or in response to other needs reported by the Department (agency requirements are provided in SAM 4819.3 through 4819.39).

**44010.2 Purpose**

The purpose of this policy is to ensure that State and CDC project review requirements are implemented on an ongoing basis.

**44010.3 Project Review Overview**

Once the FSR for an information technology project has been approved by the MIS Committee (also by OIT for non-delegated projects or the DGS for projects involving communications), the design, acquisition, development, and implementation phases of the project may proceed.

The success of each phase of the project shall be evaluated and reported in terms of the project objectives. Included are project reports, a formal management review, and a post-implementation assessment. (SAM 4944 through 4946.2 provide a framework for project monitoring and evaluation.)

**44010.3.1 Information Technology Project Reports**

Two information technology project reports are specified, the Quarterly Project Report (QPR) and the Special Project Report (SPR). These reports:

- Support continuing communication among all project participants (project management, program management and executive management).
- Expose potential problems with respect to the availability of resources or the meeting of mandated project dates.
- Provide for CDC management and control agency review of project progress at appropriate intervals throughout the life of the project.

**44010.3.2 Formal Project Review**

In addition to the QPR and SPR, a major management briefing, known as the Formal Project Review (FPR) may be initiated by CDC management or required by the OIT for any information technology project. The FPR allows for CDC management or control agency review of large projects after completion of the general design phase, but before substantial resources have been committed to the project. It may also be employed to provide a formal management assessment of a project at any point during the development cycle.

**44010.3.3 Post Implementation Assessment**

Following completion of each information technology project, CDC shall carry out a post-implementation assessment. The assessment shall:

- Measure the benefits and costs of the newly-implemented information technology application or system against the original objectives.
- Document projected operations and maintenance costs over the life of the application or system.

**44010.3.4 EDP Audit**

Every two years the Department shall carry out and submit to the DOF an EDP audit. This audit is the responsibility of the Internal Audit Unit of PFAB (see DOM 49040). The audit shall be consistent with the DOF publication, "Information Technology Security and Risk Management Guidelines." This guide reflects the SAM requirements regarding the responsibility and control of EDP policy, and provides audit guidelines; however, it may not cover all areas to be audited. The guide and information about it are available through the Internal Audit Unit of PFAB.

To accomplish this audit it is likely that ITS under development shall be selected for audit on a sample basis. The intent of the audit is to make an assessment of the degree of compliance by CDC with departmental and State policies and procedures. The scope of the audit shall include, but not be limited to, the following:

- Project approvals, feasibility study, and risk analysis (DOM 49020).
- Operational recovery plan (DOM 49030).
- Information security practices.

The Project Manager is responsible for ensuring that the project documentation is in compliance with policy.

**44010.4 Project Review Central Control/Clearinghouse**

All IMAP "external" and "internal" reporting activities shall be monitored by CDC management through a central control agency/contact with regard to OIT reportable projects, OIT projects delegated to the Department, and all other Department information technology projects with an approved FSR, including those requiring a Summary Fact Sheet or Workgroup Computing Justification Form. The ISD, System Support Unit (ISD-SSU) shall be responsible for the central clearinghouse function. Refer to DOM 43030.3, User Project Manager, for project reporting responsibilities.

**Responsibilities**

The ISD-SSU central clearinghouse monitors all external and internal quarterly project reports, special project reports, and post-implementation assessments. Project managers shall ensure that appropriate sign-off is attained on all projects before documents are submitted to the central clearinghouse. It is the responsibility of the central clearinghouse to:

- Develop a cataloging system to monitor the completion and distribution of required reporting per schedule.
- Notify project managers of scheduled reports prior to the report due date.
- Review completed reports to ensure adherence to the State-required format.
- Maintain copies of all reports and, in effect, act as a liaison between OIT and CDC project management concerning reporting requirements throughout the life cycle of the project.

**Summary Information Report**

Since ITS approval and oversight are the responsibility of the MIS Committee, the central clearinghouse function shall provide summary information on each ITS project to the MIS Staff Committee at its quarterly meetings. This summary information shall include:

- The project title.
- MIS approval date.
- Projected completion date.
- OIT delegation status.
- FSR status.
- QPR status.
- PIER status.

The central clearinghouse shall also provide the MIS Committee with a summary project status profile which may be in the form of the project's most current QPR and, if necessary, SPR.

**44010.5 Project Compliance Review**

The Department is subject to compliance reviews conducted by OIT, or by specified units within CDC. The purpose of a compliance review is to verify CDC adherence to Department and State information technology policies and procedures.

**Types of Compliance Reviews**

ITS within CDC are subject to four types of reviews:

- Type 1. Policy compliance reviews (SAM Section 4942).
- Type 2. EDP audit reviews (see DOM 49050).
- Type 3. Information security, risk management, operational recovery compliance reviews (SAM Sections 4840 through 4845; DOM 49000).
- Type 4. Facility peer reviews.

**Policy Compliance Review**

Type 1 - Policy compliance reviews are conducted by OIT. Responses to this type of review shall be coordinated by the central clearinghouse function of ISD.

**EDP Audit Reviews**

Type 2 - EDP audit reviews are part of an audit required by SAM, and are usually conducted by the Internal Audits Unit of PFAB. Alternately, it is possible that Type 2 reviews shall be carried out by the Audits Group of DOF, but responsibility for the audit reviews remains with PFAB. The owner of an information system is responsible for providing responses to audit findings regarding that system.

**Security, Risk, and Operational Compliance Reviews**

Type 3 - Information security, risk management, and operational recovery compliance reviews are ongoing and conducted by the Information Security Unit within PFAB. These reviews are usually not oriented to a specific system or project,

and are limited in scope to the policies contained in SAM Sections 4840 through 4845, and DOM Subchapter 49000.

#### **Facility Peer Reviews**

Type 4 - Facility peer reviews are reviews of business services operations conducted by the Department on a rotational basis at each of CDC's facilities. The EDP portion of the peer review includes a functional review of Offender Based Information Services, the DDPS, and personal computer security practices and system utilization.

The review teams are composed of business services and administrative staff from headquarters and the facilities.

#### **NonDelegated Projects**

OIT reviews project reporting documentation in conjunction with its compliance review and oversight responsibilities.

#### **Delegated Projects**

For delegated projects, the MIS Committee shall determine when a compliance review is to be conducted, the scope of the review, and who shall perform the review.

#### **44010.6 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **44010.7 References**

SAM §§ 4819.3 to 4819.39, 4840 - 4845, 4940, 4942, and 4944 - 4946.2. DOM §§ 49000, 49020, 49030, 49040, 49050, 43030.5.

DOF publication, "Information Technology Security and Risk Management Guidelines."

### **ARTICLE 11 — PROJECT REPORTING REQUIREMENTS**

*Revised October 17, 1994*

#### **44020.1 Policy**

It is the policy of the Department to monitor the implementation and outcome of EDP projects within the Department to ensure that progress and outcome information is tracked and reported, as specified by SAM 4940 and as otherwise required by State oversight agencies. Additional requirements may be specified by the Office of Information Technology (OIT) in response to the Department's Information Management Annual Plan (IMAP) or in response to other needs reported by the Department (see SAM 4819.3 through 4819.39 for departmental requirements).

#### **44020.2 Purpose**

The purpose of this policy is to ensure that adherence to all project reporting requirements outlined by State oversight agencies is monitored and met.

#### **44020.3 Project Reporting Requirements— Compliance Review Reporting Schedule**

The Compliance Review Reporting Schedule for both delegated and non-delegated projects is set by the MIS Committee in accordance with central control agency and Department requirements, and is reported to the central clearinghouse.

#### **44020.4 Project Reporting Requirements—Audit of Information Technology Projects**

All information technology projects are subject to audit, with project reporting and evaluation documents being an essential aspect of the audit trail (SAM Section 4943). CDC is subject to project audits by control agencies as well as internal audits. Documentation supporting project decisions shall be kept by the Department in the central clearinghouse for a minimum period of two years following approval of the post-implementation assessment.

#### **Nondelegated Projects**

OIT audits project reporting documentation in conjunction with its audit and oversight responsibilities.

#### **Delegated Projects**

For delegated projects, the MIS Committee shall determine when an audit is to be conducted, the scope of the audit, and who shall perform the audit.

#### **44020.5 Project Reporting Requirements— Project Audit Reporting Schedule**

The project audit reporting schedule for both delegated and non-delegated projects is set by the MIS Committee in accordance with

central control agency and Department requirements, and is reported to the central clearinghouse.

#### **44020.6 Project Reporting Requirements— Quarterly Project Report Requirements**

Quarterly Project Reports (QPR) are usually required of the project manager in the case of projects subject to monitoring by OIT, and may be required as an additional reporting responsibility for delegated projects. OIT's response to the Department's IMAP or FSR specifies the necessity of preparing QPRs for particular projects. On occasion, reporting on other than a quarterly basis is established by the FSR and approved by the MIS Committee.

Every external QPR shall be reviewed and approved by the affected division, and by the Director, or designee. Two copies of the QPR shall be submitted to the central clearinghouse for submittal to OIT by no later than the 15th day of the month following the end of each fiscal quarter (i.e., October 15, January 15, April 15, and July 15). A copy of the QPR shall be forwarded to the Office of the Legislative Analyst.

CDC also encourages use of the QPR format to document project activity for projects that do not qualify as reportable, or for which project monitoring has been delegated to the Department. These internal QPRs shall be reviewed and approved by the affected division. It is not necessary to forward copies of these reports to OIT or the Office of the Legislative Analyst unless so required by OIT.

The QPR shall contain a brief summary of project status including an explanation of any minor deviations from the original project plan. An updated Project Management Schedule (see SAM Section 4928.4) showing actual completion dates of specific tasks/deliverables shall be attached. The QPR shall conform to the standard format provided in SAM Section 4944.1.

Some deviations from the project plan require preparation and submission of a Special Project Report (SPR). The conditions that require preparation of an SPR are defined in SAM Sections 4945 and 4945.1.

#### **44020.7 Project Reporting Requirements— Special Project Reports**

General Reporting Requirements (SAM Section 4945): Preparation of an SPR is required whenever a project deviates substantially from the costs, benefits or schedules documented in the approved FSR, or when a major revision occurs in project requirements or methodology. No expenditure of funds shall be made to implement an alternative course of action until approval has been received from OIT or the Director of CDC, as appropriate (SAM Section 4945). SAM Section 4945.1 lists specific conditions for the required submission of an SPR to OIT.

SPRs, which must be submitted to OIT, shall be transmitted within 30 days after recognition of a substantial deviation. Two copies of the SPR shall be submitted to OIT and one copy to the Office of the Legislative Analyst. SPRs shall be signed by the Director of CDC or designee.

If a QPR is due to OIT during the period the Department is engaged in preparing the SPR, CDC shall submit the QPR (see SAM Sections 4944 through 4944.1) stating that an SPR is under development and providing an approximate date for its completion.

The format and content of the SPR transmittal letter for each non-delegated or delegated project shall conform to the standard formats provided in SAM Section 4945.

#### **Conditions Requiring Submission to OIT (SAM Section 4945.1):**

- Projects subject to OIT approval/oversight - an SPR shall be submitted to OIT if:
  - The information technology project's total costs deviate p roj, or are anticipated to deviate, by ten percent (higher or lower) from the estimated information technology ect budget (to be measured against the combined total of each fiscal year's One-time Costs plus Continuing Costs on the Summary Fact Sheet, SAM 4930 Illustration 1).
  - The project schedule falls behind or is anticipated to fall behind by 10 percent or more (to be measured using the key management milestones critical to project success reported on the Summary Fact Sheet, SAM Section 4930, Illustration1).
  - The total program benefits deviate or are anticipated to deviate by 10 percent (higher or lower) from the estimated total program benefits (to be measured against the combined total of each fiscal year's Cost Savings and Cost Avoidances on the Summary Fact Sheet, SAM 4930, Illustration 1).
  - A major change occurs in project requirements or methodology.
- Projects subject to approval and oversight by the Special Project Director (delegated or nonreportable), and projects for which project reporting has been delegated to the Director after OIT approval of the FSR: Submission of an SPR to OIT is required if the revised project costs exceed or are estimated to exceed

CDC's IMAP cost threshold (SAM Section 4902.12), and one or more of the following conditions are true:

- The total information technology project costs deviate or are anticipated to deviate by 10 percent (higher or lower) from the estimated information technology project budget (to be measured against the combined total of each fiscal year's One-time Costs vs. Continuing Costs on the Summary Fact Sheet, SAM Section 4930 Illustration 1).
- The project schedule falls behind or is anticipated to fall behind by 10 percent or more (to be measured using the key management milestones critical to project success reported on the Summary Fact Sheet, SAM 4930, Illustration 1).
- The total program benefits deviate or are anticipated to deviate by 10 percent (higher or lower) from the estimated total program benefits (to be measured against the combined total of each fiscal year's Cost Savings and Cost Avoidances on the Summary Fact Sheet, SAM Section 4930, Illustration 1).
- A major change occurs in project requirements or methodology.
- If an SPR for a delegated project must be submitted to OIT, attach to the SPR a copy of the approved FSR and the project approval letter signed by the Director or designee.
- Internal special project reports – Delegated or nonreportable projects which exceed projected project development costs but do not (according to control agency requirements) require an SPR.

An internal SPR shall be required when the cost thresholds below are exceeded:

- By less than \$100,000 – The project exceeds cost projections by 25 percent or more.
- Between \$100,000 and \$200,000 – The project exceeds cost projections by 15 percent or more.
- Over \$200,000 – The project exceeds cost projections by 10 percent or more.

The SPR shall provide sufficient information for Department management, executive branch control agencies, and the Legislature to assess the merits of the proposed project change and determine the nature and extent of future project oversight requirements. If an SPR lacks sufficient information for these purposes, OIT may request that the Department provide additional information.

SPRs shall be commensurate with the level of deviation from the approved FSR. Therefore, the Department shall determine whether to prepare a revised FSR, provide the information required by the minimum content for an SPR (defined below), or do something in between these two extremes.

The minimum content for an SPR consists of a description of the project status, an explanation of the reason for the project deviation, a revised project management schedule, and economic summary information. CDC shall prepare an SPR with at least the minimum content described below:

- **Project Status** – An explanation of the problems encountered or opportunities identified that have led to the preparation of the SPR. This section of the SPR shall include as appropriate:
  - **Changes in Project Requirements or Methodology** – An explanation of the proposed change from the anticipated course of action, including the reasons for the change and why this proposed alternative methodology is now the preferred course of action.
  - **Cost Benefit or Schedule Deviations** – An explanation of the deviation from the originally anticipated costs, benefits or schedule. This section shall include the reasons for the deviation and the proposed course of action to bring the project back within planned costs, benefits, or schedule.
- **Summary Fact Sheet** – This section shall include a revised Summary Fact Sheet (SAM Sections 4930 through 4930.1) indicating accomplishments to date by using actual dates in the Target Date fields of the Project Schedule, then continuing the schedule by focusing on the yet to be accomplished milestones critical to project success. The cost analysis portion shall contain all actual costs to date plus revised projected costs through the end of the project.

For example, this may be the second fiscal year that the project has been under development: indicate the actual project costs for last year and place them in the first column of Personnel Years (PYs) and Costs, then combine the actual costs for the current fiscal year-to-date with the anticipated costs for the remainder of this fiscal year, and place them in the second column of PYs and Costs. Indicate the anticipated costs for each succeeding budget year through the end of the project.

If the feasibility of the project was documented through the preparation of a FSR, the following additional content shall be provided:

- **Project Management Schedule** – A revised Project Management Schedule (SAM Section 4928.4) indicating accomplishments to date and focusing on the duration of critical tasks, major management decision-points, and progress reporting milestones shall be included in the SPR.
- **Economic Analysis Worksheet** – A revised Economic Analysis Worksheet (SAM Sections 4929 through 4929.2) shall be provided. The worksheet shall contain all actual costs to date plus revised projected costs through the end of the project.

For example, this may be the second fiscal year that the project has been under development: Indicate the actual project costs for last year and place them in the first column of PYs and Costs, then combine the actual costs for the current fiscal year-to-date with the anticipated costs for the remainder of this fiscal year, and place them in the second column of PYs and Costs. Indicate the anticipated costs for each succeeding budget year through the end of the project.

#### **44020.8 Project Reporting Requirements – Formal Project Review**

A Formal Project Review (FPR) may be initiated by Department management or required by OIT for any information technology project. The FPR typically provides a formal management or control agency checkpoint after completion of the project's general design phase, but before substantial resources have been committed. It may also provide a formal management assessment of a project at any point during the development cycle. FPRs may be scheduled during the procurement process if doing so does not violate procurement requirements.)

OIT may notify the Department that an FPR is required in its response to the Department's IMAP, in an FSR approval document, or in any correspondence subsequent to project approval.

SAM Section 4946.1 provides guidance in the form of recommended content for the preparation and presentation of an FPR. Depending upon the complexity, sensitivity, and size of the project, an FPR presentation shall usually require between two and four hours. When the Department receives services from a data center or from another agency, responsible staff should request that representatives of the data center or the servicing agency attend.

#### **Content and Organization**

The FPR provides an opportunity for a final critique of the merits of the proposed information technology project prior to commitment of substantial resources. It shall be used also as a checkpoint during project development to maintain management involvement and awareness with respect to crucial decision points. The FPR allows assessment of: (1) systems design, (2) current estimates of costs and benefits, (3) management controls, and (4) probability of project success.

#### **Composition of Formal Project Reviews (FPR)**

An FPR topic outline is provided in SAM Section 4946.1, Illustration 1. Typically, the FPR is organized into four major sections:

- Background.
- Technical Strategy.
- Project Management Controls.
- Summary.

The suggested content of each of these sections is specified in SAM Sections 4946.11 through 4946.14.

It is important to adapt the presentation to suit the audience. Executive management, for example, may not be interested in the technical details of a project, but may be anxious to know the time frames for system operation and the capture of proposed tangible and intangible benefits.

#### **Background Section**

The Background Section of the FPR shall provide the facts necessary to understand the problem or opportunity being addressed by the project, and the defined project objectives within their project context.

Typically, this portion of the presentation shall include:

- A summary of the information contained in the requirements section of the FSR, with a note of any significant changes since preparation of the FSR.
- A brief overview of the project technical strategy as defined in the FSR's functional requirements (technical topics are normally covered in detail during the technical strategy section of the FPR).

- A brief description of project organization as it relates to the overall organization of the Department, and any specific user organization within the Department.
- An overview of the information contained in the Management Plan Section of the FSR.
- A management summary that concentrates on costs, benefits, savings, PY reductions, or other quantifiable or non-quantifiable management benefits that were described in the FSR.
- A synopsis of anticipated decisions that shall be necessary at the conclusion of the presentation.

Ideally, the FPR is based upon information that is more current than is contained in the FSR; therefore, the estimates should be an update to the economic analysis portions of the FSR.

The presentation on technical strategy shall include typically:

- Major system processes, including file or data section base relationships, interfaces with existing systems, and impact on other systems currently in operation, planned, or under development. This overview of systems capabilities should inform the audience regarding methods for processing information, input mechanisms, output mechanisms, error detection techniques, and data distribution or access.
- Specific hardware and software requirements for development and operation of the system; the level of presentation detail should be based on the audience's technical background and need to make informed decisions.
- Lease versus purchase decisions for equipment and software, and the procurement mechanism and schedule.
- Requirements for security and asset protection: level of security, security methods, and contingency plans.

#### **Project Management**

This section provides an overview of the project management plan based upon the Management Plan section of the FSR with updates to reflect changes since the preparation of the FSR. Additionally, a review of the project phases is typically presented including design, development, testing, implementation, conversion, and acceptance. Coordination of responsibility for these phases is also presented.

Other topics included in the project management section of the presentation are:

- Training requirements, plans, and costs for technical and user staff.
- Special management requirements for system conversion.
- User or technical responsibilities for data conversion.
- The time frame for accomplishment of conversion.

#### **Summary**

The concluding section of the FPR normally summarizes the current status of the project, describes the next steps in the project, highlights potential problems for the project, and closes with any required decisions that may be necessary.

#### **44020.9 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **44020.10 References**

SAM §§ 4819.3 - 4819.39, 4902.12, 4928.4, 4929 to 4929.2, 4930 to 4930.1, 4940, 4943, 4944 to 4944.1, 4945 to 4945.1, 4946.1, and 4946.11 - 4946.14.

### **ARTICLE 12 — PROJECT EVALUATION**

*Revised October 17, 1994*

#### **44030.1 Policy**

It is the policy of the Department to evaluate its EDP projects as required by the SAM 4940, and as otherwise required by State oversight agencies. Additional requirements may be specified by the Office of Information Technology (OIT) in response to the Department's Information Management Annual Plan (IMAP) or in response to other needs reported by the Department.

#### **44030.2 Purpose**

The purpose of this policy is to ensure the implementation of all project evaluation requirements specified by laws and regulations, and State and departmental policies.

#### **44030.3 Post-implementation Evaluation Report (PIER) General Information**

A post-implementation assessment shall be carried out by the Department following the completion of each information technology project. No project is considered complete until the report of that assessment, the Post-implementation Evaluation Report (PIER), has been approved by OIT or the Department Director, as specified in OIT's response to the Department's IMAP and in accordance with SAM 4819.36 and 4941. Approval of a PIER by OIT or The Director, as required, terminates project reporting requirements.

The post-implementation assessment shall be conducted after the new information technology capability has been operational for a sufficient period of time to allow its benefits and costs to be accurately assessed. Initial operational problems shall have been resolved and sufficient experience and data shall have been accumulated to determine whether the project met the proposed objectives, was completed within the anticipated time and budgetary constraints, and achieved the proposed benefits. The optimum time after implementation to conduct the assessment depends upon the nature of the project. Six months after implementation is typical. The assessment shall be completed within two years of implementation of the information technology capability.

The required content for a PIER is defined in SAM Section 4947.2. The format and content of the PIER Transmittal Letter for each non-delegated project shall conform to the standard format shown in SAM 4947, Illustration 1. The format and content of the Transmittal Letter for each delegated project requiring submission of the PIER to OIT shall conform to the standard format shown in SAM 4947, Illustration 2.

#### **44030.4 PIER Reporting Requirements**

Two copies of the PIER shall be submitted to OIT and one copy to the Office of the Legislative Analyst if the project was subject to approval and oversight by OIT. If OIT has delegated project approval authority to CDC, but in conjunction with that delegation has required that CDC submit a copy of the PIER following completion of the project, CDC's submission of the PIER shall include a copy of the approved FSR with its signed Project Approval Letter.

PIERs for projects subject to approval and oversight by the Department Director (delegated or non-reportable) or projects for which project reporting has been delegated to the Department Director after OIT approval of the FSR shall be approved by the Director or designee (see SAM 4971.1).

#### **44030.5 PIER Content and Format**

The level of detail included in the PIER shall be commensurate with the scope and complexity of the project and its anticipated benefits. The narrative portion of the PIER for a minor project can be as brief as one or two pages. However, it shall provide sufficient information for Department management, executive branch control agencies, and the Legislature to assess the success of the project (see SAM Section 4947.2).

#### **PIER Composition**

The PIER is comprised of five sections:

- **Background and Summary of Results Section.** A brief summary is provided of the project history, objectives, and results. Topics to be discussed normally include: how the project was initiated, how it progressed, problems that were overcome, user and management acceptance of the operational application, how Department management views the management of the project, and how the application fits into the Department's overall management and operations strategy.
- **Attainment of Objectives Section.** Specific objectives are established during the feasibility study for each project and are documented in the FSR. These objectives, which are normally defined in terms of measurable impact on Department programs and resources, provide the baseline for measurement of the project's success. Accordingly, the narrative portion of this section of the PIER shall describe the project outcome with respect to each objective included in the FSR. This section shall also include a clear statement regarding the capture of benefits and whether they were achieved as anticipated.

Two attachments shall be included with this section of the PIER:

- **Attachment 1 – PIER Economic Summary Report.** Project costs and benefits shall be summarized using the PIER Economic Summary (SAM 4947.2 Illustration 1). This spreadsheet allows comparison of the anticipated costs of the selected alternative, as documented in the FSR Economic Analysis Summary (SAM 4929.3), with actual project costs from the project start date through the period of project operation chosen as the basis for the PIER. For detailed information on the completion of entries in the PIER Economic Summary, see the instructions for the FSREconomic Analysis Worksheet



(SAM 4929.1 through 4929.2) and the Economic Analysis Summary (SAM 4929.3).

- Significant deviations from the anticipated costs shall be explained in the narrative portion of this section.
- Attachment 2 – Project Management Schedule Report. A revised Project Management Schedule (see SAM 4928.4) showing targeted and actual completion dates for major accomplishments during the project shall be provided, with significant deviations from the original schedule explained in the narrative.
- Projected Operations/Maintenance Costs Section. The Summary of Projected Operations/Maintenance Costs documents anticipated costs of systems operation and maintenance by fiscal year over the expected operational life of the application or system. These costs shall begin where the costs contained in the PIER Economic Summary ended. For detailed information on completion of the specific line items in the Summary of Projected Operations/Maintenance Costs, see the instructions for continuing costs found on lines 9-16 of the FSR Economic Analysis Worksheet contained in SAM 4929.1 through 4929.2.
- Special Observations Section. This section is optional. If completed, it should contain a narrative of any notable occurrences or factors that contributed to the project's success, or problems or other information that could be helpful during future project efforts.
- Corrective Actions Section. This section shall be included when the project is deemed to be a limited success or a failure, or when there are significant differences between project expectations (as expressed in the FSR) and project results.
  - If the project was a limited success or involved significant differences between expectations and results, alternatives for improving the outcome shall be summarized. If the project was a failure, available alternatives for addressing the problem or opportunity shall be summarized.

#### **44030.6 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **44030.7 References**

SAM §§ 4819.36, 4928.4, 4929.1 - 4929.3, 4941, 4941, 4941.1, and 4947 - 4947.1.

### **ARTICLE 13 — POLICY AND GENERAL INFORMATION**

*Revised October 19, 1994*

#### **45010.1 Policy**

The Department shall require competitive acquisition of EDP goods and services in accordance with applicable provisions of the SAM, the PCC, the GC, and the LC.

#### **45010.2 Purpose**

This section describes the departmental requirements for procurement and contract of EDP goods and services.

#### **45010.3 EDP**

EDP is referred to as information technology, encompassing all computerized and auxiliary automated information handling including systems analysis and design, conversion of data, computer programming, information storage and retrieval, voice/video aspects, requisite system controls, data communications, simulation, and all related interactions between people and machines.

#### **45010.4 Responsibility**

##### **Contract Services Section**

The Department's Contract Services Section (CSS) shall supervise EDP contracts entered into by CDC in a manner that:

- Conserves the financial interests of the Department and the State.
- Prevents, so far as possible, any thriftless acts by employees of CDC.
- Avoids unnecessary expenditures.

#### **BSS**

The BSS is responsible for the preparation of purchase documents for all EDP equipment and data-related items for use in CDC headquarters or by the P&CSD. As directed by the Department, the BSS is responsible also for the procurement of EDP equipment by specific facilities.

- BSS shall ensure that all requests submitted for purchase are complete and the necessary documentation is included, such as certifications or FSRs.
- BSS is the departmental contact with the DGS, Office of Procurement, for all EDP procurements processed for CDC headquarters and P&CSD, as well as for specified facility procurements.

#### **P&CD**

The P&CD is responsible for procurement of EDP equipment for new prison construction projects.

#### **DGS**

The DGS is the State agency that exercises supervision over EDP contracts entered into by all other State agencies.

The DOF and DGS have general powers of supervision over matters concerning the financial and business policies of the State, and they are empowered to institute investigations and procedures deemed proper in the best interests of the State.

While most types of contracts are reviewed and approved by the Legal Services Division of DGS, EDP contracts are reviewed and approved by the DGS, EDP Acquisitions Unit. This unit reviews contracts to ensure that the best interests of the State are preserved, that State agencies comply with applicable laws, rules, and regulations, and that expenditures are made as wisely and economically as possible given the needs of agencies.

#### **45010.5 Procurement/Contracting Project Authorization**

Before a contract or purchase order for a new EDP project can be let for the purchase of goods and services, the program concept and any needed equipment and services shall be evaluated by the Department's MIS Committee. Also, the program concept and any equipment/services shall be contained in the Department's Information Management Annual Plan (IMAP) filed with DOF (see DOM 43010, Information Management Planning, for additional information). If accepted for incorporation in the IMAP, a feasibility study is conducted to thoroughly evaluate the concept and analyze the cost/benefits. The completed FSR shall be approved at all appropriate levels of Department management, and by the Director.

The FSR shall then be forwarded to the DOF, Office of Information Technology (OIT) for review and approval, unless the project is delegated to the Department (refer to DOM 43020, FSR Policy, for additional information). If approved, a budget concept paper may be prepared or a BCP initiated for review and approval by top management of the Department and DOF. Approval of the Legislature and the Governor also may be required through the budget enactment process. If the project is authorized, the drafting of contracts shall be initiated.

#### **45010.6 Certification Affidavit for an EDP Purchase Order/Contract**

Certain EDP purchase orders and contracts must be accompanied by a "Certification of Compliance with Policies Pursuant to SAM 4819.39 and 4832," as specified in SAM 4819.39 and 4832. Procurements not requiring such certification are:

- Procurements for less than \$10,000;
- Procurements limited to only maintenance services;
- Procurements in support of previously approved efforts (see SAM 4819.38);
- Procurements of services to conduct a feasibility study provided the services are limited to supporting or conducting the feasibility study and/or preparing the FSR; or
- Procurements of/excluded activities as described in SAM 4819.32.

The certification attests that the program or function for which the purchase documents are being processed has been approved by the DOF. SAM 4832 provides a sample of the certification affidavit.

In order to comply with the certification requirement, all EDP contracts and purchase orders not included by the above criteria shall be forwarded to headquarters. Additionally, every amendment to such EDP contracts or interagency agreements shall include a certification affidavit.

Certifications for microcomputers, peripheral equipment and software shall be prepared by MIS-SU. Certification for all other EDP equipment shall be prepared by the ISD. The certification shall contain a statement signed by the Director, or designee affirming that the equipment is in compliance with SAM-requirements concerning information technology. In CDC, the Director has delegated approval authority to the Deputy Director, ASD, and the Assistant Director, OOC. Adherence to this certification requirement adds approximately two weeks to the routing process within CDC headquarters.

**45010.7 Revisions***Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**45010.8 References**

SAM §§ 4800, 4819.39, and 4832.

DOM §§ 43010 and 43020.

**ARTICLE 14 — METHODS OF PROCUREMENT***Revised October 19, 1994***45020.1 Policy**

The Department shall utilize acceptable methods of procurement when purchasing or contracting for EDP goods and services.

**45020.2 Purpose**

This section describes the acceptable methods of procurement and provides a reference for more detailed information and procedures.

**45020.3 Process for the Procurement of EDP Goods/Services**

The process for procurement of EDP goods and services is more complicated than for procurement of non-EDP goods and services. There is no single competitive procedure best suited universally for all categories of acquisition. Each procurement consists of differing elements that, overall, lend themselves more appropriately to one technique than to another. It is the statutory responsibility of the DGS to select the method of procurement to be used for each situation.

**45020.4 Competitive Methods of Procurement**

Basically, there are three methods of competitive procurement:

- Invitation for Bids (IFB).
- Request for Proposals (RFP).
- Request for Quotations (RFQ).

**45020.4.1 Invitation for Bids**

The IFB is highly structured and details the requirements in technical terms. Bids shall address specifically the requirements and technical specifications in order to be deemed a responsive bid.

**45020.4.2 Request for Proposals**

A RFP states the requirements in more general terms than the IFB. This method allows vendors to submit their own individualized proposals free of any precise State-imposed mix of hardware, software, etc.

**45020.4.3 Request for Quotations**

RFQs are used when EDP procurements are so straightforward and clearly defined that they do not warrant the time investment required to prepare and execute an IFB or RFP.

**45020.5 Specific Procedures for Competitive Bid Process**

Detailed information on the competitive bid process, including sample bid formats, is contained in SAM 5211 through 5222. Additionally, the competitive bid process followed by CDC is outlined in DOM 22040.23.

**45020.6 Revisions***Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**45020.7 References**

SAM §§ 5211 - 5222.

DOM § 22040.23.

**ARTICLE 15 — LEASE OF EDP EQUIPMENT***Revised October 19, 1994***45030.1 Policy**

The Department shall process EDP equipment lease agreements in accordance with the requirements of SAM.

**45030.2 Purpose**

This section describes the equipment leasing requirements provided by applicable SAM sections.

**45030.3 EDP Equipment Leasing-Agreements**

Provisions governing the lease of EDP equipment are contained in SAM 5252 and in DOM 22040.26.8. SAM 5252 also contains a model EDP

equipment lease contract to be used by all State agencies in developing a final contract for the lease of EDP equipment. SAM provisions allow CDC to tailor the model to conform with specific situations (see the illustration in SAM 5252 for additional information on the lease agreement).

**Riders**

The general terms and conditions normally contained in an EDP-equipment lease contract are set forth in the main body of the contract. Conditions and issues that are unique to the specific contract are set forth as “riders” to the contract.

**45030.4 Leasing Initial EDP Computer Terminal Equipment**

The initial complement of computer terminal equipment shall be leased or purchased. There are specific acquisition requirements for terminal equipment. Also, each system may have a unique procurement or leasing process. See DOM 47000, Departmental Systems, for specific information.

**45030.5 Revisions***Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**45030.6 References**

SAM § 5252.

DOM § 47000

DOM § 22040.26.8.

**ARTICLE 16 — PURCHASE OF EDP EQUIPMENT\****Revised October 19, 1994***Not Cleared For Statewide Use****45040.1 Policy**

The Department shall follow acceptable procurement practices and methods as defined in SAM and DOM.

**45040.2 Purpose**

This section describes the responsibility for initiating an EDP procurement and the methods used to purchase EDP equipment and software.

**45040.3 Responsibility**

The responsibility for initiating an EDP procurement is defined as follows:

**Headquarters and the P&CSD**

If the procurement request meets the criteria established by the Workgroup Computing Policy, the requesting unit shall be responsible for preparing the appropriate purchase documents including, but not limited to, a CDC Form 954, Intraoffice Requisition, and a Workgroup Computing Justification Form. The forms and any supporting documentation shall be submitted through the appropriate chain of command, as indicated on the forms, for approval prior to submission to MIS-SU, which in turn shall review the documents for completeness and consistency with the Department's information system standards. MIS-SU shall then route the forms to BSS at headquarters for procurement. See DOM 48010.2 for a definition of the Workgroup Computing Policy.

If the procurement request is not covered by the Workgroup Computing Policy, the requesting unit shall complete an FSR. The Project Initiation Unit located in ISD will provide assistance in completing FSRs.

**Facilities**

The requesting unit shall submit the request to the facility procurement office for approval and preparation of the required purchase documents. The facility shall forward the request to ISD for review and divisional approval. ISD shall then forward the request to the MIS-SU for further review and processing.

**New Prison Construction/Capital Outlay**

P&CD is responsible for submitting the documents to the MIS-SU for review, approval, and certification. P&CD shall prepare the appropriate purchase documents to acquire the EDP equipment.

**45040.4 EDP Equipment Purchasing – Document Preparation**

All purchase documents for procurement of EDP equipment for headquarters, P&CSD, and facility purchases that are funded at headquarters, shall be processed through BSS at headquarters.

Purchase documents for procurement of EDP equipment by capital outlay or by bond funds for new prison construction shall be processed through PCD.

**45040.5 Methods For Purchasing EDP Equipment For Use Within The Department**

EDP equipment can be purchased using a number of different methods. The methods are:

- Master Purchase Contract – Generally established by the DGS, Office of Procurement (refer to instructions on the contract for preparation and submission of required documents).
- State Price Schedule – Established by the DGS Office of Procurement (refer to instructions on the State Price Schedule for preparation and submission required documents).
- Delegated Purchasing Authority – Purchases may be made in accordance with the terms and conditions specified in the purchasing authority delegated by the DGS Office of Procurement.
- Purchase Estimates – These are for equipment that cannot be made through master purchase contracts, State price schedules, or delegated purchasing authority.

#### **45040.6 Purchasing EDP Computer Terminal Equipment Within CDC**

Computer terminal equipment shall be leased or purchased. There are specific acquisition requirements for terminal equipment. Each system may require a unique procurement or leasing process. See DOM 47000, Departmental Systems, for specific information.

#### **45040.7 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **45040.8 References**

SAM §§ 3500 et seq., and 5000 et seq.

DOM § 47000.

DOM § 22030.

### **ARTICLE 17 — GENERAL CONTRACT REQUIREMENTS**

*Revised October 19, 1994*

#### **45050.1 Policy**

The Department shall process EDP contracts in accordance with applicable requirements of SAM.

#### **45050.2 Purpose**

This section describes the General Contract Requirements provided in SAM.

#### **45050.3 General Contract Requirements- Procedures**

In general, contracts for EDP goods and services shall follow the same process and procedures used for all other contracts as outlined in SAM 1200 through 1269 and 5200 through 5293, and as contained in DOM 22040.

#### **45050.4 General Contract Advertising Requirements in State Contracts Register**

EDP contracts with a dollar value of \$1,000 or more, with the exception of contracts for proprietary software, shall be advertised in the California State Contracts Register. The responsible program unit shall prepare a Standard Form 815, Request to Advertise in California State Register, or a Standard Form 821, Request for Exemption from Contract Advertising. The Standard Form 821 is used when time does not permit advertising due to a bona fide emergency, or when the Department's best interest would be better served by a sole source vendor. The applicable form shall be forwarded to the DGS, EDP Acquisitions Unit, for processing and for approval of any exemption request.

#### **45050.5 General Contracts Approval Authority**

The DGS has delegated authority to all State departments to approve contracts of \$12,500 or less. All EDP contracts exceeding \$12,500 shall be forwarded for review and approval to the DGS, EDP Acquisitions Unit. A certification affidavit shall accompany every contract.

#### **45050.6 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **45050.7 References**

SAM §§ 1200 - 1269, and 5200 - 5293.

DOM § 22040.

### **ARTICLE 18 — EDP MAINTENANCE CONTRACTS**

*Revised October 19, 1994*

#### **45060.1 Policy**

The Department shall process EDP maintenance contracts in accordance with requirements of SAM and shall utilize the SAM model contract when developing EDP maintenance contracts.

#### **45060.2 Purpose**

The purpose of this section is to ensure that EDP maintenance contracts adhere to applicable SAM provisions.

#### **45060.3 Maintenance Contracts for EDP and Telecommunications Equipment**

SAM 5220 contains requirements pertaining to contracts for the maintenance of EDP and telecommunication equipment installed under State contracts. SAM 5255.11 and 5255.12 contain a model maintenance contract for use by all State agencies in developing a final maintenance contract for EDP equipment or software. The model contract shall be tailored by CDC to conform with each specific situation.

The CDC Contract Services Section (CSS) maintains an updated version of the SAM model contract. Contact CSS for the latest version available.

#### **45060.4 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **45060.5 References**

SAM §§ 5220, 5255.11, and 5255.12.

DOM § 22040.

### **ARTICLE 19 — EDP PERSONAL SERVICES CONTRACTS**

*Revised October 19, 1994*

#### **45070.1 Policy**

The Department shall enter into EDP personal services contracts in accordance with applicable provisions of SAM.

#### **45070.2 Purpose**

This section outlines the specific requirements necessary in contracting for EDP personal services.

#### **45070.3 Contracts for EDP Personal Services**

Contracts for EDP personal services shall be processed in accordance with SAM 1200 et seq., 5271, and 5272, and DOM 22040. In general, EDP personal services contracts are used for activities such as software package programming, and the development or design of program enhancements.

#### **45070.4 Procedures for Obtaining Personal Services Contracts for EDP Equipment**

When EDP personal services are needed CDC shall prepare a DGS, Office of Procurement (GSOP), GSOP Form 206, Master Service Agreement Order (MSAO). The request for personal services shall then be submitted to the DGS Data Processing Services Section (DPSS). This section maintains a pool of programmers to assist various State agencies. If there are no available staff within DPSS, the MSAO shall be forwarded directly to the EDP Acquisitions Unit within DGS. The EDP Acquisitions Unit will use their statewide master agreement to identify a contractor for the specified personal services. The approved MSAO shall then be returned to CDC. CDC shall contact the contractor to interview and select individuals employed by the contractor for the provision of needed services.

#### **45070.5 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **45070.6 References**

SAM §§ 1200 et seq., 5271, and 5272.

DOM § 22040.

### **ARTICLE 20 — CONSULTING SERVICES CONTRACT**

*Revised October 19, 1994*

#### **45080.1 Policy**

The Department shall enter into EDP Consulting Services contracts in accordance with applicable provisions of SAM.

**45080.2 Purpose**

This section outlines specific requirements to be followed in processing EDP consulting services contracts.

**45080.3 Procedures for Obtaining Consulting Services Contracts**

Contracts for EDP consulting services shall be processed in accordance with

SAM 1200, 5222, and DOM 22040.26.10. These contracts are not to be confused with contracts for the provision of personal services. Specifically, consulting services contracts shall be advisory in nature, provide a recommended course of action, and have a tangible end product.

A certification affidavit is required for initial EDP consulting services contracts as well as for any amendments to such contracts. All contracts regardless of the dollar amounts involved shall be processed through CDC's Contracts Services Section.

**45080.4 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**45080.5 References**

SAM §§ 1200 et seq., and 5222.6.

DOM § 22040.

**ARTICLE 21 — INTER-AGENCY AGREEMENTS**

*Revised October 19, 1994*

**45090.1 Policy**

The Department shall process interagency agreements for EDP services in accordance with applicable requirements of SAM.

**45090.2 Purpose**

This section provides information necessary for processing EDP interagency agreements.

**45090.3 Procedures for Obtaining an Interagency Agreement**

Interagency agreements for EDP services shall be let in accordance with SAM 1200 et seq., 5240, 8752, 8752.1, and 8758.1, and DOM 22040.29. Each agreement shall contain a clear understanding of the services or products to be provided, the responsibilities of each party, the basis for payments, and the period of performance.

A certification affidavit is required for all initial interagency agreements and for any amendments to existing agreements. Interagency agreements shall be processed through the Department's Contract Services Section.

Interagency agreements shall be developed on an STD Form 13. All interagency agreements in excess of \$35,000 shall be submitted for approval to the DGS, EDP Acquisitions Unit.

**45090.4 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**45090.5 References**

SAM §§ 1200 et seq., 5240, 8752, 8752.1., and 8758.1.

DOM § 22040.29.

**ARTICLE 22 — POLICY AND GENERAL INFORMATION\***

*Revised October 20, 1994*

**Not Cleared For Statewide Use****46010.1 Policy**

The Department recognizes that EDP equipment represents an indispensable tool for the rapid and efficient handling of data records, communications, and transactions. Also, EDP equipment offers an important potential for increasing the productivity, efficiency, and responsiveness of CDC operations. Maximum efficiency in the use of EDP equipment shall be promoted, and the most cost-effective methods shall be utilized for procurement of EDP equipment.

The relative merits of all methods to acquire and maintain EDP equipment shall be evaluated continuously in order to assure maximum economic advantages for the Department. When selecting EDP equipment, CDC shall consider the requirements for interfacing to present systems. Conversion costs shall also be considered, as well as costs associated with the exchange of information among machines or systems. Unless unusual circumstances warrant otherwise, standard, commercially available, general purpose EDP equipment shall be acquired in preference to specially designed or special purpose equipment.

State-owned EDP equipment shall be used when appropriate, but for only as long as the benefits of such equipment use exceeds related costs. Such equipment shall be used to replace rented or short-term leased equipment installed anywhere within CDC.

Duplicate or excess EDP equipment shall not be acquired as insurance against machine failure or as standby equipment, except when legally required or for necessary, full-time, or absolute service functions.

The disposition of EDP equipment determined to be excessive relative to the Department's requirements shall be decided in accordance with the most economical and practical, overall outcome for the Department.

**46010.2 Purpose**

The purpose of this policy is to establish standards for the use and management of EDP equipment which protect CDC's investment in ITS, promote the identification of cost-effective opportunities for using EDP equipment to support the accomplishment of CDC's mission and program objectives, ensures that the integrity and security of automated files, ITS and program operations are not jeopardized, and create a support structure that provides reliable technical assistance to users of EDP equipment.

**46010.3 Definitions****EDP Equipment**

SAM 4819.2 defines EDP equipment as:

- Central processing units and all related features and peripheral units, including processor storage, console devices, channel devices, etc.
- Minicomputers, microcomputers, personal computers, and all peripheral units associated with such computers.
- Special purpose systems including word processing, magnetic ink character recognition, optical character recognition, photocomposition, typesetting, and electronic bookkeeping.
- Communications devices used for data transmission such as modems, data sets, multiplexors, concentrators, switches, local area networks, private branch exchanges, network control equipment, and microwave or satellite communications systems.
- Input-output (peripheral) units (off-line or on-line) including: terminals, card readers, optical character readers, magnetic tape units, mass storage devices, card punches, printers, computer output to microfilm converters, video display units, data entry devices, FAXs, teleprinters, plotters, or any device used as a terminal to a computer, and control units for such devices.

**Component**

A component is defined in SAM 5013 as any individually identified piece of hardware, such as the mainframe, tape drive, disk drive, power supply unit, controller, punch, reader, printer, modem, CRT, keyboard, remote device, and the like.

**EDP Supplies**

SAM 4819.2 defines EDP supplies as all consumable items and necessities (excluding items defined as EDP equipment) to support information technology activities and EDP personnel including:

- Documents such as standards and procedures manuals, vendor-supplied systems documentation, and educational or training manuals.
- Equipment supplies such as printer forms, punched-card stock, disk packs, "floppy" disks, magnetic tape for EDP devices, and printer ribbons or cartridges.
- Furniture such as terminal tables and printer stands.

**46010.4 Integrity of EDP Information**

In order to maintain the integrity of EDP information and ensure the security of equipment, the following policies shall be adhered to:

- All EDP hardware and software shall be for official use only.
- Reasonable measures shall be taken to locate equipment in a secure area, to provide protection from vandalism or sabotage, and to preclude access by other-than-authorized personnel.
- All microcomputers located in facilities and parole offices shall be equipped with a keylock mechanism that controls the power source to the processor and disk drives. If a keylock mechanism is not included with the microcomputer,

then a keyboard or power lock shall be purchased separately and used. When not in use, the key shall be removed from the lock.

- All microcomputers located in facilities and parole offices shall be associated with locking storage cabinets for software, manuals, and small peripheral equipment. Such equipment shall be secured in the cabinet(s) when not in use.
- A complete set of standard documentation shall be maintained by the individual or unit using the EDP equipment, and shall remain in an area immediately adjacent to the EDP equipment. Such documentation shall include:
  - All manuals supplying documentation relating to the installation, maintenance, or care of the equipment.
  - All manuals supplying documentation relating to the installation and use of proprietary software, except that such manuals may be located in a central library, if appropriate.
- There shall be no inmate access to EDP equipment connected in a Local Area Network (LAN) or having any type of direct, outside communication capability, unless approval is obtained from the MIS Committee and CDC Information Security Officer.

#### **46010.5 EDP Equipment User Responsibilities**

All facilities, parole regions, and units within headquarters that access the CLETS, the DDPS, or the OBIS shall assign an Associate Information Systems Analyst (AISA) or designee to act as liaison between the user locations and ISD of the EC&ISD located in headquarters.

It is the responsibility of each user facility to provide the EDP Operations Manager, ISD, with the name(s) and phone number(s) of its AISA and any designee. In addition, facilities with 24-hour shifts shall submit the names and phone numbers of alternate (i.e., off-shift) coordinators to the EDP Operations Manager.

All facilities, parole regions, and headquarters' branches using personal computers shall adhere to the Department's Workgroup Computing Policy.

#### **46010.6 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **46010.7 References**

SAM §§ 4819.2 and 5013.

### **ARTICLE 23 — EDP EQUIPMENT MAINTENANCE**

*Revised October 20, 1994*

#### **46020.1 Policy**

It is the policy of the Department that EDP equipment shall be maintained in accordance with State requirements and in ways that maximize the operating efficiency of the equipment while minimizing equipment failure and down time. Furthermore, EDP equipment maintenance shall be performed by State personnel, or performed by maintenance service organizations in the private sector whose services are acquired through competitive bidding or as a sole source. Specific criteria for EDP maintenance services shall be defined and applied in the development of procurement specifications. EDP equipment maintenance policies and guidelines shall be applied in determining appropriate maintenance coverage for EDP equipment installed throughout CDC.

#### **46020.2 Purpose**

The purpose of this section is to specify that EDP equipment maintenance shall be performed as required by GC 14816 and SAM 5220.

#### **46020.3 Responsibility for Maintenance of EDP Equipment CLETS**

Maintenance coverage for CLETS equipment is the responsibility of the AISA or designee at the user location involved. Funding for maintenance coverage is the responsibility of the division, facility, or parole region procuring the equipment.

#### **DDPS**

ISD is responsible for obtaining maintenance coverage for all equipment associated with the DDPS.

#### **OBIS**

ISD serves as liaison among the Teale Data Center, headquarters, individual facilities, and parole locations for the provision of maintenance coverage for all equipment associated with the OBIS.

#### **Paroles Automated System**

ISD is responsible for obtaining maintenance coverage for all equipment associated with the Paroles Automated System.

#### **Personal Computers**

Maintenance coverage for personal computer equipment shall be obtained in accordance with the Department's Workgroup Computing Policy.

#### **46020.4 Acquisition of Maintenance Services for EDP Equipment Within Department**

Acquisition of EDP maintenance services is conducted through competitive bidding except when the Director of General Services determines that the conditions for sole source acquisition are met.

The following conditions are considered justification of sole source acquisition of EDP maintenance service:

#### **Leased Equipment**

- Equipment leased from a manufacturer who provides CDC no option but to obtain maintenance for the equipment from that manufacturer.

#### **State-owned Equipment**

- Maintenance service for all central processing units (CPUs) except for microcomputers.
- Maintenance of peripheral equipment that is interconnected by cables to CPUs. This does not apply to terminals that are connected to CPUs by communication lines.
- When there is only one qualified maintenance service company within a reasonable distance of the installed equipment.
- When the manufacturer is the only entity with a minimum of six months experience servicing the installed equipment because the equipment has not been on the market a sufficient period of time for others to obtain needed experience.
- When the equipment is under a warranty period.
- When justification does not exist to obtain a sole source a maintenance service contract, CDC shall conduct competitive bidding for the maintenance service as required by guidelines set forth in SAM 5220 through 5255.

#### **CLETS**

Maintenance coverage for this equipment is obtained by contracts with county agencies, equipment vendors, or service companies. The method of obtaining the maintenance contract varies depending on the type of equipment being used at the particular location, as well as the manner in which the CLETS service is provided. For assistance in determining the proper method for a specific location, contact the EDP Operations Manager, ISD, EC&ISD, at headquarters.

#### **DDPS**

DDPS coverage is provided by a statewide, competitively bid, master contract.

#### **OBIS**

OBIS coverage is provided by a master service agreement with the Teale Data Center.

#### **Personal Computers**

Personal computer maintenance coverage shall be obtained in accordance with the Department's Workgroup Computing Policy.

#### **46020.5 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **46020.6 References**

GC § 14816.

SAM §§ 5220 - 5255.

### **ARTICLE 24 — EDP EQUIPMENT INVENTORY**

*Revised October 20, 1994*

#### **46030.1 Policy**

The Department shall maintain an accurate inventory of its EDP equipment, peripheral devices, and software. All purchased EDP equipment shall concur with the technical specifications contained in the SAM 5005. All EDP hardware shall be inventoried at the time of installation, identified with a CDC property tag, and if site

requirements necessitate, permanently marked by engraving with the CDC property tag number, item serial number, and DGS billing code number.

#### **46030.2 Purpose**

The purpose of this policy is to ensure that CDC is in compliance with SAM 5005 and to provide departmental administrators with an accurate listing of their EDP equipment resources. There shall be a biannual reconciliation of the EDP inventory to update for changes in the system.

#### **46030.3 Inventory Responsibility**

##### **CLETS**

The local AISA or designee shall be responsible for maintaining an accurate CLETS equipment inventory for the corresponding division, facility or parole region. CLETS inventories shall be forwarded no later than April 1 and October 1 of each year to ISD, EDP operations manager, who shall be responsible for the coordination, compilation, and retention of the departmental CLETS inventory and useful life-cycle schedule.

##### **DDPS**

The ISD Operations Support Unit is responsible for maintaining an accurate departmental DDPS equipment inventory. The DDPS inventory shall be forwarded no later than April 1 and October 1 of each year to the EDP Operations Manager, who shall be responsible for the coordination, compilation, and retention of the departmental DDPS inventory and useful life-cycle schedule.

##### **OBIS**

The ISD Hardware Unit is responsible for maintaining an accurate departmental OBIS equipment inventory. The OBIS inventory shall be forwarded no later than April 1 and October 1 of each year to the EDP operations manager, who shall be responsible for the coordination, compilation, and retention of the departmental OBIS inventory and useful life-cycle schedule.

#### **Personal Computers**

Maintenance record keeping for personal computer equipment shall be performed in accordance with the Department's personal computer policy.

#### **46030.4 Documentation for Inventory of EDP Equipment**

The EDP inventory shall include the following data elements:

- PrimaryLocation: division/branch, facility, or parole region where equipment is located.
- SecondaryLocation: unit or office where equipment is located.
- BrandofEquipment: monitors, keyboards, printers, etc.
- ModelNumber: monitors, keyboards, printers, etc.
- SerialNumber: monitors, keyboards, printers, software, etc.
- Ownership: whether CDC or specified other owns.
- VersionNumber: software.
- DateofAcquisition: date equipment was received.
- DateofInstallation: date equipment/software was installed.
- DateofRelocation: date equipment/software was relocated.
- RelocationLocation: unit or office where equipment has been relocated.
- Signature: signature of local AISA or designee or AISA's supervisor.

#### **46030.5 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **46030.6 References**

SAM § 5005.

### **ARTICLE 25 — EDP EQUIPMENT MAINTENANCE RECORDS**

*Revised October 20, 1994*

#### **46040.1 Policy**

The Department shall establish a uniform method for recording data pertaining to the repair and maintenance of EDP equipment as required by SAM 5010 through 5015 so as to prevent excessive maintenance costs or any degradation in user and vendor support.

#### **46040.2 Purpose**

The purpose of this section is to ensure consistency in reporting, in the capture of data at the time of an incident, and in review by appropriate levels of management of reports made. These are all essential to the effective management and control of EDP equipment maintenance.

#### **46040.3 Responsibility for EDP Equipment Maintenance Records**

##### **CLETS**

Maintenance record keeping for CLETS equipment is the responsibility of the AISA or designee at each user location involved. Maintenance records shall be forwarded no later than April 1 and October 1 of each year to ISD Data Center for review and analysis of information, and shall be retained by the EDP Operations Manager for as long as the component is in service or there is a possibility of any contractual claim.

##### **DDPS**

Maintenance record keeping for DDPS equipment is the responsibility of the ISD Operations Support Unit. Maintenance records for DDPS equipment shall be reviewed and analyzed no later than April 1 and October 1 of each year, and shall be retained by the EDP Operations Manager for as long as the component is in service or there is a possibility of any contractual claim.

##### **OBIS**

Maintenance record keeping for OBIS equipment is the responsibility of the ISD Hardware Unit. Maintenance records for OBIS equipment shall be reviewed and analyzed no later than by April 1 and October 1 of each year, and shall be retained the EDP Operations Manager as long as the component is in service or there is a possibility of any contractual claim.

#### **Personal Computers**

Maintenance record keeping for personal computer equipment shall be done in accordance with the Department's personal computer policy.

#### **46040.4 Documentation of Maintenance for EDP Equipment**

The responsible unit/party shall maintain records of EDP equipment which contain essential data pertaining to repair and maintenance. Such essential data that are required to resolve disputes between the vendor and the Department concerning vendor performance include:

- Document control number: composed of a two-digit year and a two-digit month, followed by a sequence number starting with "one" at the beginning of each month.
- Name of originating facility.
- Name, unit, and phone number of the on-site contact person responsible for taking action to correct a deficiency.
- Date and time the need for maintenance was first noticed.
- Name and phone number of vendor that was notified.
- Date and time vendor was notified of problem.
- Date and time vendor personnel arrived to repair malfunction.
- Date and time component and system were returned to service.
- Identification of affected component/system by manufacturer identification or serial number, and by CDC property tag number.
- Type of service: regularly scheduled preventative maintenance or unscheduled maintenance required to remedy malfunctions or incidents.
- Justification for any delays in the completion of maintenance.
- Description of malfunction or incident.
- Signatures of vendor personnel and a departmental representative.

A maintenance form is to be initiated whenever a system or any component of a system is inoperative because of the need for equipment repair or maintenance, and is to remain open until the problem has been corrected and the component has been returned to service.

#### **46040.5 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **46040.6 References**

SAM §§ 5010 - 5015.

### **ARTICLE 26 — DISPOSAL OF EDP EQUIPMENT**

*Revised October 20, 1994*

**46050.1 Policy**

DGS has approval responsibility for the disposal of all surplus, State-owned and leased EDP equipment including obsolete or inoperable EDP equipment. The Department shall competitively dispose of surplus departmental EDP equipment.

**46050.2 Purpose**

The purpose of this policy is to ensure that CDC is in compliance with SAM 5951, 8633, and 8640 through 8642 and to ensure that the salvage value of State-owned EDP equipment and purchase option credits for leased EDP equipment are received when doing so is in the best interests of the Department.

**46050.3 Responsibility for Disposal of EDP Equipment****CLETS**

It is the responsibility of the local AISA or designee to inform ISD, EDP Operations Manager, of any CLETS equipment that requires disposal.

The local AISA or designee shall include the following information in recommendations for disposal of CLETS equipment at the respective facility:

- Manufacturer, type, and model number.
- Model features such as part numbers and descriptions.
- Serial number.
- Present physical condition.
- Present location of equipment.
- Dates of installation and purchase, and funding program.
- Copies of maintenance contracts and relevant maintenance history, such as special maintenance problems or maintenance performance - percentage up-time.

**DDPS**

It is the responsibility of the local AISA or designee to inform the EDP Operations Manager, ISD, of any DDPS equipment deemed to need disposal.

The local AISA or designee shall include the following information in any recommendation for disposal of DDPS equipment at the respective facility:

- Manufacturer/type/model number.
- Model features, such as part numbers and descriptions.
- Serial number.
- Present physical condition.
- Present location of equipment.

**OBIS**

It is the responsibility of the local AISA or designee to inform the EDP Operations Manager, ISD, of any OBIS equipment deemed to need disposal.

The local AISA or designee shall include the following information in any recommendation for disposal of OBIS equipment at the respective facility:

- Manufacturer/type/model number.
- Model features, such as part numbers and descriptions.
- Serial number.
- Present physical condition.
- Present location of equipment.

**Personal Computers**

It is the responsibility of the local AISA or designee to adhere to the Department's personal computer policy.

**46050.4 Process and Documentation for Disposal of EDP Equipment**

Depending on the applicable EDP equipment, the EDP Operations Manager shall submit at least 30 days prior to the scheduled release date a completed STD Form 152, Property Survey Report, to DGS, Property Reutilization Unit, with an informational copy of the report submitted to the DOF, Office of Information Technology (OIT).

CDC shall, in memorandum form and at least 30 days prior to the scheduled release date, submit an EDP equipment disposal request to the DGS Property Reutilization Unit. The EDP equipment disposal request shall include the following items:

**Item Description**

- Description of the item to include:

- Manufacturer, type, and model number.
- Model features, such as part numbers and descriptions.
- Serial number.
- Weight, to nearest pound.
- Present physical condition.
- Item location address on the scheduled release date.

**Item Historical Information**

- Historical Information of item to include:

**State-owned EDP Items**

- Date of installation.
- Date of purchase.
- Owned by which budget fund.
- Scheduled release date.
- Monthly maintenance costs.
- Type of maintenance contract (attach copy of subject contract Rider B).
- Relevant maintenance history, such as special maintenance problems or maintenance performance - percentage up-time.

**Leased/Rented EDP Items**

- Date of installation.
- Scheduled release date.
- Current monthly lease price.
- Current list price (supplier current new purchase price).
- Accrued purchase option credits (in dollars) as of the scheduled release date. Separately list any other State financial equity in the item or item features. These credits shall be requested from the supplier and calculated independently by CDC.
- Any financial liability incurred if the equipment is returned to vendor.
- Relevant maintenance history such as special maintenance problems or maintenance performance - percentage up-time.
- How item was procured (e.g., Master Rental Agreement [MRA]). If not MRA-procured, indicate the type of maintenance contract and attach a copy of subject contract Rider B.

**CDC Facilitator Identification**

- CDC Facilitator identification to include:
  - Facilitator's name.
  - Facilitator's title.
  - Facilitator's unit.
  - Facilitator's telephone number.
  - If equipment is located at a different site, name and telephone number of the on-site contact person.

**DGS Disposal**

- Proposed DGS Disposition Recommended to include:

**If EDP Equipment is State-Owned:**

- Transfer or sell to another (named) public agency.
- Scrap for parts for use within (named) State agency.
- Attempt to sell at minimum bid price of (named)dollars.
- Discard the equipment as worthless.
- Justification for no proposed recommendation.
- A completed STD Form 152.

**If EDP Equipment is Leased/Rented:**

- Transfer equipment to another (named) public agency.
- Release equipment back to the supplier.
- Justification for no proposed recommendation.
- If the EDP equipment was purchased under an MRA, a completed DGS Office of Procurement, GSOP Form 191 and GSOP Form 191A.

Upon approval and instructions from DGS, CDC shall:

**If EDP Equipment is State-Owned:**

- Transfer or sell State-owned EDP equipment to anotherstate or public agency.
- Follow the determination for disposal of the EDP equipment (signed STD 152). DGS will indicate whether CDC or DGS shall arrange for disposal of the property.

**If EDP Equipment is Leased/Rented:**

- If MRA-procured, follow the determination for disposal of equipment (signed GSOP Form 191 and GSOP Form 191A).
- If not MRA-procured, take action as indicated by DGS for effecting equipment disposal.

**46050.5 Revisions***Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**46050.6 References**

SAM §§ 5951, 8633, and 8640 - 8642.

**ARTICLE 27 — DISPOSAL OF EDP SUPPLIES***Revised October 20, 1994***46060.1 Policy**

The Department is committed to ensuring that compliance is maintained with the procedures set forth in the SAM 5951, 8633, and 8640 through 8642 and the GC 14673 through 14675 regarding the disposal of EDP supplies. CDC shall also act in accord with the DGS in its oversight responsibilities for the disposal of all State-owned EDP supplies.

**46060.2 Purpose**

The purpose of this policy is to effect the efficient and economical disposal of surplus EDP consumable supplies, and to ensure realization by CDC of the maximum salvage value of such supplies to the extent that doing so is in the best interests of the Department.

**46060.3 Responsibility for Disposal of EDP Supplies**

It is the responsibility of the local AISA or designee to inform the EDP Operations Manager, ISD, of any surplus EDP supplies that the respective facility has deemed to be in need of exchange, transfer, sale, or disposal.

It is the responsibility of the Chief, BSS at headquarters, to act as liaison with DGS for the elimination of CDC's surplus EDP supplies.

**46060.4 Procedures and Documentation for Disposal of EDP Supplies**

Authorization for the disposal of property shall be received from the DGS Property Reutilization Unit before CDC shall dispose, sell, transfer, or exchange surplus EDP supplies.

DGS administers the statewide master contract for the disposal of wastepaper goods. Use of this contract is obligatory by the Department and is administered by the BSS. Service can also be obtained for the witnessed destruction of confidential records. It is the basic responsibility of CDC to determine that its obsolete records are destroyed in accordance with the requirements of SAM 5951, 8633, and 8640 through 8642. The handling of supplies containing confidential information shall be conducted in accordance with EDP policies regarding confidentiality and security.

CDC shall prepare an STD Form 152, Property Survey Report, when disposing of surplus EDP supplies. The original form shall be marked "Expendable Property" and shall be retained in the CDC Accounting Unit files in order to substantiate the transaction. A copy of the completed STD Form 152 form shall be sent to, and approval shall be received from, the DGS Property Reutilization Unit.

A diligent effort shall be made to secure at least three competitive bids before completion of a sale. In all cases, a list of firms or individuals solicited shall be prepared and attached to, and filed with, the Property Survey Report form. The amount received from the sale shall be accounted as revenue to the fund from which the majority of CDC's support is appropriated.

Surplus magnetic media should: (1) if usable, be transferred to a State agency data processing installation which has a requirement for such media; or (2) be sold by bid if installation personnel are unable or not required to use the media. A list of sources potentially interested in the purchase of used magnetic tape is maintained by the DOF, State Data Processing Management Office. If a sale is not possible, the magnetic media may be disposed of through any dealer or volunteer organization if done without charge to the State.

Prior to disposal or transfer, all magnetic media containing confidential or proprietary data shall be completely magnetically erased; alternately,

CDC may overwrite such information with non-confidential, non-proprietary information.

Computer printer ribbons shall be disposed of only when they cannot be reconditioned. Use of a reconditioning or re-inking service for computer printer ribbons is encouraged generally. CDC may contact the providers of such services to discard ribbons with holes or other defects that could produce poor quality or unreadable printout, or may result in subsequent breakage or other unacceptable defect.

When exchanging or transferring EDP supplies free of charge with another State department, CDC shall prepare an STD Form 158, Transfer of Location of Equipment, and shall receive approval from the DGS Property Reutilization Unit before surplus EDP supplies are exchanged or transferred. CDC shall record supplies received free of charge using the same cost basis as that recorded on the books of the transferring department.

**46060.5 Procedures for Lost, Stolen, or Destroyed EDP Supplies**

Whenever supplies are lost, stolen, or destroyed, CDC shall prepare an STD Form 152 and shall transmit one copy to the DGS Property Reutilization Unit. CDC shall adjust its property accounting records accordingly, and retain the original Property Survey Report form as documentation. This report shall contain:

- A description of the events.
- Precautions to be taken to prevent repeated situations.
- A statement that the CHP or a local law enforcement agency has been notified in accordance with SAM 2625.

Losses of CDC property due to fraud or embezzlement shall be reported to the DOF, Financial and Performance Accountability office, in addition to the law enforcement notification required by SAM 2625. Employees shall be charged with any loss or damage to CDC property due to their negligence or unauthorized use.

**46060.6 Revisions***Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**46060.7 References**

GC §§ 14673-14675.

SAM §§ 2625, 5951, 8633, and 8640-8642.

**ARTICLE 28 — OFFENDER BASED INFORMATION SYSTEM***Effective November 25, 1992***47010.1 Policy**

The Department shall maintain complete and accurate case records on all prisoners in the custody of the Department as required by PC 2081.5. Case records include all information received by the Department from courts, probation departments, sheriff and police departments, DA offices, the State DOJ, the FBI, and other pertinent agencies and persons.

OBIS was created to provide for automated tracking of all inmates assigned to the Department's jurisdiction from the time of admission through discharge from prison or parole.

**47010.2 Purpose**

The purpose of this policy is to ensure that complete and accurate records are maintained on all prisoners under the jurisdiction of the Department, and to establish and fix responsibility and accountability for the management of OBIS.

**47010.3 Responsibilities**

Overall responsibility (e.g., security, data integrity, QA, QC) for OBIS resides with the Director and Chief Deputy Director. Delegated responsibility resides with OISB of the ASD, and with management, supervisory, and end-user personnel involved with OBIS use. OISB is responsible for training data input staff and providing QC oversight to ensure data integrity in OBIS.

As primary users of this system, the case records offices in facilities, parole regions, and headquarters, as well as OISB, input and update offender information in OBIS.

As the custodian of this system, the ISD is responsible for application, hardware, and software support, and maintenance of OBIS.

**Parole Violator Work Credit Subsystem**

The Parole Violator Work Credit Subsystem records parolee-at-large, parole revocation, and revocation extension information, and applies work credit earned/lost from the inmate work incentive subsystem to calculate violator revocation release dates.

**47010.4 Overview of OBIS***Revised July 15, 1993*



OBIS is a centralized, on-line, mainframe system that links all facilities, parole regions, selected parole field units, and headquarters to the Teale Data Center. OBIS is the only database which tracks an inmate from initial admission in a state prison through discharge from prison or parole.

#### **Composition Of OBIS**

OBIS is comprised of the following subsystems: movement, commitment, descriptive, inmate work incentive; and holds, wants, and detainers.

#### **Movement Subsystem**

The movement subsystem records each movement and status change of an inmate from the date of reception from the committing court to discharge from CDC jurisdiction.

#### **Commitment Subsystem**

The commitment subsystem records the legal commitment received from the California Superior Court that sentenced the offender to the jurisdiction of the Department.

#### **Descriptive Subsystem**

The descriptive subsystem records detailed information regarding each offender's height, weight, hair color, ethnicity, social security number, CII number, FBI number, and date and place of birth.

#### **Inmate Work Incentive Subsystem**

The inmate work incentive subsystem is a collection of an offender's applied credits (including vested credits, administrative time, work and vocational assignments, work credit losses and restorations) that affect the release date of the offender.

#### **Inmate Time Collection System**

The Inmate Time Collection System (ITCS) is used to track the hours of inmates participating in the IW/TIP. Inmates who participate in the IW/TIP shall earn work time credit toward the reduction of their sentence.

The ITCS introduces a scanning process to the existing time collection system. The scanning system is designed to provide the following:

- Key data entry workload relief for the facility.
- A more expedient method of updating OBIS.

The ITCS scanning process uses revisions of the CDC Form 191, Inmate Timecard, the CDC Form 1697, Work Supervisor Log, and a Sentry 4000 scanner. The work supervisor tracks the inmate work time for a 31 day period, using the CDC Form 1697. Information from the CDC Form 1697 is transferred on to the CDC Form 191. The CDC Form 191 is sent to the case records office for scanning and timecard retention. Scanned information is used to update the OBIS database, and generate error and statistical reports.

#### **Holds, Wants and Detainer Subsystem**

The Holds/Wants/Detainer subsystem records holds, wants (warrants), and detainers (HWD) on a particular offender. HWDs are entered on-line immediately after receipt from another agency (e.g., federal, other states) which may have a legal right to hold the offender.

Requests for offender information residing on the OBIS database shall be addressed to the Information System Support and Specialized Reporting Unit, located in OISB.

#### **47010.5 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **47010.6 References**

PC § 2081.5.

### **ARTICLE 29 — SCO SYSTEMS**

*Effective November 25, 1992*

#### **47020.1 Policy**

The Department's Personnel Office shall prepare and release all personnel- and payroll-related data utilizing the SCO Personnel Information Management System (PIMS).

Authorization and guidelines established under the uniform state payroll system are controlled and defined by the Personnel Payroll Service Division within SCO.

#### **47020.2 Purpose**

The purpose of PIMS is to ensure that all employee personnel information is considered sensitive and confidential, and that all such data be provided under a strictly controlled environment accessed only as follows:

- The following may be updated, edited, or inquired through the PIMS system: various current and historical information concerning employee status, payment history, or miscellaneous, fixed and voluntary payroll deductions.
- The Personnel Action Request (PAR) is used to access an employee's name, position number, effective date of appointment, salary, range, bargaining unit, and probation status.
- Employee Action Requests (EARS) are used to access an employee's State and federal withholding tax information and home address.

#### **47020.3 Responsibilities**

The delegated responsibility for the security, maintenance, monitoring and integrity of the SCO/PIMS system resides with the Personnel Officer at each facility and at headquarters. Major users of the system are Payroll Service Assistants, who audit, provide references, and instruct in preparing PARS and EARS, and Personnel Assistants, who access the system to update all personnel and payroll history. Other users of the system include Personnel Operation Analysts and Personnel Examination Analysts, on an inquiry basis only.

#### **47020.4 Personal Information Management System Equipment Security**

Refer to DOM 48010.8 regarding procedures for equipment security.

#### **47020.5 Management Information Retrieval (MIRS) System**

CDC uses the Management Information Retrieval System (MIRS) to extract personnel and payroll information from the SCO and to generate supplemental reports for management.

#### **47020.6 MIRS – Reports**

*Revised April 16, 1993*

MIRS supports management decisions by providing the following:

- Payment reports for budgetary analysis.
- Ethnic and gender reports for affirmative action projects.
- Reports to assist with contract negotiations.
- Departmental growth and turnover statistics.
- Current and historical employee data.
- Various employee payment and deduction information.

#### **47020.7 MIRS – Responsibilities**

*Revised April 16, 1993*

The Personnel Automation Unit has delegated responsibility for reviewing personnel report requests. Users refer to the Personnel Action Manual, Payroll Procedure Manual, California State Civil Service Pay Scales for Clarification of Personnel and Payroll Procedures, and the Focus Manual for MIRS programming guidelines. Users log all requests, completion dates, and time spent creating and processing the report.

#### **47020.8 MIRS – Equipment Security**

*Revised April 16, 1993*

Refer to DOM 48010.8 regarding procedures for equipment security.

#### **47020.9 Revisions**

*Revised January 11, 2013*

The Director, Enterprise Information Services (EIS), or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **47020.10 References**

*Revised April 16, 1993*

SCO: MIRS Manual.

GC §§ 12470, 16390, and 16391 - 16395.

SAM §§ 652 - 660, 4841.5, and 4842.

State of California Personnel Action Manual.

DOM § 48010.8.

### **ARTICLE 30 — C.L.E.T.S.**

*Effective November 25, 1992*

#### **47030.1 Policy**

As a part of its continuing support for all California law enforcement agencies, the Department participates in the statewide telecommunications system developed for use by law enforcement agencies. GC 15150 through 15167 require that State DOJ

maintain such a telecommunication system and provide services to California law enforcement agencies when, at their own expense, they require authorized connection to the system.

#### **47030.2 Purpose**

The purpose of this section is to describe the relationship between CDC and the CLETS and specify the Department's participation in this system.

CLETS accommodates all public law enforcement user agencies with the capability of providing and receiving fast and efficient point-to-point delivery of messages and information contained in federal and State computerized files. Local information reported to DOJ may also be accessed.

CLETS is a cooperative system whereby the State provides central switching equipment, personnel to staff the switching center, and sufficient circuitry from the switching center to county locations as authorized by law for handling law enforcement message traffic. Department use of the circuitry and terminal equipment extending beyond the CLETS county termination point is provided by CDC.

#### **47030.3 Responsibility**

Operational responsibility, system supervision, monitoring of traffic for conformity to rules and regulations, and recommendations for corrective actions are under the direction of DOJ. System rules are designed to provide the most efficient operating system. Adherence to the rules shall provide the Department the maximum effectiveness of CLETS. Violations of these rules shall result in investigative and appropriate disciplinary action. Departmental CLETS coordinators shall direct requests for information concerning the general administration of CLETS to the CLETS Executive Secretary, Department of Justice, P.O. Box 903417, Sacramento, California 94203-4170.

ISD is responsible for coordinating with DOJ the acquisition, relocation and use of the local CLETS. Departmental CLETS coordinators shall direct requests for information concerning changes or additions to CDC's use of CLETS to the EDP Operations Manager, Information Systems Division, P.O. Box 942883, Sacramento, California 94283-0001.

Local facilities are responsible for the funding and maintenance of their CLETS equipment.

#### **47030.4 CLETS – Acquisition Process**

*Revised April 16, 1993*

The acquisition processing time for CLETS varies depending upon the location of the requesting facility: Up to six months should be allowed from the date the request is received for processing at ISD.

It is the local CLETS coordinator's responsibility to:

- Initiate an appropriate request for additions or changes (other than relocation) to CLETS services at an existing location. The request shall include a cover memo to the EDP Operations Manager, ISD, indicating justification for a CLETS addition or change and a completed CDC Form 954, Intraoffice Requisition and Procurement Worksheet.
- Upon receipt of the approved requisition, order equipment and acquire maintenance with facility funding.
- Initiate an authorized request for the relocation of CLETS equipment. The request shall consist of a memorandum with appropriate approval signatures to the EDP Operations Manager, ISD, justifying the relocation.

It is the responsibility of the EDP Operations Manager, ISD, to:

- Review the request, obtain certification approval, and return the completed package to the local facility for their equipment purchase.
- Procure approval from DOJ and appropriate county sheriff's offices for CLETS usage.
- Coordinate CLETS installation with DOJ, county sheriff's offices, and the local facility.
- Notify local CLETS coordinators of approved mnemonic (i.e., "NME") and originating agency (i.e., "ORI") numbers.
- Maintain inventory for departmental CLETS circuitry.
- Review requests for, and coordinate the relocation of CLETS equipment.

Terminals connected directly to CLETS shall be approved by DOJ. A hard copy printer shall be included with each terminal authorized to receive unsolicited or point-to-point, non-data-base traffic.

#### **47030.5 Integrity of CLETS Information**

In order to maintain the integrity of CLETS and ensure the security of information received and transmitted by use of the system, the following policies shall be adhered to:

- Reasonable measures shall be taken to protect equipment from vandalism or sabotage and preclude access by other than authorized personnel by locating equipment in a secure area.
- Mobile digital terminals shall not be allowed to access DOJ's criminal history system.
- Personnel authorized to access CLETS are either sworn law enforcement personnel or nonsworn law enforcement personnel that have been subject to a character or security clearance. The clearance shall include the following:
  - DMV: drivers license check.
  - DOJ: fingerprint check.
  - CDC: background investigation. An agency head's authorization for the employee to operate CLETS equipment shall be placed in the employee's personnel file.
- In all matters pertaining to personnel security, the agency head shall be responsible for making the final determination of the individual's suitability for the job.

All CLETS messages are confidential and for official use only. Examples of acceptable messages are:

- Requests for record validation.
- Requests for prisoner pickup and transportation.
- Requests for mail-back information from data bases.
- Information regarding the circumstances surrounding the death of an officer killed in the line of duty.
- Listings of stolen property when identifiable by serial numbers or unique markings.
- All subpoenas transmitted by CLETS shall be processed in accordance with PC 1328(b) and 1328(c). A subpoena relative to civil proceedings or any subpoenas which could be delivered in a timely manner by other means are not acceptable for transmission.

DOJ publishes manuals for CLETS operators containing information for proper system utilization. These manuals shall be obtained and maintained for CLETS operators.

#### **47030.6 CLETS – Training/Coordinators**

*Revised April 16, 1993*

Each facility, parole region, and headquarters' division shall provide the EDP Operations Manager, ISD, with the names and phone numbers of their CLETS coordinator. In addition, facilities with 24-hour shifts shall submit the names and phone numbers of alternate (off-shift) CLETS coordinators.

It is the equipment vendor's responsibility to provide training on the operation of their terminals when initially procured/installed.

It is the responsibility of State DOJ field service/training office to provide training for information access in the:

- Criminal justice information system data bases.
- National crime information center.
- National law enforcement telecommunications system.
- DMV.
- Oregon law enforcement data system.

Local CLETS coordinators should call the specified telephone number for the name and telephone number of their DOJ field service/training representative.

#### **47030.7 Revisions**

*Revised January 11, 2013*

The Director EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **47030.8 References**

GC §§ 15150 - 15167.

PC §§ 1328(b) and 1328(c).

**47040.1 Policy**

In order to promote safety and enhance security, the California Department of Corrections and Rehabilitation (CDCR) may use audio, video, or both forms of recording technology within and surrounding any of its facilities, perimeter fencing, or vehicles. Such technology shall not be used to record the interiors of cells except in case of emergency or investigation as authorized by the Warden.

**47040.2 Purpose**

The primary purpose of the Audio-Video Surveillance System (AVSS) is to enhance public safety and facility security by providing the ability for real-time monitoring and recording in order to conduct investigations and after-the-fact reviews by utilizing audio or video recording technology or both.

**47040.3 Responsibility and Roles for Audio-Video Surveillance Systems****(a) Enterprise Information Services (EIS)**

(1) For implementations of AVSS, Enterprise Information Services (EIS) is responsible for managing the procurement, architecture, data communication network, implementation, access control, ongoing hardware and software support contracts and licensing. All proposed AVSS shall be evaluated and approved by EIS to ensure that all hardware, software, and communication platforms comply with CDCR standards and guidelines. AVSS shall not be procured or installed without the knowledge and approval of EIS. AVSS or installations by the Office of Internal Affairs (OIA) for investigative purposes are exempt from this notification requirement, except for those that utilize the CDCR network.

(2) For repair or replacement of video or audio equipment that was implemented prior to the AVSS, EIS will evaluate each request to ensure purchases align with the new statewide standard for equipment and service where possible and feasible.

**(b) Institution Staff**

The Warden shall designate a local AVSS Coordinator responsible for maintaining a Department Operations Manual (DOM) Supplement and instructing staff on use of the system. Plant Operations staff are responsible for the removal and replacement of camera(s) for repair.

**47040.4 Notification of Recording**

Public notice that recording technology may be in use shall be placed at the gatehouse, front entrance, and vehicle Sally ports of all correctional institutions and include the following minimum text: "This area is subject to audio and video surveillance."

**47040.5 Audio-Video Monitoring Stations**

(a) The AVSS is capable of being monitored from designated areas within the institution or vehicle as determined by the Hiring Authority. Staff generally monitor the AVSS on a periodic basis or in response to a specific incident. The AVSS may not be monitored continuously. Staff shall utilize their personal alarm device, whistle, telephone, or radio to summon additional staff if assistance is needed.

(b) Upon notification of potential criminal or improper activity in a particular location, the hiring authority, facility supervisor or manager, Investigative Services Unit (ISU), or other designated staff may review information obtained from the AVSS in conjunction with its review of such activity.

(c) The viewing of live or review of recorded video shall not be used for routine supervision of staff. For example, audio, video, or both forms of recording technology will not be used to monitor staff's arrival or departure from the job site. However, if during the review of audio, video, or both forms of recording technology, staff misconduct is identified, the video recording can be used as part of the disciplinary process, inquiries, administrative investigations, or criminal investigations. Stored audio, video, or both forms of recording technology shall not normally be used to identify whether or not previous similar behavior occurred. However, when information is received alleging staff misconduct occurred on prior occasions or over an expressed period of time, the AVSS recordings during the expressed timeframe may also be reviewed.

**47040.6 Audio-Video Recording and Storage**

Any information collected from the AVSS shall be considered CDCR property and/or records. Recorded audio, video, or both forms of recording technology is generally used for the safety and security of CDCR facilities and review of incidents. AVSS may also be used for corrective action, the disciplinary process, inquiries, administrative

investigations, or criminal investigations. Any available audio, video, or both forms of recording technology associated with a specific retention trigger shall be exported and stored on a digital medium according to authorized procedures and policy. The audio, video, or both forms of evidence retained for storage on a digital medium shall be managed by the institution's ISU or as directed by the hiring authority for a period of not less than 90 days. Data may be preserved for a longer period upon conditions being met pursuant to Section 47040.9.

**47040.7 Upgrading or Replacing AVSS Equipment**

Institutions upgrading or replacing their AVSS equipment shall ensure their Labor Relations Analyst invites the local Chapter President of the California Correctional Peace Officer Association or designee to all design and implementation meetings (not including pre-planning discussions) related to the local AVSS system.

**47040.8 AVSS Retention Triggers**

(a) The following events shall require staff to preserve the recorded data as potential evidence in an inquiry, investigation, and/or an administrative, civil, or criminal proceeding:

- (1) Any use of force incident.
- (2) Riots.
- (3) Suspected felonious criminal activity.
- (4) Any incident resulting in serious bodily injury, great bodily injury, or death.
- (5) Sexual assault allegations.
- (6) Allegations of inmate misconduct [i.e. serious Rules Violation Reports (RVRs)] by staff.
- (7) Allegations of staff misconduct by an inmate, employee, visitor, or other person.
- (8) Incidents that may potentially be referred to the District Attorney's Office.
- (9) An employee report to supervisor of on-the-job injury, and;
- (10) Inmate claims with the Department of General Services, Office of Risk and Insurance Management, or Government Claims Program.

**47040.9 Preserving Recorded Data**

(a) When an event occurs that requires staff to preserve recorded data, the following process shall be utilized:

- (1) During business hours, a telephone call or verbal request will be made to the ISU immediately following an AVSS retention trigger.
- (2) Following the verbal notification to ISU, or if the event occurs after business hours, a CDCR Form 1027, Audio/Video Surveillance System Evidence Request, shall be submitted to ISU for timely processing.
- (3) ISU will process the request and capture the requested event on a digital medium within 24 hours of the occurrence or request. This stored event will be made accessible to the approved requestor.
- (4) ISU will save and keep on file a hard copy of the CDCR Form 1027.
- (5) ISU will make a second copy of the event to be stored as evidence in ISU.
- (b) In the event that staff are required to preserve recorded data on a digital medium, they will ensure that all camera angles are captured. In addition, footage of the events leading up to the event or subsequent footage following the event should be reviewed and copied to the extent that such footage provides a more thorough picture of the entirety of the incident.
- (c) An audio, video, or both forms of recording that becomes evidence in an OIA investigation shall be stored until resolution of any investigation and written release by the OIA, Office of Legal Affairs (OLA), and Office of the Attorney General (OAG). An audio, video, or both forms of recording that CDCR has reason to believe may become evidence in an administrative, civil, or criminal proceeding shall be stored indefinitely unless other direction is given by the OIA, OLA, or in the event of a criminal proceeding, the Office of the District Attorney. Audio, video, or both forms of recordings must be destroyed in a secure manner consistent with EIS policy as soon as they are no longer needed for the purpose for which they were retained.

**47040.10 Review Criteria**

(a) Only individuals having a legitimate need to view the live images or recorded media shall be permitted to do so. When an event occurs that requires the preservation of recorded data, managers, supervisors, and the Grievance Coordinators from the Office of Grievances (OOG) shall be responsible for filling out and submitting the CDCR Form 1027. In the event the AVSS becomes inoperable, staff will notify the AVSS Coordinator, or the Watch Commander if after hours, and will submit a remedy ticket to local Information Technology staff for resolution.

(b) Criteria for the review or viewing of video shall constitute a legitimate need, which includes:

- (1) Reviewing the circumstances of a crime or suspected crime.
- (2) Reviewing the circumstances of an accident or near accident.

(3) For routine matters (including use of force incidents pursuant to DOM Section 51020.17, Uses of Force Reporting Requirements) that do not involve the criteria in subsections (A) or (B) below, employees shall be granted an opportunity to review audio or video data of an incident they were involved in only after writing and submitting their initial report. After reviewing such video data, staff will be given the opportunity to write a supplemental report prior to the end of their shift. If staff are denied approval to review video for any of the reasons noted above, they will be provided with a CDCR Form 1028, Audio/Video Surveillance System Evidence Request Denial, signed by the Captain or their designee denying the request. A second copy of the CDCR Form 1028 will be forwarded to the Labor Relations Analyst who will notify the appropriate local bargaining unit chapter president that the form is ready for pickup.

(A) An incident involving allegations of misconduct (defined as situations where the Hiring Authority has determined and initiated the CDCR Form 989, Confidential Request for Internal Affairs Investigation/Notification of Direct Adverse Action process) or where administrative action is reviewed: the employee shall be granted an opportunity to review CDCR video recording(s) at the sole discretion of the Warden, Chief Deputy Warden, or above. If staff are denied approval to review video data for this reason, no further questions or clarifications may be requested of the employee by the hiring authority.

(B) An incident where criminal or deadly force is reviewed: the employee shall only be granted the opportunity to observe CDCR video data at the sole discretion of the OIA or investigating or prosecuting agency. If staff are denied approval to observe video data during the review process, no further questions or clarifications may be requested of the employee by the hiring authority.

(4) The OOG may request to review audio and video recordings when conducting an inquiry as it relates to a submitted inmate grievance.

(5) The Allegation Inquiry Management Section (AIMS) may request to review and be provided access to audio and video recordings when conducting an inquiry as it relates to a submitted inmate grievance or staff misconduct.

(6) The author of an RVR may submit a CDCR Form 1027 to their supervisor to have the video data (with or without audio) captured as related to the circumstances of the RVR. The Senior Hearing Officer during the hearing process will examine video that is submitted with a serious RVR, and ensure the inmate has had an opportunity to examine any audio or video, as appropriate.

#### **47040.11 Public Records Act Requests**

(a) Upon receipt of a Public Records Act (PRA) request for video data (with or without audio), institutions are instructed to contact their Associate Director, OIA, and OLA for guidance.

(b) Institutions shall notify employees in writing prior to the release and disclosure of any video data (with or without audio) pursuant to a PRA request which reasonably or easily identifies the employee. Institutions are instructed to maintain this written notification with the underlying PRA request.

#### **47040.12 Revisions**

The Director of Division of Adult Institutions, or designee, shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **References**

CCR (15) 3084.7, 3270.2, 3288, 3314, and 3315

#### **Revision History**

New November 4, 2020

Revised June 2, 2021

### **ARTICLE 32 — PUBLIC SAFETY RADIO COMMUNICATIONS SYSTEMS**

*Effective December 27, 2010*

#### **47050.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) requires that in the institutional setting two-way radios shall be used to communicate information necessary for the effective custody and control of wards, inmates, and parolees. Radios shall be issued to personnel operating where fixed communication devices (telephones and intercoms) are not available, practical, or will not meet critical institutional communications needs. In the field setting two-way radios shall be issued to departmental peace officers and will be used as

necessary to communicate with departmental personnel and other law enforcement agencies as needed to meet parole supervision and other field operational needs. Where appropriate and necessary, field units may utilize/communicate via Federal Communication Commissions (FCC) approved local law enforcement telecommunications systems and utilize FCC approved local law enforcement radios.

#### **47050.2 Purpose**

This Article is the official departmental policy on public safety radio communications, notwithstanding any program's procedures. This Article ensures that the design, procurement, deployment, maintenance, and use of State-issued radio communications equipment within the CDCR institutions and field units are appropriate to meet departmental radio communications needs.

#### **47050.3 Usage**

##### **Acceptable Use**

Departmental radio communications shall:

- Be conducted using CDCR-owned, leased, and managed radios and peripheral radio equipment. Exceptions may be made during emergencies, when conducting tactical operations, or when a law enforcement agency agrees to provide radio equipment that conforms to FCC Rules and Regulations.
- Operate on radio frequencies licensed for departmental use. The use of radios and frequencies provided by another public safety entity for events including but not limited to tactical exercises, mutual aid, or dispatch services shall be pre-approved by the Radio Communications Unit (RCU). The locally approved temporary use of another public safety agency's FCC approved radio frequencies is authorized when necessary during an emergency or to protect public safety.
- Be used in conformance with the FCC Rules and Regulations.
- Be used for the express purpose of communicating Department information to authorized personnel.

##### **Unacceptable Use**

- The use of non-approved two-way radio equipment is prohibited and shall be considered contraband.
- The use of, or possession on institutional grounds of non-approved two-way radio equipment by an employee of the Department shall be subject to progressive discipline up to and including possible adverse action consistent with Department Operations Manual (DOM) Chapter 3, Article 22, Employee Discipline.
- The use of non-standard equipment, such as Family Radio Service (FRS) and radio scanners, is prohibited. Possession of such devices on institutional grounds is strictly forbidden.
- Inmates, wards, and parolees shall not be allowed to use CDCR radio equipment described in this Article or have access to the radio communications equipment for personal monitoring, except as authorized below:
  - Inmates assigned to fire camps may be authorized to use a departmental radio as long as it is restricted to accessing mutual aid or fire channels; no access shall be permitted to the trunked radio communications system at any institution, with the exception of the Fire Talk Group. Inmates who are assigned to the institutional fire departments have access to the Fire Talk Group on the trunked radio system, which resides on the Control Station (staff/inmate dispatch console at the fire department) and in the fire vehicles. Inmates shall not have access to the fire department's hand held portable radios which are programmed with other institutional operational talk groups.
  - In the event an employee is incapacitated, an inmate or a parolee may use the radio to call for emergency assistance.

#### **47050.4 Responsibilities**

##### **47050.4.1 Radio Communications Unit (RCU)**

- The Enterprise Information Services (EIS), Infrastructure Services (IS), RCU is responsible for all departmentally-owned radio communications systems utilized within CDCR. This includes the responsibility and authority for oversight of the policy and procedures related to the use of radio communications within the Department.
- Funding for institution and division radio program needs shall be directed through the RCU. This does not preclude a division from purchasing RCU-approved radio equipment to meet its operational needs when the funding is not available through the RCU.
- The RCU is responsible for review and approval of all public safety radio equipment purchases, including systems, subsystems, and end-user equipment.

- The RCU shall maintain site-specific radio matrices that reflect the application of the radio assignment policy.
- Departmental program areas shall contact the RCU to arrange for the use of another agency's radio frequency. Other agencies that wish to use a CDCR-owned frequency shall make such request to the RCU.
- The RCU is responsible for chairing a multi-discipline "Operable/Interoperable Communications Committee" (Committee) composed of departmental radio communications stakeholders. The purpose of this Committee is to address all issues related to emergency and non-emergency communications and the operable/interoperable needs of CDCR. RCU will schedule an annual meeting of the Committee and other meetings, as needed.
- The RCU will process service requests and/or incident tickets submitted by radio liaisons on the Department's web-based automated IT ticket system. The RCU will contact and coordinate with Office of the State Chief Information Officer, Public Safety Communications Division, as necessary. In some instances, non-functioning equipment cannot be repaired in the field and must be removed from service for repair. The RCU shall determine whether available spare equipment is appropriate for use to replace the non-operative equipment in order to keep the system including but not limited to portable or mobile radios in service or whether new equipment is required.

#### 47050.4.2 Radio Liaison

Each CDCR division will establish a radio liaison. The division radio liaison will facilitate communication between the division and the RCU. Each Adult Institution, Juvenile Justice Facility, Conservation Camp, Parole Region (adult and juvenile), the Office of Correctional Safety, Statewide Transportation Unit, and the Office of Internal Affairs shall designate a radio liaison.

- The division radio liaison is a single point of contact between each division and the RCU to ensure that the regional communications issues or needs are forwarded to the Committee.
- The radio liaison shall notify RCU to have all radio communications equipment including but not limited to mobile radio, antenna, and speakers removed from vehicles designated to be surveyed.
- The program area/institution/facility radio liaison may communicate directly with the RCU to address locally specific needs such as radio equipment failures.

#### 47050.4.3 Office of the Chief Information Officer – Public Safety Communications Division (OCIO-PSCD)

The OCIO-PSCD:

- Is responsible for maintaining the CDCR's public safety radio communications systems and subsystem equipment.
- Is responsible for ensuring proper radio system design and assists with frequency acquisition and utilization.
- Employs local radio technicians who are responsible for removing and replacing defective equipment as arranged by the RCU. Defective portable radios or accessories shall be delivered to the RCU or directly to the OCIO-PSCD as directed by the RCU.

#### 47050.5 Radio Communications Systems – Standard Design

The RCU shall identify and establish technical standards for radio communications equipment consistent with the Public Safety Communications Act of 2002, Government Code Section 8592, et seq. Equipment standards shall be published in the CDCR Enterprise Architecture Decision Framework. Requests to purchase or utilize technology not identified as General IT Standards must be accompanied by an exemption request detailing the specific reason identified technologies are not fit for use. The RCU may issue a waiver from the published standard if no available standard technology is suitable to the particular need.

#### 47050.6 Regional Radio Communications System Access

Regional radio communications system access refers to contracts for radio system access where there are fees to the CDCR by the host public safety agency for primary use on their radio communications system. With exception of contracts that were already in place prior to the implementation of this Article, regional radio communications system access contracts shall be reviewed and approved by the RCU prior to contract execution. Refer to the Radio Communications Policy and Procedures Handbook.

The CDCR shall operate its radio communications equipment utilizing FCC assigned frequencies in accordance with FCC Rules and Regulations. Departmental transmissions are prohibited on any FCC-managed frequency unless CDCR has written authorization via a formal radio frequency use agreement (TD-400) that must be kept on file with the RCU and the OCIO-PSCD, or has authorization to operate on a local public safety agency's regional radio communications system. The CDCR relies on the resources of other emergency services providers; therefore, cooperation and coordination with other agencies, organizations, and private enterprises shall be extended when practical in order to serve and protect the public. Divisions within the Department, including fire departments, may request utilization of other public safety radio systems. With the exception of existing utilization agreements that predate the implementation of this Article, such requests shall be submitted to the RCU for negotiation with the public safety agency's radio system operator. Approved requests must be accompanied by a "Letter of Authorization to Transmit" from the licensee on its letterhead, along with a copy of its FCC Station and Mobile license.

#### 47050.7 Mutual Aid Frequency Use Agreement:

A mutual aid frequency use agreement is required for each instance of shared frequency use. The agreement must include the type of frequency that the public safety agency is authorizing CDCR to use, and must be without cost to the Department. These types of agreements are not considered Memorandum of Understanding (MOU) and are not subject to CDCR's MOU procedures. Refer to the Radio Communications Policy and Procedures Handbook.

CDCR-owned radio equipment shall be maintained and repaired by OCIO-PSCD staff or locally approved radio technicians; frequency use agreements may not contain provisions that allow non-OCIO-PSCD approved maintenance or repair CDCR-owned telecommunications equipment. Agreements containing maintenance and/or repair provisions will not be approved.

#### 47050.8 Radio Assignments and Use

For institutional and juvenile justice facility radio assignments, refer to Restricted DOM, Chapter 5, Section 55000.

##### 47050.8.1 Conservation Camps

Camp staff shall be capable of communicating critical information to departmental institutions, facilities, local and/or other public safety agencies, and to agencies that contract for inmate services. Each CDCR camp vehicle shall be equipped, at a minimum, with one mobile radio.

##### 47050.8.2 Outside Transportation Unit Vehicles and Institution/Facility Transportation Vehicles

Refer to Restricted DOM, Chapter 5, Section 55060.

##### 47050.8.3 Office of Correctional Safety

Agents assigned to the Office of Correctional Safety shall be capable of routine and emergency communications with all departmental institutions/facilities and field offices as well as local and/or other public safety agencies. Vehicles assigned to these agents shall be equipped with mobile radios designated for undercover use. Additionally, each field agent shall be assigned a two-way, portable radio.

##### 47050.8.4 Office of Internal Affairs

Agents assigned to the Office of Internal Affairs shall be capable of routine and emergency communications with all departmental institutions/facilities and field offices as well as local and/or other public safety agencies. Vehicles assigned to these agents shall be equipped with mobile radios designated for undercover use. Additionally, each field agent shall be assigned a two-way, portable radio.

##### 47050.8.5 Division of Adult/Juvenile Parole Operations

Division of Adult/Juvenile Parole Operations staff, including case-carrying agents, transportation staff, and appropriate community correctional facility staff, must be capable of routine and emergency communications with field offices and local and state public safety agencies. Each Field agent shall be assigned a two-way portable radio, and/or a vehicle mounted radio as dictated by local needs.

#### 47050.9 Telecommunications Equipment Management – General

All CDCR facilities and vehicles equipped with radio communications equipment shall inventory such equipment annually pursuant to DOM Section 22030.12.6.

##### 47050.10 Radio Communications Equipment in Surveyed or Disabled Vehicles

The RCU will coordinate with the OCIO-PSCD to determine whether the equipment shall be repaired, replaced, or surveyed from service.

##### 47050.11 Sensitive Property and Physical Inventory

Consistent with DOM Chapter 2, Subsection 22030.12.1, all portable and mobile radio equipment shall be considered sensitive property as well as safety equipment. While on duty, radios shall be easily accessible by the assigned staff and shall be turned on. When a radio is issued to a staff member for on-going use, the staff member shall be responsible for maintaining the radio with a charged battery and shall be responsible for immediately notifying their supervisor if the radio or related

equipment has been lost, stolen, or damaged. The employee's supervisor shall be responsible to notify the radio liaison of the lost or damaged equipment. Portable radios shall not be left in clearly visible areas of unattended vehicles, or accessible to inmates, wards, or parolees. If the equipment is lost, stolen, or damaged due to negligence or culpability, the employee may be subject to actions in accordance with DOM, Section 85050.5.

Each institution and juvenile justice facility housing public safety radio communications equipment shall ensure the communications vault is alarm controlled and monitored.

Each division operating approved CDCR radio equipment shall develop an inventory plan that shall include an annual physical inventory conducted on all portable, mobile, and fixed radio equipment and reconciled with the RCU.

#### **47050.12 Revisions**

The Assistant Secretary, EIS, or his/her designee is responsible for ensuring the contents of this Article are kept current and accurate.

#### **47050.13 References**

DOM Chapter 2, §§ 22030.12.1 and 22030.12.6; Chapter 3, Article 22; Chapter 5, §§ 55000 and 55060

Gov Code §§ 8592 15250-15254, 15275-15277, 53108.5, 53114-53114.2, 53115

SAM § 4500

47 CFR 90, Part 90

47 CFR 2, Subpart B

### **ARTICLE 33 — INCIDENT REPORTS DATABASE**

*Revised April 16, 1993*

#### **47060.1 Policy**

*Revised April 13, 2015*

It is the policy of the Department to provide statistical information on all reportable incidents within California's correctional facilities that involve felons. DOM 51030 defines incidents required to be reported to The Director.

#### **47060.2 Purpose**

The purpose of this policy is to establish and fix responsibility and accountability for the management of this system.

#### **47060.3 Responsibility**

*Revised April 13, 2015*

Overall responsibility for the incident reports database (e.g., security, data integrity, QA, QC) lies with The Director of EIS. Delegated responsibility resides with OISB. TSS within OISB is responsible for receiving, analyzing, and coding all reportable incidents; entering the incidents into the database; maintaining incident reports; and ensuring incident reports data base QC.

The Estimates and Statistical Analysis Section of OISB is responsible for the creation of statistical summary reports, annual and quarterly publications, and ad hoc requests.

#### **47060.4 Incident Reports Database – Overview**

The incident reports data base is a mainframe system which utilizes personal computers for initial data entry and ultimately uploads the data to a mainframe computer at the Teale Data Center for batch processing. The data are then manipulated and processed for various statistical and informational purposes.

Incident reports are submitted to the Institutions Division in headquarters and OISB staff within 72 hours of the occurrence of the incident. Upon receipt, OISB staff date stamp and manually log the incident report into the incident log book. Data are then extracted from the incident report and a coding sheet is completed. The information from the coding sheet is then entered into the personal computer-based incident reports data base and uploaded to the mainframe system.

#### **47060.5 Revisions**

*Revised January 4, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **47060.6 References**

DOM § 51030.

### **ARTICLE 34 — UNASSIGNED**

### **ARTICLE 35 — COMPUTER ROOM CONSTRUCTION**

*Revised June 7, 2012*

#### **47080.1 Policy**

Approval is required prior to the expansion, modification, or new construction of any computer room space or site. This policy defines roles and responsibilities for the processing of requests for the expansion, modification, or new construction of any computer room space or site.

#### **47080.2 Purpose**

The purpose of this Article is to support the Global Warming Solutions Act (AB32), which passed in 2006 and requires that by 2020 California's greenhouse gas emissions be reduced to 1990 levels, a roughly 25 percent reduction under business as usual estimates. It also supports Government Code 11545(b)(3), which calls for "minimizing overlap, redundancy, and cost in state operations by promoting the efficient and effective use of information technology." In addition, this Article supports California Technology Agency's (CTA's) Technology Letter (TL) 12-5 which states that agencies are no longer required to submit an IT Facilities/Space Construction review form to the CTA for approval before undertaking any computer room construction, expansion, or modification.

#### **47080.3 Definitions**

For purposes of this policy, the following definitions are used.

- Computer room: any space that houses computer operations. Such computer operations could utilize mainframes, servers, or any computer resource functioning as a server.
- CRUISE: "Customer Requests: Upgraded Information Sharing Environment," the online system used by agencies to request services from the Department of General Services (DGS) Real Estate Services Division.
- Emergency: a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.
- Enhancement: a change that increases the capacity of a computer room physical plant, including electrical, cooling, and heat recovery capacities.
- Expansion: an enlargement of a computer room which increases the floor space for additional servers and/or server racks. An expansion may or may not require an enhancement of the site's electrical, cooling, or heat recovery capacities.
- Information Technology (IT) activities: IT facility preparation, operation, and maintenance.
- Modification: a change to a computer room structure and configuration that does not increase the floor space. A modification may or may not include an enhancement of the site's electrical, cooling, or heat recovery capacities.
- Site evaluation: evaluation of request for computer room construction at a particular site.
- Third-party energy assessment: an energy assessment performed by an entity outside of the Department, such as a utility company or private vendor.

#### **47080.4 Responsibilities**

All requests for computer room construction, expansion, or modification require that a site evaluation be conducted by Enterprise Information Services (EIS).

#### **47080.5 Facilities Management Division**

As the request initiator, Facilities Management Division:

- Prepares an IT Facilities/Space Construction Review form to request construction, expansion, or modification of any computer room space or site.
- Requests that a site evaluation be conducted by EIS prior to the initiation of a CRUISE request to DGS.
- Prepares CRUISE requests and submits them to DGS.

#### **47080.6 Enterprise Information Services**

EIS is responsible for the following:

- Completes the site evaluation.
- Obtains the authorized approving signature from the Agency Secretary or official designee.
- Describes and justifies proposed computer room construction, expansion, or modification in CDCR's Agency Consolidation Plan.
- Provides the OCIO with notification of computer room repairs that were required as a result of an emergency.
- Communicates requests for third-party energy assessments with the program area if required.

#### **47080.7 Exemptions**

Computer room repairs that are required as a result of an emergency do not require prior EIS approval. Emergency repairs may be completed with concurrent

notification to EIS. Emergency expenditures which exceed \$25,000 require prior approval from the Department of Finance. Construction or modification of computer rooms at CDCR institutions is exempt from this policy. This exemption includes, but is not limited to, modifications and/or construction of computer rooms, telecom rooms, and all related IT support equipment at all adult and juvenile institutions.

#### **47080.8 Revisions**

The Director, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **47080.9 References**

SAM 4819.2, 6560.  
AB32 (2005-2006 Session).  
GC 11545(b)(3).  
IT Policy Letter 09-04.  
PCC 1102.  
SIMM Section 18.  
CTA TL 12-5.

### **ARTICLE 36 — INSTANT MESSAGING**

*Effective November 27, 2012*

#### **47090.1 Policy**

Instant Messaging (IM, for purposes of this Article only) technology provides users with the ability to communicate over the California Department of Corrections and Rehabilitation (CDCR) network in real time. This policy outlines the approved use of IM technology over the CDCR network and does not supersede any state or federal laws or any other agency policies regarding confidentiality, information dissemination, or standards of conduct.

- All employees who use the IM method of communication must use the CDCR-provided IM. Employees are prohibited from downloading and using personal, consumer-grade IM software to transmit messages.
- The State reserves the right to monitor and/or keep a record of all IM communications without prior notice; CDCR is not obligated to monitor IM messages.
- Employees should have no expectation of privacy in the use of CDCR-provided IM systems or in anything they store, send or receive on the CDCR's IM system.
- The contents of IMs properly obtained for discovery or management purposes may be disclosed without the permission of the user who created the message.
- The CDCR is under no obligation to retain IM. However, all IM communication shall be treated as business records that may be retained and used as evidence in litigation, audits, and investigations.
- IM content may be subject to various types of access requests, including under the Freedom of Information Act (FOIA).
- High Risk Confidential Information (HRCI) shall not be communicated using IM. Any exclusions or modification to this requirement must be approved in writing by the Information Owner and/or Information Security Office (ISO).

#### **47090.2 Purpose**

It is the goal of the CDCR to ensure IM communications are being created, maintained and retained consistent with CDCR policy and state and federal laws. The purpose of this policy is to detail the standards relating to the use of the IM on the CDCR network and is intended to:

- Describe the limitations of the use of this technology;
- Discuss protection of CDCR information;
- Describe privacy considerations when using the IM system; and
- Outline the applicable rules when using the CDCR-provided system.

Proper IM usage and security is a team effort involving the participation and support of every CDCR employee. It is the responsibility of every computer user to know these guidelines, and to conduct his/her activities accordingly.

This document is not all-inclusive, and the ISO has the authority and discretion to appropriately address any unacceptable behavior and/or practice not specifically mentioned herein.

#### **47090.3 Scope**

This policy covers appropriate use and retention of any IM sent from the CDCR network and applies to all employees, vendors, volunteers, and agents operating on behalf of the CDCR.

#### **47090.4 Definitions**

##### **Confidential Information**

Information maintained by State agencies that is exempt from disclosure under provisions of the California Public Records Act (PRA [(GC § 6250 et seq.)] or other applicable state or federal laws. All information that has not been explicitly defined as public information in §3261.2 of Title 15 should be treated as confidential.

##### **High Risk Confidential Information (HRCI)**

Non-public information that if disclosed could result in a significant harm (including financial, legal, risk to life and safety or reputational damage) to the CDCR or individual(s) if compromised through alternation, corruption, loss, misuse, or unauthorized disclosure. Examples of HRCI include, but are not limited to, the following:

- Personally identifiable information such as person's name in conjunction with the person's social security, credit or debit card information, individual financial account, driver's license number, state ID number, or passport number, or a name in conjunction with biometric information;
- Personal health information such as any information about health status, provisions of health care, or payment for health care information as protected under the Health Insurance and Portability Act of 1996;
- Correctional Offender Record Information as defined in California PC §§ 13100-13104;
- All IT infrastructure information that would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of a public agency, including but not limited to firewall and router configurations, server names, IP addresses, and other system configurations;
- Any document which contains information identifying any Confidential Informant, or information provided, as defined in CCR Title 15, Section 3321;
- Any documentation of information which contains information or data within any Gang Data Base as defined in Department Operations Manual (DOM) Section(s) 52070.22 through 52070.24;
- Records of investigations, intelligence information, or security procedures as specified in the PRA Section 6254(f).

##### **Instant Message (IM)**

A type of communications service that enables a user to exchange text messages in real time between two or more individuals logged into a particular IM system.

##### **Personally Identifiable Information**

Personally Identifiable Information (PII), as defined in California Senate Bill 1386, is the manifestation of an individual's first name or first initial and last name, in combination with one or more of the following:

- Social Security Number;
- Driver's license number;
- State issued ID card;
- Credit or debit card number in combination with any required security code or password that could permit access to an individual's financial account;
- Medical information, history, mental or physical condition, treatment or diagnosis by a health care professional;
- Health information, policy number or subscriber ID, unique identifier, or any information in an application and claims history, including any appeals records.

##### **Sensitive information**

Information maintained by the CDCR that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive information may be either public or confidential. It is information that requires a higher than normal assurance of accuracy and completeness.

##### **Unauthorized Disclosure**

The intentional or unintentional disclosure of confidential information to people inside and/or outside the CDCR who do not have authorization predicated on a "need to know" basis.

#### **47090.5 Privacy Notice**

As IM communications are inherently insecure (not protected by encrypted communications), all employees (including contractors, temporary employees, etc.) utilizing IM technology must exercise caution with regard to conversation content. Furthermore, IM clients do not provide sufficient authentication of the parties involved in the conversation. Subsequently, users are not assured that they are communicating with who they think they are (i.e., a user may not be who he/she is

claiming to be). For these and other reasons, users of the CDCR's computer system assets, including, but not limited to IM clients, maintain no personal privacy rights with respect to content created, stored, received or sent from the CDCR's information systems. In accordance with the CDCR's Acceptable Use Policy, CDCR reserves the right to intercept, monitor, or record all information stored on its information systems and inspect activity to diagnose problems or identify security threats and/or violations.

#### **47090.6 Acceptable Use**

CDCR-provided IM is appropriate for informal business use only. Examples of this include, but may not be limited to, the following:

- When "real time" questions, interactions, and clarification is needed;
- For immediate response;
- For brainstorming sessions among groups;
- To reduce chances of misunderstanding.

Only minimal personal use (non-State business activity) of CDCR-provided IM is permitted, and it should not interfere with the legitimate business of the State.

Prior to sending an IM, verify the accuracy of the selected recipient to prevent unintentionally sending information to an unintended individual.

#### **47090.7 Unacceptable Use**

Employees and contracted staff are prohibited from downloading and using personal, consumer-grade IM software (e.g., AOL Instant Messenger, Yahoo!, Google Voice, etc.) to transmit messages on the CDCR network. Examples of unacceptable use include, but are not limited to, the following:

- Communication which violates local, state, or federal laws;
- Communication of sexually explicit material, jokes, rumors, gossip, or unsubstantiated opinions that could be misinterpreted as an official opinion of CDCR;
- Communication promoting harassment or illegal discrimination on the basis of race, gender, national origin, age, marital status, religion, or disability;
- Disseminating CDCR data to individuals without an authorized need to know;
- Sending or sharing of information for unauthorized purposes or to unauthorized individuals;
- Transmission of PII as defined in California Civil Code § 1798 which includes a person's first name (or initial) and last name in combination of a unique personal identifier such as a birthdate, driver's license number, financial account information or social security number;
- Transmission of personal information related to an individual's health status, including any information protected under the Health Insurance Portability and Accountability Act (HIPAA) or other applicable privacy statutes;
- Transmission of personal information related to an individual's education records which is protected under the Federal Rights and Privacy Act of 1974 (FERPA) or other applicable privacy statutes;
- Use of the CDCR IM system to distribute copyright-protected material such as photographs, graphics, music, and documents;
- Sending sports pool or other forms of gambling messages;
- Soliciting for non-CDCR sanctioned or sponsored activities, such as fundraising or items of a political nature;
- Investigatory or security documents;
- Information collected under the Evidence Code;
- Information contained in the Restricted DOM, Subchapter 55000;
- Documents pertaining to collective bargaining;
- Test questions pertaining to employment examinations;
- Documents pertaining to pending litigation;
- Network Infrastructure documents;
- Allowing access to inmates, wards or parolees, or sending messages on behalf of inmates, wards or parolees.

While using a minimal amount of CDCR resources for personal IM is acceptable, sending chain letters or jokes from a CDCR IM account is prohibited.

#### **47090.8 Mass Messaging**

Permissions to IM mass groups from a CDCR account must be approved in advance by the ISO on a case-by-case basis.

#### **47090.9 Additional IM Usage Guidelines**

Local operating procedures and guidelines may apply to IM content and handling. These local guidelines and procedures are in addition to the IM policy and may not be in conflict with or contradictory to the policy.

#### **47090.10 Instant Messaging Retention**

All sent and received IMs from the department's IM system will have a retention period of 3 years. Items archived into a user's personal folders do not have a mandated retention period. This policy guideline covers only information that is either stored or shared via the CDCR IM system, including file attachments. This policy establishes retention parameters to effectively capture, manage, and retain IM messages. This policy applies to all CDCR employees.

When litigation is pending or threatened against the CDCR or its employees, the law imposes a duty upon the CDCR to preserve all documents and records that pertain to certain issues. A litigation hold directive overrides any retention policy until the litigation hold has been cleared. IMs for employees that have been placed on litigation hold must be retained by the CDCR until the litigation hold is explicitly released.

#### **47090.11 Recovering Deleted Instant Messaging via Backup Media**

In order to restore IM operations in the event of a catastrophic failure of the CDCR's IM system, all IM is archived to backup tapes from the email servers and is moved offsite. The CDCR will not restore an individual's IMs from the offsite backup tapes.

#### **47090.12 Enforcement**

Failure to comply with this policy and associated policies, standards, guidelines, and procedures may result in disciplinary action up to and including dismissal from state service for employees or termination of contracts for contractors, partners, consultants, and other entities. Legal action also may be taken for violations of applicable regulations and laws.

#### **47090.13 Deviation from Policy**

CDCR staff, contractors, volunteers, and agents operating on behalf of CDCR must comply with all applicable policies rules, standards, procedures and guidelines. Any variation to this policy and to risk acceptance policy applies to instances where the cost to remediate a non-compliant system exceeds the cost and the risk of remaining non-compliant.

Any deviations to policy requests are reviewed and analyzed by the ISO, and if the request creates significant risks without compensating controls, it will not be approved.

All approved deviations to policy requests will have an expiration date and must be reviewed prior to that date to ensure that assumptions or business conditions have not changed, and be reapproved if the deviation policy is still valid.

#### **47090.14 Revisions**

The Director, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **47090.15 References**

Government Code §§ 6250-6265.

California Department of Corrections Code of Regulations, Title 15 § 3261.2.

California Senate Bill §1386

Civil Code, Information Practices Act § 1798.

California State Administrative Manual § 5320.5.

California Penal Code §§ 13100-13104.

California Civil Codes § 17.

### **ARTICLE 37 — CLASSIFICATION TRACKING SYSTEM**

*Revised April 16, 1993*

#### **47100.1 Policy**

It is the policy of the Department to adhere to the provisions of PC 2081.5 which require that the Department maintain complete and accurate case records on all prisoners in its custody. Each case record file shall include all information received by CDC from courts, probation departments, sheriff and police departments, DA offices, the State DOJ, the FBI, and other pertinent agencies and persons.

The Classification Tracking System (CTS) was developed to automate the paper-flow process associated with classifying and maintaining a complete (classification) history of an inmate.



**47100.2 Purpose**

The purpose of this policy is to establish and fix responsibility and accountability for management of CTS.

**47100.3 Responsibility**

Overall responsibility (e.g., security, data integrity, QA, QC) for CTS lies with the CDC Director and Chief Deputy Director. Delegated responsibility resides with OISB, and with management, supervisory, and end user personnel for units that utilize the applications residing on CTS.

As custodian of the system, ISD is responsible for application hardware, software support, and maintenance of the system.

**47100.4 Classification Tracking System – Overview**

CTS is a batch processed, centralized inmate classification system supported by the Teale Data Center. CTS contains a complete historical record of all classification information for all inmates and parolees under CDC jurisdiction.

Facility staff shall forward a copy of each CDC Form 839, Initial Classification Score Sheet, and CDC Form 840, Reclassification Score Sheet, to OISB for data entry. TSS reviews all classification documents, coordinates data entry with the agency providing the key entry contract service, and acts as liaison with ISD on the weekly update of the system. TSS and facility classification staff conduct regular joint OISB/facility data reviews to maintain the accuracy and integrity of CTS data. In addition, TSS provides CTS QC training, coordinates requests for changes and improvements to the data system, and responds to requests for classification data from facilities, parole regions, headquarters, and outside agencies.

The Estimates and Statistical Analysis Section uses CTS information to generate monthly summary reports and semiannual reports on inmate classification scores, classification levels, and projected bed needs by classification level. Summary information is extracted from CTS for use in planning and decision making in the Department and by control agencies. Projected bed need information is used by the Department for budgeting and planning new prison construction. CTS information is also used to answer requests from Department staff and others on various characteristics of inmates, such as the number of felons with holds, special category needs, or military service.

Requests for specialized reports and other offender information shall be addressed to TSS in OISB.

**47100.5 Revisions**

The Chief, ISD, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

**47100.6 References**

PC § 2081.5.

**ARTICLE 38 — ELECTRONIC MAIL**

*Effective July 1, 2013*

**47110.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) maintains an e-mail system to facilitate business communications and assist employees in performing their daily work activities. This policy outlines the approved use of CDCR e-mail and does not supersede State or federal laws or any other agency policies regarding confidentiality, information dissemination, or standards of conduct.

- The State reserves the right to monitor and/or keep a record of all e-mail communications without prior notice.
- Employees should have no expectation of privacy in the use of CDCR e-mail systems or in anything they store, send or receive on the CDCR's e-mail system.
- The contents of e-mails properly obtained for discovery or management purposes may be disclosed without the permission of the user who created the message.
- E-mail shall be treated as business records that shall be retained and can be used as evidence in litigation, audits, and investigations.
- E-mail may be subject to various types of access requests, including, but not limited to, requests for records under California Government Code (GC) section 6250 et seq.

High Risk Confidential Information (HRCI) shall not be transmitted using e-mail without CDCR approved encryption being applied. Any

exclusions or modification to this requirement must be approved in writing by the Information Owner and/or the Information Security Office (ISO).

**47110.2 Purpose**

It is the goal of the CDCR to ensure e-mail communications are being created, maintained and retained consistent with CDCR policy and state and federal laws. The purpose of this policy is to detail the standards relating to the use of e-mail on the CDCR network and is intended to:

- Protect CDCR information.
- Describe privacy considerations when using the CDCR e-mail system.
- Outline the acceptable usage rules when using the CDCR e-mail system.
- Maintain availability of the CDCR e-mail system to sustain critical business operations.

Proper e-mail usage and security is a team effort involving the participation and support of every CDCR employee. It is the responsibility of every computer user to know these guidelines, and to conduct his/her activities accordingly.

This document is not all-inclusive, and the ISO has the authority and discretion to appropriately address any unacceptable behavior and/or practice not specifically mentioned herein.

**47110.3 Scope**

This policy covers appropriate use and retention of the CDCR provided e-mail and applies to all employees, vendors, volunteers, and agents operating on behalf of the CDCR.

**47110.4 Access to E-mail**

CDCR staff may be provided an ID for access to e-mail on the CDCR Network. All access to e-mail shall be protected by password, and all policies pertaining to the use and protection of passwords shall apply. No generic or group access to an ID shall be used. A "group mailbox" is acceptable as long as each individual in the group has his/her own ID and password. If you require someone in addition to yourself to access or monitor your e-mail, establish a rule to forward/copy your mail to another's CDCR mailbox or add them as a delegate. Sharing a password for any reason is prohibited.

**47110.5 Acceptable Use**

The e-mail system is provided for official CDCR business. Using e-mail in an inappropriate manner may result in the loss of e-mail privileges and/or disciplinary action. Examples of appropriate use of the CDCR e-mail system include, but are not limited to, the following:

- Scheduling, coordinating, and documenting business meetings and/or assignments.
- Notifying CDCR personnel of changes in work policies and/or work procedures after the appropriate approval process has been completed (shall be followed up in writing).
- Transmitting and/or sharing non-HRCI work related material, including documents, files, reference material, and links to Internet sites.
- Sending and receiving business related Internet mail.
- Notifying employees of CDCR sanctioned employee events including, but not limited to, the Medal of Honor ceremony, United California State Employees Campaigns, and similar approved activities.
- Scheduling appointments including personal appointments and lunch breaks on an electronic calendar.
- Creating or sending notes or messages of a predominantly personal nature, or for personal use, shall be kept to a minimum.

**47110.6 Unacceptable Use**

Examples include, but are not limited to, the following:

- Using the system to discuss, distribute, or share HRCI without CDCR approved encryption controls.
- Reviewing, receiving, and/or intercepting the electronic communications of another employee without express, advance authorization by the employee or their management.
- Logging on with a user ID and password other than your own.
- Copying or routing notes, messages, documents, or memoranda to individuals who are not involved in the relevant work project or who otherwise have no business related interest in the subject matter of the note, message, document, or memorandum.
- Except as otherwise provided in this policy, reading e-mail of another employee without his/her knowledge and consent.
- Sending sports pool or other forms of gambling messages.
- Using e-mail for any unlawful or illegal endeavor.

- Soliciting or advertising for non-CDCR activities, including fundraising or items of a political nature.
- Allowing access to inmates, wards or parolees, or sending messages on behalf of inmates, wards or parolees.
- Transmitting profanity, obscenity, threatening language, gossip, or derogatory remarks.
- Distributing jokes, poems, chain-letters, or other non-business related material.
- Chain letters and e-mail containing religious, humorous, and political messages are forbidden. E-mail that contains promises, hoaxes, or threats shall not be distributed. Receipt of such e-mail should be reported to management. Forwarding of non-CDCR e-mail is forbidden. It is recognized that recipients cannot control incoming mail.
- E-mail shall be free of offensive or unlawful material, including slanderous, discriminatory, sexual, pornographic, profane, or revolutionary content. This prohibition applies to e-mail attachments and to the content of Internet sites referenced or linked from e-mail. Displaying, printing, disseminating, or possession of such material may be reason for disciplinary action. The exception to this policy is any material regarding subject matter that may otherwise be considered objectionable that is required for specific work-related purposes may be sent or attached to an e-mail when the material is being sent to a limited number of specified individuals, and not to be sent to group e-mail lists or broadcast statewide.
- Use of the CDCR e-mail system to distribute copyright-protected material such as photographs, graphics, music, documents, etc., without the expressed consent of the copyright holder constitutes a copyright violation, and may result in disciplinary action.

Restrictions on the use of e-mail wallpaper and stationary will be left to the discretion of each Hiring Authority.

#### **47110.7 Privacy and Confidentiality**

All CDCR e-mail is considered property of CDCR and may be subject to inspection, investigation, Public Records Act (PRA) requests, and/or litigation. Employees, contractors and consultants have no right of privacy with respect to information or messages sent using state-owned equipment and/or resources. E-mail is not private and is subject to monitoring with or without notice.

#### **47110.8 Confidential and Sensitive Information**

Certain types of information maintained by the CDCR are confidential and protected by State and federal law. The use of e-mail to send confidential information should be limited to an as needed basis. Never type the information in the body of the e-mail, and never send a password or decryption key in the same e-mail. Unless the file is encrypted or password-protected, it can be read by others and, therefore, is not considered private communication.

Following is a list of the types of information defined as HRCI that shall not be included in e-mail or attached to an e-mail, unless the e-mail and/or attachments are encrypted:

- Personally identifiable information such as a person's name in conjunction with the person's social security number, credit or debit card information, individual financial account, driver's license number, state ID number, or passport number, or a name in conjunction with biometric information;
- Personal health information such as any information about health status, provisions of health care, or payment for health care information as protected under the Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- Correctional Offender Record Information as defined in California Penal Code sections 13100-13104;
- Information that if disclosed would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of a public agency as specified in GC section 6254.19. Examples include but are not limited to firewall and router configuration information, server names and IP addresses, and other system configuration details;
- Any documentation of information which contains information or data within any Gang Database as defined in the CDCR Department Operations Manual (DOM) sections 52070.22-52070.24;

- Records of investigations, intelligence information, or security procedures as specified in GC section 6254(f); this includes but is not limited to information identifying confidential informants and security procedures contained in DOM section 55000.
- Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy protected under GC section 6254(c) or the Peace Officers Bill of Rights under GC section 3300 et seq.

Encrypted e-mail must be used when HRCI information is sent to non-CDCR e-mail addresses by placing the keywords of "CDCR Encrypted Message" into the subject line of the e-mail without the quotes. This method should be used only when transmitting HRCI, confidential, or sensitive data.

Prior to sending any e-mail, verify the accuracy of the recipient's e-mail address to prevent unintentionally sending it to an unauthorized individual. Once an e-mail is sent outside the Department, it cannot be recalled and/or undone.

#### **47110.9 Personal Information**

Employees shall not seek out or use personal information maintained by the CDCR for their own private interest or advantage. Personal information shall not be transmitted in e-mail or as attachments to e-mail without appropriate encryption controls.

#### **47110.10 Unsolicited E-Mail**

Unsolicited e-mail may carry viruses. If the sender's identity and intent cannot be verified, such e-mail should be deleted unopened. Unsolicited e-mail from unknown senders should always be deleted unopened. Do not open attachments or Internet links accompanying such unsolicited e-mail.

#### **47110.11 Use of Global Distribution Lists**

Use of the global distribution list should be limited to departmental, State, or national emergencies, and information from executive levels or program areas that affect all employees. Distribution of information not required by all employees shall be limited to the affected work groups or physical locations.

#### **47110.12 E-Mail Administration**

Enterprise Information Services (EIS) shall perform all administration functions including, but not limited to, establishment of server mailboxes, system-wide filters, and virus scanning functions. EIS shall determine the disk space required to ensure correct functionality of the e-mail system.

#### **47110.13 E-Mail Virus Protection**

EIS shall manage the virus protection program for all workstations, servers, and network devices. All workstations connected to the CDCR Network or that are Internet accessible shall have the most current Virus Protection software, determined by the EIS. CDCR Network workstations shall be configured to automatically update the virus protection software. Staff shall not disable or turn off this feature. Distribution of virus-laden e-mail may result in performance degradation of the CDCR network and the removal from the network of the workstation(s) from which the infected e-mail is sent.

#### **47110.14 Local E-Mail Usage Guidelines**

Local operating procedures and guidelines may apply to e-mail content and handling. Local guidelines and procedures are in addition to this e-mail policy and may not be in conflict with or contradictory to this policy.

#### **47110.15 Electronic Document Management**

The CDCR is committed to ensuring that all departmental electronic documents, including e-mail messages used by staff in the course of their employment, are retained efficiently and in compliance with the Records Management Act, GC section 14740, et seq.

#### **47110.16 E-Mail Retention**

E-mail messages are official records and are subject to State, federal and CDCR rules and policies for retention and deletion. The E-mail Retention Policy defines how long information sent or received by e-mail should be retained. These policy guidelines cover only information that is either stored or shared via e-mail, including e-mail attachments. This policy establishes retention parameters to effectively capture, manage, and retain e-mail messages. All e-mail (e.g., administrative correspondence, fiscal correspondence, general correspondence) is subject to this policy. This policy applies to all individuals using the CDCR e-mail system. All sent and received e-mail from the department's e-mail system shall be retained for a period of three years.

When litigation is pending or future litigation is reasonably probable, the law imposes a duty upon CDCR to preserve all documents and records that pertain to certain issues. A litigation hold directive overrides any retention policy until the litigation hold has been cleared. E-mail for employees that have been placed on litigation hold must be retained by CDCR until the litigation hold is released or 3 years have passed, whichever occurs later.

**47110.17 Enforcement**

Failure to comply with this policy and associated policies, standards, guidelines, and procedures may result in disciplinary action up to and including dismissal from State service for employees or termination of contracts for contractors, partners, consultants, and other entities. Legal action also may be taken for violations of applicable regulations and laws.

**47110.18 Deviation from Policy**

CDCR staff, contractors, volunteers, and agents operating on behalf of CDCR must comply with all applicable policies rules, standards, procedures and guidelines. Variations and exceptions to this policy will be based on instances where the cost to remediate non-compliant systems exceeds the cost and the risk of remaining non-compliant. Deviations to policy requests are reviewed and analyzed by the ISO, and if the request creates significant risks without compensating controls, it will not be approved.

All approved deviations to policy requests shall have an expiration date and must be reviewed prior to that date to ensure that assumptions or business conditions have not changed, and be reapproved if the deviation policy is still valid.

**47110.19 Revisions**

The Director, EIS, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**47110.20 References**

Government Code §§ 6250-6265.  
California Code of Regulations, Title 15 § 3261.2.  
California Labor Code § 92.  
Civil Code, Information Practices Act § 1798.  
California State Administrative Manual § 5320.5.  
California Penal Code §§ 13100-13104.  
California Civil Codes § 17.

**ARTICLE 39 — SOCIAL MEDIA POLICY**

*Effective April 21, 2021*

**47120.1 Purpose**

(a) The California Department of Corrections and Rehabilitation (CDCR), in collaboration with the California Correctional Health Care Services (CCHCS) and the California Prison Industry Authority (CALPIA) has developed this policy to provide standards and establish requirements for all CDCR, CCHCS, and CALPIA (hereinafter referred to as department) personnel when using social media.

(b) Only authorized department personnel shall represent the department on social media. Social media is a tool that may be used to convey information and facilitate communication to support the department's mission.

(c) This policy provides the parameters that all department personnel must follow in order to access or use social media.

(1) The only authorized use of social media falls within two fundamental categories.

(A) Obtaining information, consuming content, or performing research for tasks or assignments.

(B) Creating or managing content relevant to the department's mission.

**47120.2 Scope**

The scope of this policy extends to all department personnel as well as all information assets owned or operated by the department. Scope also extends to department personnel who use social media outside of the department network on non-department managed or owned devices where it may be perceived that such activities are on behalf of the department.

**47120.3 Policy**

The following are the policy requirements for the management and use of social media.

(a) Department Authorized Content Managers

(1) Content managers authorized to represent the department on social media are limited to the following:

(A) The Office of Public and Employee Communications (OPEC) for CDCR and CCHCS.

(B) CALPIA designee(s).

(2) Authorized content managers shall ensure that an auditable record of all postings and modifications to social media content are retained subject to department data retention policies.

(3) Accessing social media, including but not limited to, viewing and managing content through the department network requires approval through the established Workgroup Computing Policy. This policy and related forms can be found in Department Operations Manual (DOM) Chapter 4, Article 41.

(b) Department Acceptable Use

(1) Access to social media available through the department network is provided for official business.

(2) Posting of any content on behalf of the department must be approved by the OPEC or CALPIA designee.

(c) Department Unacceptable Use

As with other forms of communications, employees' use of social media should comply with CDCR's Code of Conduct as found in DOM Chapter 3, Article 22, Section 33030.3. Using social media in an unacceptable manner through CDCR assets may result in the loss of access to social media through the CDCR network, disciplinary action, or both. Unacceptable use of social media includes, but is not limited to, the following:

(1) Department personnel shall not post social media content on behalf of the department, unless specifically authorized by the OPEC or CALPIA designee.

(2) Department personnel shall not create social media accounts that mislead the public that content posted is on behalf of the department, including the use of department images or logos.

(3) Department personnel shall not use State-issued assets to post material that could discredit the reputation of the department or its agents.

(4) Department personnel shall not post or release personnel, contractor, offender, victim or their family's private, confidential, sensitive or other protected information under state or federal law, including, but not limited to, CDCR intellectual property on social media unless explicitly authorized by OPEC or CALPIA designee, whether or not the post of such information is from State-issued equipment or device or an individual's personal equipment or personal device.

(5) Department personnel shall not utilize tools or techniques to spoof, masquerade, or assume another current or former department identity including business units and individual personnel except for legitimate law enforcement purposes.

(6) Use of social media shall not be conducted in a manner that undermines the privacy, safety and security of personnel, contractors, offenders, victims, or families thereof.

**47120.4 Roles and Responsibilities**

(a) CDCR, CCHCS, and CALPIA CIOs, and OPEC designee:

(1) Are responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) Is responsible for ensuring that this policy will be reviewed annually in order to make recommendations for policy changes or the introduction of new policy to the Information Security Officer (ISO) for the bi-annual review and update cycle.

(3) Shall ensure that authorized users with access to social media are trained regarding their roles and responsibilities.

(b) OPEC and CALPIA designee:

(1) Are responsible for identifying the department authorized users of social media.

(2) Are responsible for reviewing and approving all department social media content posted or shared on behalf of the department or its representatives.

(c) The Information Security Officer (ISO):

(1) Is responsible for the periodic auditing and assessment of compliance with this policy.

(2) Is responsible for the review and update of this policy every two years.

(d) Department Managers and Supervisors:

(1) Are responsible for obtaining approval from OPEC, CALPIA or designee, for any content posted or shared to official department social media.

(2) Are responsible for ensuring that personnel comply with this policy.

(e) All Department Personnel Speaking on Behalf of the Department:

(1) Shall provide content developed for social media to OPEC designated reviewers for approval and publication.

(2) Shall connect to, and exchange information with, only authorized social media web sites in accordance with the requirements of this policy and other department and State information security policies.

(3) Are required to abide by this policy and applicable department information security and privacy policies.

(4) Who are authorized to speak on behalf of the department or the State shall identify themselves by: a) Full Name; b) Title; c) Department; and d) Department

Contact Information, when posting or exchanging information on social media forums, and shall address issues only within the scope of their specific authorization.

(f) Department Information Technology Administrators shall:

(1) Limit Internet access to social media websites according to the department's acceptable use policy, while allowing authorized users to access content necessary to conduct department business. Limitations may include, but are not limited to:

(A) Only allowing social media access to users who are specifically authorized (see Department Authorized Users) through the use of the Department Workgroup Computing Policy regarding internet access.

(B) Disabling unnecessary functionality within social media web sites, such as Instant Messaging (IM) or file exchange.

(C) Minimize or eliminate the addition of web links within posts to other web sites, to minimize the risk of exposing a user to a link that leads to inappropriate, unauthorized, or potentially malicious content.

(2) Enable security controls to mitigate risk to the extent possible. These controls may include, but are not limited to:

(A) Monitoring and auditing of all social media web site content posted, viewed or both.

(B) Inspecting all files transmitted to or from social media web sites.

(C) Securing social media platform and website account credentials (user names and passwords) from unauthorized access.

(D) Utilize Multi-Factor Authentication (MFA) as required where supported by the social media account.

#### **47120.5 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22, Section 33030.15.5.

(b) The department shall comply with the information security and privacy policies, standards and procedures issued by the California Department of Technology, Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) Department personnel should understand that the consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

#### **47120.6 Auditing**

(a) The department has the right to inspect any activities related to the use of social media on State information assets.

(b) The department has the right to inspect any publicly available information posted or shared on social media and other forums at its sole discretion.

#### **47120.7 Authority**

This policy complies with the State of California Government Code Section 11549.3.

#### **47120.8 Definitions of Key Terms**

The department uses the information security and privacy definitions issued by the California Department of Technology OIS in implementing information security and privacy policy. Terms and definitions are defined here and are on the California Department of Technology website at <https://cdt.ca.gov/security/technical-definitions/>.

(a) **Instant Messaging (IM):** An application that allows real-time electronic messaging or chatting.

(b) **Internet:** A global computer network providing a variety of information and communication facilities.

(c) **NIST:** National Institute of Standards and Technology – <https://www.nist.gov/>

(d) **Personally Identifiable Information (PII):** Information that can be used by itself or used in combination with other personal identifiable information to distinguish or trace an individual's identity.

(e) **Social Media Platform:** Interactive computer-mediated technologies that facilitate the creation and sharing of information, ideas, career interests and other forms of expression via virtual communities and networks.

(f) **Social Media:** Sites that enable the connection with others to form an online community. IM, file sharing and Web logs (blogs) are common features of Social Media. These sites may contain offensive material in the community-created content. This category may be used in conjunction with another category for more narrowly-focused social media, such as professional networking sites or social networking sections of personals or dating sites.

#### **47120.9 Revisions**

The Agency CIO, OPEC or CALPIA designee shall ensure that the contents of this article are current and accurate.

#### **References**

DOM Chapter 4, Articles 38, 41, 45

DOM Chapter 3, Article 22

California Government Code Section 11549.3

SAM, Section 4989.3, Agency/State Entity Roles and Responsibilities

SAM, Section 5305.3, Information Security Roles and Responsibilities

SAM, Section 5310.7, Security Safeguards

SAM, Section 5320.4, Personnel Security

SAM, Section 5360, Identity and Access Management

SIMM Section 66-B, Social Media Standard

#### **Revision History**

Effective April 21, 2021

### **ARTICLE 40 — DISTRIBUTED DATA PROCESSING SYSTEM**

*Revised April 10, 1993*

#### **47130.1 Policy**

It is the policy of the Department that the DDPS be used by facilities to efficiently maintain specified inmate information. This on-line, integrated information system has been established at the facilities to allow information sharing among multiple users within each facility.

#### **47130.2 Purpose**

The purpose of this policy is to describe DDPS and provide requirements for its use, thereby assisting facility staff to maintain a more efficient and secure environment in facilities.

#### **47130.3 Responsibility Within DDPS**

Wardens have direct responsibility for the use of DDPS at facilities, and responsibility is delegated to staff who use DDPS applications. Such responsibility includes ensuring the security of the system, and the integrity and accuracy of its data.

Users input information into the DDPS and, in return, are able to access the pooled information data base of the system. Since multiple users access the data base, there is an increased importance for entered information to be timely and accurate since it is relied upon by users throughout the Department.

The facility AISA is responsible for on-site support of DDPS users. This includes user log-on, security, trouble-shooting, producing ad hoc reports using INFORM, personal computer download activities, and headquarters liaison activities. The AISA provides assistance and training to users of the system. Additional training and assistance may be arranged through ISD.

DDPS issues that cannot be resolved at the facility or through ISD should be directed to the Deputy Director, ID.

QA and QC are ongoing concerns. ISD has established controls to ensure the accuracy of technical aspects of DDPS. Periodic monitoring and audits have been established to ensure that QC requirements are met, and assistance is provided to eliminate deficiencies within specified time frames.

#### **47130.4 System Overview of DDPS**

DDPS is a system comprised of one or more minicomputers operating in each facility and connected to minicomputers in headquarters by a wide area communications network. Four major applications reside currently on the DDPS. In addition to the requirements of this section, use of each application shall meet general operating specifications regarding policy, purpose, responsibility, QA, and QC.

The four DDPS applications are:

##### **Inmate Roster System**

The Inmate Roster System is the basis for DDPS and is, therefore, critical for the maintenance of all other DDPS applications. The roster is designed for use by control room staff and provides an automated means for tracking inmate location.

This application allows any authorized user to request reports or make inquiries regarding any inmate or housing unit in the facility.

#### **Inmate Roster Record**

An Inmate Roster Record is created the first time an inmate is admitted. At that time, control room staff enter the inmate's full name, date of birth, ethnicity, arrival date, and location from which the inmate arrived. Once the inmate is admitted, the user must enter only the inmate's CDC number and the first five characters of the last name to enter a movement transaction. Reports on inmate movement may be generated within this application. The Automated Daily Movement Sheet is designed to assist control room staff in their use of the CDC Form 117, Daily Movement Sheet.

In addition to the inmate roster, this application maintains a roster of the housing structure and beds at each facility. Control room staff may use this information to readily identify vacant beds, the identity of the inmate in each bed, and beds that are being held for inmates on temporary leave from the facility (e.g., out to court for the day, in a local hospital). Bed vacancy and empty bed reports may be produced in this application to assist control room staff with the running count process.

Although the inmate roster was designed to serve the needs of control room staff, it has proven to be highly beneficial to other functional areas of the facility. Mailrooms have replaced their card systems with query terminals, and many visitor control areas use either terminals or housing reports to locate inmates within the facility. The inmate assignment office uses the information to make appropriate job assignments. Facility staff can request the preparation of special reports by their AISA using "INFORM" or by ISD using ad hoc reporting capabilities.

#### **Responsibility**

The Control Room Sergeant is responsible for data integrity and security of this application.

#### **Time Collection System**

The Time Collection System automates the data entry portion of updating the OBIS work time credit database. The CDC Form 191, Inmate Timecard, is scanned using a Sentry 4000 Optical Scanner. The scanned timecard information is sent to a file on the DDPS at each facility; the file is transferred nightly to Teale Data Center; data is validated; and the OBIS database is updated.

#### **Responsibility**

The CCRM is responsible for data integrity and security.

#### **Inmate Classification System**

The Inmate Classification System tracks the results of inmate classification hearings and contains certain descriptors critical to other functional areas of the facility. The privilege group determines an inmate's eligibility for canteen draw, visiting, and other inmate activities. Additionally, the inmate classification system tracks hearing dates and provides a "tickler" to notify counselors of upcoming hearing responsibilities.

Inmate Classification System information is entered after the initial inmate record is created. It is imperative to enter data during or immediately following hearings so that staff have up-to-the-minute information about a inmate's custody level and classification score, thus assisting subsequent program decisions.

#### **Responsibility**

The CC-II/III is responsible for data integrity and security.

#### **Inmate Assignment System**

The Inmate Assignment Application tracks inmate job assignments and inmate job waiting lists. It contains descriptive information about each job, including pay grade, dictionary of occupational titles code, Inmate Work Training Incentive Program code, assignment beginning date, job status, work location, site phone number, work schedule including regular days off, the name of the inmate holding the job if assigned, and any restrictions or special job requirements.

When assigning an inmate to a job or a waiting list, this application uses the Inmate Roster Record (including classification information) to draw custody level and suffix, work group, ethnicity, administrative determinants, work qualifiers, and housing data.

Information entered by the assignment lieutenant updates the inmate roster clearance regarding food handling, gate clearance, and other clearances. The Inmate Assignment System maintains a inmate's current work and waiting list status. Job history records provide information (including dates) about all previous jobs held by an inmate in that facility. Location records provide ethnicity counts to assist in

maintaining an ethnic balance. Transportation records contain assignment information used for the daily movement sheet.

#### **Responsibility**

The Inmate Assignment Lieutenant is responsible for data integrity and security.

#### **Inmate Trust Accounting System**

PC 2085 and 5057 require that the Department establish, as necessary, an accounting and auditing system to accurately account for all inmate money and property. The Inmate Trust Accounting System is designed to:

- Replace outdated bookkeeping machines.
- Automate the bookkeeping functions in the facility's trust office.
- Account for all inmate monies held in trust by the Department. Each facility uses the inmate trust account system to perform trust accounting functions.

This application uses information provided by the Inmate Roster System to identify inmates who have just arrived, transferred out, transferred in, or have been paroled or discharged. For each new arrival, the Inmate Trust Accounting System establishes a trust account in which monies shall be held and deposits and withdrawals posted. An inmate's record is updated when the inmate leaves the facility to reflect the new location so that account information and funds can be transferred.

The Inmate Trust Accounting System produces monthly statements of account, a general ledger, accounts payable, accounts receivable, a daily balance sheet, audit reports, and preprinted canteen cards.

#### **Responsibility**

The Trust Officer is responsible for data integrity and security.

#### **47130.5 Revisions**

The Chief, ISD, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **47130.6 References**

PC §§ 2085 and 5057.

### **ARTICLE 41 — DEPARTMENTAL WORKGROUP COMPUTING POLICY**

*Revised March 21, 1997*

#### **48010.1 Policy**

This document is the formal definition of the Department policy regarding the acquisition and use of workgroup computing technologies, including portable, stand-alone, and networked microcomputers, electronic mail, Internet and Intranet access, connectivity, and Web pages. It is CDC's policy that these technologies be used to:

- Increase employee and workgroup productivity.
- Enhance the sharing and distribution of departmental information, both within CDC and to external entities.
- Enhance overall departmental communication.
- Reduce the overall departmental operating costs by strategically deploying standard workgroup technologies at all levels of the organization.

#### **48010.2 Purpose**

The purpose of this policy is to establish standards and responsibilities for the acquisition, use, and management of workgroup computing within CDC. Specifically, the policy is intended to:

- Promote the identification of cost-effective opportunities for using workgroup computing technologies to support the accomplishment of the mission and program objectives within CDC.
- Ensure that the use of workgroup computing technologies is consistent with CDC's SISP, tactical plans, or other management plans.
- Ensure that existing CDC and State information technology infrastructure standards are met, and that individual workgroup computing activities do not preclude the implementation of other departmental applications on the same configuration.
- Establish policy structures, levels of approval, and accountability to define the appropriate use, acquisition, and support (maintenance and training) of workgroup computing technologies, including electronic mail functionality and Internet access.
- Ensure that the integrity and security of automated files, ITS, and program operations are not jeopardized by the use of workgroup computing activities, including connection to external networks (Internet).
- Establish acceptable use standards for departmental employees using workgroup computing technologies, including portable and desktop systems, electronic mail, and Intranet and Internet connectivity.

- Establish appropriate policy structures for departmental information that is electronically provided by CDC for public access by the Internet.
- Establish appropriate policy structures for the publication of departmental information that is electronically provided internally to CDC by the Intranet.

#### 48010.3 Scope, Definitions, and Exclusions

This section defines the scope and definitions for the workgroup computing policy and the automated technologies that are excluded from this policy.

##### 48010.3.1 Scope

The scope of this policy deals with the appropriate use, approval, and acquisition of off-the-shelf workgroup computing technologies within CDC to increase the productivity of individuals and groups of employees working in the same programmatic function. This policy is for the benefit of employees only and cannot be used to acquire equipment for the exclusive use of inmates.

A workgroup is a group of employees performing the same programmatic function. A programmatic function within CDC can be defined either by commonality of organizational structure or work objectives. For the purposes of this policy, accounting, personnel, and business services could each be considered a programmatic function. A correctional institution or parole region could also be considered a workgroup performing the same function, i.e. managing groups of inmates or parolees.

This policy supports the SAM 4989.1 which promotes the deployment of workgroup technologies to increase the overall efficiency of State organizations. The workgroup computing approach focuses on the deployment of proven “off-the-shelf” hardware and software systems and the interconnection of these systems. This policy also promotes the development and maintenance of consistent computer and network services and standards to ensure that life cycle support is minimized for all workgroup computing technologies.

The following are included as workgroup computing technologies:

- Commercial productivity software for such functions as word processing, spreadsheet analysis, time management, presentation graphics, Internet connection, remote communication access, workgroup file management, and electronic mail connectivity.
- Special purpose software applications, such as accounting or dietary management software, that are off-the-shelf productivity systems for an identified departmental workgroup.
- Portable and desktop systems based on microcomputer hardware and operating system.
- Full network server configurations to interconnect workgroup computing systems and provide standard electronic mail and Intranet capabilities.
- Necessary networks and communication devices to interconnect workgroup computing systems to facilitate internal and external communications and the sharing of information. The use of modems within CDC is limited to the requirements defined in DOM 48020, Departmental Modem Policy. While the acquisition of these devices can be considered part of a workgroup computing solution, additional levels of approval and justification within CDC organization are needed. Please see the referenced policy.

The policy and the processes that are defined herein are consistent with the overall strategic directions and tactical initiatives that exist in CDC for support of major program areas.

##### 48010.3.2 Definitions

A glossary of terms has been provided in DOM 41010 EDP General Information. The list of terms conforms with the definitions of terms provided in the SAM 4989.1.

##### 48010.3.3 Exclusions

SAM 4989.1 places limits on the applicability of the workgroup computing policy within a State organization. Any single workgroup computing request must be consistent with, and not exceed, the cost delegation level assigned to CDC, as stated in SAM 4819.34.

Any acquisition, maintenance, or support of workgroup computing requests that require a budget augmentation or that qualifies as an Advanced Technology Project, SAM 4821 through 4821.8, is not covered by the workgroup computing policy. However, it is permissible to use this policy to acquire equipment that is the normal workgroup

complement of equipment (hardware and software) for new positions funded through a budgetary augmentation. More specifically, the policy **does not** apply to the following:

- Critical Applications. These are defined as acquired or developed applications that, if they were not available, even for short periods of time, would cause the State or CDC a significant negative impact regarding:
  - The health and safety of the public, State employees, or inmates.
  - The fiscal or legal integrity of State operations.
  - The continuation of essential departmental programs.
- Department Databases. These are systems that involve the creation and maintenance of files or databases that serve more than a single workgroup within CDC, or where a single workgroup constitutes CDC.
- Uploading of Data Files. Requests cannot include support applications involving the uploading of data to databases used by persons outside of the workgroup. Word processing, electronic mail, and Internet files are not considered data files for the purpose of this policy and as such are part of workgroup computing.
- Computer Programming. Acquiring computing technologies, where the proposed system is dependent on program design, coding, and ongoing programming support to develop and maintain the system, are not part of workgroup computing. Both procedural languages used to create database applications, and compilers used to compile procedural language routines, are considered elements of computer programming and are excluded from this policy. The creation of macros within a productivity software system and/or simple program instructions to run file management reports and queries as part of or by additional software packages, are **not** considered computer programming and can be part of a workgroup computing solution. The use of file management products, to manage information limited to a single workgroup, is allowed under this policy, so long as the file management functions are done through the use of menus and other pre-designed tools provided with the software package.
- Terminal Emulation. Acquiring computing technologies, for the sole purpose of emulating or replacing a computer terminal does not qualify as workgroup computing. While the use of microcomputer systems in a terminal emulation mode is not prohibited, such use alone does not constitute justification for acquisition of microcomputer commodities.
- Specialized or Single-Purpose Systems. Acquiring specialized, single-purpose desktop configurations, such as computer-aided design systems, desktop publishing systems, programmer workbench systems, or artificial intelligence systems does not qualify as workgroup computing. However, software-based applications on a general purpose personal computer may be covered by the workgroup computing policy. For example, desktop publishing employing word processing, graphics, and page layout software packages on a general purpose personal computer falls within this policy. Desktop publishing employing a specialized computer system that has been developed and marketed for the sole purpose of doing desktop publishing, does not.

Units wishing to initiate information technology projects that are not covered by the workgroup computing policy shall follow the procedures for planning and justifying such projects as specified in SAM 4819.3 through 4819.39.

#### 48010.4 Responsibilities

The various areas of responsibility under the workgroup computing policy are summarized in the following sections.

##### 48010.4.1 Department Management

As defined in the SAM 4841.1, the Director has ultimate responsibility for information technology, security, and risk management. The Director has the ability to delegate by policy, procedure, or written notification these responsibilities to other individuals in CDC. The specific requirements for the Director or his designee are to ensure that CDC has:

- A current information management strategy and a current or planned information technology infrastructure description on file, and that the workgroups computing acquisitions and usage are consistent with these strategies.
- Processes to safeguard workgroup computing systems and the information generated and transmitted by these systems.
- The necessary policies and procedures for the technical network support activities, including installation, configuration, problem-determination, maintenance, backup, recovery, and all other activities, which would be in addition to those normally associated with stand-alone personal computers.
- The necessary policies and procedures to provide support and services for access to the Internet, Intranet, and electronic mail systems and servers including installation, configuration, problem-determination, maintenance,

backup, recovery, security, and all other activities, which would be in addition to those normally associated with networks and communication systems.

The method in which the Director of CDC will ensure compliance with these responsibilities, is summarized in the remainder of this section.

#### **48010.4.2 Assistant Director of Communications**

The Assistant Director of Communications within CDC has responsibility for developing policies, guidelines, and procedures to ensure the appropriate disclosure and protection of departmental information when being transmitted outside and/or accessed from outside of the organization. Since one of the primary purposes of workgroup computing is to improve the method of electronic communication, the Assistant Director of Communications, by delegation of the Director, is responsible for ensuring that the workgroup computing policy conforms with departmental communication policies.

Responsibilities of the Assistant Director of Communications:

- Develop and maintain standards for Internet Web pages within CDC to define the “look, feel, and content” of such pages. This scope does not include Intranet Home page standards or Intranet/Internet Web sites.
- Review and comment on all workgroup policies and procedures that allow for the electronic distribution of departmental information outside of the organization using workgroup computing technologies. (Approved information technology projects do not fall under these policies.)
- Provide assistance in the development of departmental training materials to ensure that users understand their responsibilities as they pertain to the electronic transmittal of information using workgroup computing technologies.
- Ensure that auditing and record keeping standards are not in conflict with the IPA monitored by the Assistant Director of Communications.

#### **48010.4.3 Information Security Officer**

The Information Security Officer within CDC has responsibility for developing policies, guidelines, and procedures to ensure the appropriate security and safety of information technology resources, including the systems and resident information. Since one of the primary purposes of workgroup computing is to improve the process for information distribution and communication both internal and external to the organization, the Information Security Officer by delegation of the Director, is responsible for ensuring that the workgroup computing policy is in conformance with departmental information security policies.

Responsibilities of the Information Security Officer:

- Review workgroup computing processes and request forms, CDC Form 1855, Workgroup Computing Justification, CDC Form 1855 B, Workgroup Computing Justification - Additional Modem Justification, and CDC Form 1856, Web Page Justification, to ensure that employees are given notification of security and auditing requirements and that security processes are being followed.
- Review and comment on workgroup policies and procedures that allow for the electronic access, retrieval, and storage of information on departmental workgroup computing systems to ensure that security requirements are being met.
- Provide assistance in the development of departmental training materials to ensure that employees understand their responsibilities as they pertain to the security of departmental information technology resources and information.

#### **48010.4.4 ITS Management**

The overall responsibility for the deployment and maintenance of information technology systems rests with ISD of the EC&ISD within the Support Services area of CDC. The ISD is responsible for the development and maintenance of CDC standards for workgroup computing technologies, with the exception of Internet Web page format and content, and the activities assigned to the Information Security Officer.

The ISD is responsible for the maintenance of the departmental networks, including the support of the infrastructure that interconnects departmental locations and provides remote access and connection to external entities. The ISD Data Center maintains the standards for CDC’s Intranet and Internet Web site and for the “look-and-feel” of

departmental Intranet Home pages. Intranet or Internet Web pages developed by the users will be implemented on the Intranet or Internet Web servers by ISD staff. Intranet access and electronic mail systems are provided as part of the standard department network infrastructure and are included in the standards for all new network installations that will connect to the ISD departmental network.

Within this framework, ISD is integrally involved in workgroup computing to develop policies and procedures regarding the acquisition, use, and distribution of information. The ISD’s Data Center staff determines the information technology standards for hardware and software and provides the ongoing maintenance and support of the infrastructure and CDC’s Intranet and Internet access capabilities. The Workgroup Computing Coordinator, who administers the processes to support workgroup computing, is also part of ISD. The ISD also provides the technical expertise in terms of software systems and networking to implement the various workgroup computing requests and provides assistance in the initial configuration and deployment of a full workgroup computing solution.

#### **48010.4.5 Departmental Workgroup Computing Coordination**

Responsibility for workgroup computing coordination within CDC is assigned to the ISD, which maintain three primary functions to support workgroup computing:

- Workgroup computing information dissemination and acquisition support.
- Provide general technical and networking expertise and assistance.
- Maintain the departmental network, including the infrastructure, hardware and communication devices, Internet access services, Intranet connectivity, and electronic mail.

The Workgroup Computing Coordinator will perform the dissemination of information, oversight of acquisition activities, and maintenance of standards lists. Responsibility for technical assistance and review of workgroup computing configurations will be assigned to the Data Center, including approval of new network installations and remote access authorization, maintenance of the departmental network, Internet Web site, and Intranet and electronic mail capabilities. Technical assistance for individual workgroup computing requests can also be provided based on the specific requirements of the request.

Responsibilities of ISD’s workgroup computing coordination function are:

- Assist departmental management and individual departmental employees in the identification of opportunities for employing workgroup computing to improve personal and workgroup productivity.
- Provide overall interconnection of CDC using networks, remote access, and the Internet and Intranet by maintaining standards and offering set services as part of the departmental network.
- Assist in the justification of workgroup computing configurations, the specification of microcomputer and network commodities for workgroup computing, and the preparation of required documents.
- Coordinate the creation and maintenance of lists of CDC approved standard workgroup computing technologies.
- Review and approve individual workgroup computing technology acquisition requests.
- Assist in determining whether a workgroup computing configuration could support a proposed application in addition to its workgroup computing work.
- Maintain continuing liaison with departmental management to ensure that proposed workgroup computing implementations are:
  - Consistent with CDC’s established strategy for information management, as described in CDC’s SISP.
  - Preventing duplication of existing capabilities.
  - Not precluding the implementation of other departmental applications on the same configuration.
- Maintain the departmental network, Intranet and Internet Web sites, and access.
- Provide for backup procedures and disaster recovery processes that should be part of workgroup computing requests.

#### **48010.4.6 Parole Automation Systems Unit, Institution, and Unit Computing Coordination**

Responsibility for workgroup computing coordination within an institution or other departmental unit is assigned to the Computing Coordinator, usually an AISA. These coordinators perform key functions to support workgroup computing within their specific unit or institution. The Parole Automation Systems Unit performs these functions for P&CSD staff. The Computing Coordinators and Parole Automation Systems Unit assist with information dissemination and acquisition support and interface with ISD on workgroup computing requests. They also provide technical assistance and review workgroup computing configurations within their respective organizations. Additional technical assistance from ISD can

also be provided based on the specific requirements of a workgroup computing request.

General responsibilities of the Computing Coordinators are:

- Assist institutions, unit management, and individual departmental employees in the identification of opportunities for employing workgroup computing to improve personal and workgroup productivity.
- Assist in the justification of workgroup computing configurations, the specification of microcomputer commodities for workgroup computing, and the preparation of required documents.
- Coordinate, review, and approve individual workgroup computing technology acquisitions.
- Assist in determining whether a workgroup computing configuration could support a proposed application in addition to its workgroup computing work.
- Maintain continuing liaison with CDC's ISD staff to ensure that proposed workgroup computing implementations are:
  - Consistent with CDC's established strategy for information management.
  - Preventing duplication of existing capabilities.
  - Not precluding the implementation of other departmental applications on the same configuration.

#### 48010.4.7 Unit Supervisors

Unit supervisors are responsible for the work performed within their organization. This responsibility includes the access, use, and security of workgroup computing technologies and associated information. Workgroup computing technologies are considered a departmental resource and are assigned to staff based on justified need.

Responsibilities of the unit supervisor:

- Actively initiate and deploy workgroup computing technologies to improve the productivity and efficiency of their unit.
- Develop, review, and approve justifications for procurement of workgroup computing resources.
- Review and approve justifications for access to the Internet for purposes of information collection and communication external to CDC.
- Review and approve justifications to establish a Web site on either the Internet or Intranet for the distribution of departmental information, both internal and external to CDC.
- Supervise and approve the creation and updating of the content and format of Intranet or Internet Web pages.
- Ensure that all employees are trained in and aware of their responsibilities when using workgroup computing technologies, and that each employee has in their official personnel file a signed CDC Form 1857, Computing Technology Use Agreement.
- Ensure that employees use workgroup computing resources solely for assigned departmental activities appropriate to that workgroup.
- Initiate disciplinary action for employees who are inappropriately using workgroup computing technologies, up to and including termination of employment.

#### 48010.4.8 Procurement

During the acquisition of workgroup computing technologies, a procurement process will follow and/or parallel the workgroup computing authorization process.

Responsibilities of Procurement:

- The necessary procurement documents are completed and the acquisition is completed in conformance with the PCC and departmental policies and procedures.
- Information technologies procurements have been authorized. For workgroup computing technologies, this means ensuring that the Workgroup Computing Coordinator has an approved CDC Form 1855 on file, and that the procurement documents have appropriately referenced this Form.

#### 48010.4.9 Users

In an environment that encourages workgroups to make use of computing technologies to increase work efficiency and performance, the users become responsible for more than just a computer on their desk. They are members of a wider community of interdependent users and

need to be respectful of other departmental users and safeguard the information that might be shared on these systems.

Responsibilities of Users:

- Understand and follow the acceptable usage guidelines for workgroup computing resources listed in DOM 48010.5.
- Seek guidance in areas for which policy and procedural clarification is needed.
- Participate in necessary training to further ensure the productive use of workgroup computing tools.

#### 48010.5 Acceptable Uses and Ethics

The effectiveness of the departmental computing environment and shared information resources depends on the responsible behavior of all authorized users, managers, and administrators of these resources. Along these lines, guidelines are used to determine acceptable uses.

The CDC reserves the right to monitor and/or log all network activity, including electronic mail, with or without transaction-by-transaction notification, and therefore, users should have no expectation of privacy in the use of these resources.

Uses that are acceptable and encouraged for workgroup computing include and are limited to the:

- Performance of assigned departmental activities.
- Preparation, communication, and exchange of information directly related to the mission and work tasks of CDC or its workgroups.
- Announcement of laws, procedures, hearings, policies, and services or activities related to CDC.
- Professional society activities authorized by CDC.
- Administration of contracts or federal grants for departmental programs.
- Communication and exchange of information for professional development and to debate issues related to assigned governmental activities.
- Research and development of documents, reports, and analyses of information related to the departmental workgroup activities.

Workgroup computing technologies, including access to the Internet, should not be used to publish, display, or transmit any information that will:

- Violate or infringe on the rights of any other persons, including the right of privacy.
- Contain defamatory, false, inaccurate, abusive, obscene, pornographic, profane, sexually-oriented, threatening, racially offensive or other biased, discriminatory material.
- Violate departmental policies and regulations prohibiting sexual harassment.
- Restrict or inhibit other users from using the system or the efficiency of the computing systems.
- Encourage the use of controlled substances or use of the system for the purpose of criminal intent.
- Violate State or Federal laws.

The CDC's policy is that users will not use the facilities and capabilities of workgroup computing to:

- Conduct activities not related to the mission or work tasks of the workgroup or CDC.
- Solicit the performance of any activity that is prohibited by law.
- Transmit material, information, or software in violation of departmental communication policies, or local, State, or federal law.
- Conduct any electioneering or political activities.
- Perform non-government related fund raising or public relations activities.
- Engage in any activity for personal gain or for personal business transactions.
- Make unauthorized purchases.

#### 48010.6 Approved Technologies

It is the policy of CDC that standard configurations for workgroup technologies will be implemented to ensure a consistent approach for implementation, training, and support of these technologies. The Workgroup Computing Coordinator within CDC develops and maintains lists of departmental-approved, standard workgroup computing technologies. These standards are for microcomputer hardware and software systems, off-the-shelf special purpose applications, communication interconnectivity, including remote access to department systems and networks, and use of the Intranet and Internet.

These standards are developed to ensure consistency within the overall Department. Items on the technology standards lists have been selected because they are of proven capability and reliability, are appropriately priced, and are compatible with configurations already in use in CDC or in other State agencies. Minimum standards and lists will be updated in response to changing technology and State experience.



Consideration is given to new categories of hardware and software based on the probability that a solution will be employed in more than one workgroup, and to maintain uniformity in the deployment of technology.

As part of CDC's network maintained by ISD, standard functionality is provided to departmental employees. Some of these features include virus check, Intranet access, print services, and electronic mail. Items that are provided as part of CDC's network **do not** require a workgroup computing request unless a new microcomputer is part of the request. Requests for new networks will be considered part of the overall departmental network and must meet the departmental network standards, including offering standard functionality.

In addition to the standard lists maintained by the Workgroup Computing Coordinator, ISD maintains the standards for network infrastructures, including Local Area Network's, Wide Area Network's, and Internet/Intranet connections. To ensure network interoperability and consistency within CDC, ISD's networking group will review and approve requests that involve new network installations, Internet access requests, Intranet Web pages, and exceptions to departmental standards.

Units proposing to acquire workgroup computing commodities are expected to select from these lists whenever possible. Proposals to acquire items not included in the lists will fall into one of two classifications:

- Requested technology falls into one of the standard categories defined by the ISD, and the Unit is requesting an "exception" to the standards in that category.
- Requested technology does not fall into one of the standard categories defined by the ISD and must be reviewed to ensure that the solution meets all of the requirements for being a workgroup computing technology. For example, a system to manage the planning of the dietary program in an institution could fall under the workgroup computing policy.

The first type of request will require, at a minimum, the approval of the Chief of Information Systems and must be based on a sound, justifiable business need. Rejected requests may be appealed through CDC's chain of command.

The second type of request must be approved by the departmental division office responsible for the specific workgroup computing request. The request must also be reviewed by the Workgroup Computing Coordinator on a case-by-case basis to determine if the solution falls within the parameters of a workgroup computing solution. Solutions that are in question may require an individual review by the control agency, as stated in SAM 4989.1. Requests that are deemed to meet the workgroup computing requirements will then be reviewed to determine if the proposed solution should be added to a departmental standards list.

#### **48010.7 Development of Software**

It is the policy of CDC to use commercial software packages for workgroup computing whenever possible, rather than undertake independent software development. Fully tested and documented commercial packages are readily available for most functions and are usually much less costly than custom-developed programs.

Computer programming **does not** fall within this workgroup computing policy and shall be justified in accordance with the requirements of SAM 4819.3 through 4819.39 and DOM 43020.

#### **48010.8 Acquisition Authorization Process**

For the purposes of this policy *acquire* refers to either the procurement of and/or receiving approval to utilize workgroup computing technologies. As such, there are two processes necessary for CDC to acquire workgroup computing technologies. The first is the authorization and approval process and the second is the procurement process. The procurement process for workgroup computing technologies falls under CDC's procurement policies and procedures which are defined in DOM Chapter 20000, Financial Operations, Subchapter 22000, Budget Administration, and Chapter 40000, MIS, and Subchapter 45000, General Procurement and Contracting.

Each procurement of a workgroup computing technology, is subject to management review and approval before an actual order can be placed or the unit takes possession of the equipment or software. Approval is required to gain Internet access or to establish an Internet or Intranet Web page.

The approval process consists of:

- Determining the hardware, software, and network requirements.

- Completing the CDC Form 1855, CDC Form 1855 B, CDC Form 1856, and/or CDC Form 1857.
- Routing the CDC Form 1855 and documents for approvals and signatures.
- Getting necessary reviews and approvals for acquisitions that will involve: new network installations, new systems that will distribute or access departmental information, and exceptions to workgroup computing standards.
- Getting necessary review and approvals to establish Internet or Intranet Web page or to gain Internet browsing access.

#### **48010.8.1 Justification**

Unit management is responsible for performing the needs assessment and for preparing the justification associated with the proposed approval or acquisition of workgroup computing commodities. This process shall be documented using the CDC Form 1855, CDC Form 1855 B, and/or the CDC Form 1856. The CDC Form 1855 is used to justify the acquisition of workgroup computing technologies. The form is also used to request and gain approval for Internet browsing access. The CDC Form 1856 is used to justify establishment of Web or Home pages. These activities shall also be in conformance with the applicable sections of SAM.

The amount of information and degree of detail provided shall be commensurate with the nature, complexity, risk, and expected cost of the proposed workgroup computing effort. When such applications include the use of networks or Internet access using "servers" or other shared devices, unit management must include consideration and justification for the necessary technical support for activities such as installation, configuration, problem-determination, maintenance, backup, recovery, and all other activities that would be in addition to those normally associated with stand-alone personal computers.

#### **48010.8.2 Forms**

The basis for the workgroup computing justification is the CDC Form 1855, which is maintained by the Workgroup Computing Coordinator and is modeled after the form shown in SAM 4991. This form is updated on a periodic basis and is modified to support specific processes that are unique within CDC. The form provides for the acquisition of portable and desktop hardware and software and Internet access. It also provides for necessary approval signatures and certifications. This form will be available through Electronic Distribution on the CDC Intranet.

The CDC Form 1856 is used to request establishment and maintenance of an Internet Web page for distribution of information outside CDC, or an Intranet Home page for distribution of information internal to CDC. Form maintenance is coordinated by the Workgroup Computing Coordinator with input from the Assistant Director of Communications and the Data Center. This form is updated on a periodic basis and is modified to support specific processes that are unique within CDC. The form requesting approval to create a home page needs to be accompanied by a CDC Form 1855 when a Web site will be established requiring the acquisition of hardware, software, and/or communication devices. This form will be available through Electronic Distribution on the CDC Intranet.

The CDC Form 1857 must be on file for each employee using workgroup computing technologies, accessing departmental networks, and/or accessing the Internet. This form notifies the users of their responsibilities as they pertain to using these technologies; it also notifies them that the information maintained and distributed by the user is not considered "private." It is the policy of CDC that each new employee completes the CDC Form 1857 as part of their employee orientation process. The CDC Form 1857 should be maintained in the employee's official personnel file. If a CDC Form 1857 is not currently on file when workgroup computing technologies are being requested for an employee, then the Unit Supervisor should have the employee sign the Form and have it filed in the official personnel file. This form does not get routed to the Workgroup Computing Coordinator.

#### **48010.8.3 Unit Approvals**

Each request for acquisition of workgroup computing technology is subject to management review and approval before the order can be placed or the unit takes possession of the equipment or software. Once the request has been completed there are three basic levels of review: unit management, institutional or divisional review, and ISD review. The Deputy Director may delegate approval of workgroup computing requests within each division. However, at a minimum, at least one level of management above the unit management must review, and approve each workgroup computing request prior to submitting the request to ISD. If the first level manager is an Assistant Director or Assistant Deputy Director, then this level of approval is sufficient for the workgroup computing justification process.

For workgroups within institutions other than Health Care Services, the following minimum approvals are needed for the CDC Form 1855:

- Unit Supervisor.
- Institution Computing Coordinator.
- Warden, or his/her designee.

For workgroups within P&CSD, the following minimum approvals are needed for the CDC Form 1855:

- RPA.
- P&CSD Computing Coordinator.
- Deputy Director or his/her designee.

For workgroups within Health Care Service Division units that are co-located within an institution, the following minimum approvals are needed for the CDC Form 1855:

- Unit Supervisor (local and/or headquarters).
- CMO.
- Institution Computing Coordinator.

For workgroups within headquarters organizational units, the following minimum approvals are needed for the CDC Form 1855:

- Unit Supervisor.
- Deputy Director or his/her designee.

Acquisition of additional workgroup computing capabilities for previously acquired configurations are subject to similar reviews and approvals. Requests for Internet access will be processed in the same manner as acquiring other workgroup computing technologies, with the same approvals. Internet and Intranet Web page requests will also follow the approval process as shown above.

Additional approvals are needed for exceptions to standards, new network installations, Internet access, remote access to the departmental systems and network and/or modem usage. These additional levels of approval have been defined in the appropriate sections of this policy.

#### **48010.8.4 Routing and Final Approvals**

Once the workgroup computing analysis and the justification documents are completed with departmental certifications and signatures as per DOM 48010.8.2, the forms should be routed as follows:

- CDC Form 1855: The completed form should be forwarded to the Workgroup Computing Coordinator for final approval and processing. The purpose of the review and approval is to ensure that the proposed request conforms to policy and is consistent with departmental standards. The coordinator will route the request for other necessary technical and security reviews and certifications. If the request for workgroup computing commodities include remote access requirements, network products, or Internet access, the procurement documents shall be further reviewed by the Data Center to determine:
  - Technical specifications are consistent with both the proposed use and CDC's strategic direction and established standards.
  - Adequate level of technical network support is addressed in the CDC Form 1855.
- CDC Form 1856: Standard Internet/Intranet Web page requests should be routed to the Data Center for approval. The Data Center will then forward these to the Workgroup Computing Coordinator for retention. If an Internet Web page is not in conformance with departmental Web page standards and/or if this is the initial request for public distribution of departmental information as per applicable departmental communication policies, the request should be routed to the Assistant Director of Communications for approval.

If the request for workgroup computing technologies involves the installation of a new network or external department network connections within a facility that is not in conformance with departmental standards, the unit management may be required to complete an additional risk analysis to be reviewed by CDC's Information Security Officer before the request is routed to procurement.

Copies of the documentation regarding the justification of workgroup computing technologies shall be maintained in CDC's files within ISD. The Workgroup Computing Coordinator will approve the acquisition documents related to workgroup computing requests.

#### **48010.8.5 Post-Implementation Evaluation**

Unit management shall complete the CDC Form 1855 A, Workgroup Computing Justification, Post-Implementation Evaluation, no later than six (6) months after installation of the workgroup computing configuration or product.

The purpose of the Post-Implementation Evaluation is to determine:

- The unit has realized the benefits projected at the time acquisition of the configuration was justified.
- Unanticipated problems have been associated with the use of the configuration and how those problems have been resolved.
- The configuration is being used in compliance with CDC and State policies.

A copy of each evaluation shall be submitted for review to the Workgroup Computing Coordinator who shall maintain it on file.

#### **48010.9 Security**

The use of workgroup computing within CDC shall be in accordance with all applicable provisions of the SAM 4840 through 4845, dealing with information security and risk management, and with the specific provisions of SAM 4989.7, dealing with security. Users of these configurations shall be knowledgeable about the SAM provisions as well as CDC's security and risk management policies associated with workgroup computing configurations as defined in DOM 49010 through 49030. The CDC staff must also be aware that computer viruses pose a potentially serious threat to departmental computer and information assets. Virus protection must be implemented on every departmental workstation.

The CDC will ensure that security precautions are in place for access to the Internet/Intranet and external electronic mail systems. Such safeguards include firewalls, anti-virus systems, password security, information encryption and other security measures to:

- Eliminate unauthorized access to departmental systems and information.
- Ensure that confidential or sensitive information is not improperly disclosed or distributed.

The ISD, Network Services Unit, is responsible for defining and/or maintaining the infrastructure for these security systems. The user is responsible for following the established processes that are defined. The Information Security Officer is responsible for reviewing the processes to ensure that they meet the departmental security policies and requirements.

#### **48010.9.1 Confidential and Sensitive Information**

The vast majority of information maintained by CDC is confidential and/or sensitive in nature. Its untimely or unauthorized release external to the organization may have significant, adverse impact on CDC.

The policies controlling the communication of departmental information external to the State organization is governed by DOM Chapter 10000, Subchapters 12000, 13000, and 14000. Information provided to the public by the Internet or other electronic transmittal methods external to CDC shall comply with all related DOM policies, laws, and State regulations regarding confidential or sensitive information.

Electronic mail that travels through the Internet could be intercepted. To eliminate this possibility, no confidential and/or sensitive information may be transmitted by electronic mail or other means over the Internet unless it is encrypted.

All questions regarding the distribution or access to confidential and sensitive information should be directed to the CDC's Assistant Director of Communications.

All proposals for using workgroup computing systems to maintain or access files containing confidential or sensitive information, as defined in SAM 4841.3, shall meet the standards set by CDC's Information Security Officer, or will be individually approved by the Information Security Officer, before implementation (SAM 4841.1). Conformance to information security standards or the individual request review shall ensure that the request complies with all applicable provisions of the SAM 4840 through 4845 dealing with information security and risk management.

#### **48010.9.2 Integrity of Information**

Information maintained on workgroup computing configurations shall be subjected to the same degree of management control and verification of accuracy that is provided for information maintained in other automated and manual files within CDC, as defined in the appropriate sections of the DOM.

If a data file is downloaded to a workgroup computing configuration from another computer system, the requirements for information integrity and security that have been established for the data file shall be adhered to while it is stored at the workgroup level.

#### **48010.9.3 System Backup**

Provisions shall be made to safeguard against the loss of information and programs stored on workgroup computing configuration as a result of product failures or power failures. Copies of all data files and software shall be stored in a safe location. A regular schedule for making backup copies of all data files shall be established. Unit Supervisors shall ensure that backup procedures are carried out. Training in backup options and procedures shall be ensured by Unit Supervisors. The ISD and the Information Security Officer are responsible for setting guidelines and standards for backup procedures.

**48010.10 Legal**

Existing laws and legal renderings related to privacy, confidentiality, and use of computers concerning information technology, especially in the areas of electronic access, e-mail privacy, and copyright protection must be complied with. Two primary laws are the Electronics Communication Privacy Act and the Comprehensive Computer Fraud and Abuse Act. It is CDC's workgroup computing policy to comply with these laws.

**48010.10.1 Copyright Material and Licenses**

Software license agreements shall be strictly adhered to. Proprietary software cannot be duplicated, modified, or used on more than one machine, except as expressly provided for in the manufacturer's license agreement program updates may be downloaded from the Internet in accordance with the owner's license agreement.

Public domain software, while available under the copyright laws to all individuals should not be downloaded to a departmental workgroup computing device unless it is part of the departmental standard as documented by the Workgroup Computing Coordinator and/or approved by the unit manager.

**48010.10.2 Ownership of Resources**

The CDC has determined that all workgroup computing technologies are the property of CDC, and that the use of these technologies, including the content of data files and electronic mail messages, is not considered private to the user.

It is CDC's requirement, based on the confidentiality and sensitivity of its business, to control access to and monitor that use of State-provided workgroup computing resources, including e-mail systems. The CDC will inform workgroup computing users regarding computer privacy in the following manner:

- As part of the workgroup computing request process by the CDC Form 1857.
- As part of the new employee orientation process.

This notification will be given in writing and the user must sign the notification form as part of the new employee orientation process or as part of the workgroup computing request process. It is CDC's policy that this form be made part of the employee's official personnel file.

**48010.10.3 Regulation and Enforcement**

The director and his designated representatives are responsible for ensuring compliance with provisions of this policy and for investigating suspected noncompliance. Service to a user may be suspended when deemed necessary for the operation and/or integrity of the departmental infrastructure or connected networks. User privileges, user accounts, and/or password access may be withdrawn without notice.

When an instance of noncompliance is suspected or discovered, CDC shall proceed in accordance with CCR (15) (3) 3413, Incompatible Activities, and CCR (2) (1) General Civil Service Rules. Internal discipline, up to and including discharge, may be appropriate in some cases of noncompliance with this policy. Criminal or civil action may be initiated in appropriate instances.

**48010.11 Documentation**

Complete documentation shall be maintained for all of the microcomputer commodities used for workgroup computing.

Documentation shall include:

- Equipment and Software. Manuals relating to the installation, maintenance, care, and use of equipment and proprietary software shall be maintained with the equipment or in a central library, as appropriate.
- Procedural Documentation. Each workgroup application that makes use of a proprietary software package (including database systems, spreadsheet software, or any software that maintains data files) shall have documentation sufficient to allow productive use of the application. In addition to standard user manuals, some documentation that may be needed could include:
  - Instructions containing the scope and purpose of the application.
  - Specific data entry and processing instructions for the application.
  - File descriptions including data dictionaries.
  - Lists of all utility programs and subroutines used by the application.

- Sample report/screen formats for the application.

**48010.12 Training**

Workgroup management is responsible for ensuring that staff members possess the knowledge and skills necessary for effective use of workgroup computing facilities, and that there is sufficient depth of training to prevent disruption of key activities in the event of unexpected staff changes. At least two staff members should be trained in using each workgroup computing application and the equipment that it uses.

The Workgroup Computing Coordinator shall assist in the identification and scheduling of suitable training and in coordinating the development of training materials to be included as part of new employee orientations.

Users granted access to the Internet shall be required to abide by the acceptable use standards and shall have sufficient training in accordance with this and other policies related to electronic communications.

**48010.13 Maintenance and Repair**

The CDC shall make provisions for necessary routine maintenance, as well as for the repair of malfunctioning equipment. It is the responsibility of workgroup management to budget necessary funds for maintenance and to ensure that maintenance schedules are met.

**48010.14 Inventory of Assets**

The CDC shall maintain an inventory of its significant microcomputer commodities used for workgroup computing configurations. The inventory shall provide a description of each item (including serial and model numbers of equipment and version numbers of software), its date of acquisition, and the unit to which it is currently assigned. This inventory may be part of CDC's existing inventory system. The CDC shall also maintain inventories of licensed software and significant applications installed on workgroup computing configurations. These inventories will be available for audit purposes.

**48010.15 Revisions**

The Chief, ISD, or designee, shall be responsible for ensuring that the contents of this article are kept current and accurate.

**48010.16 References**

Comprehensive Computer Fraud and Abuse Act.

DOM §§ 10000, 20000, 40000, 12000, 13000, 14000, 41010, 43020, 48020, 43020, 49010, 49020, and 49030.

Electronics Communication Privacy Act

CC § 1798, et. seq. (Information Practice Act).

SAM § 4800 - 5901.

PCC.

**ARTICLE 42 — DEPARTMENTAL MODEM POLICY\***

*Effective December 22, 1992*

**Not Cleared For Statewide Use****48020.1 Policy**

The Department recognizes the potential for increasing the speed and flexibility in which files can be transferred electronically through the use of modems; however, this potential benefit shall be weighed against the inherent hazards of misuse in CDC facilities.

**48020.2 Purpose**

The general purpose of this policy is to establish standards for the use and management of modems within the Department's operations. This policy is to be used for the purchase of all modems, including those within and outside facilities.

**Scope of the Modem Policy**

SAM 4989.1 states that modem usage consistent with the Department's security and risk management policy are covered by the Department's personal computer policy, and therefore follow the normal supplemental equipment justification process. However, due to the potential for misuse, special security precautions need to be addressed when using modems within a facility, parole office, or wherever inmates or parolees may have access to a PC. Consequently, a special modem supplemental equipment request form shall be used when requesting the acquisition of a modem. This form requires additional information for those modems that are to be used within any situation where inmates or parolees may have access to a personal computer.

**48020.3 Benefits of Modems**

Department managers are encouraged to investigate the benefits of using modems with a personal computer. However, any potential benefit shall be weighed against the inherent security risks involved with modems.

#### **48020.4 Responsibility for Modems When Used With Personal Computers in Department**

##### **Management Responsibility**

Management responsibility for the use and security of each modem resides with the Warden of each individual facility or the Administrator of each parole office. Responsibility resides also with managers who are responsible for personnel who regularly use a computer with an attached modem. It is further suggested that each facility's AISA be involved in the acquisition and use of modems within the facility.

All modems are considered departmental resources. They may be assigned for the exclusive use of an individual or unit within the Department, but such assignment may be changed at any time. In order to maintain an accurate and current inventory of departmental modems, every change in physical location (even within a branch or facility) shall be reported to the MIS-SU, located in the OISB, so that the modem inventory list may be updated.

If a modem is transferred to a different location, the party from whom the modem is transferring must notify in writing, the appropriate property custodian. In headquarters, notify the property controller in the BSS. In the facilities, notify the property controller or Business Office. In the P&CSD, notify Parole Automation.

##### **User Responsibility**

Users of modems shall comply with State and CDC policies governing the use of modems with a personal computer.

The use of all CDC modems is restricted to official business of the Department. Unit supervisors or their designee have authority for modems under their control, and shall limit access to such modems to ensure their security at all times. It is recommended that a log be kept for each modem itemizing usage by date, transmitting user, start time, time signed off, software used, data transmitted, and line speed.

#### **48020.5 Modem Acquisition Within CDC**

*Revised May 5, 1993*

The acquisition of modems for use within the CDC shall be in compliance with the Department's personal computer and modem policies and the applicable sections of the PCC and SAM.

In addition, the following restrictions apply to modem use within facilities, parole offices, or any area that may be accessed by an inmate or parolee:

- There shall be no inmate or parolee access to a personal computer which have been approved for use of a modem.
- There shall be no inmate-developed programs on personal computers with modems.
- There shall be no inmate or parolee access to Local Area Networks containing modems.
- Modems shall not be purchased as part of a personal computer acquisition without complying with the Department's modem policy.
- Internal and pocket modems shall not be purchased or used within the facilities. In addition, internal and pocket modems shall not be purchased or used in regional parole offices or units unless the personal computer utilized is located and operated in a secure area which cannot be accessed by parolees. (internal modems may be installed in laptop personal computer assigned to headquarters and parole personnel as long as the equipment: (1) remains under the physical protection of designated personnel, (2) is locked in a secure area/vehicle when not in use, and (3) cannot be accessed by unauthorized users.
- Pocket modems used currently in the facilities shall be recalled and external modems substituted in their place.

#### **48020.6 Modem Security Policy Within CDC**

Each facility and parole office is to develop a policy to ensure the security of modems used within that facility or parole office. The policy shall include procedures to ensure that:

- All modems are safeguarded when in use and protected from unauthorized access when not in use. External modem procedures shall include a plan to physically lock external modems when not in use.
- The physical location of each modem is tracked at all times.
- An on-site evaluation of modem use is performed no later than 90 days after installation of each modem installed in a facility. This

on-site evaluation shall be conducted by Institutions Division or P&CSD staff, respectively.

It is recommended that modems in facilities be used on dedicated data lines or a basic business line with call detail installed exclusively for modem communications. It is also suggested that an analysis be conducted to assess which type of communications service is more cost-effective to the user. By assessing the length of time involved in the actual transmission of data and the distance and speed (baud rate) of the transmission, it can be determined which service is most appropriate to use.

#### **48020.7 User Training on Effective Modem Use**

Unit management is responsible for ensuring that staff members using modems possess the knowledge and skills necessary for effective modem usage. Such staff shall be trained sufficiently (e.g., outside vendors, State EDP training) so as to maximize the effective use and protection of CDC modems.

#### **48020.8 Revisions**

*Revised May 5, 1993*

The Director, EIS, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **48020.9 References**

SAM § 4989.

### **ARTICLE 43 — HANDHELD COMPUTING DEVICES**

*Effective May 26, 2006*

#### **48050.1 Policy**

It is the policy of the California Department of Corrections and Rehabilitation (CDCR) to utilize handheld computing devices, such as BlackBerries and Treos, in a manner that is safe, efficient, and cost-effective. BlackBerries and Treos are handheld devices that operate as a cellular telephone, Personal Digital Assistant (PDA), and allow Internet/e-mail capability.

#### **48050.2 Purpose**

The purpose of this Policy is to ensure that use of handheld computing devices complies with approved information security practices, does not endanger the users or the safety of the facilities within the Department, and that the devices are procured in the most cost effective manner in keeping with the Department's Desktop and Mobile Computing Policy.

#### **48050.3 Definitions**

##### **Computer Security**

The technological safeguards and managerial procedures that can be applied to computer hardware, programs, data, and facilities to ensure the availability, integrity, and confidentiality of computer-based resources.

##### **E-mail**

Written communication transmitted electronically using computers or handheld computing devices connected to the network(s) or via wireless transmission, such as BlackBerries.

##### **Handheld Computer**

Synonym for PDA.

##### **Information Assets**

Any documents, electronic files, or records that contain or are used to process, manage, or store information necessary to the operation of the CDCR.

##### **Information Security**

The protection of automated information against unauthorized access (accidental or intentional), modification, destruction, or disclosure.

##### **Personal Digital Assistant (PDA)**

Palm-sized computer that can sync with a workstation and allow the user to refer to information on the workstation without having to print it. Schedules, e-mails, documents, and spreadsheets, as well as dictionaries and phone lists, can be stored and accessed as needed.

##### **Risk**

In the context of information systems, the likelihood or probability that a loss of information assets or beach of security will occur.

##### **Wireless**

Communications transmitted without wires, such as radio, microwave, or infrared.

#### **48050.4 Responsibilities**

It is the responsibility of the Wardens, Superintendents, Associate Directors, Assistant Secretaries, and Regional Administrators and their designees to approve the purchase for the handheld devices using the process outlined in Department Operations Manual (DOM), Chapter 4, Article 41, Section 48010.1. The CDC Form 1855 will be utilized to document a brief summary of the request, the justification

of need, the amount of support needed to maintain the device, and the necessary approval signatures. Approval documentation shall be forwarded to the Desktop and Mobile Equipment Coordinator, Enterprise Information Services (EIS), for final processing.

Each Division Director is responsible for reviewing the monthly usage statements to ensure employees are not exceeding the allocated minutes under the terms of the contract in accordance with DOM Chapter 1, Article 12, and the relevant sections of the Youth Authority Manual (YAM).

It is the responsibility of the Chief Information Officer, Office of Information Technology, to maintain a user's guide that would outline the purpose, features, and associated costs for handheld devices. This document, named "A Practical Guide to Handheld Computing Devices," will be available via the Department's intranet site. The user guide will be updated at a minimum of every six months or as needed.

It is the responsibility of the Information Security Officer (ISO) to oversee Department policy and procedures to protect its information assets, including confidential and sensitive information, e-mails, and documents found on handheld computing devices. The ISO will develop a risk assessment and mitigation program.

Additionally, there is a responsibility by all persons using handheld devices to do so in a manner consistent with the information security practices outlined in DOM Chapter 4, Article 45, and the relevant sections of the YAM.

#### **48050.5 Authorized Use**

Handheld computing devices, such as BlackBerries and Treos, will be issued using the same guidelines outlined in the DOM for cellular telephones, as set forth in DOM Chapter 1, Article 12, Section 12070.18. Such devices will also be issued and managed in accordance with any applicable sections of the YAM.

The following staff is authorized to use Handheld Computing Devices:

- Any personnel required to be available to the Governor's office on an as-needed and immediate basis, via email, including but not limited to:
  - Secretary
  - Undersecretary
  - Chief Deputy Secretaries
  - General Counsel
  - Legislative Liaison
  - Office of Public and Employee Communication
- Any person designated by the CDCR Secretary or Undersecretary as being required to be available on an as needed and immediate basis, via email, including but not limited to:
  - Division Directors and Executive Staff
  - Assistant Secretaries
  - Wardens
  - Chief Deputy Wardens
  - Chief Deputy General Counsel
  - Health Care Managers
  - Director, Juvenile Facilities
  - Assistant Director, Juvenile Facilities
  - Assistant General Counsels
  - Superintendents
  - Regional Parole Administrators
  - Deputy Regional Administrators
- Any personnel required to be remote to their home office on a regular or extended period (typically greater than 50% of each day) and requiring e-mail to do their job, including but not limited to:
  - Information Technology support staff
  - Auditors
  - Staff Counsels

#### **48050.7 Revisions**

The Chief, EIS, or designee, shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **48050.8 References**

DOM §§ 12070, 48010, and 49020.

YAM.

## **ARTICLE 44 — GENERAL INFORMATION**

*Effective November 30, 1992*

### **49010.1 Policy**

It is the policy of the Department to protect against the unauthorized modification, deletion, or disclosure of information included in the Department's automated files and data bases. Such disclosure might compromise the integrity of Department programs or violate individual rights to privacy, and may constitute a criminal act. The Department regards its information assets, including data processing capabilities and automated files, to be essential public resources. Many aspects of the Department's operations would effectively cease in the absence of critical computer systems, including automated systems necessary for the protection and safety of persons in the custody of the Department. Accordingly, the Department shall assume full responsibility for the proper classification, use, and protection of its automated information. Further, each element of the Department that employs information technology shall establish risk management and disaster recovery planning processes for identifying, assessing, and responding to the risks associated with its information assets.

### **49010.2 Purpose**

The purpose of this policy is to establish and maintain a standard of due care to prevent misuse or loss of Department information assets. This policy establishes internal policies and procedures that:

- Establish and maintain management and staff accountability for the protection of departmental information assets.
- Establish and maintain processes for the analysis of risks associated with departmental information assets.
- Establish and maintain cost-effective risk management processes intended to preserve the Department's ability to meet program objectives in the event of the unavailability, loss, or misuse of information assets.
- Protect departmental employees who are authorized to access the Department's information assets from temptation, coercion, and threat.

### **49010.3 Information Assets Applicability Within the Department**

Information assets covered by this section include: (1) all categories of automated information including, but not limited to, records, files and data bases; and (2) information technology facilities, software, and equipment (including personal computer systems) owned or leased by CDC.

### **49010.4 Statutory References Concerning the Confidentiality and Security of Information Within CDC**

GC 1171 requires the director of each department that uses, receives or provides data processing services to designate an Information Security Officer (ISO) who shall be responsible for implementing State policies and standards regarding the confidentiality and security of information within the Department. These policies and standards shall include, but are not limited to, strict controls to prevent unauthorized access of: data maintained in computer files, program documentation, data processing systems, data files, and data processing equipment located physically in the Department.

The primary provisions affecting the classification and dissemination of information under the control of California State agencies is found in the State Constitution, in statutes, and in administrative policies:

- Article 1, Section 1, of the Constitution of the State of California defines pursuing and obtaining privacy as an inalienable right.
- The IPA of 1977 (CC 1798, et seq.), places specific requirements on State agencies in the collection, use, maintenance, and dissemination of information relating to individuals.
- The PRA (GC 6250-6265), provides for the inspection of public records.
- The State Records Management Act (GC 14740-14770), provides for the application of management methods to create, use, maintain, retain, preserve, and dispose of State records, including the determination of records essential to the continuation of State government in the event of a major disaster. SAM 1601 through 1699 contain administrative policies to implement provisions of this law.
- The California Computer Crime Statute (Calif. Rev. Stat 1987, Sect. 502, Ch. 1499, 1 January 1988) covers five offenses:
  - Manipulating data, a computer system, or computer network to devise or execute a fraud.
  - Knowingly accessing and without permission taking copies or using any data from a computer or taking any supporting documentation, internal or external, to a computer.
  - Theft of computer services.

- Knowingly accessing and without permission damaging data, computer software, or computer programs, internal or external, to a computer.
- Disrupting or denying computer services to an authorized user.
- The Federal Copyright Act of 1976, provides for the prosecution of persons guilty of the theft of computer programs.

#### **49010.5 Exemptions From Information Systems Security Policy**

Exemptions to this policy may be granted by the Management Information Systems Committee. The decision to grant an exemption shall be based primarily upon a risk analysis submitted to the Committee and the recommendation of the CDC ISO.

#### **49010.6 Information Management Annual Plan Reporting Requirements**

The Information Management Annual Plan (IMAP), submitted by the Department to the DOF, Office of Information Technology (OIT), shall contain a certification that the Department is in compliance with State requirements concerning information technology security and risk management. This certification is signed by the CDC Director. In addition, the IMAP shall provide the name, title, business address and telephone number of the agency's ISO.

##### **49100.6.1 Operational Recovery Plan Reporting Requirements**

The Department shall file an information copy of its Operation Recovery Plan (ORP) with OIT by January 31 each year. A copy of the ORP shall be provided to the Teale Data Center.

##### **49010.6.2 Incident Reporting Requirements**

It is the responsibility of all departmental employees to report all incidents that would place the Department's information assets at risk. It is the policy of the Department that the following incidents shall be reported through the chain of command to the departmental ISO:

- Any incidents involving unauthorized access to automated data, automated files, or data bases.
- Any incident involving the unauthorized modification, destruction or loss of automated data, automated files, or data bases.
- Any incident involving a virus, worm, or other such computer contaminant (see also DOM 41010).
- Any incident involving the unauthorized use of computer equipment, automated data, automated files, or data bases.
- Any incident involving the misuse of the information assets of the Department.

##### **49010.6.3 Incident Report Format**

The following information concerning each incident shall be reported to the departmental ISO within five working days of any awareness of the occurrence of the incident:

- Date of the incident.
- Contact person.
- Description of the incident and whether it is a major incident as described in DOM 49040.36.

##### **49010.6.4 Incident Investigation**

Department management shall investigate promptly all reported incidents as defined in DOM 49010.6.3.

The CDC ISO shall investigate each such reported incident to determine the facts and to prepare a report. The report shall have a section that contains a report of the incident prepared by the appropriate local management.

##### **49010.6.5 Information Security Incident Report to DOF**

A report of major incidents as illustrated in SAM 4845 shall be submitted to OIT within ten working days of the Department's first awareness of an incident involving one or more of the following:

- Unauthorized intentional release, modification, or destruction of confidential or sensitive information, or the theft of such information including information stolen in conjunction with the theft of a computer or data storage device.
- Use of a State information asset in the commission of a crime.
- Intentional damage or destruction of State information assets, or the theft of such assets with an estimated value in excess of \$500.

The report shall be signed by the Department Director and the Department ISO.

#### **49010.7 Revisions**

*Revised April 16, 1993*

The Chief, ISD, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **49010.8 References**

*Revised April 16, 1993*

Federal Copyright Act of 1976.

Article 1, § 1 of the Constitution of the State of California.

California Computer Crime Statute (Calif. Rev. Stat 1987, §. 502, Ch 1499, 1 January 1988)

IPA of 1977.

PRA.

GC §§ 1171, 6250 - 6265, and 14740 - 14770

SAM §§ 1601 - 1699, and 4845.

DOM §§ 41010 and 49040.

### **ARTICLE 45 — INFORMATION SECURITY**

*Revised May 20, 2013*

#### **49020.1 Policy**

It is the policy of the California Department of Corrections and Rehabilitation (CDCR) to protect against the unauthorized modification, deletion, or disclosure of information included in agency files and databases. The Department regards its information assets, including data processing capabilities and automated files, to be essential resources. The Department shall assume full responsibility for ensuring the security and integrity of its information resources.

#### **49020.2 Purpose**

The purpose of this Policy is to establish and maintain a standard of due care to prevent misuse or loss of Department information assets. This policy establishes internal policies and procedures that:

- Establish and maintain management and staff accountability for the protection of departmental information assets.
- Establish and maintain processes for the analysis of risks associated with departmental information assets.
- Establish and maintain cost-effective risk management processes intended to preserve the Department's ability to meet program objectives in the event of the unavailability, loss, or misuse of information assets.
- Protect departmental employees who are authorized to access the Department's information assets from temptation, coercion, and threat.
- Establish agreements with state and non-state entities to cover, at a minimum, the following:
  - Appropriate levels of confidentiality for the data based on data classification (see State Administrative Manual [SAM], § 5320.5).
  - Standards for transmission and storage of the data, if applicable (see SAM § 5310).
  - Agreement to comply with all state policy and law regarding use of information resources and data.
  - Signed confidentiality statements.
  - Agreements to apply security patches and upgrades, and keep virus software up-to-date on all systems on which data may be used.
  - Agreements to notify the information owners promptly if a security incident involving the data occurs.
- Establish appropriate policies and procedures to protect and secure IT infrastructure.
- Require that if a data file is downloaded to a mobile device or desktop computer from another computer system, the specifications for information integrity and security which have been established for the original data file must be applied in the new environment (SAM § 5310).
- Require encryption, or equally effective measures, for all personal, sensitive, or confidential information that is stored on portable electronic storage media (including, but not limited to, CDs and thumb drives) and on portable computing devices (including, but not limited to, laptop and notebook computers). This policy does not apply to mainframe and server tapes. (See SAM § 5345.2).

#### **49020.3 Statutory References Concerning the Confidentiality and Security of Information within CDCR**

SAM section 5300.3 requires the Secretary/Director of each State agency that uses, receives, or provides services to designate an Agency Information Security Officer (ISO) who shall be responsible for implementing State policies and

standards regarding the confidentiality and security of information within the Department. These policies and standards shall include, but are not limited to, strict controls to prevent unauthorized access of data maintained in computer files, program documentation, data processing systems, data files, and data processing equipment located physically in the Department and to establish guidelines for the dissemination of information under the control of California State agencies as found in the State Constitution, in statutes, and in administrative policies:

- Article 1, Section 1, of the Constitution of the State of California defines pursuing and obtaining privacy as an inalienable right.
- The Information Practices Act of 1977 (Civil Code [CC], § 1798, et seq.), places specific requirements on State agencies in the collection, use, maintenance, and dissemination of information relating to individuals.
- The California Public Records Act (Government Code [GC], §§ 6250-6265), provides for the inspection of public records.
- The State Records Management Act (GC, §§ 14740-14770) provides for the application of management methods to create, use, maintain, retain, preserve, and dispose of State records, including the determination of records essential to the continuation of State government in the event of a major disaster. SAM, §§ 1601-1699 contains administrative policies to implement provisions of this law.
- The California Penal Code (PC), § 502 covers the following offenses:
  - Manipulating data, a computer system, or computer network to devise or execute a fraud.
  - Knowingly accessing and, without permission, taking copies or using any data from a computer or taking any supporting documentation, internal or external, to a computer.
  - Theft of computer services.
  - Knowingly accessing and without permission, damaging data, software, or applications/programs, internal or external, to a computer.
  - Disrupting or denying computer services to an authorized user.
- The California PC § 11142 provides that, "Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person who is not authorized by law to receive the record or information is guilty of a misdemeanor."
- The Federal Copyright Act of 1976 provides for the prosecution of persons guilty of the theft of computer programs.

#### **49020.4 Departmental Approach to Information Security**

The departmental approach to information security consists of the following components:

- Assigned management responsibilities for IT risk management. See SAM § 5315.
- Provisions for the integrity and security of automated and paper information, produced or used in the course of CDCR operations. See SAM § 5310 through 5350.
- Provisions for the security of IT facilities, software, and equipment utilized for automation. See SAM § 5330.
- Establishment and maintenance of an IT risk management program, including a risk analysis process. See SAM § 5305.
- Establishment and maintenance of an agency Disaster Recovery Plan. See SAM § 5355.
- A security and ongoing privacy program, including an annual training component for all employees and contractors. Refer to GC 11019.9 and CC 1798.
- Compliance with state audit requirements relating to the integrity of information assets. See SAM § 20000 et seq.
- Policies to ensure that information security and information privacy are incorporated at each phase of the Information Systems Development Life Cycle.
- Risk assessments in accordance with SAM, §5305.1 to ascertain the threats and vulnerabilities that impact the CDCR's information assets and implement appropriate mitigations.
- Information security training for employees who use information assets in the course of their assigned duties to ensure awareness and understanding of the Department's policies.
- Coordination of information security audits for compliance with security policies.

- Reporting of deficiencies for noncompliance with the CDCR security policies for management's corrective action.
- Reporting violations of this policy to the hiring authority of the employee alleged to have committed the act or the Office of Internal Affairs (OIA), when appropriate.
- Adherence to requirements established in SAM, § 5300.3.
- Periodic review of security policies for changes that may be necessary as a result of technology evolution or changes in Department operations.

This policy includes, but is not limited to, the following information assets:

- All categories of automated information including, but not limited to, records, files, and data bases.
- IT facilities, software, and equipment (including personal computer systems) owned or leased by the CDCR.

#### **49020.5 Roles and Responsibilities**

The Department has established the necessary policies, procedures, practices, and controls to protect information assets from accidental or intentional disclosure, destruction, or modification, and to comply with all applicable State and federal privacy acts. Information assets covered by this Article include, but are not limited to:

- All categories of automated information including, but not limited to, records, files, and data bases.
- IT facilities, software, and equipment (including personal computer systems) owned or leased by the CDCR.

The following is a description of the organizational responsibilities for administering this program:

##### **Secretary**

The Secretary has the ultimate responsibility for ensuring a risk management program is established that:

- Assigns management responsibilities for IT risk management.
- Provides for the integrity and security of automated and paper information, produced or used in the course of agency operations.
- Complies with state and audit requirements relating to the integrity of information assets.

##### **Director of Enterprise Information Services (EIS)**

The Director of EIS has the delegated responsibility for establishing and maintaining an information security program within the Department. It is the responsibility of the Director of EIS to assure that information assets are protected from the effects of damage and destruction, as well as from unauthorized or accidental modification, access, or disclosure. Specifically, the Director of EIS is responsible for ensuring:

- Enforcement of State-level security policies.
- Establishment and maintenance of internal policies that provide for the security of IT facilities, software and equipment, and the integrity and security of the agency's automated information.
- Department compliance with reporting requirements related to security issues.
- Appointment of a qualified AISO.
- The participation of management during the planning, development, modification, and implementation of security policies and procedures.

##### **ISO Agency Information Security Officer (AISO)**

SAM, § 5315.1 requires that each agency designate an AISO. Additionally, to avoid conflicts of interest, the following restrictions shall apply to the AISO:

- The AISO shall not have direct responsibility for information processing.
- The AISO shall not have direct responsibility for access management functions.
- The AISO shall not have direct responsibility for any departmental computer-based systems.
- The AISO shall not have any special allegiance or bias toward a particular program or organization.
- The AISO will have direct responsibility for the CDCR Information Security Office.
- The AISO will report allegations of misconduct or criminal activity to OIA and assist with investigations as necessary.

The AISO is responsible for overseeing Agency policies and procedures designed to protect its information assets. In accordance with State policy, the AISO shall be accountable to the Secretary with respect to the following responsibilities:

- Implementation of necessary procedures to ensure the establishment and maintenance of a security program.
- Establishment of security policies and procedures designed to protect information assets.
- Identification of confidential and sensitive information and critical applications.

- Identification of vulnerabilities that may cause inappropriate or accidental access, destruction or disclosure of information, and the establishment of security controls necessary to eliminate or minimize their potential effects.
- Establishment of procedures necessary to monitor and ensure the compliance of established security and risk management policies and procedures.
- Coordination with internal auditors to define their roles in automated information system planning, development, implementation, operations, and modifications relative to security.
- Coordination with the applicable data center's Information Security Officer or staff on matters related to the planning, development, implementation, or modification of information security policies and procedures that affect the Department.
- Acquisition of appropriate security equipment and software.
- Establishment of procedures to comply with control agency reporting requirements.
- Development and maintenance of controls and safeguards to control user access to information.
- Establishment of mechanisms to assure that CDCR staff (with particular emphasis on the owners, users, and custodians of information) are educated and aware of their roles and responsibilities relative to information security.
- Establishment of training programs for CDCR employees related to information security.

#### **EIS Technical Management**

Department technical management has the following responsibilities relative to the Department's information security program:

- Ensuring that management, the Information Security Office, assigned owners, custodians, and users are provided the necessary technical support services with which to define and select cost effective security controls, policies, and procedures.
- Ensuring the implementation of security controls and procedures as defined by the owners of information.
- Ensuring the implementation of system controls necessary to identify actual or attempted violations of security policies or procedures.
- Ensuring that the owners of information and the Information Security Office are notified of any actual or attempted violations of security policies and procedures.

#### **Program Management**

Department program managers have the following responsibilities in relation to the Department's security program:

- Establishing the procedures necessary to comply with State information security policy in relation to ownership, user, and if appropriate, custodian of information responsibilities.
- Ensuring that State program policies and requirements are identified relative to security requirements.
- Ensuring the proper data classification of automated information for which the program is assigned ownership responsibility.
- Ensuring the participation of the Information Security Office and technical staff in identifying and selecting appropriate and cost-effective security controls and procedures, and to protect information assets.
- Ensuring that appropriate security requirements for user access to automated information are defined for files or data bases for which the program is assigned ownership responsibility.
- Ensuring the proper planning, development, and establishment of security policies and procedures for files or data bases for which the program has ownership responsibility, and for physical devices assigned to and located in the program area(s).
- Ensuring that custodians of program information are provided the appropriate direction to implement the security controls and procedures that have been defined.
- Ensuring that procedures are established to comply with control agency reporting requirements.

#### **Program Personnel and Users**

Program personnel have the following security responsibilities:

- Implementing and monitoring data quality assurance functions to ensure the integrity of data for which the program is assigned ownership responsibility.
- Complying with applicable federal, State, and Department security policies and procedures.

- Complying with applicable federal and State statutes.
- Identifying security vulnerabilities and informing program management and the Information Security Office of those vulnerabilities.
- Ensuring that management, the Information Security Office, and assigned owners, custodians, and other users are provided the necessary technical support services with which to define and select cost-effective security controls, policies, and procedures.
- Ensuring the implementation of security controls and procedures as defined by the owners of information.
- Ensuring the implementation of system controls necessary to identify actual or attempted violations of security policies or procedures.
- Ensuring that the owners of information and the Information Security Office are notified of any actual or attempted violations of security policies and procedures.

#### **Data Owners**

The owners of information are responsible for classifying the information, defining precautions for its integrity, disposing of the information, defining initial levels of access needed, filing security incident reports, securing signed security agreements, and forwarding them to the Data Custodian, and identifying the level of acceptable risk.

#### **Data Custodians**

The custodians of information, including the Office of Technology Services (OTech) Data Center, are responsible for complying with applicable laws, policies and procedures established by the owner and the AISO, advising the owner and the AISO of any threats to the information, and notifying the owners and the AISO of any violations of security policies, practices, and procedures.

In addition, the data custodians for an information system have the following access management responsibilities:

- Access Authorization – The granting of permission to execute a set of operations in the system. Access privileges shall be allocated to users on a need-to-use basis, with the minimum required privileges required for their functional role.
- Access Control – Enabling the performance of tasks by hardware, software, and administrative controls that would have the effect of monitoring a system's operation, ensuring data recovery, performing user identification, and granting access to users.
- Accountability – The work necessary to set up the ability to trace violations or attempted violations of system security to the individual(s) responsible.

#### **Internal Auditors**

The Information Security Unit of the Office of Audits and Compliance has the following audit responsibilities in relation to the Department's information security program (DOM, Chapter 4, Article 48, Electronic Data Processing Auditing).

- Examination of the Department's information security policies and procedures for compliance with State information security policies, including control agency audit requirements.
- Identification of possible corrective actions.
- Informing management, the ISO, and the owners, custodians, and users of information of audit findings.

#### **Access Management**

Access Management within the CDCR is:

- A critical responsibility of information system owners and custodians.
- An organizational unit within the EIS.

The access management group and each organization with owner or custodial responsibilities for an information system have the following access management responsibilities:

- Access Authorization. The granting of permission to execute a set of operations in the system. At the lowest level, for example, this would be to grant permission for inmate trust personnel to access the classification of inmates on the Distributed Data Processing System (DDPS). At the highest level, for example, this would be working with the information system owners to physically allow access to a specific information system.
- Access Control. Enabling the performance of tasks by hardware, software, and administrative controls that would have the effect of monitoring a system's operation, ensuring data integrity, performing user identification, recording system access and charges, and granting access to users.
- Accountability. The work necessary to set up the ability to trace violations or attempted violations of system security to the individual(s) responsible.

Additionally, the access management group of the EIS shall maintain the central file of all signed self/joint certification statements and security agreements, and shall provide the ISO, management, and owners with appropriate status reports.

Information Security Coordinators



Every organizational entity that uses computer systems, or uses computer applications shall designate an Information Security Coordinator (ISC) for each site maintained by that entity. The designated ISC shall be responsible for ensuring that applicable CDCR policies and procedures are followed, and shall act as the security liaison to the Information Security Office. The CDCR Information Security Office will serve as the ISC for EIS staff.

A procedure shall be developed by each of these organizational entities, subject to approval by the AISO. The procedure shall be constrained as follows:

- The designation of an ISC for the decentralized or control entity shall be in writing and shall identify the name, work address, and telephone number of the ISC.
- The AISO shall maintain a file of all current and past designated ISCs.
- The designated ISC shall be aware that they are the designated ISC and the responsibility that the designation entails.
- The designated ISC shall ensure compliance with information security policies and procedures, and with any security guidelines issued by the owners of decentralized automated systems.

#### **49020.6 CDCR Information Asset Protection**

CDCR shall provide for the integrity and security of its information assets by identifying all automated files and databases for which CDCR has ownership responsibility, and ensuring that responsibility for each automated file or database is defined with respect to the following:

- Owners of the information within CDCR.
- Custodians of the information.
- Users of the information.
- Classification of the information to ensure that each automated file or database is identified as to its information class in accordance with law and administrative policy.

##### **49020.86.1 Information Security Ownership/Authority**

An owner of any CDCR information shall be the approval authority for all requests for access to such information under his or her control. Approval authority may be delegated to a designated representative. The owner has an obligation to restrict access to the specific information to instances that are necessary and sufficient to meet the demonstrated need or right of the requestor. The owner shall consult with EIS to determine the most appropriate on-line access mechanisms for a specific request, keeping in mind that EIS is obligated to restrict the mechanisms to those that are necessary and sufficient to meet the requestor's need for, or right to, such information.

The owner is ultimately responsible for the integrity of the entrusted information. This responsibility requires that the owner have control over who can access, modify, disclose, or destroy information. The owner shall exercise the responsibility to communicate information security requirements to all appropriate personnel, and to make use of all available security features. Additionally, the owner shall determine that implemented security measures are adequate to meet the requirements of the application, and ensure that an employee's access authority is removed immediately upon separation or change of duties such that access is no longer necessary.

##### **49020.6.2 Classification of Information**

CDCR's records, automated files, and databases are essential public resources that must be given appropriate protections from unauthorized use, access, disclosure, modification, loss, or deletion. The discovery and classification of CDCR Information Assets is a continuing endeavor and requires the ongoing support of information owners and other stakeholders.

- The EIS Enterprise Architecture organization is responsible for maintaining and facilitating the processes and procedures for enterprise governance of CDCR Information Assets and engaging Information Owners and Stakeholders for Information Security Classification decision-making and governance.
- Information Owners are responsible for reviewing and classifying information, solely or with others, for information they own or share ownership of, and for participating in the CDCR Information Governance process; the final ruling for Security Classification decisions rests with the Information Owners.
- Stakeholders are responsible for raising Information security concerns with respect to Information Security Classification and ensuring information is treated appropriately based on duly made classification decisions.

- All users of CDCR Information are responsible for protecting CDCR Information under their control or influence from unauthorized use, access, disclosure, modification, loss, or deletion, including notifying appropriate CDCR authorities when vulnerabilities to CDCR Information is noticed or when Security Classifications or protections for CDCR Information appear inadequate.

CDCR will classify each record, file, and database using the following classification structure:

- Public Information – information maintained by CDCR that is not exempt from disclosure under the provisions of the California Public Records Act (GC §§ 6250-6265) or other applicable state or federal laws (SAM § 5320.5).
- Confidential Information – information maintained by CDCR that is exempt from disclosure under the provisions of the California Public Records Act (GC §§ 6250-6265) or other applicable state or federal laws (SAM § 5320.5).
- High Risk Confidential Information (HRCI) – Non-public information that if disclosed could result in a significant harm (including financial, legal, risk to life and safety or reputational damage) to the CDCR or individual(s) if compromised through alteration, corruption, loss, misuse, or unauthorized disclosure. Examples of HRCI include, but are not limited to, information such as the following:
  - Personally identifiable information such as person's name in conjunction with the person's social security, credit or debit card information, individual financial account, driver's license number, state ID number, or passport number, or a name in conjunction with biometric information;
  - Personal health information such as any information about health status, provisions of health care, or payment for health care information as protected under the Health Insurance and Portability Act of 1996;
  - Correctional Offender Record Information as defined in California PC §§ 13100-13104;
  - All IT infrastructure information that would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of a public agency, including but not limited to firewall and router configurations, server names, IP addresses, and other system configurations;
  - Any document which contains information identifying any Confidential Informant, or confidential information provided, as defined in CCR Title 15, § 3321;
  - Any documentation of information which contains information or data within any Gang Data Base as defined in the Department Operations Manual (DOM) §§ 52070.22 through 52070.24;
  - Records of investigations, intelligence information, or security procedures as specified in the PRA Section 6254(f).
- Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy protected under the California Government Code § 6254(c) or the Peace Officers Bill of Rights under Government Code §§ 3300 et seq.
- Sensitive Information – information maintained by CDCR that requires a higher than normal assurance of accuracy and completeness. Thus the key factor for sensitive information is that of integrity. Typically, sensitive information includes records of financial transactions and regulatory actions.

Personal Information requested by researchers not under the authority of CDCR may only be received by University of California or other non-profit educational institutions and in accordance with the provisions set forth in law, including the prior review and approval by the Committee for the Protection of Human Subjects (CPHS) of the California Health and Human Services Agency before such information is released (SAM § 5320.5). See Civil Code § 1798.24(t).

##### **49020.7 Human Resources Security**

CDCR requires that personnel practices related to security management must include:

- Employment history and background checks on all employees.
- The signing of the Computing Technology User Agreement Form 1857 for all staff that uses CDCR's Information Technology, thereby agreeing to abide by CDCR's Workgroup Computing policies.
- The signing of the CDCR Security Awareness Self-Certification and Confidentiality Form ISO-3025 on an annual basis, thereby certifying the employee shall comply with CDCR's Information Security Policy.

##### **49020.7.1 Segregation of Duties in the Information Security Program**

There shall be a strict separation of duties among, and within, all organizations responsible for using, operating, and developing computer based information systems. Separation of duties shall be maintained to ensure a separation of responsibilities for initiating and authorizing transactions, recording of transactions,

and custody of assets. Segregation of duties, similar to that required in manual systems, shall be implemented in computerized systems.

The following guidelines shall be used regarding such separation of duties:

- Convert and Conceal – No one person should be able to convert a resource to their personal use and be able to conceal the action.
- Custody and Control – No one person should have custody of an asset and at the same time be solely responsible for the accounting for that asset.
- Custody and Access – No one person shall have custody of an asset and, at the same time, have unrestricted access to the records pertaining to that asset.
- Origination and Authorization – No one person shall both originate and authorize a transaction.
- Originate and Maintain – No one person shall both enter a transaction and maintain the related master file.
- Access and Restriction – Access to transactions shall be on a need-to-know basis.

EIS is charged with the responsibility for the development and maintenance of computer based systems for the CDCR. In this capacity, EIS provides a service to actual or potential users of computer-based information systems. In addition, there are several computer “user” groups throughout the Department. Each of these organizations is providing a service to all actual or potential users of computer based information systems.

To ensure that assigned responsibilities are met and that separation of duties is maintained, individuals/programs shall not originate or authorize transactions, have custody or control over online data processing assets, or have the authority to originate master file changes. Source documents shall originate and be controlled by functions independent of such persons/programs.

Appropriate procedures shall be developed, subject to approval by the AISO, to ensure that adequate controls exist to ensure the separation of duties and responsibilities.

The procedures may include variances to the Change Management Process in order to resolve failures of critical applications. Such variances shall provide for audit trails and retroactive release or approval documentation, and require the prior approval of the AISO.

#### **49020.7.2 Annual Information Security Self Certification**

All CDCR employees requiring access to CDCR information assets are responsible for annually self-certifying that they are in compliance with applicable CDCR information security policies. The ISO is responsible for ensuring compliance with this policy. Responsibility for the dissemination of the policies rests with the owner and the designated /ISC; responsibility for compliance rests with the end-users.

The following is required to ensure compliance with the above is maintained:

- A separate statement of self-certification shall be signed by every employee that accesses or uses CDCR’s information assets.
- Each self-certification shall be signed by a representative of the senior management from the organizational entity.
- Each self-certification is to be filed with the local ISC and available for review by the Information Security Office.

#### **49020.7.3 Information Security Awareness**

It is the responsibility of CDCR management at all levels to ensure that personnel are aware of their responsibilities:

- All employees are accountable for the implementation of information security policies and procedures within their areas of responsibility.
- Accountability requires that employees be aware of the Department’s information security policies and procedures.
- All employees that are owners, users, or custodians of a departmental information system shall receive annual information security training.
- Security awareness training shall be given as a part of each employee’s orientation and annually thereafter. Each employee shall receive a copy of the security policy. All employees that access or use information assets shall annually complete and sign a self-certification form.
- All employees changing jobs or exiting owner, user, or custodian status, shall have their security privileges reviewed immediately, and such persons shall be prevented from having any further

opportunity to access information which they no longer have a business need based on their new job duties.

- Employees with the status of owner, user, or custodian shall have a job description that details that status and the security requirements therein.
- Systems, including CDCR’s mission critical systems and Internet access, shall be monitored and activity logs maintained as per the Department’s ISSG.

#### **49020.7.3.1 Security Awareness Training within CDCR**

All persons who have access to any CDCR information shall be provided security awareness training at the time such access begins and at minimum annually thereafter. The Information Security Coordinators shall ensure that security awareness training is provided prior to the employees’ self-certification of their awareness of CDCR’s information security policies, and the renewal of access privileges to CDCR information resources.

Security awareness training falls into the following two categories:

- Information Security
  - All individuals having access to CDCR information shall be made aware of the background, scope, and objectives of CDCR’s information security program and of specific CDCR information security policies and procedures that are applicable to the level and type of access granted to the individual. The minimum training shall consist of completion of the departmental computer-based training module.
- Incident Reporting
  - All CDCR employees shall also be made aware of the events and activities that constitute threats to the organization for which they work and of the actions to be taken when confronted by those events or activities (see DOM § 49020.12).

#### **49020.4 Consequences of Information Security Violations**

During the time that a suspected violation is under investigation, the suspected violator’s access privileges may be revoked or other appropriate action taken to prevent harm to the CDCR.

All violations of security policies or procedures are subject to disciplinary action up to and including dismissal from State service. The specific disciplinary action that shall be taken depends upon the nature of the violation and the impact of the violation on the CDCR’s information assets and related facilities. For further information see DOM Chapter 3, Article 22, Employee Discipline.

#### **49020.7.5 Return of Information Assets**

All employees, contractors, and third party users shall immediately return all of the CDCR’s information and assets in their possession upon termination of their employment, contract, or agreement.

#### **49020.7.6 Removal of Access Rights**

Upon termination, position change or change of duties, the access rights of an individual to assets associated with information systems and services shall be evaluated. This will determine whether it is necessary to remove access rights. Changes of employment should be reflected in removal of all access rights that were not approved for the new position. The access rights that should be removed or adapted include physical and logical access, keys, identification cards, information processing facilities, subscriptions, and removal from any documentation that identifies them as a current member of the group. If a departing employee, contractor or third-party user has known passwords for accounts remaining active, these should be changed upon termination or change of employment, contract or agreement.

#### **49020.8 Physical Access Control and Environmental Safety**

The sensitivity of CDCR’s information assets and personnel safety requires that all CDCR computer facilities have physical controls to prevent unauthorized access.

All information resource facilities must be physically protected in proportion to the criticality or importance of their function. Physical access procedures must be documented, and access to such facilities must be controlled. Access lists must be reviewed at least quarterly or more frequently depending on the nature of the systems that are being protected.

Each owner and custodian of departmental information systems shall establish physical controls over their information assets. This requirement applies to workstations with confidential or sensitive information and includes network and data communications components, as well as, application and database servers.

#### **49020.8.1 Use of Secure Areas to Protect Data and Information**

- Use physical methods to control access to areas. These methods include, but are not limited to, locked doors, secured cage areas, vaults, ID cards, and biometrics.
- Restrict building access to authorized personnel.
- Identify areas within a building that should receive special protection and be designated as a secure area. An example is a server room.
- Security methods should be commensurate with security risk.

- Ensure that physical barriers are used to prevent contamination from external environmental sources.
- Compliance with fire codes.
- Installation, use and maintenance of air handling, cooling, UPS and generator backup to protect the IT investment in server rooms.

#### **49020.8.2 Physical Access Management to Protect Data and Information**

- Access to facilities that host critical CDCR IT infrastructure, systems and programs must follow the principle of least privileged access. Personnel, including full and part-time staff, contractors and vendors' staff should be granted access to only those facilities and systems that are necessary for the fulfillment of their job responsibilities.
- The process of granting physical access to information resource facilities must include the approval of the Director of EIS, or his/her designee. Access reviews must be conducted at least quarterly, or more frequently, depending on the nature of the systems that are being protected. Removal of individuals who no longer require access must then be completed in a timely manner.
- Access cards and keys must be appropriately protected, not shared or transferred, and returned when no longer needed. Lost or stolen cards/keys must be reported immediately.
- Security clearance for visitors should include, but is not limited to, a sign-in book which includes the date and time of entry and departure, employee escort within a secured area, ID check and ID badges where critical information resources are contained.

#### **49020.8.3 Protecting Against External and Environmental Threats**

- Consideration shall be given to any security threats presented by neighboring premises, e.g. a fire in a neighboring building, water leaking from the roof or in floors below ground level or an explosion in the street.
- The following guidelines should be considered to avoid damage from the fire, flood, earthquake, explosion, civil unrest, and other forms of natural or man-made disaster:
  - Hazardous or combustible materials should be stored at a safe distance from a secure area. Bulk supplies such as stationary should not be store within a secure area;
  - Fallback equipment and back-up media should be sited at a safe distance to avoid damage from a disaster affecting the main site;
  - Appropriate firefighting equipment should be provided and suitably placed.

#### **Working in Secure Areas**

Physical protection and guidelines for working in secured areas shall be applied. The following guidelines should be considered:

- Personnel should only be aware of the existence of, or activities within, a secure area on a need to know basis;
- Unsupervised personnel working in secure areas should be avoided both for safety reasons and to prevent opportunities for malicious activities;
- Vacant secure areas should be physically locked and periodically checked;
- Photographic, video, audio or other recording equipment, such as cameras in mobile devices, should not be allowed, unless authorized.

#### **49020.8.4 Data Processing Equipment Siting and Protection**

Data processing equipment shall be sited and protected to reduce the risks from environment threats and hazards, and opportunities for unauthorized access.

The following guidelines shall be applied to protect equipment:

- Equipment should be sited to minimize unnecessary access into work areas;
- Facilities handling sensitive data should be positioned and the viewing angle restricted to reduce the risk of information be viewed by unauthorized persons during their use, and storage facilities secured to avoid unauthorized access;
- Items requiring special protection should be isolated to reduce the general level of protection required;
- Controls shall be adopted to minimize the risk of potential physical threats, e.g., theft, fire, explosive, smoke, water (or water supply failure), dust, vibration, chemical effects, electrical supply

interference, communications interference, electromagnetic radiation, and vandalism;

- Guidelines for eating, drinking, and smoking in proximity to facilities should be established;
- Equipment processing confidential and/or sensitive information shall be protected to minimize the risk of information leakage due to emanation.

#### **49020.8.5 Cabling Security**

Power and telecommunications cabling carrying data or supporting information services shall be protected from interception or damage. The following guidelines should be considered:

- Power and telecommunication lines into facilities shall be underground, where possible, or subject to adequate alternative protection;
- Network cabling shall be protected from unauthorized interception or damage, for example by using conduit or by avoiding routes through public areas;
- Power cables should be segregated from communications cables to prevent interference;
- Clearly identifiable cable and equipment markings shall be used to minimize handling errors, such as accidental patching of wrong network cables;
- For sensitive or critical systems further controls to consider include:
  - Installation of armored conduit and locked rooms or boxes at inspection and termination points;
  - Use of alternative routings and/or transmission media providing appropriate security;
  - Use of fiber optic cabling;
  - Use of electromagnetic shielding to protect the cables
  - Initiation of technical sweeps and physical inspections for unauthorized devices being attached to cables;
  - Controlled access to patch panels and cable rooms.

#### **49020.8.6 Secure Disposal or Re-Use of Equipment**

All items of equipment containing storage media shall be checked by the appropriate IT support staff to ensure that any confidential or sensitive data and licensed software has been removed or securely overwritten prior to disposal.

#### **49020.8.7 Removal of Property**

Equipment, information or software shall not be taken off-site without prior authorization.

For administrative purposes, all information residing on CDCR's computers that is considered to be sensitive or confidential shall be treated as such by all persons who have access to it and shall be protected from unauthorized access.

#### **49020.9 Information Integrity and Data Security**

Security controls shall be established to ensure that data entered into and stored in its automated files or databases are complete and accurate, as well as ensuring the accuracy of disseminated information. Security measures will be established to ensure that access is limited to authorized users.

##### **49020.9.1 High Risk Confidential Information**

No High Risk Confidential Information (HRCI) shall be present on any computer resource, including workstations that are not under the CDCR's direct control unless authorized on a case-by-case basis by the AISO and the owner of the information unless encrypted using a CDCR approved encryption standard. HRCI is defined as non-public information that if disclosed could result in a significant harm (including financial, legal, risk to life and safety or reputational damage) to the CDCR or individual(s) if compromised through alternation, corruption, loss, misuse, or unauthorized disclosure. Examples of HRCI include, but are not limited to, information such as the following:

- Personally identifiable information such as person's name in conjunction with the person's social security, credit or debit card information, individual financial account, driver's license number, state ID number, or passport number, or a name in conjunction with biometric information;
- Personal health information such as any information about health status, provisions of health care, or payment for health care information as protected under the Health Insurance Portability and Accountability Act of 1996;
- Correctional Offender Record Information as defined in California PC §§ 13100-13104;
- All IT infrastructure information that would reveal vulnerabilities to, or otherwise increase the potential for an attack on, an information technology system of a public agency, including but not limited to firewall and router configurations, server names, IP addresses, and other system configurations;
- Any Document which contains information identifying any Confidential Informant, or information provided, as defined in CCR Title 15, Section 3321;
- Any documentation of information which contains information or data within any Gang Data Base as defined in the DOM §§ 52070.22 through 52070.24;

- Records of investigations, intelligence information, or security procedures as specified in the PRA § 6254(f).

Appropriate procedures to utilize confidential CDCR information on any of CDCR's computer resources, including any computer such as mainframes, servers, workstation, and other information assets on the CDCR network are outlined in this Article. The level of security measures shall be commensurate with the data classification of the information involved.

#### **49020.9.2 Confidentiality of Security Mechanisms**

The specific security mechanisms used by the Department to control access to its information resources are confidential.

Information concerning specific details of access controls shall not be divulged except on a need-to-know basis, and then only to persons for whom there are signed security agreements on file.

#### **49020.9.3 Confidentiality of Production Application Software**

All documentation concerning production applications residing on the CDCR's mainframes, servers, network infrastructure, and workstations is confidential.

Appropriate procedures to protect and preserve the confidentiality of an application's documentation are to be developed by the data custodian that has responsibility for, or custody of, such application. The procedures shall ensure that documentation is not divulged except on a need-to-know basis, and then only to persons for whom there are signed security agreements on file.

#### **49020.9.4 Confidentiality of Information on CDCR Information Systems**

Appropriate procedures shall be developed by the appropriate data custodians to protect and preserve the confidentiality of the Department's information stored or residing in or on CDCR controlled environments, such as the CDCR Network, individual stand-alone desktop and laptop workstations, browser-based applications such as Parole-LEADS, and the SOMS. Additionally, no High Risk Confidential Information shall be faxed, reproduced (e.g., photocopied), distributed via unencrypted e-mail, downloaded to a non-confidential system, given to an unauthorized recipient, or transmitted by telephone to any entity without appropriate security controls in place that are documented in the CDCR ISSG.

#### **49020.9.5 Confidentiality Agreements**

Requirements for confidentiality or non-disclosure agreements reflecting the CDCR's needs for the protection of information should be identified and regularly reviewed. Confidentiality and non-disclosure agreements protect organizational information and inform signatories of their responsibility to protect, use, and disclose information in a responsible and authorized manner.

Confidentiality or non-disclosure agreements should address the requirement to protect confidential information using legally enforceable terms. To identify requirements for confidentiality or non-disclosure agreements, the following elements should be considered:

- A definition of the information to be protected (e.g., confidential information);
- Expected duration of an agreement, including cases where confidentiality might need to be maintained indefinitely;
- Required actions when an agreement is terminated;
- Responsibilities and actions of signatories to avoid unauthorized information disclosure (such as "need to know");
- Ownership of information, trade secrets and intellectual property, and how this relates to the protection of confidential information;
- The permitted use of confidential information, and rights of the signatory to use information;
- The right to audit and monitor activities that involve confidential information;
- Process for notification and reporting of unauthorized disclosure or confidential information breaches;
- Terms for information to be returned or destroyed at agreement cessation; and
- Expected actions to be taken in case of a breach of this agreement.

Based on the CDCR's security requirements, other elements may be needed in a confidentiality or non-disclosure agreement. Confidentiality and non-disclosure agreements should comply with all applicable laws and regulations for the jurisdiction to which it applies. Requirements for confidentiality and non-disclosure agreements should be previewed periodically and when changes occur that influence these requirements.

#### **49020.9.6 Information Sharing with External Parties**

The risk to CDCR's information and facilities from business processes involving external parties should be identified and appropriate controls implemented before granting access.

When there is a need to allow an external party access to the facilities or information of the CDCR, a risk assessment should be carried out to identify any requirements for specific controls. The identification of risks related to external party access should take into account the following issues:

- The facilities an external party is required to access;
- The type of access the external party will have to the information and facilities, e.g., physical access to offices, computer rooms, filing cabinets or logical access to an organization's databases and information systems;
- Network connectivity between the organization's and the external party's network(s), e.g., permanent connection, remote access;
- Whether the access is taking place on-site or off-site;
- The value and sensitivity of the information involved, and its criticality for business operations;
- The controls necessary to protect information that is not intended to be accessible by external parties;
- The external party personnel involved in handling the organization's information;
- How the organization or personnel authorized to have access can be identified, the authorization verified, and how often this needs to be reconfirmed;
- The controls employed by the external party when storing, processing, communicating, sharing, and exchanging information;
- The impact of access not being available to the external party when required, and the external party's entering or receiving inaccurate or misleading information;
- Practices and procedures to deal with information security incidents and potential damages, and the terms and conditions for the continuation of external party access in the case of an information security incident;
- Legal and regulatory requirements and other contractual obligations relevant to the external party that should be taken into account; and
- How the interests of any other stakeholders may be affected by the arrangements. Access by external parties to the CDCR's information should not be provided until the appropriate controls have been implemented and, where feasible, a Data Sharing Agreement (DSA) or Memorandum of Understanding (MOU) has been signed, defining the terms and conditions for the connection or access and the working arrangement. Generally, all security requirements resulting from work with external parties or internal controls should be reflected by the agreement with the external party.

It should be ensured that the external party is aware of their obligations, and accepts the responsibilities and liabilities involved in accessing, processing, communicating, or managing the organization's information and facilities.

#### **49020.9.7 Personal Computer Security**

Information maintained in a personal computer system, including laptop computers and mobile devices, must be subjected to the same degree of management control and verification of accuracy that is provided for information that is maintained in other automated files. Files containing High Risk Confidential Information or sensitive data shall not be stored in personal computer systems unless it can be demonstrated that doing so is in the best interest of CDCR and that security measures have been implemented to provide adequate protection. Proposals to use desktop or laptop computers to maintain or access files containing High Risk Confidential Information or sensitive data must be approved by the Agency Information Security Officer (SAM § 5315.1) before implementation. The Agency Information Security Officer will determine that the proposal complies with all applicable provisions of the SAM dealing with information security and risk management (SAM §§ 5300 through 5399).

#### **49020.9.8 Personal Computing Devices**

Using personally-owned devices to access departmental information resources may jeopardize the integrity and security of CDCR's information resources. In regard to personally-owned devices, the following provisions shall be followed:

- Personally-owned electronic devices shall not connect to, transfer data to or from, or be used to copy data to or from the CDCR Network;
- Personally-owned smartphones such as Android devices, iPhones, Treos, BlackBerry devices shall not connect to, transfer data to or from, or be used to copy data to or from the CDCR Network. CDCR e-mail shall not be setup for delivery or used on any personally-owned Smartphone or electronic device;
- Personally-owned USB memory "sticks," "cards," or "external drives" shall not be used to copy, forward, or transfer CDCR data from CDCR local drives, networks, or e-mail systems.

Exemptions to these provisions shall require approval from all impacted data owners and the Agency Information Security Officer.

#### 49020.9.9 Mobile Computing and Storage Devices

All mobile computing and storage devices that access the CDCR network and/or store CDCR data must be compliant with CDCR Information Security Policies and Standards. In regard to mobile computing and storage devices, the following provisions shall be followed:

- High Risk Confidential Information on any stored on mobile computing and storage devices must be encrypted;
- Any and all mobile computing devices used within the CDCR information and computing environments must meet all applicable CDCR encryption standards. Mobile computing devices shall be tracked in an information assets inventory;
- CDCR information security policies applicable to desktop or workstation computers apply to mobile computing devices;
- Employees will delete information from their portable device or portable storage media once it is no longer needed;
- All CDCR laptops shall connect to the CDCR network at a minimum of 42 days or another designated time frame to receive updates;
- Personal long distance calls shall not be made from state-issued handheld devices except as authorized in DOM Chapter 1 Organizational Structure, Article 12 – Telephones, Facsimiles, and Cellular Type Telephones.
- Personal local calls shall not be made from state-issued handheld devices except as authorized in DOM Chapter 1 Organizational Structure, Article 12 – Telephones, Facsimiles, and Cellular Type Telephones.

#### 49020.10 Access Control

Access to any of the CDCR's computerized information on any of the CDCR's computers or the OTech Data Center is restricted to authorized persons. All access to CDCR's information systems shall be protected by at least user ID/password access control. Any software installed on information systems which use password protection features shall provide for non-display of, and restricted control over, passwords. No software that allows the authentication process to be bypassed or comprised may be installed on those computers.

- Any person requiring such access shall:
- Be a State employee or a bona fide representative of the Department.
- Demonstrate either a need for, or a legal right to, the information.
- Receive formal authorization from the owner of the information.
- Accept legal responsibility for preserving the security of the information.

The sensitivity of the information residing in the CDCR's computerized environments requires strict controls over who is allowed access to that environment, which information may be accessed, and how that information may be accessed.

The following uniform access authorization procedure assumes that all pertinent procedures have been followed, and all CDCR-required system approvals have been obtained. This policy is for access to existing information resources. The uniform access authorization procedure is as follows.

- All access requests shall be sent to the system owner with a copy to the AISO. The request shall contain the following:
  - The name of the requester.
  - The specific information for which access is desired.
  - The reason(s) why the requestor has a need for, or right to, the information.
  - The frequency and duration of the requested access.
  - The type of access (e.g., read, update, copy, etc.).

After the data owner approves the request for access and returns it to the requestor, the approval is then routed to either EIS or the requesting organization's ISC for action.

#### 49020.10.1 Information Security-Responsibilities of Password Owners

Access to CDCR's information systems is restricted by password to only authorized persons. Authorized persons shall never reveal their passwords to anyone for any reason. Authorized persons using a computer shall log off or activate a password-protected screensaver before leaving the immediate vicinity of the computer or terminal. Additionally, no ability shall exist for a user to store, load, or invoke the log on process on any CDCR computer, by any method that includes the

user Resource Access Control Facility (RACF), ID, or the password. Violation of this Policy may result in the revocation of all access privileges and appropriate disciplinary action. Such disciplinary action may be based not only on the violation itself, but also on all activity performed by those obtaining access to a system or information asset due to a violation of this Policy.

The password is a major "key" to the integrity of CDCR's automated environment. The password policy exists to protect the integrity of that "key."

User IDs shall never be duplicated. User ID security is backed up by the existence of passwords. Owners are responsible for anything for which their password is used. Therefore, as a matter of self-protection, the password owner shall:

- Not tell anyone what their password is.
- Not write down their password.
- Not use an obvious password. Obvious passwords include one's name or nickname, the names of one's children, one's user ID, names, or words associated with hobbies ("DANCER," "SKIER," "GOLFER," etc.), names associated with favorite books, TV shows, or movies ("JEDI," "FRODO," "PICARD," "RHETT," etc.), "SECRET," "SECURE," "PASSWORD," all spaces or the "enter" key, "9999999," "XXXXXXX," driver's license, social security numbers, the name of the current month, etc.
- Not use words that can be looked up in any dictionary, including foreign languages (e.g., Latin).
- Use non-obvious passwords, such as word combinations rather than single words ("COMPUTERUSER," "SKIBUM," "IAMDANCER," etc.) intentionally misspelled words ("KRAKER," "KORECTUNS," etc.), or random combinations of letters and numbers, etc.
- Use passwords that are at least eight characters long.
- Change the password in accordance with specific application requirements, every 30 to 90 days, depending on the application.

If the password owner becomes aware that a correct password is being rejected, that user should immediately notify the local ISC and the AISO, since this may indicate that someone has discovered the password and has changed it without the owner's permission, resulting in the owner no longer knowing his or her own password.

If a password is forgotten, the local IT support staff or the CDCR Help Desk shall be contacted for a password reset. They shall validate the owner's identity and give a new temporary, one-time password. The owner shall change this password immediately.

If anyone asks for a password, the owner shall refuse to provide it and shall refer the person to a supervisor. The owner shall then notify the supervisor.

Anyone who knows that any password has been compromised should take the following actions:

- Notify the ISC;
- Notify the immediate manager/supervisor;
- Notify the Information Security Office;
- Complete a "security incident report" and submit it to the Information Security Office.

#### 49020.10.2 Information Security-Responsibilities of Supervisors

People are provided passwords because their jobs require them to access CDCR information systems. When a password owner terminates employment or is reassigned to duties that do not require such access, the immediate supervisor shall, without delay, notify the applicable party of the change.

The authority to access CDCR computers entails a significant risk to the Department's ability to function. Such authority is restricted to persons with a demonstrated need for access. Because that need is, by definition, a function of the person's specific job duties, any change in those duties requires a reevaluation of the need for access. If the duties change such that the need for access no longer exists, the access shall be revoked.

If any password owner changes job duties (via resignation, promotion, transfer, reorganization, separation, etc.), that individual's immediate supervisor shall initiate the following:

- Reevaluate whether the person's new duties still require the authority to access CDCR's computers.
- Notify the local IT support staff or the access management group if the person no longer requires access authority.
- Notify the owner of the relevant CDCR information so that the appropriate paperwork can be initiated to document the removal of the person's access privileges if the person no longer requires access authority.

The lack of use of the access authority is assumed to be proof that the authority is no longer required. Access authority to information assets may be revoked without notice if they are not used regularly.

### 49020.10.3 Requesting Authority to Access CDCR's Mainframe Environments

Access to an entire mainframe environment shall not be authorized. Access to specific portions of that environment, such as, but not limited to, the system development facilities, shall be authorized for specific organizations. Access to a specific application can be authorized by the Information Owner as a means of meeting a specific request for specific information.

### 49020.10.4 Unattended Workstations

Active workstations or terminal sessions must not be left unattended. Any authorized or unauthorized activity on an unattended workstation will be attributed to the person whose logon and password activated the terminal or workstation. All sessions shall either be terminated when leaving the immediate area, or protected with a password-activated screensaver.

### 49020.10.5 Restrictions on Using CDCR Information Assets

The use of all CDCR information assets including any mainframe computers, servers, notebook, laptop and workstation desktop systems, network components, and applications run on or accessed from CDCR computers is restricted to official CDCR business.

### 49020.10.6 Reassignment of Workstations

The local computer coordinators shall erase all electronic documents from the hard drive of a computer once any staff member of the CDCR has ceased using that computer. All forms of electronic documents that the previous staff member created, received, or used shall be removed. As needed, the electronic documents may be transferred to another computer. Notification of the previous staff member's being placed on litigation hold or being under investigation requires that the information be stored and properly secured until further notification.

All CDCR employees shall also be made aware of the events and activities that constitute threats to the organization for which they work and of the actions to be taken when confronted by those events or activities.

### 49020.11 Information Systems Acquisitions, Development and Maintenance

Information systems include operating systems, infrastructure, business applications, off-the-shelf products, services, and user-developed applications. The design and implementation of the information system supporting the business process can be crucial to security. Security requirements shall be identified and agreed upon prior to the development and/or implementation of information systems. All security requirements shall be identified at the requirements phase of a project and justified, agreed upon, and documented as part of the overall business case for an information system.

#### 49020.11.1 Correct Processing in Applications

Appropriate controls shall be designed into applications to ensure correct processing. These controls should include data validation of input data, internal processing and output data. Additional controls may be required for systems that process, or have an impact on, sensitive, valuable or critical information.

##### 49020.11.1.1 Input Data Validation

Checks shall be applied to the input of transactions. The following guidelines should be considered:

- Dual input or other input checks, such as boundary checking or limiting fields to specific ranges of input data;
- Periodic review of the content of key fields or data files to confirm their validity and integrity;
- Inspecting hard-copy input documents for any unauthorized changes (all changes to input documents should be authorized);
- Procedures for responding to validation errors;
- Procedures for testing the plausibility of the input data;
- Defining the responsibilities of all personnel involved in the data input process;
- Creating a log of the activities involved in the data input process.

##### 49020.11.1.2 Message Integrity

An assessment of security risks should be carried out to determine whether message integrity is required and to identify the most appropriate method of implementation. Data output from an application shall be validated to ensure that the processing of stored information is correct.

Output validation may include:

- Plausibility checks to test whether the output data is reasonable;
- Reconciliation control counts to ensure processing of all data;
- Providing sufficient information for a reader or subsequent processing system to determine the accuracy, completeness, precision, and classification of the information;
- Procedures for responding to output validation tests;
- Defining the responsibilities of all personnel involved in the data output process;
- Creating a log of activities in the data output validation process.

### 49020.11.2 Cryptographic Controls

Cryptographic controls should be considered to achieve:

- Confidentiality: using encryption of information to protect sensitive or critical information either stored or transmitted;
- Integrity/authenticity: using digital signatures or message authentication codes to protect the authenticity and integrity of stored or transmitted sensitive or critical information;
- Non-repudiation: using cryptographic techniques to obtain proof of the occurrence or non-occurrence of an event or action.

Based on a risk assessment, the required level of protection shall be identified taking into account the type, strength, and quality of the encryption algorithm required. All cryptographic keys shall be protected against modification, loss, and/or destruction.

### 49020.11.3 Security of System Files

To minimize the risk of corruption to operation systems, the following procedures shall be implemented:

- The updating of operation software, applications, and program libraries, shall only be performed by trained administrators upon management authorization;
- Operational systems shall only contain approved executable code, and not development code or compilers;
- A rollback strategy shall be in place before changes are implemented;
- An audit log shall be maintained of all updates to operational program libraries;
- Previous versions of application software shall be retained as a contingency measure.

Decisions to upgrade to a new software release should take into account the business requirements for the change, and the security of the release, i.e. the introduction of new security functionality or the number and severity of security problems affecting this version. Software patches shall be applied when they can help to remove or reduce security weaknesses.

Physical or logical access shall only be given to non-CDCR employees for support services when necessary, and with approval from the AISO. Access to CDCR information resources should be monitored. Computer software that relies on externally supplied software and modules shall be monitored and controlled to avoid unauthorized changes, which could introduce security weaknesses.

### 49020.11.4 Protection of System Data

The use of operational databases containing personal information or any other sensitive information for testing purposes should be avoided. If personal or otherwise sensitive information is used for testing purposes, all sensitive details and content should be removed or modified beyond recognition before use.

### 49020.11.5 Access Control to Program Source Code

Access to program source code and associated items (such as designs, specifications, verification plans and validation plans) shall be strictly controlled, in order to prevent the introduction of unauthorized functionality and to avoid unintentional changes.

### 49020.11.6 Security in Development and Support Processes

Ensuring the security of application system software and information is essential. As such, production environments shall be strictly controlled.

#### 49020.11.6.1 Change Control Procedures

Formal change control procedures shall be documented and enforced in order to minimize the corruption of information systems. Introduction of new systems and all changes that could possibly have an impact on the users or system availability shall follow a formal process of documentation, specification, testing, quality control, and managed implementation.

This process shall include an analysis of the impacts of changes, and specification of security controls needed. This process shall also ensure that existing security and control procedures are not compromised, that support programmers are given access only to those parts of the system necessary to perform or complete their work, and that formal agreement and approval for any change is obtained.

The following operational change control procedures shall be integrated:

- Maintain a record of the agreed authorization levels;
- Ensure changes are submitted by authorization users and have management approval;

- Review controls and integrity procedures to ensure that nothing will not be compromised by the changes;
- Identify all software, information, database entities, and hardware that require amendment;
- Obtain form approval from the Change Control Board before work commences;
- Ensure system documentation is updated on the completion of the change and that old documentation is archived or disposed of;
- Maintain version control for all software updates;
- Maintain an audit trail of change requests;
- Ensure that operating documentation and user procedures are changed as necessary to remain appropriate;
- Ensure that the implementation of changes take place at the right time and does not have a significant impact to the business involved.

#### **49020.11.6.2 Technical Review of Applications after Operating System Changes**

When operating systems are changed, critical business applications shall be reviewed and tested to ensure there is no adverse impact on operations or security.

#### **49020.11.6.3 Outsourced Software Development**

Outsourced software development shall be supervised and monitored by EIS.

#### **49020.12 Incident Management**

To ensure information security events and weaknesses associated with information systems are communicated in a manner allowing timely corrective actions to be taken, formal event reporting and escalation procedures shall be in place. All employees, contractors and third-party users shall be made aware of the procedures for reporting the different types of events and weaknesses that might have an impact on the security of the CDCR's information assets.

##### **Incident Reporting**

It is the responsibility of all departmental employees to report all incidents that would place the Department's information assets at risk. The following incidents shall be reported through the local ISC to the Information Security Office within three days of becoming aware that a security incident has occurred:

- Unauthorized access to, or modification of, State-owned or State-managed data, including non-electronic data such as reports, documentation, and hard copy files.
- Unauthorized use of, or access to, State computer resources, including computer networks and services as well as systems not necessarily connected to a network.
- Unauthorized access to, or modification of, computer software, including operating systems, networks, configurations, and applications. This includes the introduction of malicious software such as viruses, worms, and other malicious software.
- Deliberate or unauthorized acts resulting in disruption of State computer services, including "Denial of Service" attacks.
- Unauthorized use of user account or Internet domain names.
- Destruction of, or damage to, State facilities and/or information assets.
- Break-in or other unauthorized access to State facilities resulting in compromise to the data or computer systems housed within those facilities.
- Security weaknesses that pose a threat to CDCR information resources.

The Information Security Office shall investigate all incidents.

#### **49020.12.1 Incident Report Format**

The following information concerning each incident shall be reported to the Information Security Office within three working days of becoming aware of the occurrence of the incident:

- Date and time.
- Location.
- Description of what happened.
- Estimated damages.
- Description of corrective action taken or planned.
- Estimated costs associated with corrective actions.
- If known, identity of those responsible for the incident.
- Descriptions of actions taken or planned against those responsible for the incident.

- Contact name and phone number of the person reporting the incident.

The report submitted to the Information Security Office shall be signed by the appropriate Warden, Regional Parole Administrator, Director, or Assistant Secretary.

Incidents involving the following shall be forwarded to the State Office of Information Services (OIS) within five business days of the initial report, and shall be signed by the AISO and Secretary or there authorized delegate:

- CDCR-owned or CDCR managed data, without authorization, was damaged, destroyed, deleted, shared, altered, or copied, or used for non-state business. This includes computer documentation and configuration information, as well as as electronic and non-electronic data and reports.
- Unauthorized parties accessed one or more CDCR computers, computer systems, or computer networks. This includes deliberate and unauthorized uses of CDCR-owned computer services, as well as, "hacker attacks."
- Someone has accessed and without permission added, altered, damaged, deleted, or destroyed any computer programs which reside or exist internal or external to a CDCR computer, computer system, or computer network.
- Disruption of CDCR computer services or denial of computer services occurred in a manner that appears to have been caused by deliberate and unauthorized acts.
- A contaminant was introduced into a CDCR computer, computer system, or computer network. This includes, but is not limited to, viruses, Trojans, worms, and other types of malicious attacks.
- Internet domain names and/or users account names have been used without permission in connection with the sending of one or more electronic mail messages, and thereby caused damage to a CDCR computer, computer system, or computer network, or misrepresented CDCR or CDCR employees in electronic communications.
- Damage or destruction of CDCR information processing facilities has occurred.
- Physical intrusions into CDCR facilities have occurred that may have resulted in the compromise of CDCR data or computer systems.
- Lost, damaged, or stolen devices used for information processing.

The California Highway Patrol's Emergency Notification and Tactical Alert Center (ENTAC) shall be notified of the occurrence of an incident within one day of receipt of the initial report. Incidents involving "Personally Identifiable Information" (PII) or "Personal Health Information" (PHI) involving more than 500 California Residents shall be reported to the Attorney General.

#### **49020.12.2 Collection of Evidence**

When misconduct is discovered which constitutes an information security incident in conjunction with a possible violation of departmental policy or criminal violation, precaution must be taken to avoid contamination of the possible electronic evidence. Prior to taking action, the discoverer should contact the Hiring Authority and/or the Office of Internal Affairs (OIA) for direction, if the misconduct could lead to an administrative investigation. If the misconduct rises to the level of criminal misconduct, the OIA must be notified immediately prior to any action being taken.

When there is any incident that involves the preservation of any evidence and after the first responder has consulted with the Hiring Authority/OIA, the first responder is responsible to preserve the electronic crime scene and recognize, collect, and safeguard the digital evidence and/or non-digital evidence. First responders and managers who supervise personnel who process such events should be familiar with the information in this section and perform their duties.

Digital evidence includes all information and data of value to an investigation that is stored on, received, or transmitted by an electronic device. All other evidence is non-digital evidence.

When dealing with digital evidence, general forensic and procedural principles should be applied:

- The process of collecting, securing, and transporting digital evidence should never change the evidence and integrity of the chain of evidence must be maintained.
- Digital evidence should only be examined and/or acquired by those trained specifically for that purpose. First responders without proper training, equipment, or skills should not attempt to explore the contents of or to recover information from any electronic device.
- Everything done during the seizure, transportation, and storage of digital evidence should be fully documented, and preserved. Documentation should include the specific location of the evidence found, how it was collected, labeled, and preserved.
- Package and transport digital evidence in a secure manner consistent with chain of evidence procedures.
- Any Forensic work shall be performed on copies of the digital evidence. The original device(s) shall be secured and protected for the entire process until a

matter has been determined closed. The original drive shall not be imaged or cloned without consulting first with the OIA.

When dealing with all other forms of non-digital evidence:

- The original evidence shall be kept securely with a record of the individual who located it.
- The individual who located the original evidence shall prepare a record of the location of the evidence, when the evidence was found, who witnessed the discovery of the evidence.
- Package and transport of non-digital evidence in a secure manner consistent with chain of evidence procedures.

#### **49020.13 Failure to Correct Information Security Deficiencies**

Should any audit indicate that the State's security policies are not established or that the Department has not taken corrective action with respect to security deficiencies, the Department may be subject to any or all of the following:

- Further audit and review by the Department of Finance (DOF), Bureau of State Audits (BSA), State Controller's Office (SCO), and/or Department of Justice (DOJ).
- Revocation by the DOF of delegated approval authority for IT projects.
- Application of penalties specified in GC § 1222.

#### **49020.14 Technical Vulnerabilities Management**

Technical vulnerability management shall be implemented in an effective, systematic, and repeatable way with measurements taken to confirm its effectiveness.

A current and complete inventory of information assets will be maintained. Specific information gathered should include software vendor, version numbers, software installed and person(s) responsible for the software installation. Appropriate timely action shall be taken in response to the identification of potential technical vulnerabilities. The following should be established:

- EIS shall define and establish the roles and responsibilities associated with technical vulnerability management, including vulnerability monitoring, vulnerability risk assessment, patching, asset tracking, and any coordination responsibilities required;
- Information resources that will be used to identify relevant technical vulnerabilities and to maintain awareness about them should be identified for software and other technology (based on the asset inventory list); these information resources should be updated based on changes in the inventory, or when other new or useful resources are found;
- A timeline should be defined to react to notifications of potentially relevant technical vulnerabilities;
- Once a potential technical vulnerability has been identified, EIS shall identify the associated risks and the actions to be taken;
- Depending on the urgency of which a technical vulnerability needs to be addressed, the action taken shall be carried out according to change control procedures or by following the Department's information security incident response procedures;
- If a patch is available, the risks associated with installing the patch should be assessed (the risks posed by the vulnerability should be compared with the risk of installing the patch);
- Patches should be tested and evaluated before they are installed to ensure they are effective and do not result in side effects that cannot be tolerated; if no patch is available, other controls should be considered, such as:
  - Turning off services or capabilities related the vulnerability
  - Adapting or adding access controls, e.g., firewall rules, at the network border;
  - Increased monitoring to detect or prevent actual attacks;
  - Raising awareness of the vulnerability.

Employees, contractors, and third-party users of information systems and services shall not attempt to prove suspected security vulnerabilities. Testing vulnerabilities may be interpreted as a potential misuse of the system and could cause damage to the information system or service and result in disciplinary actions for the individual performing the test.

#### **49020.15 Confidential or Sensitive Information Stored on Workstations**

The nature of information classified as confidential or sensitive requires strict controls over access to such assets (SAM § 5335.2). Files containing confidential or sensitive data (as defined in SAM § 5335.2)

should not be stored in personal computer systems unless it has been demonstrated that doing so is in the best interest of the Department and that security measures have been implemented to provide adequate protection and approval from the AISO has been given.

With the aforementioned approval, confidential or sensitive information may be stored on or accessed with workstations in accordance with the following provisions:

- Only authorized personnel may have access to confidential or sensitive data.
- Workstations containing or capable of accessing such data shall be equipped with hardware and/or software that provide for authentication techniques, such as password protection of confidential files.
- HRCI and sensitive files shall be encrypted, if the owner deems it necessary. Encryption software must comply with standards documented in the AISO's ISSG.
- Backup files of confidential data shall be maintained in a locked cabinet away from the location of the workstation containing the program providing access to such files.
- Security hardware/software shall comply with standards documented in the ISSG.
- At least two individuals shall be authorized access and have knowledge of the location where data files, backup files, and forms are stored.

#### **49020.15.1 Software Controls on CDCR's Workstations**

The following software controls shall be established for all CDCR workstations:

- No software shall be loaded, installed, and/or activated on any CDCR workstation without prior review and written approval from the local ISC and the requestor's supervisor, or EIS.
- Controls that ensure that the CDCR is in compliance with all State-mandated requirements (SAM §§ 5310 and 5345.1).
- Appropriate procedures shall be developed by ISCs for use by each CDCR division that has workstations. These procedures are subject to approval by the AISO, and are constrained by the requirements of the CDCR workstation policy.

#### **49020.15.2 Data File Transfers**

Electronic transfer (file transfer) of information to or from any CDCR information system file or database is restricted to authorized persons who shall use an approved file transfer mechanism. The same level of protection afforded the information in its originating system shall be provided by the computer environment to which the information is transferred.

Transfer of information from one CDCR computer to another does not alter the sensitive nature of the information or eliminate the need to protect the confidentiality of the information. An appropriate procedure shall be developed by EIS for use by each CDCR division that uses file transfer mechanisms. The procedure shall be constrained as follows:

- The user is responsible for providing the necessary controls to secure all confidential information maintained in the workstation environment. A Security Plan must be approved by the ISO prior to High Risk Confidential Information or sensitive information being stored on a workstation.
- Dial-up access to the Department's databases is prohibited without explicit authorization from the data owner and Information Security Office.
- All requests to transfer information shall be approved by the owners of the information and the custodians of the information. The owners shall provide the necessary authorization for access (if the request is approved) and the custodian shall provide the methodology.
- Confidentiality and integrity of information shall be maintained.
- Any workstation performing file transfers shall be subject to additional hardware and software controls (e.g., encryption and dynamic password user authentication) to enhance the security environment of the workstation.

**49020.16 Information Security Standards and Guidelines**

Data processing equipment in CDCR's automated network environment (computers and peripherals) shall be secured against access by unauthorized persons. Any equipment that is not stand-alone is considered data processing equipment. This includes all workstations that are connected to each other or to any other server or mainframe, system, whether by dial-up, cabling (including, but not limited to, coax, twisted pair, and fiber), LANs, gateways, routers, and all other network components. Access to CDCR's network shall be restricted to CDCR employees and approved consultants. The methods by which CDCR's data processing equipment is secured shall be documented in the CDCRISG. Any exception or modification to the ISSG must be approved in writing by the AISO prior to implementation.

The ISSG shall include descriptions of procedures to protect and preserve the data processing equipment from access by unauthorized persons. The procedures are constrained by the following:



- Only authorized personnel shall have access to terminals, printers, control units, concentrators, telephone wiring panels, modems, and emulation cards.
- Control of access through the CDCR telecommunications system to the Internet is the responsibility of the EIS, and is administered in accordance with the ISSG. Additional access not described in the ISSG constitutes a request for a modification to the ISSG and must be submitted and approved in accordance with this policy prior to implementation.
- Persons not authorized to access the CDCR's telecommunications system shall obtain approval from the designated local ISC. Unauthorized persons include representatives of control agencies, CDCR personnel from another site, equipment vendors, telephone companies, etc.
- Any division with custodianship of decentralized applications shall locate equipment in restricted areas that shall be monitored during working hours and locked during unattended periods.
- Access to computers, either connected to a CDCR network or stand-alone, shall be limited by the use of a password-protected screensaver and/or key-controlled access to the power supply and/or keyboard with the keys physically removed and stored away from the workstation.
- Computers connected in any way to CDCR's telecommunications system or stand-alone computers with modems connected to them may not be located in areas where inmates have access, except for work assignments when the inmates are under the direct and constant supervision of custody staff.
- Control units shall be locked whenever possible and the keys removed and stored in a secure environment.
- Storage media including, but not limited to, diskettes, CDs, removable hard drives, and tapes shall be removed from equipment that reads them and stored in a secure environment when not in use.
- Documentation pertaining to the hardware, system software, and configuration of the CDCR's telecommunication system are confidential.
- All facility phone rooms and other locations where network components are kept shall be labeled "Out of Bounds. Authorized Personnel Only."

#### **49020.16.1 Requests for Modifications of the Information Security Architecture ISSG**

The sensitivity of the CDCR's automated information assets requires strict controls over who can use equipment that is configured to access these assets. Also, the monetary value of the equipment itself warrants physical controls to deter theft or damage to the equipment. Requests for modification of the ISSG shall be submitted to the AISO.

#### **49020.17 Modem Usage**

The critical and sensitive nature of the informational resources residing in CDCR's computers requires stringent controls of devices attached to these computers, and over which persons are allowed to use these devices.

All access to the CDCR's systems shall be monitored and controlled by EIS. All other means of accessing CDCR systems including, but not limited to, wireless communication devices and dialup modem, are prohibited unless approved by the ISO.

Modem use is restricted to computers not connected to the CDCR Network, unless such use is an approved part of the ISA. Requests for additional modems to be used within the CDCR teleprocessing environment are subject to approval.

Modems may be used to access remotely the CDCR network resources through EIS-supported access mechanisms. They may also be used to provide access to the Internet and specific destinations and e-mail capability when such access is not available through the CDCR network resources. Justification and procurement of modems for these purposes shall be conducted in accordance with DOM, Chapter 4, Article 41, Departmental Workgroup Computing Policy.

Specific restrictions on the use of modems are:

- There shall be no inmate or parolee access to any computer for which a modem has been approved. Computers that are attached to modems shall not be located in areas where inmates or parolees have access.
- No applications that were developed by inmates shall be implemented on a modem-equipped computer.

- No modems shall be installed on any computer that is a part of a LAN that has been approved for inmate use.
- The location and usage of all modems must be tracked and monitored at all times.
- Computers with "pocket" modems may not be used within the secured perimeter of facilities. They shall not be used in parole offices unless the area where the modem is to be used is secured from parolee access.
- Non-CDCR computers shall not access the CDCR Network via modem.

#### **49020.18 Inmate/Ward Use of Computers**

It is the policy of the Department to allow inmates, wards or parolees access to computers, computer terminals, or computer keyboards only within the constraints of the policies contained in this Article. For the purpose of this section, "Inmate" means a male or female offender who is committed under sentence to or confined in a penal or correctional institution under the authority of CDCR, which includes youth offenders under the jurisdiction of the CDCR's Division of Juvenile Justice. Any request for exception shall be referred to the AISO for review.

##### **49020.18.1 Restrictions on Computer – Knowledgeable Inmates**

*Revised November 4, 2013*

Inmates who have a history of computer fraud or abuse, as defined in Penal Code (PC), § 502, shall not be placed in any assignment that provides access to a computer.

Inmates that have documented histories of computer fraud or abuse, as noted during the initial classification process, shall be identified on the initial classification chrono. Any occurrence of computer abuse after admittance to the prison system shall also be recorded in the inmate's records.

The use of inmates as programmers and system experts shall be prohibited where there is a risk to the information assets of the Department or public, as determined by the institution head or the ISO. Inmates shall not be used as programmers or system experts for departmental business applications, systems, and data, per CCR Title 15 § 3041.3(c)(1). Staff assigned to supervise inmates using computers must be able to monitor inmates' activities.

##### **49020.18.2 Inmate Access to Computer – Based Tools**

Inmates shall not be allowed access to any computer-based tools that could be utilized to create a virus, Trojan Horse, worm, or cause damage to data files or a computer's operating system, except in an approved Computer Refurbishment Program.

##### **49020.18.3 Inmate Access to Computers and Telecommunications Devices**

Inmates may access workstations for the purpose of completing specific tasks or assignments while under direct and constant supervision. The approved uses of workstations by inmates shall be carried out only under very tightly controlled circumstances:

- Each computer shall be labeled to indicate whether inmate access is authorized.
- Computers used by inmates shall not be used concurrently for any other purpose.
- The local ISC shall approve or disapprove the movement of computers from an "inmate use" status to other work and vice versa.
- Any computer that is being repurposed from employee use to inmate use shall have the hard drive erased of all data prior to the redeployment using the methods in the department's data wiping standards.
- Inmates with a work assignment involving a particular computer shall not be assigned to work on other computers.
- Areas where inmates are authorized to work on computers shall be posted as such.
- All inmates shall be under the supervision of a knowledgeable employee within a controlled, designated area when using computers.
- There shall be no communications capabilities in the designated area, such as a telephone line, computer network line, telephone punch panel, cell phones, wireless communication devices such as pagers or handheld computers or radio communication devices without approval of the AISO.
- Inmates shall not have access to computer utility programs used to modify the functionality of the computer or to view system configuration information, except in an approved Computer Refurbishment Program.
- Inmates shall not have electronic storage media in their possession except within an approved area.
- Inmates may not have access to computer application development tools.
- An inventory and appropriate controls shall be maintained on all portable storage media. Portable storage media for inmate use shall be labeled "For Inmate Use." Reports and other printed output from inmate-utilized computers shall be reviewed closely by staff, and appropriate distribution of such output shall be monitored.

- Inmates shall not have access to the operating system of any computer. Inmates shall not have access to any interface that allows access to the system configuration of any computer including, but not limited to, dialogue boxes, setup, and configuration screens. Additionally, inmates shall not have access to operating system commands that allow viewing or modification of any aspect of a computer operating system or the configuration of a computer, except in an approved Computer Refurbishment Program.
- Inmates shall not be allowed to load software onto hard disks, except in an approved Computer Refurbishment Program.
- No inmate shall have access to, or possession of, any telecommunication capability, including Internet accessible computers, wireless devices such as pagers or handheld computing devices or cell phones without approval from the Agency Information Security Officer.
- There shall be no inmate access to a computer outside the inmate's authorized work, vocational, or educational areas, unless approved by the AISO.

#### **49020.18.4 Operation of Computer Programs Created by Inmates**

Any computer-based system that was created by inmate programmers that is used to accomplish or complete the CDCR-related work shall not be operated or maintained by any inmate.

#### **49020.18.5 Supervision of Inmates Using Computers**

The persons responsible for supervising inmates' use of computers shall certify in writing that these policies are being adhered to at their specific site.

A copy of this certification shall be kept on site by the local ISC.

#### **49020.18.6 Education Computers**

The use of computers for academic and vocational education is subject to the same requirement of due care applying to all personnel that use computers within applicability of the Department's information security and risk management program.

#### **49020.18.7 CALPIA Systems**

Inmate use of computers in CALPIA and in CDCR facilities shall be in accordance with the departmental policies and institutional procedures.

#### **49020.19 Information Security-Warnings**

All critical Department systems shall display a criticality warning at the first screen that any user of the system will see when the computer system is accessed.

#### **49020.20 Revisions**

The Director of EIS or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **49020.21 References**

*Revised November 4, 2013*

The Constitution of the State of California, Article 1, Section 1.

The Information Practices Act of 1977, Civil Code § 1798.

The Federal Copyright Act of 1976.

The California Public Records Act.

Title 15 § 3041.3(c)(1).

Penal Code §§ 502, 2702, 11075-11081, 11142.

SAM, §§ 1601-1699, 5300-5360.1.

GC §§ 1222, 6250-6265, 14740-14770.

DOM §§ Chapter 1, Article 23, and Chapter 4, Articles 31, 40, 41, 46, 48.

### **ARTICLE 46 — INFORMATION SYSTEMS RISK MANAGEMENT**

*Effective November 30, 1992*

#### **49030.1 Policy**

*Revised April 16, 1993*

All ITS within the Department are subject to having a risk analysis prior to any approval or authorization for development or implementation. The result of this analysis, "The Risk Analysis and Risk Reduction Report," shall be submitted as part of the request for approval. This report is a part of the feasibility study for large systems, and stand-alone facilities within small systems. A multipurpose work station is exempt

from this requirement unless there is a need for a modem or to store confidential or sensitive information.

#### **49030.2 Purpose**

The purpose of this policy is to identify and provide for the use of a generic systems approach as part of the Department's risk management program. This process shall assist users, systems designers, systems developers, and management in answering a number of basic questions, such as:

- What is the nature of the problem?
- What needs to be changed, modified, or accomplished?
- What alternatives are available to solve the problem?
- How, specifically, shall the problem be solved?
- How well does the new solution work?

#### **49030.3 Responsibilities**

The following is a description of the organizational responsibilities for administering this program.

##### **The Director**

The Director is responsible for establishing and maintaining a risk management program within the Department. It is the responsibility of the Director to assure that the Department's information assets are protected from the effects of damage, destruction, and unauthorized or accidental modification, access, or disclosure.

Specifically, the Director is responsible for ensuring the following:

- Enforcement of State-level risk management policies.
- Establishment and maintenance of internal policies and procedures that provide for the security of information technology facilities, software and equipment, and the integrity and security of the agency's automated information.
- Department compliance with reporting requirements related to risk management issues.
- Appointment of a qualified Information Security Officer (ISO).
- Participation of management during the planning, development, modification and implementation of risk management policies and procedures.

##### **Information Security Officer**

GC 1171 requires that the director of each agency designate an ISO. The ISO is responsible for overseeing agency policies and procedures designed to protect the Department's information assets. In accordance with State policy, the ISO shall be accountable to the CDC Director regarding these responsibilities.

To avoid conflicts of interest, the ISO shall not have direct responsibility for information processing, information access management functions, any departmental computer based systems or have a reporting relationship to an organization that has such responsibilities. The ISO shall not have any special allegiance or bias toward a particular program or organization.

The responsibilities of an ISO include overseeing the following:

- Implementation of necessary procedures to ensure the establishment and maintenance of a risk management program, including a risk analysis process.
- Establishment of procedures necessary to monitor and ensure compliance of established risk management policies and procedures.
- Coordination with internal auditors and QC personnel to define their role in automated ITS planning, development, implementation, operations, and modifications relative to risk management.
- Coordination with the data center's ISO or staff on matters related to the planning, development, implementation, modification, or risk management policies and procedures that affect the Department.
- Establishment of procedures to comply with control agency reporting requirements.
- Establishment of mechanisms to assure that Department staff (with particular emphasis on the owners, users and custodians of information) are educated and aware of their roles and responsibilities relative to risk management.
- Establishment of training programs for Department employees related to risk management.

##### **Technical Management**

Department technical management has the following responsibilities relative to CDC's risk management program:

- Ensuring that management, the ISO, assigned owners, and users/custodians are provided the necessary technical support services with which to define and select cost effective solutions to high risk problems identified through the risk analysis process.
- Ensuring the implementation of controls and procedures necessary to manage the risk identified through the risk analysis program.

### Program Management

Department program managers have the following responsibilities in relation to CDC's risk management program:

- Establishing the procedures necessary to comply with risk management policy in relation to ownership, user and, if appropriate, custodian responsibilities.
- Ensuring the proper planning, development, and establishment of risk management processes and procedures for new computer-based systems and the files or data bases for which the program has ownership responsibility, and for new physical devices assigned to and located in the program area(s).

### Program Personnel

Program personnel have the following risk management responsibilities:

- Implementing and monitoring data QA functions to ensure the integrity of data for which the program is assigned ownership responsibility.
- Complying with applicable federal, State, and Department risk management policies and procedures.
- Identifying information system vulnerabilities and informing program management and the ISO of those vulnerabilities.

### Internal Auditors

Internal auditors have the following responsibilities in relation to the Department's risk management efforts:

- Examination of the Department's policies and procedures for compliance with State risk management policies.
- Examination of the Department's policies and procedures for compliance with control agency audit requirements.
- Examination of the effectiveness of the Department's policies and procedures, identification of inadequacies within the existing risk management program, identification of possible corrective actions, and informing management, the ISO, and the owners, custodians, and users of information of the findings.

### QC

The designated responsible QC person/program has the following responsibilities in relation to the Department's risk management program:

- Review and evaluation of the risk management process used and its findings, to ensure the effectiveness of controls for automated ITS whether under design and development or operational, with particular emphasis on major systems.

### Information Owners

The owners of information are responsible for classifying the information, filing security incident reports, securing and storing the signed security agreements, and identifying for the ISO the level of acceptable risk.

The owners of CDC information are identified in the system library document maintained by the MIS Support Unit.

### Information users

It is the responsibility of all users to protect CDC resources, note variances from established procedures, and report such variances to the appropriate manager.

### Information Custodians

The custodians of information are responsible for complying with applicable laws, policies, and procedures. It is also the responsibility of custodians to advise the owner and the ISO of any threats to the information, and notify the owner and the ISO of any violations of security policies, practices, or procedures.

## 49030.4 ITS – Risk Management Definitions

### Audit Requirements

A section of the EDP audit reviews ITS documentation; each system not exempt from the audit requirements shall have an approved risk analysis report.

### Critical Functions, System, and Resources

Elements vital to the organization's operation, and possibly to the continued, viable existence of the organization.

### Current Risk

Current risks are evident and continuing, and are inherent to a business operation, location, or process.

### Data Integrity

The state that exists when computerized data are the same as that in source documents and have not been exposed to accidental or malicious alteration or destruction.

### Data Protection

Measures to safeguard data from occurrences that could lead to the modification, destruction, or disclosure of data.

### Data Security

Protecting data from modification, destruction, or disclosure.

### Potential Risk

Potential risk is outside normal and purposeful business operations, and results from some intentional or unintentional, indeterminate action.

### Risk

Risk is a measure of the relative value attached to certain circumstances and conditions inherent in any business operation, or change to that operation. Risks are either current or potential.

### Risk Analysis Content:

#### Technical Analysis

For each risk scenario, specify the threat and potential safeguards/controls identified. Each control should be discussed along with its intended purpose and the types of threats it is effective against. If no safeguards are found, then a statement to that effect shall be provided.

#### Operational Analysis

Each control identified above shall be analyzed and its impact on current operations should be discussed. All operational constraints that would make the safeguard difficult or impractical to implement or operate shall be discussed. Risks that shall be accepted due to the operational unacceptability of their safeguards shall be identified here.

#### Economic Analysis

For all controls that are technically and operationally feasible, discuss the cost benefit.

#### Risk Acceptance Summary

Lists all risks, acceptable or unacceptable. If acceptable, then indicate the basis for acceptance.

#### Controls Summary

Presents the controls to be used for eliminating or reducing the risks identified in the risk acceptance summary. Each control shall be described in terms of its loss reduction or effect, as well as the primary and secondary threat categories against which the control is effective.

#### Countermeasures

Any type of procedure (e.g., physical, procedural, hardware, software and personnel) used to counteract a threat to the system.

### Risk Analysis Management Report:

#### Summary

A concise overview of the analysis. It shall begin with a statement describing the scope and objectives of the study, followed by the recommendations for risk acceptance and alternatives for reducing or eliminating the unacceptable risks.

#### Risk Scenario Summary

A summary of the essential data from the risk analysis.

#### Risk Management Process

Risk management is the work a manager does to identify the risk, assess its level, and create a plan for the acceptance, rejection, or control of the risk. This work is carried out by the application of a well-defined analytic process called "risk analysis," and culminates in a risk analysis report and risk reduction decision study.

#### Risk Analysis

Involves identifying the assets and resources that are at risk, as well as the threats to those assets and resources and the vulnerabilities in the risk environment that might allow the threats to materialize. Risk analysis also involves estimating the frequency with which the threats might occur, the safeguards currently in place, and the cost/impact that could be incurred if the threats to the risk environment were to materialize (this process correlates to the problem definition and analysis of the "current problem" steps in a generic systems approach).

#### Risk Reduction Analysis

Involves identifying the availability of potential safeguards, determining the operational and economic feasibility of potential safeguards, and developing a risk reduction decision study for presentation to management (this process correlates to the identification of alternatives, cost-benefit analysis, selection of best alternative, and conceptual system design phases of the generic systems approach).

#### Management Decision

Management decides which risks are acceptable. For those that are not currently acceptable, management decides which of the alternatives shall be implemented and approves the resources required to purchase, or design and develop, and then implement them (this process corresponds to the management decision phase of the generic systems approach).

#### **Development of Risk Reduction Plans**

Outlines the tasks to be performed to implement the safeguards selected by management. Tasks include identification of the specific safeguards, assignment of responsibility for design, development or purchase, and implementation of the safeguards. Plans shall also include a timetable of the milestones leading to implementation (this process corresponds to the detailed design and development/testing phases of the generic systems approach).

#### **Implementation and Maintenance of Safeguards**

Involves the installation, operation and maintenance of new or modified safeguards. Implementation shall involve personnel training and coordinating any changes in operations with affected personnel.

#### **Vulnerability**

Susceptibility of a system to a specific threat, attack or harmful event, or the opportunity available for a threat agent to mount such an attack.

#### **Vulnerability Assessment**

A review of a system or program to determine its susceptibility to loss or unauthorized use.

#### **49030.5 ITS – Risk Management New System Requests**

All requests for approval for new systems development shall indicate if the system is a critical application.

#### **49030.6 ITS – Risk Management Critical Applications**

All critical applications shall require a risk analysis. See DOM 49040, Procedures.

#### **49030.7 ITS – Risk Management Other Systems**

*Revised April 16, 1993*

A risk analysis shall be submitted to the Information Security Unit (ISU) for all systems that are non-critical applications but use one or more of the following:

- Telecommunications.
- Programs created or maintained by inmates.
- Inmates as keyboard operators.

These applications require a risk analysis approved by ISU prior to implementation.

The MIS Committee may direct that a risk analysis be carried out for any new system when deemed necessary.

#### **49030.8 Risk Management Exemption for Inmate Use**

Requests to ISU for an exemption from information security policy, as it pertains to inmates and computers shall be accompanied by a risk analysis. An exemption shall only be granted by the MIS Committee based upon the risk analysis and a recommendation by ISO.

#### **49030.9 Revisions**

*Revised May 6, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **49030.10 References**

GC § 1171.

DOM § 49040.

### **ARTICLE 47 — DISASTER RECOVERY PLANNING**

*Effective November 30, 1992*

#### **49040.1 Policy**

It is the policy of the Department that each element of the Department utilizing information technology shall establish disaster recovery planning processes for identifying, assessing, and responding to the risks associated with its information assets. See the DOM 49010 for additional details.

#### **49040.2 Purpose**

The purpose of disaster recovery planning is to ensure continuity in computer operations for the support of critical applications, provide the greatest possible benefit from remaining limited resources, and achieve a systematic and orderly migration toward the resumption of all automation activities within the affected segment of the Department.

#### **49040.3 Classification of Computers According to Type**

The information assets of the Department are distributed over many geographically separated entities. However, any usage of computer resources in CDC will fall within one of four different types. The primary factors associated with each type represent the complexity and scope of operational use of the computer or system involved. In the context of this policy, “system” means a computer program and the computer resources necessary to achieve the objective of the program. It is possible for similar computers to be classified differently depending upon the program being used. This is especially true in the inmate education area. DOM 47000 contains information on each of the critical systems utilized by the Department.

##### **Type 1**

Most of the large, Departmentwide computer systems are comprised of a computer at a central site, and a telecommunication network (phone lines) with terminals, printer, modems, and controllers located at a local site. Examples of this type of configuration include the OBIS, the Inmate Trust System, and the Personnel and Leave Accounting System.

Each of these systems would be affected by any disaster occurring within the data center or any disaster that would disrupt part or all of the communication lines. While the operational recovery of these systems is the data center’s responsibility, each of the user sites shall have contingency plans ready to enable actions that minimize disruptions to business activities.

##### **Type 2**

The computer-based system is approved for departmental use and is to be implemented at all appropriate sites. This type of system can be found at many sites. These systems are not connected electronically. Each site uses the same programs to support the same work. Examples of Type 2 systems are the Critical Case Factor System and the microcomputer-based Inmate Appeals System: both of these are examples of stand-alone departmental ITS.

##### **Type 3**

This type of computer system is normally found at only one site. Type 3 systems are created because the multipurpose work station is available and there is an identified need.

##### **Type 4**

Type 4 systems are found only in the academic or vocational education areas. These systems are intended to be used strictly for the education of inmates.

#### **49040.4 Responsibilities**

The CDC approach to risk management requires that active support and ongoing participation be obtained from individuals representing multiple disciplines and all management levels. This includes the support of executive, program, and technical management, as well as owners, custodians, and users of the information.

##### **Director**

It is the responsibility of the Director to assure that the Department’s information assets are protected from the effects of damage, destruction, and unauthorized or accidental modification, access, or disclosure. Specifically, the Director is responsible for ensuring the following:

- Enforcement of State-level operational recovery policies.
- Establishment and maintenance of internal policies and procedures that provide for the security of information technology facilities, software, and equipment, and the integrity and security of the Department’s automated information.
- Department compliance with reporting requirements related to operational recovery.
- Preparation and maintenance of the Department’s operational recovery plan, and the continuation of vital information support services in case of a disaster.
- Participation of management during the planning, development, modification, and implementation of operational recovery policies and procedures.

##### **Information Security Officer**

GC 1171 requires that the director of each State agency designate an Information Security Officer (ISO). The ISO is responsible for overseeing agency policies and procedures designed to protect the Department’s information assets. In accordance with State policy, the ISO shall be responsible to the CDC Director for such responsibilities.

Additionally, to avoid conflicts of interest, the ISO shall not have direct responsibility for information processing, information access management functions, or any departmental computer based systems, or have a reporting relationship to an organization that has such responsibilities. The ISO shall not have any special allegiance or bias toward a particular program or organization.

The responsibilities of an ISO include overseeing the following:

- Development and maintenance of an operational recovery plan to protect the Department against the potential effects of a disaster.

- Establishment of procedures to comply with control agency reporting requirements relating to operational recovery.

#### Technical Management

Department technical management has the following responsibility relative to the Department's operational recovery program:

- Ensuring the implementation and maintenance of an operational recovery plan in cooperation with Department management, the ISO, and the assigned owners, users, and custodians of information.

#### Program Management

Department program managers have the following responsibilities in relation to the CDC security program:

- Establishing procedures necessary to comply with operational recovery policy pertaining to ownership, user, and, if appropriate, custodian responsibilities.
- Ensuring that operational recovery plans are in place for hardware, software, and files or data bases for which the program is assigned ownership responsibility.
- Ensuring that custodians of program information are provided the appropriate direction to implement the operational recovery plans that have been defined.
- Ensuring that procedures are established to comply with departmental operational recovery reporting requirements.

#### Internal Auditors

Internal auditors have the following responsibilities in relation to the Department's operational recovery planning efforts:

- Examination of the Department's policies and procedures for compliance with State policies.
- Examination of the Department's policies and procedures for compliance with control agency audit requirements.
- Examination of the effectiveness of the Department's policies and procedures; identification of inadequacies within the existing operational recovery programs, and identification of possible corrective actions.
- Provision of applicable findings to management, the ISO, and the owners, custodians, and users of information.

#### QC

The designated responsible QC person/program has the following responsibilities in relation to the Department's operational recovery program:

- Review and evaluation of the effectiveness of operational recovery plans for automated ITS, whether under development or operational, and with particular emphasis on major systems.

#### Information Owners

The owners of information are responsible for classifying the information, defining precautions for controlling access, disposing of the information, authorizing/denying access to the information, filing security incident reports, securing the signed security agreements and storing them for reference, and identifying (for the ISO) the level of acceptable risk.

The owners of CDC information are identified in the system library document maintained by the MIS-SU.

#### Information Users

It is the responsibility of all users to protect CDC resources, to note variances from established procedures, and to report such variances to the appropriate manager.

#### Information Custodians

The custodians of information are responsible for complying with applicable laws and policies, complying with policies and procedures established by the owner and the ISO, advising the owner and the ISO of any threats to the information, and notifying the owners and the ISO of any violations of security policies, practices, or procedures.

#### 49040.5 Definitions

##### Application Disaster Recovery Plan

A plan devised to process an application after it has been disrupted for some period of time.

##### Back-up Procedures

Methods used to recover computer programs and files after a disaster or system failure.

#### Contingency Planning

The procedure of developing a back-up plan to restore business and data center operations in the event of a disaster or interruption. Also called "disaster recovery planning" or "business resumption planning."

#### Contingency Program

The everyday work activities and procedures (e.g., backing-up critical data files) that fulfill the requirements of recoverability.

#### Disaster

A human or natural occurrence causing destruction and distress, after which a business is deemed unable to function.

#### Disaster Recovery Operation

The act of recovering from the effects of disruption to a computer facility, and the pre-planned restoration of facility capabilities.

#### Disaster Recovery Plan

The preplanned steps that make possible the recovery of a business computer facility or the applications processed therein. Also called a "contingency plan" or "business resumption plan."

#### Emergency Response

The immediate action taken to protect hardware and sensitive magnetic media in the event of natural disasters, fire, power failures, equipment breakdown, theft, vandalism, or tampering.

#### 49040.6 Disaster Recovery Planning – Critical Systems

*Revised April 16, 1993*

##### Department Operational Recovery Plan

The Department operational recovery plan shall cover a minimum of four topic areas:

- Summary of the strategy for managing disaster situations.
- Distinct management and staff assignment of responsibilities immediately following a disaster and continuing through the period of normal operations re-establishment.
- Priorities for the recovery of critical applications.
- Operational procedures documented in systematic fashion that shall allow recovery to be achieved in a timely and orderly way.

##### Type 1 and Type 2 Operational Recovery Plans

All Type 1 and Type 2 systems shall require an operational recovery plan that answers the following questions:

- Identification and evaluation of alternative recovery strategies.
- Selection of the alternative that best responds to the organization's requirements for disaster recovery.
- Assessment of the resource requirements (space, equipment, communications, data, software, personnel, and time) required for operational recovery of the critical application.

#### 49040.7 ITS Disaster Recovery Coordinator (ISDRC)

The ITS Disaster Recovery Coordinator (ISDRC) for CDC is the computer operations section manager from ISD.

##### 49040.7.1 Responsibilities of the ISDRC

*Revised April 16, 1993*

The ISDRC is responsible for maintaining a Department operational recovery plan that identifies computer applications deemed critical to the Department's operations, the information assets that are necessary for those applications, and the Department's plans for resuming operations following a disaster affecting those applications. The ISDRC shall coordinate the preparation of the operational recovery plan with the disaster recovery coordinator of the Institutions Division and with the CDC Data Center. The ISDRC is responsible for ensuring that periodic testing of the Department operational recovery plan is carried out.

##### 49040.8 Submitting the Disaster Recovery Operational Recovery Plan

The CDC Disaster Recovery Coordinator shall file an informational copy of the Department operational recovery plan with the Office of Information Technology, DOF, no later than January 31 of each year. A copy of this plan shall be sent to the Teale Data Center.

#### 49040.9 Approval of New Critical Department ITS

*Revised April 16, 1993*

Each request for approval to proceed with the development of a critical Department information system shall address the issue of the operational recovery of the system to be developed. All resource requirements associated with the operational recovery methods shall be identified as part of the critical ITS' cost.

Prior to the implementation of any critical system, project management shall submit to ISD a copy of the critical system's operational recovery plan for inclusion in the annual submittal to the control agency.

#### **49040.10 Revisions**

*Revised April 16, 1993*

The Chief, ISD, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **49040.11 References**

*Revised April 16, 1993*

GC § 1171.

DOM § 47000.

DOM § 49010.

### **ARTICLE 48 — ELECTRONIC DATA PROCESSING AUDITING**

*Revised April 16, 1993*

#### **49050.1 Policy**

It is the policy of the Department to conduct EDP audit activities as required in the SAM and as is necessary to ensure maximum efficiency and productivity resulting from use of the Department's automated information resources. Such activities shall include a biennial EDP audit, as specified in this section, with a copy of each such audit provided to the Financial and Performance Audit Unit (FPA) of the DOF.

The biennial EDP audit report shall be structured to meet the requirements of SAM 20013, Review and Reporting on Computer-Based Systems, as well as the FPA audit guidelines, which provide evaluation criteria to determine the Department's compliance with the policies contained in SAM 4840 through 4845, and 4989.7. In addition, the departmental EDP audit process shall determine compliance with the policies contained in the DOM 49000, Information Security, Risk Management and Operational Recovery.

#### **49050.2 Purpose**

The purpose of this policy is to establish and maintain a standard of due care to prevent misuse or loss of Department information assets.

#### **49050.3 Responsibility**

PFAB shall be responsible for the biannual EDP audit.

#### **49050.4 Types of EDP Auditing**

There are four main types of audits:

##### **Financial Audit**

Determines the reliability and integrity of financial statements. Audit information is used generally by individuals other than management.

##### **Compliance Audit**

Ascertains compliance with specific policies, procedures, laws, regulations, or contracts affecting operations or reports.

##### **Operational Audit**

Usually includes a review of internal controls, compliance, integrity of operating information, use of resources, and achievement of goals.

##### **EDP Audit**

Combines both the compliance audit (specific EDP policies, procedures, etc.) and the operational audit; probes the integrity and reliability of computer processing and its contribution to operating information. EDP auditing can become very complex, since it is desirable to examine the controls within systems that are used to protect the integrity of data.

#### **49050.5 Revisions**

*Revised May 6, 2010*

The Assistant Secretary, EIS, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **49050.6 References**

SAM §§ 4840 - 4845, 4989.7, and 20013.

DOM § 49000.

### **ARTICLE 49 — SPECIAL SECURITY CONSIDERATIONS**

*Effective November 30, 1992*

#### **49060.1 Policy**

It is the policy of the Department that the secure protection of EDP capabilities and information requires special resources and

considerations when the information involved is sensitive or confidential in nature. In such instances, augmented security measures shall be implemented

#### **49060.2 Purpose**

The purpose of this section is to clarify that, in addition to other EDP security policies and procedures contained in this manual, all CDC employees shall, where applicable, adhere to the security requirements of this section. This section outlines the responsibilities of the Department, Security Coordinator, and Security Monitors pertaining to certain personnel and payroll information.

#### **49060.3 Responsibilities**

##### **Department**

CDC shall appoint a departmental Security Coordinator from within the personnel/payroll office with responsibilities sanctioned by the SCO. A Security Monitor shall be appointed at each facility. The Security Coordinator and Security Monitors shall have access to the SCO system and database.

##### **Security Coordinator**

The Security Coordinator shall perform the following duties:

- Act as a liaison with the SCO decentralized Security Coordinator.
- Act as the security resource for all departmental personnel/payroll office employees and Security Monitors in facility personnel offices.
- Authorize, approve, and maintain security clearance requests (PSD Form 125A) on behalf of the SCO to determine whether an individual shall be granted access to the SCO database.
- Monitor all physical security elements and barriers to maintain the SCO's security requirements.
- Report all security infractions and violations to the SCO decentralized Security Coordinator and the CDC Information Security Officer (ISO).
- Coordinate activities associated with the movement, alteration, addition, or removal of approved equipment with the local information security coordinator and ISD.
- Monitor access to restricted areas within personnel units, and approve/disapprove the clearance of individuals requesting access to the decentralized personnel site.
- Maintain all records regarding individuals approved for access to the system, including all present and past Security Monitors. This information shall be provided to the Chief, SCO Information Security Office, and the SCO Division of Audits.

##### **Security Monitors**

Security Monitors are located in those facility personnel offices having access to the SCO database. Each Security Monitor shall adhere to the Department information security policy and, in addition, shall:

- Monitor all physical security elements and barriers to maintain SCO security requirements.
- Report all security infractions and violations to the Security Coordinator.
- Notify the Security Coordinator of all activities associated with the movement, alteration, addition, or removal of approved equipment.
- Monitor access to restricted areas, and approve/disapprove the clearance of authorized individuals requesting access to the decentralized site.

#### **49060.4 Special Site Security Considerations**

The sites of SCO computer equipment shall be kept secure (by means of locking devices, guards, badges or barriers) from unauthorized physical or visual access. The site shall be located in an area restricted from the public and unauthorized employees. Entry shall be monitored during work hours, and restricted areas shall be locked when unattended. Keys shall be distributed on a limited and controlled basis to authorized employees only.

Layout plans for equipment shall include the following:

##### **Floor Plan**

- The site layout shall include an analysis of employee work areas, the manner in which employees shall enter and exit the office, the location of SCO equipment, and the location and type of all locking devices and barriers.

##### **Doors**

- Doors shall be solid, locking, full or Dutch-style doors that are accessible only with the correct key or electronic key/badge. Doors shall remain closed and locked at all times.

##### **Windows**

- Interior windows shall be frosted or covered completely to eliminate visual access to the terminal screens. Exterior windows on a ground floor shall be frosted, covered, and secured if easily opened.

##### **Locks**

- Locks shall be installed on all interior and exterior doors allowing access to the secured area. Acceptable locks include, but are not limited to, the following:
  - Key-controlled locks.
  - Code-controlled locks.
  - Electronic locks.
  - Double-bolting locks Dutch doors.

#### Counters

- If a counter exists in the secured area, access into the work area shall be controlled and monitored. Records of approved access shall be maintained by the Security Monitor.

#### Changes To Site

Any changes to an approved, decentralized site require prior, written SCO approval. Requests for site changes shall include a diagram of the proposed site including the proposed location of equipment. Unauthorized movement of decentralized equipment may result in the loss of system access.

#### 49060.5 Special Equipment Security Considerations

To ensure the security of SCO equipment and information, personnel employees shall adhere to the following equipment security guidelines:

- Equipment shall be located in restricted areas that are monitored during working hours and locked during any unattended periods.
- Only authorized employees shall have access to terminals, printers, control units and modems.
- System access shall be completely signed off when not in use.
- Terminals shall be locked, keys removed, and screen intensity turned completely down when the terminals are unattended.

The following shall be stored in a vault or locked cabinet when not in use:

- Keys to terminals.
- Manuals for system software and hardware.
- Other instructional and operational manuals.

No equipment shall be attached to any authorized configuration of decentralized equipment, except for testing and installation tools used by the vendor or telephone company.

Deviations from the requirements listed above shall have prior written approval from the SCO Security Coordinator.

#### Equipment Changes

The following types of changes to the SCO decentralized system require prior, written approval from the Security Coordinator:

- Changes of any kind to the location of decentralized equipment.
- Switching of terminals from one control unit to another.
- Any additions or removals of decentralized equipment.

#### 49060.6 Special Data Security Considerations

Personnel employees shall consider all information residing in the SCO database as sensitive and confidential, and shall protect information from unauthorized access.

#### Hardcopy

Employees shall consider all data hardcopy (including printouts) gained from the SCO system as confidential, and shall handle and destroy hardcopy accordingly. The various user manuals provided by the SCO contain confidential access instructions and shall be stored in a vault or locked cabinet when not in use.

#### Authorized Personnel

Access to information provided through the SCO system is restricted to authorized personnel. Only the following persons shall be considered authorized personnel:

A state employee or bona fide representative of the SCO who:

- Demonstrates either a need for or a legal right to the information;
- Receives formal authorization from the security coordinator; and,
- Accepts legal responsibility for preserving the security of the information.

Persons who require access to the SCO system shall demonstrate the need for such access by defining their specific, relevant duties. Any change in these duties requires a reevaluation of the need for access.

Access shall be revoked if the need for access no longer exists.

#### User Identification

Each person authorized to access the SCO system shall be provided with a unique user identification (ID). Requests for a new user ID or an ID revocation shall be directed to the Security Coordinator.

CDC employees are required to read SCO's Security Guidelines and sign the PSD Form 108, Statement of Understanding, prior to receiving access to SCO. New IDs and ID revocations are recorded on the PSD Form 125A.

#### Passwords

Access to the SCO system is restricted through the use of passwords. Use of any user ID also requires the associated password, known only to its owner. Passwords shall be changed monthly.

To protect system security, the ID owner shall not:

- Reveal the password to anyone.
- Write the password on any media.
- Walk away from an active terminal session; users shall log off the system prior to leaving.
- Log on in order to provide access or allow use by any unauthorized person.
- Use an obvious password, such as the owner's nickname, or any other easily identifiable password.

If a password does not operate correctly and the ID owner is sure that the correct password has been used, the owner shall notify the Security Coordinator immediately.

An ID owner who has forgotten the password shall contact the SCO Information Security Office.

Anyone who suspects that a password has been compromised shall notify the Security Coordinator immediately.

#### 49060.7 Revisions

*Revised April 16, 1993*

The Chief, ISD, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### 49060.8 References

*Revised April 16, 1993*

SAM §§ 4840 - 4845, 4989.7, and 20013.

## ARTICLE 50 — CHANGE AND CONFIGURATION MANAGEMENT POLICY

*Effective December 30, 2021*

#### 49070.1 Introduction and Overview

(a) Business functions are highly dependent on secure and stable Information Technology (IT) operating environments. Secure and reliable IT environments are enabled through both maintaining standard configurations and establishing processes and procedures to effectively manage changes to the operating environments.

(b) The goal of formalized IT change management is to facilitate IT changes as defined in enterprise standards, guidelines, and procedures while minimizing negative impacts to the organization.

(c) The goal of IT configuration management is to establish, implement, and manage information asset baseline configurations and maintain consistency throughout the system lifecycle.

(d) This policy establishes CDCR, CCHCS, AND CALPIA's (hereinafter referred to as department) requirement for formal change and configuration management.

#### 49070.2 Objectives

The objective for this policy is to establish department requirements for standardized methods and procedures for the management of information asset configurations and changes to department information and technology environments, while integrating security and risk considerations.

#### 49070.3 Scope and Applicability

(a) The scope of this policy extends to all State information assets owned and operated by the department, information assets managed by third parties on behalf of the department, and all information assets that process or store department information in support of department services and mission.

(b) This policy applies to Owners of Information Assets and Information Asset Custodians.

#### 49070.4 Policy Directives

The department shall:

- (a) Formally manage all changes to information assets.

(b) Utilize the Change Control Board, which includes a change advisory board that meets on a regular basis to review changes to information assets.

(c) Ensure that the change advisory board comprises representation from appropriate stakeholders, and in particular from impacted business areas.

(d) Ensure that the change advisory board includes formal security representation, and that change management processes formally integrate security evaluations and risk impact assessments in all change activities.

(e) Establish comprehensive enterprise-wide change management, comprised of supporting processes, workflows, and a centralized repository for all changes, including changes to baseline configurations.

(f) Establish, implement, and manage department operating baselines for information asset configurations.

(g) Establish and implement technologies, processes, and procedures to maintain and manage information asset configurations.

(h) Ensure third parties and contractors are subject to change and configuration management policies, discipline, and practices. Any changes to department information assets provided by service providers, regardless of whose environment they operate in, shall be governed by department change and configuration management processes.

#### **49070.5 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee:

(1) Owns this policy and is responsible for ensuring that all Owners of Information Assets, Information Asset Custodians, and users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) Is responsible for ensuring that this policy is reviewed annually and updated accordingly.

(3) Is required to audit and assess compliance with this policy at least once every 2 years.

(b) Department Information Security Officer (ISO):

(1) Shall assist Owners of Information Assets and Information Asset Custodians in the identification of data security controls and processes.

(2) Shall ensure that data security controls, methods, and processes meet department and applicable regulatory requirements for security.

(c) Department Owners of Information Assets and Program Management:

(1) In collaboration with the Information Asset Custodians shall ensure that this policy and its directives are implemented and enforced.

(d) Department Information Asset Custodians:

(1) Shall implement configuration and change management technology, process, and workflow controls as approved by Owners of Information Assets.

(2) Shall maintain change and configuration management records for a minimum period of 12 months. Secure deletion or destruction of these records shall be in accordance with the records retention schedule.

#### **49070.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards, and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

#### **49070.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

#### **49070.8 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49070.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

#### **49070.10 Authority**

This policy complies with the State of California Government Code section 11549.3.

#### **49070.11 Revisions**

The CIO or Designee shall ensure that the contents of this article are current and accurate.

#### **References**

SIMM, 19C, Project Approval Lifecycle Stage 3 – Solution Development

SIMM, sections 58C, 58D, 66B, 5305-A, 5310-A and B; 5325-A and B; 5330-A, B, and C; 5340-A and C; and 5360-B

SAM, section 5315, Information Security Integration

SAM, section 5315.5, Configuration Management

SAM, section 5355, Endpoint Defense

NIST SP 800-53, Configuration Management, CM-2, CM-3, CM-4, CM-5, CM-6, CM-9

DOM, Chapter 3, Article 22

DOM, Chapter 4, Article 45, section 49020.9

California Government Code, section 11549.3

#### **Revision History**

Effective: December 30, 2021.

## **ARTICLE 51 — ENDPOINT SECURITY POLICY**

*Effective December 30, 2021*

#### **49080.1 Introduction and Overview**

(a) Department information assets are often used to conduct business functions internally as well as with other State and non-department persons and devices on the Internet. Devices used for such department business purposes are comprised of servers, network devices, and end user devices including mobile computers, tablets, and smart phones; such devices are collectively called “endpoints” or “endpoint devices.” Some department information assets are more prone to loss or theft due to their size, mobility, or location of use.

(b) The department needs to ensure that endpoints are suitably protected to prevent unauthorized access to data and information that may reside on the endpoints.

#### **49080.2 Objectives**

Objectives for this policy are to define the requirements to protect department endpoints that may routinely interact with unknown or untrusted devices on the Internet, or that are more susceptible to loss or theft.

#### **49080.3 Scope and Applicability**

(a) The scope of this policy extends to all State information assets owned and operated by the department, information assets managed by third parties on behalf of the department, and all information assets that process or store department information in support of department services and mission.

(b) This policy applies to Owners of Information Assets and Information Asset Custodians.

#### **49080.4 Policy Directives**

The department shall ensure that:

(a) All department endpoints are identified and endpoint asset inventories are documented and continually updated.

(b) Risks to individual department endpoint device types and the data they access, process, and store are assessed.

(c) The requisite endpoint protection controls, as referenced in the Statewide Information Management Manual, are implemented and maintained to mitigate risks to each endpoint.

(d) Endpoint protection controls include people (asset users), processes, and technology controls.

(e) Endpoint protection controls are continuously monitored.

(f) Endpoint protection controls are reviewed at least annually.

#### **49080.5 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee:



(1) Owns this policy and is responsible for ensuring that all Owners of Information Assets, Information Asset Custodians, and users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) Is responsible for ensuring that this policy is reviewed annually and updated accordingly.

(3) Is required to audit and assess compliance with this policy at least once every 2 years.

(b) Department Information Security Officer (ISO):

(1) Shall assist Owners of Information Assets and Information Asset Custodians with the identification and selection of endpoint protection controls.

(2) Shall ensure that endpoint protection controls meet department requirements for security and privacy.

(c) Department Owners of Information Assets and Program Management:

(1) In collaboration with the Information Asset Custodians shall ensure that the endpoint protection controls are defined, documented, and implemented, and that implementation is reviewed annually.

(2) In collaboration with the Information Asset Custodians shall ensure the endpoint protection controls commensurate with the sensitivity or criticality of the asset are implemented for assets under their purview.

(d) Department Information Asset Custodians:

(1) Shall implement the requisite endpoint protection controls based upon the sensitivity or criticality of the assets as defined by the Owners of Information Assets.

(2) Shall maintain and update endpoint protection technologies based on best practices.

(3) Shall maintain records of endpoint protection controls and ensure proper change management.

#### **49080.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards, and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

#### **49080.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

#### **49080.8 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49080.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

#### **49080.10 Authority**

This policy complies with the State of California Government Code section 11549.3.

#### **49080.11 Revisions**

The CIO or designee shall ensure that the contents of this article are current and accurate.

#### **References**

SIMM 5305-A, Information Security Program Management Standard

SIMM 5355-A, Endpoint Protection Standard

SAM, section 5355, Endpoint Defense

SAM, section 5355.1, Malicious Code Protection

NIST SP 800-53, Security Assessment and Authorization, CA-7

NIST SP 800-53, Configuration Management, CM-2, CM-3, CM-6, CM-7, CM-10, CM-11

NIST SP 800-53, System and Communications Protection, SC-8, SC-10, SC-11, SC-13, SC-18, SC-23, SC-24, SC-28, SC-38, SC-42, SC-43

NIST SP 800-53, System and Information Integrity, SI-2, SI-3, SI-4, SI-5, SI-7, SI-8, SI 11

NIST SP 800-53, Program Management, PM-9

NIST SP 800-53, Risk Assessment, RA-2, RA-3, RA-5

NIST SP 800-53, Physical and Environmental Protection, PE-3, PE-19, PE-20

DOM, Chapter 3, Article 22

DOM, Chapter 4, Article 41, section 48010.5

California Government Code, section 11549.3

#### **Revision History**

Effective: December 30, 2021.

## **ARTICLE 52 — SECURITY ANALYTICS AND CONTINUOUS MONITORING POLICY**

*Effective December 30, 2021*

### **49090.1 Introduction and Overview**

Information technology environments that support department business functions and services are complex and dynamic computer network environments, which process, manipulate, and store large amounts of data and information. In order to detect unexpected and suspicious activities and events within such complex networks, it is important to continuously monitor computing environments. Continuous monitoring allows the department to rapidly identify anomalous or suspicious activities and events, analyze these events, and respond accordingly.

### **49090.2 Objectives**

The objective for this policy is to define department requirements for continuous monitoring of department networks and information assets for signs of malicious use, anomalies, and unexpected behavior and usage patterns.

### **49090.3 Scope and Applicability**

(a) The scope of this policy extends to all State information assets owned or operated by the department, and governs the facilities and information assets owned or operated on behalf of the department by business partners and service providers.

(b) This policy applies to Owners of Information Assets and Information Asset Custodians.

### **49090.4 Policy Directives**

The department shall ensure that:

(a) A strategy for security analytics and continuous monitoring will be defined, documented, and implemented.

(b) The strategy will be based on security risk management principles in order to determine optimal monitoring locations, methods, and techniques.

(c) The department's security analytics and continuous monitoring strategy will be integrated with the department's security and event logging and monitoring strategy, threat assessments, and security analytics and event correlation.

(d) The department's continuous monitoring is linked to incident response management and other department incident management processes.

### **49090.5 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee:

(1) Owns this policy and is responsible for ensuring that all Owners of Information Assets, Information Asset Custodians, and users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) Is responsible for ensuring that this policy is reviewed annually, and updated accordingly.

(3) Is required to audit and assess compliance with this policy at least once every 2 years.

(b) Department Information Security Officer (ISO):

(1) Shall assist Owners of Information Assets and Information Asset Custodians with the implementation of this policy.

(2) Shall assist Owners of Information Assets and Information Asset Custodians in the analysis and assessment of risks posed by anomalous activities or identified events.

(c) Department Owners of Information Assets and Program Management:

(1) In collaboration with the Information Asset Custodians shall ensure that this policy is implemented and implementation is reviewed annually.

(d) Department Information Asset Custodians:

(1) Shall implement technology and process controls.

(2) Shall maintain records of security monitoring controls implemented.

#### **49090.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards, and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

#### **49090.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

#### **49090.8 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49090.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

#### **49090.10 Authority**

This policy complies with the State of California Government Code section 11549.3.

#### **49090.11 Revisions**

The CIO or designee shall ensure that the contents of this article are current and accurate.

#### **References**

SAM, section 5335, Information Security Monitoring

SAM, section 5335.1, Continuous Monitoring

SAM, section 5335.2, Auditable Events

NIST SP 800-53, Audit and Accountability, AU-2, AU-6, AU-7, AU-13

NIST SP 800-53, Incident Response, IR-5, IR-10

NIST SP 800-53, Physical and Environmental Protection, PE-6

NIST SP 800-53, Program Management, PM-9

NIST SP 800-53, Risk Assessment, RA-2, RA-3

NIST SP 800-53, Security Assessment and Authorization, CA-7

DOM, Chapter 3, Article 22

DOM, Chapter 4, Article 41, section 48010.5

California Government Code, section 11549.3

#### **Revision History**

Effective: December 30, 2021.

## **ARTICLE 53 — SERVER CONFIGURATION POLICY**

*Effective December 30, 2021*

#### **49100.1 Introduction and Overview**

This document defines the policy for all servers, physical and virtual, owned or operated by the department. Effective implementation of this policy minimizes the risk of server vulnerabilities that can result in

system unavailability, data corruption, unauthorized access, information and resource misuse, and service disruption.

#### **49100.2 Objectives**

The objective of this policy is to establish the base configuration of internal server equipment that is owned and operated by the department. Effective implementation of this policy will minimize unauthorized access to department proprietary information and technology.

#### **49100.3 Scope and Applicability**

(a) The scope of this policy extends to all information assets owned or operated by the department, including critical infrastructure, as well as information assets owned or operated by third-parties on behalf of the department.

(b) This policy applies to Owners of Information Assets and Information Asset Custodians.

#### **49100.4 Policy Directives**

(a) The department shall:

(1) Only create server service accounts when necessary.

(2) Use the Principle of Least Privileged (POLP) to limit user access rights to a minimum.

(3) Not use administrative accounts (e.g., root, administrator, O365 Global) when a non-privileged account will suffice.

(4) Disable/lock/delete all accounts except those required to provide necessary services.

(5) Change the default passwords for all accounts and follow password security best practices outlined in SIMM 5300-A, Org-Defined Standards, (NIST IA-5(1)).

(6) Limit access to administrative accounts to only those who have operational need and have been authorized.

(7) Ensure service accounts are not part of Local Administrators or Domain Administrator accounts.

(8) Authorize and document all administrative (privileged) accounts.

(9) Encrypt all passwords and all sensitive and confidential data while in transit. Passwords shall adhere to State Org-Defined Policy. (See SAM 5350.1, SIMM 5300-B and NIST SP 800-63B, FIPS 140-2).

(10) Authenticate users over encrypted protocols.

(11) Log all access to the server and services that are protected through access control methods.

(12) Establish and implement controls to ensure that service account functions are authorized using service account credentials only.

(b) Systems Configuration and Maintenance

(1) Servers shall be patched and hardened before attaching them to the network. Security patches shall be installed on the system not less than monthly. If an intelligence source advises of an imminent threat, patches shall be installed according to documented information technology standards.

(2) Servers shall be physically secured in locations accessible only to authorized personnel.

(3) Only required services shall be enabled or installed on the server. Services that are not required shall be uninstalled or disabled.

(4) Regular back-ups of the server shall be completed according to the back-up and retention policy and tested on a periodic schedule.

(c) Monitoring

(1) The server shall capture and archive critical user, network, system, and security event logs to enable review of system data for forensic and recovery purposes.

(2) Security-related events shall be reviewed and investigated. Events include, but are not limited to:

(A) Account lockouts

(B) Failed user account logins

(C) Evidence of unauthorized access to privileged accounts

(D) Anomalous occurrences that are not related to specific applications on the server

(3) Security incidents shall be handled immediately in accordance with SAM and SIMM and reported to the department Information Security Officer (ISO), the data owners or their designees.

#### **49100.5 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee:

(1) Owns this policy and is responsible for ensuring that all Owners of Information Assets, Information Asset Custodians, and users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) Is responsible for ensuring that this policy is reviewed annually, and updated accordingly.

(3) Is required to audit and assess compliance with this policy at least once every 2 years.

(b) Department ISO:

(1) Shall assist Owners of Information Assets and information asset custodians in the identification of data security controls and processes.

(2) Shall ensure data security controls, methods, and processes meet department and applicable regulatory requirements for security.

(3) Shall participate in all incidents involving information security.

(c) Department Owners of Information Assets and Program Management:

(1) In collaboration with the Information Asset Custodians, shall ensure that this policy is implemented and implementation is reviewed annually and as appropriate.

(2) Shall audit user access rights and privileges to ensure alignment with individual job roles and functions on an annual or more frequent basis as appropriate.

(d) Department Information Asset Custodians:

(1) Shall review accounts with privileged access no less than semi-annually and verify that continued privileged access is required.

(2) In collaboration with Owners of Information Assets, shall ensure the information security control measures are commensurate with the sensitivity or criticality of information assets under their purview.

(3) Shall assist Owners of Information Assets in identifying data security controls commensurate with the classification of the data.

(4) Shall document, implement, monitor, and maintain data security protection controls based upon the sensitivity or criticality of the assets.

(5) Shall develop and implement tools, technologies, processes, and procedures to support, monitor, and maintain data security controls.

(6) Shall maintain data security records.

#### **49100.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards, and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

#### **49100.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

#### **49100.8 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49100.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

#### **49100.10 Authority**

This policy complies with the State of California Government Code section 11549.3.

#### **49100.11 Revisions**

The CIO or Designee shall ensure that the contents of this article are current and accurate.

#### **References**

SIMM, section 5300-B, Foundational Framework

SIMM, section 5305-A, Information Security Program Management Standard

SAM, section 5305.5, Information Asset Management

SAM, section 5310.4, Individual Access to Personal Information

SAM, section 5310.6, Data Retention and Destruction

SAM, section 5310.7, Security Safeguards

SAM, section 5340, Information Security Incident Management

SAM, section 5340.1, Incident Response Training

SAM, section 5340.2, Incident Response Testing

SAM, section 5340.3, Incident Handling

SAM, section 5340.4, Incident Reporting

SAM, section 5350.1, Encryption

SAM, section 5365, Physical Security

SAM, section 5365.1, Access Control for Output Devices

SAM, section 5365.2, Media Protection

SAM, section 5365.3, Media Disposal

Federal Information Processing Standards, FIPS 199

Federal Information Processing Standards, FIPS 140-2

NIST SP 800-53, Access Control, AC-3, AC-4

NIST SP 800-53, Audit and Accountability, AU-2, AU-3, AU-13

NIST SP 800-53, Configuration Management, CM-8

NIST SP 800-53, Identification and Authentication, IA-5(1)

NIST SP 800-53, Media Protection, MP-1, MP-2, MP-3, MP-4, MP-5, MP-6, MP-7

NIST SP 800-53, Physical and Environmental Protection, PE-5, PE-19, PE-20

NIST SP 800-53, Planning, PL-4

NIST SP 800-53, Program Management, PM-9

NIST SP 800-53, Risk Assessment, RA-2, RA-3

NIST SP 800-53, Security and Communications Protection, SC-4, SC-8, SC-13, SC-17, SC-28

NIST SP 800-63B, Digital Identity Guidelines, Authentication and Lifecycle Management

DOM, Chapter 3, Article 22

DOM, Chapter 4, Article 41, section 48010.5

California Government Code, section 11549.3

#### **Revision History**

Effective: December 30, 2021.

## **ARTICLE 54 – ACCESS CONTROL POLICY**

*Effective March 14, 2022*

### **49110.1 Introduction and Overview**

Information assets owned by the California Department of Corrections and Rehabilitation (CDCR), California Correctional Health Care Services (CCHCS), and California Prison Industry Authority (CALPIA) are strategic assets intended for official business use, and are entrusted to State personnel and business partners in the performance of their job related duties.

Access may enable or restrict the ability to do something with a resource. Access control, then, is the selective restriction of these abilities and is comprised of both physical and logical access.

### **49110.2 Objectives**

Objectives for this policy are to:

(a) Enable the development and implementation of a CDCR, CCHCS, and CALPIA (hereinafter referred to as department) identity and access management strategy that comprehensively addresses all access to department information assets.

(b) Document requirements for the appropriate control and management of physical and logical access to, and the use of department information assets.

(c) Require the use of appropriate authentication methods based on the type and sensitivity of information assets being accessed.

(d) Govern the use of privileged access rights, such as those assigned to Administrator and Privileged Accounts.

### **49110.3 Scope and Applicability**

This policy applies to all personnel; all information assets owned or operated by the department; and all forms of physical and logical access to department information assets, including using wired, wireless, and remote access network connections. All department personnel shall comply with this policy.

**49110.4 Policy Directives**

(a) Before department IT infrastructure network access, users shall be identified and authenticated.

(b) Users accessing sensitive or confidential information shall be appropriately provisioned before accessing department owned or operated information assets and associated facilities.

In the case of physical access to facilities, where access control is a manual process, authentication shall be accomplished by manual verification of an identity (e.g., photo ID).

(c) Access to department information assets and associated permissions shall be approved by the respective department information asset owner.

(d) Records of all user account creations, deletions, and changes to user access and permissions shall be maintained for a period of at least twelve (12) months.

(e) The department shall develop a comprehensive identity and access management strategy based on statutory and organizational business requirements, including:

(1) Supporting unique identification, individual user types and groups, job roles and access methods.

(2) Limiting access to information assets and associated facilities to authorized users, processes, or devices, and to authorized activities and transactions.

(3) Defining roles and assigning responsibilities pertaining to access control tools, technologies and processes.

(4) Developing and implementing standards, technologies and processes to support its access control strategy.

(5) Formally defining and documenting user account types and groups, and access use cases, commensurate with employment responsibilities.

(6) Employing multi-factor authentication for remote access, and risk-based user authentication methods to accommodate approved logical access use cases.

(7) Publicly available or published access and authentication credentials, such as default credentials, anonymous credentials and guest credentials, shall not be re used, and shall be replaced as a matter of standard procedure.

(8) Display a notification of system use or security warning banner message on each system that requires affirmative acknowledgement by the user before authentication.

(f) The department shall ensure that access to non-active personnel is deactivated before or immediately after termination, as appropriate.

(g) The department shall review and validate user access and associated access permissions and privileges at least every twelve (12) months to ensure alignment with individual job roles and functions.

(h) Certain department information technology support personnel and network administrators shall require specific privileges to perform their duties.

(1) For all Administrators and Privileged Account holders, the department shall:

(A) Identify and document all Administrator and Privileged Account holders.

(B) Ensure that administrative and privileged accesses are granted to users through established or approved local provisioning processes.

(C) Ensure that such users acknowledge the privileges and only use those accounts to fulfill the specific job responsibilities for which the privileges apply.

(D) Ensure automated processes including service accounts with privileged access to information systems shall follow established standards for password rotation, limited access and auditing.

(E) Review and validate the continued business need for all Administrator and Privileged Accounts on an annual basis or when staffing, resource, or job function changes occur.

(i) User access and permissions shall be based on the principles of least privilege and separation of duties.

(j) The department shall define and document all auditable system events related to data and information access that shall be recorded.

(k) The department shall ensure access control management systems are configured to capture and record audit and security information related to access events.

(l) Audit and security records shall be securely stored and protected against tampering; audit and security records shall be maintained for the period defined in the records retention schedule.

(m) Monitoring and alerting of anomalous or suspicious activities and events is most effectively accomplished through automated and real-time reviews of audit and security logs.

(n) The department shall implement suitable controls to monitor for unauthorized changes to user access. Where feasible, unauthorized changes shall generate automated alerts to notify responsible department individuals.

(o) In the absence of automated monitoring and alerting, the department Information Security Officer (ISO) shall review access record reports on a quarterly basis. Access records include: new user account creation requests, user access revocation requests, active user lists, and user termination lists.

**49110.5 Roles and Responsibilities**

(a) The department Chief Information Officer (CIO) or Designee:

(1) Owns this policy and is responsible for ensuring that all users of department Information Assets are aware of this policy and acknowledge their individual responsibilities.

(2) Is responsible for ensuring that this policy is reviewed annually, and updated accordingly.

(3) Is required to audit and assess compliance with this policy at least once every two (2) years.

(b) Department Owners of Information Assets and Program Management:

(1) In collaboration with the Information Asset Custodians shall ensure that this policy is implemented and implementation is reviewed at minimum annually.

(2) Shall audit and assess user access rights and privileges to ensure alignment with individual job roles and functions on an annual basis.

(c) Department Information Asset Custodians:

(1) Shall implement user access and associated rights and privileges as requested and approved by Owners of Information Assets.

(2) In collaboration with Owners of Information Assets, shall periodically review accounts with elevated privileges and verify that continued privilege account access is required.

(3) In collaboration with Owners of Information Assets shall ensure access technology and process controls are commensurate with the sensitivity or criticality of information assets under their purview.

(4) Shall revoke or modify individual user access rights and privileges upon notification from the Owners of Information Assets.

(5) Shall maintain access records consistent with the retention schedule.

**49110.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards, and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

**49110.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) .CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

**49110.8 Reporting**

Violations of this policy shall be reported to the department ISO.

**49110.9 Security Variance Process**

If compliance is not feasible or is technically impossible, if existing policy currently in place already meets these requirements, or if deviation from this policy is

necessary to support a business function, the respective manager shall formally request a security variation as defined by the department ISO.

#### **49110.10 Authority**

This policy complies with California Government Code Section 11549.3.

#### **49110.11 Revisions**

The CIO or designee shall ensure that the contents of this article are current and accurate.

#### **References**

SIMM 5305-A, Information Security Program Management Standard  
 SAM, Section 5305.4, Personnel Management  
 SAM, Section 5305.7, Risk Assessment  
 SAM, Section 5315, Information Security Integration  
 SAM, Section 5335, Information Security Monitoring  
 SAM, Section 5335.1, Continuous Monitoring  
 SAM, Section 5335.2, Auditable Events  
 SAM, Section 5355, Endpoint Defense  
 SAM, Section 5355.1, Malicious Code Protection  
 SAM, Section 5360, Identity And Access Management  
 SAM, Section 5360.1, Remote Access  
 SAM, Section 5360.2, Wireless Access  
 SAM, Section 5365.1, Access Control for Output Devices  
 NIST SP 800-53, Access Control AC-1, AC-2 (1)(2)(3)(4), AC-3, AC-4, AC-5, AC-6 (1)(2)(5)(9)(10), AC-7, AC-8, AC-11, AC-12, AC-14, AC-17(1)(2)(3)(4), AC-18(1), AC 19(5), AC-20(1)(2), AC-21, AC-22, AC-24  
 NIST SP 800-53, Audit & Accountability AU-3, AU-6, AU-7, AU-8, AU-9, AU-10, AU 11, AU-13  
 NIST SP 800-53, Awareness & Training AT-2  
 NIST SP 800-53, Identification & Authorization IA-1, IA-2, IA-3, IA-4, IA-5, IA-6, IA-7, IA 8, IA-9, IA-10, IA-11  
 NIST SP 800-53, Risk Assessment RA-1, RA-2, RA-3  
 DOM, Chapter 3, Article 22  
 DOM, Chapter 4, Article 45, Section 49020.6.1, 49020.7.1, 49020.9, 49020.10  
 California Government Code Section 11549.3

#### **Revision History**

Effective: March 14, 2022.

## **ARTICLE 55 – ACCEPTABLE USE POLICY**

*Effective March 14, 2022*

### **49120.1 Introduction and Overview**

(a) Information assets owned by the California Department of Corrections and Rehabilitation (CDCR), California Correctional Health Care Services (CCHCS), and California Prison Industry Authority (CALPIA) (including but not limited to department data and information, laptops, cell phones, and removable storage devices) are strategic assets intended for official business use, and are entrusted to State personnel in the performance of their job-related duties.

(b) Inappropriate use of CDCR, CCHCS, and CALPIA (hereinafter referred to as department) information assets could negatively affect the confidentiality, integrity, or availability of the information, information systems, or other information assets of the department and the State of California. Consequently, it is important for all users to access or use information assets in a responsible, ethical, and legal manner that safeguards department data and information.

(c) Additionally, the appropriate use of information assets benefits the State and the department by strengthening the protection of the department and its personnel and business partners from illegal or potentially damaging activities.

### **49120.2 Objectives**

This policy defines and establishes the requirements for the appropriate use and safeguarding of department information assets.

### **49120.3 Ownership of Information**

(a) Data and information in hard copy format and that which is electronically created, sent, received, processed, or stored on information

assets owned, leased, administered, or otherwise under the custody and control of the department are the property of the State. Any information, not specifically identified as the property of other parties and that is transmitted, processed, or stored on the department's and business partner IT facilities and resources (including e-mail, messages, and files) is considered the property of the department.

(b) Individual access and use of department information assets is neither personal nor private. As such, department management reserves the right to monitor and log all employee use of department information assets with or without advanced notice.

### **49120.4 Scope and Applicability**

The scope of this policy extends to all information assets owned or operated by the department and to all personnel authorized to use these assets.

### **49120.5 Policy Directives**

(a) The department shall ensure that users use and protect department information assets in accordance with this policy and applicable information security and privacy policies.

(b) Department Unacceptable Use

The department shall ensure that users do not:

(1) Use department information assets to engage in or solicit the performance of any activity that violates laws, regulations, rules, policies, standards, and other applicable requirements issued by the federal government, the State of California, and the department.

(2) Use department information assets for personal enjoyment, private gain or advantage, personal gain, political activity, unsolicited advertising, unauthorized fundraising, or an outside endeavor not related to State business.

(3) Engage in any activity that attempts to circumvent or alter the function of the department's security controls (e.g., spoofing email, anonymous proxies, or unauthorized encryption), or other activities that may degrade the performance of information resources, or may deprive an authorized user access to department assets.

(4) Share their work-related account(s), passwords, Personal Identification Numbers (PIN), security questions/answers, security tokens (e.g., smartcard, key fob), or similar information or devices used for authentication and authorization purposes.

(5) Use department information assets to send or arrange to send emails or intentionally access sites that contain pornographic, racist, or offensive material, chain letters or unauthorized mass mailings, and malicious code.

(6) Users shall not connect or otherwise attach unauthorized devices or equipment to the department network infrastructure.

### **49120.6 Roles and Responsibilities**

(a) The department Chief Information Officer (CIO) or Designee:

(1) Owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) Is responsible for ensuring that this policy is reviewed annually and updated accordingly.

(3) Is required to audit and assess compliance with this policy at least once every two (2) years.

(b) Department Information Asset Users:

(1) Shall use and protect department information assets in accordance with this policy and applicable information security and privacy policies.

(2) Shall report any security concerns pertaining to department information asset security of which they become aware to the department Information Security Officer (ISO), designee, appropriate security staff or their immediate supervisor. Security concerns with information assets may include unexpected software or system behavior, which could result in unintentional disclosure of information or exposure to security threats.

(3) Shall report any suspected or actual activities or events indicating misuse or violation of this policy to the department ISO, designee, appropriate security staff or their immediate supervisor.

(4) Shall be aware of and adhere to all department information security and privacy policies.

### **49120.7 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards, and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their

general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

- (1) Loss of delegated authorities.
- (2) Negative audit findings.
- (3) Monetary penalties.
- (4) Legal actions.

#### **49120.8 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

#### **49120.9 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49120.10 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the department ISO.

#### **49120.11 Authority**

This policy complies with the State of California Government Code Section 11549.3.

#### **49120.12 Revisions**

The CIO or designee shall ensure that the contents of this article are current and accurate.

#### **References**

SIMM, Section 5305-A, Information Security Program Management Standard

SAM, Section 5305.3, Information Security Roles and Responsibilities

SAM, Section 5320.4, Personnel Security

DOM Chapter 3, Article 22

DOM Chapter 4, Article 41, Section 48010.5

California Government Code Section 11549.3

#### **Revision History**

Effective: March 14, 2022.

## **ARTICLE 56 – FIREWALL CONFIGURATION POLICY**

*Effective March 14, 2022*

### **49130.1 Introduction and Overview**

Network firewalls act as a communications buffer between internal and external devices while simultaneously keeping out unwanted users, viruses, worms, or other malicious programs trying to access the protected network. Firewalls and the technology and procedures that support them help protect internal networks and manage traffic in and out of California Department of Corrections and Rehabilitation (CDCR), California Correctional Health Care Services (CCHCS), and California Prison Industry Authority (CALPIA)'s network.

### **49130.2 Objectives**

The objective of this policy is to define how firewalls are to be configured, implemented, and managed within the CDCR, CCHCS, and CALPIA (hereinafter referred to as department).

### **49130.3 Scope and Applicability**

(a) The scope of this policy extends to all information assets owned or operated by the department, including mission critical infrastructure and information assets owned or operated by third parties (if applicable) on behalf of the department.

(b) This policy applies to the department Chief Information Officer or their designee, Information Technology functions, information security sections, owners of critical infrastructure, Agency and Department Information Security Officers, Technology Recovery Plan coordinators, and Information Asset Custodians.

### **49130.4 Policy Directives**

(a) The department shall use a multi-layered approach to protect computer resources and assets. Network security design shall include firewall functionality at all places in the network where opportunities exist for outside exploitation. This may include placing a firewall in

areas other than the network perimeter to provide an additional layer of security and protect devices that are placed directly onto external networks (i.e. the demilitarized zone or DMZ) or between different trusted and untrusted segments of the network.

### **(b) Firewall Configuration**

The department shall:

- (1) Implement configurations that restrict all inbound and outbound traffic associated with untrusted wired/wireless networks and hosts.
- (2) Deny all traffic by default and only allow inbound and outbound traffic through approved exceptions.
- (3) Disable unnecessary user accounts and default accounts (e.g. Administrator, Guest, etc.).
- (4) Disable all unused and unnecessary ports, protocols, and services before deployment into a production environment.
- (5) Implement a Demilitarized Zone (DMZ) that limits inbound traffic to the internal trusted network and permits authorized publicly accessible services, protocols, and ports/services.
- (6) Log all changes to firewall configuration parameters, enabled services, and permitted connectivity paths for a period of one (1) year. The department data retention procedures shall be followed.
- (7) Physically secure firewalls in a location accessible only to authorized personnel. The placement of firewalls in an open area within a general-purpose data center is prohibited.

### **49130.5 Firewall Administration and Management**

(a) The following firewall management practices shall be utilized:

- (1) Configuration of rulesets and policies shall be managed through an internal change management process.
- (2) Firewall security logs shall be reviewed no less than every six (6) months to detect any unauthorized entry attempts or network anomalies, and shall be retained for a period of one (1) year.
- (3) All enterprise firewall rulesets shall be reviewed according to documented processes and procedures.
- (4) All new inbound and outbound connections requiring firewall rulesets to be applied shall have a valid business justification and the approval of the Information Asset Custodian on behalf of the Information Asset Owner.
- (5) Current security updates, patches, and anti-virus definitions shall be applied in accordance with documented standards, threat intelligence, and product/vendor guidance.
- (6) Administrative access shall be restricted to authorized and approved Information Asset Custodians and designated security personnel.
- (7) Access to management and administrative interfaces shall be available only from locations that are deemed appropriate.

### **49130.6 Roles and Responsibilities**

(a) The department Chief Information Officer (CIO) or Designee:

- (1) Owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.
- (2) Is responsible for ensuring that this policy is reviewed annually and updated accordingly.
- (3) Is required to audit and assess compliance with this policy at least once every two (2) years.

(b) The department Information Security Officer (ISO):

- (1) Is responsible for the oversight and coordination of entity information security policies and procedures.

(c) The department Owners of Information Assets and Program Management:

- (1) In collaboration with the Information Asset Custodians, are responsible for ensuring the protection of information assets under their purview.

(d) The department Information Asset Custodians:

- (1) In collaboration with the Information Asset Owners, are responsible for ensuring implementation of this policy and its directives.
- (2) Shall review firewall security logs in accordance with this policy.
- (3) Shall notify the department ISO and the asset owner shall a security incident occur.

(e) The department Firewall Administrators:

Are responsible for managing firewall policies, updates, upgrades, software, installations, as well as other network security solutions. As access and network requirements change, firewall policies shall be updated to reflect these changes.

**49130.7 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards, and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, The department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

- (1) Loss of delegated authorities.
- (2) Negative audit findings.
- (3) Monetary penalties.
- (4) Legal actions.

**49130.8 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

**49130.9 Reporting**

Violations of this policy shall be reported to the department ISO.

**49130.10 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variation as defined by the department ISO.

**49130.11 Authority**

This policy complies with State of California Government Code Section 11549.3 and SAM-5350 Operational Security.

**49130.12 Revisions**

The CIO or designee shall ensure that the contents of this article are current and accurate.

**References**

SAM, Section 5305.5, Information Asset Management  
 SAM, Section 5310.4, Individual Access to Personal Information  
 SAM, Section 5310.6, Data Retention and Destruction  
 SAM, Section 5310.7, Security Safeguards  
 SAM, Section 5340, Information Security Incident Management  
 SAM, Section 5340.1, Incident Response Training  
 SAM, Section 5340.2, Incident Response Testing  
 SAM, Section 5340.3, Incident Handling  
 SAM, Section 5340.4, Incident Reporting  
 SAM, Section 5350.1, Encryption  
 SAM, Section 5365, Physical Security  
 SAM, Section 5365.1, Access Control for Output Devices  
 SAM, Section 5365.2, Media Protection  
 SAM, Section 5365.3, Media Disposal  
 Federal Information Processing Standard, FIPS 199  
 NIST SP 800-53, Access Control, AC-3 Access Enforcement, AC-4 Information Flow Enforcement  
 NIST SP 800-53, Audit and Accountability, AU-2 Event Logging, AU-3 Content of Audit Records, AU-13 Monitoring for Information Disclosure  
 NIST SP 800-53, Configuration Management, CM-8 System Component Inventory  
 NIST SP 800-53, Media Protection, MP-1, MP-2, MP-3, MP-4, MP-5, MP-6, MP-7  
 NIST SP 800-53, Physical and Environmental Protection, PE-5 Access Control for Output Devices, PE-19 Information Leakage, PE-20 Asset Monitoring and Tracking  
 NIST SP 800-53, Planning, PL-4 Rules of Behavior

NIST SP 800-53, Program Management, PM-9 Risk Management Strategy

NIST SP 800-53, Risk Assessment, RA-2 Security Categorization, RA-3 Risk Assessment

NIST SP 800-53, Assessment, Authorization and Monitoring, CA-7 Continuous Monitoring

NIST SP 800-53, System and Communications Protection, SC-4 Information in Shared Resources, SC-8 Transmission Confidentiality and Integrity, SC-13 Cryptographic Protection, SC-17 Public Key Infrastructure Certificates, SC-28 Protection of Information at Rest

DOM Chapter 3, Article 22

DOM Chapter 4, Article 45, Sections 49020.8, 49020.9 and 49020.10

California Government Code Section 11549.3

**Revision History**

Effective: March 14, 2022.

## ARTICLE 57 – PHYSICAL AND ENVIRONMENTAL PROTECTION POLICY

*Effective March 14, 2022*

**49140.1 Introduction and Overview**

(a) Information assets owned by the California Department of Corrections and Rehabilitation (CDCR), California Correctional Health Care Services (CCHCS), and California Prison Industry Authority (CALPIA) (including but not limited to department data and information, servers, laptops, tablets, cell phones, and removable storage devices) are strategic assets intended for official business use, and they are entrusted to State personnel in the performance of their job related duties.

(b) Restricting physical access to information assets reduces the potential for their damage and misuse. Implementing and maintaining environmental controls provides optimal operating conditions for information assets that are critical to CDCR, CCHCS, and CALPIA (hereinafter referred to as department) business functions.

**49140.2 Objectives**

Objectives for this policy are to establish physical security and environmental protection control requirements to safeguard department information assets against unauthorized access, use, disclosure, disruption, modification, or destruction.

**49140.3 Scope and Applicability**

(a) The scope of this policy extends to all State information assets owned or operated by the department, and governs physical access to department information assets.

(b) This policy applies to all department personnel.

**49140.4 Policy Directives**

(a) The department shall define the control requirements for the physical environmental protection of information assets.

(b) The department shall implement, manage, monitor, and regularly maintain physical security and environmental protection controls to safeguard State information assets for which they have custodianship.

(c) Personnel identification systems and facility access controls shall be implemented for all personnel and visitors. Access logs shall be reviewed at minimum annually.

(d) Environmental controls shall be implemented in computer rooms and data centers, including but not limited to, temperature and humidity regulators, fire detection and suppression, and electrical power conditioning.

(e) Supporting controls, processes, and procedures to control physical access (e.g., security gates), handling digital media, and emergency processes and procedures shall be implemented.

(f) Service records of periodic maintenance of physical and environmental protection controls (e.g., heating/cooling unit servicing) and results of tests of environmental controls (e.g., power outage) shall be retained for a minimum of six (6) months.

(g) Security risks shall be identified, remediated, and reported to the department Information Security Officer (ISO).

**49140.5 Roles and Responsibilities**

(a) The department Chief Information Officer (CIO) or Designee:

(1) Owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) Is responsible for ensuring that this policy is reviewed annually and updated accordingly.

(3) Is required to audit and assess compliance with this policy at least once every two (2) years.

(b) The department Owners of Information Assets and Program Management:

(1) Shall formally approve and authorize access and revocation of access to information assets.

(2) In collaboration with the Information Asset Custodians shall validate access to information assets under their purview on an annual basis, or when staffing, resource or job function changes occur.

(3) In collaboration with the Information Asset Custodians shall validate protection requirements for information assets under their purview on an annual basis.

(c) The department Information Asset Custodians:

(1) In collaboration with the Owners of Information Assets shall define protection requirements for information assets under their purview.

(2) Shall implement, manage, maintain, monitor, and periodically test physical and environmental protection controls to safeguard State information assets for which they have custodianship and as defined by the respective Owners of Information Assets.

(3) Shall track and monitor all access to information assets, including physical access, as defined by Owners of Information Assets, and physical and environmental controls to validate correct operation.

(4) Shall maintain all maintenance records and results of periodic tests.

#### **49140.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the CDT OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

#### **49140.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department's readiness to respond and recover from an incident.

#### **49140.8 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49140.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

#### **49140.10 Authority**

This policy complies with State of California Government Code Section 11549.3.

#### **49140.11 Revisions**

The CIO or designee shall ensure that the contents of this article are current and accurate.

#### **References**

SAM, Section 5325, Business Continuity Planning

SAM, Section 5360, Identity and Access Management

SAM, Section 5365, Physical Security

NIST SP 800-53, Physical and Environmental Protection, PE-1, PE-2, PE-3, PE-4, PE-5, PE-6, PE-8, PE-9, PE-10, PE-11, PE-12, PE-13, PE-14, PE-15, PE-16, PE-17

NIST SP 800-53, Maintenance, MA-1, MA-2, MA-3, MA-4, MA-5

NIST SP 800-53, Contingency Planning, CP-2, CP-3

NIST SP 800-53, Incident Response, IR-1, IR-2, IR-3, IR-4, IR-5, IR-6, IR-7

NIST SP 800-53, Media Protection, MP-1, MP-2, MP-3, MP-4, MP-5, MP-6, MP-7

DOM Chapter 3, Article 22

DOM Chapter 4, Article 45, Section 49020.9, 49020.10

California Government Code Section 11549.3

#### **Revision History**

Effective: March 14, 2022.

## **ARTICLE 58 – SECURITY ASSESSMENT AND AUTHORIZATION**

### **POLICY**

*Effective March 14, 2022*

#### **49150.1 Introduction and Overview**

(a) California Department of Corrections and Rehabilitation (CDCR), California Correctional Health Care Services (CCHCS), and California Prison Industry Authority (CALPIA) is responsible for the integration of information security and privacy within the organization. This includes, but is not limited to, the design and early identification of appropriate security controls in information asset acquisitions, in the design of new systems, or existing systems that are undergoing substantial redesign, including both in-house and outsourced solutions.

(b) The CDCR, CCHCS, and CALPIA (hereinafter referred to as department) shall ensure its Information Security Officer (ISO) and, where applicable, its Privacy Program Coordinator and Technology Recovery Coordinator, are actively engaged with both the owners of information assets, and any relevant project, procurement, and technical personnel, to identify and implement the appropriate security controls required to manage risk to acceptable levels. Where applicable, the department ISO shall also work with other stakeholders, as appropriate.

#### **49150.2 Objectives**

The objective for this policy is to establish a documented security assessment and authorization plan.

#### **49150.3 Scope and Applicability**

(a) The scope of this policy extends to all State and Agency information assets owned or operated by the department.

(b) This policy applies to the department ISO, Privacy Officer, Privacy Program Coordinator, program management, Owners of Information Assets and Information Asset Custodians.

#### **49150.4 Policy Directives**

The department shall ensure that a plan for assessing security controls in department information assets is defined and documented. The plan shall include the following:

(a) Roles and responsibilities for security assessments and authorization.

(b) Assessments are integrated in life cycle processes and operational assessments, and identify weaknesses and deficiencies early in information asset acquisition, development, and integration processes.

(c) Essential information needed to make risk management decisions as part of security authorization processes is provided to the defined risk decision makers.

#### **49150.5 Roles and Responsibilities**

(a) The department Chief Information Officer (CIO) or Designee:

(1) Owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) Is responsible for ensuring that this policy is reviewed annually, and updated accordingly.

(3) Is required to audit and assess compliance with this policy at least once every two (2) years.

(b) The department Information Security Officer (ISO):

(1) Shall facilitate security assessments and authorizations, and shall provide advice as appropriate.

(c) The department Owners of Information Assets and Program Management in collaboration with Information Asset Custodians shall:

(1) Ensure that this policy is implemented and shall review the policy's implementation annually.

(2) Ensure requisite security controls are implemented in accordance with applicable security requirements and documented authorizations for information assets.

(3) Ensure that any security control gaps and residual risks being accepted are formally documented.

(4) Ensure that records and results of assessments and risk decisions are maintained.



(5) Ensure that records and results of assessments and risk decisions are provided to information security officers in a timely manner.

(d) The department Information Asset Custodians:

Shall implement the requisite security controls based upon the sensitivity or criticality of the assets as defined by the owners of information assets.

(e) The department Privacy Officer/Privacy Program Coordinator:

Shall ensure that privacy threshold and privacy impact assessments are completed as part of the security assessment and authorization process.

#### **49150.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards, and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, The department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

- (1) Loss of delegated authorities.
- (2) Negative audit findings.
- (3) Monetary penalties.
- (4) Legal actions.

#### **49150.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department's readiness to respond and recover from an incident.

#### **49150.8 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49150.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the department ISO.

#### **49150.10 Authority**

This policy complies with the State of California Government Code Section 11549.3.

#### **49150.11 Revisions**

The CIO or designee shall ensure that the contents of this article are current and accurate.

#### **References**

SIMM, Section 5305-A, Information Security Program Management Standard

SAM, Section 5305.7, Risk Assessment

SAM, Section 5315, Information Security Integration

SAM, Section 5315.9, Security Authorization

NIST SP 800-53, Asset, Authorization, and Monitoring, (CA), CA-1, CA-2, CA-4, CA-6

NIST SP 800-53, System and Information Integrity Policy and Procedures (SI), SI-1, SI 6, SI-12

NIST 800-37, Risk Management Framework for Information Systems and Organizations: A Systems Life Cycle Approach for Security and Privacy

DOM Chapter 3, Article 22

DOM Chapter 4, Article 45, Sections 49020.9

California Government Code Section 11549.3

#### **Revision History**

Effective: March 14, 2022.

## **ARTICLE 59 – AUDIT AND ACCOUNTABILITY POLICY**

*Effective November 3, 2022*

### **49160.1 Introduction and Overview**

(a) In order to detect and respond to signs of attack, anomalies, and suspicious or inappropriate activities, California Department of Corrections and Rehabilitation (CDCR), California Correctional Healthcare Services (CCHCS), and California Prison Industry Authority (CALPIA), hereinafter referred to as department, requires an audit and security event logging strategy to continuously monitor access and activities conducted using department information assets.

(b) Information assets owned by the department are strategic assets intended for official business use, and are entrusted to State personnel and business partners in the performance of their job-related duties. Since inappropriate or unauthorized access and use of department information assets could result in harm to the State and to the department, it is important to detect and respond to signs of attack, anomalies, and suspicious or inappropriate activities in a timely and proper manner.

### **49160.2 Objectives**

This policy guides the development and implementation of department event logging and continuous monitoring strategy and supporting processes to identify and respond to indicators of attack, anomalies, and suspicious or inappropriate activities.

### **49160.3 Scope and Applicability**

(a) The scope of this policy extends to all information assets owned or operated by the department.

(b) This policy is applicable to department Owners of Information Assets and Information Asset Custodians.

### **49160.4 Policy Directives**

(a) Department Owners of Information Assets in collaboration with Information Asset Custodians and the department Information Security Officer (ISO) shall develop and implement an event logging and continuous monitoring strategy of access and activities conducted using department information assets. This strategy shall include, at a minimum, the following items:

- (1) Define and document the audit logging requirements and security events that shall be recorded, monitored, and reviewed.
- (2) Identify and implement controls for audit trails and auditability of events for each system as well as for the internal network, accounting for segregation of duties, as appropriate.
- (3) Perform, at minimum, monthly monitoring of event logs of critical information assets to identify and respond to indicators of attacks, anomalies, and suspicious or inappropriate activities in a timely manner.
- (4) Define secure storage and retention of event logs.
- (5) Clearly define roles and responsibilities for event logging and monitoring.

### **491605 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee

- (1) The CIO or Designee owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.
- (2) The CIO or Designee is responsible for ensuring that this policy is reviewed annually and updated accordingly.
- (3) The CIO or Designee is required to audit and assess compliance with this policy at least once every two (2) years.

(b) Department Information Security Officer (ISO)

- (1) The ISO shall guide the development and implementation of the department event logging and continuous monitoring strategy.
- (c) Department Owners of Information Assets and Program Management
- (1) Owners of Information Assets in collaboration with Information Asset Custodians are responsible for ensuring the protection of information assets under their purview.
- (2) Owners of Information Assets shall participate in the development and implementation of an event logging and continuous monitoring strategy.
- (3) Owners of Information Assets shall ensure assets are independently and continuously monitored based on the criticality of information assets.

(d) Department Information Asset Custodians

- (1) Information Asset Custodians shall participate in the development and implementation of an event logging and continuous monitoring strategy.
- (2) Information Asset Custodians shall implement and maintain the department event logging and continuous monitoring strategy.

### **49160.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the

information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

- (1) Loss of delegated authorities.
- (2) Negative audit findings.
- (3) Monetary penalties.
- (4) Legal actions.

#### **49160.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

#### **49160.8 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49160.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

#### **49160.10 Authority**

This policy complies with State of California Government Code Section 11549.3.

#### **49160.11 Revisions**

The CIO or Designee shall ensure that the contents of this article are current and accurate.

#### **References**

SIMM 5305-A, Information Security Program Management Standard  
 SIMM 5340-A, Incident Reporting and Response Instructions  
 SAM, Section 5335, Information Security Monitoring  
 SAM, Section 5335.1, Continuous Monitoring  
 SAM, Section 5335.2, Auditable Events  
 NIST SP 800-53, Audit and Accountability, AU-1, AU-2, AU-3, AU-4, AU-5, AU-6, AU-7, AU-8, AU-9, AU-10, AU-11  
 NIST SP 800-53, Physical and Environmental Protection, PE-2, PE-6, PE-8  
 NIST SP 800-53, Risk Assessment, RA-3  
 DOM Chapter 3, Article 22  
 California Government Code Section 11549.3

#### **Revision History**

Effective: November 3, 2022.

## **ARTICLE 60 – DATA RETENTION AND DESTRUCTION POLICY**

*Effective November 3, 2022*

#### **49170.1 Introduction and Overview**

The purpose of this policy is to ensure that necessary records and documents are adequately protected and maintained. Records that have reached the records retention maximum lifespan or that are no longer deemed necessary by the California Department of Corrections and Rehabilitation (CDCR), California Correctional Healthcare Services (CCHCS), and California Prison Industry Authority (CALPIA), hereinafter referred to as department, are to be destroyed at the proper time and in a secure manner, consistent with records management policies outlined by the Secretary of State's Office. The policy also describes the obligations of department employees to retain electronic and non electronic documents and their proper disposal.

#### **49170.2 Objectives**

(a) The objective of this policy is to establish the requirements for retaining or disposing of paper and electronic documents including but not limited to:

- (1) E-mails, texts, chats, and instant messages.
- (2) Video, audio, and image files.
- (3) Word processing and spreadsheet files.
- (4) Website activity and history.
- (5) Information posted on social networking websites.
- (6) Voice mails and video mail.
- (7) Computer programming information, system and audit logs, configuration details.
- (8) Physical paper documents, media and artifacts.

#### **49170.3 Scope and Applicability**

(a) The scope of this policy extends to all State information assets owned or operated by the department, as well as information assets owned and operated by third parties (if applicable) on behalf of the department.

(b) This policy applies to the department's Chief Information Officer (CIO) or Designee, program management, Owners of Information Assets, Department Information Security Officers, Records Management Coordinators (RMC), Records Management Assistant Coordinators (RMAC), Technology Recovery Plan Coordinators, and Information Asset Custodians.

#### **49170.4 Policy Directives**

(a) Pursuant to California Government Code Sections 12270-12279, the department shall set records retention schedules to address legal, statutory, and compliance requirements as well as litigation needs, business processes, and data privacy concerns. Storage requirements shall be coordinated with the department RMC to ensure compliance with the State Records Management Act.

(b) The department shall:

- (1) Ensure that roles and responsibilities for the identification, classification, and life cycle management of all department data and information assets are defined, documented, and implemented.
- (2) Ensure that all department information assets, including information and information systems, are categorized according to their criticality to department in accordance with SAM 5305.5, as well as to their sensitivity and susceptibility to inadvertent damage, loss or exposure and corresponding impacts to department.
- (3) Ensure that methods to protect the confidentiality, integrity, and availability of department data and information assets according to their classification are defined, documented, and implemented.
- (4) Ensure that conditions for access to and use of department information assets for all personnel are defined and documented.
- (5) Ensure that all personnel with access to department data and information assets are trained regarding data access and handling according to their roles and responsibilities.
- (6) Ensure that department data and information assets are used solely for their intended purpose.
- (7) Ensure that department data and information assets are securely destroyed and disposed of once they are no longer required by the department.
- (8) Ensure regular backups shall be completed based on department back-up and retention policy.

#### **49170.5 Data Retention Requirements**

(a) Retention procedures shall specify:

- (1) Steps used to archive information and locations where this information is stored.
- (2) The appropriate destruction of stored information, electronic or other format, after the identified retention period expires. Such steps shall adhere to the requirements outlined in this policy.
- (3) Chain of custody and handling of stored information, electronic or other format, when under litigation.

(b) In certain instances, individual business units have unique record retention requirements outside of documented groups. These requirements shall be documented as part of internal processes and procedures and communicated to the Information Security Officer (ISO), RMC and RMAC. Such requirements may include contractual obligations with customers or business contacts or data retention requirements to maintain business operations. In some instances, departments may need to retain electronically stored information for a historical archive.

(c) During the appropriate retention period for electronic records, archived data shall be retrievable. Doing so requires the following protocols:

- (1) As new software or hardware is implemented, appropriate department support staff shall ensure new systems and file formats can read legacy data. This may require that older data is converted to newer formats where possible.
- (2) Data that is encrypted shall be retrievable. The department shall implement key management procedures to ensure encrypted data can be decrypted when needed.

(d) When establishing record retention periods, the department shall rely on (in order of precedence):

- (1) Federal and state laws and statutes and regulations.
- (2) State guidelines, recommendations, rules, and statutory requirements.
- (3) Internal department requirements and policies.

#### **49170.6 Audit Controls and Management**

(a) Documented procedures shall be in place for this policy and reviewed annually and updated as needed. Effective organizational management, audit controls, and employee practices include:

- (1) Documented record retention schedules and archival information of the department.
- (2) Procedures and anecdotal evidence of data migrations to manage electronic record compatibility with newer systems.
- (3) Documented encryption and decryption strategies that allow for retrieval of archival electronic records.
- (4) Employee procedures and documentation of records management and archival processes.
- (5) Direct observation of archival records organization and storage.

#### **49170.7 Expiration of Retention Period**

Once a record or data has reached its designated retention period date, the Owner of Information Assets shall refer to the department Data Retention Schedule for appropriate action in accordance with the California State Records Management Act.

#### **49170.8 Sanitization and Destruction**

(a) When no longer usable, hard drives, diskettes, tape cartridges, CDs, ribbons, hard copies, print-outs, and other similar items used to process, store or transmit sensitive or confidential data shall be properly disposed of in accordance with measures established by SAM 5900 and 1600. (See NIST 800-88, Guidelines for Media Sanitization for further assistance.)

(1) Physical media (paper print-outs and other physical media) shall be disposed of by one of the following methods:

- (A) Shredded using department issued cross-cut shredders.
- (B) Placed in locked shredding bins for third party shredding to come on-site, retrieve bins and securely shred.

(2) Electronic/Magnetic media (hard drives, tape cartridges, CDs, printer ribbons, flash drives, printer and copier hard drives, smart devices, etc.) shall be disposed of by one of the following methods: (See NIST 800-88, Guidelines for Media Sanitization, Appendix A for further details.)

(A) Clear – applies logical techniques to sanitize data in all user-addressable storage locations for protection against simple non-invasive data recovery techniques.

(B) Purge - applies physical or logical techniques that render Target Data recovery infeasible.

(C) Destroy - renders Target Data recovery infeasible and results in the subsequent inability to use the media for storage of data.

(b) IT systems that have been used to process, store, or transmit sensitive or confidential information shall not be released from the department's control until the equipment has been sanitized and all stored information has been cleared using one of the above methods.

#### **49170.9 Suspension of Record Disposal in Event of Litigation Hold**

Preservation of data is a response to issues involving litigation, legislation, and requests for data pursuant to public records requests. The department shall comply with multiple federal and state laws, legal proceedings, state regulations and standards for the proper preservation and delivery of relevant physical and electronically stored information (ESI) in a timely and reliable manner. Legal counsel shall take such steps as necessary to promptly inform all staff of any suspension in the further disposal of documents. Please refer to the department eDiscovery and Litigation Hold Policy for further details.

#### **49170.10 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee

- (1) The CIO or Designee owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.
- (2) The CIO or Designee is responsible for ensuring that this policy is reviewed annually and updated accordingly.
- (3) The CIO or Designee is required to audit and assess compliance with this policy at least once every two (2) years.

(b) Department Information Security Officer (ISO)

(1) The ISO shall ensure processes exist for the secure destruction of paper and electronic records when no longer needed.

(2) The ISO shall ensure specific retention requirements for sensitive or confidential data as defined by the Owners of Information Assets are adhered to.

(3) The ISO shall ensure the safe and secure disposal of confidential data and information assets.

(4) The ISO shall assist Owners of Information Assets and Information Asset Custodians in the identification of data security controls and processes.

(c) Department Owners of Information Assets and Program Management

(1) Owners of Information Assets shall ensure that no document is retained for longer than is legally or contractually allowed.

(2) Owners of Information Assets shall implement data retention and disposal guidelines limiting data storage and retention times in accordance with legal, regulatory, and business requirements.

(3) Owners of Information Assets shall define and enforce data retention requirements.

(d) Department Information Asset Custodians

(1) Information Asset Custodians shall assist Owners of Information Assets in identifying data retention security controls commensurate with the classification of the data.

(2) Information Asset Custodians shall document, implement, monitor, and maintain data retention security protection controls as defined by Owners of Information Assets.

(3) Information Asset Custodians shall develop and implement tools, technologies, processes, and procedures to support, monitor and maintain data retention security controls.

(e) Department Records Management Coordinator (RMC) and Records Management Assistant Coordinator (RMAC)

(1) The RMC, pursuant to Gov. Code 12274, shall assist the RMACs, Owners and Custodians of Information Assets in establishing proper data retention periods.

(2) The RMC shall assist in training identified RMACs and entity staff in records retention.

(3) The RMACs shall ensure that required data retention periods are maintained and data beyond the lifecycle of established policy is properly disposed.

#### **49170.11 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, Information Security Officer (ISO), and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

- (1) Loss of delegated authorities.
- (2) Negative audit findings.
- (3) Monetary penalties.
- (4) Legal actions.

#### **49170.12 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

#### **49170.13 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49170.14 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

#### **49170.15 Authority**

This policy complies with State of California Government Code Section 11549.3.

**49170.16 Revisions**

The CIO or Designee shall ensure that the contents of this article are current and accurate.

**References**

SAM, Section 5305.5, Information Asset Management  
 SAM, Section 5310.4, Individual Access to Personal Information  
 SAM, Section 5310.6, Data Retention and Destruction  
 SAM, Section 5310.7, Security safeguards  
 SAM, Section 5340, Information Security Incident Management  
 SAM, Section 5340.1, Incident Response Training  
 SAM, Section 5340.2, Incident Response Testing  
 SAM, Section 5340.3, Incident Handling  
 SAM, Section 5340.4, Incident Reporting  
 SAM, Section 5350, Encryption  
 SAM, Section 5365, Physical access  
 SAM, Section 5365.1, Access Control for Output Devices  
 SAM, Section 5365.2, Media Protection  
 SAM, Section 5365.3, Media Disposal  
 Federal Information Processing Standard, FIPS 199  
 NIST SP 800-53, Access Control, AC-3, AC-4  
 NIST SP 800-53, Audit and Accountability, AU-2, AU-3, AU-13  
 NIST SP 800-53, Configuration Management, CM-8  
 NIST SP 800-53, Media Protection, MP-1, MP-2, MP-3, MP-4, MP-5, MP-6, MP-7  
 NIST SP 800-53, Physical and Environmental Protection, PE-5, PE-19, PE-20  
 NIST SP 800-53, Planning, PL-4  
 NIST SP 800-53, Program Management, PM-9  
 NIST SP 800-53, Risk Assessment, RA-2, RA-3  
 NIST SP 800-53, Security Assessment and Authorization, CA-7  
 NIST SP 800-53, System and Communications Protection, SC-4, SC-8, SC-13, SC 17, SC-28  
 NIST SP 800-53, System and Services Acquisition, SA-11  
 NIST SP 800-53, System and Information Integrity, SI-12  
 DOM Chapter 3, Article 22  
 DOM Chapter 1, Article 23, Sections 14060.6.5, 14060.6.6  
 DOM Chapter 4, Article 38, Section 47110.15  
 California Government Code Section 11549.3

**Revision History**

Effective: November 3, 2022.

**ARTICLE 61 – DATA SECURITY POLICY**

*Effective November 3, 2022*

**49180.1 Introduction and Overview**

(a) California Department of Corrections and Rehabilitation (CDCR), California Correctional Healthcare Services (CCHCS), and California Prison Industry Authority (CALPIA), hereinafter referred to as department, collects, processes, transmits, and stores large amounts of data to support essential missions and business functions. Some data maintained by the department may be sensitive or confidential, and may require special precautions to protect it from unauthorized modification, or deletion as per the State Administrative Manual.

(b) The department has the responsibility to classify its data and information assets, and to implement suitable controls to protect it from unauthorized access, corruption, or loss.

**49180.2 Objectives**

The primary objective for this policy is to define department requirements to manage the confidentiality, integrity, and availability of department data and information assets throughout their lifecycles: from collection, creation, storage, and use, to destruction and disposal.

**49180.3 Scope and Applicability**

(a) The scope of this policy extends to all state and agency data and information assets owned or operated by the department, and operated by third parties on behalf of the department, and governs all state and

department data and information assets in all forms and media types, including digital and physical formats.

(b) This policy applies to all department personnel.

**49180.4 Policy Directives**

(a) The department shall:

(1) Ensure that roles and responsibilities for the identification, classification, and life cycle management of all department data and information assets are defined, documented, and implemented.

(2) Ensure that all department information assets, including information and information systems, are categorized according to their criticality, as well as their sensitivity and susceptibility to inadvertent damage, loss, or exposure and corresponding impact to the department.

(3) Ensure that methods to protect the confidentiality, integrity, and availability of department data and information assets according to their classification are defined, documented, and implemented.

(4) Ensure that conditions for access to and use of department information assets for all personnel are defined and documented.

(5) Ensure that all personnel with access to department data and information assets are trained regarding data access and handling according to their roles and responsibilities.

(6) Ensure that department data and information assets are used solely for their intended purpose.

(7) Ensure that department data and information assets are securely destroyed and disposed of once they are no longer required by the department.

(8) Ensure that the proper authorities are notified of data security incidents as required.

**49180.5 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee

(1) The CIO or Designee owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) The CIO or Designee is responsible for ensuring that this policy is reviewed annually and updated accordingly.

(3) The CIO or Designee is required to audit and assess compliance with this policy at least once every two (2) years.

(b) Department Information Security Officer (ISO)

(1) The ISO shall assist Owners of Information Assets and Information Asset Custodians in the identification of data security controls and processes.

(2) The ISO shall participate in incidents involving data security.

(3) The ISO shall ensure that data security controls, methods and processes meet department and applicable regulatory requirements for security and privacy.

(c) Department Owners of Information Assets and Program Management

(1) Owners of Information Assets shall ensure that this policy is implemented and reviewed annually, and updated as necessary.

(2) Owners of Information Assets shall ensure that roles and responsibilities for the identification, classification, and life cycle management of all data and information assets under their purview are defined, documented and implemented.

(3) Owners of Information Assets shall ensure confidentiality and integrity controls commensurate with asset classification are implemented for data and information assets under their purview.

(4) Owners of Information Assets shall ensure that conditions and rules for access, availability, and use of data and information assets under their purview are commensurate with asset classification.

(d) Department Information Asset Custodians

(1) Information Asset Custodians shall assist Owners of Information Assets in identifying data security controls commensurate with the classification of the data.

(2) Information Asset Custodians shall document, implement, monitor, and maintain data security protection controls as defined by Owners of Information Assets.

(3) Information Asset Custodians shall develop and implement tools, technologies, processes, and procedures to support, monitor and maintain data security controls.

(4) Information Asset Custodians shall notify respective Owners of Information Assets and the department Information Security Officer (ISO) and the Privacy Officer of all security incidents pertaining to the security of department data, particularly if the incident is related to personally identifiable information (PII).

(5) Information Asset Custodians shall maintain data security records as defined by Owners of Information Assets commensurate with the classification of the data.

(e) Department Users

(1) Users of department information assets shall be aware of and adhere to all department information security and privacy policies.

**49180.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

- (1) Loss of delegated authorities.
- (2) Negative audit findings.
- (3) Monetary penalties.
- (4) Legal actions.

**49180.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

**49180.8 Reporting**

Violations of this policy shall be reported to the department ISO.

**49180.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

**49180.10 Authority**

This policy complies with State of California Government Code Section 11549.3.

**49180.11 Revisions**

The CIO or Designee shall ensure that the contents of this article are current and accurate.

**References**

SIMM 5305-A, Information Security Program Management Standard  
 SAM, Section 5305.5, Information Asset Management  
 SAM, Section 5310.4, Individual Access to Personal Information  
 SAM, Section 5310.6, Data Retention and Destruction  
 SAM, Section 5310.7, Security safeguards  
 SAM, Section 5340, Information Security Incident Management  
 SAM, Section 5340.1, Incident Response Training  
 SAM, Section 5340.2, Incident Response Testing  
 SAM, Section 5340.3, Incident Handling  
 SAM, Section 5340.4, Incident Reporting  
 SAM, Section 5350, Encryption  
 SAM, Section 5365, Physical access  
 SAM, Section 5365.1, Access Control for Output Devices  
 SAM, Section 5365.2, Media Protection  
 SAM, Section 5365.3, Media Disposal  
 Federal Information Processing Standard, FIPS 199  
 NIST SP 800-53, Access Control, AC-3, AC-4  
 NIST SP 800-53, Audit and Accountability, AU-2, AU-3, AU-13  
 NIST SP 800-53, Configuration Management, CM-8  
 NIST SP 800-53, Media Protection, MP-1, MP-2, MP-3, MP-4, MP-5, MP-6, MP-7  
 NIST SP 800-53, Physical and Environmental Protection, PE-5, PE-19, PE-20  
 NIST SP 800-53, Planning, PL-4  
 NIST SP 800-53, Program Management, PM-9  
 NIST SP 800-53, Risk Assessment, RA-2, RA-3  
 NIST SP 800-53, Security Assessment and Authorization, CA-7

NIST SP 800-53, System and Communications Protection, SC-4, SC-8, SC-13, SC-17, SC-28

NIST SP 800-53, System and Services Acquisition, SA-11

NIST SP 800-53, System and Information Integrity, SI-12

DOM Chapter 3, Article 22

DOM Chapter 4, Article 45, Section 49020.6, 49020.6.1, 49020.6.2

DOM Chapter 4, Article 46, Section 49030.4

California Government Code Section 11549.3

**Revision History**

Effective: November 3, 2022.

**ARTICLE 62 – EDISCOVERY AND LITIGATION HOLD POLICY**

*Effective November 3, 2022*

**49190.1 Introduction and Overview**

Preserving data is necessary in response to reasonably foreseeable litigation, subpoenas, or Public Records Act (PRA) requests, and may be required under applicable state and federal laws and regulations. Data may include both physical and electronically stored information (ESI). ESI is broadly defined as any information stored in an electronic medium, regardless of its manner of creation or use.

**49190.2 Objectives**

The objective of this policy is to establish California Department of Corrections and Rehabilitation (CDCR), California Correctional Healthcare Services (CCHCS), and California Prison Industry Authority (CALPIA), hereinafter referred to as department, requirements for identification, preservation, capture, and delivery of relevant data in response to requests for information, audit, archive, and legal proceedings.

**49190.3 Scope and Applicability**

(a) The scope of this policy extends to all information assets owned or operated by the department, as well as information assets owned or operated by third parties (if applicable) on behalf of the department.

(b) This policy applies to the department's Chief Information Officer (CIO) or their Designee, data owners, legal compliance staff, Agency and Department Information Security Officers, Privacy Officers, Privacy Program Coordinators, Records Management Coordinator (RMC), Records Management Assistant Coordinators (RMACs), Information Asset Custodians, and all users of department information systems.

**49190.4 Policy Directives**

(a) The department shall:

- (1) Preserve specific active and archived stored information and follow department data classification procedures when a litigation hold request is made.
- (2) Provide a written litigation hold notice to all involved parties with clear instructions on what should be preserved and held.
- (3) Ensure data and metadata are stored in a manner such that the data source is known and secured.
- (4) Ensure necessary and appropriate record retention systems are created and maintained consistent with the records management policies outlined by the Secretary of State's Office.
- (5) Ensure proper controls for the preservation of data are implemented, including electronic communications which may reasonably be subject to legal proceedings.
- (6) Establish a process for the intake and fulfillment of PRA requests.
- (7) Establish standard protocols for the collection, analysis, and delivery of data including chain of custody, data integrity and auditability of records.
- (8) Provide Records Retention and eDiscovery training to appropriate staff.
- (9) Return or destroy all preserved or archived data to the affected individuals and resume the normal destruction schedule after the legal duty to preserve evidence ends.

**49190.5 Electronically Stored Information Subject to Discovery**

(a) ESI is any information stored in an electronic medium, regardless of its format, location, or medium. ESI is subject to discovery in civil litigation and may also be requested under the PRA. ESI includes, but is not limited to:

- (1) E-mails, texts, chats, and instant messages.
- (2) Video, audio, and image files.
- (3) Word processing and spreadsheet files.
- (4) Website activity and history.
- (5) Information posted on social networking websites.
- (6) Voice mails and video mail.

(7) Computer programming information, system and audit logs, configuration details.

(b) In the event of a litigation hold, this policy shall supersede requirements set forth in the Data Retention and Destruction Policy.

#### **49190.6 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee

(1) The CIO or Designee owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) The CIO or Designee is responsible for ensuring that this policy is reviewed annually and updated accordingly.

(3) The CIO or Designee is required to audit and assess compliance with this policy at least once every two (2) years.

(4) The CIO or Designee is responsible for establishing eDiscovery teams in order to efficiently and properly coordinate the responses to PRA requests and information, audit, archive and legal proceedings.

(b) Department Information Security Officer (ISO)

(1) The ISO is responsible for the oversight of all department data preservation and compliance requirements and ensures that all applicable standards and guidelines are maintained and reviewed regularly.

(2) The ISO shall assist in the development of data preservation, planning, and production of entity data assets.

(3) The ISO shall assist the RMC, RMACs, Owners of Information Assets, and Information Asset Custodians with ensuring that data preservation, storage, integrity, and delivery meet the SAM 5310, 5310.5, 5310.6 and SAM 5305 requirements for security and privacy.

(c) Department Owners of Information Assets and Program Management

(1) Owners of Information Assets and program management supporting the department mission, state essential functions, or critical infrastructure shall participate in records retention processes, and ensure data is classified, labeled, and managed according to defined standards.

(2) Owners of Information Assets supporting the department mission, state essential functions, or critical infrastructure shall ensure that records management is incorporated into standard business operation practices.

(3) Owners of Information Assets shall ensure that all pertinent data that is required for the eDiscovery process is preserved and maintained according to the department's defined standards.

(d) Department Information Asset Custodians

(1) Information Asset Custodians shall only assist with authorized data collection and preservation requests.

(2) Information Asset Custodians shall ensure that the integrity of the data collection and preservation process is maintained and the request is fulfilled.

(3) Information Asset Custodians shall ensure the requested data is secure and available to the legal team as needed.

(e) Department Legal Counsel

(1) Legal Counsel shall provide the department eDiscovery designee a written notice to suspend routine or intentional purging of relevant data including overwriting, reusing, deleting, or any other destruction of electronic relevant information.

(2) Legal Counsel shall notify appropriate parties when the obligation to retain the preserved data ends.

(f) Department Records Management Coordinator (RMC) and Records Management Assistant Coordinator

(1) The RMC, pursuant to Gov. Code 12274, shall assist the RMACs, Owners, and Custodians of Information Assets in establishing appropriate data retention periods.

(2) The RMC shall assist in training identified RMACs and entity staff in records retention.

(3) The RMACs shall ensure that required data retention periods are maintained and data beyond the lifecycle of established policy is properly disposed.

#### **49190.7 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy

policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

#### **49190.8 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

#### **49190.9 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49190.10 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

#### **49190.11 Authority**

This policy complies with State of California Government Code Section 11549.3.

#### **49190.12 Revisions**

The CIO or Designee shall ensure that the contents of this article are current and accurate.

#### **References**

SIMM, Section 5305-A, Data Retention and Destruction

SAM, Section 5010, Maintenance Records

SAM, Section 1600, Records Management

SAM, Section 5310.6, Data Retention and Destruction

Federal Information Processing Standard, FIPS 199

NIST SP 800-53, Access Control, AC-3, AC-4

NIST SP 800-53, Audit and Accountability, AU-2, AU-3, AU-13

NIST SP 800-53, Configuration Management, CM-8

NIST SP 800-53, Media Protection, MP-1, MP-2, MP-3, MP-4, MP-5, MP-6, MP-7

NIST SP 800-53, Physical and Environmental Protection, PE-5, PE-19, PE-20

NIST SP 800-53, Planning, PL-4

NIST SP 800-53, Program Management, PM-9

NIST SP 800-53, Risk Assessment, RA-2, RA-3

NIST SP 800-53, Security Assessment and Authorization, CA-7

NIST SP 800-53, System and Communications Protection, SC-4, SC-8, SC-13, SC-17, SC-28

DOM Chapter 1, Article 16, Sections 13040.7, 13040.7.1, 13040.7.2

DOM Chapter 3, Article 22

DOM Chapter 4, Article 36, Section 47090.10

DOM Chapter 4, Article 38, Sections 47110.7, 47110.16

DOM Chapter 4, Article 45, Section 49020.10.6

California Government Code Section 6250

California Government Code Section 11549.3

#### **Revision History**

Effective: November 3, 2022.

### **ARTICLE 63 – IDENTIFICATION AND AUTHENTICATION POLICY**

*Effective November 3, 2022*

#### **49200.1 Introduction and Overview**

Information assets owned by California Department of Corrections and Rehabilitation (CDCR), California Correctional Healthcare Services (CCHCS), and California Prison Industry Authority (CALPIA), hereinafter referred to as department, are intended to be accessed by authorized entities and used exclusively for department business purposes. Consequently, it is imperative that all entities

requesting access to department information assets are uniquely identified prior to being granted access.

#### **49200.2 Objectives**

The objective for this policy is to establish department requirements to control access to information assets by uniquely identifying the entities requesting access before access is granted.

#### **49200.3 Scope and Applicability**

(a) The scope of this policy extends to all State and Agency information assets owned and operated by the department, information assets managed by third parties on behalf of the department, and all information assets that process or store department information in support of department services and mission.

(b) This policy applies to all department personnel and processes acting on behalf of the department.

(c) This policy governs physical and logical access. Logical access includes local access and network, including remote access.

#### **49200.4 Policy Directives**

(a) The department shall ensure that a department identity and access management (IAM) strategy is developed, clearly defined, documented, and implemented.

(b) The department IAM strategy shall include the following:

(1) Requirements to meet all State and Federal requirements.

(2) The unique identification of all authorized personnel or processes acting on behalf of the department that access department information assets prior to being granted access.

(3) The use of appropriate credentials for the identification of non-State personnel.

(4) Implement methods that enable non-repudiation of access requests to information assets containing sensitive and confidential data, and protect related audit logs for a period of no less than 6 months.

(5) Implementation of a suitable IAM infrastructure supporting department requirements.

(6) Implementation of safeguards to protect the confidentiality, integrity, and availability of the supporting IAM infrastructure.

(7) Definition and implementation of authentication mechanisms based on the type and method of access and the inherent risks associated with each access use case.

(8) Control and management of access by administrative and privileged users, including the ability to immediately revoke access when necessary.

(9) Requirement to implement application level identification and authentication in addition to platform level access to provide additional security, as appropriate by Owners of Information Assets.

(10) Definition, documentation, and implementation of audit and security activity and event logging requirements for privileged use.

(11) Identification, development, and implementation of supporting identity and access management processes and procedures.

#### **49200.5 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee

(1) The CIO or Designee owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) The CIO or Designee is responsible for ensuring that this policy is reviewed annually and updated accordingly.

(3) The CIO or Designee is required to audit and assess compliance with this policy at least once every two (2) years.

(b) Department Owners of Information Assets and Program Management

(1) Owners of Information Assets shall ensure that this policy is implemented and shall review the policy's implementation annually.

(2) Owners of Information Assets in collaboration with Information Asset Custodians shall ensure that identification and authentication technologies and process controls commensurate with the sensitivity or criticality of the asset are implemented for assets under their purview.

(c) Department Information Asset Custodians

(1) Information Asset Custodians shall assist Owners of Information Assets in selecting and implementing identification and authentication technologies and process controls commensurate with the sensitivity or criticality of the asset.

(2) Information Asset Custodians shall maintain the identification and authentication infrastructure and supporting processes and procedures.

(3) Information Asset Custodians shall maintain identification and authentication records as defined by Owners of Information Assets for a minimum of twelve (12) months, or as defined by the department's Information Security Officer (ISO).

(d) Department Users

(1) Users shall report any incidents of possible misuse or violation of this policy to the department ISO, designee, appropriate security staff or their immediate supervisor.

(2) Users shall be aware of and adhere to all department information security and privacy policies.

#### **49200.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

#### **49200.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

#### **49200.8 Reporting**

Violations of this policy shall be reported to the department ISO.

#### **49200.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

#### **49200.10 Authority**

This policy complies with State of California Government Code Section 11549.3.

#### **49200.11 Revisions**

The CIO or Designee shall ensure that the contents of this article are current and accurate.

#### **References**

SIMM 5340-A, Incident Reporting and Response Instructions

SIMM 5360-A, Telework and Remote Access Security Standard

SAM, Section 5335, Information Security Monitoring

SAM, Section 5340, Information Security Incident Management

SAM, Section 5360, Identity and Access Management

NIST SP 800-53, Identification and Authentication, IA-1, IA-2, IA-3, IA-4, IA-5, IA-6, IA 7, IA-8, IA-9, IA-10, IA-11, IA-12

NIST SP 800-53, Access Control, AC-1, AC-2, AC-3, AC-4, AC-5, AC-5, AC-7, AC-8, AC 9, AC-10, AC-11, AC-12, AC-13, AC-14, AC-15, AC-16, AC-17, AC-18, AC-19, AC 20, AC-21, AC-22, AC-23, AC-24, AC-25

NIST SP 800-53, Audit and Accountability, AU-1, AU-2, AU-10, AU-11, AU-12, AU-13

DOM Chapter 3, Article 22

DOM Chapter 4, Article 45, Sections 49020.5, 49020.10

California Government Code Section 11549.3

#### **Revision History**

Effective: November 3, 2022.

## **ARTICLE 64 – INCIDENT RESPONSE POLICY**

*Effective November 3, 2022*

**49210.1 Introduction and Overview**

(a) California Department of Corrections and Rehabilitation (CDCR), California Correctional Healthcare Services (CCHCS), and California Prison Industry Authority (CALPIA), hereinafter referred to as department, management shall promptly investigate incidents involving loss, damage, misuse of information assets, or improper dissemination of information. Incidents could also include unauthorized access of information asset and incidents negatively affecting the operation, confidentiality, integrity, or availability of information assets. All entities are required to report information security incidents in accordance with the State information security notification and reporting requirements.

(b) Effective incident management includes the formulation, adoption, and maintenance of a written incident management plan that provides for the timely assembly of appropriate staff that are capable of developing a response to, appropriate reporting about, and successful recovery from a variety of incidents. A defined and documented security incident response plan shall enable the department to detect, respond, and recover from security incidents in a timely and organized manner so as to minimize the impacts of the security incident.

**49210.2 Objectives**

The objective for this policy is to establish the requirements for a department security incident response plan.

**49210.3 Scope and Applicability**

(a) The scope of this policy extends to all State and Agency information assets owned or operated by the department as well as information assets managed by third parties on behalf of the department.

(b) This policy applies to all department personnel.

**49210.4 Policy Directives**

(a) The department shall:

(1) Ensure that a security incident response plan and related procedures, including specific responses to incidents involving Personally Identifiable Information (PII) are defined, documented and implemented.

(2) Ensure that the security incident response plan and procedures clearly define and document roles and responsibilities to address the full incident life cycle, including:

(A) Security incident detection and identification

(B) Security incident response management

(C) Incident handling team(s), with broad participation from other department stakeholders, under the coordination of a designated incident manager.

(D) Preservation of evidence, including tracking and maintaining the evidence pertaining to chains of custody and evidence.

(3) Ensure that mechanisms and procedures are implemented to enable personnel to report security incidents to the appropriate security staff and the department's Office of Information Security. Ensure all department personnel are aware of incident reporting mechanisms and procedures.

(4) Immediately report incidents through the California Compliance and Security Incident Reporting System (Cal-CSIRS) providing the incidents meet the reporting requirements. Cal-CSIRS requires specific details about the incident and shall notify the California Department of Technology Office of Information Security (OIS), as well as the California Highway Patrol (CHP) Computer Crimes Investigation Unit.

**49210.5 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee

(1) The CIO or Designee owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) The CIO or Designee shall ensure that the department has a formally documented and operational incident response plan to address incidents involving the loss, damage, misuse or unauthorized access of information assets, and breaches of security involving personal information in any form, in the most expedient and effective manner.

(3) The CIO or Designee shall ensure that the security incident response plan and procedures describe the necessary roles and responsibilities, and activities to enable security incident handlers to effectively prepare for, detect, analyze, contain, eradicate and recover from security incidents.

(4) The CIO or Designee shall ensure that security incident response management is integrated across the department, and with other State

and department contingency and emergency management plans, teams and advisory resources.

(5) The CIO or Designee shall ensure that all department personnel receive incident response and awareness training and education in accordance with the individual's functional role within the department.

(6) The CIO or Designee shall ensure that department incident response capabilities are exercised at least annually to test incident response effectiveness, and that results from tests are documented and reviewed to continuously improve capabilities.

(7) The CIO or Designee shall ensure that post-mortem / lessons-learned sessions following security incident response activities and tests are completed in order to continually improve incident response capabilities.

(8) The CIO or Designee shall ensure that all security incidents and department responses are monitored and documented, and all related activities and decisions are recorded.

(9) The CIO or Designee shall ensure that the department incident response plan, procedures and supporting documentation are updated at minimum on an annual basis.

(10) The CIO or Designee is responsible for ensuring that this policy is reviewed annually and updated accordingly.

(11) The CIO or Designee is required to audit and assess compliance with this policy at least once every two (2) years.

(b) Department Information Security Officer (ISO)

(1) The ISO shall assist Owners of Information Assets and Information Asset Custodians in the development of department incident response plans.

(2) The ISO shall participate in incident response and management activities.

(c) Department Owners of Information Assets and Program Management.

(1) Owners of Information Assets shall participate and provide assistance with and decisions related to responding to incidents involving information assets under their purview, as required, and as requested by incident managers, the Chief Information Officer (CIO) or Designee and the department ISO.

(d) Department Information Asset Custodians

(1) Information Asset Custodians shall participate and provide assistance with incident response activities as directed and guided by incident managers, ISOs, and Owners of Information Assets, as appropriate.

(2) Information Asset Custodians shall maintain records related to and supporting individual incident responses.

(e) Department Users

(1) Users shall be aware of and adhere to all department information security and privacy policies.

(2) Users shall report any incidents of possible misuse or violation of this policy to the department ISO, designee, or appropriate security staff or their immediate supervisor.

**49210.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

**49210.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

**49210.8 Reporting**

Violations of this policy shall be reported to the department ISO.



**49210.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

**49210.10 Authority**

This policy complies with State of California Government Code Section 11549.3.

**49210.11 Revisions**

The CIO or Designee shall ensure that the contents of this article are current and accurate.

**References**

SIMM 5340-A, Incident Reporting and Response Instructions  
 SIMM 5340-B, Information Security Incident Report (Cal-CSIRS)  
 SIMM 5340-C, Requirements to Respond to Incidents Involving a Breach of Personal Information  
 SAM, Section 5340, Information Security Incident Management  
 SAM, Section 5340.1, Incident Response Training  
 SAM, Section 5340.2, Incident Response Testing  
 SAM, Section 5340.3, Incident Handling  
 SAM, Section 5340.4, Incident Reporting  
 NIST SP 800-53, Contingency Planning, CP-2, CP-9, CP-10, CP-13  
 NIST SP 800-53, Incident Response, IR-1, IR-2, IR-3, IR-4, IR-5, IR-6, IR-7, IR-8, IR 9, IR-10  
 NIST SP 800-53, Program Management, PM-9  
 NIST SP 800-53, Risk Assessment, RA-2, RA-3  
 NIST SP 800-53, Security Assessment and Authorization, CA-7  
 DOM Chapter 3, Article 22  
 DOM Chapter 4, Article 45, 49020.12, 49020.12.1, 49020.12.2  
 California Government Code Section 11549.3

**Revision History**

Effective: November 3, 2022.

## ARTICLE 65 – SECURITY AND PRIVACY AWARENESS TRAINING POLICY

*Effective November 3, 2022*

**49220.1 Introduction and Overview**

A well-trained workforce, aware of information privacy and security risk, plays a crucial role in protecting organizations against a variety of information security threats. Consequently, a formal privacy and security awareness training program is a key component of California Department of Corrections and Rehabilitation (CDCR), California Correctional Healthcare Services (CCHCS), and California Prison Industry Authority (CALPIA)'s, hereinafter referred to as department, information security program.

**49220.2 Objectives**

Objectives for this policy are to establish the requirement of a formal and effective department privacy and security awareness and training program for all department personnel.

**49220.3 Scope and Applicability**

The scope of this policy applies to all department personnel and governs all forms of access to department information assets.

**49220.4 Policy Directives**

(a) The department shall:

- (1) Establish a formal department privacy and security awareness training program, with clearly defined roles and responsibilities, designed to be delivered to all personnel with access to department information assets.
- (2) Provide privacy and security awareness training to all personnel upon commencement of their employment with the department, and on an annual basis thereafter.
- (3) Ensure role-based privacy and security awareness training content is delivered commensurate with personnel roles and responsibilities.
- (4) Ensure effectiveness of the security awareness program through a process of tracking and reporting metrics.

(5) Maintain individual records of all security and privacy training undertaken annually by department personnel for a period of three (3) years or as defined in the records retention schedule.

**49220.5 Roles and Responsibilities**

(a) Department Chief Information Officer (CIO) or Designee

(1) The CIO or Designee owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and their individual responsibilities.

(2) The CIO or Designee is responsible for ensuring that this policy is reviewed annually and updated accordingly.

(3) The CIO or Designee is required to audit and assess compliance with this policy at least once every two (2) years.

(b) Department Information Security Officer (ISO)

(1) The ISO shall ensure the development implementation, and compliance of the department's security awareness training program.

(c) Department Privacy Officer

(1) The Privacy Officer shall ensure the development, implementation, and compliance of the department's privacy awareness training program.

(d) Department Users

(1) Users shall participate in all required privacy and security awareness training annually.

(2) Users shall be aware of and adhere to all department information security and privacy policies.

**49220.6 Enforcement**

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

- (1) Loss of delegated authorities.
- (2) Negative audit findings.
- (3) Monetary penalties.
- (4) Legal actions.

**49220.7 Auditing**

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

**49220.8 Reporting**

(a) The department Information Security Officer (ISO), Chief Privacy Officer or Coordinator and Training Coordinator shall provide department program management with regular reports on personnel participation in, and the effectiveness of privacy and security and awareness training.

(b) Violations of this policy shall be reported to the department ISO.

**49220.9 Security Variance Process**

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

**49220.10 Authority**

This policy complies with State of California Government Code Section 11549.3.

**49220.11 Revisions**

The CIO or Designee shall ensure that the contents of this article are current and accurate.

**References**

SAM, Section 5305.3, Information Security Roles and Responsibilities  
 SAM, Section 5320, Training and Awareness for Security and Privacy  
 SAM, Section 5320.1, Security and Privacy Awareness  
 SAM, Section 5320.2, Security and Privacy Training  
 SAM, Section 5320.3, Security and Privacy Training Records

SAM, Section 5320.4, Personnel Security

NIST SP 800-53, Planning, PL-4

NIST SP 800-53, Awareness and Training, AT-1, AT-2, AT-3, AT-04

DOM Chapter 3, Article 22

DOM Chapter 4, Article 41, Section 48010.5

DOM Chapter 4, Article 45, Sections 49020.4, 49020.7.2, 49020.7.3, 49020.7.3.1

California Government Code Section 11549.3

#### Revision History

Effective: November 3, 2022.

### ARTICLE 66 – SOFTWARE MANAGEMENT AND LICENSING POLICY

*Effective November 3, 2022*

#### 49230.1 Introduction and Overview

(a) State entities are required to establish and maintain an inventory of all information assets, including information systems, information system components, software, and information repositories (both electronic and paper). The inventory shall contain a listing of all programs and information systems identified as processing, storing, or transmitting California Department of Corrections and Rehabilitation (CDCR), California Correctional Healthcare Services (CCHCS), and California Prison Industry Authority (CALPIA), hereinafter referred to as department, information.

(b) The department uses computer software applications that are owned by the State, as well as commercial software and open-source software (OSS) licensed for use from vendors.

(c) This policy identifies department requirements for the management of department software assets.

#### 49230.2 Objectives

The objective of this policy is to establish formalized control and management of all types of software including the development of requisite tools, processes procedures and standards.

#### 49230.3 Scope and Applicability

(a) The scope of this policy extends to all State and Agency software assets owned or licensed by the department.

(b) This policy applies to the department Information Security Officer, Program Management, Owners of Information Assets, and Information Asset Custodians.

#### 49230.4 Policy Directives

(a) The department shall:

(1) Maintain a detailed inventory of all approved department state-owned, commercial and open-source software, including licensing requirement(s), currency, and the cost of the software.

(2) Control and manage all instances and usage of approved department software installed on department information assets in order to comply with all applicable legal, copyright, and licensing requirements.

(3) Establish a continuous monitoring process to identify, detect, and remove all unapproved department software installed or operating on department information assets.

(4) Develop, implement, and maintain a software management plan.

(5) Identify and track any department software that is at end-of-support /end-of-life, and shall ensure that maintenance agreements and processes are in place where appropriate to ensure software can remain operational to meet business requirements.

(6) Establish and maintain controls to prevent unauthorized personnel from installing software applications on state information assets.

#### 49230.5 Roles and Responsibilities

(a) Department Chief Information Officer (CIO) or Designee

(1) The CIO or Designee owns this policy and is responsible for ensuring that all users of department information assets are aware of this policy and acknowledge their individual responsibilities.

(2) The CIO or Designee is responsible for ensuring that this policy is reviewed annually and updated accordingly.

(3) The CIO or Designee is required to audit and assess compliance with this policy at least once every two (2) years.

(b) Department Information Security Officer (ISO)

(1) The ISO shall assist and provide advice in the evaluation and selection of department software.

(2) The ISO shall assist and provide advice in the identification of security requirements that software shall comply with.

(c) Department Owners of Information Assets and Program Management

(1) Owners of Information Assets shall ensure that this policy is implemented and shall review the policy's implementation annually.

(2) Owners of Information Assets shall ensure that software assets under their purview are controlled and managed.

(d) Department Information Asset Custodians

(1) Information Asset Custodians shall implement software management, licensing, and usage controls as approved by Owners of Information Assets.

(2) Information Asset Custodians shall maintain all department software licenses associated with commercial products on behalf of Owners of Information Assets.

#### 49230.6 Enforcement

(a) Non-compliance with this policy may result in disciplinary or adverse action as set forth in DOM Chapter 3, Article 22.

(b) The department shall comply with the information security and privacy policies, standards and procedures issued by the California Department of Technology (CDT), Office of Information Security (OIS). In addition to compliance with the information security and privacy policies, standards, procedures, and filing requirements issued by the OIS, the department shall ensure compliance with all security and privacy laws, regulations, rules, and standards specific to and governing the administration of their programs. Program administrators shall work with their general counsel, ISO, and Privacy Program Officer or Coordinator to identify all security and privacy requirements applicable to their programs and ensure implementation of the requisite controls.

(c) The consequences of negligence and non-compliance with State laws and policies may include department and personal:

(1) Loss of delegated authorities.

(2) Negative audit findings.

(3) Monetary penalties.

(4) Legal actions.

#### 49230.7 Auditing

(a) The department has the right to audit any activities related to the use of State information assets.

(b) CDT OIS and the department have the statutory right to audit department readiness to respond and recover from an incident.

#### 49230.8 Reporting

Violations of this policy shall be reported to the department ISO.

#### 49230.9 Security Variance Process

If compliance is not feasible, or if deviation from this policy is necessary to support a business function, the respective manager shall formally request a security variance as defined by the ISO.

#### 49230.10 Authority

This policy complies with State of California Government Code Section 11549.3.

#### 49230.11 Revisions

The CIO or Designee shall ensure that the contents of this article are current and accurate.

#### References

SIMM 5305-A, Information Security Program Management Standard

SIMM 120, Software Management Plan Guidelines

SAM, Section 5305.5, Information Asset Management

SAM, Section 5315.7, Software Usage Restrictions

SAM, Section 4846.1, Software Management Plan

SAM, Section 4846.2, Software Management Policy Reporting Requirements

NIST SP 800-53, Configuration Management, CM-8, CM-10, CM-11

NIST SP 800-53, System and Information Integrity, SI-7

DOM Chapter 3, Article 22

DOM Chapter 4, Article 45, Section 46030.4

California Government Code Section 11549.3

#### Revision History

Effective: November 3, 2022.

**CHAPTER 5 — ADULT CUSTODY AND SECURITY****OPERATIONS****ARTICLE 1 — PEACE OFFICER AUTHORITY***Revised February 29, 2009***51010.1 Policy**

It is the policy of the California Department of Corrections and Rehabilitation (CDCR) to ensure that CDCR peace officer authority comports with applicable State statutes, regulation and mutual aid agreements.

**51010.2 Purpose**

The purpose of this Article is to clarify CDCR peace officer authority as it relates to inmates, parolees, and California law enforcement requests for assistance.

**51010.3 Peace Officer Authority**

CDCR peace officer authority is outlined in Penal Code (PC) Sections 830.2(d)(1) & (2) and PC 830.5. While normal CDCR peace officer authority applies generally to custody of inmates either inside or outside of a CDCR facility (e.g. escape pursuit and transportation/hospital custody, etc.) and parolees, appropriately trained and equipped CDCR peace officers can be authorized to act outside of normal duties during emergency and non-emergency situations as specified by law.

A CDCR peace officer has authority that extends to any place in the State while engaged in the performance of the duties of his/her respective employment and for the purposes of carrying out the primary function of his/her employment or as required under Sections 8597, 8598, and 8617 of the Government Code (GC).

**51010.4 Emergency Assistance**

When a government agency (city, county, state, federal) makes an emergency mutual aid request that meets the criteria contained in the State Mutual Aid Plan or the Law Enforcement Mutual Aid Plan, response protocol provided in these plans shall be followed.

GC Section 8597 authorizes that when the appropriate state official proclaims a state of emergency or when a state of war emergency exists, PC Section 830.5 CDCR peace officers have full powers and authority as outlined in PC Section 830.1. Criteria for activation of these plans include, but are not limited to, disasters which may result from flood, fire, earthquake, war, sabotage, or riots.

GC Section 8598 authorizes that when a local emergency exists, PC Section 830.5 peace officers have full powers and authority as outlined in PC Section 830.1.

When acting as peace officers under PC Section 830.1, CDCR peace officers are authorized to exercise any powers which are appropriate or which may be directed by their superior officers.

**51010.5 Non-Emergency Assistance (General Law Enforcement Assistance)**

GC Section 8617 provides that the CDCR may exercise non-emergency mutual aid powers in accordance with the Master Mutual Aid Agreement and local ordinances, resolutions, agreements, or plans.

**51010.6 Provision of Assistance in Emergency and Non-Emergency Situations**

CDCR hiring authorities (e.g. Wardens, Regional Parole Administrators) are authorized to provide CDCR peace officer assistance to law enforcement agencies in emergency and non-emergency situations as consistent with the authority discussed herein. Hiring authorities will notify their supervisors of provision of assistance (e.g. Wardens will notify their Associate Directors). Specially trained and equipped peace officers include, but are not limited to, Crisis Response Team members and Emergency Operations Unit personnel conducting tactical and negotiation operations, and Investigative Services Unit members conducting investigative operations, and should be deployed as appropriate for the particular circumstances.

When CDCR peace officers are assigned to provide emergency or non-emergency law enforcement assistance, these tasks become the primary function of their employment for the duration of the assignment. Unless other agreements have been made, all costs associated with this assistance are the responsibility of the CDCR.

**51010.7 Revisions**

The Assistant Secretary, Office of Correctional Safety, shall ensure that the content of this Article is current and accurate.

**51010.8 References**

PC §§ 830.1, 830.2(d)(1) & (2).  
GC §§ 8597, 8598, & 8617.

**ARTICLE 2 — USE OF FORCE***Revised January 12, 2016***51020.1 Policy**

It is the policy of the California Department of Corrections and Rehabilitation's (CDCR), Division of Adult Institutions (DAI), to accomplish custodial and correctional functions with minimal reliance on the use of force. Employees may use reasonable force as required in the performance of their duties, but shall not use unnecessary or excessive force. Staff may, at any point, determine the situation can be resolved without the use of force and terminate the use of force process.

This policy, in conjunction with related procedures and training, defines staff responsibilities and requirements concerning the use of force.

This policy will assist staff in identifying when and how much force is appropriate under different circumstances, ensure that supervision, monitoring, and evaluation of the use of force is consistent with procedures and training, and ensure the investigation of possible unnecessary or excessive use of force. Staff found culpable of violations of the Use of Force Policy will be subject to disciplinary (preventive, corrective, or adverse action) procedures.

**51020.2 Purpose**

The purpose of this Article is to outline DAI's procedures pertaining to the use of force, as set forth in CCR, Title 15, Section 3268.

**51020.3 Responsibility**

It is the responsibility of all employees to understand and comply with the Use of Force policy, related procedures, ongoing training, and applicable law.

It is the responsibility of each Institution Head:

- To ensure that all employees receive appropriate training annually and understand the Use of Force policy and procedures, including both the application of force and subsequent reporting and documentation requirements.
- To record and track all training and discipline related to the use of force.

**51020.4 Definitions***Revised March 7, 2017*

The following shall define language usage in this Article:

**Reasonable Force**

Reasonable force is the force that an objective, trained, and competent correctional employee faced with similar facts and circumstances, would consider necessary and reasonable to subdue an attacker, overcome resistance, effect custody, or gain compliance with a lawful order.

**Unnecessary Force**

Unnecessary force is the use of force when none is required or appropriate.

**Excessive Force**

Excessive force is the use of more force than is objectively reasonable to accomplish a lawful purpose.

**Immediate Use of Force**

Immediate use of force is the force used to respond without delay to a situation or circumstance that constitutes an imminent threat to institution/facility security or the safety of persons. Employees may use immediate force without prior authorization from a higher official.

Immediate force may be necessary to subdue an attacker, overcome resistance or effect custody.

If it is necessary to use force solely to gain compliance with a lawful order, controlled force shall be used.

**Imminent Threat**

An imminent threat is any situation or circumstance that jeopardizes the safety of persons or compromises the security of the institution, requiring immediate action to stop the threat. Some examples include, but are not limited to: an attempt to escape, on-going physical harm or active physical resistance.

**Controlled Use of Force**

A controlled use of force is the force used in an institution/facility setting, when an inmate's presence or conduct poses a threat to safety or security and the inmate is located in an area that can be controlled or isolated. These situations do not normally involve the imminent threat to loss of life or imminent threat to institution security. All controlled use of force situations requires the authorization and the presence of a First or Second Level Manager during business hours. During non-business hours, the on-site manager shall be the Administrative Officer of the Day (AOD) who is

responsible for the authorization of any controlled use of force and whose presence is required during any controlled use of force. Staff shall make every effort to identify disabilities, to include mental health issues, and note any accommodations that may need to be considered.

#### **Non-conventional Force**

Non-conventional Force is force that utilizes techniques or instruments that are not specifically authorized in policy, procedures, or training. Depending on the circumstances, non-conventional force can be necessary and reasonable; it can also be unnecessary or excessive.

#### **Non-deadly Force**

Non-deadly force is any use of force that is not likely to result in death.

#### **Deadly Force**

Deadly force is any use of force that is likely to result in death. Any discharge of a firearm other than the lawful discharge during weapons qualifications, firearms training, or other legal recreational use of a firearm, is deadly force.

#### **Great Bodily Injury (GBI)**

Great bodily injury is any bodily injury that creates a substantial risk of death.

#### **Serious Bodily Injury**

Serious bodily injury means a serious impairment of physical condition, including, but not limited to the following:

- Loss of consciousness;
- Concussion;
- Bone fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and
- Serious disfigurement.

#### **Response Supervisor**

The Response Supervisor is the first line supervisor in an institution/facility responsible for the area where an incident occurs. When responding to or observing an incident involving the use of force, the response supervisor shall assume control of the responders and direct the tactics used to stop the threat. Additionally, the response supervisor shall assess the appropriateness/effectiveness of the force options being deployed, ensuring compliance with policy and training.

#### **Responding Supervisor**

The Responding Supervisor is the first line supervisor responsible for the employee involved in an incident.

#### **Incident Commander**

The Incident Commander is the second line supervisor in an institution/facility responsible for the area where an incident occurs or an allegation of excessive or unnecessary force is received.

#### **First Level Manager**

A First Level Manager in an institution/facility is a Captain, or the AOD.

#### **First Line Manager**

A First Line Manager is a Parole Administrator, District Administrator, Special Agent-In-Charge, or a Senior Special Agent.

#### **Second Level Manager**

A Second Level Manager in an institution/facility is an Associate Warden.

#### **Second Line Manager**

A Second Line Manager is a Deputy Regional Parole Administrator or Chief.

#### **Institution Head**

The Institution Head is a Warden or designee.

#### **Institutional Executive Review Committee (IERC)**

The IERC is a committee of institution staff chaired by the respective Institution Head tasked with reviewing all uses of force and every allegation of excessive or unnecessary force. The IERC is the final institutional level of review.

#### **Department Executive Review Committee (DERC)**

The DERC is a committee of staff selected by, and including, the Associate Director who oversees the respective institution/facility Mission-based group. The DERC has oversight responsibility and final review authority over the IERC. The DERC shall review every use of deadly force and every serious bodily injury, great bodily injury or death that could have been caused by a staff use of force. The DERC shall also

review those incidents referred to the DERC by the IERC Chairperson or otherwise requested by the DERC. The DERC shall conduct all reviews within sixty (60) days of completion by the IERC.

#### **Deadly Force Investigation Teams (DFIT)**

DFIT is a team of trained department investigators that shall conduct criminal and administrative investigations into every use of deadly force and every death or great bodily injury that could have been caused by a staff use of force, except the lawful discharge of a firearm during weapons qualifications or firearms training, or other legal recreational uses of a firearm. Based on certain local Memoranda of Understanding, criminal investigations may instead be conducted by an outside police department or sheriff's office. Although defined as deadly force DFIT need not investigate the discharge of a warning shot inside an institution/facility if an Investigative Services Unit Sergeant or above, or an uninvolved Correctional Lieutenant, confirms that the discharge of deadly force was a warning shot and that no injuries were caused by the shot. All warning shots shall be reported to the Office of Internal Affairs/DFIT and the Office of the Inspector General (OIG).

#### **Deadly Force Review Board (DFRB)**

The DFRB conducts a full and complete review of all incidents involving a use of deadly force (except warning shots) and every death or great bodily injury that could have been caused by a staff use of force, regardless of whether the incident occurs in an institutional or community setting.

#### **Joint Use Committee (JUC)**

The JUC is a committee of field staff from the DAI tasked with reviewing and evaluating recommended revisions to the Division's Use of Force Policy and Procedures.

#### **Holding Cells**

All holding cells shall be located within buildings or sheltered areas. A holding cell shall not be used as a means of punishment, housing or long-term placement. If clothing is taken from an inmate when they are placed in a holding cell, alternate clothing shall immediately be provided unless security concerns preclude issuance.

#### **51020.5 Use of Force Options**

It is the expectation that staff evaluate the totality of circumstances involved in any given situation, to include consideration of an inmate's demeanor, bizarre behavior, mental health status if known, medical concerns, as well as ability to understand and/or comply with orders, in an effort to determine the best course of action and tactics to resolve the situation. Whenever possible, verbal persuasion should be attempted in an effort to mitigate the need for force. The type of verbal persuasion will vary dependent upon the inmate's ability to understand. If time permits, verbal orders should be issued prior to resorting to force and are required to be provided before controlled force is used. The unresisted searching or escorting of an inmate/parolee and the unresisted application of authorized restraint equipment is not a use of force. Use of Force options do not have to be utilized in any particular sequence, but should be the force option staff reasonably believes is sufficient. Each force option has specific qualities that should be considered when choosing which option to deploy, including but not limited to: range of effectiveness, level of potential injury, staff safety, deployment methodology, level of threat presented, distance between staff and inmate, number of staff and inmates involved and the inmate's ability to understand. When responding to or observing an incident involving the use of force, the response supervisor shall assume control of the responders and direct the tactics used to stop the threat. Additionally, the response supervisor shall assess the appropriateness/effectiveness of the force options being deployed ensuring compliance with policy and training. Use of force options include but are not limited to:

- Chemical agents: Provides staff the ability to use force while maintaining distance.
- Hand-held batons: The baton is normally issued to custodial staff assigned to positions with direct inmate contact. The baton should not be carried in the extended position unless it is being utilized for the protection of the inmate and/or staff. In controlled use of force, the baton is intended for the defense of staff and to assist in gaining control of the inmate.
- Physical strength and holds: Any deliberate physical contact, using any part of the body to overcome conscious resistance, is considered physical force. A choke hold or any other physical restraint which prevents the person from swallowing or breathing shall not be used unless the use of deadly force would be authorized.
- Less-lethal weapons: A less lethal weapon is any weapon that is not likely to cause death. A 37mm or 40mm launcher and any other weapon used to fire less-lethal projectiles is a less lethal weapon.
- Lethal weapons: A firearm is a lethal weapon because it is used to fire lethal projectiles. A lethal weapon is any weapon that is likely to result in death.

#### **51020.6 Use of Restraints**

The unresisted application of authorized restraint equipment is not a use of force. When mechanical restraint is required, handcuffs, alone or attached to a waist chain,

will be the means of restraint normally used. However, additional mechanical restraints, including leg restraints, additional chains, leather cuffs, or other specialized restraint equipment may be used when the circumstances indicate the need for the level of control that such devices will provide. Restrained inmates shall never be left unsupervised.

Use of mechanical restraints on persons confirmed, or suspected by health care staff to be pregnant shall be subject to the following requirements found in California Code of Regulations (CCR) Title 15 Sections 3268.2 (d) and (e):

- No leg restraints or waist chains shall be applied.
- If handcuffs are applied, the person's arms shall be brought to the front of her body for application.

Mechanical restraints shall not be placed on an inmate during labor, including during transport to a hospital, during delivery, and while in recovery after giving birth, unless circumstances exist that require the immediate application of mechanical restraints to avoid the imminent threat of death, escape, or great bodily injury. In this case, mechanical restraints may be used only for the period during which such threat exists.

The following state-issued restraints and equipment are authorized for use at the discretion of on-duty staff:

- Handcuffs
- Waist Chain
- Leg Restraints
- Escort Chains
- Padlocks
- Security Chain
- Spit Hood
- Martin Chain

The following restraints may be used as specified below:

- **Safety Triangle:** This device is a handcuff retention device, used to prevent inmates from pulling restraint equipment into their cell and may be used at the discretion of on duty staff. Some reasons for using the safety triangle include, but are not limited to: rehousing an irate inmate who has threatened violence or an inmate who was just involved in a use of force incident. The safety triangle may remain attached to the handcuffs if the inmate is being relocated in the housing unit and if attaching and detaching the safety triangle to and from the handcuffs presents a safety concern. The safety triangle is not intended to control the inmate outside of the cell. The officer controlling the safety triangle must be vigilant and efforts should be directed to prevent the inmate from pulling their hands inside the cell while the door is being closed.
- In the event that an inmate who is attached to a triangle refuses to place their hands in the food/security port to allow the handcuffs to be removed, it may be necessary to pull the safety triangle to retrieve the handcuffs. When it is necessary to pull the safety triangle, a single staff member shall slowly move away from the door while holding onto the safety triangle, in order to bring the inmate's hands through the port. This will be conducted with extreme caution in order to minimize the risk of injury to the inmate. Additional staff may be needed to assist with the safety triangle in the event that the one staff member is insufficient to get the inmate's hands through the food port. Once the inmate's hands, wrists, and forearms are through the port, staff will grasp the inmate's forearms, the tension on the safety triangle shall be released, and the handcuffs removed.

Prior to using a safety triangle on an inmate confirmed or suspected by health care staff to be pregnant, a physician must be consulted and any potential risks fully discussed.

The final decision to place the device on the pregnant inmate will rest with the Warden or Chief Deputy Warden (CDW) and the reviewing physician. The consultation and its outcome must be documented for inclusion in the inmate's health record and central file.

- **Leather Restraints:** Leather restraints are used for four/five point restraint in a Correctional Treatment Center, General Acute Care Hospital, or community hospital. Authorization for application of four/five point restraints shall only be given by health care staff in accordance with California Code of Regulations, Title 22, Section 79801 Clinical Restraint, Treatment Restraint, and Clinical Seclusion, and the Mental Health Program Services Delivery System Program Guide, Chapter 10, Suicide Prevention and

Response. Use of restraint equipment at the direction of medical staff shall be fully documented in the inmate's health record.

- **Hand Isolation Devices (HID):** These devices (e.g., hand restraint mitt/mittens, etc.) are used as an additional measure to restrict an inmate's ability to use his/her hands. HIDs may be used upon initial placement on Contraband Surveillance Watch (CSW) at an institution when requested and authorized as specified in DOM Section 52050.23.4, Mechanical Restraints. Only HIDs purchased from an approved vendor shall be used. Inmates in HIDs must have constant and direct visual supervision at all times. When it is deemed necessary by on duty staff to implement the use of a HID subsequent to the initial placement on CSW, a CDC Form 128-B, General Chrono, will be completed stating a specific safety and security concern associated with the individual inmate, and included with the CSW documentation. The subsequent approval shall be at the level of Lieutenant or above, and approved at the level of Captain or above during business hours, or by the institution AOD during nonbusiness hours. The CDC Form 128-B will include: the date of implementation, reason or justification for implementation of the device, and staff requesting and approving the HID implementation. Prior to placing a HID on an inmate confirmed, or suspected by health care staff to be pregnant, a physician must be consulted and any potential risks fully discussed. The final decision to place the device on the pregnant inmate will rest with the Warden or CDW and the reviewing physician. The consultation and its outcome must be documented for inclusion in the inmate's health care record and central file. Equipment Hygiene - HIDs must be maintained per the manufacturer's specifications, and only clean HIDs are to be used. Should a HID become contaminated or soiled, a clean HID will be provided as soon as it is safe to do so.

Mechanical restraint equipment shall not be used in any manner described in CCR, Title 15, Section 3268.2(c), Use of Restraints. The use of restraint equipment not identified in this section must be preapproved at the level of Associate Director or higher. As part of the mechanical restraint maintenance process, restraints shall be routinely cleaned and sanitized to adhere to an acceptable equipment hygiene standard.

Inmates who have a disability that prevents standard search methods or application of restraint equipment in the prescribed manner shall be afforded reasonable accommodation under the direction of the Response Supervisor. Mechanical restraints shall be applied to ensure effective application while reasonably accommodating the inmate's disability.

#### **51020.7 Deadly Force**

The CDCR recognizes the sanctity of human life. Therefore, deadly force will only be used when it is reasonably necessary to:

- Defend the employee or other persons from an imminent threat of death or great bodily injury.
- Prevent an escape from custody.
- Stop acts such as riots or arson that constitute an immediate jeopardy to institutional security and, because of the magnitude, are likely to result in escapes, great bodily injury, or the death of other persons.
- Dispose of seriously injured or dangerous animals when no other disposition is practical. (CDCR operates facilities that maintain livestock or are situated in remote areas, therefore CDCR recognizes this need.)

A firearm shall not be discharged if there is a reason to believe that persons other than the intended target will be injured.

In facilities contracted to house CDCR inmates outside of California, the use of deadly force shall only be applied in accordance with applicable law in the state where the facility is located.

#### **51020.7.1 Warning Shots**

A warning shot discharged from a lethal weapon is deadly force. Firearms may be discharged as a warning only in the safe area of an institutional/facility setting, and only when the use of deadly force is warranted.

#### **51020.8 Non-deadly Force**

Non-deadly force will only be used when reasonably necessary to:

- Subdue an attacker.
- Overcome resistance.
- Effect custody, or to
- Gain compliance with a lawful order.

#### **51020.9 Medical Evaluation**

When force is used, a medical evaluation shall be provided as soon as practical.

#### **51020.10 Application of Force**

Employees may use force in circumstances that require immediate action in response to an imminent threat, or in circumstances that require a controlled use of force. Any application of force, whether immediate or controlled, must be reasonable and in accord with the applicable standards for deadly or non-deadly force.

**51020.11 Immediate Use of Force**

When time and circumstances do not permit advanced planning, staffing and organization, and an imminent threat exists to institution/facility security or safety of persons, immediate force may be used.

If time and resources allow, an immediate use of force should be video recorded. If an immediate use of force is recorded, the recording shall be submitted into evidence.

If an immediate use of force is captured on security cameras (i.e. yard or visiting cameras), those recordings shall be placed into evidence.

**51020.11.1 Immediate Use of Force in Cells**

When immediate force is necessary due to an imminent threat, for inmates confined in their cells, Oleoresin Capsicum (OC) is the preferred option for carrying out the immediate use of force. Whenever possible, a verbal warning shall be given before force is used.

**51020.11.2 In-Cell Assaults**

Unit staff discovering an in-cell assault shall sound an alarm and order the inmates to stop fighting. If the inmates continue to fight or one inmate continues to assault the other, staff are authorized to use chemical agents to stop the incident.

The cell door should not be opened until sufficient staff is present to evaluate the situation. At least two officers shall be present, prior to the door being opened.

The on-scene staff may use their discretion to order the opening of the cell without both inmates restrained in handcuffs. This discretion would apply in the event of incapacitating injuries, illness, or overriding security concerns.

Should the use of chemical agents fail to stop the incident, the supervisor shall order the assembly of a controlled use of force team and immediate physical force may be used to extract the inmates from the cell. While the team is being formed, at least one staff member shall remain at the cell to continue observation of the incident for documentation purposes.

**51020.11.3 Food/Security Ports**

If during routine duties, correctional officers encounter an inmate who refuses to allow staff to close and lock the food/security port:

The officer shall verbally order the inmate to relinquish control of the food port and allow staff to secure it.

If the inmate relinquishes control of the food/security port, it will be secured.

In the event the inmate does not relinquish control of the food port, the officer shall back away from the cell and contact and advise the custody supervisor of the situation. Controlled force may be initiated in accordance with DOM Section 51020.12, while custody staff continues to monitor the inmate.

**51020.12 Controlled Use of Force General Requirements**

When force is necessary but does not involve an imminent threat to subdue an attacker, effect custody or to overcome resistance, the force shall be controlled.

The controlled Use of Force involves advance planning, staffing and organization. A controlled use of force requires authorization and the presence of a First or Second Level Manager, or an AOD (on-site manager) during non-business hours. The on-site manager is ultimately responsible for the controlled use of force incident. The Incident Commander shall supervise the controlled use of force process. The Response Supervisor shall direct the controlled use of force team.

Once a situation exists that may result in a controlled use of force, a custody staff member shall remain at the location to monitor the inmate and continue to attempt to gain compliance from the inmate through attempts at verbal persuasion until the controlled use of force team arrives and the staff member is relieved by the Incident Commander to resume their regular duties. The custody staff member will be positioned as close as possible to the affected location, without jeopardizing their own safety.

All controlled uses of force shall be preceded by a cool down period to allow the inmate an opportunity to comply with custody staff orders. The cool down period shall include clinical intervention (attempts to verbally counsel and persuade the inmate to voluntarily exit the area) by a licensed mental health practitioner and may include similar attempts by custody staff if authorized by the on-site manager. This intervention shall take place for all inmates and is not limited to participants in the Mental Health Services Delivery System.

During the cool down period:

- Licensed Nursing Staff (LNS) (i.e., Registered Nurse (RN), Licensed Vocational Nurse, and Psychiatric Technician) shall review the inmate's health record for medical conditions which put the inmate at increased risk for adverse outcome from the use of chemical agents and or physical force. In addition the LNS shall review the health record for any known disabilities that will require accommodation during the controlled use of force. For inmates housed in an inpatient setting the Inpatient RN shall conduct the review. For all other inmates the review shall be conducted by the Triage and Treatment Area RN.
- If the licensed mental health practitioner is not the treating clinician, they shall review the inmate's health record to determine if the inmate has any previous or current mental health issues. The licensed mental health practitioner shall use that information along with information gained during the clinical intervention to advise the on-site manager of any mental health issues that impact the inmate's ability to understand orders, make it difficult for the inmate to comply with orders, or could lead to a substantial risk of decompensation.

If it is determined the inmate does not have the ability to understand orders, chemical agents shall not be used without authorization from the Warden, Chief Deputy Warden or AOD. Any decision to proceed with the use of chemical agents shall be documented, along with the details of the underlying reasons to proceed, and the outcome. When serious circumstances exist, calling for extreme measures to protect staff or inmates, (i.e., the inmate may be armed with a deadly weapon) the Warden, Chief Deputy Warden or AOD may authorize use of chemical agents when the inmate does not have the ability to understand orders.

If it is determined an inmate has the ability to understand orders but has difficulty complying due to mental health issues, or when a licensed mental health practitioner believes the inmate's mental health issues are such that the controlled use of force could lead to a substantial risk of decompensation, a licensed mental health practitioner shall propose reasonable strategies to employ in an effort to gain compliance. Some strategies to consider may include, but are not limited to: verbal persuasion, positive behavior modification, and/or other de-escalation/intervention techniques by the licensed mental health practitioner, or engaging additional clinicians that have an established rapport with the inmate. If the efforts are not successful, it may be necessary for the controlled use of force to proceed. Chemical agents shall not be used without authorization from the Warden, Chief Deputy Warden (or AOD during non-business hours).

The cool down period may also include use of other available resources/options such as dialogue via religious leaders, correctional counselors, correctional officers and other custody and non-custody staff that have an established rapport with the inmate. The on-site manager and licensed mental health practitioner shall collaborate on efforts to be made during the cool down period. The length of the cool down period can vary depending upon the circumstances, but should be allowed to continue until all reasonable interventions have been attempted, or an imminent threat exists.

When the on-site manager and licensed mental health practitioner together determine that reasonable efforts have been exhausted, the cool down period will end and the controlled use of force will be initiated.

If there is disagreement among the collaborative team members (medical, nursing, mental health and custody) regarding the strategies to be employed, or length/termination of the cool down period, the issue shall be elevated to the appropriate clinical and custodial managers up to and including the Chief of Mental Health (or designee), Chief Medical Executive (or designee), and Warden or Chief Deputy Warden.

In the event the disagreement is not resolved at the institution level, the issue shall be elevated to the Regional Administrators (Mental Health and Medical), and the appropriate Associate Director.

The Incident Commander shall document the start time and duration of the cool down period on the CDCR 837-A/A1.

During the cool down period, a tactical plan for the potential controlled use of force will be developed by the Incident Commander in collaboration with the Response Supervisor and on-site manager, with input from the LNS and a licensed mental health practitioner. During the collaboration, the possible use of chemical agents, physical force, or other approved force options that may be used to complete the lawful objective will be discussed utilizing their collective knowledge, training, and experience, as well as an evaluation of the totality of circumstances.

General circumstances to consider include but are not limited to:

- The inmate's current demeanor, (i.e., verbal vs. physical aggression / passive vs. active resistance).
- Prior incidents of violence toward staff.
- The safety of inmates and staff.
- Possession of a weapon.
- The use of barriers, barricades or a personal barrier (i.e., cloth or plastic placed about the inmates face and head).

- The inmate's actions during any prior controlled uses of force.
- Physical design of the cell.
- The location of cell with regard to cross contamination (i.e., OHU/CTC/PIP/PSU, open cell front).
- Effective communication needs as identified by the Disability and Effective Communications System (DECS).
- Input from the assigned housing unit staff.
- Health care concerns to consider include but are not limited to:
  - Current medical health.
  - Current and prior mental health issues.
  - The inmate's ability to understand orders or difficulty complying with orders due to mental health issues.
  - Potential for substantial risk of decompensation.
  - Developmental/intellectual disabilities.

A decision to use chemical agents for the extraction should be based on more than passive resistance to placement in restraints or refusal to follow orders. If the inmate has not responded to staff for an extended period of time, and it appears that the inmate does not present an imminent physical threat, additional consideration and evaluation should occur before the use of chemical agents is authorized.

Based on the collaborative effort, the tactical plan will be finalized and approved by the on-site manager.

A controlled use of force shall not be accomplished without the physical presence of LNS. The LNS shall be in close proximity to the incident to facilitate an immediate medical response, but not so near as to become involved in the controlled use of force. The LNS is not required to don controlled use of force team equipment such as a helmet, Personal Protective Equipment kit, etc. Prior to commencing with the controlled use of force, the Incident Commander shall ensure the LNS is in possession of the appropriate medical supplies and equipment to respond to a medical emergency. The LNS who reviewed the health record and the LNS that is on-site during the controlled use of force is not required to be the same person.

#### **51020.12.1 Controlled Use of Force Without Extraction**

Not all controlled use of force situations are conducted to remove an inmate from a cell or other location. Controlled use of force may also be used to administer medications (PC 2602), provide medical treatment, or to complete mandated testing (i.e., TB testing, DNA, etc.) When circumstances are such that a controlled use of force is considered within a cell, on-duty health care staff shall ensure medical authorization for the involuntary medication exists. Health care staff shall also consult with the treating psychiatrist, primary care provider or mid-level provider, if available, to verify the current and critical need for involuntary medication or treatment. If the treating psychiatrist, primary care provider or mid-level provider is not available, the physician or psychiatrist on call shall be consulted. Health care staff shall advise the Incident Commander of such prior to the application of controlled use of force procedures. In these circumstances a controlled use of force team may enter the cell, physically restrain the inmate while medications/treatment are administered, and exit the cell.

The Incident Commander shall determine what, if any, safety equipment to be utilized (as identified in 51020.12.2). The decision shall be based on the totality of circumstances to include, but not be limited to:

- The inmate's current demeanor (passive resistance vs. physical aggression).
- Prior incidents toward staff.
- The inmate's actions during prior controlled use of force incidents.
- Current medical health.
- Current mental health.
- Specific purpose of the controlled use of force.

These incidents shall be video recorded; therefore, a video camera with backup videotape or media and backup batteries is required.

#### **51020.12.2 Extractions**

An extraction is the involuntary removal of an inmate from an area and usually occurs when the inmate is in a confined area such as a cell, holding cell, shower, or small exercise yard.

Extractions can be conducted as a controlled or immediate use of force. Except in the case of an imminent threat, extractions shall take place in a controlled manner.

Controlled extractions occur when no imminent threat exists but an inmate's refusal to comply with orders and presence in a cell, yard, or other previously identified location poses a threat to safety and security, or disrupts the normal operation of the housing unit, facility, or

institution.

Immediate extractions occur when an imminent threat exists. Some examples of when an immediate extraction may be necessary are: to prevent or stop, great bodily injury and/or serious bodily injury, attempted suicide, self-harm, in-cell assault, or for medical concerns such as an inmate who is non-responsive, convulsing, or seizing.

The presence of supervisors, managers or health care staff is not required to conduct an immediate extraction.

If a controlled extraction becomes necessary, extraction team members shall be issued extraction equipment:

- Riot helmet with protective face shield, protective vest, respirator, elbow and shin protectors, gloves, Kevlar neck protector, and blood borne pathogen protective suit.
- Protective shield, approximately 22" wide and 48" long.
- Hand-held baton(s), handcuffs, and leg restraints.
- Video camera(s) with a backup videotape or media and back up batteries.

If an immediate extraction in a Security Housing Unit/Administrative Segregation Unit becomes necessary, extraction team members shall be issued extraction equipment:

- Riot helmet with protective face shield, and protective vest.
- Protective shield, approximately 22" wide and 48" long.
- Hand-held baton(s) and handcuffs.

The blood borne pathogens protective suit can be used in an immediate extraction if needed. The suit is not required if bodily fluids are not present in sufficient quantities which present a threat to staff.

The blood borne pathogens protective suits, riot helmets, and protective shields are to be stored in locations that are readily accessible to the staff responding to conduct an immediate cell extraction so as not to delay entry/response.

Prior to a controlled extraction, the Response Supervisor or Incident Commander shall ensure that the members of the extraction team do not include any staff member who was directly involved in the incident precipitating the need for extracting the inmate.

The Incident Commander will ensure the Response Supervisor and extraction team members clearly understand their roles, appropriate signals, and are familiar with the departmental use of force policy.

A briefing, including possible tactics to be used, shall be given to the extraction team by the Response Supervisor and/or Incident Commander. This briefing shall not be video recorded and should be completed away from the presence of any inmates.

If time permits prior to the actual extraction, a mock extraction may be conducted in a vacated area with participating staff in order to ensure that custodial staff are familiar with their roles during the extraction. Several simulated operations will ensure smoothness, and timing during the actual extraction.

Prior to the extraction, the Incident Commander will communicate with the officer responsible/assigned to open/close cell doors and establish verbal/non-verbal signals specific to the controlled use of force.

The Incident Commander shall ensure the control officer understands that only the Incident Commander shall authorize the opening and closing of affected doors.

For the safety of staff, prior to being removed from a cell, it is preferred that the inmate submit to a visual search. The inmate should remove all clothing, except his/her underwear, and move back far enough from the cell door to allow a visual inspection. The inmate shall be visually inspected from head to toe, front and back. The inmate will run his/her fingers around the inside waistband of his/her underwear. The inmate shall be allowed to retain his/her underwear while being restrained and removed from the cell.

If the inmate refuses to cooperate with the visual search, but is willing to submit to restraints, the inmate shall be placed in restraints and removed from the cell. The application of restraints shall not be delayed due to the inmate's refusal to submit to being searched, or to have the inmate remove any clothing. Upon removal from the cell, the inmate should be subjected to search for staff safety.

Placement of an inmate on the stomach for a short period of time to restrain an inmate is authorized; however once the inmate is exposed to chemical agents and/or if a spit hood/mask is placed on the inmate, staff shall not place the inmate on his/her stomach, or in a position that allows the inmate to end up on his/her stomach, for any period longer than necessary to gain or maintain control.

The procedure for cell extractions where two inmates are in the cell remains the same as for a single celled inmate with the following additions:

- Additional team members shall be assigned as determined by the Incident Commander.
- In the event one of the inmates is compliant with staff's instructions, and if in the judgment of the Incident Commander it is safe to open the cell door, the inmate shall be removed.

- If it is unsafe to remove the compliant inmate, they shall be required to remain in the cell and appropriate instructions shall be issued for the duration of the incident.

The procedures for an extraction from a holding cell, shower, small exercise yard, etc., whether in a segregated housing unit or general population remain the same as cell extractions except as follows:

- Additional extraction team members or an additional extraction team may be assigned as determined by the Incident Commander.
- In the event two or more inmates are to be extracted from the same area, at least one additional supervisor shall be assigned.

#### **51020.12.3 Controlled Uses of Force – Video Recording Requirements**

Each controlled use of force shall be video recorded. The camera operator shall procure the camera, videotape or media, backup videotape or media, and backup battery. Prior to initiating video recording, the Incident Commander shall ensure the staff member operating the camera is familiar with the operation of the camera, and the expectations of the camera operator while recording the introductions and extraction in accordance with 51020.12.3 Controlled Uses of Force – Video Recording Requirements.

Only one incident shall be recorded on each video recording (videotape or video media will not include multiple incidents).

If the proposed controlled force involves a cell extraction of two inmates, two camera operators shall be used. Each camera operator will be designated an inmate prior to the application of the controlled use of force and concentrate on that inmate during the recording. The camera operator(s) will be positioned as close as possible to the immediate area to record as much of the incident as possible, yet at a sufficient distance so as to ensure no interference with the extraction team or jeopardy to their own safety.

The camera operator shall ensure that an accurate date and time is displayed on the recording. Filming shall begin with the camera operator stating their name, rank, date, time, and location of the controlled use of force.

The Incident Commander shall identify the inmate involved and state the circumstances of the proposed controlled use of force and/or extraction. The circumstances shall include a summary of the events leading up to the controlled use of force and what efforts have been made toward mitigation, to include the duration of the cool down period, as well as custody, supervisory, medical, and mental health intervention, as applicable. The Incident Commander shall explain the tactical plan, rationale of the plan, and the intended use of force.

The on-site manager shall identify themselves on camera and confirm they are authorizing the controlled use of force, including the force options as stated by the Incident Commander. The on-site manager shall also ensure the video introduction includes all required information.

The on-site LNS shall identify themselves on camera and confirm they reviewed the inmate's health record. The LNS shall indicate if the inmate has any health conditions that will put them at increased risk for adverse outcome from the use of chemical agents or other force options. The LNS shall also note any known disabilities the inmate has that will require any accommodation before, during or after the controlled use of force. The LNS shall not include specific conditions or any other protected health information.

The LNS that will be on-site during the controlled use of force shall also identify themselves on camera as performing that role and having the necessary medical equipment.

The licensed mental health practitioner who provides clinical intervention shall identify themselves on camera and provide a detailed timeline of his/her efforts. This narrative shall not include specific conditions or any other protected health information but shall include a summary of the inmate's reaction. The actual clinical intervention shall not be video recorded.

The Response Supervisor and members of the controlled use of force team shall identify themselves on camera and state their roles in the controlled use of force.

Following the introduction, the camera operator shall continue filming enroute to the scene of the proposed controlled use of force and record the events.

Prior to the application of force, the camera operator should videotape the interior of the cell/area and the inmate's actions.

The incident commander shall issue a verbal warning prior to initiating the application of force.

The verbal warning shall contain the following five elements:

- Address the inmate by name.
- Advise the inmate that they are being video recorded.
- Order the inmate to voluntarily comply.
- Advise the inmate of the intent to use chemical agents and/or physical force if they do not comply.
- Advise the inmate that sufficient force will be used to remove them from the area, administer medications, etc.

After the introduction of chemical agents, the camera operator should again video record the inmate and the interior of the cell/area.

If the video recording is interrupted for any reason once the incident/extraction has begun, the camera operator will give a verbal explanation of the interruption once recording has resumed. The entire incident must be video recorded in one segment or scene.

Once the inmate has been extracted, the LNS shall conduct an initial medical evaluation of the inmate and provide any necessary initial treatment. While the inmate is being evaluated or treated the camera shall continue recording, but will not be aimed at the inmate or the LNS. During this time the camera should be aimed at a clock, floor, wall, etc. If it becomes necessary for staff to use force on the inmate while they are being examined or treated, the camera will immediately be aimed at the inmate until such time as the inmate is no longer resistive and the medical evaluation resumes.

If the purpose of the controlled use of force was to administer medications, video recording shall continue as the medications are administered, and until the controlled use of force team disengages from the inmate.

If chemical agents were used and the inmate is allowed to decontaminate, ensure the decontamination is filmed.

The Incident Commander shall determine when the incident has concluded and video recording shall end. This is typically when the inmate is placed in a holding cell/area or re-housed.

#### **51020.12.4 Controlled Use of Force in Health Care Facilities**

When circumstances are such that a controlled use of force is considered within a health care facility (departmental hospital, infirmary, Correctional Treatment Center (CTC), Skilled Nursing Facility (SNF), Psychiatric Inpatient Program (PIP), Outpatient Housing Unit (OHU), etc.), the LNS shall consider the impact on medical conditions and the possible need to relocate uninvolved inmates in the immediate vicinity during a controlled use of force.

Administration of Involuntary Medication or Medical Treatment (PC 2602/Probate Code 3200): When force is necessary to administer medication or medical treatment within a health care facility, on-duty health care staff shall ensure medical authorization for the involuntary medication or treatment exists. Health care staff shall also consult with the treating psychiatrist, primary care provider or mid-level provider, if available, to verify the current and critical need for involuntary medication or treatment. If the treating psychiatrist, primary care provider or mid-level provider is not available, the physician or psychiatrist on call shall be consulted. Health care staff shall advise the Incident Commander of such prior to the application of controlled use of force procedures.

Application of Four/Five point Restraints: Only departmentally approved four/five point restraints shall be applied by authorized LNS in health care facilities. Authorization for application of four/five point restraints shall only be given by health care staff in accordance with California Code of Regulations, Title 22, Section 79801 Clinical Restraint, Treatment Restraint, and Clinical Seclusion, and the Mental Health Program Services Delivery System Program Guide, Chapter 10, Suicide Prevention and Response. On-duty health care staff shall ensure authorization exists, and shall advise the Incident Commander of such prior to the controlled use of force under these circumstances.

Inmate Refusal of Admission, Discharge, or Transfer to/from a Health Care Facility: When a clinician with admitting privileges to a CDCR Health Care Facility has determined it is necessary to admit, discharge, or transfer an inmate into/from a health care facility, health care staff shall ensure that a written order for the admission, discharge, or transfer exists, and shall advise the Incident Commander of such, prior to the controlled use of force.

#### **51020.12.5 Food Trays**

Accountability for food trays is an operational concern for the safety and security of institutions. It is important that the staff who issue food trays to inmates in cells account for all trays after the meal is concluded.

If the inmate refuses to return a food tray, the supervisor and the First or Second Level Managers shall be notified. Staff shall document the inmate's refusal to return the food tray on a CDC-115, Rules Violation Report.



The inmate will be advised that they shall not receive another meal until the first scheduled mealtime after the tray is returned. Additionally, the inmate—and all other inmates in the pod/section— will be placed on escort/restraint status to prevent passing of contraband items. Inmates may exit their cells to acquire various services. If the cell is vacated, staff will use that opportunity to retrieve the food tray.

Notice shall be provided to staff members working subsequent shifts to ensure their awareness of the circumstances. Institution/facility staff shall implement security measures to deter and prevent the movement of the retained food tray from one cell to another.

If the inmate retains control of the food tray for a period of 24 hours, the Manager shall determine if controlled force will be used to retrieve the tray. This does not preclude the Manager from making a determination, based on safety and security concerns, to retrieve the tray using force prior to the 24-hour time frame.

If the goal of the controlled use of force is only to retrieve the tray, all staff shall be informed of this in advance. If the inmate has retreated to the back of the cell and the tray can be safely retrieved without the application of force, then staff shall retrieve the tray and exit the cell.

#### **51020.13 Video Equipment and Records**

Video equipment, including cameras, batteries, and blank tapes or discs shall be stored in a designated area at each institution. Video recordings shall be maintained for a period of five years from the date of the incident, or longer if warranted.

Video recordings shall be processed as follows:

- The camera operator shall label the tape with the date, time, inmate's name and CDCR number, the camera operator's name, and incident log number, if applicable.
- The Incident Commander shall, prior to being relieved from duty, forward to the designated area for storage any video recordings of controlled uses of force and any video recordings of inmate injuries or interviews following an immediate use of force or an allegation of excessive or unnecessary force. The Incident Commander shall ensure that all such recordings are secured, logged and processed in a manner to preserve evidentiary value.

Based upon individual institution space availability, an institution may maintain evidentiary related video recordings and non-evidentiary video recordings in separate locations, which shall be identified within a local supplement to this section.

#### **51020.14 Use of Less Lethal Weapons**

The 37 mm and 40 mm launchers are weapons designed to discharge less lethal impact munitions or chemical agents. They are authorized for use in all areas including segregated housing units, general population housing units, cells, dayrooms, dining halls, concrete yards, exercise yards and work areas. It is recommended a Response Supervisor be assigned the duties of discharging less lethal impact munitions during controlled use of force-cell extraction.

##### **51020.14.1 Use of Less Lethal Weapons During Controlled Uses of Force**

During the formation of the tactical plan defined in 51020.12, the on-site manager may authorize the use of less lethal impact munitions during controlled use of force situations in a cell, if the inmate is barricaded, or if circumstances are serious in nature calling for extreme measures to protect staff or inmates (i.e., the inmate is armed with a deadly weapon).

##### **51020.14.2 Use of Less Lethal Weapons for Inmates with Mental Health Issues**

In controlled use of force situations for inmates who are housed in Mental Health Crisis Bed, PIP, OHU, Psychiatric Services Unit (PSU), or have an Enhanced Outpatient Program (EOP) level of care designation, or do not possess the ability to understand orders, or have difficulty complying with orders due to mental health issues, or are at substantial risk of decompensation from the use of force, the use of less lethal weapons is prohibited for direct or indirect use, (i.e., body or barricade removal), unless the Warden or Chief Deputy Warden authorize their use. If circumstances are serious in nature and involve an imminent threat, the use of less lethal weapons in accordance with this section may be authorized. In immediate use of force situations involving an imminent threat, staff are not precluded from using less lethal weapons to gain control of a disturbance involving inmates who may have mental health issues.

#### **51020.15 Chemical Agents**

Departmentally approved chemical agents include, but are not limited to the following: Oleoresin Capsicum (OC), Chloroacetophenone (CN),

and Orthochlorobenzalmalononitrile (CS). OC may be issued to all on-duty departmentally trained peace officers, certified in the use of chemical agents. Employees shall only administer the amount of chemical agents necessary and reasonable to accomplish the lawful objective.

While in the community, non-uniformed peace officers that are issued OC products shall carry the product in a concealed manner, unless the peace officer has a badge clearly displayed.

##### **51020.15.1 Chemical Agent Use During Controlled Use of Force – Small Space**

During a controlled use of force in a cell, single person holding cell, shower, or other small space, only the chemical agent products listed in 51020.15.1 may be deployed. Any additional products authorized by the Office of Correctional Safety, Emergency Operations Unit, and approved by the Director, Division of Adult Institutions must be specifically authorized for controlled use of force in a cell or other small space in order to be utilized for this purpose.

- MK-9 OC Vapor – limited to a single burst of 1-3 seconds in duration per application with a maximum of two applications.
- MK-9 OC Fogger – limited to a single burst of 1-5 seconds in duration per application with a maximum of four applications.
- MK-9 OC Foam – limited to a single burst of 1-5 seconds in duration per application with a maximum of four applications.
- OC Vapor Grenade – limited to 2 devices
- OC Flameless Expulsion Grenade – limited to 2 devices
- X-10 Barricade Removal Device – limited to a single burst of 1-5 seconds in duration per application with a maximum of four applications. Chemical agents may only be deployed from the X-10 during the removal of a barricade. The X-10 is not to be used solely as a delivery device for chemical agents.

Regardless of which chemical agents are deployed, or in what combination, no more than a total of four chemical agent applications shall be administered. In unusual circumstances or when circumstances call for extreme measures to protect staff or inmates, it may be necessary to exceed the four allowed applications. In this event, the Incident Commander shall consult with the on-site manager, who can authorize additional chemical agent applications. For each *additional* chemical agent application authorized, the on-site Manager shall verbalize to the camera, the chemical agent application being authorized and the rationale for the decision.

The amount of time needed for the chemical agents to become effective will vary based upon the delivery method, individual tolerance levels, and environment. A minimum of three minutes shall lapse between each application of chemical agents before additional chemical agents may be applied.

It is recommended a Response Supervisor be assigned the duties of administering chemical agents during controlled use of force in a cell or other small space. Prior to each use of a chemical agent, the staff member applying it shall display the device in view of the camera and state out loud for the camera the time of application and the type of device being applied.

After each application of a chemical agent, the Incident Commander and Response Supervisor shall assess the effectiveness or lack thereof. In the event chemical agents have not proven effective, the Incident Commander and Response Supervisor should carefully weigh the continued use of chemical agents versus use of physical force to complete the extraction. If a decision is made to apply additional chemical agents, the Incident Commander shall verbalize to the camera the rationale for the decision. For example: "A vapor grenade was deployed. It has been three minutes. The inmate is not showing any visible reaction, is using a personal barrier, and is shouting. We will now attempt to strike the personal barrier with a fogger product." Staff shall make every reasonable effort to maintain visual contact with an inmate when administering chemical agents and until the inmate is decontaminated.

##### **51020.15.2 Chemical Agent Use During Controlled Use of Force – Large Area**

During a controlled use of force in larger areas such as rotundas, small management yards, large holding cells, segregated housing unit exercise yards, etc., departmentally approved chemical agents may be used in accordance with the Restricted DOM, Section 55050 - Armory, Armed Posts, and Weapons, and applicable training. In these situations, dependent on the size of the area, number of inmates involved, and complexity of the incident, it may be necessary to administer chemical agents in a larger quantity and more frequently than would occur during a controlled use of force in a small space.

##### **51020.15.3 Use of Chemical Agents for Inmates with Mental Health Issues**

In controlled use of force situations for inmates who are housed in Mental Health Crisis Bed, PIP, OHU, PSU, EOP, or an Administrative Segregation Unit-EOP Hub, or do not possess the ability to understand orders, have difficulty complying with orders due to mental health issues, or are at increased risk of substantial decompensation from the use of force, the use of chemical agents is prohibited, unless the Warden, Chief Deputy Warden (or AOD during non-business hours) authorize the use.

If circumstances involve an imminent threat, the use of chemical agents is authorized in accordance with this section for use against an inmate who may not possess the ability to understand orders or to gain control of a disturbance involving inmates who may have mental health issues.

#### **51020.15.4 Decontamination from Chemical Agents – General**

Any inmate exposed to a chemical agent shall be afforded an opportunity to decontaminate as soon as practical. Staff shall provide reasonable accommodation to disabled inmates who require assistance exiting a contaminated area and during the decontamination process.

If an inmate refuses to decontaminate, no other action is necessary, unless the inmate was exposed in a cell and not removed from the cell where the exposure occurred. In these instances, refer to Section 51020.15.6. If an inmate refuses decontamination, the LNS shall be responsible to explain the importance of decontamination and encourage the inmate to decontaminate.

Inmates in an adjacent cell or in the general area where chemical agents are used shall be questioned by custody staff to determine if decontamination is warranted.

Decontamination of those inmates not directly exposed to chemical agents will be based upon obvious, physical effects of the chemical agent.

The need to medically treat an inmate for serious injury may supersede the need to decontaminate from the effects of exposure to chemical agents.

Inmates exposed to chemical agents shall be allowed to change their clothes as soon as practical.

Inmates exposed to chemical agents in a cell shall be afforded the opportunity to exchange linens and bedding, including the safety blanket, when applicable.

#### **51020.15.5 Decontamination from Oleoresin Capsicum**

Decontamination from OC may be accomplished by exposing the individual to fresh moving air, or flushing the affected body area with cool water, e.g., shower, sink water, or wet cloths and providing clean clothing.

Except when it is determined that removing an inmate from a cell would result in additional force or give rise to an imminent threat, the inmate will be provided an opportunity to decontaminate outside of a cell in which OC has been used.

Force shall not be used to decontaminate inmates from the effects of OC unless a serious threat to the inmate's health is present and LNS determines the inmate must be decontaminated.

No other decontamination is necessary for inmates who have been medically treated and LNS has determined the inmate has been decontaminated.

As soon as it is practical and safe to do so, decontamination of the affected cell and housing unit shall be accomplished by ventilating the area to remove the airborne agent. Open doors and windows as permitted, or use portable fans to speed up the process. If applicable manually turn the air exchange system to high. A fan and the use of the air exchange system is not recommended for any dry agent that is utilized (i.e., expulsion grenades or muzzle blast). Wiping the area down with damp cloths or mopping is only necessary if a noticeable amount of residue is visible.

After decontamination, the inmate should not be returned to a contaminated cell until sufficient time has elapsed to allow for dissipation of the OC or until the cell has been cleaned.

#### **51020.15.6 In-Cell Decontamination from Oleoresin Capsicum**

In-cell decontamination may be used for inmates housed in an institution/facility when the Incident Commander or Response Supervisor determines that removing the inmate would result in the need for additional use of force or give rise to an imminent threat.

The circumstances leading to the order for in-cell decontamination shall be clearly explained in the Response Supervisor's/Incident Commander's report.

When an inmate is going to be decontaminated in his/her cell, a licensed nursing staff shall advise the inmate how to self-decontaminate and the importance of decontamination. Licensed nursing staff shall explain to the inmate that he/she should remove contaminated clothing and use water from the sink to flush the affected area(s). The licensed nursing staff shall also explain to the inmate that he/she should pat or air dry and avoid rubbing the exposed areas.

When an inmate is not removed from the cell, a licensed nursing staff shall monitor the inmate approximately every 15 minutes for a period of not less than 45 minutes starting from the last application of chemical agent. During the monitoring, if the licensed nursing staff determines there is a need for additional medical assessment/treatment outside the cell, the licensed nursing staff shall advise a custody supervisor of the need to remove the inmate from the cell. The custody supervisor shall coordinate the removal of the inmate.

A licensed nursing staff shall document the fact the inmate was given instructions and the approximate times of the 15 minute observations on a CDCR 7219, Medical Report of Injury or Unusual Occurrence.

#### **51020.15.7 Chemical Agent Use During Immediate Use of Force**

*Effective October 11, 2022*

A verbal warning shall be given whenever possible prior to the use of chemical agents, unless the circumstances requiring the immediate use of force preclude such verbal warning. If a streamer, fogger, or foam agent is used, employees shall target the facial area, when available, and utilize a burst of approximately three seconds. If a blast or pyrotechnic grenade is used, employees shall deploy the device in an area that provides effective chemical agent exposure to the intended target(s). Following the deployment, employees shall assess the need for additional deployment while allowing the chemical agent to work and providing verbal orders to the intended target(s). If the intended target(s) do not comply with the orders and additional use of force is necessary, further deployment of an additional chemical agent is authorized, following the same instructions as above, or the employee may transition to another use of force option until compliance is gained. In addition to all existing requirements for reporting the use of chemical agents, employees who deploy more than one burst of chemical agent, shall articulate the need to utilize a second, and any subsequent bursts of chemical agents, or any other use of force option, in their written report. The use of chemical agents on intended target(s) known to be pregnant is prohibited.

#### **51020.16 Application of Spit Hoods or Masks**

Only departmentally approved spit hoods/masks are authorized for use. A spit hood/mask shall not be placed upon an inmate who:

- Is in a state of altered consciousness (visibly drowsy, stuporous, or unconscious) or;
- Has any visible signs of a seizure; or
- Is vomiting or exhibits signs of beginning to vomit.
- A spit hood/mask may be applied to an inmate if:
- There is verbal or physical intent by the inmate to contaminate others with spit or other bodily fluids from the nose or mouth; or
- The inmate is not able to control expelling fluids from the nose or mouth (with the exception of vomit); or
- The inmate is on authorized security precautions according to the procedures of the unit where the inmate is housed.
- If the inmate was contaminated with OC before the mask was applied, the mask shall be kept on until the inmate is afforded decontamination unless the inmate is in a state of altered consciousness (visibly drowsy, stuporous, or unconscious); or has any visible signs of a seizure; or is vomiting or exhibits signs of beginning to vomit. In this case the spit hood/mask will be removed immediately and appropriate treatment will be administered.

If the inmate is decontaminated with fresh moving air, the spit hood/mask may remain on during decontamination and can be exchanged for a new spit hood/mask when decontamination is complete. If the inmate is decontaminated with water, the spit hood/mask shall be removed during decontamination and a new spit hood/mask can be placed on the inmate when decontamination is complete.

If an inmate has been exposed to chemical agents after the spit hood/mask is applied, the spit hood/mask shall be replaced with a new one when it is safe to do so.

If a spit hood/mask was applied and the inmate loses consciousness, begins seizing, or begins vomiting the spit hood/mask shall be removed immediately and appropriate treatment will be administered.

If a spit hood/mask is applied to an inmate, it is imperative that constant supervision of the inmate be maintained for signs of respiratory distress. If any respiratory distress is observed, the spit hood/mask shall be removed until the signs of respiratory distress have dissipated.

Once an inmate is exposed to chemical agents and/or if a spit hood/mask is placed on the inmate, staff shall not place them on their stomachs, or in a position that allows the inmate to end up on their stomach, for any period longer than necessary to secure (e.g. handcuff) and/or gain control of the inmate. A prone position makes it difficult for any exposed individual to breathe and may be a contributing factor in positional asphyxia. Positional asphyxia occurs when an individual's body position interferes with respiration, resulting in death.

If an exposed individual is in handcuffs and requires transportation via a gurney, stokes litter, etc., they shall be positioned on their back or side.

**51020.17 Uses of Force-Reporting Requirements**

Every staff use of force is an incident that shall be reported. Uses of force include non-deadly force, deadly force, immediate force, controlled force and non-conventional force. Verbal commands, the unresisted application of restraints or escort of an unresisting inmate and the movement of an unconscious or otherwise incapacitated inmate are not uses of force.

Any employee who uses force or observes a staff use of force shall report it to a supervisor as soon as practical and follow up with appropriate documentation prior to being relieved from duty.

The CDCR 837 Crime/Incident Report forms are used for reporting uses of force. Written reports regarding both immediate and controlled use of force shall be documented on a CDCR 837.

Documentation shall identify any witnesses to the incident and describe the circumstances giving rise to the use of force, whether the inmate is a participant in the Mental Health Services Delivery System and the nature and extent of the force used. The documentation shall also describe any involvement of licensed mental health practitioners prior to or during the use of force incident, if de-escalation strategies were attempted prior to the use of force, and the outcomes of any strategies used.

**51020.17.1 Involved Staff-Reporting Requirements**

Written reports regarding staff uses force shall be documented on a Crime/Incident Staff Report (CDCR 837-C). This requirement includes the on-site manager authorizing the use of controlled force. This requirement includes a First or Second Level Manager/AOD authorizing the use of controlled force.

Reports shall be prepared by any employee who uses or observes the use of force. The reports shall be submitted to, and reviewed by, the Response Supervisor prior to being relieved from duty. Staff shall not collaborate with each other in the preparation of reports.

If possible, identify important information in the contents of the report as follows:

- Identities of staff that observed and/or participated in the use of force.
- Description of the actions of the inmate and circumstances leading to the use of force.
- Description of the specific force used or observed.
- If chemical agents were used, identify the type of projector used, and from what distance.
- Description of the inmate's level of resistance.
- Description of why force was used and description of the threat perceived.
- Description of any identified disabilities ascertained through any tracking system and what form of reasonable accommodation and/or assistance was provided during and after the controlled use of force.
- Description and observations of staff or inmate injuries and the cause of the injury, if known.
- Description of observations of decontamination of chemical agents or medical attention given.
- Description of observations or knowledge of the steps taken to decontaminate the housing unit, and those inmates not directly exposed to chemical agents.
- Documentation of any inmate allegation of an unnecessary or excessive use of force.

**51020.17.2 Involved Staff-Additional Reporting Requirement for Deadly Force**

An employee, who intentionally or accidentally uses deadly force, whether on or off-duty, shall ensure that a supervisory employee is verbally notified of the incident without delay. A written report shall also be required. This reporting is not a requirement for the lawful discharge of a firearm during weapon's qualifications, firearms training, or other legal recreational use of a firearm.

**51020.17.3 Video Records Made After Uses of Force That Cause Serious Bodily Injury, Great Bodily Injury, or Result in Allegations of Unnecessary or Excessive Force**

A video recorded interview of an inmate shall be conducted in accordance with the Inmate Interview for GBI and SBI Worksheet, CDCR Form 3013-1, or Inmate Interview for Allegation Worksheet CDCR Form 3013-2, and documented on the CDCR Form 3014, Report of Findings-Inmate Interview, under the following circumstances:

- The inmate has sustained a serious bodily injury or great bodily injury that could have been caused by a staff use of force (CDCR Form 3013-1).
- The inmate has made an allegation of an unnecessary or excessive use of force (CDCR Form 3013-2).

Any visible or alleged injuries shall be video recorded. The video recording shall be conducted by custodial supervisors (sergeants or lieutenants) who did not use, or observe the force used, in the incident.

The video recording should be made as soon as possible, but no later than 48 hours from discovery of the injury or allegation.

The video recording shall also include a request of the inmate to be interviewed regarding the circumstances of the incident. If the inmate refuses to be video recorded, such refusal shall be recorded.

The custody supervisor shall not inhibit the inmate being interviewed from providing relevant information.

**51020.17.4 Response Supervisor – Reporting Requirements**

In addition to writing his/her own report when applicable, prior to being relieved from duty the Response Supervisor shall:

- Gather written reports from staff involved in the use of force incident.
- Serve as the first level of review for all subordinates' reports and shall ensure that all necessary information is contained in these reports. The Response Supervisor is expected to ensure that each employee's report is prepared independent of any other report.
- Ensure no involved employee is relieved of duty prior to receiving his/her written report, unless the employee is physically unable to prepare the report due to an injury. If due to the circumstances a verbal report is not possible, the Response Supervisor shall explain the reason for not taking a verbal report.
- Obtain applicable medical reports from health care staff, inspect the form(s) and determine if all relevant information is present.
- If applicable, complete Report of Occupational Injury or Illness Form (SCIF-3067).
- If applicable, complete State Compensation Insurance Fund Employee Claim for Workers' Compensation Benefits Form (SCIF-3301).
- If applicable, complete Department of Health Services Report of Request and Decision for HIV Testing (CDC-8439) in cases of potential exposure to blood borne pathogens.

**51020.17.5 Response Supervisor – Additional Reporting Requirements for Deadly Force**

When there has been a use of deadly force, the on-duty/Response Supervisor shall ensure that the chain of command is notified and all necessary health and safety, medical, and security measures are initiated. The on-duty/Response Supervisor shall go to the location and ensure that the scene is protected.

For incidents occurring in an institutional setting, the Watch Commander shall contact the institution's Investigative Services Unit (ISU).

For incidents occurring in a community setting, the on-duty supervisor or Watch Commander shall ensure local law enforcement is contacted.

The on-duty/Response Supervisor shall ask the employee who used deadly force to provide a public safety statement immediately after the incident. This is the employee's oral statement. This statement helps determine the general circumstances of the incident, assess the need for resources, set the perimeter, locate injured persons, and determine the nature of the evidence to be sought. It shall provide basic information such as the number of persons involved in the incident, the number not yet in custody and number and direction of shots fired. The statement shall not include, and the employee should not be asked to provide, a step-by-step narrative of the incident or a motive for his/her actions. Providing a public safety statement does not relieve the staff of the responsibility to submit a written report in accordance with CCR, Title 15, Section 3268.1(a), or within 24 hours after the incident.

The on-duty/Response Supervisor shall capture the essence of the oral statement in writing and submit it to the Incident Commander.

In circumstances where the use of deadly force results in death or GBI, the staff using the force will be placed on administrative time off (ATO) for 72 hours in order to facilitate department interviews and staff wellness. These 72 hours will be paid contiguous time off, unless they are scheduled regular days off (RDO). RDOs will count toward the contiguous 72 hours but will not be paid unless the employee is called to work. If the 72 hours ATO overlap with a period of pre-scheduled time off (i.e. vacation, holiday, sick leave, etc.) the ATO will be used in lieu of, not in addition to the affected employee's leave credits.

As soon after the incident as is practical, the on-duty/Response Supervisor or Incident Commander must also initiate Peer Support Program (PSP) protocols as delineated in DOM Section 31040.3.2. The Incident Commander shall notify the Office of Internal Affairs (OIA) and the Office of the Inspector General (OIG) as soon as possible, but no later than one hour from the time the incident is discovered,

of any use of deadly force and every death or GBI that could have been caused by a staff use of force.

#### **51020.17.6 Health Care Staff Use of Force – Reporting Requirements**

Health Care Services staff shall complete and submit a Crime/Incident Staff Report (CDCR 837-C) whenever a health care staff member:

- Observes use of force.
- Uses force on an inmate.
- Provides clinical intervention prior to a use of force.
- Reviews the health record for conditions that may put an inmate at increased risk for adverse outcome from the use of force.
- Hears an inmate allegation of an unnecessary or excessive use of force during a reportable incident if not already reported on a Notice of Injury or Unusual Occurrence form (CDCR 7219).

On the CDCR 837-C, the licensed mental health practitioner shall provide a timeline for the clinical assessment and intervention process. They shall also document if the inmate had the ability to understand orders, had difficulty complying with orders based on mental health issues or was at increased risk of substantial decompensation due to mental illness.

If it was determined the inmate had difficulty complying with orders or was at increased risk of substantial decompensation, the licensed mental health practitioner shall:

- Document that strategies were developed.
- Document if the strategies were implemented.
- Document whether those strategies were successful.

On the CDCR 7230, Interdisciplinary Progress Note, the licensed mental health practitioner shall document information regarding the clinical assessment and intervention process. The licensed mental health practitioner shall document the rationale for the assessment results regarding the inmate's ability to understand direction, any difficulty complying with direction or substantial risk of decompensation. If strategies were developed, the licensed mental health practitioner shall document specific strategies, whether the strategies were implemented, and the results.

In addition to the requirements noted above, the LNS shall complete and submit a CDCR 7219 upon conducting a medical evaluation after a use of force. The CDCR 7219 shall be completed and submitted to the Response Supervisor prior to the LNS leaving the institution and shall:

- Include a quote of the inmate's own words in the patient comment section.
- After examination, document observations of the area on the inmate where force was applied.
- Include comments or information garnered from custody staff regarding the type and amount of force used.
- Document the injuries sustained and the medical treatment rendered.
- Document if the inmate refuses medical examination and/or treatment.
- Document any alternative assistive device provided and any medical recommendation / accommodation suggested during and after the use of force.
- Document in-cell decontamination instructions and times of 15-minute checks, if applicable.

In addition to the above requirements, LNS shall be responsible for providing custody staff and the Use of Force Coordinator, with notification and updated information in the event that the aftercare treatment process reveals new facts about the severity of an injury.

#### **51020.17.7 Incident Commander – Reporting Requirements**

It is the responsibility of the Incident Commander to notify the Office of Internal Affairs (OIA) and the Office of Inspector General (OIG) as soon as possible, but no later than one hour from the time the incident is discovered, of any use of deadly force and every death, great bodily injury or serious bodily injury that could have been caused by a staff use of force. Depending on the specific Memorandum of Understanding (MOU) and the nature of the incident, a call to the county sheriff or police department may also occur.

Prior to being relieved from duty the Incident Commander or designee shall:

- Initiate the initial incident report, consisting of the Crime/Incident Report Cover Sheet (CDCR 837-A/A1), the Crime/Incident Report Supplement (CDCR837-A1), and the Crime/Incident Report

Inmate/Staff/Visitor, Other (CDCR 837-B1/2/3) reports. This shall be an accurate summary of the events as described in the written reports submitted by all employees.

- Prepare the initial incident package. This includes the CDCR 837-A/A1, B and C forms and any other applicable forms or documents.
- Review all incident reports for quality, accuracy and content.
- Clarify incomplete reports with involved staff by completing a CDCR 837-C-2 Review Notice.

In controlled use of force cases in institutions/facilities involving involuntary medication, placement into four/five point restraints, or admission into a licensed health care facility, the Incident Commander shall include in the CDCR 837-A/A1, the name and title of the on-duty health care staff that verified the appropriate medical authorization existed prior to the use of force.

- Prepare and submit a separate CDCR 837-C if they actually used force during an incident, or observed the use of force.

In normal circumstances, it is the expectation that within 24 hours of the incident the Incident Commander or designee will ensure the initial incident report (CDCR 837-A/A1 and CDCR 837-B ) is uploaded in the Daily Information Reporting System (DIRS).

Ensure all force related video recordings of inmate injuries or interviews and recordings of controlled force are forwarded to the appropriate location, as set forth in Section 51020.13.

Initiate the Use of Force Review process as set forth in Section 51020.19.1.

Should an incident or allegation warrant investigation by the DFIT, the OIA, or any other outside investigating agency, the Incident Commander shall suspend all review of that incident until the investigation is complete.

#### **51020.17.8 First/Second Level Manager – Reporting Requirements for Controlled Uses of Force**

The on-site manager authorizing the use of controlled force is required to be present during the use of force and document involvement on a CDCR 837C.

Any institutional managers consulted regarding a disagreement among the collaborative team members during a controlled use of force shall submit a CDCR Crime/Incident Staff Report (CDCR 837-C) detailing their involvement.

If the Regional Administrators (Medical or Mental Health) or the Associate Director are contacted, they shall submit a CDCR Crime/Incident Staff Report (CDCR 837-C) detailing their involvement.

#### **51020.18 Reporting Allegations of Unnecessary or Excessive Force**

Any employee who observes a use of force that is unnecessary or excessive shall attempt to stop the violation. Any employee who becomes aware of an allegation of unnecessary or excessive force, whether it occurs during a reportable incident or not, shall verbally report the allegation to a custody supervisor as soon as possible, followed with appropriate documentation.

If the allegation occurs in conjunction with a reportable incident, the incident shall be reported in accordance with the requirements set forth in this Article and any such allegation shall be documented and included in the incident report package. Each involved employee shall document all details regarding any allegations or observations of use of force that is unnecessary or excessive. This includes a quote of the allegation, or what was seen or heard, including observations of any apparent injuries, and the name of the supervisor the employee reported the allegation to.

All reports shall be submitted to a custody supervisor.

#### **51020.18.1 Allegations of Excessive or Unnecessary Force –Supervisor Reporting Requirements**

Whether or not the allegation of excessive or unnecessary force is made in conjunction with a reported use of force, a supervisor who learns of such an allegation shall:

- Make a verbal notification to the Incident Commander as soon as practical.
- Arrange for the inmate to be medically examined and request a full medical assessment of injuries, if any.
- Ensure every staff member who witnessed the allegations and/or staff who witnessed the event leading to the allegations immediately submits the applicable report.
- Review any reports for clarity.
- Submit a package of all documents relating to the allegation, including a copy of the medical report, to the Incident Commander.

#### **51020.18.2 Allegations of Excessive or Unnecessary Force – Incident Commander and Appeals Coordinator Reporting Requirements**

When informed of allegations of the use of unnecessary or excessive force, the Incident Commander and/or the Appeals Coordinator shall make an initial assessment of the information received and notify the appropriate First or Second Level Manager as soon as practical.

Additionally, the Incident Commander and/or the Appeals Coordinator shall:

- Ensure LNS has evaluated the inmate and a CDCR 7219 has been completed.
- Review written reports of witnesses and obtain statements from inmate witnesses, if any.
- Ensure that the inmate's injuries are video recorded and the inmate is interviewed within 48 hours in accordance with the requirements set forth in DOM, Section 51020.17.3. This shall be done as soon as possible upon receiving verbal notification of the allegation.

When an allegation is received, whether verbally or through the appeals process, the Appeals Coordinator or Incident Commander shall contact ISU or the Watch Commander and determine if the related incident report exists. The respective Appeals Coordinator or Incident Commander shall note the existence of the incident report by log number in their submittal prior to forwarding the allegation for administrative review.

If the inmate has suffered serious bodily injury or great bodily injury, the Incident Commander shall notify the OIA and the OIG as soon as possible, but no later than one hour from the time the incident is discovered. In instances where the allegation was submitted through the inmate appeal process and there is no corresponding incident report, the Appeals Coordinator shall, in consultation with the hiring authority, notify the OIA and OIG.

If, at any point in the review, the Incident Commander and/or the Appeals Coordinator discovers information that leads them to reasonably believe or suspect an employee has committed any serious misconduct, the Incident Commander and/or Appeals Coordinator shall:

- Immediately forward all information to the Institution Head via the chain of command, recommending an internal affairs investigation if appropriate.
- Prepare a Report of Findings-Inmate Interview (CDCR 3014) and/or Appeal Inquiry. The report shall contain the allegations made, an explanation of the incident, the written or verbal statements of the witnesses, the health care information, and a conclusion and recommendation.
- Submit the Report of Findings and/or Appeal Inquiry and evidence through the chain of command to the Institution Head. The evidence shall include copies of the medical reports, and any other documentation that is deemed significant to further document the incident/allegation. If the Incident Commander learns that the verbal allegation is part of a reported incident, the incident package shall be included with the Report of Findings. Correspondingly, if the Appeals Coordinator learns that the written allegation is part of a reported incident, the incident package shall be included with the appeal for administrative review.

#### **51020.19 Reviewing the Use of Force**

Each Institution Head shall establish and chair an IERC to evaluate and review every use of force and every allegation of excessive or unnecessary force. Each incident or allegation shall be evaluated at both supervisory and management levels to determine if the force used was reasonable under policy, procedure, and training.

For reported incidents, a good faith effort must be made at all levels of review in order to reach a judgment whether the force used was in compliance with policy, procedure and training and follow-up action if necessary. The following factors must be evaluated:

- The threat perceived by the responsible individual applying the force.
- The need for the application of force.
- The relationship between that need and the amount of force used.
- The extent of the injury suffered.
- What steps were taken to avoid and/or minimize the need for/level of force used.

Should an incident or allegation warrant investigation by the DFIT, the OIA, or any other outside investigating agency, or if direct action has been requested for any incident or allegation, the IERC shall suspend all review of that incident until the investigation/direct action is complete. Examples of what may be referred for investigation include but are not limited to:

- Unexplained injuries.
- Impact strikes to lethal target areas (head, eyes, throat, or spine).
- Incomplete/conflicting reports.

- The application of weaponry that exceeds what would normally be expected for the type of force reported.

The IERC shall apply the findings of the Hiring Authority or the DFRB as part of its review.

#### **51020.19.1 Incident Commander Review**

The Incident Commander shall review the complete incident package documentation to ensure that it is adequately prepared and shall reach a judgment whether the force used was in compliance with policy, procedure, and training.

The Incident Commander shall:

- Review all incident reports for quality, accuracy, and content, including the Report of Finding-Inmate Interview (CDCR 3014).
- Clarify incomplete reports with involved staff by completing a Crime Incident Report Review Notice (CDCR 837-C-2 to the applicable employee).
- Complete an Incident Commander's Review/Critique Use of Force Incidents (CDCR 3010). This report shall contain:
  - The description of inmate injuries due to force used.
  - An explanation of why force was needed.
  - A description of the threat that required force to be used.
  - What steps were taken to minimize the need for force.
  - Any relevant comments.

In the event the Incident Commander believes an investigation may be necessary, the Incident Commander shall suspend review and recommend that the case be referred for investigation.

#### **51020.19.2 First Level Manager Review**

The First Level Manager of the area where the incident or allegation occurs shall reach a judgment whether the force used was in compliance with policy, procedure, and training.

The manager shall:

- Review all documentation in the incident package, including the Report of Finding – Inmate Interview (CDCR 3014).
- Review the quality of all reports to ensure the use of force was properly documented and reviewed. This includes a review of the Incident Commander's conclusions.
- Determine if any corrective action taken by his/her subordinates in relation to the incident was adequate/proper.
- Conduct an in depth analysis to determine if the use of force described in the incident package was within the guidelines of the Use of Force policy, as well as other policies, procedures and training. This analysis should address any non-compliance not identified earlier.
- Complete a review of the incident on the Manager's Review – First Level Use of Force Incidents (CDCR 3011).
- In the event the First Level Manager believes an investigation may be necessary, they shall suspend the review and recommend that the case be referred for investigation.

#### **51020.19.3 Second Level Manager Review**

The Second Level Manager is the final level of review prior to the completed incident package being sent to the Use of Force Coordinator for review by the (IERC). The Second Level Manager shall reach a judgment whether the force used was in compliance with policy, procedure, and training.

The Second level manager shall:

- Review all documentation in the incident package, including, the Report of Findings – Inmate Interview (CDCR 3014).
- Review the quality of all reports to ensure the use of force was properly documented and reviewed. This includes a review of the Incident Commander's conclusions and the First Level Manager's conclusions.
- Determine if any corrective action taken by his/her subordinates in relation to the incident was adequate/proper.
- Conduct an in depth analysis to determine if the use of force described in the incident package was within the guidelines of the Use of Force policy, as well as other policies, procedures and training. This analysis should address any non-compliance not identified earlier.
- Complete a review of the incident on the Manager's Review – Second Level Use of Force Incidents (CDCR 3012).
- In the event the Second Level Manager believes an investigation may be necessary, they shall suspend review and recommend that the case be referred for investigation.

#### **51020.19.4 Use of Force Coordinator Responsibility**

The Use of Force Coordinator shall log and track all use of force incidents and all allegations of excessive or unnecessary force (including those originating from inmate appeals) to ensure thorough and timely review by the IERC. The log should be capable of producing statistical reports to monitor trends and patterns of force

used, whether the report is received in the form of an incident report, a verbal allegation of excessive or unnecessary force, or an allegation contained in an inmate appeal. At a minimum, the log should address the following categories:

- Incident Log Number
- Incident Date
- Specific Area of Institution
- Specific Crime
- Controlled or Immediate Use of Force
- Allegations of Unnecessary or Excessive Use of Force
- Significant Injury (SBI, GBI, or Death)
- Injuries caused by Use of Force
- Staff Involved
- Inmate(s) Involved
- Mental Health Status
- Type of Force Option(s) Utilized
- Ethnicity
- Security Threat Group Status.

The Use of Force Coordinator shall schedule use of force incident packages for presentation to the IERC within 30 days from the date of incident. If an investigation or request for direct action has been initiated for a use of force incident, the Use of Force Coordinator will track and maintain the completed incident package until the Hiring Authority has determined a finding upon conclusion of the investigation or request for direct action.

Upon determination of finding for the matter referred for investigation or direct action, the Hiring Authority shall apprise the Use of Force Coordinator of the allegation(s) findings.

The Use of Force Coordinator shall conduct an in-depth analysis of the documentation from each use of force incident, including the conclusions of the Supervisor and Managers. The Use of Force Coordinator shall request any clarification or additional information necessary to complete his/her analysis.

The Use of Force Coordinator shall complete the IERC Use of Force Review & Further Action Recommendation (CDCR 3035), and Institutional Executive Review Committee (IERC) Critique and Qualitative Evaluation (CDCR 3036), documenting his/her findings regarding whether the force used was in compliance with policy, procedure, and training; as well as identifying any recommended revision to policy, procedure, or training.

If a completed incident package has not been received by the Use of Force Coordinator in time to allow for IERC review within 30 days of the incident, the Use of Force Coordinator shall present the initial incident package to the IERC for an initial review. The initial review of the initial incident package is intended to give the IERC an opportunity to conduct a preliminary review and document obvious procedural concerns. During the initial review, the CDCR 3035 or CDCR 3036 do not need to be completed. Once the completed incident package is received, the CDCR 3035 and CDCR 3036 shall be completed by the Use of Force Coordinator for presentation to the IERC.

In cases involving allegations of excessive or unnecessary force, whether or not the allegation was part of a reported use of force, the Use of Force Coordinator shall prepare an Institutional Executive Review Committee Allegation Review (CDCR 3034), for review by the IERC.

The Use of Force Coordinator shall prepare complete copies of the incident packages to be reviewed by the IERC during the scheduled meeting. The OIG shall be provided reasonable notice and copies of the packages to be reviewed in advance of the meetings.

If the IERC determines additional information or clarification is required, the Use of Force Coordinator will forward a request for this information to the responsible Manager and track the assignment.

The Use of Force Coordinator will maintain a copy of the completed incident package until the information or clarification is received. The Use of Force Coordinator will then complete the analysis and resubmit the case to the IERC.

The Use of Force Coordinator will ensure the IERC findings are documented on the CDCR 3035 and CDCR 3036 following final IERC review of the completed incident package.

After final review by the IERC, any copies of staff disciplinary documents will be removed from the incident package and routed to the appropriate Manager for placement into the appropriate file.

The IERC Chairperson and the Use of Force Coordinator shall review the status of all pending use of force cases following each IERC meeting to evaluate the readiness for final review of the cases.

By the fifth day of each month, the Use of Force Coordinator shall forward a memorandum to the respective Associate Director listing the date of IERC meetings, incident package log numbers, specific crime, and disposition of all incident packages reviewed during the previous month.

#### **51020.19.5 Institution Executive Review Committee Monitoring Responsibility**

*Revised March 7, 2017*

The IERC is a committee of executive staff tasked with reviewing reported use of force incidents and allegations of excessive or unnecessary force. The IERC shall normally be comprised of the following institutional staff:

Institution Head or Chief Deputy Warden, as chairperson and final decision maker, At least one other manager assigned on a rotational basis,

- In-Service Training Manager,
- One health care staff, and
- A Use of Force Coordinator.

A licensed mental health practitioner shall participate in the IERC for all controlled use of force incidents. A licensed mental health practitioner shall also participate in the IERC for any immediate use of force incidents involving an inmate participant in the Mental Health Services Delivery System.

Other designated supervisors and rank and file staff may also attend, as determined by the appointing authority. A representative of the OIG may also attend and monitor IERC meetings.

The IERC shall meet to review its cases on at least a monthly basis, or on a schedule to ensure all cases are reviewed within 30 days. Unless there are outstanding issues or a corresponding investigation, this review will be both an initial/final review.

The IERC Chairperson shall personally view all video recordings arising from controlled use of force incidents and any portion of video recordings capturing the immediate use of force. This viewing can be accomplished either before or during the IERC.

During the IERC, at a minimum, the committee members shall view the portions of the controlled use of force video from the admonishment through the last use of force. When video recording captures the immediate use of force, at a minimum, the committee members shall view the video from the initial use of force through the last use of force.

Should an incident or allegation warrant a request for direct action or investigation by the DFIT, the OIA, or any other outside investigating agency, the IERC shall suspend all review of that incident until the investigation is completed. Upon the Hiring Authority determining a finding for the referred allegation(s), the IERC shall apply the findings as part of its own review.

The IERC shall determine if the use of force was reasonable and in compliance with policy, procedures and training. The IERC shall also examine the critique and conclusions of the managers and supervisors, and ensure the appropriateness of completed documentation.

The IERC shall complete an Allegation Review of all allegations of excessive or unnecessary force.

The IERC may initiate requests for additional information or clarification (clarification requests will be routed to the responsible Manager and tracked by the Use of Force Coordinator). The final review will determine whether the use of force was reasonable.

The IERC may recommend changes to procedure or training. The IERC is also responsible for identifying possible employee misconduct and recommending the initiation of training, corrective action or disciplinary action in such cases. However, only IERC members in supervisory or management roles (including the Use of Force Coordinator) and the OIG may participate in discussions involving the initiation of corrective or disciplinary action.

The hiring authority may initiate changes to local procedure or training based on the findings or recommendations of the IERC, or forward a recommendation of change to the CDCR policy or procedure via the Associate Director. The Institution Head may also initiate corrective or adverse employee action based upon the findings or recommendations of the IERC.

#### **51020.19.6 Department Executive Review Committee Monitoring Responsibility**

*Revised March 7, 2017*

The Department Executive Review Committee is a committee of staff selected by, and including, the Associate Director who oversees the respective Mission-based group. The DERC shall review all incidents involving deadly force, serious bodily injury, great bodily injury, or death. The DERC shall also review those incidents

referred to the DERC by the IERC Chairperson or otherwise requested by the DERC.

The DERC shall conduct a review of the incident and document its findings. The DERC shall also review the actions of the IERC and in the event the DERC has questions or concerns with actions taken by the IERC, the DERC shall take appropriate action. The DERC shall conduct all reviews within sixty (60) days of completion by the IERC.

The Director of DAI may choose to provide final review for any incident reviewed by the DERC.

#### **51020.20 Investigating Deadly Force and Any Use of Force That Could Have Caused Death or Great Bodily Injury**

Every use of deadly force and every death or great bodily injury that could have been caused by a staff use of force shall be investigated by the DFIT and reviewed by the DFRB.

##### **51020.20.1 Investigative Services Unit (ISU) Monitoring the Use of Deadly Force**

For incidents occurring in an institutional setting, involving the use of deadly force and any use of force resulting in death or GBI, the ISU shall take preliminary charge of the investigation and will remain in charge of the investigation while contacting the DFIT to inform them of the incident.

For incidents occurring in a community setting, local law enforcement and the DFIT shall take preliminary charge of the investigation.

For every discharge of deadly force from a firearm, an ISU Sergeant or above shall be tasked with making the prompt determination of whether the deadly force was a warning shot and whether anyone suffered any injuries as a result of the deadly force. The ISU shall verbally notify the DFIT of its determination as soon as possible and shall confirm its determination, along with the reasons in support of it, in a written memorandum to be forwarded to the DFIT. If the ISU is unavailable to assume this responsibility, an uninvolved Correctional Lieutenant shall do so.

##### **51020.20.2 Deadly Force Investigation Team Responsibility**

Trained Department investigators assigned to a Deadly Force Investigation Team shall conduct criminal and administrative investigations of every use of deadly force and every death or great bodily injury that could have been caused by a staff use of force. All DFIT criminal investigations will be referred to the local District Attorney for review where MOU's provide for referral.

Based on certain local Memoranda of Understanding, criminal investigations may instead be conducted by an outside police department or sheriff's office. If an outside law enforcement agency is conducting the criminal investigation, the DFIT investigator will monitor the progress of the criminal investigation while providing appropriate support.

Although defined as deadly force, DFIT need not investigate the discharge of a warning shot inside an institution/facility if an ISU Sergeant or above, or an uninvolved Correctional Lieutenant, confirms that the discharge of deadly force was a warning shot and that no injuries were caused by the shot. All warning shots shall be reported to the Office of Internal Affairs/DFIT and the Office of the Inspector General (OIG).

##### **51020.20.3 Deadly Force Review Board**

The DFRB is the board responsible for conducting a full and complete review of all incidents involving a use of deadly force (except warning shots) and every death or great bodily injury that could have been caused by a staff use of force, regardless of whether the incident occurs in an institutional or community setting.

The DFRB shall be composed of at least four members. Three shall be non-departmental law enforcement professionals. One (1) shall be a Division, Parole Region, or Institutional/facility manager (i.e. Associate Directors, Division of Juvenile Justice Superintendents, Chiefs or designees) from outside the chain of command of the involved employee(s). Additional members may be designated by the Secretary or designee.

The reports and findings generated from the separate investigative bodies (DFIT and local law enforcement if applicable) will be presented to the DFRB. The DFRB shall be convened as soon as possible after the criminal and administrative investigations are completed.

The DFRB shall examine all aspects of the incident to determine the extent to which the use of force complied with departmental policies and procedures, and to determine the need for policy, training, and/or equipment modifications.

The DFRB shall report its findings and recommendations in writing, to the Undersecretary assigned to oversee the DAI.

#### **51020.21 External Review of the Use of Force – The Use of Force Coordinator Responsibility**

For purposes of an external review, the Use of Force Coordinator shall identify and retain use of force cases closed by the IERC during the review period. External reviews of closed use of force cases shall be conducted at least every 24 months

##### **51020.22 Revisions – Use of Force Joint Use Committee (JUC)**

The Use of Force JUC is a committee of field staff tasked with reviewing and evaluating recommended revisions to the CDCR's Use of Force Policy and Procedures.

The JUC shall be comprised of the following field staff:

- At least one Institution Head, as chairperson
- At least one staff member from each DAI, mission based region, at the level of Lieutenant or Captain
- At least one Use of Force Coordinator,
- At least three representatives from the CCPOA, as designated by the CCPOA
- At least one Mental Health Regional Administrator
- The Chief of OIG or designee, and
- Others as needed and assigned by the Deputy Director, DAI,

The JUC shall meet quarterly as necessary, but not less than annually, to review recommended revisions.

##### **51020.22.1 Revisions Approval**

Any recommendations for revisions to this Article shall be referred to the Use of Force Joint Use Committee. After review and consideration, the Use of Force JUC shall refer revisions to the Director, DAI, for approval, via the Deputy Director.

Only the Director of DAI, or the Director's designee, may issue clarification memoranda to this Article.

##### **51020.23 Revisions**

The Director, DAI, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

##### **References**

PC § 118.1, 196, 197, 243, 835, 835a, 843.

CCR (15) § 3268, 3268.1, 3268.2, 3275, 3276, 3278, and 3397.

Hudson v. McMillian, 503 U.S. 1 (1992).

Madrid v. Gomez, 889 F.Supp. 1146 (N. D. Cal. 1995).

Remedial Order regarding Madrid v. Gomez, dated June 17, 1996.

Madrid v. Cate (U.S.D.C. N.D. Cal. C90-3094 TEH).

Coleman v. Brown, No. CIV. S-90-520 LKK/DAD (PC) (2014).

Armstrong v. Newsom, No. 94-cv-02307, dated September 8, 2020.

##### **Revision History**

Revised: January 12, 2016

Effective: Section 51020.15.7: October 11, 2022.

## **ARTICLE 3 — INCIDENT REPORT**

*Effective December 27, 1989*

### **51030.1 Policy**

*Revised January 30, 2017*

Incidents, events and activities that occur within the jurisdiction of institutions of immediate interest to the Department, other governmental agencies or the news media, shall be reported to the Director or the departmental Officer-of-the-Day, or the Deputy Director, DAPO as described in this section.

### **51030.2 Purpose**

This procedure defines staff responsibility and provides procedures and criteria for reporting incidents occurring within the Department.

### **51030.3 Reportable Incidents**

*Revised April 24, 2017*

Examples of incidents which shall be reported:

- All felonies committed by inmates, parolees, employees or the public on institution property, during transportation or under the jurisdiction of parole regions.
- General or partial lockdowns.
- Riots, inmate strikes or general demonstrations.
- Major power failures.
- Serious accidents or injuries.
- Deaths.

- Significant damage or destruction of state property.
- Escapes or attempted escapes, (refer to DOM 55040, Escape Pursuit).
- Any state of emergency as described in CCR 3383.
- Any use or discharge of weapons, chemical agents or tasers.
- Threats against the President or Vice President of the United States, or threats against state officials.
- Safety grievances (employees).
- Employee job actions.
- Sexual Violence Allegations.
- Attempted Suicide (as determined by a mental health evaluation).

#### **51030.4 Incident Reporting Procedures (Institutions)**

All reportable incidents shall be conveyed by telecopier on a CDCR Form 837 series, Administrative Officer-of-the-Day (AOD) Incident Report, to the Director, by the 24-hour-a-day Identification and Warrants (ID) Unit.

The current public and ATSS telephone numbers of the ID Unit shall be included in the telecopier and AOD instruction booklets or memos.

##### **51030.4.1 Administrative Officer-of-the-Day Incident Report, CDCR Form 837 Series**

The Administrative Officer-of-the-Day Incident Report, CDCR Form 837 series, is the Department's initial written report to Central Office that an incident of departmental interest has occurred. It is essential that all information available at the time of the incident be entered into this report. Any subsequent updating of information relating to the incident should be forwarded to Central Office using the AOD 837 Log Number of that particular incident.

##### **Initial Report Content**

Initial reports by telecopier shall include all pertinent available information. New information significant to the incident shall be telecopied as received.

##### **Press Releases**

The Assistant Director, Communications, shall be notified by telephone of press releases or serious incidents. A written copy of the press release shall be telecopied to Communications following the verbal notification.

##### **51030.4.2 Incidents on Department Buses**

The transportation sergeant or senior officer in charge of the bus shall be responsible for reporting incidents which occur during departmental transportation. The Captain, Transportation Unit, shall be responsible for the processing and distribution of incident reports prepared by staff of the transportation unit. Copies of the incident report shall be forwarded to institutions receiving inmates involved in transportation incidents.

##### **51030.5 Formal Incident Reports**

A written incident report shall be prepared and submitted to the Director within 72 hours of all reportable incidents. The Warden or RPA will review and sign this report.

##### **51030.5.1 Supplemental Incident Reports**

Initial incident reports to the Director shall be updated by supplemental incident reports until the incident is closed. The supplemental reports shall include all subsequent facts, information, and administrative actions taken relative to the incident.

##### **51030.5.2 Incident Report Log**

Facilities and parole regions shall establish and maintain an official log on all reportable incidents. All initial incident reports shall be assigned a log number. Incident report log numbers shall be obtained from the original CDCR Form 837 series, AOD Report, pertaining to the incident. All supplemental reports pertaining to a single incident shall contain the log number assigned to the initial report and shall be filed sequentially with the original report.

##### **51030.6 Format and Content**

*Revised February 26, 1993*

The facility watch commander or program lieutenant in charge of the specific area where the incident occurred shall be responsible for the preparation of the incident report. Departmental incident reports shall be prepared in accordance with the following outline and format:

- Subject.
- Synopsis.
- Persons involved.
- Summary.
- Action taken.

The outlined sections shall contain the following information when applicable:

- **Subject.** This section shall provide a brief one-or-two sentence description of the incident.
- **Synopsis.** This section shall contain a brief, concise description of the incident and involvement of the principal person(s). It shall also contain a description of the injuries, a prognosis for each injured person, the location of the incident, and the extent of property damage if any.
- **Persons Involved.** The following information shall be included on principal inmates involved:
  - Name(s) and prison number(s).
  - Custody classification and classification score.
  - Date received by the Department.
  - Date received by the facility.
  - Commitment offense and county of commitment.
  - Parole/discharge date/Board of Prison Term status.
  - List name(s) and job classification(s) of principal staff involved.
- **Summary.** This section shall contain a detailed report of the entire incident including, when applicable, the following information:
  - Type of incident, date, and approximate time of occurrence.
  - Location of incident.
  - All facts, details, and conclusions.
  - Any criminal acts committed and by whom.
  - Any property damage incurred and value estimate of loss.
  - Number and description of weapon(s) used by perpetrator(s) or recovered following the incident.
  - Types of weapons used by staff, i.e., firearms, chemical agents, tasers, or other lethal/nonlethal weapons. Number of shots fired and/or amount of chemical agents expended shall be included in this section. (See DOM 32010, 54060, and 55050 for additional information on the taser.)
  - Compliance with procedures requiring review of medical/ psychiatric records before taser is used and their findings.
  - Detailed and specific description of any physical force used by staff during the incident.
  - Types and amounts of controlled substances seized. Controlled substances shall be reported in grams or dosages.
  - Describe circumstances surrounding any staff, inmate, or visitor death and details of care provided. Any last messages wished transmitted by the deceased shall be quoted.
  - Describe any injuries to staff/inmates/visitors, medical aid provided, and prognosis. An (F) or (M) shall be placed after the names of injured staff members to designate whether male or female.
- **Action Taken:**
  - Describe any disciplinary or classification committee actions taken and outcome if known.
  - State if case was/was not referred for criminal prosecution. If referred, describe status or outcome if known.
  - State whether or not information officer and/or news media was notified.
  - State if case was referred to the BPT and actions taken if known.
  - State if Chief of Labor Relations was notified in cases of employee injury or death.
  - Describe actions to notify next of kin in cases of serious injury or death.
  - Describe measures taken to prevent recurrence.

##### **51030.6.1 Attachments**

The following attachments shall be included in incident reports when applicable:

- Arresting and/or witnessing officer reports.
- Reports of principal employees involved.
- Medical and/or death reports on injuries or deaths.
- Photographs shall not be attached to incident reports sent to the Director unless requested.

##### **51030.6.2 Copies and Distribution**

Incident reports shall be duplicated by the photocopy method only and distributed as follows:

- Two copies to the Director. (Three copies if death of staff or inmate by assault.)
- One copy to each institution if deemed serious or unusual, or if considered to contain information of particular training value. (Individual institutions may also request routine distribution.)

##### **CYA Wards**

- One copy to the Chief Deputy Director, CYA, for each CYA ward involved.
- One copy upon request to the Region Chief of the Department of Forestry and Fire Protection of conservation camp incidents involving forestry employees.



**51030.6.2.1 Confidential Incident Reports**

Incident reports which contain confidential information shall be written, controlled, and distributed in accordance with CCR 3321, and applicable information practices procedures.

**51030.7 Revisions**

*Revised January 30, 2017*

The Deputy Director, Division of Adult Institutions or designee shall ensure that the content of this article is accurate and current.

**51030.8 References**

PC § 76.18 USC 871.

CCR §§ 3382, 3276 - 3279.

ACA Standards 2-4206 - 2-4208, and 2-4210.

**ARTICLE 4 — POST ORDERS**

*Revised July 3, 1998*

**51040.1 Policy**

Each Warden and Health Care Manager shall ensure that post orders are completed for all posted positions, to include special assignment positions (i.e., contraband watch, hospital guarding, etc.).

**51040.2 Purpose**

Post orders shall be complete and concise. Only general functions and specific duty directives shall be referenced in post orders. Department policy directives should be referenced in post orders but not be reiterated in their entirety. Those matters that are not specific to post duties should be communicated to staff through: IST, OJT, or other communication methods.

**51040.3 Staff Responsibility for Post Orders**

The Captain or area Manager (i.e., Health Care Manager, Food Manager, etc.) is responsible for the initiation, revision, distribution, and maintenance of post orders.

**51040.4 Review, Update, and Finalization of Post Orders**

Each Captain and Health Care Manager shall establish a schedule so that all post orders receive an annual review and update to incorporate changes in rules, regulations, policy, institution operations, and the DOM. Whenever a post order is reviewed or updated, the date of the review shall be included on the post order.

- The Captain or area Manager shall assign a second line supervisor to be responsible for the review, revision, and/or preparation of designated post orders.

Post orders shall be accurate, complete, and concise.

- Post order drafts shall be submitted to the immediate supervisor for review then forwarded to the second line supervisor who, after approval of the draft, shall have the post order prepared in final form. The Health Care Manager shall submit the post order drafts to the first line supervisor who, after approval of the draft, shall have the health care staff post order prepared in final form. The respective Associate Warden, Chief Deputy Warden, or Health Care Manager shall review and approve all finalized post orders.

**51040.5 Post Order Format**

Post orders shall not exceed 4 pages in length and shall be prepared utilizing the following format:

- Revision Date:
- Division/Institution:
- Post Description:
- Post Order Number:
- Watch:
- Hours of Work:
- Regular Days Off:
- Direct Supervisor:
- Indirect Supervisor:
- Area of Responsibility:
- General Duties and Responsibilities:
- Special Instructions:
- Operational Time Schedule:
- Signature Blocks.

**51040.5.1 Post Order Language**

Post orders shall contain the following language:

“All peace officers have the responsibility to take appropriate action during an emergency (including physical restraint) and to work assignments as necessitated.”

**51040.6 Post Order at Job Site**

The Captain or area Manager shall ensure that a current copy of the Post Order is prepared for every post and a copy shall be physically located at each job site.

**51040.6.1 Post Order Reading and Understanding Requirements**

Supervisors, by authority of the Captain or area Manager, shall ensure that employees read and understand their post orders upon assuming their post.

Employees under post orders are required to sign and date the CDC Form 1860, Post Order Acknowledgment Form, verifying their understanding of the duties and responsibilities of the post. This shall be completed when the employee is assigned to the post, when the post order has been revised, or upon returning from an extended absence.

At a minimum of once each month, supervisors shall inspect the post orders and sign the CDC Form 1860. Any torn or missing pages noted shall be replaced as soon as practical.

**51040.6.2 Post Order Acknowledgment Form**

A CDC Form 1860 shall be attached to each post order and shall be utilized to verify that the assigned staff member has read and understood the post orders for their post.

- When all the signature blocks on the CDC Form 1860 are filled, it shall be removed and maintained in a file in the Captain's office or Health Care Manager's office (for health care staff). The CDC Form 1860 shall be maintained for a period of one year from the date of last entry unless deemed evidentiary (then retained until no longer needed).

**51040.7 Post Order File**

The Captain's office or Health Care Manager's office (for health care services post orders) shall retain all current/updated institution post orders on computer diskette, as well as hard copies. All post orders shall be archived for a period of one year, unless deemed evidentiary (then retained until no longer needed).

**51040.8 Revisions**

The Deputy Director, Institutions Division, or designee shall ensure that the contents of this article are kept current and accurate.

**51040.9 References**

ACA Standards 2-4200 and 2-4201.

**ARTICLE 5 — POST ASSIGNMENT SCHEDULE**

*Revised October 24, 2022*

**51050.1 Policy**

All Wardens shall maintain a current, approved Post Assignment Schedule (PAS), which shall be reconciled each year and as designated by the Program Support Unit (PSU). The PAS shall reconcile to total authorized positions as identified by the State Controller's Office. Allocation and deployment of authorized positions shall be determined by the PSU and by the Budget Management Branch (BMB).

**51050.2 Purpose of Post Assignment Process**

The PAS is a report that identifies how the approved Governor's budget is converted to the authorized staffing of an institution utilizing the standardized staffing methodology. The Master Assignment Roster (MAR) is a report utilized to identify all operational posts at an institution on a daily basis, by watch.

**51050.3 Maintenance of Schedules**

(a) Separate post assignment schedules shall be maintained for each of the following staff:

- (1) Custody.
- (2) Food Services.

**51050.3.1 Custody**

A PAS for custody staff shall include all operational posts in the custodial series within an institution, facility, work area, office, and other location(s) required to report operational posts on a PAS. The PAS shall reflect all operational posts in the following classifications: Correctional Administrator, Captain – Adult Institution, Correctional Lieutenant, Correctional Sergeant, Correctional Officer, Correctional Counselor III, Correctional Counselor II – Supervisor, Correctional Counselor II – Specialist, Correctional Counselor I, and any other classifications as required.

**51050.3.2 Food Services**

A PAS for Food Services staff shall include all operational posts in the Food Services series within an institution, facility, work area, office, and other location(s) required to report operational posts on a PAS. The PAS shall reflect all operational posts in the following classifications: Correctional Food Manager, Assistant Correctional Food Manager, Supervising Correctional Cook, Correctional Supervising Cook, and any other classifications as required.

### **51050.3.3 Definitions of Personnel Year, Position, Post, and Watch**

#### **(a) Personnel Year**

A Personnel Year (PY) is the number of days on which an employee is expected to physically work over the course of one calendar year. The number of days in a PY varies based on the authorized relief of a specific post.

#### **(b) Position**

A position is a budgetary concept that equates to an annual salary plus benefits paid to an individual for the performance of a given kind of work (i.e., classification such as Office Assistant [OA]; OA II; or Officer). A position equates to the authorized pay number as established by the State Controller's Office (SCO).

#### **(c) Post**

A post is a specific work assignment to be performed by one individual at a time on a specific shift or watch and for a specified number of days per year. The definition also identifies or assigns a post to a specific watch.

(1) For example, a tower that is manned 24 hours per day, 365 days a year, is not considered one post. Since it involves all three watches, it is three separate posts.

#### **(d) Watch**

A watch is a scheduled period of work for an employee. CDCR utilizes three watches per calendar day: First Watch (1W), Second Watch (2W), and Third Watch (3W), which are determined at the start time of the post, in accordance with applicable policy, bargaining unit contract, or other controlling document(s).

### **51050.4 Post Assignment Schedule – Master Assignment Roster User Guide**

The Post Assignment Schedule/Master Assignment Roster (PAS-MAR) User Guide is a source document maintained by the PSU that provides the most current methodology and information regarding post assignments. As changes occur, an updated PAS-MAR User Guide shall be distributed to lieutenants and sergeants assigned to the Assignment Time Management (ATM) office of each institution, to provide an easily accessible reference for the end user in maintaining accurate and standardized post information. The

PAS-MAR User Guide includes instructions for maintaining an accurate PAS and MAR, along with current methodology related to post numbers, post naming conventions, relief factors, and the PAS-MAR reconciliation process.

### **51050.5 Revisions to PAS**

(a) When a revision to the PAS is warranted, a Staffing Adjustment Notice shall be distributed by PSU identifying the changes.

(b) If the revision includes budgeted post activation(s) or deactivation(s), a Form STD. 607 shall be prepared and submitted by the institutions.

### **51050.6 Revisions**

The Deputy Director, Facility Support, or designee, shall ensure that the content of this section is accurate.

### **References**

PC § 5054.

### **Revision History**

Effective: December 19, 1989.

Revised: October 24, 2022.

## **ARTICLE 6 — DAILY ACTIVITY REPORT**

*Revised May 20, 1993*

### **51060.1 Policy**

Each Warden shall maintain a chronological log of unusual or significant occurrences regarding inmates and staff or other events about which facility management should be informed.

### **51060.2 Purpose**

The purpose of this procedure is to establish guidelines for a comprehensive compilation of occurrences within the facility for review by administrative staff.

### **51060.3 Responsibility**

The logging of all pertinent information shall be delegated to Watch Commanders on each shift.

### **51060.4 Recording Methods**

Activities and events that are not otherwise recorded and readily available for review by administration and other staff, shall be recorded on the Daily Activity Report (DAR).

All staff working a particular shift or watch shall report through the chain of command all significant information pertaining to their assignment. This information shall be assembled on one report by watch, first watch through second and third watches.

#### **51060.4.1 Content**

Each facility/parole region shall develop a daily activities report form that will supply the information relative to their needs.

- Routine information that is readily available through log, records, etc., that can be obtained swiftly need not be included.
- Any information of unusual or significant events/actions shall be included.

The following items are examples of content only:

- Delays in count.
- Population changes.
- Accidents (any type).
- Any felony or serious misdemeanor occurrence.
- Delays in serving meals.
- Injuries to staff, visitors, or inmates.
- Sick leave usage (numbers of staff).
- Overtime usage.
- Inspection report.

### **51060.5 Distribution of Report**

The Watch Commander shall prepare the DAR and adequate copies for distribution. The original report shall be retained in the Watch Office as a permanent log. A copy shall be forwarded to the Captain or the Associate Warden—Custody, and a copy shall be delivered to the Warden and Chief Deputy Warden. Other copies may be provided to staff based on the need of the facility.

The Captain or Associate Warden shall take whatever follow-up action is indicated in reference to items reported and shall report such actions to the Warden by 9:00 a.m. on the first day following the recording except on weekends and holidays.

The Watch Commander shall report significant occurrences to the Warden at any time through the normal chain of command or through the Administrative Officer-of-the-Day.

### **51060.6 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

### **51060.7 References**

PC §§ 5054 and 5058.

## **ARTICLE 7 — INMATE DEATHS, SERIOUS INJURY, OR ILLNESS NOTIFICATION**

*Revised September 8, 2008*

*Updated September 6, 2013*

### **51070.1 Policy**

The Department shall treat the death, serious injury, or serious illness of an inmate or parolee with dignity and respect as is regularly accorded persons who are not incarcerated or on parole. The procedures to be followed after death, serious injury, or illness shall comply with the requirements of all applicable laws.

### **51070.2 Purpose**

The purpose of this Section is to outline the duties of all staff involved when a death, serious injury, or illness of an inmate/parolee occurs. For purposes of this Section, parolee is defined as: a parolee currently incarcerated in a CDCR facility pending a revocation action by the Board of Parole Hearings, or in a CDCR facility based substance abuse treatment program.

### **51070.3 Possible Death**

An employee discovering a possible inmate/parolee death shall immediately summon medical assistance. Pending arrival of medical assistance, the employee shall make every effort to preserve life.

This may include first-aid, Cardio Pulmonary Resuscitation (CPR), and other life-saving measures for which the employee is trained. Life support measures shall be continued until the medical personnel arrive.

Medical personnel will continue life saving efforts unless one or more of the following signs of death are present. If one or more sign is present, the physician will determine if patient is deceased.

- Rigor mortis/dependent lividity.

- Tissue decomposition.
- Decapitation.
- Incineration.

Once started, CPR shall continue until:

- Resuscitation efforts are transferred to a rescuer of equal or higher level of training.
- The patient is determined to be deceased by an MD.
- Effective spontaneous circulation and ventilation have been restored.
- Emergency responders are unable to continue because of exhaustion or safety and security of the rescuer or others is jeopardized.
- A written valid Do Not Resuscitate order is presented.

If a medical officer is not present when the inmate dies, the medical personnel will, in addition to the above:

- Notify the Chief Medical Executive (CME), staff medical officer, or the Medical Officer-of-the-Day (MOD) as appropriate.
- Notify the supervising nurse on duty, or on call.
- Notify the senior custody officer on duty.

A physician shall examine the patient at the earliest possible moment to determine if the patient has expired.

#### **51070.4 Pronouncement of Death**

Only a doctor of medicine shall pronounce a person dead.

#### **51070.5 Responsibility of Warden/Regional Parole Administrator (RPA)**

The Warden/RPA or their designees shall:

- Effect all medical and legal requirements as soon as practicable.
- Ensure that all necessary requirements for care and maintenance of remains and artificial appliances following death are accomplished in accordance with instructions dictated by the appropriate coroner's office and this manual.

#### **51070.6 Chief Medical Executive**

*Revised September 6, 2013*

The CME or MOD on duty shall:

- Notify the watch commander or senior custody officer in the area of occurrence that the patient/victim has expired stating the time of death.
- Notify the coroner of the death and request their inquiry or release of the body.
- Upon obtaining the coroner's permission, cause the body to be covered and removed to the morgue or a private room in the treatment facility.
- Notify the Warden or Administrative Officer-of-the-Day (AOD), giving all significant points of administrative and medical/legal interest.
- Prepare a written summary of circumstances surrounding the death on CDCR Form 7229-A, Initial Inmate Death Report, or CDCR Form 7229-B, Initial Inmate Suicide Report, providing tactful wording of information that can be used in notifying the contact listed. Any last messages the deceased wished to be transmitted must be quoted.
- An original and five copies shall be prepared and routed to the Warden.
- Notify all required agencies of any communicable diseases discovered during examination.
- In the event the deceased inmate had a diagnosed communicable disease, the contract funeral director charged with the removal of the body from the facility shall be notified of such disease prior to the release of the body.
- Close out all medical records and transmit them to the records office for inclusion in the decedent's C-File.

#### **51070.6.1 Death Certificate**

The CME or physician examining the body and pronouncing death will specifically determine whether he/she can sign the death certificate or must refer it to the coroner. H&SC 10259 states the coroner will be notified and will sign the death certificate if death occurs:

- Without medical attendance.
- During the continued absence of the attending physician (vacation, etc.).
- Where the attending physician is unable to state the cause of death.
- Where suicide is suspected.

- Following an injury or accident.
- Under circumstances as to afford a reasonable suspicion that the death was caused by the criminal act of another.

The physician shall complete and sign their section of the death certificate within 15 hours of the death. An original and five copies will be prepared. The original will be forwarded to the undertaker for completion and the copies will be routed to the Warden. Pursuant to H&SC 10204, the coroner shall complete the certification of death within three days after examination of the body.

#### **51070.7 Responsibility of Senior Custody Staff Member**

*Revised September 6, 2013*

Upon notification of a possible death, the senior custody staff or watch commander shall assure the following steps are accomplished:

- Make or cause to be made the decision for the need to secure the death/incident scene. Any evidence and areas surrounding the death/incident scene shall not be disturbed until an investigating officer is assigned and on the scene.
- Initiate investigation or other custody measures as indicated.
- Order all pertinent materials gathered, i.e., personal property, visiting information, mail card, etc.

#### **51070.7.1 Identify Decedent**

*Revised September 6, 2013*

The senior custody staff member shall arrange for identification of the deceased as soon as practical.

#### **Fingerprints**

- Arrange for the taking of a full set of the deceased's fingerprints on the approved Fingerprint Card, signed by the employee taking the prints.
- Required for legal identification of deceased.
- If fingerprinting is impossible, positive identification must be made by other means (photograph, scars, etc.).

#### **Other**

- Identification by means other than fingerprinting requires a notarized affidavit.
- Fingerprint cards or affidavit shall be forwarded to the C&PR.

#### **Exception to Fingerprinting**

In circumstances involving suspected homicide, fingerprints shall not be taken. Each hand shall be wrapped in a paper container by the medical representative or the institutional investigator.

Fingerprinting shall be completed by the coroner/designee.

- Notify the chaplain of the death giving the inmate's religion if known.
- Notify the Warden or AOD and the CME or MOD.

#### **51070.8 Circumstance of Death Report and Distribution**

The highest ranking custodial officer or designee shall prepare and deliver within four hours of death a brief notice providing the decedent's name, number, time and place of death, and other pertinent facts to:

- The Warden/RPA.
- Chief Deputy Warden.
- CME.
- Associate Warden, Business Services.
- PIO/AA.
- Correctional Case Records Manager (CCRM).
- Correctional Captain.
- Parole agent or reentry facility administrator.
- Chaplain of the deceased's faith.

#### **51070.9 Notification of Appropriate Agencies**

##### **Two-Hour Notification**

Any death of an inmate in any facility of the Department, including contract facilities, shall be reported within two hours of the death to the county sheriff and the coroner, or their designee of the county in which the facility is located, and if the facility is located within the city limits of an incorporated city, the chief of police in that city, or their designated representative.

##### **Additional Notifications**

The death shall also be initially reported to the DA or designee of the county in which the facility is located, to the Director, Division of Adult Institutions, and to the Director, Division of Correctional Health Care Services, as soon as those personnel are on duty, but within 24 hours of the death.

##### **Initial Report of Death**

The initial report of the death may be transmitted by telephone, direct contact, or written notification, and shall outline all pertinent facts known at the time the report is made and all persons to contact, in addition to any other information the reporting person or officer deems pertinent.

- The Warden, RPA, or designee shall notify law enforcement personnel.

- The facility CME shall notify the coroner.

### **Written Report, Within Eight Hours of Death**

Within eight hours of the death of an inmate in any facility of the Department, including contract facilities, a written report CDCR Form 7229-A or 7229-B shall be submitted by the Warden or RPA to those entities noted above. This written report shall include all circumstances and details of the death known at the time of report preparation, and shall include the names of all involved persons, and all persons with knowledge of the circumstances surrounding the death. A copy of the CDCR Form 7229-A or 7229-B shall be retained in the office of the CME and the investigative office until conclusion of any investigation; one copy shall be placed in the deceased inmate's C-File. In community based correctional facilities, the RPA shall retain one copy of the report until conclusion of any investigation.

### **Attorney General Notification**

The following reports and records shall be delivered to the Attorney General's Office, Bureau of Criminal Statistics, Statistical Data Center:

- Complete incident report or report of death as applicable.
- Completed copy of death certificate.
- Fingerprint card (two sets).
- Coroner's report (if applicable).

One copy of each of the preceding documents shall be forwarded to the Director of the Division of Juvenile Justice if the deceased is a youth offender of that agency.

### **51070.10 Notification of Contact Listed**

*Revised April 9, 2014*

Receiving and Release (R&R) staff in Reception Centers shall ensure that primary and alternate emergency contact information is entered in the Strategic Offender Management System (SOMS)/Electronic Records Management System (ERMS) application for each incoming inmate (new admissions and parole violators). The inmate is interviewed by R&R staff upon his/her arrival from the county and the information is entered into SOMS. The form is printed and signed by the inmate and then scanned into ERMS. If the inmate refuses either to list a next of kin or to sign the form, staff shall indicate the refusal, date and sign the form. Facility classification staff at all CDCR facilities shall ensure the Notification in Case of Inmate Death, Serious Injury, or Serious Illness is updated:

- Annually as part of the classification review process.
- Upon recommendation of transfer by a classification committee.
- Whenever an inmate advises his or her correctional counselor of a desire to change the information contained in the SOMS/ERMS application.

In the event of a death, serious injury, or serious illness, the Warden or designee at the level of Correctional Lieutenant or Correctional Counselor II or above shall use all reasonable means to contact the person(s) identified on the Notification form. The senior custodial officer shall review the inmate's C-File and Emergency Contact information contained in SOMS/ERMS and notify the contact listed as soon as possible.

- Telephone notification of contact listed should be used whenever possible. Custody staff shall not attempt to provide medical information regarding the inmate's health or cause of death, but shall refer the contact listed to the facility CME or physician designee or to the County Coroner's office. The staff member making contact shall verify the mailing address of the contact listed.
- In all cases of death, a tactfully worded letter, over the name of the Warden, shall be sent to the contact listed. Written notification shall be done by return-receipt mail.

The following format may be used in the event of a death:

(Name of contact listed)

"I regret to inform you of the death of your (relationship), name, and date. Remains have been released to (name of contracting mortuary, address and phone number of mortuary). They are awaiting further instructions for the final disposition of your (relationship) without expense to the State. If not claimed within 48 hours, disposition must be made as provided by law. Please notify (contract mortuary) whether you will claim the body. You may contact the County Coroner's Office at (Area Code) XXX-XXXX if you have questions regarding the cause of death of your (relationship). We extend our sympathy in your loss."

If notification cannot be immediately made in the aforementioned manner, the Warden or designee at the level of Correctional Lieutenant or Correctional Counselor II or above shall use all reasonable means to make contact with family members including but not limited to:

- Assigning Investigative Services Unit (ISU) staff to utilize telephone signup sheets, Inmate Monitoring and Recording Systems, searching the inmate's personal property (while preserving crime scene evidence), reviewing the inmate's visiting file, contacting the previous Parole Agent (if any), contacting the local Coroner's office, contacting the arresting agency, reviewing social media, and/or contacting the Office of Correctional Safety (OCS), etc., to locate contact information.
- Contact the appropriate consulate office if the inmate is a foreign national.
- All efforts made to locate and notify the next of kin shall be documented on a CDCR 837-C, Crime/Incident Report Part C—Staff Report or General Chrono, CDC 128-B.

If notification with the contact listed cannot be made within 72 hours, the Warden shall notify their respective Associate Director (AD) that all reasonable means for obtaining contact information have been exhausted. The AD shall make contact with the OCS for any additional assistance in locating the next of kin.

### **51070.11 Removal of the Body**

*Revised September 6, 2013*

The highest ranking custodial officer or their designee shall determine if the coroner has placed a hold on the body. If not, the custodial officer shall request the contract mortuary to pick up the body. The custodial officer shall obtain a body receipt form from the undertaker at the time the remains leave the facility. This form shall be completed in quintuplicate and distributed as follows:

- Original to the watch commander.
- One copy to control or the facility head.
- Two copies to the mortician (who leaves one copy at the gate).
- One copy to the CCRM.

### **51070.12 Responsibility of CCRM**

The CCRM shall prepare a report supplying the information necessary to complete items 1A through 21D of the Certificate of Death, to the health services treatment facility (medical department).

#### **51070.12.1 Notifications Pursuant to 11155(B) PC**

The CCRM shall notify the persons or agencies who have requested such notification pursuant to PC 11155(b).

#### **51070.12.2 Notification of Death of Foreign Nationals**

Pursuant to Article 37 of the Vienna Convention, written notification within 72 hours of the official notice of death shall be made to the appropriate consulate post in the event of the death of a foreign, national inmate. The notification shall include the inmate's name, CDC identification number, date and time of death, and the attending physician's name. Consulate offices are located in major cities throughout California; and addresses and telephone numbers can be found in the local telephone directory under the name of the country of origin.

#### **51070.12.3 Detainers Disposition**

Any detainers pertaining to the deceased shall be returned to the issuing agency with a notice of the inmate's death.

### **51070.13 Responsibility of Correctional Counselor**

Upon receiving instructions and information from their supervisor concerning the death of an inmate, the Correctional Counselor shall carefully examine all available records, mail, visiting records, and personal property and prepare a report to the Warden or their designee consisting of:

- A list of names, relationship, and addresses of relatives, friends, organizations, or individuals who might be interested in the final disposition of the deceased without cost to the State.
- Answers to the below listed questions.
- Is the decedent a member of a fraternal order or lodge having burial insurance or death benefits?
- Is the decedent entitled to veteran's or social security benefits?
- Is the decedent receiving a pension?
- Does the decedent have insurance payable at death?
- Does the decedent have resources or income not held in trust at the institution?

If the deceased inmate was an undocumented alien, notify the local office of Immigration and Customs Enforcement and the appropriate consulate post as referenced in DOM 51070.12.2. Notify victim(s) if there is a written request by the victim(s) in the inmate's C-File that the victim(s) be notified of any change of the inmate's status per PC 3058.6, 3058.8, and 3058.9.

### **51070.14 Responsibility of Chaplain**

Upon notification of a death, the chaplain of the faith professed by the inmate will perform such duties as required:

- Attend to any special religious requirements.
- Consultation with family members as required or requested.

#### **51070.15 Responsibility of Property Officer for Deceased's Property**

The property officer shall:

- Receive, inventory, and store all personal property of the deceased.
- Prepare a complete inventory report, sign and submit five copies to the watch commander to be distributed as follows:
  - Warden/RPA.
  - Chief Deputy Warden.
  - Associate Warden, Business Services.
  - Accounting officer.
  - Correctional Captain.
- Secure all personal property as evidence if directed by watch commander or investigative unit.
- Make personal property available to employees authorized to examine it.
- All personal property of the deceased at the scene of the death may be released to the coroner upon request for the purpose of assisting their investigation.

Upon completion of all investigations and release of property as evidence, all personal property of the deceased will be released to the Associate Warden, Business Services, for disposition.

#### **51070.16 Responsibility of Associate Warden Business Services**

The Associate Warden, Business Services, has a variety of duties pertaining to the death of an inmate that include, but are not limited to:

- Assume that the institution has a valid service agreement with local mortuaries to provide for such services as embalming, cremation, caskets, transportation, burial, and other related services in connection with the disposition of the deceased inmate.
- Assume that a process has been established for disposition of personal property, funds, and any other resources held in trust for the deceased.
- Provide burial clothing and make special arrangement for the use of State materials or services when necessary.

#### **Deceased's Funds**

When an institution holds U.S. Savings Bonds or other securities belonging to a deceased inmate and the institution is entitled to recover costs incurred in connection with the death of an inmate (PC 5061), bonds or securities not exceeding the actual expenses and charges should be liquidated through the office of the public administrator of the county. Excess monies over actual expenses shall be credited to the deceased inmate's trust account.

#### **51070.17 Unclaimed Dead Body**

*Revised April 9, 2014*

After all reasonable efforts have been exhausted to locate a claimant for the deceased and there is no one to direct disposition, the remains shall be considered an unclaimed dead body. If the body is not claimed for burial, at least ten days after all reasonable efforts have been exhausted to contact the individual(s) listed on the Notification in Case of Inmate Death, Serious Injury, or Serious Illness, it shall be cremated or buried by a licensed mortuary/undertaker in accordance with a previously approved service contract. In the absence of any known relative, or if not claimed by relatives, the Warden may use his/her judgment in offering the body to friends of the deceased or interested private agencies for interment at private expense or with the deceased inmate's own funds. The coroner or Department may dispose of the unclaimed body pursuant to applicable laws.

#### **51070.18 Death Occurring Other than in an Institution**

The death of an inmate may occur in places other than an institution. This may include, but is not limited to:

- Reentry facilities.
- While under Parole supervision.
- Camps.
- In-transit between CDCR facilities.
- Off-site work crews.
- Community hospital.

#### **51070.18.1 Parole**

Upon the death of a parolee, the Parole Agent of record shall:

- Obtain a certified copy of the death certificate from the coroner or county clerk.
- Prepare a closing summary, CDCR Form 1502, Activity Report.
- Forward the closing summary and the death certificate to the regional records officer and the Division of Correctional Health Care Services.

In the event the death occurred in another state and the death certificate is not available, the Parole Agent shall obtain:

- A letter from a Parole Agent or law enforcement officer from the other jurisdiction verifying that the death certificate or autopsy report has been reviewed. This will serve as verification of death.

#### **51070.18.2 Reentry Facility**

In the event of the death of an inmate at a reentry facility the administrator will follow the guidelines set forth in DOM 83080.7.

#### **51070.18.3 Camps and in Transit**

If a death occurs in a camp, while fighting fires, or while in transit between institutions, the Department's officer in charge will take the following actions:

- Proper custodial support will be summoned as appropriate to the situation.
- The nearest available doctor will be called to pronounce death.
- The local coroner must be notified and their instructions followed.
- The Warden of the parent institution shall be notified by telephone or email and further instructions requested.
- Pending receipt of instructions, the body shall be turned over to a licensed mortuary/undertaker in the community where the death occurred.
- Notification of appropriate authorities as outlined in DOM 51070.9 shall be directed by the Warden or designee.
- A complete final report containing circumstances, investigations, arrangements, etc., will be submitted to the Warden of the parent institution without delay.

#### **51070.19 Revisions**

The Director, DAI, or designee shall ensure that the content of this Article is accurate and current.

#### **51070.20 References**

CCR, § 3357. PC §§ 3058.8, 5021, 5022 5061 and 11155(b). H&SC §§ 7200, 10203, and 10250. GC §§ 12525 and 27491.

### **ARTICLE 8 — INMATE CIVIL RIGHTS**

*Revised December 20, 2021*

#### **51080.1 Policy**

Inmates under the custody of the Department shall not be granted any rights or privileges that are not required by the United States Constitution or by the laws of California. A person sentenced to imprisonment in a state prison may, during that period of confinement, be deprived of such rights, and only such rights, as are reasonably related to legitimate penological interests.

#### **51080.2 Purpose**

The policy, procedural, and operational instructions of the Department and its institutions shall be promulgated to meet the requirements of Penal Code (PC) 2600 and 2601.

#### **51080.3 Inmate's Right to Refuse Treatment**

Health care treatments, including medications and tests, shall not be forced over the objections of a mentally competent inmate, except when permitted by law to prevent infectious diseases or unless the procedures set forth in DOM 91090 (Involuntary Psychotropic Medications) are followed. When an inmate is unable to make an informed decision due to a medical emergency, all immediately necessary actions shall be taken. An emergency exists when there is a sudden marked change in the prisoner's condition so that action is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others and it is impracticable to first obtain consent.

If medical care requiring informed consent is believed necessary and the inmate cannot make health care decisions in non-emergency situations, the determination on care and treatment will be based on the inmate's health care directive; a surrogate decision maker, including the patient's conservator, guardian, or responsible relative; or through the procedures set forth in Probate Code 3200 et seq. (Authorization of Medical Treatment for an Adult Without a Conservator).

#### **51080.4 Right to Vote**

Inmates are disqualified from voting while serving a prison term for the conviction of a felony. Upon completion of the prison term, their right to vote is restored.

#### **51080.5 Inmate Civil Rights**

PC 2601 specifies that inmates shall have the following civil rights:

**Inmate Real or Personal Property**

- To inherit, own, sell, or convey real or personal property, including all written and artistic material produced or created by such person during the period of imprisonment. However, to the extent authorized in PC 2600, CDCR may restrict or prohibit sales or conveyances that are made for business purposes.

**Confidential Correspondence**

- To correspond, confidentially, with any member of the State Bar of California or holder of public office, provided that the prison authorities may open and inspect incoming mail, in the presence of the addressee, to search for contraband. Confidential correspondence shall be processed in accordance with CCR 3141 through 3145.

**Inmate Mail**

- To purchase, receive, and read any and all newspapers, periodicals, and books accepted for distribution by the USPS. Disapproved mail shall be handled in accordance with CCR 3136. Pursuant to this section, prison authorities may exclude any of the following matter:
  - Obscene publications or writings, and mail containing information concerning where, how, and from whom this matter may be obtained.
  - Any manner of contraband as described in CCR 3006.
  - Any matter concerning gambling or a lottery.

Nothing in this section shall be construed as limiting the right of prison authorities to open and inspect any and all packages received by an inmate.

Inmates may possess a reasonable number of publications, including books, magazines, and newspapers, as directed by the Authorized Personal Property Schedule in DOM 54030.17. Publications addressed to inmates shall be processed in accordance with CCR 3134.1.

**Other Rights**

- To initiate civil actions, subject to a \$3 filing fee to be collected by CDCR in accordance with the procedures set forth in DOM 14010.19.1.
- To marry, subject to the procedures provided under DOM 101070.
- To create a power of appointment.
- To make a will.
- To receive all benefits provided for in Labor Code 3370 and 3371 (Worker's Compensation Benefits for Inmates) and in PC 5069 (Rehabilitative Programs for Injured Inmates).

**51080.6 Restoration of Civil Rights**

Application for restoration of the above-stated civil rights is not required. However, full civil rights may also be restored upon application and grant of a pardon by the Governor, pursuant to PC 4800 et seq. (Reprieves, Pardons, and Commutations), and 4853 (Restoration of Rights).

**51080.7 Revisions**

The General Counsel, Office of Legal Affairs, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**References**

Penal Code §§ 2600, 2601, 4800 et seq., 4853, and 5069.

Probate Code §§ 3200 et seq.

Labor Code §§ 3370 and 3371.

California Constitution, Article I, § 28(a)(5).

California Constitution, Article II, § 2.

California Constitution, Article II, § 4.

CCR (15) (3) §§ 3006, 3134.1, 3136, 3141 - 3145, and 3351.

DOM §§ 14010.19.1, 54030.17, 90109, 101070.

**Revision History**

Revised: September 10, 2010.

Revised: December 20, 2021.

**ARTICLE 9 — DISPLAY OF THE UNITED STATES AND STATE FLAGS**

*Effective October 25, 1999*

**51090.1 Policy**

It is the policy of the Department to display the U.S. flag and the flag of the State of California at all CDCR public buildings, including institutions, camps, and other CDCR facilities under the jurisdiction of the State.

**51090.2 Purpose**

The purpose of this Section is to establish standard procedures throughout CDCR for displaying the U.S. and State flags and provide procedures and criteria for the raising and lowering of the flag.

**51090.3 Definitions****All-Weather Flag**

A specially treated flag capable of being flown in all kinds of weather or conditions with little or no worry of the flag being torn, damaged, or soiled.

**Base Flag**

The largest official flag. The Base flag is only flown in fair weather from sunrise to sunset. However, on special patriotic occasions, the Base flag may be displayed all night if proper lighting is available.

**Custom**

An act or ceremony, stemming from tradition, which is enforceable as an unwritten law.

**Flagstaff**

A pole on which a flag is raised.

**Half-Staff**

The position of the flag when it is one-half the distance between the top and bottom of the staff. A flag is flown half-staff as a symbol of mourning for the dead or as a signal of distress.

**Memorial Day**

A U.S. Holiday officially celebrated on the last Monday in May in honor of members of the U.S. Armed Forces killed in war.

**National Flag**

The U.S. flag.

**Prisoner of War (POW)/Missing in Action (MIA) Flag**

The National League of Families Prisoner of War (POW)/Missing in Action (MIA) flag is a black and white banner, which symbolizes those members of the U.S. Armed Forces listed as POW or MIA. The flag is officially recognized by Congress.

**State Flag**

The flag of the State of California.

**Sunrise**

The event or time of the daily first appearance of the sun above the eastern horizon.

**Sunset**

The event or time of the daily disappearance of the sun below the western horizon.

**51090.4 Flag Protocol**

Employees and visitors to a CDC institution, facility, camp, or State building displaying the U.S. Flag shall not show any disrespect to the flag. Failure to do so shall render the visitor subject to exclusion from the facility. Wardens and RPAs may prohibit displays or representations of the flag on a CDC facility that would belittle the mission or detract from good order, discipline, or morale of CDC staff and visitors.

**51090.5 Criteria**

The U.S. flag that is flown on State Buildings should be either:

- A Base flag.
- An All-Purpose flag. (Sometimes referred to as the All-Weather flag.)

The U.S. Base flag (measuring approximately 17 feet long by 8 feet wide) is displayed in fair weather from sunrise to sunset. However, on special patriotic occasions, the flag may be displayed all night if proper lighting is available.

The U.S. All-Purpose flag (measuring approximately 9 feet six inches long by 5 feet wide) replaces the Base flag during inclement weather. It is made of lightweight nylon bunting material.

**51090.6 Responsibilities**

Each Warden and RPA shall be responsible for developing a procedure for the raising and lowering of the flag at their facility/region.

Each Warden and RPA shall provide for the acquisition of the flags and their installation, display, and maintenance, except for the acquisition of the POW/MIA flag, which shall be provided by CDC Headquarters.

**51090.7 Honor or Tributes**

The U.S. Flag shall not be:

- Dipped to any person or thing. (State flags are dipped as a mark of honor.)
- Displayed with the union down except as a signal of dire distress in instances of extreme danger to life or property.

- Permitted to touch anything beneath it, such as the ground, the floor, merchandise, and so forth.
- Festooned, but allowed to fall and hang free.
- Used as a drapery of any sort.
- Used as a covering for a ceiling.
- Used as a receptacle for receiving, holding, carrying, or delivering anything.
- Used as the covering for a statue or monument. (However, it may form a distinctive feature of the ceremony of unveiling a statue or monument.)
- Used for advertising purposes in any manner whatsoever.
- Draped over the hood, top, sides, or back of a vehicle, railroad train, or a boat. When the flag is displayed on a motorcar, the staff shall be fixed firmly to the chassis or clamped to the right fender.
- Fastened, displayed, used, or stored in a manner that permits it to be easily torn, soiled, or damaged in any way.
- Worn or used as an article of clothing.
- Marked on, or have placed on it or attached to it, any mark, insignia, letter, word, figure, design, picture, or drawing of any kind.

#### **51090.8 Displaying the Flag**

4 USC 6(a), permits the display of the flag for 24 hours a day to produce a patriotic effect if properly illuminated during the hours of darkness.

The CDC will follow the custom of flying the flag from sunrise to sunset where personnel reside or are on duty at the time necessary to raise and lower the flag.

The flag may be displayed 24 hours a day if properly illuminated during the hours of darkness, thus permitting night display of the flag on special occasions when it is desired to produce a patriotic effect. Otherwise, the flying of the flag shall be from sunrise to sunset on buildings and on stationary flagstaffs in the open.

The flag should be displayed daily, weather permitting, on or near the main administration building of every public institution, except when an All-Weather Flag is displayed.

The flag shall be flown especially on:

- National holidays.
  - On Memorial Day, the U.S. Flag shall be flown at half-staff from sunrise to 1200 hours.
- State Holidays.
- Any other days proclaimed by the President of the U.S.

#### **51090.9 Displaying the Flag During Inclement Weather**

The flag shall not be flown in inclement weather unless an All-Weather Flag is displayed.

The Watch Commander, the Unit Supervisor at parole offices, and the senior ranking custody person on duty at the Community Correctional Facilities shall determine the weather conditions for the displaying of the flag if the flag is not an All-Weather Flag. The possibility of damage by rain or wind shall be the criteria for lowering the flag during inclement weather.

#### **51090.10 Displaying the U.S. and State Flags Together**

Where the U.S. and State Flags are used, they shall be of the same size. If only one flagstaff is used, the U.S. flag shall be above the State flag and the State flag shall be hung in such a manner as not to interfere with any part of the U.S. Flag. At all times, the U.S. flag, when displayed outdoors with other flags, shall be placed in the position of first honor which is normally the extreme left position as the flags are most frequently viewed.

#### **51090.11 Displaying the POW/MIA Flag on Specified Holidays**

The Governor of the State of California annually proclaims the third Friday of September to be known as POW/MIA Recognition Day. The Legislature requests all State agencies that fly the U.S. and State flags to also fly the POW/MIA flag, to the extent it is structurally feasible on the following holidays: Armed Forces Day, the third Saturday in May; Memorial Day, the last Monday in May; Flag Day, June 14; Independence Day, July 4; National POW/MIA Recognition Day, the third Friday in September; and Veterans Day, November 11. If June 14, July 4, or November 11 fall upon a Saturday, the flag shall be flown on the Friday preceding. If any of the aforementioned dates fall on a Sunday, the flag shall be flown on the following Monday.

The POW/MIA flag shall be flown in ascending position of honor, beneath or to the right of the U.S. flag and the State flag.

#### **51090.12 Displaying the U.S. Flag at Half-Staff**

The U.S. flag is only flown at half-staff for the following reasons:

- As a symbol of honor or respect over the passing away of someone.
- As a distress signal.

#### **51090.13 Authority Authorizing the U.S. Flag to be Flown at Half-Staff**

The President of the U.S. is the only person authorized to order flying the U.S. flag at half-staff.

#### **51090.14 Procedures for Displaying the U.S. Flag at Half-Staff**

When flown at half-staff, the U.S. flag shall be first hoisted to the peak of the staff for an instant then lowered to half-staff position.

At the end of the day, sunset, the flag shall be raised to the peak of the staff for an instant, before it is lowered for the day. The flag should be hoisted briskly and lowered ceremoniously.

When the length of the staff creates a problem, flags are considered to be at half-staff when displayed at a height reasonably below the peak of the staff.

#### **51090.15 Displaying the State Flag at Half-Staff**

The State flag is only flown at half-staff for the following reasons:

- As a symbol of honor or respect over the passing away of someone.
- As a distress signal.

Governor's Executive Order R29-71 stipulates that the flag at the State Capitol shall be lowered to half-staff for peace officers killed in the line of duty. By practice, this is from the time of notification until after the peace officer's funeral.

The CDC headquarters and each facility shall display the flag at half-staff for the same time period.

For non-peace officer employees killed in the line of duty, flags at the facilities and headquarters shall be flown at half-staff from the time of notification until after the funeral.

For employees and retired employees whose deaths are not in the line of duty, the Warden or RPA shall determine if it is appropriate to have the facility/region flag flown at half-staff on the day of the funeral.

The flag shall be flown at half-staff only for employees and retirees or at the Governor's order.

#### **51090.16 Authority Authorizing the State Flag to be Flown at Half-Staff**

The Governor of the State of California is the only person authorized to order flying the State flag at half-staff.

#### **51090.17 Procedures for Displaying the State Flag at Half-Staff**

When flown at half-staff, the State flag shall be first hoisted to the peak of the staff for an instant, then lowered to half-staff position.

At the end of the day, sunset, the flag shall be raised to the peak of the staff for an instant, before it is lowered for the day. The flag should be hoisted briskly and lowered ceremoniously.

When the length of the staff creates a problem, flags are considered to be at half-staff when displayed at the height reasonably below the peak of the staff.

#### **51090.18 Procedures for Displaying the U.S. and State Flag at Half-Staff on the Same Flagstaff**

When flown at half-staff, the U.S. flag shall be first hoisted to the peak of the staff for an instant then lowered to half-staff position.

The State flag shall then be hoisted to a position directly below the U.S. flag yet far enough away so as not to interfere with the U.S. flag.

At the end of the day, sunset, the State flag shall be lowered first. The State flag should not be raised to the peak of the staff before it is lowered for the day. The State flag should be cased (folded) and secured before lowering the U.S. flag. Once the State flag is secured, the U.S. flag should be first hoisted to the peak of the staff for an instant, before it is lowered for the day. The flag should be hoisted briskly and lowered ceremoniously.

#### **51090.19 Procedures for Displaying the U.S. and State Flag at Half-Staff on Separate Flagstaffs**

When flown at half-staff, the U.S. and State flags shall be first hoisted to the peak of the staff for an instant, then lowered to half-staff position. This shall be done simultaneously, manpower permitting. When manpower does not permit the raising of the U.S. and State flags together, departmental procedure dictates that the U.S. flag is raised first, followed by the State flag.

At the end of the day, sunset, the State flag shall be lowered first. The State flag shall be first hoisted to the peak of the staff for an instant before it is lowered for the day. The State flag should be cased (folded) and secured before lowering the U.S. flag. Once the State flag is secured, the U.S. flag shall be first hoisted to the peak of the staff for an instant, before it is lowered for the day. The flags should be hoisted briskly and lowered ceremoniously.

#### **51090.20 Storing the Flag When Not Being Displayed**

The flag should never be fastened, displayed, used, or stored in such a manner as to permit it to be easily torn, soiled, or damaged in any way.

#### **51090.21 Desecration of Flags**

Pursuant to M&V 614, a person is guilty of a misdemeanor who:

In any manner for exhibition or display, places, or causes to appear any work, figure, mark, picture, design, drawing, or any advertisement of any nature upon any flag of the U.S. or of this State.

Exposes to public view any such flag upon which is printed, painted, or placed or to which is attached, appended, affixed, or annexed any work, figure, mark picture, design, drawing, or any advertisement of any nature.

Knowingly casts contempt upon any flag of the U.S. or of this State by publicly mutilating, defacing, defiling, burning, or trampling upon it.

#### **51090.22 Wearing the Flag as a Costume or Athletic Uniform**

No part of the flag should ever be used as a costume or athletic uniform. However, a flag patch may be affixed to the uniform of military personnel, firemen, policeman, and members of patriotic organizations.

#### **51090.23 Disposing of the Flag**

When the flag is in such condition that it is no longer a fitting emblem for display, it should be destroyed in a dignified way, preferably by burning.

#### **51090.24 Exemption From Raising and Lowering the Flag**

For those CDC units/offices which are located within a building e.g., State office building, where someone else is responsible for raising and lowering the flag, the CDC units/offices are exempt from these procedures unless one of them has been designated to raise and lower the flag.

#### **51090.25 Revisions**

The Director, DAI, and the Director, DAPO, or their designees are responsible for ensuring that the contents of this article are kept current and accurate.

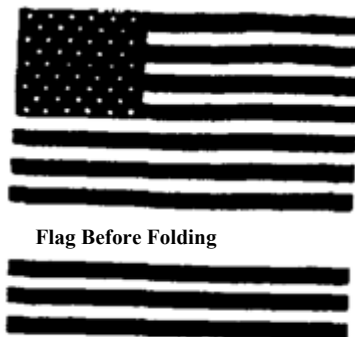
#### **51090.26 References**

Governor's Executive Order R29-71.

4 USC 6, 7, 8, 9, and 10.

36 USC 902.

M&VC § 614 and 1831.



Flag Before Folding

#### **Step 1**

Fold lengthwise. Bring the striped half up over the blue field.



#### **Step 2**

Fold lengthwise again, bringing bottom edge up to meet the top edge. This will place the upper part of the blue field (union) on top.



#### **Step 3**

Fold lower right-hand corner to the upper edge to form a triangle.



#### **Step 4**

Now fold the triangle toward the blue field. The outer point is turned inward on the upper edge of the Flag to form the second triangle.



#### **Step 5**



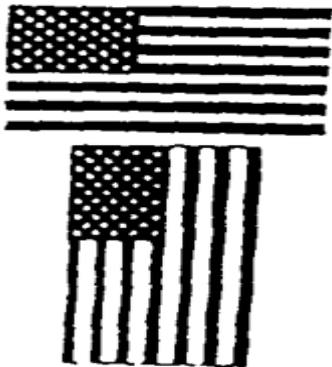
Continue to fold the Flag in triangles until the entire Length of the Flag is folded.









**Note**

If you have followed the above steps correctly, only the blue field should be visible. No red shows. The Flag will be in the triangular shape of a cocked hat symbolizing the hats worn by the soldiers of the Revolutionary War.

CONDITION	WAY TO DISPLAY
FROM STATIONARY FLAGSTAFF	
FROM A STAFF PROJECTING FROM A BUILDING	
HANGING ACROSS A STREET	
IN THE AUDITORIUM	

CONDITION	WAY TO DISPLAY
HORIZONTALLY OR VERTICALLY ON A WALL OR WINDOW	

CONDITION	WAY TO DISPLAY
POSITION OF SPEAKER'S PLATFORM	
CROSSED STAFFS	
DISPLAY WITH FLAGS OF OTHER NATIONS	
AMERICAN FLAG IN A GROUP OF FLAGS (NOT OTHER NATIONS)	

CONDITION	WAY TO DISPLAY
<b>CARRYING FLAGS AT CEREMONIES</b>	
<b>DRAPED OVER A CASKET</b>	

**ARTICLE 10 — UNASSIGNED****ARTICLE 11 — ADMINISTRATIVE OFFICER-OF-THE-DAY***Revised September 22, 2014***51110.1 Policy**

The Warden shall be responsible for the implementation of the Administrative Officer-of-the-Day (AOD) procedure. An AOD shall be assigned at institutions during non-business hours. The AOD shall maintain the authority and responsibility for making administrative decisions and disseminating information regarding serious incidents in the absence of the Warden.

**51110.2 Purpose**

To standardize the AODs functions, authority, duties, and responsibilities where appropriate.

**51110.3 Responsibility**

**Revised February 15, 2019**

**The AOD shall be an administrative staff member, possessing supervisory experience and authority to make decisions in the absence of the Warden. The AOD shall be responsible for ensuring administrative requirements are met and appropriate notifications are made relative to operational issues during other than normal duty hours.**

**Those staff designated as AOD shall not hold a classification level less than Correctional Counselor III.**

**The below listed classifications will be assigned the functions of the Institutional AOD:**

**Correctional Administrator**

**Captain, Adult Institutions**

**Correctional Counselor III**

**Correctional Business Manager I & II**

**Correctional Plant Manager I & II**

**51110.4 Administrative-Officer-of-the-Day Duty Schedule***Revised March 3, 2022*

(a) Wardens are normally exempt from AOD duty; however, they may serve as AOD if needed. Wardens shall publish the AOD assignment schedule in advance, every six (6) months. The AOD schedule shall specify the name and period of time that each AOD shall be assigned the duties.

(b) The Chief Deputy Warden shall not be required to be assigned to the AOD rotation schedule, but may elect to participate in the AOD rotation schedule.

(c) Any anticipated change in the AOD assignment schedule shall be approved in advance by the Warden or their designee.

(d) AOD personnel may be permitted to “trade” assignments. The “trade” arrangement between AODs shall be submitted in memorandum form to the Warden not less than 24 hours prior to assigned tour of duty.

(e) The AOD period of duty shall commence at 5:00 PM Thursday and shall conclude at 5:00 PM the following Thursday. Should a holiday fall on a

Wednesday, Thursday, or both, the AOD duties shall commence at 5:00 PM on the last business day preceding the holiday period.

**51110.5 Training**

Wardens shall assure all new AODs are provided with the proper training and job orientation, including, but not limited to, the following:

- AODs are not required to be peace officers. However, they shall be required to attend Penal Code (PC) 832 training as an orientation in the responsibilities and expectations of institutional peace officer staff. The PC 832 training shall in no way be intended to train non-peace officer AODs to perform peace officer duties.
- Prior to participation in the PC 832 firearms range training, the current employer shall determine that the non-peace officer AOD is not disqualified from possessing or use of a firearm pursuant to PC 12021 and 12021.1. This shall be accomplished through the submission of fingerprints to the Background Investigation Unit for criminal record checks with the State Department of Justice and the Federal Bureau of Investigations.

In addition to the above training the AOD should be knowledgeable of the following procedures relative to their duties as the AOD:

- Institution procedures.
- Disturbance Control Plan.
- Crime/Incident Reports (institutions).
- Firearms.
- Chemical agents.
- Escape pursuit plan.
- Employee relations/grievances/discipline.
- Information Practice Act.
- Transfer of inmates.
- Any other procedures unique to their institution.

**51110.6 Instructional Packet**

Each designated AOD shall familiarize themselves with the duties and responsibilities unique and particular to their own institution instruction packet.

Twice annually, Wardens shall meet with all staff designated as AODs to discuss and explain expectations and duty requirements.

An AOD instructional packet shall be developed for each institution. The packet shall include specific examples of:

- Situations and how they are handled.
- Departmental/institutional changes.
- Current inmate functions.
- Activities involving guests and outside agencies.

The packet shall provide a list of home telephone numbers, and other necessary telephone numbers of the following:

- Administrative staff.
- Appropriate outside agencies.
- Medical facilities.
- Police/sheriff departments.
- Institutional AODs.

- Departamental AODs.

#### **51110.7 AOD Equipment**

The AOD shall be provided with a cellular telephone for the duration of their assignment, and a State vehicle shall be made available upon the request by the institutional AOD. In circumstances when cellular telephone services are not available, the institutional AOD shall be provided an electronic paging device during their AOD assignment.

#### **51110.8 AOD Duties/Responsibility**

*Revised March 3, 2022*

(a) The institutional AOD shall become familiar with any special circumstances or existing situations occurring at the institution prior to assuming the AOD duties.

(b) Staff serving as the institutional AOD shall have a face to face briefing either between the off-going and on-coming AOD or the on-coming AOD and the Warden or Chief Deputy Warden, to exchange pertinent information and equipment.

(c) Staff serving as the institutional AOD may be required to visit the institution on the weekends and holidays when special events, operational needs, or emergencies require the AOD to respond. The institutional AOD will remain on-call during these periods.

(d) The requirement to visit the institution for special events, operational needs or both, is at the discretion of the Warden or other appropriate command authority. Such events may include, but are not limited to:

- (1) Periodic review of visiting.
- (2) Institution construction activity.
- (3) Activation of the Emergency Operations Plan or other institutional emergencies.
- (4) Controlled uses of force such as a cell extraction.
- (5) Release or intake of a high notoriety case inmate.
- (6) Visitation of outside groups to the institution, etc.

(e) The institutional AOD shall attend the weekly executive staff meeting and present a summary of the events that occurred during their tour of duty.

(f) In all circumstances or incidents of a serious nature where the institutional AOD is contacted regarding an institution incident, they shall communicate the incident, action taken, and current status of the situation to the Warden.

(g) On the first working day following the incident the institutional AOD shall gather all CDCR 837, Crime/Incident Reports, or notice of unusual occurrences that are completed by the watch commander. As required by local procedures, a written report shall be prepared for the Warden.

#### **51110.9 Administrative Officer-of-the-Day/Watch Commander Relationship**

The AOD shall not be involved with the daily supervision of institution operations during normal business hours. This shall be the responsibility of the watch commander.

During other than normal business hours, on weekends and holidays, the institutional AOD shall be contacted by the watch commander when any unusual incident/situation occurs. The institutional AOD shall determine from the information provided by the watch commander the amount of staff/resources the watch commander may need to establish and maintain control of the situation. The institution AOD shall serve to coordinate a resolution of the situation with the watch commander.

Should a difference of opinion exist in the course of action to be taken, then the institutional AODs decision shall prevail. The watch commander shall report their dissenting opinion in writing to the Warden on the next working day. The relationship of the watch commander and the institutional AOD shall be one of a supportive team effort, resulting in the best judgment of all combined to effectively handle any incident/situation.

#### **51110.10 Administrative Officer-of-the-Day Contact Responsibilities**

The watch commander shall contact the institutional AOD on questions of policy, visits of politicians, media request, court orders requesting release of inmates, and all matters of unusual occurrences. Accurate information, details, and recommendations shall be provided by the watch commander to enable the AOD to make sound decisions and complete necessary reports.

#### **Administrative Officer-of-the-Day Contacts: Serious Injury or Death**

The institutional AOD shall be contacted in all incidents involving, but not limited to:

- Death.
- Serious injury of staff or inmates.
- Escapes.

- Controlled Use of Force incidents.
- Serious disturbances.
- Felony assaults.
- Loss of keys to security areas.
- Staff/visitor arrests.
- Other items outlined in each institution instructional packet.

When the watch commander is unable to contact the institutional AOD, notification of an incident shall be communicated to the Warden or their designee.

It is the responsibility of each AOD to keep the watch commander informed of their whereabouts during their tour of duty.

#### **51110.11 Written Reports**

Incidents justifying an AOD contact shall be documented in writing by the watch commander on an AOD contact report or an unusual occurrence report. The watch commander shall obtain available information and prepare a factual report concerning the incident. All written reports by the watch commander shall be completed prior to the conclusion of their watch/tour of duty.

Incidents/events occurring during non-business hours and deemed serious in nature, which are of public or departmental interest, shall be reported to the Division AOD by the institutional AOD. Following a Division AOD contact, the AOD shall prepare a written report concerning the contact to the Warden, prior to the start of the business hours of the next working day.

#### **51110.12 CDCR Form 837 Crime/Incident Reports**

The CDCR Form 837, Crime/Incident Report, is the institutions initial written report to central office that an incident of departmental interest has occurred. It is essential that all information available at the time of the incident be entered into this report and should be completed in accordance with the DOM, Section 51030.

#### **51110.13 Revisions**

The Director, Division of Adult Institutions, or their designee shall be responsible for ensuring the contents of this Article are current and accurate.

#### **References**

*Revised March 3, 2022*

CCR §§ 3276, 3291, 3335-3337, 3357, 3380-3384, and 3450-3452.

DOM sections 51030, 81030, and 81050.

PC §§ 830, 830.2(d)(1), 830.5 (a) and (b).

ACA Standards 4-4206, 4-4208, and 4-4210.

#### **Revision History**

Revised: September 22, 2014.

Revised section 51110.3: February 15, 2019.

Revised sections 51110.4, 51110.8, and 51110.14: March 3, 2022.

### **ARTICLE 12 — INMATE PAY**

*Revised June 12, 2006*

#### **51120.1 Policy**

Inmates engaged in productive work may receive compensation as determined by the Secretary of the Department of Corrections and Rehabilitation (CDCR) with the approval of the Director, Department of Finance, as specified in Penal Code (PC) Section 2700.

The statutory limitation on inmate pay, pursuant to PC 2700, shall be no higher than one-half the minimum wage stipulated in Section 1182 of the Labor Code (LC). Under such authority, "pay schedules" shall be set by institutions/facilities.

#### **51120.2 Purpose**

This procedure establishes guidelines for uniform interpretation, application, and administration of inmate pay plans.

#### **51120.3 Source of Inmate Pay**

Inmates assigned to approved pay positions under an inmate pay plan will be paid from the fund or allotment of the institution's/facility's support budget or inmate welfare funds.

#### **51120.4 CDCR Inmate Pay Committee**

The CDCR inmate pay committee shall be comprised of no fewer than the following persons:

- One Prison Industry Manager.
- Director, Division of Adult Institutions, or designee.
- Director, Division of Support Services, or designee.
- One Associate Warden, Business Services.

- One representative of Classification Services Unit.
- Director, Division of Adult Parole Operations (DAPO), or designee.
- One representative of the Trust Office.

The Secretary shall designate one of these members to chair the committee. The committee membership shall be reviewed annually, and changes will be made on a staggered basis.

This committee shall:

- Keep the Secretary advised regarding the inmate pay program.
- Report to the Secretary, at least annually, on the need for policy changes affecting the program.
- Have responsibility and authority to monitor and evaluate the inmate pay programs of the individual institutions/facilities.
- Develop and implement the allocation of pay positions to the best advantage of CDCR and the inmate population.

Institutions/facilities shall furnish any reports and information requested by the CDCR inmate pay committee to assist the committee in program assessment.

#### **51120.5 Institution/Facility Inmate Pay Committee**

Wardens and the Director, DAPO, shall:

- Establish an inmate pay committee to administer the inmate pay plan within their allotted budget.
- Designate the inmate pay committee chairperson.

The institution/facility inmate pay committee shall be comprised of the following staff members:

- Designated Associate Wardens.
- Business Manager.
- Inmate Assignment Lieutenant (where applicable).
- Supervisor of Correctional Education Programs (where applicable).
- Budget Analyst.
- Representative of the Trust Office.

The inmate pay committee shall:

- Establish and review the inmate pay plan.
- Ensure that inmate pay assignments are properly classified.
- Review the appropriateness of all recommendations for inmate pay increases or reductions.
- Keep the Warden informed as to the operation of the inmate pay plan.

#### **51120.5.1 Hiring Criteria**

Supervisors, via the classification committee (at institutions), shall fill vacant job/training assignments based on the following factors:

- Skill. Demonstrating expertise of technical skills and knowledge.
- Behavior. Relationship with Others. Demonstrates ability to deal with authority figures, job supervisors, and other inmates.
- Attitude. Adaptability. Demonstrating willingness to learn, take directions, and orders.
- Work Habits. Punctuality, dependability, care of equipment, and safety practices.
- Formal Education/Training. Preparation for work and the ability to read, write, and speak effectively.

Assignments shall be ethnically balanced based on the eligible inmate population within the institution/facility when the mission(s) and/or physical plant design of the institution/facility permits.

Institutions/facilities shall establish an application/resume process for selection of skilled workers.

#### **51120.5.2 Pay Scale**

The assignment pay rate shall be based upon the technical skill and productivity required for the assignment. Inmate pay increases shall be based on the inmate's overall performance that shall be documented on CDC Form 101, Work Supervisor Report.

#### **51120.6 Pay Schedule**

The following are approved pay rates, which shall be used for institutions/facilities:

#### **Support and Inmate Welfare Funds (IWFs)**

Skill Levels and Pay Rates\*

	<b>Minimum Maximum Hourly</b>	–	<b>Minimum Maximum Monthly</b>	–
<b>Level 1 DOT 9</b>				
<b>Lead person</b>	<b>\$0.32 - \$0.37</b>		<b>\$48 - \$56</b>	
<b>Level 2 DOT 7-8</b>				
<b>Special Skill</b>	<b>\$0.19 - \$0.32</b>		<b>\$29 - \$48</b>	
<b>Level 3 DOT 5-6</b>				
<b>Technician</b>	<b>\$0.15 - \$0.24</b>		<b>\$23 - \$36</b>	
<b>Level 4 DOT 3-4</b>				
<b>Semi-Skill</b>	<b>\$0.11 - \$0.18</b>		<b>\$17 - \$27</b>	
<b>Level 5 DOT 1-2</b>				
<b>Laborer</b>	<b>\$0.08 - \$0.13</b>		<b>\$12 - \$20</b>	

\*Except as designated below.

Monthly rates shall apply to full time employment in job classifications paid from the support budget or Inmate Welfare Funds.

In extraordinary circumstances, the Inmate Pay Committee may designate a wage comparable to the California Prison Industry Authority (CalPIA) inmate pay program for such inmate pay assignments as, but not limited to:

- Plant Operations (nonclerical assignments only).
- Food service cooks.
- Special projects or assignments that require a high degree of skill or expertise.

Requests to pay inmates at the higher rate shall be directed to the Director, Division of Adult Institutions, or the Director, DAPO, for approval.

Refer to Department Operations Manual (DOM) 51130 for information regarding inmate pay in conservation camps.

Refer to DOM 51121 for information regarding inmate pay in CalPIA. Refer to Title 15, Sections 3484 and 3485, and DOM 53140.9 for information regarding inmate pay in the Joint Venture program.

#### **51120.7 Pay and Nonpay Assignments**

The Inmate Committee may designate the following inmate assignments as pay assignments (the following listing may not be representative of all current DOT job titles):

- Leadpersons (DOT) Skill Level 9), under direction of the staff supervisor shall:
  - Provide much of the OJT of newly assigned inmates.
  - Assist in communicating to inmates at lower skill levels.
  - There shall be only one lead position per area, per classification, per shift.

Appointment to the assignment of leadperson requires the approval of the supervisor and the Inmate Pay Committee.

Leadpersons shall not function as assistant foreman/supervisor or be assigned control over another inmate.

- Special Skills (DOT Skill Level 7-8):
  - Automobile Mechanic 620.261-010.
  - Carpenter 860.281-010.
  - Dental Technician 079.361-018.
  - Electrician 842.261-011.
  - Electronics Mechanic 818.261-011.
  - Maintenance Mechanic 818.638.281-014.
  - Painter 840.381-010.
  - Pipe Fitter 862.281-022.
  - Plumber 862.381-030.
  - Printer 973.381-018.
  - Tailor Astoration 785.261-010.
  - Welder 810.382-010.
  - X-ray Technician 199.361-010.
- Technician (DOT Skill Level 5-6):
  - Baker 313.381-010.
  - Barber 330.371-010.
  - Boiler Operator Helper 950.382-014.
  - Butcher 525.381-010.
  - Cook 315.361-010.
  - Firefighter 373.364-101.
  - Heavy Equipment Operator 859.683-010.

- Inmate Advisory Council Chair.
- Lead Clerk 219.562-010.
- Library Assistant 249.367-046.
- Library Technical Assistant 100.367-018.
- Sewer Plant Attendant 955.585-010.
- Semi-skills (DOT Skill Level 3-4):
  - Apprentices enrolled in a bonafide apprenticeship program.
  - Automobile Mechanic Helper 620.684-014.
  - Baker Helper 313.684-010.
  - Carpenter Helper 869.664-014.
  - Clerk 209.562-010.
  - Dog Groomer 418.674-010.
  - Electrician Helper 829.684-026.
  - Finger Cobbler 788.684-046.
  - Garbage Collector 955.687-022.
  - Groundskeeper 406.684-014.
  - Inmate Advisory Council Secretary.
  - Janitor Head 381.137-010.
  - Laborer, Boot, and Shoe 788.687-026.
  - Machine Operator 619.380-018.
  - Maintenance Mechanic Helper 899.684-022.
  - Order Filler Warehouse 222.487-014.
  - Orderly 355.674-018.
  - Painter Helper 869.687-026.
  - Plumber Helper 869.644-014.
  - Porter Head 381.137-010.
  - Sales Clerk (Handicraft) 299.477-014.
  - Service Station attendant 915.467-010.
  - Taxi Driver 913.463-018.
  - Teacher Aid 249.367-074.
- Laborer (DOT Skill Level 1-2):
  - Attendant (Dry Cleaners) 369.677-010.
  - Barber Apprentice 330.371-014.
  - Car Wash Attendant 916.677-010.
  - Construction Worker 869.687-026.
  - Cook Helper 317.687-010.
  - Dish Machine Operator 617.260-010.
  - Gardener 406.684-014.
  - Janitor (Infirmary/Hospital only) 381.687-018.
  - Janitor Kitchen 381.687-018.
  - Janitor General 381.687-014.
  - Kitchen Helper 318.687-010.
  - Laborer, Landscape 408.687-014.
  - Laborer, Laundry 361.687-018.
  - Laborer, Orchard 403.687-010.
  - Laborer, Salvage 929.687-022.
  - Laborer, Stores 922.687-058.
  - Laborer, Gardener 408.161-010.
  - Porter (Infirmary/Hospital only) 381.687-014.
  - Porter Kitchen 318.687-010.
  - Porter General 381.687-014.
  - Server 311.477-026.
  - Shoe Shiner 366.677-010.
  - Welders Helper 869.687-026.

The institution head may establish other assignments as needed that may not be delineated above.

#### **Nonpay Assignments**

The Inmate Pay Committee shall designate the following inmate assignments as nonpay assignments:

- Inmate Advisory Council Members.
- Vocational Student Assignments (unless the inmate is enrolled in a bonafide apprenticeship program).
- Academic Student Assignments.
- As deemed by the inmate pay committee.
- Substance Abuse or Therapeutic Assignments.

#### **51120.8 Inmate Pay Increases/Reductions**

Inmate pay increases shall not be automatic or based on the inmate's longevity in an assignment. Inmate pay increases or reductions shall be based on the work/training supervisor's recommendation and the inmate's work/training performance reports, subject to review and approval of the inmate assignment authority.

Inmates may only receive a pay increase on a quarterly basis until their maximum pay rate for that assignment is obtained.

When the inmate is given a new assignment that requires a higher skill level than that of the inmate's previous assignment, the inmate shall not initially be paid less than the amount the inmate received for the previous assignment unless the new assignment is designated as a nonpay assignment.

#### **51120.9 Movement between Pay Positions Assignments**

Changes from one pay rate to a higher pay rate shall be based upon the:

- Recommendation of the supervisor and the approval of the Inmate Pay Committee and the Inmate Assignment Lieutenant.
- Work history as reflected in performance reports.

Inmates approved for advancement to a higher skill classification shall enter the new classification pay grade equal to or greater than their present pay grade in the lower skill.

Inmate performance ratings and total hours in job categories shall be available for review when changes in job classifications are being considered.

An inmate's pay rate shall not be reduced nor shall the inmate be removed from pay status except for causes reflected in reports for inclusion in the inmate's C-File. When the cause is for misbehavior including willful refusal or failure to work as directed, the matter will be reported as a disciplinary offense on a CDC Form 115, Rules Violation Report. A finding of guilty to the charge may be accepted as authority to reduce the inmate's pay rate or remove the inmate from pay status, without regard for any other penalty imposed at the disciplinary hearing. Such a rate reduction or removal shall be taken within ten days of the disciplinary action.

Excluding transfers, when the cause for an inmate's reduction in pay rate or removal from pay status results from no fault of the inmate, including inability to satisfactorily perform the assigned job after a reasonable effort to do so, the non-disciplinary cause shall be reflected as such on a CDC Form 128-B, General Chrono, for inclusion in the inmate's central file.

#### **51120.10 Performance Appraisals**

Mandatory quarterly performance grading shall be submitted by the immediate supervisor on a CDC Form 101, Work Supervisor's Report, based on the following criteria:

- Demonstrated skill and knowledge.
- Observed work habits.
- Attitude toward:
  - Fellow inmates.
  - Staff.
  - Job.
- Learning ability.
  - Awareness of new procedures and methods.
  - Alertness and perseverance.
- Quantity of work.
- Care and use of tools and equipment.
- Recommendation for step increase in authorized pay.

Based on the above, the inmate may be recommended for a step increase in authorized pay, to be reviewed by the Inmate Pay committee for appropriateness.

Receiving an unsatisfactory CDC Form 101 shall be grounds for referral to an institution/facility classification committee for program change.

#### **51120.11 Absences**

Inmates shall report to their place of assignment at the time designated by the facility's/CCF's schedule of activities and as instructed by their assignment supervisor. Inmates shall not leave an assignment without permission to do so. Unauthorized absences shall result in no credit earning for the entire day. The CDCR Form 1697, Inmate Work Supervisor's Time Log, shall reflect the time period of the unauthorized absence.

Under no circumstances shall inmate pay be granted for time not worked California Code of Regulations, Title 15, Section 3041(b)(2).

#### **51120.12 Timekeeping Documents**

All timekeeping documents shall be maintained under lock and key. Inmates shall not have access to any timekeeping documents, pursuant to DOM 53130.

Timekeeping for pay purpose is documented on various time logs including, but not limited to, the following:

- CDC Form 190, Inmate Payroll.
  - CDCR Form 1697, Inmate Work Supervisor's Time Log.
- Work supervisors shall be responsible for:
- Keeping continuous daily records.
  - Accuracy of timekeeping.

- Entering total hours worked daily.
- Completing and signing documents at the end of each month.
- Submitting payroll documents to the division head responsible for work projects.

#### Time Logs

If the inmate leaves the pay assignment or is reassigned during the calendar month, the work supervisor shall immediately close out the CDCR Form 1697, Inmate Work Supervisor's Time Log, and payroll log for the inmate and submit it to the division head.

#### Accounting Officer

Monthly, the facility/CCF accounting office, after auditing the time log, shall separate inmate payroll on a CDC Form 190-B, Inmate Pay/Work Project Claim Certification, for each fund from which inmate wages are to be paid.

#### Trust Office

Payroll documents shall be delivered to the trust office. Trust office staff shall post the earnings to the inmate's trust account.

#### 51120.13 Revisions

The Chief Deputy Secretary, Adult Operations, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### 51120.14 References

PC §§ 2700 and 2811.

LC § 1182.

DOM §§ 51121, 51130, 53130, and 53140.9.

Title 15 §§ 3041, 3484, and 3485.

United States Department of Labor DOT.

### ARTICLE 13 — CALPIA INMATE HIRING REQUIREMENTS AND PAY

*Revised April 2, 2013*

#### 51121.1 Policy

Penal Code (PC) Section 2801 provides for the creation and maintenance of working conditions within CALPIA's enterprises. This includes a hiring requirement exclusively utilized to govern the employment of inmates assigned to CALPIA work/training programs.

PC Section 2811 specifies that the General Manager adopt and maintain a compensation schedule for inmate workers of the California Prison Industry Authority (CALPIA). Such compensation shall be in accordance with a graduated pay schedule based on quality and quantity of work performed and skill required for its performance. The statutory limitation is one-half the minimum wage provided for by the Labor Code (LC) Section 1182.

#### 51121.2 Purpose

The procedure establishes the process for CALPIA inmate hiring, pay reductions and dismissal from CALPIA work programs. This procedure also establishes guidelines for uniform interpretation, application, and administration of the CALPIA inmate pay plan.

#### 51121.3 CALPIA General Work Expectations

All inmates assigned to CALPIA work programs are to adhere to general work expectations. The Prison Industries Superintendent I and II are responsible for supplemental (specific) work expectations related to industry type. CALPIA work expectations include but are not limited to:

- Follow all instructions given by the supervisor.
- Know and follow all work place rules and regulations.
- Safety is a priority. The use of personal protective equipment, as required in designated areas, is mandatory. Training is required prior to the use of any tool or operation of equipment. The supervisor must be informed immediately, if a danger is perceived or present.

#### 51121.4 CALPIA Inmate Worker Hiring Requirements

CALPIA shall fill vacant job/training positions based on the following factors:

- Skill – Demonstrating expertise of technical skills and knowledge.
- Ethnic Balance – Parity should be maintained with the institution's yard ethnic breakdown.
- Behavior – Relationship with others. Demonstrates ability to deal with authority figures, job supervisors, and other inmates.
- Attitude/Adaptability – Demonstrating willingness to learn, take directions, and orders.
- Work Habits – Punctuality, dependability, care of equipment, and safety practices.

- Formal Education/Training. Preparation for work and the ability to read, write, and speak effectively.
- The ability to perform the essential functions of the program, with or without reasonable accommodations.

Definitions of inmate worker skill levels are as follows:

#### Clerical

- Special Skills:
  - Lead clerk who has the most responsible clerical position in administration, factory, farm, office, or warehouse.
- Technicians:
  - Lead clerk of a section or an operating unit of the facility whose supervisor does not have a civil service typist.
- Semi-skilled:
  - Lead clerks whose positions require less responsibility and skill than the above classifications, or who are working with clerks of higher classifications.
  - General clerical positions.

#### Trades

- Special Skills:
  - Set up and layout men who are responsible for guiding products through production lines or are responsible for the operation of many complex machines.
  - Mechanics and craftpersons who are responsible for difficult and technical work and have only limited or intermittent supervision. Assist in training other inmates.
- Technicians:
  - Journeyperson mechanics, craftpersons, Inspector IIs, and heavy equipment operators who have only intermittent supervision.
- Semi-Skilled:
  - Apprentice mechanics, Inspector Is, medium equipment operators, and medium machine operators.
  - Lead floor persons who assist in the training of laborers.
- Laborers:
  - Janitors.
  - Trainees.

#### Farm Workers

- Special Skills:
  - Herdsmen and licensed pasteurizers.
- Technicians:
  - Milkers.
- Semi-Skilled:
  - Persons in farming, animal production, and animal husbandry.
- Laborers:
  - Farm/barn crew or entry level position to CALPIA.

#### 51121.4.1 Minimum Intake Requirements

*Revised November 4, 2019*

- Inmates applying for a job, apprenticeship, or training position with CALPIA must have a minimum of two (2) years and a maximum of five (5) years from their Earliest Possible Release Date (EPRD), on the date of application.
- Exemption:** Institution Wardens, CALPIA Administrators, or Lead Managers with transient populations where inmate availability deficiencies are statistically substantiated by virtue of individual missions may use an alternate intake requirement after obtaining a written waiver authorization from CALPIA General Manager annually.
- Institutions which receive this authorization will be allowed to utilize the following alternate intake requirement:
  - Inmates applying for a job, apprenticeship, or training position with CALPIA must have a minimum of two (2) months and a maximum of 60 months from their Earliest Possible Release Date (EPRD), on date of application.
  - Eligible inmates must meet the minimum qualifications to perform the essential job functions.
  - Assigned inmates must complete their GED or High School diploma within two years of initial CALPIA assignment unless that is not feasible due to disabling conditions documented in the inmate's C-File, in which case the inmate worker must be concurrently enrolled in classes to obtain a GED or high school

diploma while in a work assignment with CALPIA. Failure to obtain GED equivalences or High School diploma may result in the inmate's immediate un-assignment from CALPIA.

- (b) Americans with Disabilities Act of 1990 (ADA) Exemption. Institution Wardens, CALPIA Administrators, or Lead Managers will make a good faith effort and may accommodate inmates with disabilities unless it can be demonstrated that such accommodation would fundamentally alter the nature of the program or result in an undue financial and administrative burden, or unsafe working conditions for CALPIA. Assigned inmates must be able to perform the essential functions of the duties of the position with or without reasonable accommodations.
- (c) The total number of inmates with life sentences assigned to CALPIA programs at an institution must not exceed 25 percent of the established workforce allocation per CALPIA Enterprise. This percentage will not necessarily achieve parity with the institution's yard housing these inmates or the overall institution's lifer population make up.
- (1) **Exemption:** Institution Wardens, CALPIA Administrators, or Lead Managers with life sentence populations where inmate availability deficiencies are statistically substantiated by virtue of individual missions must obtain an annual waiver authorization exempting them from the 25 percent cap from CALPIA General Manager.
- (2) This authorization will allow institutions to exceed the 25 percent cap in order to provide CALPIA the necessary manpower needs.
- (d) Immigration and Customs Enforcement (ICE) Hold inmate workers who have not been lawfully admitted for permanent residence within the U.S. at the time of incarceration may be assigned to a CALPIA job training assignment; however, they will not be eligible to receive external accredited certificates through CALPIA. ICE Hold inmate workers who are in the process of acquiring an external certification or have had their ICE Hold status removed through administrative proceedings will be allowed to continue and finish such external certification.

#### 51121.4.2 Mandatory Exclusionary Requirement

*Revised August 20, 2018*

Inmates serving life sentences without the possibility of parole (LWOP) **shall not** be eligible for a CALPIA assignment; unless the inmate meets the exception found in 8004(d)(4) of Title 15, Division 8. (Institutions/facilities with a population resulting in inmate worker unavailability may utilize inmates with LWOP sentences with the approval of the Warden at the institution/facility of a case-by-case basis.)

Inmates with extensive history of disciplinary adverse actions, such as Rule Violation Report CDC Form 115 or disciplinary measures resulting in previous un-assignments from CALPIA must have a minimum of six (6) months of disciplinary-free conduct before being considered for a CALPIA assignment, on a case-by-case basis. The CALPIA Administrator/Lead Manager must approve and authorize each assignment.

Inmates convicted of arson, elements of arson and/or possession or use of explosive material **shall not** be eligible for a CALPIA assignment. This is due to the proximity and availability of volatile flammable chemicals and fire hazard materials associated with industrial environments.

**Exemption:** if the arson conviction was more than 15 years prior to the date of application, and the inmate meets all other eligibility requirements, the inmate may be placed on the CALPIA Inmate Candidate Pool (ICP).

Inmates classified as Close B Custody may be excluded from assignment to CALPIA. Wardens may approve, on a case-by-case basis, Close B inmates to CALPIA assignments.

Inmates convicted of computer related crimes **shall not** be eligible for assignments to CALPIA clerical positions.

Inmates convicted of forgery, fraud, or embezzlement **shall not** be assigned to the CALPIA Specialty Print Plants, ensuring the integrity of confidential documents.

Inmates assigned to employment within CALPIA, pursuant to Penal Code (PC) Section 5071, **shall not** have access to personal information of private individuals.

Inmates convicted of a PC Section 290 offense **shall not** be assigned to the CALPIA optical program.

#### 51121.4.3 Recruitment and Hiring Process

CALPIA will have the ability and discretion to recruit inmates for work/training statewide to ensure participation and success of its various programs. CALPIA Administrator/Lead Manager will coordinate efforts with Correctional Counselor III staff and/or Institution Classification Services Staff to accomplish this process.

CALPIA will make job applications (CALPIA Inmate Worker Application Form IEP-F002) available to the inmate population through the following institutional services:

- Institution Library
- Inmate Orientation
- Correctional Counselor's Office
- CALPIA Administration Offices
- CALPIA Enterprises
- Housing Units

Inmates interested in obtaining a position with CALPIA will submit completed applications for initial screening to their Correctional Counselor staff. Correctional Counselors will conduct a review of the inmates Central File (C-File) to ensure the inmate meets intake eligibility requirement as specified above. Counselors will schedule inmate to appear at an Initial/Unit Classification Committee for program review and placement into CALPIA's ICP. The Institution's Inmate Assignment Lieutenant will be responsible for maintaining the ICP and will provide a copy to the CALPIA Administrator.

CALPIA enterprise staff will interview inmates from the ICP and will conduct final selection of inmates to be assigned to a CALPIA assignment. Inmates selected should maintain parity with the institution's yard ethnic breakdown.

ICP will be prioritized as follows:

1. High School Diploma or GED
2. Enrolled in GED program
3. No Diploma/GED and not enrolled in education program

A list of successful inmate applicants shall be made available to the CALPIA Administrator by the institutions inmate assignment office.

CALPIA enterprise staff will submit the final list of successful inmate applicants for immediate assignment to CALPIA, to the institution Inmate Assignment Lieutenant via memorandum.

The CALPIA Administrator/Lead Manager shall contact the institution's Investigative Service Unit (ISU) and request a urinalysis test be conducted on newly hired CALPIA inmates within thirty (30) days. If a CALPIA inmate tests positive and is found guilty of Rules Violation Report (CDC-115) for Use/Possession of a Controlled Substance, the inmate will be immediately removed from their CALPIA assignment.

Inmates removed through this process must have a minimum of six (6) months of disciplinary/drug-free conduct with a minimum of 90 days on an institutional assignment with satisfactory work reports (CDC-101s) before being reconsidered for a CALPIA assignment.

All inmates assigned to CALPIA shall remain subject to random drug testing for as long as they are assigned by CALPIA. If a CALPIA inmate is suspected of being under the influence of a controlled substance, the Superintendent I/II will contact the Administrator/Lead Manager to arrange a urinalysis test by the Investigative Services Unit.

All inmates assigned to CALPIA will be required to complete and submit an Inmate Worker Application Form (IEP-F002) which shall be completed by the inmate worker prior to the start of employment along with an Inmate Intake Form (IEP-F003). Inmates refusing to comply with this requirement will be denied employment with CALPIA and will be removed from CALPIA.

#### 51121.5 CALPIA Inmate Lead Position Hiring Procedures and Requirements

Each CALPIA enterprise is authorized to have one leadperson position for each industrial staff within the operation. The Prison Industries Administrator/Manager at the facility shall approve the leadperson. Functions of leadperson positions shall be related to the duties of the industrial staff justifying the leadperson. All positions may be assigned leadperson pay. Under the direction of the CALPIA staff, the leadperson shall be expected to do much of the on-the-job training of newly assigned inmates. They shall assist in communicating to new inmate workers the staff's expectations of their work. Inmate leadpersons shall not function as assistant forepersons or supervisors and shall not be assigned control over other inmates. Their role is limited to that of training and communication.

The following procedures will be used when hiring leadpersons for all CALPIA factories:

- Post job vacancy, indicating the area(s) of responsibility, description of duties, required skills and abilities. The posting will also indicate the experience and/or education necessary to apply for the position. The



position will be posted for a one-week period; the closing date will be clearly stated.

- At the closing date all applications will be reviewed and only those meeting the hiring requirements will be selected for interview. Work files and/or C-files shall be reviewed by the interviewing staff panel.
- During the subsequent interviews, a staff panel will rate each applicant's replies to a number of set questions. The questions will reflect the applicant's ability to carry out the Lead position duties, and the ability to work with others.

The most qualified applicant will be selected for the position. All lead positions will include a probation period of six (6) months.

#### **51121.6 CALPIA Inmate Workforce Allocation Policy**

The facility Prison Industries Administrators/Managers shall determine the inmate workforce allocation for each cost center within their responsibility and adjust it as necessary by the procedures listed below. An inmate workforce allocation is defined as the current need for inmate workers in a specific cost center to maintain adequate production levels in order to support the volume of sales orders and service contracts. Changes in existing inmate workforce allocation shall be submitted annually via the CALPIA fiscal year budget process.

#### **51121.7 Establishing and Revising CALPIA Inmate Workforce Allocations**

The following procedures shall be followed when establishing new or revising existing CALPIA inmate workforce allocations:

##### **New Enterprises**

Prior to the activation of a new enterprise the Prison Industries Administrator/Manager is to follow the below-listed procedures:

- Submit an inmate employment pay plan to the CALPIA Assistant General Manager, Operations Division via the Branch Managers for approval. The plan shall include the allocation of inmate workers required per shift; a listing of the pay positions designating no more than 25 percent in each of the A, B, C, and D pay categories; and the job description based on the Federal Bureau of Labor Statistics' Standard Occupational Classification (SOC) for each pay position.
- The inmate workforce allocation for each enterprise is to be jointly approved by (1) the Warden or designee and (2) the CALPIA Assistant General Manager, Operations Division.

##### **Existing Enterprises**

Prior to changes of existing workforce allocation of 15 percent or more, the CALPIA Prison Industries Administrator/Lead Manager will submit changes to the CALPIA Enterprise Branch Manager for approval. The plan shall include:

- The workforce allocation of inmate workers required per shift, the SOC job description for each pay position, and the justification for revising an existing workforce allocation plan.
- The inmate workforce allocation for each enterprise is to be jointly approved by (1) the Warden or their designee and (2) the CALPIA Assistant General Manager of Operations Division.
- For changes of existing workforce allocation of less than 15 percent, the CALPIA Prison Industries Administrator/Lead Manager will submit an informational copy of the change justifying the revision in the inmate workforce allocation to the appropriate Enterprise Branch Manager.
- The inmate workforce allocation for each enterprise is to be jointly approved by (1) the Warden or designee and (2) the Administrator/Lead Manager.

The following standards will be utilized when inmate workforce allocations are reduced, causing a lay off situation of inmate workers. If possible, reduction and layoffs shall be accomplished through attrition.

- Skill. Demonstrating expertise of technical skills and knowledge of a dedicated job or process in a CALPIA assignment.
- Behavior. Relationship with Others. Demonstrates ability to deal with authority figures, job supervisors, and other inmates.
- Attitude, Adaptability. Demonstrating willingness to learn, take directions, and orders.
- Work Habits. Punctuality, dependability, care of equipment, and safety practices.
- Formal Education/Training.

#### **51121.8 Source of CALPIA Inmate Pay**

Inmate workers assigned to CALPIA programs shall be paid from the Prison Industries Revolving Fund.

#### **51121.9 Administration of CALPIA Inmate Pay Plan**

It shall be the responsibility of the Prison Industries Administrator/Manager at each facility to administer the CALPIA inmate pay program consistent with the applicable laws and the details of this plan.

The Prison Industries Administrator/Lead Manager shall:

- Monitor programs to ensure that pay positions have been properly classified and allocated.
- Review and appropriately approve/disapprove all recommendations for pay decreases and changes.
- Review and appropriately approve/disapprove all recommendations for dismissal.
- This policy and procedure shall be the final arbitrator regarding disputes or interpretations of this plan.

The CALPIA inmate wage rates and any proposed changes shall be submitted to the Prison Industry Board (PIB) for review.

Job descriptions shall be developed based on the Federal Bureau of Labor Statistics' SOC system for each inmate work position. Each job description will establish the minimum acceptable standards of participation and performance.

The inmate shall sign and be given a copy of the job description, indicating acceptance of the conditions of employment.

Staffing tables shall be prepared in accordance with inmate assignment workforce allocations and submitted to CALPIA Central Office for approval.

#### **51121.10 CALPIA Inmate Pay Schedule**

*Revised August 20, 2018*

Hourly wage rates shall be determined and maintained by the General Manager and published by the CALPIA.

All CALPIA inmate positions are to be assigned to one of the following levels:

Hourly Pay Schedule			
Title	Step I	Step II	Step III
Level 1 Leadperson (AA)	\$.80	\$.90	\$1.00
Level 2 Special Skills (A)	.70	.75	.80
Level 3 Technician (B)	.60	.65	.70
Level 4 Semi-Skill (C)	.50	.55	.60
Level 5 Laborer (D)	.35	.40	.45

For each enterprise, the percentage of the inmate work force in each skill level may not exceed the following:

Leadperson (AA)/Special Skills (A)	25 percent
Technician (B)	25 percent
Semi-Skill (C)	25 percent
Laborer (D)	25 percent

Depending on actual inmate assignment turnover rate, the C and D pay categories may exceed the 25 percent payroll allocation. This is permissible as long as the C and D combined totals do not exceed 50 percent of payroll.

#### **51121.11 Movement Between and Removal From CALPIA Pay Rates and Skill Levels**

Movement between one pay rate to another pay rate shall be based upon a combination of factors including, but not limited to, the following:

- The written recommendation of the supervisor showing cause for reduction of the inmate's pay. The following document(s) and justification reflecting below standard performance, misbehavior or "A" days is required in support of this written recommendation.
- The documentation of the inmate's accumulated work history as reflected on a CDC 101, Work Supervisor's Report.
- General Chrono, CDC Form, 128-B, Custodial Counseling Chrono, Form 128-A and/or Rules Violations Report, CDC 115.

- Inmate Work Supervisor's Log, CDCR Form 1697, which reflect absent without leave "A" day.
- Raises or reductions in an inmate's pay shall be based on the work supervisor's recommendation and the inmate's work/training performance reports and disciplinary reports.
- Pay increases shall not be automatic or based on the inmate's longevity in an assignment.

Workers in each skill level may be advanced to the next step within a skill level only after three months of satisfactory performance, or advanced from one skill level to the next only after one month of satisfactory performance, upon the recommendation of the supervisor, and if there is a vacant pay position available. The pay increase shall be effective on the first day of the following month in which the pay increase is implemented following approval by the Prison Industries Administrator/Manager. Less than satisfactory performance may result in a reduction in the hourly wage rate with the submission of a CDC Form 128-B-1, Classification Hearing Request/Notice Form, and a CDC Form 101, Work Supervisor's Report, stating the reason for the reduction in pay.

Inmates approved for advancement to a higher skill level shall enter the new classification pay grade equal to or greater than their present pay grade in the lower skill. For example, an inmate in the semi-skilled classification receiving an hourly wage of \$0.50 who advances to technician shall receive not less than \$0.55 or more than \$.65 per hour. Longevity shall not be used as a standard for the purpose of upgrading skill level.

Inmates removed from their CALPIA assignment for reasons beyond their control, for example; out-to-court or lengthy hospital stays, may, via the committee process, return to a CALPIA assignment at the same or closest level of pay to their former position if available in accordance with DOM section 53130.9.2.2.

#### **51121.12 CALPIA Employment Dismissal**

An inmate's pay rate shall not be reduced nor will the inmate be removed from pay status except based on the supervisor's recommendation, below standard or less than satisfactory work performance, or inmate misconduct as described in Title 15, California Code of Regulations, Division 3, Sections 3312, 3314, or 3315.

When the dismissal is for misconduct, including willful refusal or failure to work as directed, a CDC Form 101, Work Supervisors Report, shall be prepared and submitted to the factory superintendent for review and approval.

- The following document(s) and justification reflecting below standard performance, misbehavior or "A" days is required in support of this work history.
- CDC Form 128-B, General Chrono, CDC Form 128 A, Custodial Counseling Chrono, and CDC Form 115, Rules Violation Report.
- Inmate Work Supervisor's Log, CDC Form 1697 which reflect absent with out leave "A" day.

The CALPIA Administrator/Lead Manager will review for proper justification and approve the applicable above written documentation. If denied all documentation will be returned to factory Superintendent. Upon approval CALPIA Administration will generate a CDC Form 128-B-1, Classification Hearing Request/Notice, and submit to Facility Classification Committee for removal of inmate from CALPIA work program. The CALPIA Administrator/Lead Manager or designated Superintendent will be required to attend the Facility Classification Committee hearing. The CALPIA representative will assist the Committee by providing any additional information and/or testimony that may be required to remove the inmate from his/her CALPIA assignment.

The inmate shall be placed on "S" time in accordance with CCR Title 15 Section 3045.3, with the approval of the CALPIA Administrator/Lead Manager, pending the outcome of the disciplinary process. A finding of guilty to the charge may be accepted as authority for dismissal and/or reduction of the inmate's pay rate to the lowest CALPIA pay number, notwithstanding any other penalty imposed at the disciplinary hearing.

The CDC Form 128-B, General Chrono, requesting that the inmate be placed on "S" time should as an example contain the following verbiage; "Due to the seriousness of the rules violation and the security risk posed to CALPIA and the institution and because of the inability to maintain constant supervision of this inmate on the job site during an entire work shift, inmate (inmate name) is deemed a security risk to CALPIA and the institution and shall remain on "S" time pending the adjudication of the CDC Form 115, Rules Violation Report". (Attach the rough copy of the CDC Form 115 to the CDC Form 128-B.)

Any inmate unassigned from CALPIA for disciplinary cause will be ineligible for reassignment to another CALPIA enterprise. If after six months of disciplinary free behavior and a positive CDC Form 101, Work Supervisors

Report, from a work assignment other than CALPIA, an inmate may be eligible for reassignment. The reassignment shall require the approval of the CALPIA Administrator/Lead Manager.

#### **51121.13 Activities for Which CALPIA Inmate Pay Is Authorized**

CALPIA inmates shall be paid for the following activities only:

- Productive work.
- Actual work time.
- Tool check-in/check-out (15 minutes twice per day).
- Clean-up (15 minutes twice per day).
- Official break times.
- Management approved job-related trade training during a portion of the regular workday.

CALPIA inmates shall **not** be paid for the following:

- State holidays.
- Time lost due to job related illness or injury.
- Late release by custody.
- Shower time, unless required by job description.
- Lunch breaks.

#### **51121.14 CALPIA Inmate Performance Appraisals**

Mandatory quarterly performance grading shall be submitted by the inmate's immediate supervisor on CDC Form 101 for the following standards:

- Demonstrated skill and knowledge.
- Observed work habits.
- Attitude toward fellow inmates, staff, and the job.
- Learning ability, awareness of new procedures and methods, alertness, and perseverance.
- Quality of work.
- Quantity of work.
- Care and use of tools and equipment.
- Recommendation for step increase in authorized pay.

Receiving an unsatisfactory CDC Form 101 and a CDC Form 128-B-1 shall be authorization for reduction in pay rate and/or position, demotion, or termination by referral to the facility classification committee for program change.

#### **51121.15 CALPIA Assignments for Transferred Inmates**

Former CALPIA inmates transferring from other facilities may be placed in the skill level, which is appropriate for the position desired if the inmate stays in the same trade area provided they demonstrate the skills deemed necessary for appointment during the ninety (90) days at the probationary D1 rate. Inmates may be placed at an equal level to the work assignment previously held at the sending facility, when a position becomes available, but such placement is not guaranteed. This placement remains subject to the availability of a position and other requirements as set forth in DOM subsection 51121.4.

#### **51121.16 CALPIA Inmate Timekeeping Procedures**

All CALPIA inmate workers' time shall be initially recorded by time clocks on timecards. All punching of timecards shall be under the direct supervision of a civil service employee. Timecards shall be maintained in secure locked containers when not in use. The inmate's supervisor shall be responsible for verifying and certifying by initialing the timecard before its submission for payroll preparation.

Time records shall be consolidated on a summary form, initialed by the supervisor, and signed by the Prison Industries Administrator/Manager.

If an inmate is reassigned during the pay period, the work supervisor shall complete the timecard and turn it in to the timekeeper.

All appropriate facility timekeeping forms approved by the Prison Industries Administrator/Manager, supported by the timecard, shall be forwarded to the facility accounting office immediately after the close of the pay period. Central Office timekeeping forms are to be forwarded to Operations Division, who will then forward to Accounting Services.

Payroll shall be prepared from the approved information. One copy shall be retained by the facility Prison Industries Administrator's/Manager's office and the original shall be forwarded to the CALPIA facility accountant, who must call the total inmate pay amount to Central Office Accounting Services and prepare the accounting entry which distributes the costs by enterprise.

#### **51121.17 CALPIA Inmate Payroll**

On a monthly basis, the facility accounting office, after auditing the summary form, shall prepare a separate inmate payroll on CDC Form 190 for each fund from which inmate wages are to be paid.

The original copy of CDC Form 190 is to be submitted to the CALPIA Accounting Office, Revenue Unit, and the duplicate is to be retained by the facility accounting office.

Immediately upon preparation of payrolls, earnings shall be credited to inmates' trust accounts. CALPIA will issue a revolving fund check to be deposited in the inmate trust fund in an amount equal to the total of all payroll. Payroll claim schedules shall be prepared so that the State Controller's Office reimburses the Prison Industries Revolving Fund.

#### **51121.18 CALPIA Inmate Attendance**

One hundred percent attendance is expected of all inmate workers.

Inmates shall report to their place of assignment at the time designated by the facility's schedule of activities and as instructed by their work supervisor. Inmates shall not leave an assignment without permission to do so. Unauthorized absences shall not earn pay or time credits and may be grounds for dismissal from CALPIA employment. On an emergency basis, inmates shall be required to work overtime at the direction of the Prison Industries Administrator/Manager or designee.

ETO may be utilized as described in CCR Section, 3045.2 Excused Time Off.

#### **51121.19 Security of Timekeeping Forms**

The time clock timecards are considered legal documents. These forms shall be maintained under lock and key, and no inmate shall have access. The accuracy of timekeeping is paramount, and industrial supervisors shall be held responsible.

Each employee who is responsible for supervising an inmate in an approved pay position shall keep a continuous daily record of the actual hours worked as stated in DOM subsection 51121.16.

At the end of each calendar month, the employee shall complete the forms, sign the required certification as to the accuracy of the working time stated, and submit them to the facility Prison Industries Administrator/Manager or designee.

In accordance with local procedures, the appropriate form shall be delivered to the records office for recording of "A" time only.

Entries on the timecard shall be made for each day the inmate is assigned. If assigned less than the full month, a diagonal line must be drawn through the unassigned dates. On the first day of work, show assignment. Show the reason for leaving the assignment. The following symbols and the appropriate number of hours for each shall be used by the work supervisor to record the inmate's work day. Each day must reflect time for a full-day or half-day as appropriate.

<b>X</b>	WHEN INMATE IS ON THE JOB
<b>A</b>	WHEN INMATE IS ABSENT AND UNEXCUSED FROM ASSIGNMENT
<b>R</b>	WHEN INMATE IS ON REGULAR DAYS OFF.
<b>H</b>	STATE HOLIDAY.
<b>S</b>	WHEN INMATE IS UNABLE TO REPORT TO WORK BY ORDER OF THE PRISON ADMINISTRATION. (For example: lockdown; supervisor absent, out-to-court as witness for the State or on subpoena; pre-release/transfer checkout).

Upon inmate transfer, parole, or reassignment, it shall be the responsibility of the work supervisor to immediately forward to the division head completed timecards for signature and transmittal to the records office if "A" time is present.

#### **51121.20 Revisions**

The General Manager, CALPIA, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **51121.21 References**

PC § 2801, 2806 and 2811.

LC § 1182(b).

Federal Bureau of Labor Statistics' Standard Occupational Classification System.

CCR (15)(3) § 3044.

CCR (15)(8) § 8004-8004.4; 8006

#### **Revision History**

Revised: April 2013

Revised Sections 51121.4.2 and 51121.10: August 20, 2018

Revised Section 51121.4.1: November 4, 2019

### **ARTICLE 14 — CONSERVATION CAMPS**

*Revised May 25, 1993*

#### **51130.1 Policy**

PC 6200 and 6204 permit The Director to establish a Conservation Camp Program and to promulgate rules and regulations for the government of the Conservation Centers in the management of their affairs.

#### **51130.2 Purpose**

The purpose of the Correctional Conservation Camp Program shall be to promote the conservation of natural and human resources within the limits established by law, CCR, and the operating procedures of cooperating agencies. The Conservation Camp Program shall cooperate with other State and local agencies in a joint operation.

Inmates may be assigned to perform public conservation projects including, but not limited to, the following:

- Forest fire protection and control.
- Forest and watershed management.
- Recreational area development.
- Fish and game management.
- Soil conservation.
- Forest watershed revegetation.

#### **51130.3 Joint Administration**

The Conservation Camp Program shall be jointly administered by CDC and the Department of Forestry and Fire Protection (CDF); by CDC and the Los Angeles County Fire Department (LACFD); and/or with other cooperating agencies. The Director may enter into contracts or cooperative agreements with public agencies for the performance of appropriate conservation projects.

Any productive industrial enterprise subject to the jurisdiction of the CALPIA established at any center or camp shall be approved by the General Manager, CALPIA.

#### **Interagency Agreements**

Copies of each interagency agreement shall be maintained on file at the headquarters and at the facilities with camps.

#### **51130.4 Department Contact Agency Liaison**

The Conservation Camp Coordinator, under the direction of the Deputy Director, Institutions Division, shall maintain direct liaison with CDF, LAC, and other agencies in operation of Conservation Camps.

#### **51130.4.1 Department's Agency Representative**

On all major fires and other emergencies in which it becomes necessary to establish emergency camps and where a combination of Conservation Camp inmates and Department personnel are based, a supervisor at the level of Sergeant or higher shall be appointed by the Captain responsible for camps in the affected fire district.

The supervisor shall coordinate all matters affecting all inmate crews that may be participating in the containment of the emergency, and shall act as the Department's Agency Representative. This Agency Representative shall make all contacts with the cooperating agency. They shall represent all Department employees and Department inmate crews on custodial and related matters regardless of origin of the crews. All Department camp personnel shall report to the Department's Agency Representative as soon as possible after arriving at the emergency camp. They shall provide the Agency Representative with the following information:

- The number of inmates.
- The number of custody staff accompanying the inmates.
- The name of the camp the inmates/staff are from.

#### **51130.4.2 Administrative Responsibility of Camps**

The Conservation Camps located on the grounds of CMC and CRC shall be administered by their respective parent facilities. Administrative responsibility of the remaining Conservation Camps is delegated to CCC and SCC.

#### **51130.5 Names and Locations of Camps**

Each Conservation Camp has a designated name jointly selected and approved by CDF and CDC, or by LAC and CDC. The name of the facility responsible for the operation of the camps should not be used on camp signs or literature pertaining to the camps.

The Conservation Camps and their location are listed below:

**CCC Camps:**

Alder Conservation Camp #20  
P.O. Box 906  
Klamath, CA 95548  
(707) 482-4511

Antelope Conservation Camp #25  
P.O. Box 641  
Susanville, CA 96130  
(916) 257-2181

Chamberlain Creek Conservation Camp #17  
15800 Highway 20  
Fort Bragg, CA 95437  
(707) 964-3518

Deadwood Conservation Camp #23  
17148 McAdams Creek Road  
Fort Jones, CA 96032  
(916) 468-2633

Delta Conservation Camp #8  
6246 Lambie Road  
Suisun City, CA 94585  
(707) 425-4878

Devil's Garden Conservation Camp #40  
P.O. Box 490  
Alturas, CA 96101  
(916) 233-3553

Eel River Conservation Camp #31  
P.O. Box 819  
Redway, CA 95560  
(707) 923-2755

High Rock Conservation Camp #32  
P.O. Box 296  
Weott, CA 95571  
(707) 946-2343

Intermountain Conservation Camp #22  
P.O. Box 615  
Bieber, CA 96009  
(916) 294-6361

Ishi Conservation Camp #18  
Star Route 3, P.O. Box 53  
Paynes Creek, CA 96075  
(916) 597-2846

Konocti Conservation Camp #27  
13044 State Highway 29  
Lower Lake, CA 95457  
(707) 994-2437

Parlin Fork Conservation Camp #6  
23000 Highway 20  
Fort Bragg, CA 95437  
(707) 964-3766

Salt Creek Conservation Camp #7  
P.O. Box 435  
Paskenta, CA 96074  
(916) 833-5479

Sugar Pine Conservation Camp #9  
15095 Sugar Pine Camp Road  
Bella Vista, CA 96008  
(916) 472-3027

Trinity River Conservation Camp #3  
P.O. Box 609  
Lewiston, CA 96052-0609  
(916) 286-2885

Valley View Camp #34  
P.O. Box 8  
Elk Creek, CA 95939  
(916) 968-5142

**SCC Camps:**

Acton Conservation Camp #11 (LAC)  
8800 Soledad Canyon Road  
Acton, CA 93510  
(805) 268-0113

Baseline Conservation Camp #30  
16809 New Peoria Flat Road  
Jamestown, CA 95327  
(209) 984-4464

Bautista Conservation Camp #36  
33015 Bautista Canyon Road  
P.O. Box 12009  
Hemet, CA 92343-1059  
(909) 927-3600

Fenner Canyon #41 (LAC)  
P.O. Box 100  
Valyermo, CA 93563  
(805) 944-0173

Francisquito Conservation Camp #4 (LAC)  
3510 N. San Francisquito Canyon Road  
Saugus, CA 91350  
(805) 296-4409

Gabilan Conservation Camp #38  
Route 1, Box 105  
Soledad, CA 93960  
(408) 678-1873

Growlersburg Conservation Camp #33  
Box 349004  
Georgetown, CA 95634  
(916) 333-4244

Julius Klein Conservation Camp #19 (LAC)  
22550 East Fork Road  
Azusa, CA 91702  
(818) 910-1213

Malibu Conservation Camp #13 (LAC)  
1250 S. Encinal Canyon Road  
Malibu, CA 90265  
(213) 457-2253

McCain Valley Conservation Camp #21  
P.O. Box 1252  
Boulevard, CA 91905  
(619) 766-4393

Miramonte Conservation Camp #5  
49039 Orchard Drive  
Miramonte, CA 93641  
(209) 336-2312

Mt. Gleason Conservation Camp #16 (LAC)  
26650 N. Angeles Forest Highway  
Palmdale, CA 93550  
(805) 947-7784

Mountain Home Conservation Camp #10  
P.O. Box 647  
Springville, CA 93265  
(209) 539-2334

Oak Glen Conservation Camp #35  
41100 Pine Bench Road  
Yucaipa, CA 92399  
(909) 790-1729

Owens Valley Conservation Camp #26  
Route 2, P.O. Box 22L  
Bishop, CA 93514  
(619) 387-2686

Pilot Rock Conservation Camp #15  
P.O. Box 10  
Crestline, CA 92325  
(619) 389-2233

Prado Conservation Camp #28  
14467 Central Avenue  
Chino, CA 91710  
(909) 597-3917

Puerta La Cruz Conservation Camp #14  
32363 Highway 79  
Warner Springs, CA 92086  
(310) 782-3547

Rainbow Conservation Camp #2  
8215 Rainbow Heights Road  
Fallbrook, CA 92028  
(619) 728-2554

Vallecito Conservation Camp #1  
Rural Route #1, Box 7  
Angels Camp, CA 95222  
(209) 736-4922

#### **Facility-Based Camps:**

Cuesta Conservation Camp #24 (CMC)  
P.O. Box 810120  
San Luis Obispo, CA 93401  
(805) 543-2700, Ext. 49

Norco Conservation Camp (CRC) #39  
P.O. Box 279  
Norco, CA 91760  
(909) 737-5911, Ext. 4174

#### **51130.6 Operational Administration**

At each facility having a Conservation Camp Program, the Warden administers the camp operation.

At those facilities that operate facility-based camp programs, the administration shall be carried out as an adjunct to other daily operations. Administrative responsibility includes, but is not limited to, the following:

- Budget for and supply the camps with all necessary manpower, materials, and supplies to properly operate and maintain the camps.
- Direct and supervise all camp activities so that the camp shall operate for the benefit of the State and the rehabilitation of the inmates.
- Coordinate with the cooperating agency all of the activities necessary for the operation of the conservation camp program.
- Supervise all custodial and treatment personnel and direct their compliance with the CCRs, State law, and applicable procedures.

#### **51130.7 Camp Commander**

The Camp Commander (Lieutenant) at each Conservation Camp reports to the Camp Captain at the parent facility (CCC/SCC). The Camp Commander shall understand objectives of the cooperating agency and work with them as a liaison officer toward reaching mutual respect and cooperative understanding. The Camp Commander has direct responsibility for all phases of the camp program which shall consist of, but is not limited to, the following:

- Acquisition, preparation, and inventory of food supplies, clothing requirements, and canteen supplies.
- Recreational and in-camp leisure activities of the inmates.
- Housekeeping of buildings occupied by Department personnel.
- Maintenance of the custody and security of inmates assigned to their camp.

#### **51130.7.1 Assistant Camp Commander**

A Sergeant is the assistant to the Camp Commander and reports to them. The Sergeant acts as Camp Commander during that person's absence from the camp.

#### **51130.7.2 Officer**

Officers, during their duty hours, supervise and control inmates at the direction of the Camp Commander and Assistant Camp Commander.

**Note:** Personnel assigned to the Conservation Camps shall be regulated by the same conditions of employment that apply to all other employees of the Department. Each camp is a branch of the facility that maintains it and all pertinent rules, regulations, and laws apply.

#### **51130.7.3 Personnel – Department of Forestry and Fire Protection**

Listed below is the CDF personnel assigned to each Conservation Camp.

- Camp Division Chief. Shall be in charge of all forestry activities at a Conservation Camp.

- Assistant Division Chief. Shall be assigned to camps which have 100 or more inmates.
- State Fire Captains (B). Shall be assigned to a ranger unit fire control position and may supervise inmates on a temporary basis on work projects or on the fire line and shall be equally responsible for inmates assigned to them for work.
- Heavy Fire Equipment Operators. Are assigned to operate and repair the CDF in-camp vehicles and to operate heavy equipment on conservation projects and fires. They may also be assigned to supervise in-camp inmates on in-camp work projects.

#### **51130.7.4 Personnel – Los Angeles County Fire Department**

Listed below is LAC personnel that may be assigned to Conservation Camps located in Los Angeles County:

- Fire Captain. Shall be in charge of all fire and project activity in the camp.
- Fire Fighter Specialists. Shall supervise the inmates assigned to them for work.

#### **51130.8 Inmate Assignment**

Inmates are assigned to a camp from approved departmental lists. Selection of specific camp assignments is made on the basis of population needs and needs of the inmate, in line with departmental regulations.

The Classification Committee carefully evaluates the escape potential of inmates assigned to a camp. Inmates sometime present a different appearance when behind walls or under constant surveillance than they do in minimum custody camp surroundings. This difference often becomes apparent to the correctional camp personnel. Therefore, the correctional camp employees need to carefully study assigned inmates and return to the facility those inmates who they believe to be escape-risks. Such returned inmates should not constitute a large percentage of the camp population.

#### **51130.9 Inmate Orientation**

Camp personnel orient inmates upon arrival at a camp. The orientation schedule shall be in writing and filed in the Camp Commander's office. The orientation shall include, but is not limited to, the following:

- Camp living rules.
- Assignments.
- Project policies.

#### **51130.10 Camp Register Log**

A Graphic Arts Form 134, Camp Register, is maintained to record all pertinent, necessary, and important events which take place in the camp setting. The Camp Commander shall see that the Camp Register is properly maintained.

#### **51130.11 Camp Boundaries**

The CCRs provide the authority by which the Camp Commander establishes camp boundaries. These boundaries determine the limits of authorized inmate traffic. The establishment of camp boundaries shall give consideration to the cooperating agency's (CDF/LAC) needs.

- The meaning of the camp boundary signs shall be explained so that the boundaries are understood by all inmates. Inmates shall be required to sign a CDC Form 142, Camp Affirmation. The signature of the inmate shall be witnessed by a camp correctional staff member, then placed in the inmate's file.

#### **51130.12 Work Projects**

Inmate work projects are planned and supervised by the cooperating agency, pursuant to PC 2780, but are approved for custodial security and safety by the Camp Commander. Work projects shall not be permitted in areas that present undue escape hazards, civilian contacts, or which cannot be subject to adequate health, safety, and security precautions.

#### **51130.12.1 CDC Form 101: Work Supervisor's Report**

A CDC Form 101, Work Supervisor's Report, is completed monthly by the agency crew foreman on inmates assigned to them. The CDC Form 101s are routed to the Camp Commander and forwarded by them to the respective facility's records office for posting on CDC Form 109, Work Report Chrono Sheet.

- Class grade, report forms, and reporting periods are prescribed by the Department. It is recommended that cooperating agency personnel keep a daily record of the work and attitude of each inmate under their supervision.

#### **51130.13 Formal Inmate Counts**

There shall be at least four formal camp counts of inmates in each 24-hour period. (Refer to formal counts in DOM 52020.)

#### **51130.13.1 Informal Counts – Project Foreman**

Inmates shall be counted upon mounting and dismounting vehicles and going to and returning from any place outside the camp or facility. Agency crew foremen shall make counts of inmates in their custody at frequent intervals and shall count the inmates before leaving camp and upon returning to camp. Counts are required at least once during the morning, lunch time, between lunch and the end of the work day, departure from the work area, and at other times recommended by the Camp Commander.

#### **51130.13.2 Emergency Counts**

Emergency counts may be necessary at any time to determine if there has been an escape or to identify an escapee(s). (Refer to DOM 52020 for additional information on emergency counts).

#### **51130.14 Transfer of Custody**

Transfer of custody of inmates to normal work projects shall be at a mutually agreed place and in the following manner:

- The CDF camp office submits to the Department each evening a crew list which contains the names and identification numbers of the inmates, the name of the crew foreman, and the location of the projects for the following day's crew assignment.
- Employees of each cooperating agency shall count the inmates onto the conveyance taking them to work, or as a group of workers if they walk to the project. Cooperating agency personnel maintain custody of inmates until returned to the custody of the Department.
- Custody cannot be transferred unless the inmate is physically present at the time of transfer.
- The Department supplies the cooperating agency with a picture of each inmate assigned to the camp and shall furnish the agency crew foreman with a picture of each inmate assigned under their supervision.
- Normally, inmate crews shall not be divided to allow a portion of the crew to work under the supervision of a person not employed by a cooperating agency or the Department. Under some circumstances this may be allowed but only when specifically authorized by the cooperating agency staff person or correctional employee in command.
- Inmate crews may be assigned under supervision of employees of agencies other than the CDF, LAC, and Department only after the specific employees have been instructed in the supervision of inmates.

#### **51130.15 Discipline**

Department employees administer inmate discipline in Conservation Camps. The disciplinary process is governed by the provision of the CCRs.

#### **51130.15.1 Disciplinary Hearings**

The Camp Commander of a Conservation Camp shall consider and take action on all disciplinary infractions that occur in the operation of the camp. Serious violations may be referred to the Chief Disciplinary Officer of the parent facility. (Serious violations for female inmates may be referred to the Chief Disciplinary Officer at the appropriate female facility.)

The Camp Commander may receive assistance from the Division Chief or a department head of other cooperating agencies or their designated representative in the hearing of these disciplinary matters. Correctional Counselors assigned to the camps may also participate in the hearings.

#### **51130.16 Firearms – Camp Equipment**

Each Conservation Camp shall have an appropriate number of revolvers and related equipment. These weapons shall be carried by Department personnel in the pursuit of escapees and walkaways. Arrangements shall be made by the Camp Commander to store these weapons outside the confines of the camp.

#### **51130.16.1 Firearms – Outside Agencies**

PC 4574 specifically prohibits the bringing into any State facility, Conservation Camp, or place where prisoners of the State are located any firearms or deadly weapons. It is recognized that certain peace officers and others who may use firearms in their assignments will find it necessary to enter a Conservation Camp. Every possible effort shall be made to advise these persons to store their weapons before entering the camp.

When this is not feasible or practical, these weapons shall be stored in a secure location.

#### **51130.17 Incident and Escape Plans**

The incident plan (refer to DOM 51030) and escape plan (refer to DOM 55040) are maintained on file in the Camp Commander's office. The Camp Commander carries out the mandates of the incident and escape plan and submits the necessary reports.

Two copies of a report covering escapes and/or incidents which occur in the Conservation Camp Program, and especially in those cases in which a CDF employee is involved, shall be forwarded to the Regional Chief of the district in which the camp is located. This affords CDF an opportunity to keep fully informed and take proper action with regard to its employees. Likewise,

department heads of other cooperating agencies shall be informed regarding incidents and/or escapes involving their personnel.

#### **51130.18 Fire Protection Plan**

The Camp Commander and the Division Chief or the department head of other agencies mutually develop and maintain a plan for the prevention and suppression of fires in camp. Included in the plan shall be a trained crew to operate the camp security fire truck in the event of an in-camp fire.

#### **51130.18.1 Fire Drills**

The Department and cooperating agency personnel shall be integrated into an overall campfire plan and each shall be sufficiently trained to activate and head the entire fire protection plan. Fire drills shall be conducted at least once a month and recorded in the Camp Register.

#### **51130.18.2 Inspections**

The cooperating agency person in charge and the Camp Commander shall make monthly inspections of the entire camp area for the purpose of determining the adequacy of fire protection measures and equipment provided and to note conditions which might constitute a fire or safety hazard. All such inspections shall be recorded in the Camp Register. Steps shall be taken immediately to eliminate fire and safety hazards.

#### **51130.18.3 Vehicles**

Vehicles specifically assigned as "in-camp fire protection units" shall be accessible and equipped to be readily operable by any individual authorized and trained in the campfire protection plan.

#### **51130.19 Transportation of Inmates**

The transportation of inmates to and from work projects, fires, emergency projects, the conservation centers, and/or other facilities of the Department shall be in vehicles properly equipped to provide safety and comfort in accordance with applicable safety, VC provisions and CCR 3443 and 3444.

#### **51130.19.1 Airplane Transportation**

Inmates may also be transported by airplane or helicopter, providing that such inmates are not taken outside the State of California.

#### **51130.19.2 Transportation Across State Lines**

Inmates may be transported across the California-Nevada State line when traveling from one facility of the Department to another (emergency fire camps are considered to be a facility of the Department) when necessary and are subject to all California laws while being transported. Inmates shall be accompanied by a Department officer. (Reference: PC 5080 and the provisions of Nevada Revised Statutes, Chapter 212.10.)

- During declared fire emergencies, the Director may allow the Director of the CDF to use inmates for fire suppression efforts outside of the boundaries of California, not to exceed a distance in excess of 25 miles from the California border, along the borders of Oregon, Nevada, or Arizona.

#### **51130.20 Vehicle Operation**

The operation of vehicles by inmates and conveyance of inmates are governed by the CCRs. All vehicles transporting inmates shall be equipped and operated to comply with the VC. Inmates may operate vehicles in camp with the prior approval of the Camp Commander. Only personnel having a valid driver's license of the appropriate class shall operate State vehicles.

#### **51130.20.1 Parked Vehicles**

All parked vehicles, except in-camp fire protection vehicles, shall be locked with the switch key removed. At fire camps or on fire lines, the keys shall remain in the vehicles. Duty correctional personnel shall inspect all parked vehicles for compliance with the above rules.

#### **51130.20.2 Vehicle Request**

Department employees may request the use of a cooperating agency vehicle when use is economical to the State or for an emergency.

#### **51130.21 Feeding**

The Department operates a feeding program that assures the inmates an adequate diet.

This is accomplished by establishing a food control program based upon a ration of each food item sufficient in quantity to maintain an adequate diet and assure a menu pattern which is acceptable to the inmate population. By controlling the quantity of food available, inmates are continually assured an acceptable diet regardless of the cost for the food. This practice shall eliminate the scarcity of food items caused by a sudden increase in price of a particular food item.

The Camp Commander of each camp directs the operation of the food service program. This includes the preparation of menus, requisitioning of food and other supplies, and receiving and storing the items. The Camp Commander shall study, and have immediate knowledge of, the food ration and the

implementation problems. (Refer to DOM 54080.) The Camp Commander shall receive technical assistance from the Food Manager of the facility and Supervising Cook assigned to the camp program.

- Nutmeg, yeast, mace, or any food item which could be considered dangerous in the inmate population are kept under lock and key by the Camp Commander. The Camp Commander shall provide these items to the inmate cook and/or baker on an as-needed basis.
- Camp fire crews returning at odd hours from a fire and other camp fire fighting crews using the camp as a staging area are to be fed a fire ration meal. The Camp Commander shall be notified at least three hours in advance if possible after the decision has been made to use the camp facilities. Authorization for fire meal reimbursement from cooperating agency shall be accomplished at the time of service.
- A complete inspection of the culinary department shall be made daily. The cleanliness of the kitchen and dining room is of vital importance to the welfare, health, morale, and success of each camp. The Camp Commander or designee shall assure that food preparation inmates use good personal hygiene and are well groomed and properly clothed (including head covering).

#### **51130.22 Clothing**

*Updated February 2, 2011*

A clothing ration has been established to properly clothe each inmate in the camp program. Inmate clothing shall be restricted to the items listed in DOM 54060.

- Special clothing items required for special assignments and emergency laundry services may be purchased by the Camp Commander.

#### **51130.23 Parole Release Procedure**

The policy and procedures contained in CCR and DOM 74070 shall guide the Camp Commander in releasing inmates from camp. The Camp Commander may delegate the prerelease duty to the Sergeant or Officer.

#### **51130.24 Public Information**

The public information section (DOM 13010) and the CCRs shall govern the Camp Commander's action in this area. The Camp Commander shall develop a public information and community relations policy and submit it to the Warden for approval. There shall be no deviation from the approved policy, except by permission of the Warden.

- It is mutually beneficial for camp inmates to receive positive publicity for their work efforts. The Camp Commander shall join the cooperating agency in fostering positive inmate publicity.

#### **51130.25 Community Services**

Conservation Camps have always made special efforts to be good neighbors and to support local community needs. This "good neighbor policy" shall be pursued within the guidelines of the CCRs.

##### **51130.25.1 Inmate Blood Donations**

Wardens of facilities administering camps may permit the inmates to donate blood to the American Red Cross, the armed services, local blood banks, or other legitimate charitable purposes. Such drives may be permitted under the supervision of their authorized representative.

##### **51130.25.2 Fund – Raising Campaigns**

Camp inmates may participate in fund-raising campaigns in accordance with provisions of DOM 101080.

##### **51130.25.3 Toy Repair**

Inmates may donate as much of their free time as they wish, commensurate with their daily assignments, to the repair of toys for orphans or other needy children.

Materials and equipment needed to perform this service shall be from a source other than State issue. Inmates shall not supply personal material or equipment for toy repair service.

##### **51130.25.4 Local Sports**

Each camp able to provide inmate athletic competition is encouraged to engage local teams. Games shall be played on the camp recreation field only and are subject to DOM 101040.

##### **51130.25.5 Arts and Crafts Exhibits**

Camp inmates may exhibit arts and crafts work at local gatherings, fairs, and other community functions. Such exhibits are subject to the CCR, DOM 101050, and PC 5006.

#### **51130.26 Medical/Dental Procedures**

The CCRs and DOM Chapter 9 shall govern medical and dental services in camps. The Camp Commander shall make arrangements with a local physician(s) and dentist(s) to perform emergency care. Inmates in need of

major non-emergency medical or dental treatment shall be returned to the appropriate facility.

##### **51130.26.1 Medical/Dental Emergencies in Camp**

Ambulance service and treatment for seriously ill or injured inmates shall be arranged by the Camp Commander at a local nearby hospital. The Camp Commander shall advise the CMO or Medical Officer-of-the-Day at the parent facility. Serious health emergencies shall be reported, as are other emergencies.

##### **51130.26.2 Emergency Under Supervision of Contracting Agency**

If an inmate becomes seriously ill or is seriously injured while under the supervision of a cooperating agency, the Fire Captain or other appropriate department head shall immediately notify the Camp Commander so that immediate steps may be taken to care for the inmate. The Fire Captain shall complete a CDC Form 620, Inmate Accident Report, and submit it to the Department.

Sufficient supplies of CDC Form 620 shall be maintained by the Department and supplied to the cooperating agencies to comply with this directive.

##### **51130.26.3 Injury While on Fire Suppression**

Inmates who become disabled resulting from injuries received while engaged in fire suppression activities may be eligible to receive benefits as prescribed in LC 3365 and 4458. Within one work day of their injury or within one work day after staff became informed of their injury, inmates shall be provided with a SCIF Form 3301. Injuries suffered by inmates shall be reported on copies of SCIF Form 3067, Employee's Claim For Worker's Compensation Benefits, without delay. The Department and the cooperating agency shall cooperate in providing the proper reports to cover the details of the injury.

##### **51130.26.4 Death**

If an apparent death of an inmate occurs during their assignment away from the Conservation Camp, the Camp Commander shall contact the nearest physician for medical assistance. If the inmate is pronounced dead by the physician, the coroner shall be notified before the body is moved and the coroner's instructions shall be followed. The Warden of the parent facility shall be notified and further instructions requested. After the release of the body by the coroner and further instructions from the Warden, the body shall be turned over to a licensed undertaker nearest the community where the death occurred (in accordance with DOM 51070).

- A complete incident report shall be submitted to the Warden of the appropriate facility without delay.

##### **51130.26.5 Medical Supplies**

Medical supplies shall be prescribed and approved by the CMO for use by Department personnel in administering routine medications and minor first aid to inmates in the camp.

- A standard first aid application book shall be kept in the Camp Commander's office. All camp employees are required to complete a basic course in first aid and cardiac pulmonary resuscitation.

##### **51130.26.6 Medical/Sanitation Inspections**

The appropriate facility CMO shall inspect each camp at least once each year for sanitation and proper sanitation practices. The Camp Commander may request additional inspections as needed.

##### **51130.27 Inmate Wages**

To maintain uniform pay scales for inmates assigned to the Conservation Camps, the following standards have been established:

- The Camp Commander shall assure accuracy of inmate payrolls and establish auditing procedures to ensure inmates are paid according to their length of service, performance, and assignment.

##### **51130.27.1 Pay Committee**

Each camp has an in-camp pay committee. The committee determines the promotion and/or demotion of inmates in the various pay grades. This committee shall administer the monthly pay allocations and stay within the prescribed limits for their camp. This monthly pay allocation is provided by the parent facility, usually at the beginning of each fiscal year.

- The committee is composed of the following camp personnel, or in their absence, the designated representatives of each department:
  - Camp Commander or their assistant.
  - Cooperating agency person in charge.
- The committee shall meet as necessary to consider the recommendations of both departments. The Department employee in charge shall maintain adequate records.

##### **51130.27.2 Pay Period**

The pay period is based on the calendar month and inmates are compensated for each day's work within the month. The standard project workweek is five

eight-hour days, Monday through Friday, with Saturdays, Sundays, and approved holidays off.

- Inmates shall be paid for emergency work on an hourly basis. This pay commences at the time of dispatch to the emergency and continues until the inmate has returned to their camp. (Refer to PC2782 and PC 2785.)

#### **51130.27.3 Pay Schedules**

The specific rate per hour is established by the Department.

- Grade I – \$1.45 per day:
  - The majority of camp inmates shall be assigned to this grade.
- Grade II – \$1.67 per day:
  - Skilled and experienced grade workers and a selected number of in-camp inmates shall be assigned to this grade.
- Grade III – \$1.95 per day:
  - A limited number of skilled inmates who have been given special assignments shall be included at this level.
- Grade IV – \$2.56 per day:
  - This pay grade is reserved for a very limited number of highly-skilled journeyman level inmates.
- Grade V – \$3.90 per day:
  - Two positions in each outlying camp are designated for the first cook at this pay grade.
- Emergency Fire Fighter – \$1.00 hourly:
  - Reimbursed by the State Emergency Fund.

#### **51130.27.4 Reimbursement by Cooperating Agency**

The procedure for the cooperating agency to report inmate emergency time for reimbursement and payment of inmates shall be on appropriate forms as prescribed by the parent facility.

- The Department shall invoice the cooperating agency within 60 days of each event based upon the actual expenditures for inmate and camp employee pay for fire overtime.

#### **51130.28 Emergency Crews Work Assignment**

The CDF Regional Chief shall inform the Camp Division Chief of the procedure for dispatching Conservation Camp crews to all emergency activities. Dispatching of crews shall be in accordance with existing State, Region, and Ranger Unit procedures. When calls are received dispatching inmate crews from camp, or off regular work projects to emergency fire duty, the information shall be shared immediately with the Camp Commander, or the Department person in charge, to permit that person to determine custodial coverage by the Department. To the extent possible, the information passed on shall include the time of the dispatch call, destination, and any other pertinent information. The “home camp staff” shall be advised of crew location changes through appropriate dispatch channels.

##### **51130.28.1 In Camp**

When the crews are in camp, the Department shall assemble the crews and employees of both agencies and count the inmates onto the trucks or buses. At that time, the cooperating agency takes custody of the inmates. Should a Department employee accompany, custody of the inmates is a mutual responsibility.

##### **51130.28.2 Completion of Assignment**

Upon completion of the emergency assignment, all trucks and buses shall be thoroughly searched prior to leaving the emergency camp by both the Department and the cooperating agency.

Under no circumstances shall emergency camp equipment or supplies, except for properly secured lunches and other items normally carried, be allowed on the vehicle.

#### **51130.29 Emergency Fire Camp**

Fire control and suppression are a major part of the Conservation Camp Program. When a fire is in progress and of such proportions to require a supporting emergency fire camp, the cooperating agency shall have a prescribed organization that operates the camp and directs suppression activities.

##### **51130.29.1 Organization in Fire Camp**

The following organization guidelines are established to cover the Department's employee participation in the emergency fire camp organization:

- Appropriate camp Captain shall appoint a Department Agency Representative. The Department Agency Representative shall report to the Captain in all matters pertaining to the custody, safety, well-being, deportment, and support of the inmates regardless of the origin of the crews.

- The Department Agency Representative shall maintain contact with the cooperating agency fire camp operation through their Inmate Crew Coordinator.
- The Department Agency Representative shall coordinate all Department operations, assign Department employees to supervise various in-camp functions and other security assignments as jointly determined by the participating agencies, and shall act as the Department's PIO working with Fire Information Officers.
- Typical examples of assignment areas which may be given by the Department Agency Representative are as follows:
  - Emergency transportation.
  - Bedding area.
  - Kitchen area.
  - Motor pool area.
  - Security patrol.

#### **51130.30 Fire Bag**

Each inmate shall be issued a fire bag (supplied by the cooperating agency) including the clothing items listed below (supplied by the Department) and shall be maintained in a clean and orderly manner for use by the inmate when on extended fire suppression assignment in emergency fire camps:

- Men
  - 3 undershirts.
  - 3 shirts.
  - 2 towels.
  - 2 handkerchiefs.
  - 3 pair undershorts.
  - 3 pair jeans.
  - 4 pair socks.
  - 2 belts.
- Women
  - 3 undershirts.
  - 3 brassieres (cotton, no metal stays).
  - 3 shirts.
  - 2 towels.
  - 2 handkerchiefs.
  - 3 pair underpants (cotton).
  - 3 pair jeans.
  - 4 pair socks.
  - 2 belts.

This issue of clothing is in addition to the regular clothing issue. The fire bag should also include personal health items required by the inmate for their personal hygiene needs.

#### **51130.31 Use of Inmate Community Work Crews for Emergency Support Activities**

On large forest fires requiring additional non-fire suppression support crews, the Department shall supply, if available, inmate Community Work Crews directly from its facilities. It is understood that inmate Community Work Crews available for non-fire suppression support shall be utilized by either the CDF or other forest protection agencies which have entered into an agreement with the Department. It is further understood that:

- To avoid confusion in dispatching, all requests for inmate Community Work Crews shall be directed to the Department Conservation Camp Coordinator in Sacramento.
- No request for inmate Community Work Crews shall be made by a cooperating agency without careful prior consideration being given as to whether regularly established Conservation Camps are being utilized to the fullest extent possible.
- Transportation from the facilities or other correctional establishments to the fire support work site, provided by the Department or the cooperating agency, shall be by bus or other conveyance equipped with seats for all inmates to be transported, and all safety laws and regulations shall be observed in such transportation.
- If the Department does not have transportation available, CDF shall furnish transportation to and from the facilities.

##### **51130.31.1 Contracting Agency Responsibilities**

Notwithstanding Public Resources Code Section 4155, CDF shall supply and prepare sufficient food and blankets (for sleeping purposes) and reimburse the Department for all direct and indirect costs associated with the preparation, dispatch, care, custody, and clothing of inmates in order to make them available to CDF for such assignments.

##### **51130.31.2 Cash Reimbursement**

Reimbursement for costs borne by the Department shall include:



- The payment of emergency overtime hourly rate per inmate as agreed between cooperating agency and the Department. Such payment shall include:
  - The time traveled to and from the fire.
  - From the facility.
  - All work time and off-duty time between work periods on or near the fire.
- All Department employees' payroll costs in connection with a specific fire. This includes, but is not limited to, the following:
  - Custodial coverage.
  - Transportation.
  - Employees' time for supervision and administration, delivering supplies, transporting sick or injured inmates.
  - Disciplinary problems with inmates.
  - Preparing and serving meals to inmates leaving for or returning from fires at irregular hours.
  - Employees' standby time when called in to prepare fire crews for dispatch and the standby is subsequently canceled.
- All invoices submitted to the cooperating agency by the Department for activities contemplated hereunder shall be computed in accordance with the SAM 8760. Invoices shall be submitted to the cooperating agency in the district for which services were performed on a specific individual fire basis, in a form agreed to by the cooperating agency and the Department, and shall be submitted within 60 days of the cessation of activities contemplated hereunder.

#### **51130.32 Emergency Use of Department's Fire Apparatus**

CDC may furnish to a cooperating agency fire apparatus that is under its control and possession when the request originates with the cooperating agency for fire suppression on "State responsibility lands" and contractual fire protection.

##### **51130.32.1 Staffing of Equipment**

The Department shall furnish a qualified employee (fire suppression-trained) to drive every truck furnished and shall furnish two fire-trained inmates or two trained employees to serve as crew persons on each fire truck.

**51130.32.2 Reimbursement to Department for Use of Fire Apparatus**  
CDF shall reimburse the Department for costs of all employees and inmates furnished in accordance with the following rates and conditions:

- Pay rate to commence at the time the apparatus leaves the facility and stop upon its return thereto.
- Payment shall include the travel time to and from the fire from the facility and all work time.
- A CDC employee assigned to the fire apparatus shall maintain timekeeping records for the employees and inmates. The employee shall have the cooperating agency fire unit official certify the accuracy of this timekeeping before leaving the fire area.
- Hourly rate for employee and inmate labor shall be paid to CDC at the termination of the emergency assignment, upon receipt of invoices certified by the Warden or by the authorized representative of the facility concerned.

##### **51130.32.3 Gasoline**

CDF shall furnish gasoline, when available, for trucks furnished and operating in the fire area.

##### **51130.32.4 Loss or Damage**

The cooperating agency shall not be held liable to CDC for any loss or damage to equipment or apparatus furnished.

##### **51130.33 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

##### **51130.34 Reference**

*Revised February 2, 2011*

PC §§ 2701, 2780, 2781, 2782, 2785, 2787, 2788, 2792, 4754, 5080, and 6200 through 6208.

CCR (15) (3) §§ 3266, 3294, 3294.1, 3294.2, 3295, and 3380(a).

SAM § 8760.

PRC § 4155.

LC §§ 3365 and 4458.

Nevada Revised Statutes Chapter 212.10.

DOM §§ 13010, 51030, 52020, 53070, 53110, 54060, 54080, 55040, and 74070.

## **ARTICLE 15 — CONTROLLED SUBSTANCES**

*Revised February 22, 2021*

### **52010.1 Policy**

(a) The California Code of Regulations (CCR) includes a disciplinary process and approved chain of evidence or controlled substance-related offenses by inmates. The CCR also prohibits employees and visitors from being under the influence of, or possessing, alcohol or controlled substances while on any California Department of Corrections and Rehabilitation (CDCR) institution, camp, contract health facility, or community correctional facility.

(b) Each Warden and Regional Parole Administrator (RPA) shall ensure that procedures for preventing the introduction of controlled substances and alcohol into their jurisdiction are in place and enforced.

(c) Each Warden and RPA shall ensure that any controlled substance that is confiscated in their jurisdiction is recorded, stored, tested, and disposed of in accordance with applicable laws.

### **52010.2 Purpose**

This section establishes standard procedures for recording, storing, field testing, and disposing of controlled substances. This section also establishes a procedure to ensure that all urine samples obtained from inmates for laboratory analysis are collected and processed in a uniform method which consistently maintains the approved chain of evidence.

#### **52010.2.1 Goal Statement**

The CDCR utilizes a variety of methods for testing inmates and parolees to detect the use of controlled substances and alcohol, and responds to confirmed positive tests with sanctions, interventions, or both. The purpose of the testing, sanctions, and interventions are to reduce drug use, hold individuals accountable for their actions, provide opportunities for long-term recovery from addiction, and increase institutional security and public safety. All CDCR inmates and parolees are subject to testing.

### **52010.3 Definitions**

#### **(a) Controlled Substance**

Controlled Substance means any drug, narcotic, opiate, hallucinogen, depressant or stimulant as defined by Health and Safety Code (H&SC), Division 10, Chapter 1, section 11007. Also included are prescribed medications containing any of the substances identified in H&SC, Division 10, Chapter 1, section 11007.

#### **(b) Controlled Medication**

Controlled Medication means any drug which is prescribed by a physician and is given to a patient in controlled dosages.

#### **(c) Distribution and Distributing**

Distribution and Distributing mean the sale or unlawful disbursing, by an inmate or parolee, of any controlled substance, or the solicitation of, or conspiring with others in arranging for, the introduction of controlled substances into any CDCR institution, camp, contract health facility, or community correctional facility for the purpose of sales or distribution.

#### **(d) Laboratory**

Laboratory means any toxicological or criminalistics laboratory which has been recognized by the state, other certifying agency, or which is accepted by any local, county, or state prosecuting authority to provide evidence as to the presence of controlled substances in human bodily fluids or to confirm that a substance is or contains a controlled substance.

### **52010.4 Description of Offenses**

#### **(a) Possession, Distribution of Controlled Substances or Controlled Medications**

Inmates are prohibited from possessing, injecting, ingesting, or otherwise introducing into their body any controlled substance, controlled medication, or intoxicant while incarcerated or under the supervision of CDCR without specific authorization to do so from a licensed CDCR or contract physician or psychiatrist. Inmates are prohibited from distributing, exchanging, soliciting, or arranging for the introduction of controlled substances or controlled medications into any CDCR institution, camp, contract health facility, or community correctional facility. Visitors are prohibited from possessing or being under the influence of any intoxicant or controlled substance while on or within any CDCR institution, camp, contract health facility, or community correctional facility.

#### **(b) Under the Influence of Controlled Substance or Intoxicants**

Inmates are prohibited from being under the influence of alcohol, controlled substances, or other intoxicants not defined as a controlled substance, in any CDCR institution, camp, contract health facility, or community correctional facility.

**52010.5 Testing of Controlled Substances**

The CDCR shall prescribe the products, equipment, and methods for testing suspected controlled substances or alcohol. Field or on-site testing shall be conducted by trained personnel only.

**52010.6 Basis for Field Test**

(a) Field tests may be performed on any suspected controlled substance found on institution property, in the possession or under the control of any inmate, or persons other than inmates who come on any CDCR institution, camp, contract health facility, or community correctional facility. Field tests of urine samples may be performed as a screening process prior to laboratory testing.

(b) A sobriety test shall be conducted when there is reasonable suspicion the inmate may be under the influence of a controlled substance or alcohol.

**52010.7 Field Testing Methods and Systems**

(a) All narcotic field test kits and methods shall be approved by the CDCR.

(b) Approved departmental testing methods are as follows:

(1) Field or On-Site Testing – The testing of confiscated suspected controlled substances.

(2) Urine Testing – The securing of a urine sample from inmates for the purpose of testing for the presence of controlled substances or alcohol that the inmate has ingested, inhaled, or injected into their body.

(3) Sobriety Testing – The testing of physical indicators such as slurred speech, dilated pupils, or impaired mobility which indicate that the inmate is under the influence of a controlled substance or alcohol.

**52010.8 Substances to be Recorded**

Records shall be maintained which document seizures of all controlled substances listed in H&SC, Division 10, Chapter 2, sections 11054, 11055, 11056, 11057, or 11058, and substances confirmed to be controlled medication.

**52010.9 Recording of Confiscated Controlled Substances**

The seizure of any controlled substance or alcohol shall be documented in an evidence logbook to be maintained by each CDCR institution, camp, contract health facility, or community health facility. The documentation shall include the CDCR number and name of each inmate from whom controlled substances are confiscated; the name, title, address, and identification number of any other person(s) from whom controlled substances are confiscated; the type of substance(s) that were confiscated; the amount (by volume or weight) of each substance that was confiscated; the place where the substance(s) is to be stored; the disposition of each substance; and whether or not the substance is being held as evidence for prosecution purposes.

**52010.10 Controlled Medication**

(a) Inmates shall not possess controlled medication in quantities exceeding the dosage specifically authorized by institution or facility health care staff, nor shall an inmate possess controlled medication prescribed to another inmate.

**(b) Identification of Controlled Medication**

The identification of intact controlled medication may be confirmed by a licensed pharmacist and that confirmation may be used as evidence in a disciplinary hearing.

**52010.11 Drug and Alcohol Paraphernalia**

Inmates shall not use or possess any device, contrivance, instrument, or paraphernalia intended to be used for unlawfully injecting or consuming into the human body a controlled substance as identified in H&SC, Division 10, Chapter 1, section 11014 or for the fermentation or distillation of alcohol.

**52010.12 Causes for Urinalysis Testing**

(a) The securing of a urine sample from an inmate, for the purpose of testing for the presence of controlled substances or use of alcohol may be done for the following reasons:

(1) Random Selection – When mandatory random testing is known to the inmate to be a condition for the inmate's participation in a specific program, assignment, or activity.

(2) Suspect – When there is reasonable suspicion to believe the inmate has possessed, distributed, used, or is under the influence of a controlled substance or alcohol.

(3) Mandatory Random Drug Testing (MRDT) – As part of an authorized disposition of a disciplinary hearing pursuant to CCR, Title 15, Division 3, Chapter 1, Subchapter 4, Article 5, subsections 3315(f)(4)(A)-(C).

(4) Mandatory Random Urinalysis Program – The inmate is selected by the Department's mandatory standardized random drug testing selection process, in where a small percentage of inmates are randomly selected at predetermined regular intervals (e.g., daily, weekly) from a data file produced from the Department's Strategic Offender Management System.

**52010.13 Random Selection Method**

Random testing shall be conducted a minimum of four days per week. Random selection shall be made by a computer program which assures the random nature of the selection. Inmates shall be tested each time they are selected, regardless of the inmates' last test. Inmates shall not be subject to additional disciplinary action for a positive test if that positive test is cumulative evidence of a previously charged disciplinary action.

**52010.14 Random Selection Frequencies**

(a) To determine the inmates to be tested on each day of testing, the CDCR numbers of the population subject to testing are entered into the computer program, and the program is adjusted to produce a selection equal to the percentage of the population to be tested on that day, according to the reason for the random selection, as follows:

**(b) Mandatory Random Drug Testing Population**

Inmates subject to MRDT as described in DOM subsection 52010.12(a)(3) are subject to random testing according to the following frequencies:

(1) First Offense – The inmate shall be retested within 90 days.

(2) Second and Subsequent Offenses – The inmate shall be placed in the MRDT program and must provide one random drug test every 90 days for one year. With each subsequent positive test and guilty finding, the Senior Hearing Officer shall reset the mandatory testing period.

**52010.15 Mandatory Random Drug Testing**

(a) Inmates found guilty of a rule violation related to the use, possession, sale, distribution, or introduction of controlled substances, drugs, or drug paraphernalia, or refusal to submit to a test for controlled substances, shall be placed on the institution's MRDT list.

(b) The institution Drug Testing Coordinator (DTC) shall establish and maintain the MRDT list and schedule.

(c) Inmates placed on MRDT shall be subject to MRDT in accordance with CCR, Title 15, Division 3, Chapter 1, Subchapter 4, Article 5, subsections 3315(f)(4)(A)-(C).

(d) The hearing official shall document the testing requirements on a CDCR Form 1879, Notice of Mandatory Random Drug Testing Requirements. The original document shall be scanned into the inmate's Electronic Records Management Systems file and a copy maintained by the DTC. If the inmate transfers prior to completion of the MRDT period, the receiving institution shall impose the remaining MRDT period upon classification review.

**52010.16 Drug Testing Coordinator**

(a) Each institution shall designate a DTC at the rank of sergeant or above. The DTC is responsible for:

(1) Monitoring the procedural operation of this section.

(2) Ensuring inmates found guilty in a disciplinary hearing of a drug-related offense are placed on the institutional MRDT list.

(3) Ensuring inmates placed on the MRDT list are tested CCR, Title 15, Division 3, Chapter 1, Subchapter 4, Article 5, subsections 3315(f)(4)(A)-(C).

(4) Approving and reviewing the accuracy of the MRDT list prior to testing.

(5) Reviewing all drug testing logs for accuracy and completeness.

(6) Ensuring all staff involved in the drug testing process are properly trained.

(7) Ensuring that the institution maintains a sufficient stock of sample bottles, lids, and labels.

**52010.17 Staff Requirements for Urine Sample Collection**

(a) Only staff properly trained and certified in the collection and processing of urinalysis samples shall be involved with the urine testing process.

(b) Staff observing the collection of the urine sample shall be of the same gender as the inmate being tested.

**52010.18 Urine Sample Collection Procedures**

(a) The securing of a urine sample from an inmate for the purpose of testing for the presence of controlled substances or for the use of alcohol shall be conducted in accordance with CCR, Title 15, Division 3, Chapter 1, Subchapter 4, Article 2, subsection 3290(c).

(b) When collecting the urine sample, staff shall ensure that reasonable security is maintained, consideration is given to the privacy of the inmate, and the test is conducted in a sanitary manner.

(c) All urine collection shall be conducted in an area designated by the Warden.

**(d) Pre-Collection Duties**

(1) The following functions shall be completed prior to the collection of the urine sample(s):

(A) Prior to the test, staff shall conduct a thorough search of the area used to obtain the urine sample before the inmate enters the area. All potential contaminants shall be removed prior to the collection of the urine sample.

(B) Establish positive identification of the inmate by picture identification card.

(C) Ensure the inmate providing the sample removes any unnecessary garments or personal property and leaves these items outside the collection area.

(D) The staff member collecting the urine sample shall inform the inmate of the reason(s) for requesting the urine sample. The inmate shall also be informed a refusal to provide a urine sample shall result in disciplinary action.

(E) An inmate claiming the urine test may be affected by a prescription medication shall be offered a CDCR Form 7385, Authorization for Release of Protected Health Information, in order for staff to obtain a copy of their Medication Administration Record (MAR) for later review. The inmate shall still be required to provide a urine sample.

**(e) Collection of Urine Sample**

(1) Staff shall adhere to the following process during the collection of urine sample:

(A) The sample collection shall be conducted in a sanitary setting, using universal precautions.

(B) The staff member shall wear disposable gloves during the urine sample collection process.

(C) The inmate shall be provided disposable gloves during the urine collection process and have access to clean running water after the urine sample collection is complete.

(D) Utilize only sample bottles, lids, and labels provided by the current contract laboratory.

(E) Clearly observe the flow of urine into the sample bottle.

(F) Ensure the inmate(s) provide at least 20 cc of urine (two-thirds of the sample bottle) in order to adequately accomplish the required laboratory test.

(G) After filling the sample bottle, the inmate will be instructed to secure the bottle, rinse the outside of the bottle with cold tap water, and then hand the secured sample bottle to the collecting staff member.

(H) The staff member shall place the completed label on the sample bottle.

(I) Place a security seal on the sample bottle.

(J) The urine sample shall be processed in accordance with institutional procedures, which maintain the approved chain of evidence of the sample. Staff shall adhere to the contracted laboratory procedures when collecting, packaging, and storing urine samples.

(K) Reasonable accommodation shall be afforded to inmates with disabilities to facilitate their full participation in drug and alcohol testing as provided in these rules.

(L) Gloves used during the urine collection process shall be disposed of according to institutional procedures.

**52010.19 Urine Sample Test Records**

Records of all urinalysis results shall be maintained in the institution's urinalysis logbook. The MRDT list shall be considered confidential and released to staff on an as needed basis only. Test results shall be logged, maintained, and processed by designated staff.

**52010.20 Refusal to Produce a Urine Sample**

Inmates shall not refuse to provide an adequate urine sample for the purpose of testing for the presence of controlled substance(s) when lawfully ordered to do so. If the inmate is unable to provide a urine sample, the inmate shall be offered eight ounces of water to assist in providing a urine sample. The inmate shall also be allowed up to three hours, under staff observation, to provide a urine sample. Inmates who refuse or are unable to provide a urine sample shall be subject to disciplinary action in accordance with CCR, Title 15, Division 3, Chapter 1, Subchapter 4, Article 5, subsection 3323(h)(5). If an inmate is unable to provide 20 cc of urine, within this time period, this shall be presumed a refusal. An inmate may rebut this presumption during the disciplinary process.

**52010.21 Types of Urinalysis Requests**

(a) Staff shall request a Basic Drug Panel analysis of the urine sample unless the inmate's behavior provides reasonable suspicion of other substance use. The Basic Drug Panel will detect the presence of the following substances:

(b) Basic Drug Panel:

- (1) Alcohol.
- (2) Barbiturates (short and long acting).
- (3) Amphetamines.
- (4) Cannabinoids.
- (5) Cocaine.
- (6) Codeine.
- (7) Methamphetamines.

(8) Opiates Morphine (Heroin).

(9) Phencyclidine (PCP).

(10) Tetrahydrocannabinol (THC).

(c) Additional urinalysis may be specifically requested to detect the use of the following substances:

(1) Synthetic Tetrahydrocannabinol (Spice).

(2) Fentanyl.

(3) Ethyl Glucuronide (EtG).

(d) The Basic Drug Panel analysis will be conducted on each sample submitted to the laboratory.

**52010.22 Urine Sample Storage and Transfer**

(a) To ensure that the integrity of the sample is not compromised, the approved chain of evidence must be maintained during processing and storage of the samples.

(b) Each institution and facility must maintain a lock box for the storage of test samples. Only designated staff shall have access to the urinalysis lock box keys.

(c) Upon completion of the test, the staff member conducting the test shall secure the sample in the urinalysis lock box.

(d) A urinalysis logbook shall be maintained at each institution, which shall include the inmate's name, CDCR number, date of test and chain of custody of the sample.

(e) Only designated staff shall remove the samples from the urinalysis lock box and forward the samples to the laboratory for analysis. The date the sample was removed, the name of the staff member who removed the sample, and the date the sample was sent to the laboratory shall be entered into the institution's urinalysis logbook.

(f) Staff must ensure the samples are processed in accordance with the contracted laboratory.

**52010.23 Processing and Documentation of Tests Results**

(a) The date that any positive test results are received by the institution or facility shall represent the date of discovery for disciplinary action.

(b) Upon receipt of the laboratory test results, the results shall be logged in the institution's urinalysis logbook.

(c) The DTC shall notify and forward a copy of the laboratory results to the program office where the inmate is currently housed.

(d) The officer who collected the urine sample shall document the results of the positive test on a Rules Violation Report charging the inmate with a violation of CCR, Title 15, Division 3, Chapter 1, Subchapter 2, Article 2, section 3016, Controlled Substance, Drug Paraphernalia and Distribution.

**(e) Medical Review Process**

(1) Inmates who test positive during the Mandatory Random Urinalysis Program and contend the positive urinalysis test result may have been caused by their prescribed medication(s), may submit a CDCR Form 7385 to pharmacy staff in order to obtain a copy of their MAR at any time. Pharmacy staff shall provide a copy of the MAR to the DTC. The DTC shall contact the contracted laboratory or consult the contracted laboratory's written guidance to verify whether prescription medications were the cause for the positive test result(s). If it is determined by the contracted laboratory that the positive urinalysis result(s) are consistent with the inmate's prescribed medication(s) no disciplinary action shall be taken and the result shall not be used for any purpose.

(2) If it is determined by the contracted laboratory that the positive urinalysis result(s) are inconsistent with the inmate's prescribed medication(s), the inmate shall be subject to the appropriate disciplinary action.

**52010.24 Obtaining a Court Order for Destruction**

(a) Upon completion of the CDCR Form 1754, the following documents shall be submitted to the court of jurisdiction to obtain a court order for destruction:

(b) A declaration that includes the following statements:

(1) "I am a peace officer at (facility or parole unit)."

(2) "The cases are closed."

(3) "It is necessary that the items be destroyed."

(c) The actual completed court order to be signed by the judge.

(d) The evidence custodian shall retain a copy of the court order.

**52010.25 Destruction of Controlled Substances**

(a) The evidence custodian shall coordinate with a representative from the local police, sheriff's department, or State Department of Justice to participate in a scheduled destruction of controlled substances.

(b) The designated staff member or evidence custodian of the facility investigative unit shall verify the controlled substances to be destroyed and

sign the CDCR Form 1754, Controlled Substances for Destruction, prior to delivery to the destruction site.

(c) All controlled substances scheduled for destruction shall be submitted in sealed containers. Each box or bag shall contain not more than 15 separate pieces of evidence to facilitate random checks by the local enforcement agency coordinator assigned to the destruction site.

(d) One investigative unit supervisor and the evidence custodian shall transport the substances scheduled for destruction to the actual destruction site and witness the destruction.

(e) The officers shall sign the evidence log indicating the date, place, and method of destruction.

(f) The evidence custodian shall retain a copy of the court order and the CDCR Form 1754.

(g) Providing additional security required when transporting large quantities of controlled substances for destruction is the responsibility of the investigative unit supervisor submitting the controlled substances for destruction.

#### **52010.26 Controlled Substance Destruction Schedule**

(a) Destruction of controlled substances shall be on a semiannual basis.

(b) During the months of January and July, the designated staff member or designee shall prepare a CDCR Form 1754.

(c) Initiation of the procedure should be made well in advance of anticipated destruction date due to the lengthy process necessary to secure the appropriate court order.

(d) All controlled substances seized during the previous six-month period that are not being held as evidence for a criminal trial or a disciplinary hearing shall be listed on the CDCR Form 1754.

#### **52010.27 Revisions**

The Division of Adult Institutions Director or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **References**

CCR (15) (3) §§ 3000, 3016, 3290, 3315, 3323, and 3410.

H&SC §§ 11007, 11014, 11054, 11055, 11056, 11057, 11058, 11473, 11473.5, and 11474.

#### **Revision History**

Revised: January 5, 2016

Revised: February 22, 2021

### **ARTICLE 16 — INMATE COUNT AND MOVEMENT**

*Revised August 12, 2013*

#### **52020.1 Policy**

The CCR 3274 permits the institution head to develop a system to physically count inmates under his/her jurisdiction and to accurately account for those inmates at all times.

#### **52020.2 Purpose**

The purpose of a count is to facilitate inmate control, accountability, and to expedite inmate movement throughout the institution/facility in accordance with the established count schedule as set forth in DOM 52020.4.1.

#### **52020.3 Responsibility**

The Correctional Captain/Facility Captain is responsible for ensuring that a detailed institution/facility count is accurately conducted at the designated times.

The Correctional Captain/Facility Captain shall establish a system that regulates staff/inmate movement throughout the institution/facility.

All employees shall ensure that inmates are not involved in gathering count information nor allowed access to count records.

#### **52020.4 Count Criteria and Number of Counts**

A physical count of all inmates shall be performed a minimum of four times each calendar day, unless otherwise authorized in writing by the Director. All inmate movement/activity shall cease when count has been initiated by Central Control. Exception: Emergency medical transports to outside facilities shall not be delayed for the purpose of the count. The staff member escorting the inmate shall confirm with control the inmate's name, CDC number, and housing.

The Strategic Offender Management System (SOMS) automated count process shall be used to:

- Submit tentative out count rosters to Central Control.
- Submit actual positive count totals to Central Control.

- Submit actual negative count totals to Central Control.
- Compile, record, reconcile, clear, and document all Institution counts.
- Print Shift Count Packages for the Central Control Sergeant's and the Watch Commander's signatures.

Individual count totals conveyed to Central Control shall correspond with Central Control's Master Count Record.

#### **52020.4.1 Frequency of Counts**

The frequency of institution/facility counts shall be determined by the Standard Count Schedule. All institutions/facilities shall make every effort to adhere to the Standard Count Schedule. This is based on the security needs of the individual institutions/facilities and custody designations of assigned inmates. Staff shall ensure that inmate activities are not scheduled to conflict with institution/facility counts.

##### **Standard Count Schedule**

<b><u>Mandated Times</u></b>	<b><u>Type of Count</u></b>
0030/0100	Positive Count.
0230/0300	Negative Count.
0430/0500	Positive Count.
1100/1200*	Close A Custody Count, Minimum Support Facility and Community Work Crew Count.
1600/1700	Positive Count.
2100/2300	Positive Count.

\*This count does not include all inmates housed at the institution/facility; therefore, it is not inclusive of the four required counts.

#### **52020.4.2 Method of Count**

The count shall be performed by the physical observation of each inmate at his/her assigned housing unit or out counting of inmates at his/her specified work/activity location. Supervisors shall track inmates absent from their assignments. After the count is completed, it shall be entered in the Watch Commander's Daily Activity Log.

#### **52020.4.3 Camps' Count Policy**

There shall be at least four formal camp counts of all inmates in each 24-hour period.

Inmates shall be counted upon mounting and dismounting vehicles, and going to and returning from any place outside the camp or facility. Agency crew foremen shall make counts of inmates in their custody at frequent intervals, and shall count the inmates before leaving camp and upon returning to camp. Counts are required at least once during the morning, lunch time, between lunch, and the end of the work day, departure from the work area, and at other times recommended by the Camp Commander.

Emergency counts may be necessary at any time to determine if there has been an escape or to identify an escapee(s).

#### **52020.5 Positive Count**

A positive count is the actual number of inmates that each respective staff member has counted and reported to Central Control. (**Note:** A positive/physical count means to count a living, breathing person and physically see that person.)

The positive count shall be submitted to Central Control using the SOMS automated count process and is automatically populated with the date, time, and the name of the staff member who is logged into the SOMS application. The count total and name of the person who actually conducted the positive count must be entered at the time of submission.

As directed by Central Control for the purpose of verifying unit positive counts, a vacant bed count may be requested.

If Central Control receives an incorrect positive count, a vacant bed count may be requested from the counting employee.

Upon direction from Central Control to perform a vacant bed count, the officer performing the count shall start with the lowest numbered cell/bed in numerical order, writing down the numbers of each unoccupied bed. Upon completion, the officer shall utilize this list and provide the vacant bed count to Central Control via telephone. Central Control shall substantiate this information, ensure all inaccuracies are corrected, and direct the officer to submit a revised Positive Count into SOMS utilizing the IPTS085D – Re-Enter for Housing Area count screen.

#### **52020.5.1 Standing Count**

During the 1600/1700 count, inmates housed in cells shall stand upright at their cell door and shall remain standing until counted by the officer conducting the count.

- Inmates housed in dormitories equipped with double tier bunks shall remain seated on their assigned bunk until the count is completed by the officer.
- In dormitories equipped with triple tier bed/bunks, the inmate assigned to the top tier bunk shall be seated on the top bunk, and the inmates assigned to the bottom and middle tier bunks shall be seated on the fold out stools until the count is completed by the officer.

Disabled inmates shall be reasonably accommodated, dependent on their disability.

#### **52020.5.2 Negative Count**

The Negative Count is the actual accounting of all vacant (unoccupied) beds at a given time whether these beds are assigned or not.

Due to double/triple bunking of inmates, it is necessary to ensure that inmates do not interchange their assigned beds. Each institution/facility shall perform a Negative Count at least once each day.

A Negative Count is the recording of all unoccupied beds in a housing unit. These bed numbers shall be submitted via the SOMS automated process utilizing the IPTS015C – Negative Count Worksheet.

#### **52020.5.3 Out Count**

To maintain continuity of operations, some inmates may not always be counted in their assigned housing units. These inmates shall be “out counted” by their supervisors and shall remain under direct supervision until the count is cleared.

The SOMS automated count process shall be used to submit tentative out count rosters to Central Control.

When SOMS is not available or the institution’s/facility’s electrical power fails staff shall manually prepare tentative out count rosters and submit the rosters to Central Control.

The tentative out count roster that is submitted to Central Control shall include cell/bed number, inmate’s name and CDC number, and the area where the inmate(s) will be out counted. Staff out counting inmates shall submit their tentative out count roster in SOMS using the automated out count process.

#### **52020.5.4 Close Custody Count**

SOMS identifies all inmates designated as Close A custody, and compiles them into the Close Custody Count. The Close Custody Count shall be submitted to Central Control using the SOMS automated count process. Close custody counts shall be conducted utilizing a positive picture identification card to count all inmates classified as Close A custody. When inmates present themselves, staff shall ensure that inmates resemble their picture identification card. In accordance with CCR 3017, all inmates classified as Close A Custody are responsible for reporting to the established location(s) designated by each individual institution/facility.

- Close A Custody inmates shall be counted while they are on work assignments, on recreation time, in housing units, or involved in any other activity. Close A Custody counts shall be scheduled in conformity with DOM 52020.4.1.
- The Watch Commander shall be notified and a search shall be initiated when the Close A Custody Count is not cleared 15 minutes after the count has been announced. If the unaccounted for Close A Custody inmate(s) is not located within 15 minutes of initiation of the search, an emergency recall of all inmates may be instituted by the Watch Commander.

#### **52020.5.5 Informal Count**

An informal count is a physical count and positive identification of inmates who are present at their program/work assignments. Informal counts shall be conducted by all employees supervising inmates.

These informal counts shall be completed on an hourly basis. Any discrepancies shall be reported immediately. Informal counts shall be conducted to ensure inmates are present in their assigned areas, such as housing units, work centers, minimum support facilities, and community work crews.

#### **52020.5.6 Emergency Count**

*Revised January 24, 2020*

During business hours, emergency counts shall be approved at a level not less than the Custody Captain, or in the absence of the Custody Captain, the Watch Commander. During non-business hours, emergency counts shall be approved by the Watch Commander or highest ranking officer on duty.

An emergency count shall be conducted to establish whether an escape has occurred, or in the event of an obvious escape (inmate seen climbing security

fence, dummy in cell, etc.), to determine the exact identity of the inmate(s) involved. During an emergency count, all inmates shall be returned to their assigned cells/beds, except in the event of a medical or mental health emergency. Any exceptions during business hours shall be approved by the Custody Captain or during non-business hours, by the Watch Commander or the highest ranking officer on duty.

#### **52020.5.7 Picture Count**

When a positive or negative count or recount does not clear, and the identity of the out-of-place or missing inmate(s) cannot be determined, a picture identification of all inmates shall be performed. Since an accurate comparison of each inmate against their inmate identification picture card is a prerequisite for the picture count, an up-to-date picture of all inmates shall be maintained on an inmate picture file. Inmate picture files shall be maintained in Central Control.

Central Control is responsible for ensuring continued maintenance and absolute accuracy of the inmate picture files that are maintained in Central Control. The inmate picture files shall be maintained in a secured location within Central Control as described in Section 52020.6.4.

- During a picture count, a comparison of each inmate against his/her CDC identification card shall be conducted. If an inmate(s) cannot present his/her CDC identification card, the IPTR176 – Inmate by Housing Area report with “Include Inmate Photo” selected that is generated by SOMS can be used for a positive visual identification. In the event that a photo is not available in SOMS, the photo on the Central Control’s inmate picture file shall be taken to the housing area and used for a positive visual identification. During a picture count, all inmates’ identities and cell/bed numbers shall be compared to the IPTR176 – Inmate by Housing Area report, with “Include Inmate Photo” selected, that is generated by SOMS.

#### **52020.5.8 Limited Visibility Count**

When visibility is severely restricted (due to inclement weather conditions) a recall of all inmates shall be initiated and a limited visibility count shall be completed.

During limited visibility count, inmate workers who are on the critical workers list may be out counted. The critical workers list shall be developed by the Facility Captains and reviewed and approved by a designated Associate Warden.

#### **Operations**

The Watch Commander shall initiate limited visibility operations whenever severely reduced visibility conditions exist, which afford inmates an increased opportunity to escape. Limited visibility operations shall be initiated when the outer perimeter tower posts are unable to see one another clearly and distinctly and shall consist of:

- Initiating and clearing a limited visibility count.
- All inmate movement shall be cleared by the Watch Commander or higher and shall be under direct supervision.
- Continuing indoor programs within the facility.
- Terminating yard exercise and outdoor programs within the security perimeter.
- Posting foot patrols inside the security perimeter with designated safety equipment.
- Posting armed foot/vehicle patrols outside the security perimeter (not authorized at institutions with a lethal electrified fence unless the lethal electrified fence becomes nonoperational).
- On duty staff shall be utilized for posting inside and outside security perimeter patrols.

Institutions with a lethal electrified fence may conduct indoor programs (e.g., academic and vocational programs, industries and maintenance) within the security perimeter.

Institutions without a lethal electrified fence shall conduct programs (e.g., academic and vocational programs, industries and maintenance) in accordance with their limited visibility plans and security requirements.

In the event the lethal electrified fence becomes nonoperational during times of limited visibility, institutions are advised to revert to their operational procedures, which were utilized prior to the installation and/or activation of the lethal electrified fence.

#### **Removal of Limited Visibility Operations**

The Watch Commander shall promptly resume normal institution/facility operations when outer perimeter posts can see one another clearly and distinctly, or when a designated landmark can be seen clearly and distinctly by a designated post.

#### **52020.6 Count Notification**

The institution/facility count cannot be cleared until Central Control reconciles the Master Count Sheet.

Inmate movement may resume when the Central Control announces, via the institution/facility public address system or other available means, the institution/facility count is clear.

#### **52020.6.1 Paper Count Slips in place of the SOMS Automated Process**

The SOMS automated count process produces electronic count slips that include:

- Date and time of the count.
- Name of the person who is logged into SOMS and submitting the count.
- Count area.
- The reporting employee entered count total.
- The reporting employee entered name of the staff member who conducted the count

This automated process shall be used to submit actual positive and negative count totals to Central Control. These electronic count slips are permanently electronically attached to the completed Count Package.

When SOMS is unavailable or the institution's/facilities electrical power fails, Central Control staff shall conduct count by using a manual process. Facility staff shall prepare paper count slips, and or negative count slips, and submit slips to Central Control.

The count slips used for institution/facility positive counts shall be designed by each institution/facility Central Control to match the standardized SOMS count slip for the individual institution/facility design and be approved by the Correctional Captain. Count slips shall be prepared in blue or black ink and shall include:

- Current date.
- Time count commenced.
- Actual number of inmates counted.
- Housing unit.
- The printed name and signature of the employee who conducted each count.

The negative count slip is a recording of the total number of unoccupied cells/beds counted. In a unit/dorm utilizing double bunks, the following shall be denoted on the count slip, Upper (U) and Lower (L) or Right (R) and Left (L). When housing units utilize triple bunks, the following shall be denoted, Upper (U), Middle (M), and Lower (L). The negative count slip shall be submitted to Central Control and include the following:

- Date and time.
- Negative bed numbers and bed totals.
- Printed name and signature of the staff member conducting the negative count and the responsible Sergeant.

The positive count slips, out count slips, negative count slips, if applicable and adding machine tape shall be secured to the Master Count Sheet as one document and archived for one year unless they reflect evidence of an escape.

If a count slip reflects any kind of alterations, the Central Control shall request the submission of a new count slip.

#### **52020.6.2 Central Control**

Central Control shall monitor, reconcile and clear all official institution counts using the SOMS automated count process. They shall maintain a current, accurate record of all inmates to reflect all inmate movement. Once Central Control opens a Shift Count all area counts that are submitted to Central Control shall match the tentative count compiled by SOMS and reflected on the Shift Count.

When SOMS is not available or the institution's/facility's electrical power fails, Central Control shall manually prepare a Master Count Sheet.

- On all watches, Central Control shall log times that official counts are received on a manually prepared Master Count Sheet. They shall maintain a current, accurate record of all inmates to reflect all inmate movement. Once a tentative count (out counts included) is set up, all areas shall match with the Central Control's Master Count.

#### **Central Control Security**

Central Control shall be staffed on a 24-hour basis. To prevent unauthorized access, the outer sallyport door shall be mechanically operated from inside Central Control. Once the identity of the person(s) being admitted has been determined and the outer sallyport door is secured, the inner door can be opened manually to allow authorized staff access into Central Control.

#### **Additional Duties/Responsibilities**

Central Control duties/responsibilities may also include: monitoring fire and security personal alarm systems; operating electrically controlled doors/gates;

monitoring various perimeter mechanical or electrical alarm systems; operating telephone equipment; and storage/issuance of institution/facility keys, radio communication systems, batons, riot helmets, transparent polycaptor riot shields, chemical agents, weapons, and ammunition.

Central Control, on all watches, shall ensure that all information entered into SOMS is accurate by printing a Daily Movement Recap (DMR) report (produced in SOMS) the conclusion of their watch.

#### **Central Control/Subarmory**

Emergency weapons, ammunition, and chemical agents assigned to Central Control for storage/issuance purposes must be stored in a secured location in accordance with DOM 55050. If armed tower coverage is not provided, the Central Control staff shall be armed. All weaponry shall be inventoried in accordance with DOM 55050.

#### **Telephone Off Hook Alarm System**

The main telephone Off Hook Alarm System (OHAS) is normally located in Central Control. However, institutions/facilities may designate another area to install OHAS. When OHAS is activated, responsible staff shall notify the custody complex and the appropriate supervisory staff. Responsible staff shall maintain an OHAS Log to record all enunciated alarms (when this system is not automated), indicating the following information:

- Date and time of the alarm.
- Location of the alarm.

Each Correctional Captain is responsible for ensuring that a plan exists for appropriate staff response to the area wherever OHAS alarms originate. The plan shall include first and secondary response.

**Note:** Prior to canceling an OHAS alarm response, a staff member shall account for the staff/inmates assigned to the affected area.

#### **Telephone Security Check Calls**

For the purpose of verifying employee alertness and accountability, each Correctional Captain is responsible for designating areas that shall be required to make telephone security check calls each half-hour, commencing at 1930 hours and terminating at 0500 hours. Security Housing Units and Administrative Segregation Units may commence check calls earlier than 1930 hours depending on program needs.

Each institution/facility shall establish a central location that shall receive security check calls and maintain a log to record employees/areas that are designated to make security check calls. The watch office or Watch Commander shall be notified when an employee/area fails to make a security check call.

#### **52020.6.3 Running Count**

Central Control, on each watch, shall maintain a running count. The running count shall be manually updated during the shift any time there is a movement in a reportable count area that affects the institution/facility count. The running count shall be verified by cross-checking with the inmate picture file, and the DMR report.

The running count shall continue to be manually maintained, and shall also be used as a manual method of tracking the affect of inmate movement on the institution count as the movement occurs, during the period when SOMS is unavailable or the institution's/facility's electrical power fails.

#### **52020.6.4 Inmate Picture File**

Central Control shall maintain an inmate picture file that contains a picture of each inmate and is systematically sorted by the inmate's assigned housing. Central Control shall maintain absolute accuracy of the inmate picture file.

**Note:** When an inmate requires emergency transport out of the institution/facility (i.e., ambulance) and the inmate's CDC identification card cannot be located, the inmate's picture file maintained in Central Control, or the picture in SOMS may be used to positively identify the inmate and process the inmate out of the institution. Upon completion of the emergency transfer or when the inmate is returned to the institution/facility, Central Control staff shall ensure the inmate's picture file is properly returned/replaced by Receiving and Release.

The picture file shall continue to be manually maintained, and shall also be used as a manual method of tracking the affect of inmate movement on the Facility/Housing Unit counts as the movement occurs, during the period when SOMS is unavailable or the institution's/facility's electrical power fails.

#### **52020.6.5 Inmate Housing Assignment Changes**

The SOMS automated Bed Request Batch assignment process shall be used for:

- Submittal of bed assignment requests by the Housing Unit Correctional Officer or higher classification.
- Housing Unit Correctional Lieutenant/Sergeant or higher classification review and recommendation or denial of the bed assignment requests.

- Central Control Sergeant review and approval or denial of the recommended bed assignment requests.
- Monitoring of the approved or denied bed requests and the entering of the completed bed moves by the Housing Unit Correctional Officer or higher classification.

A permanent record of Bed Request Batches is maintained in SOMS for archival purposes.

When SOMS is unavailable or the institution's/facility's electrical power fails all Inmate housing assignment changes shall be accomplished by staff completing a GA Form 154, Inmate Transfer Form, upon approval of Central Control.

Without exception, Central Control shall not accept a GA Form 154 or SOMS Bed Request Batch that has not been signed/approved by the Facility Lieutenant/Sergeant or a higher classification.

The facility Correctional Lieutenant/Sergeant shall check for accuracy of the information prior to signing the manual GA Form 154 or approving the automated SOMS Bed Request Batch.

In the event that a manual GA Form 154 has to be completed, Central Control shall retain the original GA Form 154. The remaining three copies are distributed as follows and retained until entries appear on DMR:

- The duplicate copy shall be retained by the officer assigned to the housing unit from which the inmate(s) was housed.
- The triplicate copy and inmate's picture(s), if applicable, shall be retained by the housing officer assigned to the housing unit to where the inmate(s) will be housed.
- The quadruplicate copy shall be retained by the appropriate facility/program office.

#### **52020.6.6 Inmate Daily Movement Sheet**

The DMS is a combination of existing DDPS reports on work assignments, or custody classification changes, and the SOMS generated IPTR151 – DMR report that includes all arrivals, departures, temporary releases, out-to-courts, and family visits during the previous 24-hour period.

To allow for workload impact on assignment operations, DMS shall have an "effective date" listed to reflect the actual date the action is authorized.

For example:

- The inmate DMS is issued on 12-1-97, however, some of the actions are effective on 11-28-97, or will be effective on 12-3-97.
- The date shown in the "effective date" column is the official date of that specific action.
- The inmate DMS shall be completed prior to the conclusion of the first watch. The First Watch Commander shall check the accuracy of information on the DMS, authorize it to be published with their signature, and have sufficient copies distributed to meet the needs and requirements of each institution/facility.

#### **52020.6.7 Housing Roster Report**

The SOMS report menu can be used to generate a Housing Roster Report in various formats (i.e., IPTR122 – Housing Area Roster, IPTR176 – Inmates by Housing Area).

#### **52020.7 General Movement**

The following subsections provide for the assignment of responsibility to staff, and for the orderly release and return of inmates to/from their housing units or activities. This shall include the use of schedules and master pass lists. If applicable, these procedures shall provide for inmate movement outside normal traffic patterns, during daylight and night-time hours, limited visibility, or lockdown conditions.

All scheduled work/training program releases shall be announced to the general population. Inmate movement to and from assignments shall be supervised along established routes.

##### **Personnel Movement Daylight**

Normal staff movement during daylight hours, unless visibility is severely restricted do to inclement weather, does not need to be communicated post to post. Staff movement to any area, such as rooftops, tunnels, Security Housing Unit perimeter, and security fences shall be cleared by the Watch Commander.

##### **Personnel Movement Night**

Normal staff movement during first watch hours shall be communicated from post to post via the telephone, intercom, or two-way radio system in all areas where movement occurs. The methods of communication shall be designated by each individual institution/facility.

For the purposes of institutional safety and security, as well as staff accountability, off duty staff, vendors, and individuals not recognized

attempting to enter the secured perimeter shall not be allowed to proceed until approval is obtained from the Watch Commander.

#### **52020.8 Inmate Movement Policy**

All uniformed and non-uniformed staff shall account for and ensure that all inmate releases, movement to activities, and return of inmates to the housing units, are approved and regulated by central control under the direction of the Watch Commander.

##### **52020.8.1 Work/Training Call**

All scheduled work/training releases established by the institution/facility shall be announced to the general population. Each institution/facility shall establish specific/designated controlled routes for all inmate movement during daylight and darkness hours.

##### **Absent Inmates**

The supervising employee receiving inmates into his/her area shall attempt to locate any inmates absent from work, academic, or vocational assignments.

If the inmate is not located within one-half hour, the supervising employee shall report the absence to the Facility/Program Sergeant and Central Control.

Prior to reporting an inmate absent from the work/training assignment, staff shall ensure that the inmate is not listed on the DMR as reassigned, and/or listed on the Master Pass list to report to a scheduled appointment.

##### **Inmate Accountability**

Work/training supervisors shall notify the custodial post that governs inmate gate passes, the exact number of inmates received within their areas of responsibility, and the names of the inmates who failed to report.

Work/training supervisors and designated custodial posts that govern inmate gate passes shall attempt to locate any inmate reported absent from their assignments. If the inmate(s) is not located within 30 minutes, the inmate's absence shall be reported to Central Control and the Watch Commander shall be notified.

##### **52020.8.2 Gate Passes**

The Inmate Assignment Lieutenant is authorized to issue three different types of gate passes. The gate pass shall identify those inmates, authorized by the classification committees, to work:

- Inside the perimeter fence, which requires inmates to pass through a work change area.
- Outside the perimeter fence of the institution/facility.
- Off institution/facility property.

When the inmate's custody is reduced/increased, the Inmate Assignment Lieutenant shall recall the existing gate pass and issue a new gate pass.

##### **Gate Pass Security**

Gate passes shall be secured in a metal box with a locking device. The gate pass box shall be divided into "in" and "out" sections. The gate passes shall be moved to the appropriate in or out sections of the box and shall immediately be moved when an inmate enters or exits the gate that controls gate passes. The gate officer shall keep the box locked, and shall not allow inmates to have access at any time.

##### **Work Change Gate Pass**

Work change gate passes shall be printed on "White" paper and shall contain the following information:

- Labeled with the work change gate's name or number.
- Assigned a sequential number.
- Inmate's photo, name, and CDC number.
- Inmate's assigned housing (pencil).
- Inmates custody, work/academic assignment, and activity restriction.
- Effective date, Regular Days Off, and scheduled hours of work.
- Signature of Inmate Assignment Lieutenant.

##### **Outside Perimeter Fence Gate Pass**

Outside institution/facility perimeter fence gate passes shall be printed on "Blue" paper, laminated, and in addition to the information required for the work change passes contain the following:

- Signature of Correctional Captain.
- Embossed.

##### **Off Institution/Facility Property Gate Pass**

Off institution/facility property gate passes shall be printed on "Green" paper, laminated, and contain the same information that is required for outside perimeter fence gate passes.

##### **52020.8.3 Gate Pass Embossing Stamp**

The Correctional Captain/Facility Captain shall obtain and maintain sole custody of an embossing stamp of unique design at all times. To authenticate

gate passes, the Correctional Captain's/Facility Captain's signature and embossing stamp shall be affixed to all gate passes, except work change gate passes.

#### **52020.8.4 Emergency Rescinding of Gate Passes**

The Watch Commander, Facility Lieutenant, Inmate Assignment Lieutenant, or higher authority shall rescind a gate pass when the inmate demonstrates and/or disrupts an operation, or evidence indicates an inmate may attempt to escape.

The rescinding of a gate pass shall be appropriately documented (CDC Form 115, Report of Rules Violation, CDC Form 128B, Chrono-General, memorandum, etc.).

- Gate passes shall be rescinded upon receipt of a felony arrest hold or detainer, or when an inmate is pending adverse classification committee review.

#### **52020.8.5 Master Pass List**

Scheduled individual inmate movement shall be arranged by submitting a request to the Inmate Assignment Lieutenant's office one day preceding the effective day by the institutional established time.

A Master Pass List shall be prepared, audited, signed, and published from these requests by the Inmate Assignment Lieutenant.

#### **52020.8.6 CDC Form 129, Inmate Pass**

Staff shall ensure that all inmates listed on the master pass list receive a CDC Form 129, Inmate Pass. This pass shall be issued to individual inmates to authorize movement to specified locations at designated times.

Each institution/facility shall develop precautionary procedures to ensure blank CDC Form 129s are secured in areas not accessible to inmates.

#### **Issuance to Inmates**

CDC Form 129s shall be issued to inmates by housing unit staff by 2200 hours the day prior to the effective date on the pass. The CDC Form 129 shall contain the following information:

- Inmate's name and CDC number.
- Inmate's assigned housing.
- Date scheduled.
- Time scheduled.
- The destination.
- The arrival and departure time.
- The reason for the pass.

All non-priority pass forms shall be printed on plain white paper.

When unscheduled inmate movement is necessary, staff shall issue inmates a CDC Form 129 prior to allowing inmates to proceed without staff escort (i.e., medical/dental, authorized attorney visit, disciplinary hearing, or to complete Receiving & Release necessities, etc.). Staff shall call to inform other staff if an inmate(s) is expected to arrive at their location.

#### **Scheduling Priority Appointments**

Except for emergencies, medical services, and casework needs (priority ducats) passes shall not be scheduled during work/program hours. Pass scheduling shall comply with the work incentive law.

- When it is necessary to make casework contacts during an inmate's work hours, a "Priority Ducat Request" shall be initiated including only those inmates who will be on scheduled work assignments. This shall be done separately from nonpriority request.
- The priority request shall require either the approval of the chairperson of a properly constituted classification committee, or the approval of the originator's immediate supervisor. All priority passes shall be distinguished in accordance with DOM 53130.8.2, Priority Ducat System.

#### **52020.8.7 Movement During Nonworking Hours**

Inmates may participate in leisure activities during nonworking hours. Participation is based upon the inmate's privilege group. Movement to inmate activities shall be coordinated by the Watch Commander. Nonworking hour's activities include, but are not limited to, the following:

- Self-help groups.
- Recreational functions.
- Library.
- Canteen.
- Hobby programs.
- Entertainment from the outside community.

#### **52020.8.8 Lockdown Movement**

All movement of inmates during a lockdown shall be coordinated by the Watch Commander. Movement shall be restricted to those inmates cleared to

perform essential or emergency services. Inmate movement shall be under direct staff supervision and/or escort.

#### **Feeding**

If controlled feeding is initiated during lockdown conditions, inmates shall be released in small manageable groups and shall be under constant supervision to and from dining halls.

#### **Medical Appointments or Care**

Inmates who require medical care, or have scheduled medical appointments, shall be under direct staff supervision and/or escort.

#### **Daily Procedures**

Daily institution/facility procedures governing movement of staff and inmates during lockdown conditions shall be published and distributed to all affected areas.

#### **52020.8.9 Controlled Movement/Close Custody Movement**

Inmates, designated as close custody, shall be supervised in accordance with CCR 3377.1.

#### **Inmate Escorts**

Inmate escorts shall be conducted as security and custody classification dictate. The following are examples to be used as guidelines for escorting inmates:

- The escorting staff member should be approximately 12 to 18 inches diagonally behind the inmate or inmates.
- The inmate may be in restraints (depending on custody classification and behavior).
- The escorting staff member may hold on to the restraints of the inmate (depending on the inmate's behavior or history of behavior).
- The escorting staff member may draw his/her baton for escorting restrained inmates in a general population setting if the staff member deems it necessary.
- For mass escorts, the first escorting staff member should be positioned beside the inmates being escorted, while the second escorting staff member is positioned 12 to 18 inches diagonally behind the last inmate being escorted.

#### **52020.9 Revision**

The Director, DAI, or designee shall ensure the contents of this Section are reviewed annually and make changes as necessary.

#### **52020.10 References**

PC § 2079.

CCR § 3274.

ACA §4-4188 and 4-4189.

### **ARTICLE 17 — CONTROL OF DANGEROUS AND TOXIC CHEMICALS**

*Revised January 26, 2015*

#### **52030.1 Policy**

All units of the Department shall meet or exceed the requirements of all rules, regulations and laws applicable to identification, training, use, storage, handling and disposal of hazardous chemicals; including those established in the Guidelines for the Control and use of Flammable, Toxic and Caustic Substances, and the Hazardous Substances Information and Training Act, Labor Code, Division 5, Chapter 2.5.

The Department shall provide a working and living area that is as free as possible from unsafe and unhealthy exposure which could lead to personal injury or illness.

#### **52030.2 Purpose**

This policy shall establish a method for the identification, receipt, training, issue, handling (or use), inventory and disposal of hazardous chemicals, which is in compliance with all federal, state, and local laws or ordinances.

#### **52030.3 Definitions**

The following sections shall define language usage in this section.

##### **52030.3.1 Access**

The right and opportunity to examine and/or copy.

##### **52030.3.2 Legislative Act**

Hazardous Substances Information and Training Act, Chapter 2.5 commencing with § 6360 of Part 1 of Division 5 of the LC.

##### **52030.3.3 Acute Health Effects**

Health effects which are manifested immediately or shortly after, and as a result of, an exposure to a hazardous substance.

##### **52030.3.4 Analysis Using Exposure or Medical Records**



Any compilation of data, or any research, statistic or other study based at least in part on information collected from health insurance claims records, provided that either the analysis has been reported to the employer or no further work is currently being done by the person responsible for preparing the analysis.

#### **52030.3.5 Chemical Abstract Service (CAS) Number**

The unique identification number assigned by the Chemical Abstract Service (CAS) to specific chemical substances.

#### **52030.3.6 Caustic**

A substance that can burn, eat away, or destroy man-made materials and animal tissue by chemical action; corrosive.

#### **52030.3.7 Chemical Name**

The scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

#### **52030.3.8 Common Name**

Any designation or identification such as code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

#### **52030.3.9 Designated Representative**

Any individual or organization to whom an employee gives written authorization to exercise a right of access shall be treated as the employee's designated representative for the purpose of access to his/her exposure records.

#### **52030.3.10 Employee**

A current employee, a former employee, or an employee being assigned or transferred to work where there will be exposure to toxic substances or harmful physical agents. Also, a deceased or legally incapacitated employee's legal representative may exercise all of the employee's rights under this interpretation.

#### **52030.3.11 Emergency**

Includes, and is not limited to, equipment failure, rupture of containers, or failure of control equipment, which could or does result in a release of a hazardous substance in the work place.

#### **52030.3.12 Employee Exposure Records**

A record containing any of the following information about employee exposure to toxic, hazardous chemicals (Title 8, CCR, Section 3204).

- Environmental monitoring or measuring, including person, area, grab, wipe, or other form of sampling; as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained.
- Biological monitoring results which directly assess the absorption of a substance or agent by body systems (e.g., the level of chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent.
- Material Safety Data Sheets (MSDS) and/or Safety Data Sheets (SDS).
- In the absence of the above records, any other record which reveals the identity; e.g., chemical name, common name, or trade name of a hazardous chemical.

#### **52030.3.13 Employee Medical Record**

A record concerning the health status of an employee which is made or maintained by a physician, technician, or other health care personnel.

- Employee medical record includes:
- Medical and employment questionnaires or histories (including job description and occupational exposures).
- The results of medical examinations (pre-employment, pre-assignment, periodic, or episodic) and laboratory tests (including x-ray examinations and all biological monitoring).
- Medical opinions, diagnoses, progress notes, and recommendations.
- Descriptions of treatments and prescriptions.
- Employee medical complaints.
- Employee medical record does not include:
- Physical specimens; e.g., blood or urine samples which are routinely discarded as a part of normal medical practice and are not required to be maintained by other legal requirements.
- Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and not accessible to the employer by employee name or other direct personal identifier; e.g., social security number, payroll number, etc.
- Records concerning voluntary EAPs (alcohol, drug abuse, or personal counseling programs) if maintained separately from the employer's medical program and its records.

#### **52030.3.14 Employer**

A current employer, a former employer, or a successor employer.

#### **52030.3.15 Expose or Exposure**

Any situation arising from a work operation where a person may ingest, inhale, absorb through the skin or eyes, or otherwise come into contact with a hazardous substance; provided that such contact shall not be deemed to constitute exposure if the hazardous substance present is in a physical state, volume, or concentration for which it has been determined that there is no valid and substantial evidence that any adverse effect, acute or chronic, on human health may occur from such contact.

#### **52030.3.16 Globally Harmonized System (GHS)**

An international system of environmental and occupational safety information designed to protect workers and the environment from the hazards of hazardous chemicals.

#### **52030.3.17 Hazardous Chemical**

Any substance or mixture of substances which is classified as a physical hazard or a health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, a hazard not otherwise classified,

or is included in the List of Hazardous Chemicals prepared by the Department of Industrial Relations, Division of Occupational Safety and Health's Director pursuant to Labor Code Section 6382.

#### **52030.3.18 Hazardous Waste**

A waste as defined in Section 66261.3 of Title 22, CCR, Division 4.5. "Hazardous waste" includes acutely hazardous waste, extremely hazardous waste, non- Resource Conservation and Recovery Act (RCRA) hazardous waste, RCRA hazardous waste, special waste, and universal waste.

#### **52030.3.19 Impurity**

A hazardous substance which is unintentionally present with another substance or mixture.

#### **52030.3.20 Label**

An appropriate group of written, printed or graphic information elements concerning a hazardous chemical that is affixed to, printed on, or attached to the immediate container of a hazardous chemical, or to the outside packaging.

#### **52030.3.21 Material Safety Data Sheet (MSDS)**

A document which supplies information about a particular hazardous chemical or mixture, as required by prior regulation. Note: MSDS use for received hazardous chemicals is allowed until June 1, 2015. Safety Data Sheets (DOM Section 52030.3.25) shall be exclusively used for hazardous chemicals received after June 1, 2015 MSDS's shall be retained for older hazardous chemical products.

#### **52030.3.22 Manufacturer**

A person or company who produces, synthesizes, extracts or otherwise makes a hazardous substance.

#### **52030.3.23 Mixtures**

A combination or a solution composed of two or more substances in which they do not react.

#### **52030.3.24 Record**

Any item, collection, or grouping of information regardless of the form or process by which it is maintained (e.g., paper document, microfiche or microfilm, x-ray film, or automated data processing).

#### **52030.3.25 Safety Data Sheet (SDS)**

Written or printed material concerning a hazardous chemical that is prepared in accordance with Title 8, CCR, subsection 5194 (g).

#### **52030.3.26 Specific Written Consent**

A written authorization containing the following:

- The name and signature of the person authorizing the release of information.
- The date of the written authorization.
- The name of the individual or organization that is authorized to release the medical information.
- The name of the designated representative (individual or organization) that is authorized to receive the released information.
- A general description of the medical information that is authorized to be released and purpose of release.
- A date or condition upon which the written authorization shall expire (if less than one year).

A written authorization does not authorize the release of medical information not in existence on the date of written authorization, unless this is expressly authorized, and is not in effect for more from date of written authorization. A written authorization may be revoked in writing at a time.

**52030.3.27 Universal Waste**

Any of the wastes that are listed in Title 22, CCR, Section 66261.9.

**52030.4 Responsibility****Warden and Camp Director**

The Wardens and Camp Directors shall monitor the supervision and control of hazardous chemicals. Wardens and Camp Directors shall ensure that adherence to the methods and procedures described in this plan are followed.

**52030.4.1 Department Heads and Supervisors**

Department heads and supervisors shall monitor daily compliance with this procedure in the areas of their responsibilities.

All supervisors shall:

- Control the use of all known hazardous chemicals within their jurisdiction.
- Maintain a completed MSDS or SDS and CDCR Form 2280, Hazardous, Toxic, And Volatile Substances Perpetual Inventory, for each such hazardous chemical used in the work area.
- Inform employees and inmates of the right to personally receive information regarding hazardous chemicals to which they may be exposed in accordance with the CCR Title 8 subsection 5194(d)(6).
- Maintain a constant daily inventory of all hazardous chemicals used or stored within the work area. Inventory lists shall be kept in a place inaccessible to inmates and separate from where items are stored.
- Provide on request of an employee, inmate or their representative, a copy of the MSDS or SDS for each hazardous chemical used in the work area.
- Notify employees of hazardous chemicals present in the work area prior to the job assignment. Such notification shall consist of the following:
  - A prominently posted list of hazardous chemicals. The list shall indicate the manner in which the appropriate MSD or SDS are available as well as access to medical exposure records.
  - Prominently displayed binders containing the appropriate MSDS and SDS, provided that the number and location of binders are sufficient to give reasonable notice to all affected staff.
  - Any other method of written notice listing the hazardous chemicals in the work area and the availability of MSDS or SDS at the worksite.

**Training**

Each work area supervisor shall ensure that every staff person required to work with or use a hazardous chemical is appropriately trained per Title 8, CCR, Section 5194 in the safeguards and emergency procedures prior to being assigned to work with the hazardous chemical.

- Training shall be provided by the supervisor from information on the MSDS or SDS.
- OJT, in the form of weekly safety meetings with instruction on specific job tasks, shall be documented indicating the date provided, the name of attendees, subject covered, and any additional materials or information supplied.
- Classroom and/or specialized training shall be provided to staff and inmates pertaining to hazardous chemicals where OJT is not adequate.
- Training records shall be maintained by the supervisor of the work area with a copy to the employee or inmate's file and a copy to the IST officer (staff employees).
- Employees or inmates who have not received appropriate training shall not be allowed to work with the hazardous chemical until such time as the appropriate training is completed.

Provide appropriate training on the hazardous chemicals used within the work area prior to using the hazardous chemicals. Training shall consist of:

- Any health hazards associated with the use of the hazardous chemical or mixture.
- Necessary precautions for handling to prevent or minimize exposure to the hazardous chemical.
- Proper use and care of protective clothing and apparatus necessary for handling hazardous chemicals.
- Emergency procedures for spills, fire, disposal, and first-aid.
- Provide written information or training programs for understanding the MSDS or SDS.
- Furnish employees and inmates exposed to a hazardous chemical with information on the contents of the hazardous chemical, as stated on the MSDS or SDS for that hazardous chemical.

**52030.4.2 Warehouse Manager/Supervisor**

All deliveries of hazardous chemicals from a vendor shall be made directly to the institution warehouse. Warehouse staff are responsible for the proper receipt, labeling, and storage of such hazardous chemicals as provided in this section.

Upon receipt of any hazardous chemicals listed above, warehouse staff shall immediately check the hazardous chemicals against the purchase order to ensure receipt of the correct material and amount. The material must be appropriately marked to identify the hazardous chemicals and any related hazards. Containers not so marked will not be accepted by the warehouse staff.

The warehouse supervisor/manager shall:

- Ensure that each container is labeled according to the Globally Harmonized System (GHS) and National Fire Protection Association (NFPA) guidelines.
- Ensure that a properly completed MSDS or SDS is on file for the hazardous chemicals as soon as possible. Documentation on requests for MSDS or SDS should be maintained for any follow-up action as necessary. Specific instructions for acquiring a MSDS or SDS can be found in Title 8, of CCR, Section 5194.

**Inventory Sheet**

Prepare and ensure the completion of CDCR 2280 for each hazardous chemical received. The following information must be included on the inventory sheet:

- Date received.
- Hazardous chemical received (common name or brand name).
- Quantity received.
- Person receiving the hazardous chemical.
- Date hazardous chemical is dispensed (whole or part).
- Quantity of hazardous chemical dispensed (pint(s), gallon(s), etc).
- Person dispensing the hazardous chemical.

**52030.4.3 Storage**

Ensure that all hazardous chemicals are stored in their original containers or if transferred to another container, in an approved container for the specific hazardous chemical. All containers shall be appropriately labeled with the name of the hazardous chemical or mixture contained in it. The Globally Harmonized System (GHS) labeling and identification requirements shall be used to identify the hazard of the hazardous chemical, as appropriate.

Materials received from the vendor shall be immediately stored in a locked "hot room" in the warehouse complex or other designated location specifically constructed for this purpose. (Empty or unused areas in the warehouse will not be used to store these hazardous chemicals.)

Bulk quantities of selected flammable and corrosive hazardous chemicals shall be stored in the warehouse's "special structure room" designated for these hazardous chemicals.

- Oxidizing agents shall be separated in storage from flammable or combustible materials and from mineral acids (Title 8, CCR, Section 5179, Uniform Fire Code, and National Fire Protection Association (NFPA) Guidelines).
- Hazardous chemicals which, when mixed react violently, or evolve toxic vapors or gasses, or which in combination become hazardous by reason of toxicity, oxidizing power, flammability, explosiveness, or other properties, shall be separated from each other in storage by distance, partitions, or otherwise so as to preclude accidental contact between them (Title 8, CCR, Section 5184, the Uniform Fire Code, and National Fire Protection Association (NFPA) Guidelines).
- Special precautions shall be exercised to ensure that these hazardous chemicals are never stored with food items per the California Retail Food Code.

**Gas Cylinders**

All compressed gas cylinders, full or empty, shall be equipped with safety caps and chained to the storage racks provided for this purpose in the warehouse per the Uniform Fire Code and National Fire Protection Association (NFPA) Guidelines.

- All gas cylinders, full or empty, on the work site must be secured in such a manner as to prevent their being dropped or knocked over.
- All gas cylinders shall be marked so as to identify clearly the hazardous chemicals contained in them.

**52030.4.4 Containers**

All containers shall be clearly marked to identify the hazardous chemicals contained therein. No container shall be used for a hazardous chemical for which the container is not approved.

- Any containers with unidentified chemicals shall be reported to the fire chief or other hazardous materials specialist designee. Steps shall be taken within 24 hours to have contents identified.

If the discovery was during non-business hours, steps for identification shall be the following work day.

- Strict adherence to all laws and regulations pertaining to the storage and handling of hazardous chemicals shall be maintained at all times.
- Warehouse staff shall be appropriately trained in the storage and handling of all hazardous chemicals contained in the warehouse.

#### 52030.4.5 Dispensing

All hazardous chemicals shall be dispensed in their original containers when possible. If smaller amounts are requested, only containers approved for the hazardous chemicals being dispensed shall be used.

The warehouse supervisor/manager shall dispense only the amount of the hazardous chemical indicated on the written request. Only the minimum amount needed for the specific job shall be requested.

The warehouse supervisor/manager shall distribute copies of appropriate MSDS or SDS for each hazardous chemical dispensed, to the appropriate supervisor requesting the hazardous chemical. If a prior MSDS or SDS for the hazardous chemical has been forwarded to the supervisor requesting the hazardous chemical, a new MSDS or SDS shall not be forwarded unless new information has been received on that hazardous chemical.

Whenever a new MSDS or SDS is received in the warehouse for any hazardous chemical which previously had a MSDS or SDS, the warehouse supervisor/manager shall inform users of the hazardous chemicals of any new information by transmittal of a copy of the new MSDS or SDS.

Unused supplies of hazardous chemicals shall be returned to the warehouse for proper storage, unless it is controllable in the work area in a secure, locked room appropriate for the hazardous chemical(s) involved.

All hazardous chemicals received or dispensed from the warehouse shall be immediately documented on the appropriate inventory form for that hazardous chemical.

#### 52030.4.6 Audits

Monthly audits shall be performed by the warehouse supervisor/manager to ensure compliance to inventory documentation, dispensing of hazardous chemicals, etc. Copies of inventory audits shall be maintained until disposal and/or depletion of the hazardous substance, or for a period of two years.

Under no circumstances shall any inmate have access to the "hot room," MSDS and SDS, inventory logs, master lists of hazardous chemicals, or keys to any locked area containing hazardous chemicals.

The warehouse supervisor/manager shall ensure the proper distribution of supplies and hazardous chemicals from the warehouse.

Requests for any hazardous chemicals covered by this procedure shall be forwarded to the warehouse supervisor/manager in writing indicating who is requesting, the hazardous chemical requested, the amount, and when needed.

The warehouse supervisor/manager shall maintain an accurate inventory of all hazardous chemicals in the warehouse. They shall maintain a master list of all hazardous chemicals, with copies of applicable MSD or SD, in a locked (or secure) area separate from where the hazardous chemicals are stored.

#### CDCR Form 2280

A CDCR Form 2280, Hazardous, Toxic, And Volatile Substances Perpetual Inventory," shall be completed indicating all the hazardous chemicals located in the warehouse. Copies of the MSDS or SDS for each hazardous chemical shall be attached to the completed CDCR Form 2280. One set of copies of the CDCR Form 2280 and the attached MSDS or SDS shall be forwarded to the institution fire chief for their use in the event of a fire or other emergency.

- Perpetual (daily) inventories shall be maintained on all hazardous, toxic, volatile, flammable and caustic hazardous chemicals.
- The warehouse supervisor/manager shall maintain an inventory sheet (log) on each hazardous chemical.
- Documentation shall be appropriately entered on the log/form for the particular hazardous chemical each time a portion is issued.
- If a new hazardous chemical is received in the warehouse, an updated copy of the CDCR Form 2280 and the applicable MSDS or SDS shall be forwarded to the fire chief immediately.

#### 52030.4.7 Fire Chief

The fire chief shall ensure that each work area using hazardous chemicals has an appropriate storage area for all hazardous chemicals used in the work area. The storage area shall be safe, secure, and inaccessible to inmates. Strict attention shall be paid to the proper methods for storage of different hazardous chemicals.

Fire chiefs shall monitor the supervision and control of hazardous chemicals at their assigned institution. Strict adherence to the methods and procedures described in this plan shall be maintained. The fire chief shall also:

- Control the use of all known hazardous chemicals within their jurisdiction.
- Ensure that staff required to implement or participate in the implementation of this procedure are made familiar with its contents.
- In the event of an uncontrollable "spill" of hazardous chemical, take charge of evacuation from the area and notify as soon as possible all agencies required by law i.e.; EPA, California Governor's Office of Emergency Services (OES), Certified Unified Program Agency (CUPA) and local Emergency Responders (e.g., outside Fire Department).
- File required reports in compliance with federal, state, and local laws.

#### 52030.4.8 Employees

Department employees and inmates who work with hazardous chemicals shall be familiar with this procedure and shall observe all safety precautions including, but not limited to:

- In the event of a major spill or release of toxic or hazardous chemicals, the institution fire department shall be immediately notified for emergency response.
- Reporting any loss or misuse of hazardous chemicals to the immediate supervisor of the area where the loss or misuse occurred.
- Wearing and using appropriate personal protective equipment as required for use with the hazardous chemical(s).
- Immediately reporting any exposure to a hazardous substance to the supervisor in charge, and taking appropriate action to prevent further exposure to themselves or others. This may include appropriate medical follow-up.
- No hazardous chemical covered by this procedure shall be dispensed to inmates without direct supervision of staff. An exception may be made in the authorized use of gasoline (i.e., service stations, garages, lawn mowers, etc.).

If appropriate secure storage areas are not available in the work area for unused hazardous chemicals at the end of the work day, the remaining hazardous chemicals shall be returned to the warehouse for proper storage.

#### 52030.4.9 Asbestos and Polychlorinated Biphenyls (PCB's)

All incidents involving the release of asbestos and polychlorinated biphenyls (PCB's) shall be reported immediately to the fire chief or other hazardous materials specialist and the Correctional Plant Manager (CPM) hazardous materials specialist.

The CPM and/or fire chief shall inspect or cause to be inspected the area of concern to determine if immediate action is warranted.

If the asbestos and/or PCB's release creates an immediate danger, the CPM shall notify the Associate Warden, Business Services or other manager who shall notify any and all agencies required by law.

The CPM shall take all necessary actions, including replacement or repair of contaminated material or equipment. All persons shall be evacuated from contaminated areas if warranted, until the area is returned to a safe condition.

For buildings constructed before 1979 that contain or are presumed to contain asbestos containing materials, the work site shall provide notification to employees as required by the Asbestos Notification Act.

#### 52030.5 Hazardous and Universal Waste

Unstable or unusable hazardous chemicals that may become hazardous and universal waste shall be removed and disposed in a safe and healthful manner which complies with all federal, state, and local laws. The institution fire chief or other hazardous materials specialist shall be contacted to provide for the proper disposal of hazardous and universal waste.

#### Disposal Tax & Fee Forms

Hazardous waste generator tax and fee returns and forms must be filed by CDCR facilities that dispose of hazardous waste during the course of a calendar year.

- A fee return for the weight (tons) of hazardous and extremely hazardous waste disposed, for each calendar year is required by the State BOE, Department of Business Taxes. The fire chief or other hazardous materials specialist shall compile these reports returns.
- An EPA ID # Verification Fee and Manifests Fee Sheet must be completed and filed with the Department of Toxic Chemicals Control (DTSC).
- Failure to complete the above forms in the time designated shall result in a penalty and interest being imposed by the State BOE and DTSC. Therefore, the above forms shall be completed and any fees paid in a timely manner.

- It is imperative that all staff needing hazardous chemicals-hazardous and universal waste disposed contact the fire chief or hazardous materials specialist so that accurate coordination and collection of data can be completed.

A contract for hazardous and universal waste disposal shall be arranged with a licensed, approved hazardous waste transporter (Business Services has this information) to eliminate the possibility of improper disposal and subsequent liability to the Department or institution.

#### **52030.6 Inspections**

Ongoing inspections shall be performed by the following staff at the frequency indicated:

##### **Daily**

Daily inspections for fire and life safety, including proper supervision of hazardous chemicals, shall be performed by supervisors of each work and living area.

##### **Weekly**

Weekly inspections shall be performed by supervisors for fire and life safety, with documentation made of findings.

##### **Monthly**

Monthly fire and life safety and health inspections shall be performed by the fire chief and Chief Medical Executive (CME) or their trained designee(s). Reports of deficiencies shall be made and copies sent to the safety coordinator, the Warden and Camp Director and the area supervisor where the deficiencies are noted. Inspections shall also include spot checking for training of employees, safety meeting minutes, proper containment and use of hazardous chemicals, etc.

- Deficiencies shall be corrected within a reasonable time, dependent upon the nature of deficiency.
- All work procedures shall be performed in a healthy and safe manner.

##### **Quarterly**

Quarterly inspections shall be conducted by the fire chief or their designee for fire and life safety with findings documented and reports sent to the Warden. Inventories of chemicals used in the work area shall be noted in addition to the deficiencies mentioned above.

##### **Annual**

Annual State Fire Marshall and California Department Public Health (CDPH) inspections shall be conducted with the attendance of the fire chief and work or living area supervisor for the area being inspected. Complete cooperation shall be given to assist in a positive, thorough inspection.

- State Fire Marshall (SFM) reports and Environmental Health Survey reports (EHS) shall be forwarded to:
- Warden and Camp Director.
- Associate Warden, Business Services.
- CPM.
- CME.
- Institution Safety Coordinator, (aka Fire Chief).
- Director, Division of Adult Institutions.
- Director, Division of Administrative Services.
- Chief, Environmental Compliance Unit, FPCM.
- Deputy Director, Office of Audits and Court Compliance.
- Chief, Office of Employee Wellness.
- Associate Director (Mission), (DAI).

#### **52030.6.1 Plan of Correction**

The Warden and Camp Director shall forward a Corrective Action Plan to the Associate Director (Mission), (DAI) and all others mentioned in Section 52030.6, within 30 days (45 days for camps) indicating action planned to eliminate deficiencies noted in the SFM and EHS reports. This plan shall include:

- The nature of the problem.
- The method identified to resolve the problem.
- Expected date of completion.
- List staff members responsible for resolution.
- If problem cannot be corrected within 30 days, the reasons and expectation of when it will be corrected.
- The name and title of person preparing the plan of correction.

#### **52030.7 Hazardous Chemical Misuse or Loss**

Upon discovery that a hazardous substance material has been lost, stolen, or misused, the discovering staff person shall immediately notify the institution watch commander and the safety coordinator. A written follow-up shall be submitted within 24 hours indicating all the information (facts) of the incident.

Discovery could be through an inventory or any method that identifies misuse of a hazardous chemical.

The watch commander and safety coordinator shall take action appropriate to the immediate need of the situation (lost, stolen, or misuse). If the hazardous chemical involved could pose a potential serious threat to the life, safety, and/or security of the institution, immediate action shall be taken.

- Under no circumstance, shall loss or misuse of hazardous chemicals be ignored.

A written report shall be submitted to the responsible unit captain and Associate Warden to facilitate a review of the operation in the area and take appropriate action to prevent recurrence.

#### **52030.8. Hazardous Substance Exposure Records**

Employee hazardous substance exposure records shall be kept in the employee's workers' compensation file, with a copy to the employee's personnel file. A separate envelope marked "Hazardous Substance Exposure Medical File" shall be red-tagged for easy identification.

- Upon employee transfer, staff exposure records shall be maintained and transferred to each successive institution and shall be forwarded to the SRC when employment is terminated.
- A permanent record shall be kept indicating any/all records forwarded to the SRC (the name of the employee and the date the records were forwarded).

Inmate hazardous substance exposure records shall be kept in the inmate's medical file. A separate envelope marked "Hazardous Substance Exposure Medical File" shall be red-tagged for easy identification.

Inmate exposure records shall be transferred to each successive institution and shall be maintained and forwarded to the SRC when incarceration is terminated (discharged or deceased).

A permanent record (the name and institution number of the inmate and date records were forwarded) shall be kept indicating records were forwarded to the SRC.

Both staff and inmate exposure records shall be maintained and preserved for at least 30 years post-employment or discharge from the Department.

#### **52030.9 Title 8, CCR, Section 3204**

State Compensation Insurance Form (SCIF) 3067 generated as a result of a hazardous substance exposure shall be stamped with red lettering in the upper right-hand corner "Hazardous Substance Exposure." This will allow for easy identification to the SCIF adjusters and their legal staff to ensure that these records shall not be destroyed.

Employees or their representatives requesting copies of any exposure medical records shall comply with the guidelines of Title 8, CCR, Section 3204. Employees shall first complete a CDC Form 965, Authorization for the Release of All Substance(s) Exposure and Medical Records.

Supervisors shall complete SCIF Form 3067 to report any employee exposures to hazardous chemicals.

#### **52030.10 Revisions**

The Director, Division of Adult Institutions, or designee shall ensure that the contents of this section is current.

#### **52030.11 References**

CCR (15) §§ 3270 and 3303(b).

CCR (8) Section 5194.

LC, Division 5, Chapter 25.

ACA Standards 4-4215.

National Fire Protection Association (NFPA).

National Safety Council (NSC).

Uniform Fire Code (UFC)

### **ARTICLE 18 — TOOL CONTROL**

*Effective December 27, 1989*

#### **52040.1 Policy**

Pursuant to the Penal Code, The Director has established a system for uniform tool control and prevention of unauthorized or improper use of tools.

#### **52040.2 Purpose**

To provide control and accountability for those tools and equipment items that pose a threat to persons or to the physical security of the institution.

#### **52040.3 Responsibilities**

Supervisors and managers shall monitor the control and inventory of tools in their respective department/area/unit.

#### **52040.3.1 All Staff**

All staff supervising inmates shall instruct inmates in the control and the proper usage of the tools.

#### **52040.4 Tool Classification**

All tools, instruments, implements, utensils, appliances, or devices used in performing work shall be classified into various tool groups.

#### **52040.4.1 Critical Tools**

*Revised April 29, 1991*

Critical tools include all tools that are extremely hazardous when uncontrolled, i.e., hacksaws and blades, cutting torches, large pipe wrenches, all types of knives, bolt cutters, axes, or any additional tools which work supervisors and instructors or the captain feel are dangerous to institution security or inmates' well being. Tools in this category shall be coded and marked to conform with DOM 52040.5.

#### **Escape Priority Tools**

- Inmates using escape priority tools shall require direct staff supervision while working within a secure perimeter. Inmates assigned to minimum security work crews, off-site work details (OSWD), camp programs, or parole work furlough programs, do not necessarily require direct and constant supervision during the performance of their work assignments. Examples of escape tools include, but are not limited to, the following:
  - Bolt Cutters.
  - Oxy-acetylene equipment.
  - Hacksaws.
  - Ropes.
  - Ladders (over six feet in height).
  - Portable scaffolds.
  - Pipecutters.
  - Files.
  - Block and tackles.
  - Pneumatic jackhammers.
  - Metal cutting equipment.
  - Security screwdrivers.
  - Security wrenches.
  - Security torx bits and hex bits.
  - Sheet metal shears.

#### **Dangerous Tools**

- Dangerous tools may be utilized without direct staff supervision. Some examples of dangerous tools include, but are not limited to, the following:
  - Knives.
  - Hatchets.
  - Axes.
  - Chisels.
  - Hammers.
  - Screwdrivers.
  - Punches.
  - Scribes.
  - All sharp pointed tools.
  - Scrapers.
  - Loppers.
  - Diagonal pliers.
  - Electrician's pliers.
  - Side cutters.

#### **52040.4.2 Non-Critical Tools**

Tools not included in DOM 52040.4.1 are not normally classified as critical tools; however, the work supervisor may request a critical tool classification through the work supervisor's supervisor and captain. Examples of non-critical tools include, but are not limited to, the following:

- Lawn mower.
- Lawn rakes.
- Small open and closed wrenches.
- Long-handled gardening tools.
- Electrical testing equipment.

#### **52040.4.3 Power Tools Grinders**

Electrical, pneumatic and bench grinders shall have locking devices installed covering the grinding wheel as well as the switch or control, so that they cannot be operated except under direct supervision of staff. Grinders shall be locked

when not in use. The work supervisor may request their supervisor, captain or higher authority to designate other power equipment to operate as stated.

#### **Other Power Tools**

Other power tools may be used without direct supervision. Examples are:

- Barber equipment.
- Drills, electric 1/4 " and 3/8".
- Router.
- Vibrator sander.
- Belt sander.
- Skill-saw (wood cutting blade only).
- Roto-hammer, with fastener attachment for red-head anchor.
- Electric power snake (plumbing).
- Airless paint sprayer.
- Pipe cutters, 2 1/2" max.

#### **52040.4.4 Emergency Tools**

Tools for use by inmate electricians, plumbers, and other inmate tradesmen which may be needed at night or at other times when shops are closed shall be kept locked in boxes in locations designated by the Chief of Plant Operations and approved by the captain of the facility involved.

#### **52040.4.5 Hobby Shop Tools**

Hobby shop hand tools owned by inmates shall be marked with the inmate's name and number before being issued to inmates for hobby shop use. State-owned tools shall be controlled by the above-stated procedure. The hobby shop supervisor shall not issue tools defined as "critical" for in-cell use. Replacement stock shall be obtained from outside vendors.

**Note:** Each facility administrator/captain, with the hobby shop supervisor, shall approve/disapprove hobby tools based on risk or threat to the security of the institution.

#### **52040.5 Tool Identification System**

Each institution shall design a tool identification system, inscription/scribe code, to identify tools from various parts of an institution and to identify tools assigned to particular areas of responsibility. The identification of tools shall assist staff in returning lost or stolen tools to their proper area and identify inmate(s) in the event tools are used to effect an escape or used in a felony crime.

#### **52040.6 Tool Storage**

Each institutional shop, work area, or building, where tools are used and stored, shall have methods of issuance, storage and key control (refer to DOM 55020), for accountability of tools. Some examples are, but not limited to:

- Shadow board display.
- Tool box.
- Tool pouch.
- Tool locker.

**Note:** Each storage area shall include an inventory card for any custody staff to determine an immediate and accurate count of the tools.

#### **52040.7 Key Tags (CHITS)**

*Revised April 29, 1991*

All tools issued to inmates shall be with key tags (chits). Inmate key tags are to be of a design/format which is easily recognizable and distinct from staff key tags.

Inmates shall not loan tools to other inmates nor allow other inmates to turn in tools issued to them.

- Each inmate shall be assigned a number and a certain amount of tags. A roster shall be maintained of this assignment of tags.
- At the beginning of each work shift, each shop supervisor shall issue a shower curtain type hook with tags, to the assigned inmate. The supervisor shall count the tags prior to the issuance at the beginning of the shift and at the end of the shift. The inmate's tags shall be kept secure when not issued to the assigned inmate by the work supervisor.
- Each inmate shall maintain control for their tags. When an inmate wants a tool, they shall turn in a tag for a tool and when the inmate returns the tool, they shall receive their tag immediately.
- Tools shall be issued only to inmates assigned to that work area. If another shop needs a tool, the tool transfer from shop to shop shall be made by the shop supervisors.
- If the tool room inventory clears and an inmate has lost a tag, the inventory log shall be annotated with the date, time, and location where the tag was lost. If the tool room inventory does not clear at the end of the work period, the inmate(s) who have checked out the tool(s) shall be documented with a CDC 115. This shall not change the lost-tool procedure.

**52040.8 Inventories Daily**

Inventory listings of all tools shall be kept and these inventories shall be checked prior to the beginning and ending of each work or class period. These checks shall also be conducted before all breaks, including lunch. The supervisor shall sign the Tool Inventory Check List.

- The supervisor shall maintain a master tool inventory which shall be secured and not available to inmates. The master tool inventory shall be used for daily and quarterly inventories.

**Quarterly**

A quarterly tool inventory shall be submitted by area inventory supervisors for all tools in their assigned areas to their respective department head. The inventory shall be completed and forwarded by the tenth of January, April, July, and October of each year.

**Note:** Under no circumstances shall an inmate be allowed to inventory tools. All inventories shall be forwarded by the area supervisor to their supervisor, their respective department head and the chief custodial officer.

**52040.9 Loss of Tools**

The loss of any tool(s) shall be immediately reported by telephone to the captain of the facility and the department heads concerned, prior to releasing inmates back to their respective quarters. The inmates shall be given an unclothed body search and the work area shall be searched. A "Loss of Tool Report" shall be prepared immediately by the staff person discovering the missing tool.

**52040.10 Inspections/Searches**

Any area within an institution where tools are stored shall be subject to unscheduled inspections/searches by custody personnel, as directed by the captain. This shall ensure that the area is secure and that compliance to this procedure is maintained.

- When violations of this procedure are determined by inspecting custodial personnel, a written report describing the specific area and violation shall be addressed to the captain and the division head.
- Any tool found improperly marked or not secured shall be confiscated and turned over to the captain. A memorandum directed to the captain and respective division head shall be prepared stating where, when and by whom the tool was found.

**52040.11 Damaged, Broken, Obsolete, or Worn Tools**

Damaged, broken, worn or obsolete tools shall be secured and controlled, just as other tools. Tools in this category shall be picked up, measured and inspected to ensure all parts are accounted for.

- Each institution head shall designate a person(s) (i.e., security squad, outside lieutenant, tool control officer) to dispose of the unusable tools at an off-institutional location.
- Each department head shall enforce the provisions of this procedure.

**52040.12 Tool Replacement**

Replacement of damaged, broken, worn out, or lost tools, or issuance of additional tools from the secure warehouse storage area shall have prior written approval.

**Note:** For CALPIA tool replacement, see DOM 52040.13.3.

- A tool request shall be directed to the requesting employee's immediate supervisor documenting the need for issuance of the required tool.
- The request shall be approved/disapproved by the employee's department head, then forwarded to the procurement officer and a copy to the captain.
- Tools shall be issued by the procurement officer or designated employee in accordance with this procedure. The procurement officer shall:
  - Remove the tools from the secure storage inventory located in the warehouse.
  - Ensure the inventory of requesting area is updated to include the tool that is needed.
  - Issue the tool after ensuring the tool has been marked for identification. (See DOM 52040.5.)

**52040.13 Methods Warehouse**

*Revised April 29, 1991*

Tool and tool-related material received at the warehouse from vendors shall be checked against a purchase order or subpurchase order. Issuance of tools shall be made utilizing an approved form, "Request for Tool(s)." Tools shall be issued only to staff.

- All tools shall be properly receipted out of the storage area (warehouse). All tools shall be properly marked and color coded for area identification.

- An inventory card shall be maintained on each tool stored in the warehouse.
- Receipts and issues shall be posted to the inventory each time a tool enters or leaves the warehouse.
- A list of tools specifying description and quantity shall be kept on all tools in the warehouse.

Hand tools used by inmates assigned to a warehouse shall be issued to inmate(s) adhering to DOM 52040.7. All tools shall be kept in secured tool boxes with a tool list posted inside the tool box.

**52040.13.1 Restricted Housing Units**

Restricted housing units shall maintain an inventory log with all serving ladles, forks and spoons for the unit included in the log. When not in use, utensils shall be locked in the designated security lock box within the unit. Utensils shall be signed in and out for meals by the officer on duty. If a proper sink for cleaning the utensils is not available in the unit, the utensils shall be released to the culinary for washing after they have been accounted for by the unit officer. The utensils shall be signed in and out on the inventory log for the unit by the officer on duty. This is to be accomplished prior to the departure of any food carts from those areas.

**52040.13.2 Plant Operations/Maintenance**

Each plant operations maintenance shop shall maintain only those tools required for daily use and equipment maintenance. Each plant operations maintenance shop shall maintain a storage area (DOM 52040.6) for the control of tools and for a quick visual check of their assigned tools to ascertain if any are missing. Example of the shops are, but not limited to:

- Outground crews.
- Carpenter shop.
- Paint shop.
- Electric shop.
- Plumbing shop.
- Boiler room.
- Refrigeration shop.
- Water/sewage plant.
- Maintenance warehouse.
- Service station.
- Kitchen maintenance.
- Lock and key shop.

**52040.13.3 CALPIA**

Each CALPIA lead institution production manager shall maintain a controlled tool room which shall supply tools for the subdivisions and maintain control and inventory of the tool room. Each individual industry shop supervisor shall maintain a tool storage area for the tools assigned to the shop. The CALPIA lead institution production manager shall designate, control, and inventory tools in their shop. Examples of shops are, but are not limited to:

- Knitting mill.
- Laundry.
- Shoe factory.
- Printing shop.
- Textile factory.
- Metal fabrication.
- Dairy.
- Field crops.
- Furniture factory.
- Sewing machine repair.
- Mattress factory.

**Issuance of Additional Tools**

Replacement of damaged, broken, worn out, obsolete, or lost tools, or issuance of additional tools from the secure industry storage area shall be performed by the lead institution production manager or designated employee in accordance with this procedure.

- A tool request shall be directed by the employee to the immediate supervisor documenting the need for required tool.
- The request shall be approved/disapproved by the lead institution production manager before any tool is ordered from vendor.
- Upon arrival of all controlled tools at the CALPIA warehouse, the warehouse manager or designee shall:
  - Notify the sergeant assigned to industry and the designated tool control representative.
  - Check controlled tools and tool related material against purchase order or subpurchase order to assure inventory received.

- All received controlled tools shall be locked in a secure storage area under the direct supervisor of the warehouse manager or designated employee.
- Ensure the inventory of requesting area is updated to include the needed tool on inventory card which specifies tool description and quantity.
- Before issue, tools shall be scribed and color coded to the ordering unit by the designated tool control representative. (See DOM 52040.5.)

#### **52040.13.4 Education Division**

The education division (academic and vocational) shall maintain inventories and control of all tools in the individual classes/shops. Tool rooms are located in each vocational shop area and a central tool room for the academic area. Each shop/class shall maintain only those tools needed for every day use and equipment maintenance. Shop supervisors and class instructors shall control and inventory tools in their shop or class area. Examples are, but are not limited to:

- Academic classrooms.
- Air conditioning.
- Auto mechanics.
- Culinary arts/meat cutting/baking.
- Drafting.
- Landscaping.
- Library.
- Machine shop.
- Masonry.
- Print shop.
- Radio/TV repair.
- Shoe repair.
- Arts in Correction.

#### **52040.13.5 Culinary**

*Revised April 29, 1991*

All tools used in the preparation and serving of food in the culinary area shall only be used under direct supervision of culinary staff. When not in use, tools shall be kept in a security locked box. In addition to inventory checks covered in DOM 52040.8, an inventory check shall be made prior to starting and after closing culinary operations by staff designated by the Warden or RPA and noted on the inventory log. The time of the inventory check shall be noted on the watch commander's report (Daily Report of Watch Activities). Any discrepancies shall be noted. Examples of tools are, but not limited to:

- Knives.
- Ladles.
- Long-handled spoons (over six inch handles).
- Long-handled forks (over six inch handles).
- Rotating discs from potato peeling machine.
- Band saw blades.

**Note:** When a band saw blade breaks or becomes unusable, it shall not be replaced until the blade is measured to ensure the total number of inches conforms with the replacement blade.

#### **52040.13.6 Personnel Dining Area (Snack Bars)**

*Revised April 29, 1991*

Tools for employee dining areas (snack bars), which use inmate workers, shall be coded, inventoried, and controlled by this procedure. Since tools are received by direct purchase, the snack bar manager shall add the new tools to the snack bar inventory and code the tools in compliance with the institutional identification system. Inventory control shall be on a daily basis by the snack bar manager.

#### **52040.13.7 Medical Surgical Area**

All surgical tools shall be kept in secured cabinets in locked rooms. A complete inventory log shall be maintained in the locked cabinet. Each set of tools shall be visible on cabinet shelves. Only medical staff shall have access to and are accountable for the issuance of these tools. Under no circumstances shall inmates have access to the room or use of the tools without nursing staff or custody staff being present. After a surgery is completed, the tools shall be cleaned and accounted for by the nursing staff. All syringes and needles shall be kept under lock and key in designated areas.

#### **Infirmary**

Tools for the infirm examination room and emergency treatment room shall be stored in locked instrument cabinets. Access to the instrument cabinets is limited to authorized medical staff. The authorized staff shall conduct an inventory of the instruments prior to leaving the work area for breaks, lunch, and at the end of their shift.

**Note:** The CMO shall be accountable for the total tool inventory for medical services. Due to the nature and size of tools (instruments), coding by institutional identification system may be impractical.

#### **Dental Area**

Dental tools shall be kept in security cabinets secured in the dental area. Each cabinet shall have an inventory sheet of the tools in the cabinet. Inmates shall not handle the equipment unless a dentist is present and has given approval. When not in use by a dentist, syringes and needles shall be secured in the dental operator.

#### **52040.13.8 Firehouse**

A secure tool cabinet shall be located in the firehouse equipment room. The fire chief shall control and inventory the tool cabinet. Each tool box, utilized for fire equipment within the department, shall have a clearly posted inventory card for tools maintained in the box. The fire chief shall check and maintain an accurate daily inventory of each assigned firehouse tool box.

Firehouse tools shall be coded by the institutional identification system.

#### **52040.13.9 Inside Security Areas**

All tools obtained for use of various inmate work crews inside the security area shall be controlled and inventoried daily by the inmates' supervisor. Supervisors shall also check the tools prior to leaving the area for breaks, lunch, and at the completion of their shift. All tools shall be coded by institutional identification system. Examples of these areas are, but not limited to:

- Barber shops (staff and inmate).
- Canteen.
- Chapels.
- Clothing room.
- Control room (including emergency tool boxes).
- Housing units.
- Inside gardening crews.
- Locksmith.
- Receiving and release.
- Recreational/gym areas.
- Visiting room.
- Law library.

#### **52040.13.10 Outside Security Areas**

All tools for maintenance and use outside the security area of an institution shall be inventoried and controlled by the designated supervisor. Each area shall have a security storage area and inventory cards/sheets therein to ensure all tools are maintained and controlled. Examples of these areas are, but not limited to:

- Armory.
- Family visiting.
- Garage.
- Gardening crews.
- Range.
- Service station.
- Sewage plant.

#### **52040.14 Outside Contractors**

The Chief of Plant Operations shall provide technical instruction on projects, location of projects, types of materials and other security precautions to contractors during any construction within the security area. Exceptions to this shall be approved by the respective captain.

Tools provided by contractors working inside the security area shall be inventoried each day by the sallyport officers as the contractor enters and exits the area. The escorting employee and the contractor shall ensure that no tools are left in the area when the contractor exits the facility.

#### **52040.15 Staff State Tools**

Supervisors carrying tools for work details inside the security perimeter shall control tools, when not in use, in secured locked tool boxes and/or tool lockers. Each set of tools shall have an inventory card/sheet to ensure all tools taken into an area are removed from the area.

#### **52040.16 Staff Personal Tools**

At times, employees feel that there is a need to use personally-owned tools or equipment within the institution in performing their assigned duties. This shall be permitted if written approval is obtained from the Warden prior to tools being brought into the institution. All personal tools when brought into or taken out of the institution shall be inventoried daily by the sallyport officer.

#### **52040.17 Revisions**

The Deputy Director, Institutions Division, or designee, shall ensure that the content of this section is current.

**52040.18 References***Revised April 29, 1991*

PC §§ 2707, 5057 and 5058.

CCR § 3303(c).

ACA Standards 2-4192, 2-4195, and 2-4197.

**ARTICLE 19 — ARREST, SEARCH, AND SEIZURE***Revised December 16, 2014***52050.1 Policy**

Pursuant to the Penal Code, the Secretary has established a system of searches in the maintenance of safety and security of each correctional facility.

**52050.2 Purpose**

This Article provides the proper process of arrest, searches, and seizures within the Department. The performance of the functions of arrest, search, and seizure shall be in accordance with all laws, rules, and regulations pertaining to those functions. Due process shall be afforded in all cases where applicable.

**52050.3 Responsibility**

Each Warden shall implement, govern, and monitor training of all persons who shall be required to conduct searches in departmental facilities.

- All managers and supervisors shall ensure their subordinates are aware of and comply with this Section, provide On the Job Training, and provide general supervision of scheduled search activity.
- All employees shall be aware of the content of this Article.

**52050.4 Peace Officer Defined**

Any correctional employee who meets the requirements as outlined in PC 830.5 is a peace officer.

**52050.5 Definition of Arrest**

An arrest is taking a person into custody, in a case and in the manner authorized by law. An arrest may be made by a peace officer or by a private person.

**52050.5.1 Definition of Detention**

Detention is the stopping of a person, other than an inmate, by a peace officer, for the purpose of conducting a brief investigation into the identity of the person and the nature of their presence when the officer reasonably suspects the person may be involved in criminal activity.

Any Department employee is authorized to stop and detain any inmate for the purpose of determining their identity and ascertaining the nature of their activity.

**52050.5.2 Definition of Seizure**

The taking, confiscating, possession or custody of contraband as outlined in DOM 52051.

- To hold under authority of law.
- To check the progress or spread of unlawful acts.

**52050.6 Formalities in Making Arrest; Exceptions**

The officer making the arrest shall inform the person being arrested of:

- The intention to arrest.
- The cause for the arrest.
- The authority to make the arrest, except when the officer effecting the arrest reasonably suspects that the person to be arrested is actually engaged in the commission of a crime, or the person to be arrested is pursued immediately after its commission, or after an escape.

The requirement that the officer inform the person to be arrested of the authority to arrest shall be deemed satisfied when the officer is in full uniform and is clearly visible to the arrestee.

**52050.7 Miranda Rights***Revised November 16, 2017*

Any peace officer effecting an arrest of a suspect of a criminal offense shall advise that person of their constitutional rights pursuant to the Miranda decision prior to engaging in direct questioning. In an institutional setting, when an arrestee/inmate is taken into custody, by being placed in a more restrictive environment than would be considered normal and is suspect in a criminal offense, they shall be advised of their Miranda Rights.

The inmate/suspect arrestee shall be advised of their Miranda Rights prior to any interrogation, by reading verbatim the following to the arrestee in a language that he/she understands.

- You have the right to remain silent.
- Anything you say can and will be used against you in a court of law.

- You have the right to consult an attorney and to have an attorney present with you during questioning now or in the future.
- If you cannot afford to hire an attorney, one will be appointed for you at no charge.
- Do you understand each of these rights as I have explained them to you?
- Now that I have explained your rights, are you willing to make a statement without an attorney present?

The arresting officer shall, whenever practical, ensure that another peace officer is present when the arrestee is advised of these rights and the answer to these questions, along with any statement provided after a waiver of these rights, shall be documented in the appropriate incident reports.

An inmate has no right to silence during questioning by any Department staff member regarding non-criminal Department violations.

**52050.7.1 Electronic Recordation***Revised November 16, 2017*

The custodial interrogation of any person, including an adult or a minor suspected of committing murder shall be electronically recorded on video in its entirety. An audio recording shall be acceptable when no video is available.

The video recording is required when an interrogation is held in connection with a criminal offense that has been, or may be filed against the inmate/suspect arrestee for murder. This includes any correctional or detention facility. Staff shall be required to maintain an exact copy of the electronic recording of the interrogation until such time a conviction relating to the interrogation is final and all direct appeals are exhausted.

Staff shall not be required to electronically record a custodial interrogation under any of the following circumstances:

- Electronic recording is not feasible because of exigent circumstances. Staff shall document an explanation of the exigent circumstances on an 837-C Incident report.
- The inmate/suspect arrestee refuses to participate, or refuses to participate in any further in an electronically recorded interview. If feasible, the inmate/suspect arrestee statement refusing to participate shall be electronically recorded. Staff shall document that refusal in writing on an 837-C Incident report.
- Staff shall not be required to electronically record a custodial interrogation by another law enforcement agency occurring in that agency's jurisdiction.
- If an interrogation occurs when no electronic recording is required, the individual reveals facts and circumstances, giving staff conducting the interrogation reason to believe that murder has been committed, the interview shall be terminated immediately. Staff shall only proceed with the custodial interrogation being electronically recorded pursuant to this section.
- Staff shall not be required to electronically record an interrogation if it is believed that doing so would disclose the identity of a confidential informant and/or jeopardize the safety of anyone including the individual being interrogated. An explanation of the circumstances shall be documented on an 837-C Incident report.
- No electronic recording shall be required when there was a failure or malfunction of the recording device, after a reasonable time for maintenance, repair and/or replacement has been allotted. An explanation of the circumstances shall be documented on an 837-C Incident report.
- Staff shall not be required to electronically record responsive or spontaneous statements to questions as part of a routine process of arresting or booking of an inmate/suspect arrestee.

**52050.7.2 Beheler Advisement***Revised November 16, 2017*

Any person not under arrest, who is voluntarily participating in an interview and is free to terminate that interview at any time, shall be advised that any statements made are admissible in a court of law. In the aforementioned circumstance, staff shall not be required to read that person their constitutional rights pursuant to the Miranda decision.

**52050.8 Planned Arrest Procedure**

Whenever possible, every arrest shall be planned to minimize risk of injury to staff, inmates, or to the public, or to destruction or damage to state property. Plans for arrests shall be formulated by or in conjunction with, or reviewed by the peace officer's supervisor. Plans for arrests shall consider at a minimum:

- Facts and circumstances of the criminal violation for which the person is being arrested.
- Criminal history with emphasis on potential for resisting arrest by use of weapons or dangerous instruments.



- The location of arrest and potential interference of other inmates or persons, or the potential risk to uninvolved inmates, other persons, or staff.
- Determine any special equipment needed.
- Determine tactics to be used.

#### **52050.9 Unplanned Arrest Procedure**

The peace officer may unexpectedly discover a person engaged in a criminal act requiring prompt arrest. The decision to arrest must be made quickly and without the opportunity to confer with their supervisor.

The officer shall promptly communicate to other staff the present situation and the need for assistance. Depending on the circumstances of the situation, the officer may need to take immediate intervening action before arrival of additional staff assistance. In this case, the officer should consider the elements of risk involved in effecting the arrest including:

- Facts and circumstances of the criminal violation for which the person is being arrested.
- Potential for resisting arrest by use of weapons or dangerous instruments in the immediate area.
- The location of arrest and potential interference of other inmates or persons, or the potential risk to uninvolved inmates, a victim, or other persons, or staff.
- Determine the most appropriate tactics to be used given available resources and response time of responding staff.

#### **52050.10 Restraint Gear**

Employees shall use only State-issued handcuffs, handcuff keys and other restraining equipment during the course of their duties. The possession of privately owned handcuffs, handcuff keys, and other restraint equipment is prohibited on institutional grounds.

##### **52050.10.1 Restraint Gear – Handcuffs/Handcuff Keys**

The Wardens shall procure and issue State-owned handcuffs/keys to all personnel occupying the following posts:

- All uniformed custody personnel with inmate contact assigned to AD-SEG, PHU, SHU, Management Control Unit (MCU), psychiatric unit, or outside inmate work crew.
- All uniform custody personnel with inmate contact assigned to general population housing unit.
- All personnel assigned to a security squad.
- All personnel assigned to search and escort duties.
- All yard officers.
- All transportation details.

##### **52050.10.1.1 Issuance**

State owned handcuffs/keys shall be issued on receipt of metal key tags bearing the employees name. The tags shall be placed on the respective handcuff/key board hook. (Refer to DOM 55020.14 Key/Locking Device Control).

##### **52050.10.2 All Restraint Gear**

All State owned restraint equipment, including handcuffs, shall be etched with the institution/regions initials (SQ, CMF, CTF, etc.) where the equipment is used and numbered for identification.

- Restraint gear shall be stored in an area inaccessible to inmates. Each area shall have provisions (hook boards, etc.) for individual and sets of restraint gear for daily and operational use.

##### **52050.10.3 Restraint Gear Use**

All personnel who are required to apply restraint equipment shall be knowledgeable and competent in the following areas:

- Departmental handcuff and restraint gear policy.
  - Methods for practical application of handcuffs and restraint equipment.
- Mechanical restraints may be used under the following circumstances:
- When transporting inmates.
  - When there is a reason to suspect an inmate may engage in violence, where bodily injury may occur, based on present behavior or apparent emotional state.
  - Under medical advice to prevent the inmate from suicide or self-inflicted serious physical injury.
  - Under no circumstances shall mechanical restraints be used for punitive purposes. When mechanical restraints become necessary, no restraint equipment shall be placed about the neck nor applied in any way as to inflict physical pain, undue physical discomfort, restriction of blood circulation, or breathing.
  - Restraint equipment shall not be used to secure an inmate to a stationary object except as a temporary measure. During transport, an inmate shall

not be secured by any keyed locking device or equipment to any part of the transporting vehicle.

- When mechanical restraint is required, handcuffs alone or attached to a waist chain shall be the usual method. Other specialized restraints, such as leg irons or additional chains, may be permitted only when it appears that immediate circumstances exist to justify the use of such mechanical restraints.
- For application of restraint gear on pregnant inmates refer to Care, Treatment, and Security of Pregnant Offenders, DOM 54045.11.

**Note:** The use of specialized mechanical restraints shall be documented except when an inmate is being transported outside the institution.

##### **52050.11 Loss of Handcuffs/Keys**

Loss or the misplacing of handcuffs and/or keys shall be reported immediately to the employee's supervisor, who shall notify the watch commander. A written report shall be submitted by the responsible employee.

##### **52050.12 Application**

For application of restraint gear refer to Transportation, DOM 55060.

##### **52050.13 Restraining a Private Citizen**

The use of mechanical restraints (handcuffs) to physically restrain or control a private citizen on institutional grounds is authorized only when an arrest is being made for a misdemeanor or felony. A supervisor shall evaluate the necessity to apply mechanical restraints prior to their use unless the citizen attempts to flee, escape, or physically refuses to submit to arrest. Once the private citizen has been restrained with handcuffs they shall remain cuffed until a disposition has been made by the local police authority.

##### **52050.14 Search Policy**

All managers and supervisors shall ensure their subordinates are aware of and comply with this search policy. Searches include:

- Unannounced and irregular timed searches of cells, dormitories, and living areas, inmates, residents, and their work and assignment areas.
- Frequent search and careful supervision of inmate workers both inside and outside the security area.
- Inspection of all vehicular traffic, supplies, packages, and mail entering the institution.
- Use of metal detectors wherever feasible.
- Complete search and inspection of each cell or living area prior to occupancy by a new inmate.
- Avoidance of unnecessary force, embarrassment, or indignity to the person being searched.
- Written authorization by the Warden or designee to conduct searches of visitors and their property.
- Compliance with the Public Safety Officer's Bill of Rights, GC 3300.
- Post orders describing minimum search frequency requirements, authority, and method for accomplishment.
- A walk-through metal detector at the facility entrance building to inspect all persons visiting the institution (community re-entry facilities are excepted).

##### **52050.15 Search of Employees**

As with all persons who come on the grounds or into the institutions and facilities of the Department, all persons employed by the Department are subject to inspection and search of their person, property, and vehicles, to the extent deemed necessary by the official in charge. Consent to search is a condition of employment which may not be withdrawn while in or on the grounds of an institution or facility of the Department.

- The appropriate supervisor/administrator shall inform each new employee of departmental consent to search policy.
- An employee may be subjected to a more intensive search than is normally required when the official in charge has reasonable suspicion that the employee is involved in the unauthorized or unlawful possession or movement of anything into or out of an institution or facility of the Department. Such an intensive search may include the employee's person, vehicle, and any locker, desk, or storage space assigned to or used by the employee.
- When the intensive search includes the employee's assigned locker, desk, or storage space provided by the Department, it shall be searched in the employee's presence, or with his/her consent, or with prior notification that a search will be conducted, or after a valid search warrant has been obtained. Whenever possible the employee shall be present during the search.
- When an employee is subjected to a more intensive search than is normally required, the employee shall be informed of the reason for the

search and of the name of the official ordering the search before the search begins.

- Any search of an employee's person which involves the touching of the employee's clothed body or visual inspection of the employee's unclothed body shall be conducted in private and out of the sight and hearing of other employees and inmates. Such searches shall only be conducted, observed, and supervised by officials of the same sex as the employee.
- An intensive search of an employee's person, property, or vehicle shall be conducted by not less than two officials, at least one of whom shall be of a supervisory rank to assume official responsibility for the search.
- The intensive search of an employee's person, property, or vehicle shall be verbally reported to the administrator of the institution or facility or to the duty officer immediately upon completion of the search. This shall be followed with a written report to the administrator and an incident report to the Director if the search discloses or confirms any suspected criminal activity.

#### **52050.16 Searching Inmates – Housing Unit**

Post orders shall require that a minimum of three cells, rooms, dorms, or living areas in each housing unit is searched daily on each of the second and third watches by the assigned unit officer.

Insofar as possible, a cell, room, dorm, or living area and locker shall be searched immediately upon its vacancy and again, if there is a significant time lapse, before it is reassigned. Such inspections are required and shall be recorded for segregation, Disciplinary Detention, and SHU cells.

Every reasonable precaution shall be taken to avoid damage to personal property and to leave the inmate's quarters and property in good order upon completion of the search.

##### **52050.16.1 Work and Non – Housing Area**

Teachers, work supervisors, and instructors shall make a daily security and contraband search of the areas they supervise. Custody officer post orders shall require ongoing search each day and a thorough search of each inmate, work area, assignment shop, and classroom once each week.

Inmates are subject to an inspection of their person either clothed or unclothed when there is reasonable suspicion that the inmate may have unauthorized or dangerous items or substances concealed on their person. Such inspection may also be a routine requirement for inmate movement into or out of high security risk areas. Random or spot-check inspections of inmates shall occur as a means to prevent the possession and movement of unauthorized and dangerous items and substances into, out of, or within the facility.

##### **52050.16.2 Reasonable Suspicion**

A clothed body search may be initiated when there is reasonable suspicion based on articulable facts, circumstances, and rational inferences that a person has committed, is committing, or is about to commit a crime.

##### **52050.16.3 Clothed Body Search of Male Inmates**

Custody post orders shall require random clothed body searches of inmates, or when reasonable suspicion is established. Random search should be no more frequent than necessary to control contraband or to recover missing or stolen property; however, the routine search of inmates entering or leaving certain specified areas is not precluded.

- All institution staff are responsible for conducting random searches.
- This is a basic search alerting staff to possession of weapons or other serious contraband.
- A search shall be conducted with the inmate facing away from the staff member.
- Staff shall search inmates from the top of their head to the bottom of their feet, including shoes, all pockets, seams, and personal effects.

##### **52050.16.4 Clothed Body Search of Female Inmates**

*Revised July 1, 2015*

Body search procedures for clothed female inmates recognize, address, and minimize the effects of cross-gender contact inherent in the body search process by limiting this function to female correctional staff unless an emergency exists that threatens death, inmate escape, or great bodily injury to staff, inmates, or visitors.

Custody post orders shall require random clothed body searches of inmates, or when reasonable suspicion is established. Random search should be no more frequent than necessary to control contraband or to recover missing or stolen property; however, the routine search of inmates entering or leaving certain specified areas is not precluded.

- This is a basic search alerting staff to possession of weapons or other serious contraband.

- A search shall be conducted with the inmate facing away from the staff member.
- Staff shall search inmates from the top of their head to the bottom of their feet, including shoes, all pockets, seams, and personal effects.

Clothed Body Searches of female inmates shall be conducted by female correctional staff only, except in emergency situations as follows:

- When circumstances exist that require an immediate search of a female inmate in order to avoid the threat of death, escape, or great bodily injury to staff, inmates, or visitors; and only until sufficient numbers of female correctional staff are available to assume critical body search duties.
- Clothed Body Searches performed by male correctional staff during the emergency circumstances described above shall sweep the inmate's breast and genital area with the back of the hand for the purpose of discovering contraband directly related to the threat posed by the emergency. If cause exists for a more thorough search, the female inmate shall be detained until a female correctional staff member is available to conduct the search.
- At any time a male correctional staff member conducts a pat-down search of a female inmate, the search shall be documented. This documentation shall be completed utilizing a Notice of Unusual Occurrence which shall be reviewed by the supervisor and routed to the institutional PREA Compliance Manager (PCM). The PCM shall retain the completed document, in accordance with the Records Retention Schedule, for audit purposes.

Under no circumstances shall male correctional staff perform non-emergency clothed body searches of female inmates.

##### **52050.16.5 Unclothed Body Search of Inmates**

*Revised July 1, 2015*

Unclothed body searches:

- Correctional personnel, other than qualified medical staff, shall not conduct unclothed body inspections or searches of an inmate of the opposite sex, except in an emergency.
- Inmates assigned to designated areas, (i.e., vocational programs, industries, plant operations, warehouse, outside crews, etc.), may be subject to unclothed body searches before returning to the institution's general population.
- Routine unclothed body searches shall be conducted in a safe manner and in an area that allows the inmate to preserve some measure of dignity and self-respect. Routine unclothed body searches shall not be completed by staff of the opposite biological sex.
- The inmates shall be required to remove all articles from their pockets. All articles shall be inspected by staff. If it is suspected that an inmate is in possession of dangerous contraband, the inmate shall be detained and closely observed until there is sufficient staff to conduct a "safe" search. In this circumstance, the staff member conducting the search shall initially conduct a clothed body search and remove all articles from the inmate's person rather than allow the inmate to remove them.
- The inmate shall then completely disrobe. Staff shall inspect and search each item of clothing and visually inspect the inmate's body.
- The inmate shall face the staff member who shall visually inspect the inmate's hair, ears, mouth, nose, body, armpits, hands, scrotum, genitals, and legs. The inmate shall turn away from staff upon instruction and staff shall then inspect the inmate's back, buttocks, thighs, toes, bottom of the feet, and lastly, the anal area by having the inmate bend over, spread the cheeks of their buttocks, and cough.
- Unclothed body searches of inmates by staff of the opposite biological sex shall only be conducted in emergency situations. If a cross gender unclothed body search is required, the search shall be documented. This documentation shall be completed utilizing a Notice of Unusual Occurrence which shall be reviewed by the supervisor and routed to the institutional PCM. The PCM shall retain the completed document, in accordance with the Records Retention Schedule, for audit purposes.

##### **52050.16.6 Unclothed or Clothed Body Search of Inmates in Enhanced Outpatient Program Administrative Segregation Hubs and Psychiatric Services Units**

*Effective January 30, 2015*

- Inmates shall be subject to an unclothed body search as described in Section 52050.16.5 upon their initial placement into designated Enhanced Outpatient Program Administrative Segregation hubs and Psychiatric Services Units.
- Unclothed body searches shall be conducted within the cell unless the physical design prevents visibility, at which point the inmate will be

escorted to an alternate private/secure setting where the unclothed body search will be conducted.

- Inmates exiting the unit will be subject to an unclothed body search as described in Section 52050.16.5 and scanned with a metal detector.
- Inmates returning to the unit who have been under constant staff supervision shall not be subject to an unclothed body search but shall be subject to a clothed body search as described in 52050.16.3 and scanned with a metal detector.
- Inmates removed from their cell for routine activity in the unit shall be subject to a clothed body search as defined in 52050.16.3 and scanned with a metal detector.
- When circumstance exists that would lead an objective, trained, and competent Correctional Officer to believe it is necessary, he or she can perform an unclothed body search as described in 52050.16.5. These searches shall be noted on the CDC Form 114-A, Inmate Segregation Record. These searches shall only be conducted when necessary to control contraband or recover missing or stolen property.

#### **52050.16.7 Unclothed and Clothed Body Searches of Transgender or Intersex Inmates**

*Effective July 1, 2015*

In the event that there is an individual going through Receiving and Release (R&R) who self-identifies as transgender or self-identifies with a gender that seems not to match their biological sex, the search will be conducted by staff of the same biological sex as the inmate to be searched.

In the event that an individual's genital status is ambiguous, the search shall be conducted by a staff member that is the same biological sex as indicated in the inmate's records. (i.e., paperwork indicates male, inmate will be searched by a male staff member).

If staff are unable to determine the genital status through medical records or an interview with the inmate, the inmate shall be placed on single-cell status or in administrative segregation for his/her safety, until the standard intake medical evaluation is completed. This standard medical examination will establish the genital status of the inmate. Once the information is collected and documented on the CDCR Form 128-C3, the Institution Classification Committee should determine appropriate classification and housing placement.

Many inmates consider their sexual orientation and gender identity to be private information, and the widespread knowledge of this information could impact the safety and well-being of sexual minorities such as lesbian, gay, bisexual, transgender and intersex (LGBTI) inmates. This information is considered sensitive and should be handled in a confidential manner. The information should only be communicated to staff when there is a justified "Need to Know." This information should never be communicated to other offenders. This will protect the rights and safety of the involved inmate.

#### **52050.17 Clothed Body Search of Visitors**

Any person coming onto the grounds of any Department facility or camp or any Department contracted facility, is subject to having their person, vehicle, and articles of property in their possession searched. Visitors to such a facility are subject to a routine inspection of their persons, vehicles, and any personal property in their possession. Such inspections shall be made to the degree consistent with the facility's security needs.

When peace officer staff determine that there is reasonable suspicion that the visitor is engaged in criminal activity including, but not limited to, the smuggling of unauthorized items or substances in or out of the institution, the visitor may be subjected to a thorough clothed body search.

- Each correctional facility shall provide for the posting of a warning sign, in English and Spanish, at the entrance onto the property stating: "Entrance constitutes consent of search of visitor's person, property, or vehicles."
- For detail information for searching inmate visitors, refer to DOM 54020.
- Contraband that has been seized as evidence in a search of a person, other than an inmate, shall be turned over to the responding law enforcement agency.
- A visitor may refuse to submit to an inspection or search. A refusal shall result in the visitor being denied entrance to the facility.

If there is reasonable suspicion that the person is engaged in felonious activity and that evidence of such crime may be destroyed or disposed of if a search is not immediately conducted, the peace officer, with the concurrence of the watch commander, may detain the person and the property or vehicle to be searched until such time as a search warrant can be obtained. In all such cases the Warden or their designee will be immediately advised of the circumstances and a decision made about the course of action to be pursued.

#### **52050.18 Family Visit Search**

Visitors to family visiting units shall be searched to ensure that no contraband or unauthorized items enter the institution grounds.

- During processing of inmate visitors, all authorized items to be brought into the institutional family visiting area shall be thoroughly searched.
- Items which are not authorized shall not be allowed inside the institution and shall be secured off the institutional grounds by the visitor.
- In the event felonious contraband (weapons, narcotics, etc.) is discovered in the possession or in the property of a visitor, procedure as described in DOM 52050.17 shall be followed.

#### **52050.19 Body Cavity Search**

Correctional personnel, other than qualified medical staff, shall not conduct a search of an inmate's body cavities, other than visual or metal detector inspections. The search shall be conducted in a medical setting and any physical intrusion into body cavities shall be performed by a physician.

##### **52050.19.1 Probable Cause**

A body cavity search of inmates shall only be initiated when there is probable cause to believe the person has secreted contraband within a body cavity. Prior to initiation and before each escalation of the search, the individual shall be given ample opportunity to voluntarily remove or surrender the contraband. Probable cause may be established by:

- Reliable confidential information.
- Irregularities found in the body cavities.
- Detection of contraband on the person.

*Note:* Probable cause is not dependent upon the outcome of the search.

##### **52050.19.2 Authorization to Search**

Authorization to initiate a body cavity search requiring any degree of intrusion shall be given by the Warden or designee after consideration of all information relating to probable cause.

##### **52050.19.3 Supervision of Searches**

All searches other than an initial visual or metal detector inspection and each progressive step shall be under the general supervision of a supervisory staff member not less than the level of lieutenant.

##### **52050.19.4 Oral Cavity Searches**

When an inmate is suspected of having secreted contraband in their mouth or attempts to swallow the evidence, no attempt shall be made to retrieve the contraband by force. A choke hold or any other physical restraint which prevents the person from swallowing or breathing shall not be used. If probable cause exists that evidence has been swallowed and that it is retrievable in usable form, the search process may be intensified as provided in this Article, (see Contraband Surveillance Watch).

##### **52050.19.5 Methods**

In conducting any search of an inmate's body cavities, all persons involved shall be sensitive to the personal dignity of the individual and the individual's right to privacy of their own body. However, such rights may be abrogated to the extent necessary to preserve the security of the institution and the safety of persons.

##### **52050.20 Degrees and Types of Searches**

The degree and intensity of the search shall be that least required to bring the search to a conclusion. As the search progresses, with each new piece of evidence to support the presence of contraband, the person shall be given ample opportunity to voluntarily remove and surrender the contraband.

The types of searches include:

- Visual and metal detector searches.
- X-ray examinations.
- Physical intrusions by a physician.
- Physical isolation and observation.

##### **52050.21 X-Ray Examination**

X-ray examinations for the purpose of confirming the ingestion of contraband or concealment of contraband in body cavities shall be utilized only upon approval of a medical doctor and under the same medical requirements and precautions as apply to x-ray examinations for other medical reasons. An x-ray examination shall be ordered and interpreted only by a physician, who shall make the following determinations:

- Whether or not a foreign object(s) is within the inmate's body.
- A determination, if possible, of the nature of any foreign object(s).
- The effects of forcible removal or failure to remove the foreign object(s) upon the inmate's health and safety.
- Recommendations for consideration regarding the least intrusive way to retrieve the contraband.

**52050.22 Forcible Retrieval**

The forcible retrieval of contraband by intrusion into the inmate's body shall be avoided except as follows:

- When a medical doctor has determined that failure to remove the contraband presents an imminent danger to the life of the inmate.
- The contraband is clearly identifiable and constitutes an imminent threat to the security of the institution or the safety of other persons.
- The contraband cannot be retrieved by any less intrusive or forcible manner.
- Surgery. Surgical removal of contraband from the body of an inmate shall be the decision of the institution's CMO, and in keeping with rights of the individual as would apply in any other surgical process.

**52050.23 Contraband Surveillance Watch**

The objective of placing an inmate on Contraband Surveillance Watch (CSW) is to retrieve concealed contraband without physical intrusion if possible; ensure that contraband is not circulated into the inmate population; and ensure the safety of the inmate suspected of having the concealed contraband.

When it becomes apparent through medical examination, direct observation, or there is reasonable suspicion that an inmate has concealed contraband in their body, either physically or ingested, and the inmate cannot or will not voluntarily remove and surrender the contraband, or when a physician has determined that the physical removal of contraband may be hazardous to the health and safety of the inmate, the inmate may be placed in a controlled isolated setting on CSW under constant visual observation until the contraband can be retrieved through natural means, or is voluntarily surrendered by the inmate.

This natural digestive process shall be used as an alternative to forcible intrusion into body cavities or surgery when a medical doctor determines that the natural method is feasible and does not pose a hazard, clear and present danger, or imminent threat to the inmate's health and safety. Each institution shall provide their respective Associate Director (AD) and Investigative Services Unit (ISU) a weekly CSW report (CSW Tracking Report). The CSW tracking report is due at noon each Monday (or next business day if the Monday falls on a holiday) and shall cover the period of the previous week (Monday thru Sunday). This report shall reflect all inmates on CSW for that period. The information contained in this report shall be forwarded by California Department of Corrections and Rehabilitation (CDCR) Headquarters' staff to the Office of the Inspector General on a weekly basis.

**52050.23.1 Authorization and Approval**

The request to place an inmate on CSW shall be made by the on duty Watch Commander, and approved at the level of Captain or above during business hours, or by the Administrative-Officer-of-the-Day (AOD) during non-business hours, on weekends or holidays.

Normally, inmates should be retained on CSW for a period of 72 hours, or until the inmate has provided at least three bowel movements free of contraband. When it is determined by medical or custodial staff that the inmate may still be in possession of contraband at the conclusion of the 72-hour time period, a search warrant, in cases where probable cause exists, shall be generated to retrieve the contraband. The search warrant shall be authorized at the level of Warden or Chief Deputy Warden (CDW). If a valid search warrant/court order is obtained, the contraband retrieval process shall be conducted in accordance with the warrant/court order; California Code of Regulations (CCR), Title 15, Section 3287(b)(5); and Department Operations Manual (DOM), Section 52050.19.

Retention of an inmate on CSW for a second 72-hour period may only be authorized by the Warden or CDW. Retention of an inmate on CSW beyond six days may only be authorized by the Director, Division of Adult Institutions (DAI) or Deputy Director, Facility Operations, DAI.

The justification for each 72 hour CSW extension (e.g., the inmate only had one bowel movement within the 72 hours) shall be clearly articulated and reflected on a CDC Form 128B General Chrono. The CDC Form 128B shall be generated by the manager responsible for the area in which the inmate is currently housed. The reason for the 72-hour extension shall also be noted on the weekly CSW tracking report.

**CSW Placement/Retention Approval Matrix**

CSW PERIOD	APPROVAL LEVEL
First 72 hrs	Captain or above
Second 72 hrs	Warden or CDW
Seven days or more	Director, DAI/Deputy Director, Facility Operations, DAI (72 hour increments)

Note: All CSW Placement/Retention approval periods will be in 72 hour increments.

**52050.23.2 Isolated Settings**

Inmates on CSW shall be placed on Administrative Segregation status in accordance with CCR, Title 15 Sections 3335 and 3336, issued a CDC Form 114D, Administrative Segregation Unit Placement Notice, and housed in an isolated setting for the duration of the CSW to meet the objective of retrieving the concealed contraband. The CDC Form 114D shall be issued by the official ordering the CSW placement and a copy distributed, within 24 hours of the placement, to the Warden, Captain responsible for the initial review of CDC Form 114D, and institution ISU. The Warden's office shall ensure that a copy of the CDC Form 114D is forwarded to the respective AD by the first business day subsequent to the issuance of the CDC Form 114D.

Upon receipt of the CDC Form 114D, ISU staff shall conduct a review of the CSW placement to determine the viability of obtaining a search warrant to retrieve the contraband. If a search warrant to retrieve the contraband is deemed appropriate (i.e., probable cause established, etc.), ISU staff shall prepare a search warrant as directed by the Warden or CDW. An x-ray request shall be part of the search warrant. The search warrant shall be sent to the court/judge for resolution directly after the initial 72 hours of the inmate's CSW placement has elapsed.

The isolated setting shall be a cell that can provide the necessary security precautions of the institution/facility and large enough to accommodate a fully extended sleeping mattress. This setting may be in a general population area or in a segregated housing unit of the institution (i.e., Administrative Segregation or Security Housing Unit).

In a medical emergency situation, or when it is determined by a physician or other medical personnel (e.g., Physician Assistant, Nurse Practitioner, Registered Nurse) that the concealment of the contraband poses an imminent threat to the inmate's health and safety, the inmate shall be placed in a medically approved isolated setting in a Correctional Treatment Center, Outpatient Housing Unit, or General Acute Care Hospital. In such cases, the security and custodial supervision, and CSW responsibilities shall remain with the custodial personnel assigned to CSW detail under the direction of the Watch Commander. The isolated setting/cell's lights should be dimmed, as possible, during normal hours of darkness, if such action does not adversely impact staff's ability to observe and monitor the inmate.

**52050.23.3 Placement in Isolated Setting**

Prior to the inmate being placed on CSW in the isolated setting, the following shall be accomplished:

- The Watch Commander shall ensure that a medical assessment of the inmate is completed by a physician or other medical personnel (e.g., Physician Assistant, Registered Nurse, Licensed Vocational Nurse) prior to the inmate's placement on CSW. The medical assessment and the results shall be documented on a CDCR Form 7219, Medical Report of Injury or Unusual Occurrence.
- A CDC Form 114A, Inmate Segregation Record, shall be generated and maintained while the inmate is on CSW.
- The inmate shall be given an unclothed body search (see DOM, Section 52050.16.5).
- The isolated setting shall be thoroughly searched and cleaned.
- All moveable objects in the isolated setting shall be removed (except a mattress, blanket (from 2000 hrs to 0800 hrs) and stationary fixtures).
- The toilet (when present in the isolated setting) shall be covered in plastic and taped closed with the water turned off (if applicable).
- Female inmates shall be placed in a jumpsuit or two piece slip-on shirt and pants, one brassiere, one pair of panties, and one pair of socks. As an added method of security, inmates may be placed in two jumpsuits with the openings placed/worn in the opposite direction of each other.
- Male inmates shall be placed in one pair of boxer shorts, one T-shirt, and one pair of socks, or an approved jumpsuit or two piece slip-on shirt and pants with or without a T-shirt or boxer shorts. As an added method of security, inmates may be placed in two pairs of boxer shorts or two jumpsuits with the openings placed/worn in the opposite direction of each other.
- The legs and waist of the boxer shorts or slip-on pants and/or the arms and legs of the jumpsuit shall be taped closed to restrict the inmate's access to their body cavities. Tape should never be applied in a manner to restrict circulation nor directly over the inmate's skin.

The inmate shall remain under constant visual observation at all times while on CSW. Inmates on CSW shall be checked by a correctional supervisor (Sergeant or above) once a shift. The purpose of this check is to determine the inmate's wellbeing and ensure staff's adherence to the CSW policy. All

supervisory checks/reviews shall be documented on the inmate's CDC Form 114A.

#### **52050.23.4 Mechanical Restraints**

The inmate shall be placed in handcuffs attached to a waist chain while on CSW. Leg restraints may be used in cases where custody staff determines the inmate poses a threat to the safety of himself and/or others, in accordance with CCR, Title 15, Section 3268.2 Use of Restraints.

Use of mechanical restraints on persons confirmed, or suspected by health care staff to be pregnant shall be subject to the following requirements (see also CCR, Title 15, Section 3268.2(e)):

- No leg restraints or waist chains shall be applied.
- If handcuffs are applied, the person's arms shall be brought to the front of her body for application.

Mechanical restraints shall not be placed on an inmate during labor, including during transport to a hospital, during delivery, and while in recovery after giving birth, unless circumstances exist that require the immediate application of mechanical restraints to avoid the imminent threat of death, escape, or great bodily injury. If such a threat exists, mechanical restraints may be used only for the period during which such threat exists (see CCR, Title 15, Section 3268.2(c)(5)). Four point restraints may be authorized when an inmate is disruptive or combative in accordance with CCR, Title 15, Section 3268.2 (c), and when approved by the Chief Medical Executive (CME) or their designee. The use of four-point restraint equipment shall be documented in the inmate's Uniform Health Record (UHR) in accordance with CCR, Title 15, Section 3268.2(f).

Hand Isolation Devices (HID) may be used at an institution when authorized, in writing, by the Warden or CDW. HIDs shall be purchased from an approved vendor only. Prior to placing a HID on an inmate confirmed, or suspected by health care staff to be pregnant, a physician shall be consulted and any potential risks fully discussed. The final decision to place the device on the inmate shall rest with the Warden or CDW and the reviewing physician. The consultation and its outcome shall be documented for inclusion in the inmate's health care record and central file. Inmates placed in a HID shall remain under constant and direct visual supervision at all times. In instances where a HID is used, staff shall update the inmate's CDC Form 114A to reflect usage times and correlating actions (e.g., 1200 hrs – One HID was removed allowing the inmate to eat lunch). Equipment Hygiene – HIDs shall be cleaned and sanitized on an ongoing basis (e.g., If soiled after a bowel movement, after termination of the CSW, etc.). In order to provide range of motion to a restrained extremity, a CSW inmate should be allowed free movement of each arm and leg at least once on 2<sup>nd</sup> and 3<sup>rd</sup> watch. Each restrained extremity should be released for a free movement period of at least 5 minutes on 2<sup>nd</sup> and 3<sup>rd</sup> watch. As appropriate to the situation, only one extremity need be released at a time. The application of additional restraints (e.g., Leg Irons, HID, etc.) other than handcuffs and waist chain shall be documented on the inmate's CDC Form 114A.

#### **52050.23.5 Health and Safety Concerns**

The inmate may be subjected to an x-ray examination in accordance with DOM, Section 52050.21 prior to their placement on CSW, and then again, thereafter, when it is determined to be necessary by the Chief Medical Executive (CME) or a physician. During the course of the CSW, if for any reason custodial staff observes a decline in the inmate's health, or it is believed that the inmate's health is affected by the concealed contraband, medical personnel shall be immediately contacted to conduct an assessment of the inmate's condition. In a medical emergency situation, the CME may authorize a physician to perform an intrusive search and remove the contraband in accordance with DOM Section 52050.19 and CCR, Title 15, Section 3287 (b)(5).

In the event a CSW inmate is transferred to an outside medical facility, notification shall be given to the Warden or CDW (during business hours) or the AOD (during non-business hours). In cases where the CSW inmate is admitted to an outside medical facility, the institution shall notify the respective AD within one business day of the admission.

Personal hygiene is an essential tool to maintain a healthy environment within an institutional setting and therefore each institution shall establish a process in which a CSW inmate is given the opportunity to wash (soap and water) his/her hands after each use of the restroom, prior to eating a meal, or when necessary to ensure appropriate hygiene. Running water may be substituted with a portable alternative such as a hand basin filled with water. During the periods in which an inmate is allowed to wash his/her hands, staff must take care to prevent the inmate from disposing of any contraband.

Isolated Setting Hygiene – The CSW isolated setting/cell's cleanliness must be appropriately maintained while the inmate is on CSW.

#### **52050.23.6 Equipment**

The equipment required for contraband watch shall include, but is not limited to, the following:

- Flashlight
- Expandable Baton
- OC Pepper Spray
- Handcuffs with Key
- Waist Chain
- Leg Restraints (Based upon documented security need)
- Latex Gloves
- Disposable Mask
- Bed pan/portable toilet or toilet liner (clear plastic bag)
- Evidence Bags
- Tongue Depressor or Probe

CSW procedures shall be located within the assigned post orders, and on site for immediate referencing by staff assigned to observe the inmate on CSW. Institutions having a need to use alternate restraint equipment not reflected in DOM, Section 51020.6 must submit a request to their respective AD for review and approval. If the request is subsequently approved, the institution may then procure the equipment from an approved vendor only.

#### **52050.23.7 Voluntary Bowel Movement**

When the inmate requests to have a bowel movement, the custodial staff assigned to CSW shall:

- Request additional custody staff coverage. Only a staff member(s) of the same gender as the inmate shall monitor the bowel movement.
- Provide the inmate with toilet paper and a portable toilet, or use of the previously lined toilet in the isolated setting.
- Remove the necessary restraint gear to allow the inmate the ability to facilitate his/her bodily functions.
- Once the inmate has completed the bowel movement, the portable toilet or toilet liner shall be immediately retrieved or removed and the inmate will be re-secured in the restraint equipment.
- Using a tongue depressor or probe, the fecal matter shall be searched for any contraband. The assisting custody staff member shall maintain constant supervision of the inmate while the assigned Correctional Officer completes the search.
- The presence or absence of contraband shall be documented per institution procedure and on the inmate's CDC Form 114A.
- If contraband is discovered, the contraband shall be processed as evidence in accordance with institution procedures, and documentation of the contraband shall be completed in accordance with DOM, Section 51030, Crime/Incident Reports, and a Rules Violation Report shall be completed.

#### **52050.23.8 Removal from Contraband Surveillance Watch**

The inmate may be removed from CSW when it is reasonably believed that the contraband has been relinquished or it is determined the inmate is contraband free. The request for the termination of an inmate's placement on CSW shall be made by the on duty Watch Commander, and approved at the level of Captain or above during business hours, or by the AOD during non-business hours. A CDC Form 128B shall be generated by the staff member approving the CSW termination. The CDC Form 128B shall have, at a minimum, the date of CSW termination, the name and classification of the approving authority, and the findings relative to the contraband recovered. The date of CSW termination and the findings relative to the contraband recovered shall also be documented on the weekly CSW tracking report. All documentation (e.g., CDC Form 128B, CDC Form 114D, CDC Form 114A, etc.) relative to the inmate's CSW placement shall be maintained in the inmates Central File and institution's ISU office for the purpose of reference and audit.

#### **52050.24 Documentation**

The placement of an inmate on CSW shall be documented per institution procedures by the Watch Commander requesting the placement of the inmate on CSW in accordance with Section 52050.23.1 of this policy. Each employee assigned to the CSW detail shall document all activities related to the inmate on a CDC Form 114-A for the duration of the inmate's placement on CSW. This includes, but not limited to, all searches performed prior to and during the inmate's placement on CSW, meals, hygiene, bowel movements, health concerns, medications, etc. Each Correctional Officer assigned to the CSW detail shall sign in and out at the beginning and end of the CSW observation period on the CDC Form 114-A. The CME or their designee shall document all medical decisions or issues relating to the inmate during placement on CSW in the inmate's UHR. Complete and detailed documentation of all body cavity

searches other than visual or metal detector inspections shall be submitted to the Warden or their designee for review.

The report shall include the following information:

- Chronology of events leading to the search and escalation of the search process.
- Name and rank of all persons participating in the search process or supplying information which justified the search.
- All evidence and information regarding the justification for each degree of the search.
- Results at the conclusion of the search.

#### **52050.25 Vehicle Search – Visitors**

Authorization to initiate a search of a visitor's vehicle may be given by the watch commander after consideration of all information relating to reasonable suspicion (Refer to DOM 52050.19.1). Supervision of suspect vehicle search shall be limited to the supervisory rank of sergeant or above. Documentation shall be in accordance with DOM 52050.24.

#### **52050.25.1 Vehicles Adjacent to Institutional Property**

If probable cause exists warranting the search of a vehicle parked adjacent to institution property, the watch commander shall be notified and the driver and/or occupants of the vehicle shall be detained until the local law enforcement agency has been contacted and has responded.

Upon arrival of the local law enforcement agency, the Department peace officer shall apprise the law enforcement officer of all circumstances establishing probable cause for the detention. The local law enforcement officer shall then determine if a search should be undertaken. The Department peace officer shall remain present and render assistance and provide appropriate written reports to the agency as required.

#### **52050.25.2 State Vehicles**

All State vehicles shall be searched prior to use to ascertain that the vehicle is contraband free. When entering or departing the security perimeter, the vehicle shall be thoroughly searched by the custodial gate officer.

#### **52050.25.3 Non-State/Common Carrier Vehicles**

All non-state or common carrier vehicles are subject to search when entering or departing the institutional grounds. All non-state or common carrier vehicles shall be searched entering or departing the security perimeter of the institution.

- A systematic approach is essential to a thorough search. An effective search of a vehicle shall include passenger and freight compartments, trunk, motor compartment, roofs, and the undersides. A more thorough search, including hubcaps, under dash, spare tire, etc., shall be conducted if circumstances warrant or there is reason to suspect the presence of contraband.
- All vehicles leaving the institution shall be thoroughly searched to minimize the possibility of an inmate being concealed therein. Barrels and loads of loose materials such as leaves, refuse, etc., shall be thoroughly probed with a rod.

#### **52050.25.4 Employee Vehicles**

Covered in DOM 52050.15.

#### **52050.26 Parcel Searches**

- All correctional staff shall ensure inmates do not have access to any packages, parcels, mail, or containers entering the security area of an institution prior to proper inspection for contraband.

All incoming packages/mail addressed to inmates shall be inspected in accordance with DOM section 54010, Inspection of Incoming Packages/Mail.

#### **52050.27 Canine Unit**

*Revised November 11, 2016*

The California Department of Corrections and Rehabilitation (CDCR) canine unit is comprised of both illegal drug and contraband detection service dogs. Each departmental canine team is comprised of one certified canine handler and one certified canine service dog. All departmental service dogs shall be trained in the detection of illegal drug odor. Each canine team shall attend and successfully pass the Department's 280-hour course of training in illegal drug detection and then certify in the methods of illegal drug detection. Upon successful completion, an illegal drug detection service dog will be able to detect the presence of the odor of marijuana, heroin, cocaine, methamphetamine, and derivatives of these illegal drugs. At the discretion of the Canine Lieutenant, illegal drug detection service dogs may also be trained in the detection of contraband odor. Contraband detection service dogs will be capable of detecting the presence of the odor of tobacco and cell phones. Each departmental canine handler and service dog shall be recertified annually by the Canine Lieutenant.

All air scan service dogs must attend and successfully pass the Department's 120-hour course of training in passive canine air scan searching and then certify in the methods of passive canine air scan searching. Upon successful certification, the passive canine air scan team shall be able to complete passive air scans on people. Air scan service dogs must complete the Department's 280-hour course of training in illegal drug detection prior to attending the Passive Canine Air Scan Academy. Only a Passive Response Certified Narcotic Detection Team with a minimum of six months of experience shall be considered for air scan training and certification.

Service dogs shall not be used for verification of suspected drugs. Such verification shall be performed in accordance with existing drug testing procedures.

The mission of the canine unit is to combat the introduction of illegal drugs and contraband into CDCR facilities and reduce the overall level of drug/contraband and criminal activity within the inmate population, thereby enhancing the safety and security of the institution.

Selection of canine handlers shall be based upon overall experience, honesty, maturity, dedication, and a professed affection toward dogs. Canine service dogs shall not be utilized for any purpose other than illegal drugs/contraband detection (i.e., cell extractions, escape details, response to violent incidents, event control, etc.).

Only departmental assigned canine handlers shall normally handle departmental service dogs.

#### **Responsibility**

The Canine Lieutenant is responsible for purchasing, selling, retiring, or transferring of all service dogs and the training and coordination/utilization of all departmental canine teams. The Canine Lieutenant shall also be responsible for ensuring all departmental canine teams are in compliance with established regulations and policies governing departmental canine unit operations.

Canine units are assigned to individual institutions and have a dual reporting structure. Each is part of a "Regional Unit;" Northern, Central, or Southern Region based on geographical location. Direct supervision rests with the Investigative Services Unit (ISU) Lieutenant at the institution housing that canine team, and is responsible for daily Fair Labor Standards Act and staff accountability. The appropriate Regional Canine Coordinator maintains daily functional supervisory and scheduling responsibility for each canine unit. When the canine handler is not engaged in canine duties, the canine handler shall lend support with other ISU functions as needed.

#### **Injuries to a Canine Handler**

In the event a canine handler is injured during the performance of their duties and is unable to care for or provide control of his /her assigned service dog, another canine handler shall be called to secure the service dog. If another canine handler is not available, a non-canine staff member shall be directed to secure the service dog into the institution's kennel facility until another canine handler can respond. At the earliest time possible, the service dog shall be transported to the Regional Canine Coordinator or Canine Lieutenant until such time the assigned canine handler is able to care for the service dog, or the dog is reassigned.

#### **Injuries to a Service Dog**

Canine handlers shall avoid situations requiring the service dog to remain in their respective canine vehicles for extended periods of time. Temperature extremes can be detrimental to the service dog's health and in extreme cases may result in death. Whenever the canine handler leaves the vehicle unattended, all doors shall be secured. If the service dog is in the vehicle in mild or cool weather, the windows shall be rolled down, with lattice inserts in place. During hot, humid weather, the vehicle may be secured with the engine and air conditioning running and windows partially opened. Only vehicles equipped with "secure idle" may be left running while inside institutional grounds. In such cases, the vehicle shall be under direct observation (i.e., tower or front entrance/gate staff member). Extreme caution to inside vehicle temperature on hot days shall be exercised with welfare checks of the service dog conducted as needed, but at least every thirty (30) minutes.

In the event a service dog sustains a life-threatening injury or ingests any quantity of known or suspected drugs, the canine handler shall immediately call the closest available veterinary hospital for care. The canine handler shall administer appropriate first aid procedures as applicable. The telephone number for the American Society for the Prevention of Cruelty to Animals/Animal Poison Control Center is available through the Canine Lieutenant.

#### **Canine Retirement**

In the event the Department deems it necessary to retire a canine, it is the responsibility of the Canine Lieutenant to gather any substantiating documents

regarding the canine retirement, such as medical documents, if available, and forward these documents to the Division of Adult Institutions, General Population (GP) Males Mission.

The Department may deem a canine retired due to any of the following:

- Poor health;
- Old age;
- Unmanageable behavior; and/or
- Failure to obtain required certifications.

The GP Males Mission will then ensure the necessary paperwork is completed and approved. The two forms necessary to retire a CDCR canine are as follows:

- CDCR 2001, Agreement for Sale of Department K-9; and
- STD. 152, Property Survey Report.

Once approved, the Richard A. McGee Correctional Training Center shall be notified of the canine retirement to ensure that the canine badge number is retired.

The GP Males Mission shall also ensure proper notification and tracking within the CDCR SAP/BIS electronic tracking system.

### **Veterinary**

Each institution is responsible for identifying a veterinary clinic in their geographical area for providing emergency services as well as yearly examinations/vaccinations. Emphasis shall focus on a veterinarian experienced with providing care for service dogs. All departmental canines shall be examined and vaccinated yearly or as required by the attending veterinarian.

### **Accidental Bites**

In all cases of a service dog biting any person(s), staff shall obtain immediate medical aid for the victim. A service dog bite is a reportable incident. The canine handler shall return the service dog to its assigned kennel on grounds and complete CDCR Form 837-C, Crime/Incident Report Part C – Staff Report, for submission to the appropriate reporting authority. ISU staff shall obtain photographs of the victim's injuries immediately following medical treatment. These photographs shall be treated as evidentiary material.

### **Armed Post**

All correctional peace officers assigned as a canine handler shall be issued departmentally approved Glock Model G22 .40 caliber pistol with 3 magazines containing a total of 45 rounds of ammunition and equipment consistent with department policy.

Weapons shall be stored in an approved gun locker at the base of the appropriate weapons tower for accessibility 24-hours a day. A CDCR Form 656, Armory Entrance and Exit Log, shall be maintained and placed inside the gun locker for accountability purposes. A log entry, reflecting the canine handler's name, date, time in/out, and reason for drawing the weapon shall be completed by the canine handler each time the weapon is accessed.

Canine handlers issued side arms shall be armed during off site operations and while transporting their assigned service dog off institutional grounds. When at home, or away from the institution overnight, all weapons shall be secured in accordance with state and federal laws. A trigger guard shall be applied in order to safely secure the weapon.

### **Canine Vehicles**

Due to the need for canine handlers to safely transport their assigned service dogs, suitable State vehicles will be assigned to each canine handler. The vehicles shall be full/mid-sized sedans or Sport Utility Vehicles (SUVs). The vehicle shall be modified by removing the rear seats and installing a platform covered with a water proof material along with an anti-skid covering. The front driver's compartment and the rear passenger compartment shall be divided by an expanded metal partition to keep the service dog secured in the rear of the vehicle and ensure adequate ventilation in the rear of the vehicle. Pre-built/manufactured canine inserts may also be used. Canine vehicles shall be equipped with an ignition override system; such as "Secure Idle," as well as heat monitoring systems to ensure the safety of the canine. All canine handlers shall complete the Standard 377, Vehicle Home Storage Request/Permit in accordance with departmental policy.

### **Home Kenneling**

Service dog(s) shall be maintained at the respective canine handler's residence and permitted to socialize with the canine handler's family. This fosters good social behavior in the service dog.

- When on vacation or away for extended periods of time the service dog may be kenneled with another canine handler or in a suitable departmental kennel. California State Prison-Solano and California Institution for Men have kennels which are suitable for extended

kenneling. The appropriate Regional Canine Coordinator shall be apprised anytime a departmental canine requires kenneling.

- Service dogs maintained at a canine handler's residence shall be appropriately kenneled. A kennel shall be purchased at the expense of the home institution and measure approximately 5 feet wide, 10 feet long, 6 feet high with sanitizable flooring, i.e., composite flooring, concrete, etc., with a shade panel over the top and securable with a padlock. The canine handler shall clean the kennel daily.
- All food, cleaning supplies, and items necessary for home care of the service dog shall be provided by the institution and maintained at the canine handler's residence.
- The assigned State vehicle shall not be parked on a public street when stored at the canine handler's residence.
- Canine handlers are encouraged to garage or cover the vehicle when not in use in order to avoid any undue attention to the vehicle.

### **Obedience Training**

Obedience training shall be conducted separate from detection scent training. Obedience training shall be conducted to the extent necessary for the assigned canine handler to adequately control his/her service dog in unfamiliar settings. At no time are electronic collars (bark/shock collars) allowed to be used without the approval of the Canine Lieutenant.

### **Scent Training**

Scent training shall be conducted annually, quarterly, monthly, and at the discretion of the Canine Lieutenant assuring each service dog's competency. All training shall be appropriately documented in each service dog's training records.

A canine handler is required to have narcotic training aids inventoried by the Regional Canine Coordinator and/or Canine Lieutenant on a quarterly basis. Unannounced inventory inspections may be conducted at any time. A canine handler shall report any lost or spilled training aids. A copy of the Narcotic Training Aid Log shall be forwarded to the Institution's ISU Lieutenant, Regional Canine Coordinator, and/or Canine Lieutenant. Each canine handler is required to complete a canine Narcotic Training Aid Log. This log is to be completed each time a training aid is used to ensure that no training aids are inadvertently left at a facility. This form shall be sent to the Canine Lieutenant on a monthly basis.

### **Annual Canine Certification**

Each Departmental canine handler and service dog shall complete and pass the CDCR Canine Academy prior to using a canine in the performance of duty. This certification shall meet the guidelines set forth by the California Commission on Peace Officers Standards and Training (POST). Each canine handler and service dog shall be recertified annually by the Canine Lieutenant. Certifications shall consist of the following:

- Exterior vehicle search
- Interior vehicle search
- Individual search (drug detection canine only) (Air Scan)
- Individual article search
- Inside building search

Distraction aids may be used in any or all of the certification searches.

The canine team shall be capable of detecting the odor of marijuana, heroin, cocaine, and methamphetamines in a vehicle's interior/exterior, buildings, on persons, and on articles of property. The canine handler shall be able to recognize the canine's alert and response. The canine handler's call as to the location of the aid shall be as specific as possible. The canine handler will reward the canine for a positive response only after confirmation on the location of the aid has been given by the certifying trainer/instructor. Training shall include and emphasize the importance of understanding both human and human-dog social cognitive factors in applied situations to prevent any false positive alerts. Each canine team shall complete all phases of certification (pass or fail).

Certification will be scheduled for two consecutive days at a location specified by the Canine Lieutenant. If a canine team fails certification, remedial training shall be the responsibility of the trainer. The canine team shall be rescheduled for certification one week following the failed certification. In the event the canine team fails to certify at the second certification, training shall be scheduled one week after the failed certification and supervised by the Canine Lieutenant. At the third scheduled certification, if the canine team fails to certify, the Canine Lieutenant shall conduct an administrative review of the certification process used and the team's performance. Failure to certify is cause for removal from the canine program.

### **Canine Handler Equipment**

The following list of equipment shall be issued to canine handlers and replaced as needed by the home institution:

- Six foot leash with snap clasp
- Fur saver choke collar
- One and one half inch flat leather collar
- Stainless steel food pan
- Stainless steel water pan
- Stainless steel water bucket
- Spill proof vehicle water bowl
- Jute Tug Toy (3)
- Kong rubber ball (2)
- De-shedding comb
- Kennel crate
- Traffic Lead

### Mutual Aid

Departmental canine teams are available to assist both interdepartmental and outside law enforcement. All requests for canine unit assistance from institutions shall be made through the appropriate Regional Canine Coordinator who will evaluate the scope of the operation and deploy adequate canine resources.

CDCR institutions, the Office of Correctional Safety, the Office of Internal Affairs, and parole units have priority over outside law enforcement agency requests for mutual aid in the use of canine teams. The Canine Lieutenant holds the ultimate responsibility for the deployment of canine teams. The use of canine units shall be prioritized as follows:

- First Priority: Intelligence based institutional searches. Authorization by ISU Lieutenant and/or Institutional Warden with operational coordination between the ISU Lieutenant and the Regional Canine Coordinator.
- Second Priority: Random institutional searches. Authorization by the Institution Warden with operational coordination between the ISU Lieutenant and the Regional Canine Coordinator.
- Third Priority: Parole unit requests. Coordinated through the Regional Canine Coordinator with authorization from the Institution Warden and notification to the Canine Lieutenant.
- Fourth Priority: Outside law enforcement agency requests. Coordinated through the Regional Canine Coordinator with authorization from the Institution Warden and Associate Director, General Population Males, or designee with notification to the Canine Lieutenant.

Upon approval of the parole unit or outside law enforcement assistance the following shall apply:

- CDCR's canine unit's sole purpose during off-site operations is to conduct searches of targeted areas using their assigned service dogs. Passive canine air scan searches of persons under the jurisdiction of the Department are permissible. Passive canine air scan searches of citizens not under the jurisdiction of the Department shall not be conducted without the existence of articulable probable cause or a search warrant for the search of a specific citizen.
- Canine unit staff shall not involve themselves in the outside law enforcement efforts in the securing of the search area and shall remain outside the targeted area until such time the residence or building has been secured.
- All occupants of the search area shall be cleared from the area to be searched to ensure there is no contact with the service dog(s).
- Prior to conducting any search, canine unit staff shall visually check the area to be searched to ensure there are no illegal drugs or dangerous items in plain sight that may cause injury to the dog. During the actual search, the canine handler is responsible for identifying any area the service dog alerts. During the course of a search, the canine handler shall not retrieve any drugs or contraband discovered, unless absolutely necessary.
- Subsequent to the canine team completing their portion of the search, designated staff shall perform a tactile (hands on) search of the areas where the service dog alerted.
- Within 24-hours of the search operation, or no later than the close of business the following business day, a report is to be submitted and routed to the appropriate Warden, Regional Canine Coordinator, Canine Lieutenant, and the Associate Director, General Population Males, documenting the details of the search to include a description of any drugs/contraband discovered during the search.
- When utilizing the service dog(s) outside of the institution and pursuant to a search warrant, the respective canine handler shall use his/her assigned service dog in a manner within the scope of the search warrant.
- When available, a minimum of two canine teams shall be deployed. This allows for larger areas to be searched and maximum utilization of the service dog in a shorter period of time.

- Drug detection service dogs shall be used in requests for probable cause purposes.
- Canine staff responding to a call-out or emergency shall be required to report in appropriate uniform.
- Overtime costs shall not be incurred without approval of the appropriate Warden or designee. The canine handler shall complete a detailed report upon completion of the search. The report shall be submitted to the Canine Lieutenant via the Regional Canine Coordinator.
- Only CDCR-approved equipment is allowed to be used.

### Demonstrations

The canine unit may provide public demonstrations to further public relations. Requests shall be forwarded to the appropriate Regional Canine Coordinator for approval. All such requests shall be routed to the Canine Lieutenant to ensure there are no operational conflicts. If the request is approved, the Regional Canine Coordinator shall assign sufficient personnel to provide the service.

### 52050.27.1 Canine Searches

Prior to any search, the canine team supervisor shall brief all staff assisting in the search process. The briefing shall include the objectives of the search, safety and security considerations, and each person's role in the search process.

Canine searches shall be conducted of all internal buildings, all inmates, inmate living quarters, work areas, warehouse storage areas, offices, common areas, maintenance shops, and any other area under the jurisdiction of the Department.

- The canine handler executing the search shall ensure assisting staff members order all inmates away from the service dog(s). Inmates shall remain a significant distance away from the canine team(s). This includes passage to and from any chosen search site.
- If a violent incident occurs, and a canine team is conducting searches within the vicinity of the incident (i.e., riot, shots fired, etc.), the canine handler's foremost priority shall be protecting the safety of his/her assigned service dog. The canine handler shall remove the service dog from the affected area as soon as practical. Under no circumstances shall a canine handler release his/her custody of the service dog in order to respond to the incident.

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

With intermittent breaks, each service dog is capable of searching up to four hours per day in optimum conditions (peak efficiency is twenty to sixty minutes). Canine handlers shall make every effort to maintain their assigned service dogs in peak condition. During all searches, canine handlers shall remain cognizant of their service dog's physical needs (i.e., rest, relief, etc.).

During any service dog search, the canine handler shall not retrieve any illegal drugs or contraband discovered, unless absolutely necessary. Staff shall not interfere, distract, or assist the canine team while conducting their portion of the search, unless specifically asked to do so by the canine handler.

### Reporting

Anytime a drug detection service dog "alerts" to the odor of illegal drugs while searching and illegal drugs are subsequently discovered in that area, the canine handler shall document all pertinent details of the search, including the service dog's alert, on a CDCR Form 837-C, Crime/Incident Report Part C – Staff Report. The report shall be submitted to the appropriate reporting authority.

### Urinalysis Testing of Inmates

Drug detection service dogs "alert" to the odor of an illegal drug, not necessarily the drug itself. The courts have held that a dog's alert can establish probable cause for a search. A dog's alert is also a basis to order an inmate to submit a urine sample for testing of a controlled substance. Orders for submission of urine samples shall be for cause and for the purpose of laboratory testing. Testing shall confirm or deny the presence of illegal drugs, at a specified level, in the subject's urine.

### Canine Searches Inside Security Perimeter

Canine searches inside the security perimeter shall be conducted frequently and unannounced. The appropriate Regional Canine Coordinator shall be responsible for scheduling and coordinating canine teams for searches within CDCR institutions and parole regions. The ISU Lieutenant of the respective



institution shall be responsible for notifying the Warden of the impending canine search and operations.

#### **Canine Searches Outside Security Perimeter**

Canine searches conducted outside the security perimeter (i.e., administration building, records, support/Prison Industry Authority warehouse, etc.), shall be conducted frequently and randomly. The ISU Lieutenant of the respective institution shall be responsible for notifying the Warden of the impending canine search and operations.

Prior to any search, the canine team supervisor shall brief all staff assisting in the search process. The briefing shall include the objectives of the search, safety and security considerations, and each person's role in the search process.

Canine searches shall be conducted of all internal buildings, inmate living quarters, work areas, warehouse storage areas, offices, common areas, maintenance shops, and any other area under the jurisdiction of the Department.

#### **Internal Areas/Inmate Living Quarters**

- While moving through the facility, canines shall be leashed and under control at all times. The canine handler is responsible for the control and protection of his/her service dog while on duty.
- The canine handler, executing the search, shall ensure assisting staff members order all inmates away from the service dog(s). Inmates shall remain a significant distance away from the canine teams at all times. This includes passage to and from any chosen search site.
- Prior to conducting an interior area search, the canine handler shall make a visual inspection of the area(s) to be searched. During this inspection, a systematic search pattern shall be decided. If more than one canine team is conducting an interior area search, the area shall be divided and a decision made as to what area(s) each team will be responsible to search.
- When conducting internal area searches, the canine handler shall be accompanied by facility security staff or a regular shift officer. The accompanying staff shall assist the canine handler by recording pertinent information. Assisting staff shall have keys to access areas to be searched and are responsible for securing these areas upon the canine handler exiting the area.
- When a canine alert occurs, the canine handler will advise the assisting staff of the location and objects to be searched. If no drugs or contraband are located after the search is conducted, the canine handler shall have the canine search articles that have been checked by the assisting staff to possibly better pinpoint the exact location of drugs or contraband.
- When a canine alert occurs in an area or on property belonging or assigned to a particular inmate, a search of the inmate and area shall be conducted and a urine sample may be collected from the inmate to test for the presence of illegal drugs in the inmate's system.
- Facility staff shall secure illegal drugs or contraband in the evidence safe and complete all required report(s). Facility staff shall conduct any administrative action when required. Canine handlers shall complete a CDCR Form 837-C, Crime/Incident Report Part C – Staff Report, before completion of their shift to document any drug(s)/contraband found.
- Each canine handler shall prevent harassment, physical assault, or verbal threat to a canine. Harassment, physical assault, or verbal threat may subject the offender to a misconduct and/or criminal prosecution.

#### **Common Areas**

- A common area is any area where inmates and visitors have access. Common areas include, but are not limited to, storage areas, showers, dayrooms, plumbing chases, lobbies, visitor waiting rooms, staff and public rest rooms, inmate rest rooms outside of secured cells, etc.

Common areas are searched utilizing a Systematic Search Pattern (SSP), checking areas and the contents of that area. When conducting a SSP, the perimeter area and any object or article that is located on the perimeter shall be searched. After the perimeter is searched, all objects or articles inside the perimeter interior shall be searched (i.e., tables in a dayroom, workbenches, power tools, etc.).

#### **Warehouse Areas/Garages/Auto Shops**

- Warehouse areas/garages/auto shops are generally very large areas with extremely high ceilings. If possible, multiple canine teams shall be used, dividing the interior of the warehouse into sections and assigning a specific section or area to each team.
- A canine handler searching these areas shall be alert to any antifreeze or other solvents that may be out in the open where a canine could easily ingest them.

- High areas shall be checked especially if a canine is giving a high response when conducting a search at ground level.
- To search items stored at extended heights not easily accessible to the canine team, equipment may be used to raise both the canine handler and the service dog, when possible.

#### **Mail Rooms/Incoming Inmate Mail**

- A search of incoming inmate mail shall be conducted as frequently as possible by a canine team to detect the possible presence of illegal drugs and/or contraband.
- The canine handler shall coordinate with mail room staff when incoming mail arrives and conduct a search of mail so as not to interfere with the timely inspection and processing of the mail.
- The canine team may also conduct a search of the mailroom itself. Any articles, packages, letters, and newspapers that a canine alerts on shall be carefully and thoroughly inspected for possible illegal drugs and/or contraband being concealed in its contents. The canine handler shall do inspections with the mailroom supervisor present. Any illegal drugs and/or contraband found shall be tested by the finding officer and processed in accordance with Department policy.
- The Office of Internal Affairs (OIA) Criminal Team Supervisor or Administrative Officer of the Day (AOD) shall be contacted for consideration of an exigent investigation upon the discovery of illegal drugs or other criminal contraband in any letter, package, or other item when there is a reasonable suspicion that the letter, package, or item is intended for a departmental employee, employee of other government agencies, contract employee, contractor and/or their employees, or volunteer.

#### **Searches of inmates for Contraband and/or Illegal Drugs**

All inmates shall be subject to a search of their person and property to control and detect contraband and illegal drugs. Contraband and/or metal detection device(s) and/or electronic drug detectors including but not limited to ION Scanners and other available contraband and/or metal detecting device(s) technology, and passive canine air scan units may be used for this purpose.

- Direct searches of inmates by Canine Units shall be conducted as described in the California Code of Regulations (CCR), Title 15, Division 3, section 3287.
- A passive canine air scan search may be initiated based upon reasonable suspicion.

#### **Seated Passive Canine Air Scan Searches of Inmates**

Seated passive canine air scan searches of inmates shall be conducted in a room big enough to allow the canine team to work around the person without running into furniture or other objects. All ventilation systems should be turned off and all windows closed. This will reduce the amount of airflow in the room allowing a better search of the inmate. The inmate shall sit in a metal or plastic chair. The chair should have an opening in the back and on the sides and shall be free of any armrests. The inmate shall sit straight up in the chair, knees at a 90 degree angle, knees and ankles together with their hands on their knees, palms down. Once the inmate is seated in the chair, the canine handler will bring the canine approximately a foot away from the person and give the canine the command "find it." The canine handler will direct the canine to search the person in the following order: left ankle, left knee, left hip, lower back, right hip, right knee, right ankle, feet, left armpit, upper back, right armpit, and across the hands (making two rotations around the person).

#### **Standing Passive Canine Air Scan Searches of Inmates**

Standing passive canine air scan searches of inmates are conducted by having a custody staff member instruct one or multiple inmates to stand against a wall. The inmate(s) is/are to face the wall, stand up straight, knees and feet together, hands to their sides, palms facing backwards, with the inmate looking straight ahead. The area that is chosen to conduct this search should be a location with little airflow. Once the inmates are lined up, the canine handler will approach the first inmate and give the canine the command "find it." The canine team will move swiftly behind the inmates, allowing the canine to search the backside of the inmates. Once the canine team has reached the last inmate, they will circle back to the first inmate and the canine handler will present each inmate's shoes and lower back area to the canine, without allowing the canine to put their paws on the inmates. If the canine alerts on an inmate, staff will remove the inmate from the line and the canine handler will complete searching the rest of the inmates.

- The Office of Internal Affairs (OIA) Criminal Team Supervisor or the Administrative Officer of the Day (AOD) shall be immediately contacted for consideration of an exigent investigation upon the discovery of illegal drugs or other criminal contraband in the possession or control of an inmate when there is a reasonable suspicion that a departmental

employee, employee of other government agencies, contract employee, contractor and/or their employee, or volunteer is involved.

### Searches of Visitors

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

All Visitors are subject to a search of their person and private property before entering, or while inside, any Department facility or Department grounds, to keep out contraband and illegal drugs. Contraband and/or metal detection device(s) and/or electronic drug detectors including but not limited to ION Scanners and other available contraband and/or metal detecting device(s) technology, and passive canine air scan units may be used for this purpose.

- Inmate visitors afraid of dogs (Cynophobia), and/or who suffer from allergic reactions to dogs, shall be escorted to the ION Scanner location and scanned pursuant to Department procedures.
- Direct searches of visitors by Canine Units shall be conducted pursuant to CCR, Title 15, Division 3, section 3173.2. Prior to performing direct searches, search operations staff shall ensure that the area or objects used for search are free from contamination that may interfere with the search, i.e., chairs for sitting in, excessive property within search rooms, etc. Canine handlers shall search the area or objects used prior to the beginning of search operations and after any positive alert to ensure there are no cross contamination issues.
- A passive canine air scan search on an individual may be initiated based upon reasonable suspicion.
- All inmate visitor testing results shall be documented on the Canine Air Scan Results Log - Visitors.
- Visiting staff shall inform visitors they can refuse the enhanced inspection by passive canine air scan search. Staff shall inform the visitor of further potential search or visitation options upon a positive alert or based upon the number of refusals occurring within a twelve (12) month period as outlined in CCR, Title 15, Division 3, section 3173.2(c)(3)(B)1-4.
- Inmate Visitors shall be randomly selected for scanning with a passive canine air scan search.
- All air scans of individuals shall be conducted in a manner that affords privacy.

### Seated Passive Canine Air Scan Searches of Inmate Visitors

Seated passive canine air scan searches of inmate visitors shall be conducted in a room big enough to allow the canine team to work around the person without running into furniture or other objects. All ventilation systems should be turned off and all windows closed. This will reduce the amount of airflow in the room allowing a better search of the inmate visitor. The inmate visitor shall sit in a metal or plastic chair. The chair should have an opening in the back and on the sides and shall be free of any armrests. The inmate visitor shall sit straight up in the chair, knees at a 90 degree angle, knees and ankles together with their hands on their knees, palms down. Once the inmate visitor is seated in the chair, the canine handler will bring the service dog approximately a foot away from the person and give the canine the command "find it." The canine handler will direct the service dog to search the person in the following order: left ankle, left knee, left hip, lower back, right hip, right knee, right ankle, feet, left armpit, upper back, right armpit and across the hands (making two rotations around the person).

If during the passive canine air scan search, the scan result is negative, the individual will continue with processing into the institution.

If during the passive canine air scan search, the scan result is positive, the visitor shall be informed that he/she shall be required to submit to a clothed body search as a condition of a non-contact visit. If the results of the clothed body search are negative for contraband, the visitor shall continue with processing for a non-contact visit.

However, if the clothed body search results in the discovery of contraband, the visitor shall be denied entrance to the facility and may be subject to arrest and referral for criminal prosecution. If the visitor refuses to consent to a clothed body search, visiting shall be denied for the day.

All positive alerts (second EDDE scans/passive canine air scans), refusals to submit to clothed body searches after a positive alert, and/or refusals to participate in the drug interdiction process shall be recorded on the SOMS visiting record. Upon the visitor's next attempt to enter a CDCR institution, he/she shall be informed that he/she shall be subject to the provisions pursuant to CCR, Title 15, Division 3, Section 3173.2(c)(3)(B)1-4.

- The Office of Internal Affairs (OIA) Criminal Team Supervisor or Administrative Officer of the Day (AOD) shall be immediately contacted for consideration of an exigent investigation upon the discovery of illegal

drugs or other criminal contraband in the possession or control of a visitor.

- The arrest of a visitor shall not be made without consultation with OIA when there is reasonable suspicion that a departmental employee, employee of another government agency, contract employee, contractor or their employee, or volunteer is involved with the visitor. The OIA Regional Criminal Team Supervisor will assess the case factors and other investigative strategies prior to approval. In the event there are exigent circumstances where the need to act is immediate, OIA shall be notified as soon as possible thereafter.
- When an arrest is made by ISU, in accordance with CCR, Title 15, Division 3, sections 3176.2 and 3316(a), the CDCR 837 form series, Crime/Incident Report; arrest reports; and staff reports documenting the arrest shall be completed and a copy forwarded to the local District Attorney's office by ISU.

### Passive Canine Air Scan Searches of Employees, Contractors, Attorneys, and Volunteers for Contraband and Illegal Drugs

- All persons who are employed by the Department employees, employees of other government agencies, contract employees, contractors and their employees, volunteers, and attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia who come onto institutional grounds are subject to a search of their person, private property, and vehicles for contraband and illegal drugs before entering, or while inside, any department facility or department grounds via the use of contraband and/or metal detection equipment and/or electronic drug detectors including, but not limited to, ION scanners and other available contraband and/or metal detecting device(s) technology, and passive alert canines may be used for this purpose.
- By entering or attempting to enter a department facility or department grounds, employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers, and attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia consent to being searched for contraband and illegal drugs.
- An employee, employees of other government agencies, contract employees, contractors and their employees, and volunteers, and attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia coming onto the grounds of any department facility is subject to search by a department canine as part of the department's drug interdiction program. Passive alert canines shall be used to combat the introduction of illegal drugs and contraband being smuggled into CDCR facilities.
- Direct searches of employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers, and attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia by Canine Units.
- Employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers, and attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia shall be randomly selected for scanning with a passive canine air scan search. All air scans of individuals shall be conducted in a manner that affords privacy.
- If during the passive canine air scan search, the scan result is negative, the individual will continue with processing into the institution.
- Prior to performing direct searches, search operations staff shall ensure that the area or objects used for search are free from contamination that may interfere with the search, i.e., chairs for sitting in, excessive property within search rooms, etc. Canine handlers shall search the area or objects used prior to the beginning of search operations and after any positive alert to ensure there are no cross contamination issues.
- Prior to beginning a search of employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers, and attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia using passive alert canines, the Search Operations Commander or designee shall be responsible for determining if the search will be of all employees entering or exiting an area, or only those selected on a random basis (e.g., every 3rd or 5th). The random selection method shall be documented on the Canine Search Air Scan Results Log prior to the

commencement of the searches. The random pattern shall not be altered unless approved by the Search Operations Commander.

- The canine handler shall inform employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers, and attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia that he/she is conducting passive air scan searches of individuals using passive alert canines and that the purpose of the scan is to detect illegal drugs.
- The canine handler shall inform each employee, employees of other government agencies, contract employees, contractors and their employees, and volunteers, and attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia that the passive canines have been trained to detect the presence of contraband by smell and to alert their handlers to that detection by sitting down or staring.
- Employees, employees of other government agencies, contract employees, contractors and their employees, volunteers, and attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9), authorized to practice law in California, another state, or the District of Columbia, shall be directed to not interact with the canine in any way.
- While inadvertent contact is a possibility, the handler shall not instruct the canine to contact the individual being scanned.
- If the subject of the air scan search seems excessively nervous, the handler shall attempt to reassure the person that the procedure is safe, but the person shall not be permitted to pass into the institution without being scanned.
- Passive air scan searches by Canines. All positive air scan results shall be documented on the Canine Positive Air Scan Results Log. A passive air scan search may be conducted under one or both of the following conditions:
  - A passive air scan search may be conducted in open areas where groups of employees, employees of other government agencies, contract employees, contractors and their employees, or volunteers, or attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia are walking and/or congregated, e.g., main entrances, administration buildings, in service training areas, sallyports, hallways, housing units, visiting rooms, or yards, etc.
  - A passive air scan search of any employee, employees of other government agencies, contract employees, contractors and their employees, or volunteers, or attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia may also be initiated based upon reasonable suspicion.

#### Positive Canine Alert

- If the canine alerts during the air scan search of an employee, employees of other government agencies, contract employees, contractors and their employees, or volunteers, or attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia, supervisory staff shall be notified immediately. The employee, employees of other government agencies, contract employees, contractors and their employees, or volunteers, or attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia will be subject to a patdown search by same gender supervisory staff in a private setting. Any item being brought into the facility by that employee, employees of other government agencies, contract employees, contractors and their employees, or volunteers, or attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia will be subject to a thorough search. If no contraband is discovered, the individual shall be allowed to enter the institution.
- The Office of Internal Affairs (OIA) Regional Special Agent in Charge or OIA Administrator Officer of the Day shall be contacted for consideration of an exigent investigation prior to the search of any departmental employee, employees of other government agencies, contract employee, contractor and their employee, or volunteer, or

attorney or legal organization as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia when there is a reasonable suspicion that the employee, employees of other government agencies, contract employee, contractor and/or their employee, and volunteer, and attorney or legal organization as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia is or will be in possession of illegal drugs or contraband and when the employee, employees of other government agencies, contract employee, contractor and their employee, or volunteer, or attorney or legal organization as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia is individually selected. This shall not apply to random, gate or area searches. In the event there are exigent circumstances where the need to act is immediate, OIA shall be notified as soon as possible thereafter.

- An employee, employees of other government agencies, contract employee, contractor and their employees, or volunteers, or attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia found in possession of drugs and/or cell phones shall be referred to the institution's ISU for possible arrest.
- Employees of other government agencies, contract employees, contractors and their employees, and volunteers can refuse to submit to the search; however, refusal shall result in the denial of entry and may lead to exclusion from all CDCR institutions. Attorneys or legal organizations as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia can refuse to submit to the search; however, refusal shall result in the denial of a contact visit, but a non-contact visit may be authorized if available on the same day. Alternatively, the appointment shall be rescheduled for another day. Departmental employees do not have the right to refuse the search.
- Outside Law Enforcement Agencies shall not be involved in the search process.
- Arrests/Citations/District Attorney Referral.
  - Persons who are searched and found in possession of drugs or contraband are subject to arrest. If an arrest is initiated, those arrested, along with the drugs or contraband discovered shall be turned over to the institution's ISU.
  - Once the pre-booking process has been completed by CDCR staff, the arrestee(s) shall be transported by CDCR personnel or by the local police/sheriff's department to a designated detention facility. Arrestee(s) shall not be held at the pre-booking area beyond a reasonable amount of time necessary to complete the process.
  - If any employee, employee of other government agencies, contract employee, contractor and/or their employee, or volunteer, or attorney or legal organization as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia is found in possession of drugs or contraband, the ISU Lieutenant/Search Commander shall make any decision to arrest, issue a citation, or refer the matter to the District Attorney's office for prosecution.
  - In all cases where an employee, employee of other government agencies, contract employee, contractor and/or their employee, or volunteer, or attorney or legal organization as identified in CCR, Title 15, Division 3, section 3141(c)(9) authorized to practice law in California, another state, or the District of Columbia is arrested and/or issued a citation for committing a criminal act while on institution grounds, a copy of CDCR 837-A (Rev. 07/05), Crime/Incident Report, Part A-Cover Sheet, which is incorporated by reference, arrest reports, and staff reports documenting the arrest shall be forwarded to the local District Attorney's office in accordance with existing departmental regulations in CCR, Title 15, Division 3, sections 3176.2 and 3316(a).

#### Seated Passive Canine Air Scan Searches of Employees, Employees of other Government Agencies, Contract Employees, Contractors and their Employees, and Volunteers

Seated passive canine air scan searches of employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers shall be conducted in a room big enough to allow the canine team to work around the person without running into furniture or other objects. All ventilation systems should be turned off and all windows closed. This will reduce the amount of airflow in the room allowing a better search of the employees, employees of other government agencies, contract employees,

contractors and their employees, and volunteers. The employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers shall sit in a metal or plastic chair. The chair should have an opening in the back and on the sides and shall be free of any armrests. The employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers shall sit straight up in the chair, knees at a 90 degree angle, knees and ankles together with their hands on their knees palms down. Once the employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers is seated in the chair, the canine handler will bring the canine approximately a foot away from the person and give the canine the command "find it." The canine handler will direct the canine to search the person in the following order: left ankle, left knee, left hip, lower back, right hip, right knee, right ankle, feet, left armpit, upper back, right armpit and across the hands (making two rotations around the person).

#### **52050.27.2 Canine Visitor Vehicle Searches [Reserved]**

#### **52050.27.3 Tracking Escaped Inmates**

When it is determined that the canine unit is necessary for tracking escaped inmates, approval of the Warden or designee shall be obtained prior to requesting their services. Only canines specifically trained for tracking escapees may be utilized.

- The area where the escapee was last observed shall be secured and kept from any type of contamination (movement in that area, additional searching of the area, etc.) until the arrival of the canine unit.
- Upon establishing the track, the tracking team shall require the assistance of a minimum of two staff members. These staff members, in addition to weapons, shall be equipped with radios and restraint equipment.

#### **52050.28 Electronic Drug Detection Equipment**

The Department of Corrections and Rehabilitation has established a comprehensive drug and contraband interdiction program by implementing various drug and contraband interdiction strategies to prevent them from entering institutions. Among these strategies is the use of Electronic Drug Detection Equipment (EDDE) such as ION mobility spectrometry technology (ION Scanners), which are non-invasive devices that simultaneously test for a wide range of narcotics in seconds, detecting their presence on hands, articles of clothing, mail, and other objects.

##### **52050.28.1 Drug Testing Coordinator**

Each institution shall designate a Drug Testing Coordinator (DTC) at the rank of sergeant or above. The primary duties and responsibilities of the DTC are:

- Ensuring the institution designates an Electronic Drug Detection Equipment Administrator (EDDEA) to provide technical assistance and ongoing training.
- Ensuring all Electronic Drug Detection Equipment Operators (EDDEO) are properly trained.
- Ensuring the institution maintains a sufficient stock of consumables.
- Ensuring safety of installation and maintenance of EDDE.
- Reviewing all drug testing logs for accuracy and completeness, and ensuring their submission to the Enhanced Drug and Contraband Unit (General Population Males Mission) by the 5<sup>th</sup> of each month.

##### **52050.28.2 Electronic Drug Detection Equipment Repair Technician**

The DTC shall ensure that an Electronic Drug Detection Equipment Repair Technician (EDDERT) is available to each institution to provide technical assistance via designated vendor contract. The EDDERT shall:

- Perform preventative maintenance as required by the equipment manufacturer.
- Troubleshoot the EDDE as needed.
- Ensure safe installation and maintenance of EDDE.
- Provide training on the basic operation of the EDDE.
- Remove and replace (field-replaceable) parts.
- Conduct system test & alignment.
- Conduct diagnostics and tests for the EDDE.
- Calibrate and adjust the EDDE.

##### **52050.28.3 Electronic Drug Detection Equipment Administrator**

The Electronic Drug Detection Equipment Administrator (EDDEA) shall provide the following:

- Troubleshoot the EDDE as needed.
- Ensure safe installation and maintenance of EDDE.
- Ensure all EDDEO are properly trained.
- Remove and replace (field-replaceable) parts.
- Perform system start up maintenance procedures.
- Calibrate and adjust the EDDE.

#### **52050.28.4 Electronic Drug Detection Equipment Operators**

The Electronic Drug Detection Equipment Operators (EDDEO) shall:

- Maintain all equipment received.
- Report any deficiencies and failures to the DTC.
- Maintain all logs as required by this procedures manual.
- Conduct daily, weekly, and monthly maintenance of the equipment by using the Electronic Drug Detection Equipment Shift Maintenance log prior to each shift.
- Perform the start-up procedures and ensure verification of the operation of the system as set forth in the EDDE manufacturer's instructions prior to each shift.
- Ensure no person tampers with the equipment.
- Ensure scans of inmates are conducted in accordance with departmental policy. Operators conducting scans should swipe areas that the scan subjects would frequently touch with their hands (i.e., the front and back of their hands, front pockets, belt buckles, watch bands, shirt buttons, hair ornaments, and shoelaces). Operators shall not swipe a subject's buttock, groin, or breast areas.

#### **52050.28.5 Searches**

*Revised October 13, 2015*

EDDE may be used to search inmates, visitors, staff, employees of other government agencies, contract employees, contractors and their employees, volunteers, packages, mail, vehicles, Department property, and personal property brought onto institution grounds. Equipment shall be used in accordance with the manufacturer's instructions to avoid contamination of equipment operators and equipment.

EDDE scans of inmates, visitors, staff, employees of other government agencies, contract employees, contractors and their employees, and volunteers shall be conducted in a systematic and routine manner. EDDE swabs may be wiped along the following areas prior to scanning, e.g., hands and fingers and commonly touched or held articles such as pocket exteriors or openings, shoelaces, eyeglass handles, belt buckles, watch bands, bracelets, etc. At no time shall a swab be used on breast or groin areas. The swab will then be scanned by the EDDE.

##### **Searches of Inmates**

- If the presence of contraband is detected and confirmed, inmates shall be subject to an unclothed body search and ordered to submit to a urinalysis. Inmates require only one positive scan to be considered positive due to the reasonable likelihood of being inadvertently contaminated with drug residue from a secondary source. All inmate scanning results shall be documented on the EDDE ION Scanner Results Log – Inmates Scanned log.

##### **Searches of Packages, Mail**

- If the presence of contraband is detected and confirmed by the EDDE in packages or mail, the item(s) is to be confiscated and turned over to the ISU for investigation and disposition in accordance with Chapter 5, Article 41, Inmate Mail.
- All packages and mail testing shall be documented on the EDDE ION Scanner Results Log – Mail and Package log.

##### **Searches of Inmate Visitors**

- All inmate visitor testing results shall be documented on the ION Scanner Results Log – (Visitors).
- Visiting staff shall inform visitors they can refuse the enhanced inspection by the EDDE. Staff shall inform the visitor of further potential search and visitation options upon a positive alert or based upon the number of refusals occurring within a twelve month period as outlined in policy.
- If during the first scan of the EDDE, the scan result is negative, the visitor shall continue with processing into the visiting area.
- If the presence of contraband is detected on the first scan, the visitor shall be given the option of washing his/her hands with soap and water and a second scan shall be performed in the same manner as the first scan. If a visitor passes the second scan, they shall be permitted to have a regular visit and the scan shall not be recorded as a positive result. If the second scan is positive, the visitor shall be informed that he/she will be required to submit to a clothed body search as a condition of a non-contact visit, if space is available. Subsequently, if the clothed body search is negative for contraband, the visitor shall continue with processing into the non-contact visiting area. However, if the clothed body search results in the discovery of contraband, the visitor shall be denied entrance to the facility/institution and may be subject to arrest and referral for criminal

prosecution. If the visitor refuses to consent to a clothed body search, visiting shall be denied for the day.

- All positive alerts (second EDDE scans/passive air scans), refusals to submit to clothed body searches after a positive alert, and/or refusals to participate in the drug interdiction process shall be recorded on the SOMS visiting record. Upon the visitor's next attempt to enter a CDCR institution, he/she shall be informed that he/she shall be subject to the following:
  - First offense: A visitor who refuses to participate in a drug interdiction process may request a non-contact visit if space is available. The visitor shall be required to submit to a clothed body search as a condition of a non-contact visit. If the results of the search are negative for contraband, the visitor shall continue with processing for a non-contact visit. If the visitor refuses to consent to a clothed body search, visiting shall be denied for that day. A visitor, who refuses to submit to a clothed body search after a positive EDDE/passive air scan alert for the first time in a twelve (12) month period, shall be denied a visit for that day. Upon the visitor's next attempt to visit within a twelve (12) month period, the visitor shall not have the option of being randomly selected to participate in the drug interdiction process. The visitor shall participate in the drug interdiction process occurring on that day. If the visitor refuses to comply with this directive, visiting shall be denied for that day. If the institution is not conducting a drug interdiction process, the visitor will be allowed a contact visit consistent with departmental policies.
  - Second offense: A visitor who refuses to participate in a drug interdiction process or submit to a clothed body search after a positive EDDE/passive air scan alert for the second time in a twelve (12) month period shall be denied a visit for that day. The institution head or designee may issue an order to suspend the visitor from the institution within his/her jurisdiction for up to thirty (30) days, pursuant to CCR, Title 15, Sections 3176.1, 3176.2 and 3176.3. Upon the visitor's next attempt to visit within a twelve (12) month period, the visitor shall not have the option of being randomly selected to participate in the drug interdiction process. The visitor shall participate in the drug interdiction process occurring on that day. If the visitor refuses to comply with this directive, visiting shall be denied for that day. If the institution is not conducting a drug interdiction process, the visitor will be allowed a contact visit consistent with departmental policies.
  - Third offense: A visitor who refuses to participate in a drug interdiction process or submit to a clothed body search after a positive EDDE/passive air scan alert for the third time in a twelve (12) month period shall be denied a visit for that day. The institution head or designee may issue an order to suspend the visitor from the institution within his/her jurisdiction for up to twelve (12) months, pursuant to CCR, Title 15, Sections 3176.1, 3176.2 and 3176.3. Upon the visitor's next attempt to visit within a twelve (12) month period, the visitor shall not have the option of being randomly selected to participate in the drug interdiction process. The visitor shall participate in the drug interdiction process occurring on that day. If the visitor refuses to comply with this directive, visiting shall be denied for that day. If the institution is not conducting a drug interdiction process, the visitor will be allowed a contact visit consistent with departmental policies.
  - Fourth offense: A visitor who refuses to participate in a drug interdiction process or submit to a clothed body search after a positive EDDE/passive air scan alert for the fourth time in a twelve (12) month period shall be denied a visit for that day. The institution head or designee may issue an order to suspend the visitor from the institution within his/her jurisdiction for up to twelve (12) months and refer the case to the director or designee for review of permanent exclusion of a person from any or all institutions/facilities, pursuant to CCR, Title 15, Sections 3176.1, 3176.2 and 3176.3.
- When conducting scans of inmate visitors there will be occasions when legitimate circumstances exist that may result in a positive EDDE scan. Should the person being scanned claim the EDDE alarm is due to one or several prescribed medications, that person must present a letter of verification signed by a licensed physician, licensed physician's assistant, or certified nurse practitioner confirming the medications prescribed are the cause of the EDDE alarm before they will be permitted a contact visit. The visitor shall be informed that he/she will be required to submit to a clothed body search in accordance with Section

54020.13.2, as a condition of visiting. Any item(s) brought into the facility/institution by that visitor shall be subject to a thorough search. If no contraband is discovered, the visit shall proceed. If the document is not readily available, the individual shall be informed that he/she shall be required to submit to a clothed body search as a condition for non-contact visiting, if space is available. If no contraband is discovered, the visitor shall be permitted to have a

- Denial of entrance into the facility/institution or the approval of a non-contact visit shall be in accordance with Chapter 5, Article 42.
- Inmate visitors, who appear to be under the influence of alcohol, drugs, or any other substance, to the extent that his or her presence in the facility/institution would pose a threat to his or her safety or the safety of others, or to the security of the facility/institution shall be denied entrance to the facility/institution.
- Inmate visitors found in possession of controlled substances are subject to arrest and referral for criminal prosecution pursuant to this Article.
- Any controlled substance(s) and or contraband confiscated shall be handled as evidence and in accordance with Chapter 5, Article 20.
- Upon request, a visitor may be given a copy of the EDDE printout of all positive scans for that visitor.
- The Office of Internal Affairs (OIA) Criminal Team Supervisor or Administrative Officer of the Day (AOD), shall be immediately contacted for consideration of an exigent investigation upon the discovery of illegal drugs or other criminal contraband in the possession or control of a visitor when there is reasonable suspicion that a departmental employee, employee of another government agency, contract employee, contractor and their employee, or volunteer is involved with the visitor.
- The arrest of a visitor shall not be made without consultation with OIA when there is reasonable suspicion that a departmental employee, employee of another government agency, contract employee, contractor or their employee, or volunteer is involved with the visitor. The OIA Regional Criminal Team Supervisor will assess the case factors and other investigative strategies prior to approval. In the event there are exigent circumstances where the need to act is immediate, OIA shall be notified as soon as possible thereafter.
- When an arrest is made by ISU, in accordance with CCR, Title 15, Sections 3176.2 and 3316(a), the CDCR 837 form series, Crime/Incident Report; arrest reports; and staff reports documenting the arrest shall be forwarded to the local District Attorney's office by ISU.

#### **Employees, Contractors, and Volunteers**

- Department employees do not have the right to refuse to be searched. Employees of other government agencies, contract employees, contractors and their employees, and volunteers can refuse to submit to search; however, refusal shall result in the denial of entry and may result in suspension from that CDCR institution for one year. Employees of other government agencies, contract employees, contractors and their employees, and volunteers can appeal the suspension to the institution head. A written response shall be provided within 15 working days from receipt of the appeal. If dissatisfied with the institution's response or action, the appellant may refer the appeal, with a copy of the institution's decision, to the director or designee who shall provide a response within 20 working days from the date of receipt. Employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers shall be randomly selected for scanning with the EDDE. All scanning of individuals shall be conducted in a manner that affords privacy. When employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers are scanned, the operator shall ensure that the audio alarm is deactivated and that a printout of all positive scans for the staff member, employee of another government agency, contract employee, contractor or their employee, or volunteer accompanies all written logs.
- If during the first scan of the EDDE, the scan result is negative, the individual will continue with processing into the institution.
- If the presence of contraband is detected on the first scan, the individual shall be given the option of washing their hands with soap and water and a second scan shall be performed in the same manner as the first scan. If the second scan is positive, and the presence of contraband is detected by the EDDE, supervisory staff shall be notified immediately. The individual shall be informed that he/she will be required to submit to a pat down search by same gender supervisory staff in a private setting as a condition to enter the facility/institution. Any item(s) brought into the facility/institution by that individual shall be subject to a thorough

search. If no contraband is discovered, the individual shall be allowed to enter the facility/institution.

- The OIA Criminal Team Supervisor or AOD shall be immediately contacted for consideration of an exigent investigation upon the discovery of illegal drugs or other criminal contraband in the possession or control of an individual.
- The OIA Regional Criminal Team Supervisor shall be contacted for consideration of an exigent investigation prior to the search of any departmental employee, employee of another government agency, contract employee, contractor and their employee, or volunteer when there is reasonable suspicion that the employee, employee of another government agency, contract employee, contractor and their employee, or volunteer is or will be in possession of illegal drugs or contraband. In the event there are exigent circumstances where the need to act is immediate, OIA shall be notified as soon as possible thereafter.
- All employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers testing shall be documented on the ION Scanner ResultsLog - (Staff).
- An EDDE scan of an individual may be initiated consistent with established reasonable suspicion protocols.
- Employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers who appear to be under the influence of alcohol, drugs, or any other substance, to the extent that his or her presence in the facility/institution would pose a threat to his or her safety or the safety of others, or the security of the facility/institution shall be denied entrance to the facility/institution.
- Individuals who are searched and found to be in possession of illegal drugs or contraband are subject to arrest and referral for criminal prosecution pursuant to this Article.
- If an arrest is initiated, those arrested, along with the drugs or contraband discovered, shall be turned over to ISU pending further direction from OIA.
- Once the pre-booking process has been completed by CDCR staff, the arrestee(s) shall be transported by CDCR personnel or by local police/sheriff's department to a designated detention facility. Arrestee(s) shall not be held at the pre-booking area beyond a reasonable amount of time necessary to complete the process.
- In all cases where an individual is arrested for committing a criminal act while on institutional grounds in accordance with CCR, Title 15, Section 3316(a) and DOM Section 31140.20, a copy of the CDCR 837 form series, Crime/Incident Report; arrest reports; and staff reports documenting the arrest shall be forwarded to the OIA regional office and to the OIA Classifications Intelligence Unit along with the CDCR Form 989 (Part A) Confidential Request for Internal Affairs Investigation / Notification of Direct Adverse Action, and other supporting documents. A criminal investigative report and complaint shall be filed with the local District Attorney's Office by OIA.
- Searches of employees, employees of other government agencies, contract employees, contractors and their employees, and volunteers shall be conducted in accordance with Section 52050.15.

#### **52050.28.6 Training**

All EDDEO training shall be in accordance with the manufacturer's/vendor's guidelines. The manufacturer shall conduct the initial training for all members. Any required follow-up training or new operator training shall be conducted at designated facilities by approved staff. The DTC shall be responsible for monitoring all training to ensure compliance with policy and uniformity of training methods.

#### **52050.29 Revisions**

The Director, Division of Adult Institutions, or designee shall ensure that the content of this Article is current and accurate.

#### **52050.30 References**

*Revised November 11, 2016*

PC §§ 27, 600, 830 - 849.5, 859.5, 4030, 4573, 4573.6, 4573.9, 4574, 4576, 5004.7, 5054, 5058, 6402 and 11115.

CCR (15) §§ 3005, 3171, 3172, 3172.1, 3173, 3173.2, 3176, 3176.1, 3176.2, 3176.3, 3176.4, 3177, 3178, 3179, 3270, 3287, 3288, 3289, 3290 and 3292.

GC § 3300 et al., Public Safety Officers Procedural Bill of Rights Act.

ACA Standards 4-4192 through 4-4194 and 4-4208.

*Estes v. Rowland* (1993) 14 Cal. App. 4th 508.

*Coleman v. Brown* (E.D. Cal. 2014) No. CIV. S-90-520 LKK DAD PC, Order issued August 11, 2014.

## **ARTICLE 20 — DISPOSITION OF CONTRABAND**

*Revised August 13, 1992*

### **52051.1 Policy**

Pursuant to PC 12028, The Director has established a system for the disposition of contraband. Any contraband retrieved from a body cavity, or which is otherwise suspected of being contaminated, shall be handled using appropriate safeguards (e.g., disposable plastic gloves) and shall be placed in a container which shall be clearly labeled "contaminated."

### **52051.2 Purpose**

To provide for controlled disposal or disposition of acquired contraband items that pose a threat to persons or to the physical security of a facility.

### **52051.3 Responsibility for the Disposition of Contraband**

The Warden or RPA shall administer and monitor the handling and disposal of contraband.

### **52051.4 Definition of Contraband**

Any unauthorized property, materials, supplies, items, commodities, and substances received or obtained by inmate(s) from any source is contraband. (Refer to CCR 3006, and DOM 54030, Inmate Property.)

### **52051.5 Controlled Substances**

See DOM 52010.

### **52051.6 Clothing: State Issue or Personal**

*Revised February 2, 2011*

See DOM 54060.

### **52051.7 Inmate Property**

See DOM 54030.

### **52051.8 Handicraft**

See DOM 101050.

### **52051.9 Tools**

See DOM 52040.

### **52051.10 Dangerous or Toxic Substances**

See DOM 52030.

### **52051.11 Disposition of Medication**

Outdated and contraband medication which has been tainted by inappropriate handling by inmate patients (e.g., tampered with, misplaced, or sold) shall be disposed of by medical staff in accordance with DOM 52010.

### **52051.12 Confiscated Firearms, Parts, or Ammunition**

Confiscated weapons, parts, or ammunition no longer required as evidence for an investigation or trial shall be turned over to the following individuals for disposal:

- In a facility, to an armorer or other designated person.
- In a parole office, to an individual designated by the RPA at the PA-II level or higher.
- In the LEIU, to a special/senior special agent designated by the Assistant Director, LEIU.
- In the Academy, to a lieutenant or higher level employee designated by Academy.

Firearms may be released to governmental agencies pursuant to PC 12028 or 12030 or surrendered to DOJ for destruction. If the firearms are to be destroyed, a Department Form 918, Firearm/Firearm Part Disposition Log, shall be presented to the local court of jurisdiction for approval of transfer in accordance with PC12030. Upon return of the approved release for destruction, State DOJ shall be advised by submitting the completed CDC Form 918 with cover letter to:

Firearms Section

Department of Justice

P.O. Box 13417

Sacramento, CA 95812

### **52051.13 Inmate Manufactured Weapons**

Inmate manufactured weapons shall be retained in evidence pending legal appeal. Upon completion of legal litigation, they may be used for IST purposes. All weapons not being used for training purposes and being held pending prosecution or appeal shall be secured in a storage area until removed from facility grounds by an approved, certified metal vendor.

### **52051.14 Money**

Under no circumstances shall any money be mutilated or destroyed. Money which is discovered or confiscated by any employee shall be disposed of as follows:

- Staff shall immediately notify their supervisor upon discovering or confiscating any amount of money. A written report which identifies the serial number and denomination of each bill and the number of each denomination of coin shall be completed by the employee. The report shall be witnessed by at least one other employee.

Contaminated money shall be placed in a plastic container which shall be sealed and clearly marked "contaminated." The container and report shall be turned in to the Associate Warden (AW), Business Services, or a designated Business Services representative for mailing to the Department of Treasury for destruction. The AW, Business Services, or representative shall enclose a letter designating how the check from the Department of Treasury should be drawn. The letter and contaminated money should be packaged and mailed to:

Department of Treasury  
Bureau of Engraving and Printing  
O. C. S. Room 344 BEPA  
P.O. Box 37048  
Washington, DC 20013

Non-contaminated money shall be turned in to the AW, Business Services, or a designated Business Services representative for deposit in the Inmate Trust Fund.

#### **52051.15 Handling of Evidence**

Relevant evidence includes any and all controlled physical evidence acquired and processed from the commission of a crime and/or uncontrolled evidence where strong possibilities exists that it can be associated with a definite suspect through latent prints or other investigative means.

- Controlled felonious contraband is physical evidence of a felonious nature that includes, but is not limited to, weapons or narcotics that can be placed as having been in the immediate possession or control of any person.
- Uncontrolled felonious contraband is physical evidence of a felonious nature that includes, but is not limited to, weapons and narcotics that cannot be placed in the immediate possession or control of any person.
- Information collected that has been found (upon examination) to have no value as evidence shall be retained for at least six months before being prepared for destruction or return.

#### **52051.16 Handling of General Contraband**

General contraband shall be disposed of as listed below:

- Nonmetallic contraband, e.g., cardboard, paper, etc., shall be disposed of by the facility garbage.
- Metal contraband, e.g., can lids, metal scraps, etc., which is not usable by an appropriate department, shall be secured in a storage area until removed from facility grounds by an approved, certified metal vendor.
- State issued items shall be rerouted to the appropriate Department(s) for disposition and/or repair for reissuing.
- Unauthorized items which were obtained by authorized means may be sent home by inmates at their own expense or may be donated to the facility. (Examples: wallets, combs, belts, shoes, televisions, and stereos.)

#### **52051.17 Donated Contraband**

Inmate donated items shall be disposed of by one of the following methods:

- Donated to a charitable organization.
- Rendered useless or inoperable by disposing of it as trash.
- Retained for reissue if useful.
- Television sets which conform to the limitation of DOM 54030 and are in working condition may be reissued to indigent inmates.

#### **52051.18 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **52051.19 References**

PC §§ 2790, 5054, 5058, 12028, and 12030.

CCR (15) (3) §§ 3006, 3152, and 3190.

ACA Standards 2-4192, 2-4195, and 2-4377.

## **ARTICLE 21 — INMATE USE OF TELEPHONES**

*Revised February 29, 2008*

### **52060.1 Policy**

To provide inmates with the means and the opportunity to make personal calls to persons outside the institutions/facilities of the Department.

### **52060.2 Purpose**

To establish procedures in the use of ininstitution/intrafacility telephones for business purposes, authorizing confidential phone calls between inmates and their attorneys of record, and the use of public telephones for personal calls by inmates.

### **52060.3 Use of Ininstitution Telephone by Inmate**

Inmates shall not use ininstitution/intrafacility telephones except as specifically required and authorized by their assignment supervisor for communication with offices and personnel within the institution/facility.

Inmates shall identify themselves as "inmate (by name)" when answering or placing an ininstitution telephone call.

Inmates shall not use or be allowed access to an institution/facility telephone with the capability of direct connection with a public system, except as authorized in this Article.

### **52060.4 Public Telephone Access**

Each institution/facility shall provide public telephones for the use of general population inmates to make personal calls.

Each institution/facility shall also provide Telecommunication Device for the Deaf (TDD) telephones for use by inmates with a documented severe hearing impairment for personal, emergency, and confidential calls. The TDD telephone calls are subject to the same policies and procedures as are in place for telephone calls for general population inmates with the following exceptions.

- Extended time shall be scheduled for these calls due to the time delay which results from the TDD relay process.
- TDD telephones may be necessary to provide accommodations for inmates and their callers with disabilities.

The institution/facility shall ensure effective telephone communication for inmates with disabilities and/or the disabled person(s) with whom they are communicating.

### **52060.5 Inmate Personal Calls**

Inmates may make personal calls to persons outside the institution at designated times and on designated telephones according to their privilege group designation.

Limitations shall be placed on the frequency of such calls to allow equal access to Telephones. No limitation shall be placed on the numbers, identity, or relationship to the inmate of the person called, providing the person being called agrees to accept all charges for the call.

### **52060.6 Scheduling of Outside Telephone Calls**

*Revised December 14, 2012*

Telephone sign-up sheets covering seven days will be maintained and logged weekly. Sign-up sheets shall be divided in 15 minute increments. Sign-ups for inmate telephone calls will be accepted during program hours on second and third watch only.

- Inmates must present their identification card to sign up.
- Inmates may not sign up for a call time slot during their work/training hours.

If an inmate fails to appear for the call at the designated time, the next scheduled caller will be allowed to place their call or the telephone will remain vacant.

Inmates shall not, under any circumstances, charge phone calls to credit cards or place third party calls.

Inmates shall not declare an Emergency Interruption to the telephone operator when placing telephone calls.

### **52060.7 Identification of Privilege Group**

*Revised December 14, 2012*

Officers supervising the telephone sign-up shall check privilege group to ensure eligibility for the call.

- Privilege Group A:
  - Telephone calls during the inmate's non-work/training hours shall be limited only by institution/facility telephone capabilities, and hours of general population unlock.

- Privilege Group B:
  - One personal telephone call period per month.
- Privilege Groups C, D, and &U:
  - Telephone calls on an emergency basis only as determined by institution/facility staff.
- DD:
  - All privileges generally associated with the inmate's work/training incentive group's status will be suspended during a period of DD.

Inmates housed in AD-SEG Units, either voluntarily or under the provisions of CCR, 3335, will be allowed to make outside telephone calls that approximate those for the work/training incentive group to which the inmate is assigned, except that individual calls must be specifically approved by the supervisor in charge of the unit before a call is made

#### **52060.8 Confidential Telephone Calls**

Wardens may delegate authority to specific staff members to authorize confidential telephone calls between an inmate and the inmate's attorney, or any other person when designated staff determines that confidentiality is warranted.

Approval and clearance for a confidential phone call between an inmate and their attorney shall be conducted according to Section 3282 of the Title 15. The CDCR Form 106-A shall be used to document clearance. The information in the CDCR Form 106-A shall be updated regularly, but no less frequently than annually.

Authorized confidential calls shall not be monitored or recorded. However, inmates will be under constant visual observation during the confidential phone call.

Confidential calls shall not be placed on designated inmate telephones.

#### **52060.9 Emergency Calls**

*Revised September 25, 2007*

An emergency is defined as a death, serious illness, or accident involving an immediate family member as defined in Title 15, Section 3000. When a member of an inmate's family calls to convey an emergency message, the call shall be referred to the appropriate Chaplain or Correctional Counselor.

If the Chaplain or Correctional Counselor is not available, the call shall be referred to the Program Lieutenant. In the absence of the Program Lieutenant, the Watch Commander shall accept the call. The staff member accepting the call shall attempt to verify the emergency.

The inmate shall be informed of the message and may be permitted a monitored telephone call, which shall be placed as a collect call or paid for by the inmate's trust account.

If the inmate is permitted an emergency call, upon completion of the call, the staff member shall evaluate the inmate's reactions and behavior in order to determine whether or not an increase in custody and/or change of housing and/or follow-up counseling is required. If the staff member is unable to independently make a determination, the matter shall be referred to the appropriate administrator.

Trust account withdrawal telephone calls shall not be placed on public inmate telephones. Time and charges for approved calls shall be recorded on the CDC Form 193, Trust Account Withdrawal Order, by the staff who monitors the call. (See DOM 23000.) If the inmate is permitted to place a call, the time, date, person called, and the inmate's response shall be recorded on the CDC Form 128-B, General Chrono. The original sent to the Record's Office for the inmate's C-File and a copy to the inmate.

#### **52060.10 Release From Work/Training Assignment to Respond to Emergency**

Inmates shall be notified of an emergency while on their work/training assignment at the time of the emergency call.

If an inmate is requested by staff to respond to an emergency call during their work/training assignment, the inmate's supervisor shall release the inmate to respond to the staff's request.

The inmate shall receive "S" time credit for the authorized absence.

#### **52060.11 Telephone Branding**

Whenever an inmate makes a telephone call on an inmate telephone, the call may have an announcement before and at random intervals during the call. This announcement is known as branding and consists of the following:

Before the call the following may be heard by both the inmate and the person called:

This is the operator. I have a collect call from (inmate name), at a California correctional facility. This call and your number will be recorded. To deny charges, hang up now. To accept charges, press 5 now.

At random intervals during the call the following may be heard by both the inmate and the person called:

This recorded call is from an inmate at a California correctional facility.

#### **52060.12 Telephone Monitoring**

Inmate telephone calls on intrainstitution/intrafacility or designated inmate telephones are subject to being monitored at any time by institution staff.

#### **52060.13 Notice of Monitoring**

A conspicuous notice, in the English and Spanish languages, shall be posted at each telephone installation where inmates are normally permitted to make personal outside calls.

- The notices shall read: Any call placed on this telephone may be monitored and recorded without prior notice to the caller or the person called.
- Use of this telephone constitutes consent to monitoring, recording, and acceptance by the caller of the responsibility to inform the person called that their conversation may be monitored and recorded.
- When outside calls are permitted from a telephone where this notice is not posted, the staff member authorizing the call shall verbally inform the inmate of the notice information.

#### **52060.14 Devices and Taping Capabilities**

Telephone monitoring devices shall be utilized whenever the telephones are in use. Taping capabilities shall be used as needed by monitors.

If staff believes that illegal activities will transpire over the telephone during a particular call, that call shall be recorded.

Monitors shall terminate all inmate calls regarding:

- Drug trafficking.
- Proposed or actual violence.
- Any information adversely affecting the operation, safety, or security of the facility, transportation actions, the CDC, or its employees.
- Calls exceeding 15 minutes.
- Disrespectful comments and/or obscenities directed towards the telephone employee (operator).
- Monitors shall immediately report to the watch commander any information adversely affecting the security or safety of the institution/facility.

#### **52060.15 Revisions**

The Director, DAI, or designee shall ensure that the content of this Article is accurate and current.

#### **52060.16 References**

CCR §§ 3282, 3044, 3335 and 3343.

ACA Standards 4-4271, 4-4272, and 4-4497.

### **ARTICLE 22 — GANG MANAGEMENT**

**(Previously contained in Restricted DEPARTMENT OPERATIONS MANUAL [DOM], Section 55070)**

*Revised September 23, 2005*

#### **52070.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) prohibit individuals under its jurisdiction from any type of participation in gang activity and maintains a pro-active stance in the arena of gang suppression.

The CDCR provides inmates and parolees the opportunity to disassociate themselves from gangs and gang activities, making available to them programs consistent with their custody/supervision needs.

#### **52070.2 Purpose**

This Section defines staff responsibilities and provides uniform procedures for the management of gangs.

#### **52070.3 Gangs And Public Safety**

The CDCR has determined that gangs and their activities are a threat to the security of prisons and jails and are a clear and present danger to public order and safety.

#### **52070.4 Philosophy**



The preservation of public safety is the guiding principle of the criminal justice system in the State of California. The CDCR strongly endorses this basic principle.

The CDCR is mandated to control convicted offenders through institutional housing and parole supervision. In addition, the CDCR provides opportunities for offenders to take responsibility for their lives and improve their chances to become positive members of the community.

The CDCR has determined that prison gangs and disruptive groups, through their illegal activities, are a threat to the security of all institutions and camps. They are also a definite danger to public order and safety.

This Article provides direction for implementing the CDCR's policy in the arena of gang management and suppression.

#### **52070.5 Gang Management Strategy**

The CDCR's gang management strategy shall be to identify gang affiliated inmates/parolees, track them, monitor their conduct, take interdiction action, and apply sanctions when they are found to be involved in illicit or unlawful gang activity.

##### **52070.5.1 Document Gang Involvement And Activity**

Staff shall document all allegations of inmate/parolee gang involvement and activity. The documentation shall be placed in the inmates'/parolees' central files and copies shall be routed to the gang investigators.

##### **52070.5.1.1 Administrative Officer Of The Day/Reporting Activity Of Gang Affiliated Inmates**

The Administrative Officer of the Day, DAI, shall use the CDCR Form 837 series, Crime/Incident Report, to report, monitor, and compile statistical data regarding the activity of gang affiliated inmates.

The CDCR Form 837 series shall be accomplished and distributed per DOM, Chapter 5, Article 3. Additionally, the accomplishing staff shall route to their institution's gang investigator a copy of all CDCR Form 837 series, which report gang involved incidents.

Accomplishing staff shall ascertain whether any inmate involved in an incident is identified as a gang affiliate. If so, Part A of the CDCR Form 837 series shall be marked "GANG INVOLVED" in the Exceptional Activity section. Also, each inmate's validated or suspected gang affiliation shall be listed on Part-B1 of the CDCR Form 837 series.

Accomplishing staff shall ascertain whether an inmate is a validated gang affiliate by reviewing any pertinent documents in the inmate's central file to include, but not limited to, the CDC Form 812-A, Notice of Critical Information – Prison Gang Identification, and CDC Form 812-B, Notice of Critical Information – Disruptive Group Identification, which are contained in the central file.

#### **52070.5.2 Gang Identification and Validation**

*Revised August 9, 2011*

Departmental regulations and procedures for identification of gang affiliates shall be uniformly applied. Each institution, parole region, and field office of the Office of Correctional Safety (OCS) shall assign gang investigators to identify gangs and gang involved individuals. The Chief, OCS, shall have management responsibility for the validation of those inmates/parolees so identified by the gang investigators as outlined in this DOM Article.

#### **52070.5.3 Gang Activity Interdiction**

The gang investigators, under coordination of the Chief, OCS, shall join with task forces comprised of local, State, and federal law enforcement personnel to track, monitor and interdict, within the framework of law, the illicit and unlawful behavior of gangs.

#### **52070.5.4 Gang Activity Sanctions**

Inmates/parolees found to be in violation of criminal or administrative statutes shall be dealt with in the strictest possible legal manner. For inmates, this shall include, but not be limited to, loss of privileges, increase in custody, loss of work credits, enhancement of penalties, segregation from the inmate general population, and referral for criminal prosecution. For parolees, this shall include, but not be limited to, imposition of expanded special conditions of parole, increased levels of supervision, incarceration, referral to the Board of Parole Hearings for revocation proceedings and referral for criminal prosecution.

#### **52070.6 Cooperation with Other Criminal Justice Agencies**

Departmental gang investigators shall fully cooperate with investigators from other criminal justice agencies, on a need-to-know basis, regarding gang-involved investigations and information sharing.

Departmental gang investigators shall join and participate in local, regional, and statewide law enforcement task forces dedicated to gang intelligence sharing and gang activity suppression.

#### **52070.7 Role And Authority Of The Chief, Office Of Correctional Safety**

The Assistant Secretary, OCS, shall have management responsibility for SSU's Gang Intelligence Operations section and its gang investigators. Gang investigators shall be senior special agents, special agents, Correctional Lieutenants, and Correctional Sergeants assigned to the unit. The SSU gang investigators shall be selected by the Chief, OCS.

##### **52070.7.1 Prison Gang Designations**

The Assistant Secretary, OCS, shall determine when criminal groups have formed into actual prison gangs in accordance with the criteria established in this DOM Article.

##### **52070.7.2 Coordinate Gang Program**

The Assistant Secretary, OCS, shall coordinate the CDCR's gang intelligence, identification, validation, and suppression program and coordinate that program with other criminal justice agencies.

##### **52070.7.3 California Gang Task Force Responsibility**

The Assistant Secretary, OCS, shall have management responsibility for meeting the administrative needs of the California Gang Task Force (CGTF).

#### **52070.8 Role And Authority Of Wardens**

Wardens shall have management responsibility for their respective gang investigators.

Each institution shall have a gang investigator designated as an Institutional Gang Investigator (IGI) or investigative lieutenant. Gang investigators shall be Correctional Lieutenants. Gang investigators shall be selected by their Wardens.

Wardens shall ensure that gang involved or related occurrences and information are brought to the attention of appropriate personnel.

#### **52070.9 Role And Authority Of Regional Parole Administrators**

Regional Parole Administrators (RPA) shall have management responsibility for their respective gang investigators. Each parole region shall have a Regional Gang Investigator. Gang investigators shall be in the Parole Agent II classification. Gang investigators shall be selected by their RPAs.

RPAs shall ensure that gang involved or related occurrences and information are brought to the attention of appropriate personnel.

#### **52070.10 Role and Authority of the Parole Operations Administrator**

The Parole Operations Administrator of the Division of Adult Parole Operations (DAPPO) shall be responsible for developing and implementing the division's gang management procedures.

##### **52070.10.1 Gang Investigator Functional Supervision**

The Paroles Operations Administrator shall have functional supervision over the regional gang coordinators regarding the division's gang management procedures.

#### **52070.10.2 Gang Involved Parolee Arrest/Incident Notifications**

*Revised August 9, 2011*

The Paroles Operations Administrator shall ensure that the Gang Intelligence Operations Unit is promptly notified of all arrests or incidents involving gang-affiliated parolees. The Operations Administrator shall maintain a close working relationship with the SAC, OCS, and the Senior Special Agent, Gang Intelligence Operations, regarding gang management matters.

#### **52070.11 Role And Authority Of The Sac, OCS**

The SAC, OCS, Gang Intelligence Operations or designee shall have functional supervision of the Senior Special Agent, Gang Intelligence Operations, and the IGIs, (as it relates to validations, debriefings, and gang investigations/intelligence). The SAC shall be apprised of all gang management matters affecting, or having a potential to affect, departmental policy or procedure.

##### **52070.11.1 Relationship With Dapo And Ssu**

*Revised August 9, 2011*

The Office of Correctional Safety, Fugitive Apprehension Team Administrator, or designee shall maintain a close working relationship with the DAPPO Administration regarding significant incidents involving parolees. All incidents which require arrest, surveillance, or consultation and are considered serious in nature, high notoriety, public, or special interest cases, shall immediately be referred to the OCS Administrator, or designee for appropriate disposition.

##### **52070.11.2 Gang Involved Inmate Incident Notifications**

The institution and parole's Gang Investigators shall ensure that Gang Intelligence Operations is promptly notified of all arrests or incidents involving gang affiliated inmates.

### **52070.12 Role and Authority of the Senior Special Agent, Gang Intelligence Operations, SSU**

The Senior Special Agent shall report directly to the SAC, OCS. The Senior Special Agent supervises the SSU Gang Intelligence Operations section which includes the SSU gang investigators (Special Agents), and the Correctional Lieutenants, Sergeants, and ancillary staff of the Gang Intelligence Operations Debriefing Team. The Senior Special Agent shall maintain a close working relationship with the SAC, Chief, Classification Services, and DAPO Administrator regarding gang management matters.

#### **52070.12.1 Gang Investigator Functional Supervision Responsibility**

The SAC, OCS shall have functional supervision over the DAI and the DAPO gang investigators regarding investigation, identification, validation, monitoring, and tracking of gang affiliates.

#### **52070.12.2 Receiving And Disseminating Information**

The SAC, OCS, or designee shall be the CDCR's main spokesperson regarding gang information and shall have primary responsibility for:

- Receiving, analyzing, coordinating, and disseminating pertinent prison gang and disruptive group data to assist respective managers regarding security of institution and parole operations.
- The sharing of this information between the Institutions, DAPO, the departmental training center, and other criminal justice agencies at the local, State, and federal levels.
- Information potentially affecting the policies and/or procedures of the CDCR shall require authorization from the Assistant Secretary, OCS or designee prior to being disseminated.
- Prior to releasing any gang related documents to any court or attorney, either voluntarily or under subpoena, the CDCR's Office of Legal Affairs (OLA) shall be contacted and informed of the request and the nature and contents of the documents requested/demanded. The OLA shall provide guidance for release. All documents released from the control of the OCS shall have the approval of the Assistant Secretary, OCS, prior to release.

#### **52070.12.3 Preparing And Disseminating Reports**

The SAC, OCS or designee shall be responsible for the preparation of charts, assessments, statistical reports, and other material as required to provide an accurate portrayal of gang activity. The SAC, OCS shall disseminate this information to departmental and other criminal justice agency managers and gang investigators on a need-to-know basis as authorized by the Assistant Secretary, OCS.

#### **52070.12.4 California Gang Task Force**

The SAC, OCS, or designee shall serve as coordinator of the CGTF. The CGTF is comprised of criminal justice agency personnel from numerous local, State, out-of-state and federal jurisdictions. As coordinator, the SAC, OCS, responsibilities include:

- Processing membership and guest applications.
- Maintaining records.
- Scheduling meetings at locations throughout the State.
- Chairing the two (2) day, each month, gang intelligence information-sharing meetings.
- Collecting, dispersing, and maintaining meeting fees.
- Handling correspondence.
- Preparing and distributing a monthly summary of reported gang activity.
- Preparing statistical reports.

#### **52070.12.5 Gang Investigator Meeting**

Prior to the CGTF meeting, the SAC, OCS, or designee shall meet with all departmental gang investigators to ensure that the CDCR is represented at the CGTF meeting by a cohesive, organized group. Additionally, this meeting shall serve as a training session regarding gang identification, validation, etc., and shall provide an opportunity to exchange gang-intelligence information at the operational level.

#### **52070.12.6 Assistance And Data Requests**

The Senior Special Agent shall be responsible for coordinating requests for gang activity data, training, and investigative assistance received from departmental as well as other criminal justices agencies.

#### **52070.13 Gang Investigator Selection Criteria**

To be eligible for selection by their respective managers, gang investigator candidates shall have the civil service positions of either Special Agent/Senior Special Agent, Parole Agent II, or Correctional Lieutenant and shall:

- Have a good working knowledge of prison gangs and disruptive groups.

- Be highly motivated to investigate organized criminal activity and gang affiliations.
- Be well organized, efficient, and possess good interpersonal, communication, and analytical skills.
- Have the necessary verbal skills to make presentations and conduct training regarding gangs to large audiences.

### **52070.14 Role And Responsibility Of Gang Investigators**

The Regional Parole Gang Investigators shall be directly responsible through their chains of command to their respective RPA or designee, and shall be functionally supervised by the Parole Operations Administrator and the SAC, OCS.

The IGIs shall be directly responsible through their chains of command to their respective Wardens and shall be functionally supervised by the SAC, OCS, and the Senior Special Agent, Gang Intelligence Operations, SSU.

#### **52070.14.1 Obtain And Share Information**

The gang investigators shall have the primary responsibility in their respective institution or region for collection of information in regard to gang affiliations or gang-related criminal activities. They shall collect information from various sources and transmit this information to their respective Wardens or RPAs, SAC, OCS, and to the Senior Special Agent without delay.

The gang investigators shall maintain a close working relationship with other staff. They shall collect, analyze, and transmit any material or information of significance to their respective managers, SAC, OCS, and to the Senior Special Agent. They shall be responsible for documenting gang members and associates (and their visitors at respective institutions). They shall monitor new arrivals to their respective institutions or parole regions, particularly new commitments from and to Reception Centers. They shall identify and document inmates or parolees engaged in any gang activity. They shall maintain regular telephonic contact with other investigators, local law enforcement agencies, and other appropriate individuals as necessary so as to provide an avenue for the exchange of information.

The gang investigators shall maintain regular telephonic contact with the Senior Special Agent and shall convey important data, including inmate/parolee gang-involved incidents or arrests, without delay. These telephonic contacts shall be followed up by necessary reports and/or documents. Wardens and RPAs or their designees shall be apprised of all information obtained by their respective investigators so that the information will reach appropriate personnel.

#### **52070.14.2 Provide Training**

The gang investigators shall provide training for CDCR personnel and personnel from other jurisdictions on matters related to gangs. Should assistance be necessary, the Senior Special Agent may be contacted.

#### **52070.14.3 Classification Resource**

The gang investigators shall be a resource in the classification process in matters related to gangs.

#### **52070.14.4 Meetings And Conference Calls**

The gang investigators shall attend/participate in such meetings and telephone conference calls as are deemed necessary by the Chief, OCS, in concurrence with their respective managers. These meetings/conference calls shall be coordinated and supervised by the SAC, OCS, or the Senior Special Agent; for example, California Gang Task Force meetings, etc.

#### **52070.14.5 Inmate/Parolee Cooperation With Other Jurisdictions**

Whenever a gang investigator becomes aware that a high notoriety inmate or parolee wishes to cooperate with the CDCR and/or other law enforcement agencies regarding a debriefing or other gang information, or if the matter is potentially complicated, the SAC, OCS, and the Senior Special Agent shall be notified. The Senior Special Agent, in concert with the SAC, OCS, shall determine the debriefing process, etc. Thereafter, the respective manager shall be apprised of the debriefing or other information. All outside agency requests for debriefing shall be referred to the applicable investigator and/or the Senior Special Agent.

#### **52070.14.6 Provide Emergency Telephone Number**

All gang investigators shall provide their managers, SAC, and the Senior Special Agent with a telephone number where they can be reached after working hours in the event of an emergency.

### **52070.15 Gangs Defined**

As referenced in CCR Section 3000, a gang is defined as any ongoing formal or informal organization, association, or group of three (3) or more persons, which has a common name or identifying sign or symbol whose members and/or associates engage or have engaged on behalf of that organization, association, or group in two or more illicit activities which include, but are not

limited to, planning, organizing, threatening, financing, soliciting, or committing unlawful acts or acts of misconduct classified as serious pursuant to CCR Section 3315.

#### **52070.15.1 Prison Gangs Defined**

A prison gang is defined as any gang which originated and has its roots within the CDCR or any other custodial system.

#### **52070.15.2 Disruptive Groups Defined**

A disruptive group is defined as any gang, other than a prison gang.

#### **52070.16 Authorized Gang Investigations**

Only gangs and their affiliates specified in this DOM Article shall be investigated.

##### **52070.16.1 Prison Gang Investigations**

Prison gangs, as designated by the Chief, OCS, and their affiliates shall be investigated.

##### **52070.16.2 Designated Prison Gangs**

- Aryan Brotherhood (AB).
- Black Guerrilla Family (BGF).
- Mexican Mafia (EME).
- Nazi Low Rider (NLR).
- Northern Structure (NS).
- Nuestra Familia (NF).
- Texas Syndicate (TS).

Recognized prison gangs shall be designated by the Chief, OCS. The Chief, OCS, may amend the above list of identified prison gang(s) as necessary.

##### **52070.16.3 Disruptive Group Investigations**

Disruptive groups, and their affiliates, as recognized by the Chief, OCS, the SAC, OCS, the departmental managers, individual Wardens, institutional managers, and/or gang investigators shall be investigated.

##### **52070.16.4 Recognized Disruptive Groups**

Disruptive groups include, but are not limited to:

- Precursor gangs that may become prison gangs.
- Street gangs.
- Revolutionary groups.
- Motorcycle gangs.
- Terrorist groups/affiliates.

#### **52070.17 Identification Of Gang Affiliates**

The identification of gang affiliates shall be accomplished by gang investigators in accordance with DOM, Chapter 6, Article 2, Case Considerations.

##### **52070.17.1 Documenting Gang Affiliation On A Cdc Form 812-A Or B**

If, after the thorough investigation and documentation prescribed by DOM, Chapter 6, Article 2, the gang investigator concludes the inmate/parolee is gang affiliated (active or inactive) or has had a change in gang status, the investigator shall complete either a CDC Form 812-A, Notice of Critical Case Information – Prison Gang Identification, or a CDC Form 812-B, Notice of Critical Case Information – Disruptive Group Identification. On the form, the gang investigator shall document the affiliation, category of involvement, and the original, independent source items of information contained in the central file, which were used to support the conclusion. The completed CDC Form 812-A/B shall be retained in the inmate's/parolee's central file and the inmate/parolee shall be given a copy. Current activity is defined as any documented gang activity within the past six (6) years consistent with CCR Section 3341.5(c)(5).

##### **52070.17.2 Documenting Gang Affiliation On A Cdc Form 128-B**

The gang investigator shall also document in narrative fashion on a CDC Form 128-B, General Chrono, the inmate's/parolee's gang affiliation, category of involvement, and specify each original, independent source item of information contained in the central file, which was relied upon to support the conclusion. A CDC Form 128-B shall also be used to document insufficient evidence to support a conclusion of gang affiliation. Documentation shall begin with a definite conclusion of finding based upon the evidence. It shall not be inconclusive or equivocal. The completed CDC Form 128-B shall be retained in the inmate's/parolee's central file and the inmate/parolee shall be given a copy. The investigator shall also assure the inmate/parolee has received copies of all non-confidential documents used in the validation. All confidential information used in the validation shall be disclosed to the inmate via CDC Form 1030, Confidential Information Disclosure Form. This

documentation shall be disclosed to the inmate/parolee per the procedure defined in this DOM Article.

##### **52070.17.2.1 Example Language For Cdc Form 128-B, Re: Gang Affiliation Conclusion**

After a thorough review of the evidence, I have concluded that inmate/parolee John DOE, E-00000, is an associate (etc.) of the prison gang/disruptive group "X." This is supported by: (1) "Item"; (2) "Item"; etc.

##### **52070.17.2.2 Example Language For Cdc Form 128-B, Re: A Conclusion Of No Gang Affiliation**

After a thorough review of the evidence, I have concluded there is no or insufficient information to support that inmate/parolee John DOE, D-00000, is affiliated with the/any prison gang/disruptive group "X." (provide an explanation.)

##### **52070.17.2.3 Verification Of An Inmate/Parolee's Gang Identification**

The verification of an inmate/parolee's gang identification shall be validated or rejected by the Chief, OCS, or his/her designee.

#### **52070.18 Category Of Gang Involvement**

The identification of the category of an inmate's/parolee's involvement within a gang shall be based upon the strength of the required documentation in the inmate's/parolee's central file, not upon multiple, same source documentation. Only the categories in this DOM Article shall be used to identify an inmate's/parolee's gang involvement.

##### **52070.18.1 "Delete" Category**

"Delete" designates the inmate/parolee is no longer believed to have been an affiliate of a gang due to a lack of substantiation. This identification is used to remove an inmate/parolee from the gang data base.

##### **52070.18.2 "Member" Category**

"Member" designates an inmate/parolee who has been accepted into membership by a gang. This identification requires at least three (3) original, independent source items of documentation indicative of actual membership. At least one (1) of the sources shall be a direct link to a validated member or associate or former member (dropout) identifying the inmate/parolee as a member. The source items shall meet the requirements established in CCR Section 3378.

##### **52070.18.3 "Associate" Category**

"Associate" designates non gang members who are involved periodically or regularly with members or associates of a gang. This identification requires at least three (3) original, independent source items of documentation indicative of association with VALIDATED gang members and/or associates. At least one (1) of the sources shall be a direct link to a validated member/associate, such as a validated member/associate or former member/associate (dropout). The source items shall meet the requirements established in CCR Section 3378.

##### **52070.18.4 "Inactive" Category**

An inmate housed in general population as a gang member or associate may be considered for "inactive" status when the inmate has had no documented gang activity for two (2) years. If the inmate paroled during this two year period, the parole time may be used in calculating the two (2) years. The "inactive" status can be changed back to (active) member/associate if the Department receives one (1) piece of evidence indicating the inmate has re-involved himself/herself with gang activity.

An inmate housed in SHU as a result of his/her gang member or associate status, may be considered for "inactive" status by the Departmental Review Board (DRB).

Consistent with normal reviews, the IGI shall conduct a review of the inmate's gang status. If it has been determined by the IGI that the inmate has had no gang activity for a period of six (6) years, the IGI shall submit a request to the SSU to change the inmate's status to "inactive." If the SSU concurs with the IGI's recommended gang status change, a new CDC Form 128B-2 shall be issued identifying the inmate as an "inactive" member/associate. Upon issuing a new CDC Form 128B-2 identifying the inmate as "inactive," the DRB shall be notified by the housing institution. At its convenience, but not to exceed 180 days, the DRB shall meet and consider the inmate for placement in a level IV, 180 design housing unit for a period of observation. At the DRB'S discretion, the inmate may be transferred to a level IV, 180 design institution. If the inmate paroled from the SHU prior to his/her six (6) year IGI "inactive" review, and is then returned to CDCR custody on a parole violation or new term, the parole time will be taken into account for the total time. However, if the most recent source of activity used in the inmate's validation is less than six (6) years old, the inmate shall be returned to SHU placement until he/she

has obtained a minimum of six (6) years without any documented gang activity.

The “inactive” status may be changed back to (active) member/associate if the Department receives one (1) piece of evidence indicating the inmate has reinvolvement himself/herself with gang activity.

#### **52070.18.5 “Dropout” Category**

“Dropout” designates that the inmate/parolee was either a gang member or associate who has discontinued gang affiliation. This identification requires the inmate/parolee to have cooperated in, and successfully completed, the debriefing process as specified in this DOM Article, Sections 52070.20 through 52070.20.8.3.

#### **52070.19 Debriefing**

Debriefing is the process by which an investigator determines whether an inmate/parolee (subject) has dropped out of a gang. A subject shall be debriefed only upon his or her request, although staff may ask a subject if he or she wants to debrief. Debriefing shall entail a two-step process that includes an interview phase and an observation phase.

##### **52070.19.1 Role And Responsibility Of The Gang Intelligence Operations, Debriefing Team**

The debriefing team is tasked with the responsibility of debriefing validated prison gang members desiring to disassociate themselves from the gang. The primary objective of the team shall be to debrief validated prison gang members housed in SHU. The team may be used to perform other functions at the discretion of the Chief, OCS.

##### **52070.19.2 Debriefing Objective And Purpose**

The objective of a debriefing is to learn enough about the subject and the subject’s current gang to:

- Allow staff to reasonably conclude the subject has dropped out of that gang.
- Allow staff to separate the subject from identified active gang affiliates, protecting the subject from their retaliation.
- Allow staff to reclassify the subject regarding possible new custody, housing, and assignment needs.
- A debriefing is not for the purpose of acquiring incriminating evidence against the subject.

##### **52070.19.3 Pre-Debriefing Miranda Warning Not Given**

A waiver of the Fifth Amendment right against self-incrimination is not a precondition of a subject undergoing debriefing. Subjects who undergo debriefings are not first given Miranda warnings with the express intent that any information provided shall be used administratively and not against them in a criminal proceeding.

Additionally, a pre-debriefing Miranda warning is not deemed necessary because:

- The subjects shall be debriefed only upon their request (staff may inquire if they want to debrief).
- Subjects shall not be required to complete their debriefing.
- Subjects may terminate their debriefing at any time.

##### **52070.19.4 Miranda Warning**

If during a debriefing the subject begins to relate the commission of a serious, chargeable crime, the gang investigator may stop discussion about the matter and continue on with another topic. After debriefing completion, the gang investigator may Mirandize and question the subject about the crime.

A subject may provide information during the debriefing that indicates self-incriminating evidence about a crime. After debriefing completion, the gang investigator may Mirandize and question the subject about the crime.

##### **52070.19.5 Debriefing Success Not Determined By Invoking Miranda**

If the subject then exercises the right not to incriminate him/herself, the exercise of that right shall not affect the determination of whether the subject successfully participated in the debriefing.

##### **52070.19.6 Reporting Alleged Violations Of Law Or Regulation**

Information obtained during a debriefing alleging an individual other than a peace officer, public official, or public employee committed violations of law or regulations shall be documented in the debriefing report and shall be reported by the gang investigator who conducted or supervised the debriefing to the gang investigator of the institution or other agency having jurisdiction over where the violation occurred. The debriefing report shall identify the institution/agency and individual to whom the allegation was reported. The recipient IGI shall notify institution management per local procedure.

##### **52070.19.7 Reporting Alleged Public Official Violations Of Law Or Regulation**

Information obtained during a debriefing alleging a peace officer, public official, or public employee committed violations of law or regulation shall be immediately reported by the gang investigator who conducted or supervised the debriefing to their respective Warden or RPA. The gang investigator shall notify the affected agency(s) of the allegation(s). Such allegations shall be reported separately on a memorandum. If there is more than one (1) peace officer or other official, prepare a separate memorandum report on each person (unless they are alleged crime partners). The memorandum(s) shall:

- Be typed by a confidential employee.
- Not be entitled a “debriefing.”
- Be marked “Confidential-Employee (or public official, etc.) Involved,” as appropriate.
- Contain an assessment of the informant’s reliability.
- Identify the agency and person notified of the allegation.
- Be signed or countersigned by the gang coordinator/investigator.

The gang investigator shall deliver copies of the memorandum(s) to management per local procedure. Additionally, copies shall be delivered to concerned departmental officials on a strict need-to-know basis and to the Senior Special Agent.

Copies of these memorandum(s) shall not be placed in the central file of the subject or any other inmate/parolee.

##### **52070.19.8 Debriefing Report**

Information obtained during a debriefing shall be documented on a confidential memorandum entitled a “debriefing report.” The debriefing report shall be signed or countersigned by the gang investigator.

##### **52070.19.8.1 Confidential Designation**

Preceding the debriefing report narrative, the gang coordinator/investigator or their assistant shall document the need to designate the debriefing report as confidential, either from the subject, others, or both. A confidential designation shall adhere to the CCR, Title 15 regarding confidential material. This encompasses information which, if known to the inmate/parolee (subject or others), would endanger the safety of any person or would jeopardize the security of an institution.

##### **52070.19.8.1.1 Confidential From Subject**

A debriefing report may be designated as confidential from the subject when the subject has requested a confidential designation and the gang investigator has determined security would best be served by filing the report in the subject’s confidential folder rather than another section of the central file.

If the debriefing report is designated confidential from the subject only per the subject’s request, the subject shall review the debriefing report, initial each page of the report, and sign a declaration at the top of the first page which reads: “I, \_\_\_\_\_, have read this report and attest that it accurately relates the information I provided. The only exception(s) appear on my attached written statement.”

If there are no exceptions, the subject shall write the words “None” at the end of the declaration and initial.

If there are one (1) or more exceptions, the subject shall write them on a separate, signed statement. The gang investigator or their assistant shall attach this signed statement to the back of the debriefing report and indicate “see attached” on the report.

##### **52070.19.8.2 Recapitulation Of Gang Affiliates**

All persons reported by the subject as being an affiliate, including dropouts, of any gang, including those previously noted in the narrative, shall be documented on a list in alphabetical order. The list shall be at the end of the debriefing report.

If possible, the list shall contain each identified person’s full name, moniker, CDC number (or the words “NON-CDC” and date of birth [DOB]), hometown/area, gang involvement (AB Assoc., NF Cat III, etc.) and CDCR location (institution, parole region, or discharged). The required information may be obtained from the debriefed subject or via OBIS and CLETS.

Only information referencing specific gang related association, participation, activities, and/or conduct shall be considered for, or as, a source item for validating the inmate/parolee as a member/associate of a gang. The CDC Forms 812 and 812-C shall be updated as any critical information becomes known and is documented in the inmate/parolee’s central file. The forms shall also be reviewed and updated at the time of any change in the inmate/parolee’s status or placement.

##### **52070.19.8.3 Debriefing Report Disposition**

The gang investigator shall be responsible for having a copy of the debriefing report placed in the central file confidential folders of the subject (if appropriate) and all other inmates/parolees identified in the report. At the

conclusion of the debriefing process and after the subject has initialed the pages or provided any exceptions to the report as defined in this DOM Article, Section 52070.20.8.1.1, the investigator shall place, along with the copy of the debriefing report, a sealed envelope which shall contain any and all original hand written documents, letters, notes, or drawings provided by the subject during the course of the debrief. The investigator shall then have the sealed envelope placed into the subject's central file confidential folder. The investigator shall place a tracking sheet on the exterior of the sealed envelope to record the name, date, and purpose of any individual opening the envelope. The investigator may keep copies of the documents except for any document normally identified as a personal biographical history of the subject's gang activities.

The gang investigator shall immediately send a copy of the debriefing report to the Senior Special Agent.

The Senior Special Agent shall file the data for future retrieval and information needs. Additionally, the Senior Special Agent shall route copies of debriefing reports to all other gang coordinators/investigators for their confidential review.

The recipient gang investigators shall not duplicate, distribute, or copy the reports and shall return the reports to the Senior Special Agent by first-class mail for disposal.

#### **52070.20 Validation Of Gang Affiliates**

"Validation" is the term used to describe the quality control review of gang affiliate identification. "Validation" is done to ensure that gang affiliate identifications are in compliance with departmental regulations.

##### **52070.20.1 Validation Request By Gang Investigator**

The gang investigator who verifies an inmate's/parolee's gang affiliation and category of involvement shall complete a Form Q, Gang Validation Worksheet (Exhibit "A"), a Form Q-1, Body Markings Diagram (Exhibit "B"), and a Form Q-2, Body Markings Photographs (Exhibit "C") on the inmate/parolee. The gang investigator shall attach to the completed Q series forms, a copy of the coordinator's CDC Form 128-B memorandum with copies of the supporting documentation. This shall be known as a validation package.

Prior to submission of a validation package to the OCS, or during the inactive review process, the subject of the investigation shall be interviewed by the IGI or designee and given an opportunity to be heard in regard to the source items used in the validation or inactive review. Inmates shall be given written notice at least 24 hours in advance of the interview. The interview may be held earlier if the inmate waives, in writing, the 24 hour preparation period. All source items referenced in the validation or inactive review shall be disclosed to the inmate at the time of notification. The inmate shall be given copies of all non-confidential documents unless otherwise requested in writing by the inmate. Confidential information used in the validation or inactive review shall be disclosed to the inmate via a CDC Form 1030, Confidential Information Disclosure Form. The interview shall be documented and include a record of the inmate's opinion on each of the source items used in the validation. Staff shall record this information and provide a written record to the inmate within fourteen (14) calendar days and prior to submission of the validation package to the OCS. The documented interview shall be submitted with the validation package or inactive review to the OCS for consideration in the approval or rejection of the validation or in consideration of the inmate's continued current active or inactive status.

The inmate's mental health status and/or need for staff assistance shall be evaluated prior to interview. Staff assistance shall be assigned per guidelines set forth in CCR Section 3318.

The gang investigator shall forward the validation package to the Senior Special Agent, Gang Intelligence Operations, SSU, or designee to request validation.

##### **52070.20.1.1 Security Of Q Series Forms By Gang Coordinator/Investigator**

The Q series forms are work products that shall not be placed in the inmate's/parolee's central file. Further, disclosure of the category codes on the Form Q to inmates/parolees or unauthorized persons would adversely impact gang data base security, thereby jeopardizing the security of institutions and safety of individuals.

**Note:** The Q series forms (not filled out) are not considered RESTRICTED. However, once the Q series forms are used to record information regarding inmates/parolees, the forms shall then be classified as RESTRICTED.

##### **52070.20.2 Validation Review By Ssu**

Gang Intelligence Operations, SSU, shall promptly perform a quality control review of all validation packages received. If the inmate's/parolee's gang

affiliation and category of involvement has been properly identified, the identification shall be validated.

##### **52070.20.3 Validation Action By Senior Special Agent**

The Senior Special Agent or designee shall promptly document the validation action on a CDC Form 128-B2. The original CDC Form 128-B2 shall be sent to the originating gang investigator for placement in the inmate's/parolee's central file and a copy shall be sent for transmittal to the inmate/parolee. No gang affiliation shall be considered validated until this process is completed. This paragraph shall not apply to validation actions completed prior to this manual Section being placed into effect.

##### **52070.20.4 Validation Rejection By Senior Special Agent**

If the inmate/parolee has not been properly identified as a gang affiliate, the Senior Special Agent or designee shall promptly document on a CDC Form 128-B-2 that the identification does not meet current departmental standards for validation. The CDC Form 128-B2 shall direct that the erroneous CDC Forms 812-A/B and 128-B identifying the inmate/parolee as a gang affiliate be removed from the central file.

##### **52070.20.4.1 Classification And Parole Representative (C&Pr) Or Rpa I (Records Office Administration) Notification**

The original memorandum shall be sent to the C&PR/RPA I (records office administration) of the originating institution/parole region for inclusion into the inmate's/parolee's central file and a copy shall be sent for transmittal to the inmate/parolee.

The C&PR/RPA I (records office administration) shall have the specified documents removed from the central file.

##### **52070.20.4.2 Gang Investigator Notification**

A copy of the memorandum shall be sent to the originating gang investigator. This copy shall cite the errors and/or deficiencies of the identification and shall contain suggestions about how to meet validation requirements. The validation package shall be returned to the originator along with a copy of the memorandum.

##### **52070.20.5 C&Pr Responsible For Marking Validation Documents**

The C&PR shall be responsible for ensuring that each central file document identified and submitted as a source for gang validation is clearly and permanently marked according to its acceptance or rejection on the CDC Form 128B-2.

If the CDC Form 128B-2 identifies that the document was accepted as a source for validation, then the C&PR or designee shall mark the document with the statement; "This document meets the validation requirements established in CCR Section 3378."

If the CDC Form 128B-2 identifies that the document was rejected as a source for validation, then the C&PR or designee shall mark the document with the statement; "This document does not meet the validation requirements established in CCR Section 3378."

##### **52070.21 Inmate/Parolee Appeals Of Gang Identification And/Or Validation**

Inmates/parolees may appeal their identified and/or validated gang affiliation and category of involvement pursuant to the CCR, Title 15 and the DOM.

##### **52070.22 Gang Data Base**

The restricted gang data base shall be maintained by the Gang Intelligence Operations section, SSU. It shall contain the names and identifiers of CDCR inmates, parolees, discharges, and others whose central files or other gang files may contain documentation indicative of specified gang affiliation.

The gang data base shall be compiled from validated gang identification documents.

##### **52070.22.1 Gang Data Base Disclosure**

Departmental gang investigators shall have direct access to the gang data base to assist them with identifying and tracking gang affiliates. Access may be by computer interface, floppy/CD diskette, or hard copy (printout).

When requested, departmental gang investigators may be issued a numbered gang data base diskette/CD and/or printout. The recipient shall be responsible for its security. The recipient shall be responsible for immediately returning the diskette or printout to the Senior Special Agent, Gang Intelligence Operations section by first-class mail within three (3) days of vacating the gang investigator position or upon instruction of the Senior Special Agent. Newly assigned staff shall be issued their own numbered copies.

Gang Intelligence Operations staff and gang investigators shall verbally share gang data base information with departmental personnel and personnel from other criminal justice agencies providing:

- The information shall be for intelligence use only.

- The identity of the requestor is clearly established.
- The requestor has an official need to know.

Except as provided for in this DOM Article, the gang data base shall not be disclosed, duplicated, or issued without authorization of the Chief, OCS.

#### **52070.23 Critical Case Management System (CCMS) Computer Program**

The restricted CCMS (pronounced see-miss) computer program is designed for departmental storage and retrieval of criminal intelligence information, including access to the SSU Gang Data Base and/or other gang records. Such access shall be by computer interface or floppy/CD diskette. CCMS shall be programmed not to print out any SSU gang records.

##### **52070.23.1 CCMS Management Responsibility**

The Assistant Secretary, Enterprise Information Services (EIS), shall have management responsibility for CCMS computer program installation, maintenance, and modification. The Assistant Secretary, EIS, shall coordinate with the Director, DAPO, the SAC, OCS, and the Senior Special Agent of Gang Intelligence Operations, SSU, regarding CCMS matters.

##### **52070.23.2 CCMS Use**

CCMS shall only be used by the DAPO gang investigators and Investigative Services Unit personnel for the storage and retrieval of criminal intelligence file information.

##### **52070.23.2.1 Authorized Data Storage**

Criminal intelligence files shall contain information only on the activities and associations of:

- Individuals who are suspected of being or having been involved in the actual or attempted planning, organizing, threatening, financing, or commission of criminal acts; or are suspected of being or having been involved in criminal activities with known or suspected crime figures.
- Organizations, businesses, and groups which are suspected of being or having been involved in the actual or attempted planning, organizing, threatening, financing, or commission of criminal acts; or are suspected of being, or having been, illegally operated, controlled, financed, or infiltrated by known or suspected crime figures.

##### **52070.23.2.2 Unauthorized Data**

Data excluded from criminal intelligence file storage includes material regarding religious, political, or sexual information which does not relate to criminal conduct.

##### **52070.23.3 CCMS Security**

*Revised August 9, 2011*

Computers or computer terminals that have the CCMS program shall be restricted to DAPO, gang investigators, Investigative Service Unit personnel, and OCS personnel use only.

Inmates/parolees shall have no access to a computer or computer terminal that has the CCMS program.

The CCMS program shall be only on computers which are protected by a security system approved by the Assistant Secretary, EIS (i.e., Watchdog).

In the event of computer failure, the authorized user shall contact the local Associate Information Systems Analyst (AISA) or EIS for assistance. No computer shall be removed from its assigned station for repair or other reason unless the hard drive has been erased and reformatted either by magnet or system commands.

##### **52070.24 Gang Information Restriction**

*Revised August 9, 2011*

Except OCS and as otherwise provided for in DOM, Chapter 6, Article 2 and this DOM Article, there shall be no departmental computer system or program, or other method of data storage, including written lists, which contains gang affiliation and/or gang intelligence information about individuals.

##### **52070.25 Classification of Gang Affiliated Inmates**

Gang affiliated inmates shall be classified in accordance with the CCR, Title 15 and the DOM on the basis of documented individual behavior and case needs.

At the inmate/parolee's annual review, any information or source items received/developed during the preceding year, which meets the validation requirements as defined in CCR Section 3378, shall be disclosed to the inmate/parolee on the CDC Form 812 A/B. The information need not be disclosed if it is part of an ongoing investigation or if disclosure would compromise an ongoing investigation. The inmate/parolee shall be interviewed regarding the information and a request shall be made to the OCS for an updated CDC Form 128B-2.

##### **52070.26 Transfer Criteria for Gang Affiliated Inmates**

Gang affiliated inmates shall be transferred in accordance with the CCR, Title 15 and the DOM on the basis of documented individual behavior and case needs.

##### **52070.27 Visiting Privileges for Gang Affiliated Inmates**

Gang affiliated inmates shall have visiting privileges in accordance with the CCR, Title 15 and the DOM on the basis of documented behavior and case needs.

##### **52070.28 Work Assignments for Gang Affiliated Inmates**

Gang affiliated inmates shall have work assignments in accordance with the CCR, Title 15 and the DOM on the basis of documented behavior and case needs.

##### **52070.29 Mail for Gang Affiliated Inmates**

Gang affiliated inmates may send and receive mail in accordance with the CCR, Title 15 and the DOM on the basis of documented individual behavior and case needs.

##### **52070.30 Training for Staff**

Peace officer and ancillary staff shall receive training regarding prison gangs and disruptive groups.

##### **52070.30.1 Initial Peace Officer Training**

Gang training shall be incorporated into the curriculum of the Correctional Officer and Parole Agent academies.

##### **52070.30.2 Peace Officer and Ancillary Training**

Peace officer and ancillary staff shall receive ongoing gang training within their respective institutions or regions.

##### **52070.30.3 Newly Assigned Gang Investigators Training**

*Revised August 9, 2011*

Gang investigators shall receive orientation training as soon as possible within thirty (30) days of their assignment from the Senior Special Agent or designee, Gang Intelligence Operations, OCS, and either the DAI, Chief of Investigative Services, or the DAPO, RPA, or designee.

The Senior Special Agent shall arrange and coordinate the training. The instructor shall designate the training location.

##### **52070.31 Training For Personnel From Other Jurisdictions**

The CDCR shall provide gang training, free of charge, for peace officers and non-sworn intelligence analysts from other jurisdictions.

##### **52070.31.1 Training Center Guest Students**

Qualified personnel from other jurisdictions may attend regularly scheduled Correctional Officer Academy basic gang classes at the departmental training center as guest students on a space-available basis.

Space availability shall be ascertained by subtracting the number of departmental students in the class from the classroom's maximum occupancy rating.

The training center administrator shall transmit to the Senior Special Agent, Gang Intelligence Operations, SSU, the scheduled times and dates of gang classes and the number of guest student spaces available for each class.

The Senior Special Agent shall maintain a list of qualified guest student applicants and shall schedule them for the available spaces. Both the training center administrator and the applicants shall be notified in writing of the scheduling.

##### **52070.31.1.1 Guest Student Qualifications**

In order to qualify as a guest student, the applicant shall:

- Be a peace officer or non-sworn intelligence analyst.
- Be employed by a Department/agency which is a member of the California Gang Task Force.
- Obtain authorization to attend the class from the employing Department/agency, including arrangements for travel, lodging, and meals (which shall not be provided by the training center).

##### **52070.31.1.2 Guest Student Applications**

Guest student applications shall be submitted to the Senior Special Agent for review and approval.

##### **52070.31.2 Training Given On-Site At Other Jurisdictions**

Other jurisdictions may request on-site gang training for sizeable groups of their peace officers and non-sworn intelligence analysts.

These requests may be directed to any departmental gang investigator. The gang investigators shall provide the requested training upon approval of local management.

The requests from other jurisdictions for on-site gang training shall be granted as often as possible, in keeping with the gang investigators work/training schedules.

Gang investigators may contact the Senior Special Agent for assistance regarding gang training, if necessary.

#### **52070.32 Revisions**

The Assistant Secretary, OCS, shall ensure that the contents of this Section are accurate and current.

#### **52070.33 References**

DOM, Chapter 5, Article 3; Chapter 6, Article 2.

CCR Sections 3023, 3340.1, 3341.5, 3375, 3375.3, and 3378.

Penal Code Sections 186.21, 186.22, 5054, and 5058.

### **ARTICLE 23 — INMATE DISCIPLINE**

*Updated April 24, 2017*

#### **52080.1 Policy**

The Department provides a graduated system of inmate discipline designed to be administered commensurate with the seriousness of the offense. Discipline shall be so administered as to maintain control, conserve human values and individual dignity and promote socially desirable changes in attitude and behavior.

#### **52080.2 Purpose**

The inmate disciplinary system incorporates statutory and constitutional mandates and provides essential due process guarantees to ensure fairness and equal application. Wardens and RPAs shall ensure that inmate discipline is applied and administered in accordance with procedures provided in this section and in CCR 3310 through 3345.

Generally, breaches of conduct or law by inmates are observed by department staff. However, any person may initiate the disciplinary process by reporting a probable violation to a Department employee.

#### **52080.3 Disciplinary Methods**

Inmate discipline shall be dispensed by one or more of the following methods in institutions and community based correctional facilities:

- Verbal counseling. Misbehavior of a minor nature may be handled through verbal counseling and instruction. When, in the opinion of the staff member conducting the counseling/instruction, the problem has been corrected, a written report of the matter need not be submitted.
- Counseling Only RVR. When counseling/instructions as described above are deemed unsuccessful in correcting the problem, a Counseling Only RVR shall be prepared. The Counseling Only RVR shall include complete circumstances regarding the misbehavior and a statement that repetition of the behavior may result in more serious disciplinary action. When minor contraband is involved, the Counseling Only RVR shall include disposition of the confiscated contraband. If a Counseling Only RVR is completed, one copy is given to the inmate and the original is placed in the inmate C-File. At this point, the disciplinary process ends.
- Rules Violation Report (RVR). Inmate behavior which is a violation of law, CCR (15), and/or approved procedure and not of a minor nature, shall be reported on a Rules Violation Report.

#### **52080.3.1 Supervisory Review**

Rules Violation Reports and Counseling Only RVRs shall be submitted by the reporting employee to their immediate supervisor for review and approval. Supervisory review shall not delay prescribed time limits for subsequent action in the disciplinary process.

#### **52080.3.2 Classification of Rules Violation Report (RVR)**

A RVR shall be submitted to designated staff at a job classification not less than the level required to conduct serious disciplinary hearings for classification of the violation report. RVRs shall be classified as either administrative or serious.

- Administrative. Criteria has been established in CCR 3314.
- Serious. Criteria has been established in CCR 3315.

The classification of a RVR determines the procedure to be followed in preparing for and in conducting a disciplinary hearing and the action that may be taken if the inmate is found guilty of the violation.

After proper classification of a RVR, the offender receives a copy of the RVR. CDC Form 804, Notice of a Pending CDC-115 is placed in the inmate C-File. The CDC Form 804 is used to ensure that the inmate is not approved for release or transfer to another facility while there is a pending RVR.

#### **52080.3.3 Audit of Disciplinary Rule Violation Report**

Upon completion of the hearing portion of the violation charges, an audit of the violation report shall be completed by the Chief Disciplinary Officer (CDO).

The audit shall ensure:

- The RVR is complete.
- The serious/administrative classification is correct.
- Due process and time constraints were met.
- Charges and circumstances of offense coincide.
- Assessed credit forfeiture conforms to division of offense and credit loss schedules (CCR 3323).
- Findings and disposition were justified by documentation.
- Investigative employee's/staff assistant's determination is appropriate.
- Ensures a copy of the completed RVR is delivered to the inmate within five working days of audit by CDO.

#### **52080.3.3.1 CDO Actions**

The CDO, following the audit shall, perform one of the following:

- Approve the RVR as submitted.
- Order in writing with a copy to the inmate the RVR reissued and reheard if:
  - RVR is incomplete.
  - Due process rights were not afforded.
- Amend the RVR classification and disposition to a lesser, but included charge.

#### **52080.3.4 Approval of Disciplinary Methods/Actions**

All disciplinary methods/actions are subject to the approval of the Warden or RPA. The Warden or RPA may set aside, dismiss, order a different action, or order a rehearing of the rules violation upon:

- Their own motion.
- Recommendation of staff.
- Inmate's request or appeal.

An order for a different method of discipline or hearing of disciplinary charges shall not result in any greater penalty or more severe action than originally taken.

**EXCEPTION:** Upon discovery of new information or evidence which was not available or reasonably discoverable at the time of the disciplinary action, the RVR may be reissued and reheard by a different hearing officer. Findings and penalty assessed may occur without regard to the previous hearing.

#### **52080.3.5 Chief Disciplinary Officer (CDO)**

The CDO duties shall not be designated below the level of Associate Warden or PA. The CDO shall:

- Audit RVR per the DOM 52080.3.3.
- Review the disciplinary process for problem areas and take corrective action as necessary.
- Review the treatment of inmates confined in DD and consider a modification of sentence when evidence indicates that the inmate is ready to conform to the rules.
- Refer all felonies occurring on institution property, including felony inmate conduct, to the institution's investigations unit for possible investigation and referral for criminal prosecution.
- Initiate disciplinary proceedings for cases referred for prosecution when an inmate revokes, in writing, a previous request for postponement of the disciplinary hearing; the DA declines prosecution; or court proceedings have concluded.
- Determine the proper senior hearing officer or committee level for Divisions A-1, A-2, and B serious RVR. This determination may be delegated to a captain, CC-III, or PA-III.
- Provide training in the disciplinary process.

**Note:** Conservation camps shall not forward serious RVRs to the CDO for examination due to the affect of geographic distances upon established time limits; however, telephonic discussion of the more serious violations is encouraged.

#### **52080.3.6 Senior Hearing Officer (SHO)**

SHOs shall not be designated below the level of captain; CC-III; PA-III; or an experienced lieutenant, CC-II and PA-II. Experienced means:

- An employee who is permanent at the designated staff level and who has received IST and/or OJT covering the responsibilities of a SHO, including mental health assessment requirements and observation of a minimum of five actual disciplinary hearings.
- The employee has been certified by the CDO or his/her designee, in writing, as competent to conduct hearings.

**Note:** A probationary, limited term, or training and development employee meeting the stated criteria and designated staff level may be used. Acting staff whose permanent position is at a lower level than that designated shall not be assigned.

#### 52080.3.7 Hearing Officer (HO)

HO duties shall not be designated below the level of lieutenant or an experienced sergeant, CC-I, or PA-I. Experienced is defined in DOM 52080.3.6.

#### 52080.3.8 Changing Rule Violation Classification

Classification of rule violations may be changed as follows:

- The staff member who initially classified a RVR according to the seriousness of the charges, or a staff member at a higher level, may change the classification of the report before the hearing is held.
  - If classification of the RVR is changed, the inmate shall be issued a copy of the modified RVR at least 24 hours prior to the hearing, unless the inmate, in writing, waives the 24 hour time period.
- The official conducting the disciplinary hearing may change a serious classification to an administrative classification as a finding of the hearing.
- The Warden or RPA may change a serious classification to an administrative classification before or after a hearing is held.

An administrative classification may not be changed to a serious classification after an administrative violation hearing except upon the order of the Warden, RPA, or the director for a rehearing of the charges as a serious violation.

- The rehearing order shall be in writing and a copy shall be given to the inmate. The order shall include the reason(s) for the rehearing order. The inmate shall be afforded all due process rights prior to and during the hearing.

#### 52080.4 Administrative Rule Violations

RVRs for misbehavior shall be classified administrative if the alleged conduct is of a minor nature as described in CCR 3314. Administrative rule violations include but are not limited to:

- Petty theft or unauthorized acquisition or exchange of personal or state property.
- Destruction or misuse of state property valued at \$400 or less.
- Possession of otherwise approved property, materials, items, or substances in excess of authorized limits.
- Possession of property, materials, items, or substances not authorized by the approved property list which presents no threat to security.
- Misuse of food.
- Out-of-bounds which presents no threat to security.
- Misuse of telephone privileges which presents no threat to security.
- Violations of mail regulations or procedures which presents no threat to security, including, the sending of disturbing or offensive correspondence, as described in CCR 3135.
- Violations of visiting regulations or procedures which presents no threat to security.
- Failure to meet work or program expectations which are within the inmate's abilities.
- Reporting late to or failure to attend a work or program assignment.
- Participating in gambling not likely to result in protective custody needs, serious injury or threat of serious injury.
- Use of vulgar or obscene language.
- Failure to follow a temporary community leave or community based correctional facility itinerary.
- Being under the influence of alcoholic beverages, drugs, or intoxicants in a community based correctional facility.

#### 52080.4.1 Hearing Officer

An administrative rule violation shall be heard by a disciplinary hearing officer (HO) or senior hearing officer (SHO) with following dispositions:

- Find the inmate guilty if the facts support the charge.
- Dismiss the matter if the facts do not support the charge.
- Find the inmate guilty of the charge but, in the interest of justice or because of other extenuating circumstances, dismiss the formal disciplinary charge and report the inmate's behavior on a Counseling Only RVR as described in DOM 52080.3.

- If treated as a counseling, the RVR shall be disposed of as indicated in DOM 52080.15.
- Determine the violation to be more serious than is appropriate for an administrative violation hearing.
- The HO shall terminate the administrative violation hearing and have the matter scheduled for a serious violation hearing. A new RVR shall be issued and due process rights granted.

#### 52080.4.2 Witnesses, Assistance

The inmate does not have the right to have an investigative employee assigned nor to call witnesses at administrative hearings. As deemed necessary by the HO, the inmate may be given assistance by staff to understand the proceedings.

#### 52080.4.3 Administrative Violation Dispositions

If the inmate is found guilty of an administrative violation, one or more of the following authorized dispositions may be made:

- Counseling, with or without a reprimand.
- Temporary suspension of designated privileges for a period not to exceed 30 days from the date the inmate is or was deprived of the privilege.
- Confinement to Quarters (CTQ), DOM 52080.23 provides the definition of CTQ, for a period not to exceed five days. Inmates shall be released to go to work and program assignments.
- One or more weekend and/or holiday lockups not to exceed a total of ten days. Weekend and holiday lockups may not be imposed in addition to CTQ.
- Assignment to extra duty, not to exceed 40 hours.
- Place a restriction on the inmate's withdrawal from their trust account for violations of canteen regulations or procedures or for violations involving the deliberate destruction, damage, or misuse of state/private property when the inmate refuses to pay for the cost of repair or replacement of such property, as described in CCR 3090.
- Suspend all or part of any authorized disposition for a period not to exceed 90 days pending the inmate's acceptance and compliance with all specific conditions established for suspension of sentence.
- Invoke all or part of a currently suspended disposition for a previous violation when the finding of fact on the current violation also constitutes a finding of violation of the conditions established for the previously suspended sentence.

**Note:** The inmate shall have appeal rights and the procedure for appeals fully explained. The explanation shall be documented on RVR.

#### 52080.5 Serious Rule Violations

Inmate misbehavior shall be classified as a serious rule violation if the act or action of the inmate is an act of force or violence against another person, a breach of or presenting a threat to institution/community based correctional facilities (facilities) security, a serious disruption of these facilities operations, the introduction, possession or use of dangerous contraband, controlled substances, participation in gambling that is more likely than not to result in protective custody needs, serious injury or threat of serious injury, or is an attempt to commit any such act coupled with a present ability to carry out the threat or attempt if not prevented from doing so. Serious rule violations include but are not limited to:

- Any act for which the inmate could be prosecuted for a felony, whether or not prosecution is undertaken.
- Any act for which the inmate could be prosecuted for a misdemeanor whether or not prosecution is undertaken.
- Any act or misconduct which is reportable to any parole board or releasing authority.
- Intentional destruction of state/private property valued at more than \$400, or intentional damage to state/private property requiring more than \$400 to repair or replace.
- Hideout or preparation to escape.
- Possession of escape paraphernalia.
- Tattooing or possession of tattoo paraphernalia.
- Possession of money in an amount of five dollars or more without proper authorization.
- Acts of disobedience or disrespect which by reason of intensity or context create a potential for violence or mass disruptive behavior.
- Willfully inciting or attempting to incite other persons to commit an unlawful act of force or violence.
- Refusal or failure to perform work or participate in programs as ordered or assigned.



- Participation in a strike or work stoppage.
- A pattern of administrative rule violations indicating significant maladjustment, which are of increasing seriousness or are of special significance in light of existing release date.
- Mail or visiting violations which create a threat to the safety of any individual or facility security, including the introduction of dangerous contraband or a controlled substance, or the obtaining or attempt to obtain a family visit by falsification of information.
- The throwing of any liquid or solid substance on a non-prisoner.
- Unauthorized possession of official departmental records or documents which could affect any inmate's sentence.
- Being under the influence of alcoholic beverages, controlled substances, or intoxicants in any facility.
- Participation in gambling that more likely than not will result in protective custody needs, serious injury or threat of serious injury.
- Refusal to submit to a test for controlled substances.
- Late return or failure to return from authorized temporary release.
- Unauthorized possession of materials or substance which has been diverted from its original manufactured state or purpose and has the potential to be made into a weapon (i.e., metal, paper, plastic, wood, wire, etc.)
- Involvement in a conspiracy to do any or all of the above.

#### **52080.5.1 Hearing Official**

Serious rule violations shall be heard by an institution disciplinary committee, disciplinary subcommittee, or a senior disciplinary hearing officer.

#### **52080.5.2 Investigative Employee**

The inmate may be assigned an employee to assist in the investigation, preparation or presentation of a defense at the disciplinary hearing if it is determined by the CDO that any of the following conditions exist:

- The inmate is illiterate.
- The complexity of the issues makes it unlikely that the inmate can collect and present the evidence necessary for an adequate comprehension of the case.
- The inmate's housing status makes it unlikely that the inmate can collect and present the evidence necessary for an adequate comprehension of the case.

#### **52080.5.3 Witnesses**

An inmate may request friendly and adverse witnesses to attend the hearing. Witnesses shall be called unless the person conducting the hearing denies the request for one of the following reasons:

- Endangerment of the witness.
- Determination that the witness has no relevant information.
- The witness is unavailable.

If an inmate's request for a witness is denied, the reasons shall be documented on the RVR. Whether or not the inmate requests a witness for a hearing, a witness may be called if the person conducting the hearing determines the witness may have information necessary to the finding of fact.

The reporting employee with relevant information shall attend the hearing if requested by the inmate. Under the direction of the person conducting the hearing, the inmate has the right to ask questions of all witnesses called.

- When an inmate whose disciplinary charges are being adjudicated is ordered to leave the hearing room, all witnesses, including staff witnesses, shall leave the room.

Nothing in this section shall preclude making a witness available for a hearing by telephone.

#### **52080.5.4 Exclusion From Fact Finding Deliberations**

Persons who reported the rule violation, or who supplied supplemental reports to the rule violation report, or who observed the alleged violation, or investigated the alleged misbehavior, or assisted the inmate in preparing for the hearing, or for any other reason have a predetermined belief that the inmate is guilty or innocent shall not sit as a fact finder in a disciplinary hearing nor be present while the fact finders are conducting deliberations to decide guilt or innocence and the appropriate disposition if the inmate is found guilty.

#### **52080.5.4.1 Transferred Inmate Witness**

An inmate witness shall not be transferred between facilities to testify at disciplinary hearings unless the CDO of the facility hearing the charges determines a fair and impartial hearing cannot be conducted without the presence of the inmate's witness. When an inmate is not available because of

transfer, the CDO of the institution where an inmate witness is located shall be notified of the need to appoint an investigative employee to discuss the case with the investigative employee of the institution conducting the hearing, to interview the witness, to prepare a written investigative report, and to forward the report to the institution where the hearing will be conducted.

#### **52080.5.4.2 Transportation Personnel Witness**

When a serious rule violation occurs during transportation of an inmate, transporting staff witnesses, if requested, shall be present at the hearing or shall be telephonically available for questioning during the hearing.

#### **52080.5.5 Disposition Options**

Upon completion of the fact-finding portion of the hearing, and based upon information presented in the disciplinary report and in the hearing, the following actions may be taken:

- The inmate may be found not guilty and the charges dismissed.
- The inmate may be found guilty of an administrative level violation rather than a serious level violation and the disciplinary report reclassified accordingly, with the inmate assessed an authorized administrative level disposition as provided in CCR 3314.
- The inmate may be found guilty as charged and assessed an appropriate serious level disposition.
- The inmate may be found guilty of a lesser but included offense, the offense group designation properly modified, and assessed the penalty disposition for that offense group.

#### **52080.5.6 Dispositions of Serious Disciplinary Charges**

An inmate charged with a serious rule violation may be subject to the following actions/dispositions:

- Immediate segregation from the inmate general population pending preliminary investigation of the charge, subject to the provisions of CCR 3317 and 3335.
- Classification review of segregated status pending a disciplinary hearing on the charge(s) when a disciplinary hearing is not held prior to the next scheduled meeting of the classification committee.
- Referral to the DA for possible criminal prosecution when the behavior is a criminal offense.
- A disciplinary hearing on the charge(s) and imposition of one or more of the following dispositions if found guilty as charged:
  - Mandatory forfeiture of credit on term of imprisonment for specific acts of behavior, as set forth in CCR 3323.
  - Any penalty authorized for an administrative rule violation as set forth in CCR 3314.
  - Designated privileges may be temporarily suspended for up to 90 days from the date the inmate is or was deprived of the privileges.
  - CTQ or confinement to DD for a period not to exceed ten days. An inmate may be released to go to work and program assignments if such release will not jeopardize institution security. A longer period of confinement requires prior approval of the director.
  - One or more weekend and/or holiday lockups not to exceed a total of ten days. This may not be imposed in addition to CTQ.
  - All or part of any disposition except the denial or forfeiture of credits on term of imprisonment may be suspended for a period not to exceed six months pending the inmate's acceptance and compliance with all specified conditions established for suspension of sentence. A disposition denying or forfeiting credit on term of imprisonment shall not be suspended.
  - Any currently suspended disposition for a previous violation may be invoked when the finding of fact on the current violation also constitutes a violation of the conditions established for the previously suspended sentence. In invoking the previously suspended disposition, confinement to quarters or to isolation status shall not be for longer than ten days except as provided in CCR 3322.
- Referral to a classification committee for review of credit forfeiture and possible program realignment.

#### **52080.5.7 Classification Committee**

Any behavior identified as serious in CCR 3315 or refusal or failure to participate in assigned program resulting in loss of credits, or which for any other reason requires reconsideration of previously prescribed custody, privilege group, work, program or housing assignments, shall be referred to a classification committee for review.

The classification committee shall do one or more of the following:

- Reaffirm previously prescribed custody classification, privilege group, work, program, and housing assignment.
- Realign previously prescribed custody classification, privilege group, work, program, and housing status which may include placement in zero credit earning status.
- Recommend transfer to another facility of the Department.
- Recommend placement in a specialized housing unit for management or security purposes.
- Affirm, disallow, or modify the credit loss action of a disciplinary hearing. The classification committee's review of a credit loss shall occur at the committee's next scheduled meeting following completion of the disciplinary process.
- The review of any disciplinary credit loss action shall constitute the first level of appeal review should the inmate subsequently appeal the RVR. The classification committee review shall ensure the RVR is accurate, complete, contains required documentations, and the inmate received due process rights. The committee shall review any confidential material used during the disciplinary hearing to ensure proper application thereof.

#### **52080.5.8 Special Consideration of Rules Violations Related to Mental Illness or Participation in the Developmental Disability Program.**

Inmates who are alleged to have committed a Rules Violation shall receive a Mental Health Assessment, via completion of the CDCR Form 115-MH-A, Rules Violation Report: Mental Health Assessment for any of the following reasons:

- Inmate is a participant in the MHSDS at the EOP level of care.
- Inmate is a participant in the MHSDS at the MHC level of care.
- Inmate is a participant in the MHSDS at the Psychiatric Inpatient Program, Acute Psychiatric Program or Intermediate Care Facility level of care.
- Inmate is a participant in the MHSDS at the CCCMS level of care and has been charged with a Division A, B or C offense or any other rules violation which may result in the assessment of a SHU term as defined in Section 3341.9 (e).
- Inmate engaged in Indecent Exposure or Sexual Disorderly Conduct.
- Inmate displayed bizarre, unusual or uncharacteristic behavior at the time of the offense
- Inmate is a participant in the Developmental Disability Program (DDP) designated as DD1, DD2 or DD3.

Mental Health Services shall be contacted immediately for any inmate who is suspected of committing self-mutilation or attempted suicide. The emergency referral shall be documented via CDCR Form 128-MH5; Mental Health Referral Chrono, identifying the specific reason(s) for the referral. If Mental Health Services determines the behavior was an act of self-mutilation, attempted suicide or a clear determination could not be made a Rules Violation Report (RVR) shall not be generated and the behavior shall be documented on a CDC 128B, General Chrono, for inclusion in the inmate's Central File.

If the mental health clinician determines the inmate's actions were an attempt to manipulate staff, and were not an act of self-mutilation or attempted suicide, a thorough review must be completed to support their decision. In these instances, a RVR shall be issued pursuant to CCR, Title 15, Section 3315 (a)(3)(W)

A CDCR Form 128-MH5; Mental Health Referral Chrono, shall be completed for any inmate who displays bizarre, unusual or uncharacteristic behavior at the time of the offense.

Inmates shall not be issued a RVR for any of the following reasons:

- The behavior occurred in connection with a cell extraction for the administration of involuntary medication, as defined in Penal Code section 2602, or involuntary medical treatment, as defined in Probate Code section 3200, et seq.
- The behavior occurred in connection with a cell extraction for transfer of the inmate to a mental health inpatient unit or between mental health inpatient units.
- The behavior occurred in connection with being placed in mental health restraints and/or seclusion.
- The behavior is determined to be an act of self-mutilation or attempted suicide.

When any of these circumstances are met, the inmate's conduct shall be documented on a CDC Form 128-B, General Chrono, for inclusion in the inmate's Central File. Any use of force used during these situations shall be

documented appropriately on a CDCR Form 837, Crime/Incident Report, in accordance with CCR, Title 15, 3268.1.

If the inmate commits a Serious Rules Violation pursuant to CCR, Title 15, Section 3315 while participating in the behavior noted above, which constitutes a Division A-1 offense as defined in CCR, Title 15, Section 3323(b), an assault or battery as defined in CCR, Title 15, Sections 3323(d)(1), 3323(d)(2), or 3323(d)(3), or an assault on a peace officer or non-prisoner as defined in CCR, Title 15, Sections 3323(f)(11) and 3323(f)(12), a RVR shall be completed and processed in accordance with current regulations and policy.

At any time during the disciplinary process, after inmate misconduct has been identified, an authorized official may address the misconduct or otherwise dispose of the disciplinary action or Rules Violation when information indicates mental illness, developmental disability, cognitive or adaptive functioning deficits, or any combination thereof, contributed to the inmate's behavior. If a CDCR Form 115-MH-A, Rules Violation Report: Mental Health Assessment has been completed; the official shall consider mental health staff's assessment when making these determinations. The adjudication of inmate misconduct or disciplinary proceeding shall be appropriately documented as determined by the hearing official and in accordance with this article.

The mental health clinician may recommend documenting an inmate's behavior in an alternate manner via the CDCR Form 115-MH-A when the behavior was determined to be strongly influenced by mental illness, developmental disability, cognitive or adaptive functioning deficits, or any combination thereof, at the time of the offense for all inmate participants in the MHSDS or the DDP. The mental health clinician's Program Supervisor will be required to provide a signature on the CDCR Form 115-MH-A, acknowledging they agree with the opinions offered by the reviewing clinician.

In this event, the Captain shall review the RVR and all other documents and information relevant to the charge(s), as well as the recommendation offered by the clinician on the CDCR 115-MH-A. Following his or her review of the RVR, all relevant information and the CDCR 115-MH-A, the Captain will direct the hearing officer to proceed in any of the following manners:

- Proceed with hearing the RVR as serious or administrative, based on the nature of the specific charge,
- Void the RVR and document the behavior via Counseling Only RVR, for minor misconduct, or
- Void the RVR and document the behavior via CDC Form 128-B, General Chrono

If the Captain elects to void the RVR, the hearing officer shall document the decision via memorandum and attach it to the CDCR Form 1154, Disciplinary Action Log, to provide proof of practice. A copy of the memorandum shall be forwarded to Case Records to facilitate removal of the CDC Form 804, Notice of Pending CDC 115, from the inmate's Central File within the Electronic Records Management System. An additional copy of the memorandum shall be forwarded to the Chief of Mental Health or designee. If the Captain does not agree with the clinician, the Captain shall document his or her reasoning for proceeding with the hearing on a CDC 128-B. A copy of the CDC 128-B shall be attached to the RVR and forwarded to the hearing officer for adjudication. A copy of the CDC 128-B shall be issued to the inmate no less than 24 hours prior to the hearing. An additional copy of the CDC 128-B shall be forwarded to the Program Supervisor listed on the CDCR 115-MH-A.

#### **52080.6 Referral for Criminal Prosecution**

All conduct that constitutes a crime, which occurs on facility property, shall be referred by the Warden or RPA to appropriate criminal authorities for possible investigation and prosecution when there is evidence substantiating each of the elements of the crime to be charged.

Notwithstanding the existence of evidence substantiating each of the elements of the crime to be charged, conduct which constitutes a crime shall not be referred to the local DA for investigation and prosecution where the local DA has submitted in writing to the Warden or RPA, criteria for which certain crimes shall not be prosecuted, and where the crime involved meets those criteria.

The criminal authority to which a case is referred shall be requested to inform the Warden or RPA in writing within ten working days whether prosecution will or will not be undertaken. The inmate shall be notified in writing when their conduct has been referred to criminal authorities for possible prosecution.

The referral of an inmate's alleged criminal conduct to criminal authorities for possible criminal prosecution shall not stay the time limits for a disciplinary proceeding unless the inmate submits a written request to the chief disciplinary officer for postponement of the disciplinary proceeding pending the outcome

of the referral or has signed the RVR requesting postponement of the disciplinary hearing.

#### **52080.6.1 Inmate's Request for Disciplinary Postponement**

When disciplinary proceedings have been postponed at the inmate's request pending the outcome of a referral to criminal authorities for possible criminal prosecution, the inmate shall not be entitled to any further departmental hearings on the question of guilt or innocence on the disciplinary charges before a disciplinary proceeding is held. Postponement of the disciplinary proceeding at the inmate's request or by staff shall not preclude release from segregated housing before the disciplinary proceeding is held.

#### **52080.6.2 Revocation of Postponement Request**

An inmate may revoke a request for postponement of the disciplinary proceeding at any time up until an accusatory pleading has been filed against the inmate by the criminal authority to whom the inmate's conduct has been referred for possible prosecution. The revocation of a request to postpone disciplinary proceedings shall be submitted in writing to the chief disciplinary officer.

When disciplinary proceedings have been postponed at the inmate's request, the disciplinary proceedings shall not be resumed until:

- The inmate has revoked the request to postpone disciplinary proceedings. The disciplinary proceeding shall be held within 30 days of receipt of the inmate's written revocation of a request to postpone the hearing.
- Notice is received that the criminal authorities do not intend to prosecute. The disciplinary hearing shall be held within 30 days of the receipt of such notice.
- Criminal proceedings have terminated. The disciplinary hearing shall be held within 30 days of receipt of the court's action.

#### **52080.6.3 Criminal Authorities' Decision**

A referral to criminal authorities or criminal authorities' decision not to prosecute, or a trial court's dismissal of criminal charges without having found the inmate not guilty of criminal conduct shall have no bearing on the findings and disposition of disciplinary charges.

- A finding of guilty or not guilty by a court shall be accepted as the finding of fact on the same charges in a disciplinary hearing. If a court finds the inmate not guilty after a finding of guilty in a disciplinary hearing the disciplinary charges shall be dismissed.
- A court's action shall not bar or reverse a disciplinary action in the finding of fact and disposition of any lesser act of misbehavior relating to the criminal charge. A court's action on a finding of guilty to criminal charges shall not bar or reverse any authorized disciplinary action for the same charges.

#### **52080.7 Housing Pending Disciplinary Proceedings**

Depending upon the nature and the circumstances of an inmate's violation of rules, and whether the violation is or is not a serious violation, the inmate may be retained in regularly assigned housing, work and program assignments, be placed in segregated housing pending disciplinary proceedings, or be placed in CTQ.

If the inmate is placed in segregated housing pending disciplinary proceedings, the official making the housing determination shall see that the cause for the action is properly reported, as follows:

- The inmate's misconduct has been or will be reported as a serious rule violation on a RVR. The report shall serve as notice to all concerned, including the inmate, of the cause for action and pending disciplinary proceedings. The inmate shall be afforded the procedural safeguards of disciplinary proceedings, and a separate CDC Form 114-D, Administrative Segregation Unit Placement Notice, need not be prepared.
- The inmate is believed to have committed a serious rule violation, but sufficient information is not yet available to support a specific charge and the investigation is continuing. The cause for action shall be reported on a CDC Form 114-D. The order will serve as notice to all concerned, including the inmate, of the cause for action.

#### **52080.8 Assistance to Inmates Investigative Employees**

On serious rule violations, an investigative employee may be assigned within one working day after the charges have been submitted for processing. If a determination has been made that additional information is necessary for a fair hearing, an investigative employee shall be assigned even if the inmate has waived the assignment.

The investigative employee shall interview the charged inmate, gather information, question staff and inmates, screen prospective witnesses, and

complete and submit a written report to the senior disciplinary hearing officer or chairperson of the disciplinary committee assigned to hear the charges.

The inmate may not select the investigative employee, but may object to the one assigned, in which case, a different investigative employee shall be assigned. The inmate's objection shall be expressed prior to the beginning of the investigation. An inmate's objection to and subsequent replacement of the second assigned investigative employee shall only be for compelling reasons.

A copy of any investigative employee's report shall be given to the inmate no less than 24 hours before a hearing is held.

An employee who witnessed the charged rule violation or who would otherwise serve as a disciplinary hearing officer or a member of a disciplinary committee hearing the case shall not serve as the investigative employee on the same case. The assignment of an investigative employee shall not preclude the assignment of a staff assistant.

When an investigative employee provides assistance to an inmate, in lieu of an assigned staff assistant or in addition to that provided by a staff assistant, the investigative employee shall do so as a representative of the official who will conduct the disciplinary hearing rather than as a representative of the inmate. An investigative employee is not subject to the provisions for confidentiality of information. Any investigative report shall be non-confidential.

#### **52080.8.1 Staff Assistant**

On serious rule violations, when the chief disciplinary officer determines that the nature of the inmate's need for assistance will require a confidential relationship, a staff assistant may be assigned to assist the inmate in the preparation and presentation of the inmate's defense.

- An inmate may refuse to accept the assistance of the first staff member assigned at the time of assignment or for good cause as determined by the chief disciplinary officer or designate at any time during the disciplinary process. If staff assistance is refused at the time of initial assignment, a second staff member shall be assigned if requested by the inmate. An inmate's refusal to accept the second staff member's assistance shall not require the assignment of another staff member unless the chief disciplinary officer or designate determines that a fair hearing cannot be held without staff assistance. An inmate's rejection of an assigned staff assistant shall not cause delay of the disciplinary process so as to bar possible credit forfeiture.
- Upon assignment, the staff assistant shall inform the inmate of their rights and the procedures to be followed in disciplinary proceedings. The assigned staff assistant shall inform the inmate that the staff assistant will, upon the inmate's request, maintain confidentiality of information the inmate may disclose to the staff assistant concerning the inmate's involvement in circumstances surrounding the rule violation report to which the staff assistant was assigned, but not regarding any past or future behaviors which the inmate may disclose. The staff assistant shall then advise and assist the inmate in preparing for a disciplinary hearing, represent the inmate's position at the hearing, ensure that the inmate's position is understood, and that the inmate understands the decisions reached. Staff shall not give legal counsel nor specify the position the inmate will take in any disciplinary, classification, or criminal proceedings.
- The staff assistant shall inform the inmate that all evidence and information obtained and considered or developed in the disciplinary process may be used in court if the same charges have been or are to be referred to the DA for possible criminal prosecution.
- The assignment of a staff assistant shall not preclude the assignment of an investigative employee.

#### **52080.9 Hearing Procedures and Time Limitations**

The RVR and all non-confidential reports to be relied upon in a disciplinary hearing shall normally be given to the inmate within 24 hours after classification of the disciplinary report as a serious or administrative violation, and within 30 days of the misbehavior but not later than 15 days from the date of discovery of information leading to the disciplinary charges or, in the instance of an escapee, 15 days after the escapee's return to the custody of the department, or when an inmate is in out-to-court status, 15 days after return to the custody of the department.

- The department may delay written notice beyond 15 days when all of the following factors are true:
  - An act of conduct is involved which could be prosecuted as murder, attempted murder, or assault on a prison employee, or any person, whether or not prosecution is undertaken.

- Further investigation is being undertaken for the purpose of identifying other inmates involved in the misconduct.
- Within 15 days after the discovery of information leading to charges that may result in a possible denial of credit, the investigating officer makes a written request to delay notifying the inmate and states the reasons for the delay.
- The Warden or RPA approves of the delay in writing.
- The period of delay under this paragraph shall not exceed 30 days. The inmate's hearing shall take place within 30 days of the written notice.

A hearing on the charges shall be held within 30 days from the date the inmate is given a copy of the rule violation report unless a case has been referred to criminal authorities for possible prosecution and the inmate has requested and been granted a postponement of disciplinary proceedings pending the outcome of such referral.

#### **52080.9.1 Bar Against Credit Forfeiture**

The following events shall act as a bar against forfeiture of behavior and participation credits:

- Failure to give the inmate a copy of the rule violation report within 15 days after the discovery of information leading to the disciplinary charges, unless conditions outlined in DOM 52080.9 are met.
- Failure to establish the fact that information or evidence for the rule violation report was not reasonably discoverable within 30 days or any sooner than it was discovered when the inmate is not given a copy of the rule violation report within 15 days after the alleged misbehavior took place.
- Failure to hold a hearing on the disciplinary charges within 30 days of the date the inmate was given a copy of the rule violation report. An exception to this time limit is provided when the case has been referred to criminal authorities and the inmate has requested and been granted a postponement of the disciplinary hearing pending the outcome of the referral.
- Failure to hold a hearing within 30 days after the date notice is received of the outcome of a referral to criminal authorities, or within 30 days from the date the inmate revokes their request for the postponement of a hearing on the disciplinary charges if criminal authorities have not filed a complaint against the inmate.
- Failure to provide the inmate with a written explanation of the extraordinary circumstances which have prevented a disciplinary hearing from being conducted within 30 days of the date the inmate is given a copy of the disciplinary charges, and of a determination that the delay does not prejudice the inmate.

The bar of credit forfeiture does not affect other authorized dispositions.

A hearing may be postponed up to 30 days upon a written request of the inmate showing a reasonable need for postponement of the hearing.

- The postponement shall not act as a bar against denial or forfeiture of behavior or participation credit.

#### **52080.9.2 Inmate Waiver to be Present At Hearing**

An inmate may, upon written notice, waive the right to be present at any disciplinary hearing of charges against the inmate. In the absence of a waiver, the inmate shall be present at a disciplinary hearing unless:

- A psychiatrist has determined that the inmate suffers from a severe psychiatric disorder which will prevent the inmate from understanding or participating in the hearing, and there is a compelling reason or need to proceed with the hearing.
- The inmate is an escapee who has been found guilty of escape in a court of law, and the inmate has not been returned to the institution or jurisdiction from which the escape occurred.

When a hearing is held without the inmate being present, the reason for the inmate's absence shall be documented on the rule violation report at the time of the hearing.

#### **52080.9.3 Hearing Disposition**

A finding of guilty shall be based upon a determination by the person(s) conducting the hearing that a preponderance of evidence submitted at the hearing substantiates the charge. At the end of the hearing, the inmate shall be advised of the findings, the disposition of the charge and the right to and procedure for appeal of the action. Within five working days, the inmate shall be given a copy of the completed rule violation report, containing the findings, disposition, and evidence relied upon to support the conclusions. The rule violation report is not complete until the CDO audit is accomplished.

When an inmate is charged with possession of unauthorized or dangerous items or substances, or when unauthorized or dangerous items or substances

are associated with the commission of the charged violation, the hearing officer shall record the disposition of the item or substance in the disposition portion of the RVR.

#### **52080.10 Hearings for Transferred Inmates**

An inmate awaiting a disciplinary hearing shall not be transferred to another institution or facility until completion of such hearing, with the following exceptions:

- An emergency transfer to a higher security level based on charges of involvement in a major disturbance or serious incident.
- The inmate is charged with escape from a Level I or II institution/facility/camp and will not be returned to that facility/ camp from which they escaped.

When an inmate is transferred prior to a disciplinary hearing, or a rehearing is ordered on the charges subsequent to the inmate's transfer, one of the following methods shall be used to facilitate the hearing process:

- The Warden or RPA of the facility where the violation occurred may request the inmate be returned to the original facility, request the hearing be conducted by staff where the inmate is currently housed, or hearing officer(s) from the facility where the violation occurred may conduct the hearing at the facility where the inmate is currently housed.
  - The facility where the rule violation occurred may appoint an investigative employee to conduct an investigation and prepare a report.
  - If a staff assistant has been appointed, the staff assistant shall be present at the hearing.

#### **52080.11 Confidential Material**

Refer to DOM 61020.8.

#### **52080.12 Disciplinary Credit Loss Schedule**

Refer to CCR 3323.

#### **52080.13 Conduct Reportable to the Releasing Authority**

Rules of the BPH and those of the NAEA require that specific acts of inmate conduct be reported to the appropriate releasing authority when the inmate has an established or anticipated release date on an indeterminate term or period of confinement.

At the discretion of the appropriate releasing authority, a hearing for reconsideration of release may be held in conjunction with a disciplinary hearing for conduct that is also reportable to the releasing authority.

Releasing authority staff may sit in the fact finding and disposition phase of a disciplinary hearing held in conjunction with a hearing by the releasing authority for release reconsideration, however, they shall not act as fact finders or decision makers in the Department's disposition of disciplinary charges against an inmate. The releasing authority staff may participate in the fact finding phase of the disciplinary hearing as deemed necessary to bring out information that will aid them in determining an appropriate action relative to the inmate's scheduled or anticipated release.

The scheduling of a combined departmental disciplinary hearing and a releasing authority hearing does not stay the time limits for a disciplinary hearing in which work credit may be denied on a determinate term of imprisonment.

#### **52080.14 Appeal of Disciplinary Actions**

An inmate may appeal any disciplinary decision or disposition, including the denial of credits, or the process itself by filling out CDCR Form 602, Inmate/Parolee Appeal, and following the procedures outlined in DOM 54100.

#### **52080.15 Records of Disciplinary Matters**

Upon conclusion of disciplinary proceedings, all documents relating to the disciplinary process, findings and disposition shall be disposed of in the following manner:

- When an inmate is held responsible for the act charged, copies of all documents prepared for and used in the disciplinary proceedings shall be placed in the inmate's C-File. A copy of the completed RVR shall be given to the inmate. A copy of the completed RVR shall also be filed in the Register of Institution Violations as required in PC 2081.
- Refer to DOM 61020.9.1 regarding use of confidential information to support adverse disposition.
- When the inmate is found not guilty of the act charged, or when the charge is dismissed for any reasons, a copy of the action taken shall be provided to the inmate. All electronic copies of documents prepared for and used in the disciplinary process shall be removed from general view and stored in SOMS, serving as the Register of Institutional Violations.

- When non-confidential information developed through the disciplinary process needs to be considered in future classification committee determinations affecting the inmate, or where events involved in the disciplinary process need to be explained, that information shall be recorded by the disciplinary hearing officer on a CDC Form 128-B, General Chrono, as a referral to the classification committee. Such information shall include, but is not limited to:
  - The reason for an inmate's placement in segregated housing prior to adjudication of the charges if that information has not been previously considered in a classification committee hearing.
  - Where any reason exists for retaining the inmate in segregated housing after a finding of not guilty or dismissal of charges.
  - When any program assignment or placement change needs to be considered in view of other inmate or employee animosity toward the individual. The CDC Form 128-B, as a referral to the classification committee, shall be placed in the inmate's C-File, and a copy shall be given to the inmate.
- The policy set forth in this section shall also apply when a prior finding of guilty to a violation reported on a RVR is reversed or dismissed on appeal, or when information reported on a Counseling Only RVR is found to be incorrect or inappropriate on appeal.
- A finding of not guilty, dismissal, or reversal of a previous finding of guilty shall require an audit and updating of any documentation in the inmate's file which reflects a prehearing assumption of guilt or the original finding of guilt. Such documentation shall not be removed from the inmate's file, but shall be annotated with a cross-reference to a CDC Form 128-B report which shall reflect the most recent findings and action on the charge.
- Care shall be exercised in the wording and phrasing of comments on the CDC Form 128-B reports to avoid innuendos and implications that would lead a reader to believe that the inmate is in fact guilty of the charge without regard for the determination arrived at in the disciplinary hearing, in a court's finding, or in the reason for an ordered action on appeal.
- The inmate may retain or discard copies of the completed disciplinary report form and other supplemental documentation they may have been given during the course of the disciplinary process and proceedings.

#### **52080.15.1 Register of Institution Violations**

A Register of Institution Violations is a compilation of one completed copy of each rule violation report issued at a facility, maintained in chronological order. This registry shall be maintained for five calendar years.

#### **52080.16 Restoration of Credits**

Refer to CCR 3327.

#### **52080.17 Disciplinary Free Periods**

Refer to CCR 3328.

#### **52080.18 Extraordinary Circumstances**

Refer to CCR 3329.

#### **52080.19 Length of Confinement**

No inmate shall be kept in isolation or in CTQ status longer than ten days without the approval of the director. The CDO may shorten the ordered time spent in this status if the inmate is ready to conform to specified rules.

Time spent in segregation pending a disciplinary hearing, or pending investigation that resulted in a disciplinary hearing, shall be credited toward any segregated sentence imposed, unless there is good cause not to do so. Reasons for not granting credit shall be explained in the disposition section of the RVR. Not allowing credit for time spent in segregation shall not extend the isolation or CTQ sentence beyond 10 days.

No inmate shall be placed in CTQ or otherwise deprived of exercise as a disciplinary measure longer than ten days, unless, in the opinion of the Warden or RPA the inmate poses such an extreme management problem or threat to the safety of other inmates and staff that longer confinement is warranted. The written approval of the director is required in such cases.

#### **52080.20 DD**

DD is a temporary housing status which confines inmates so assigned to designated rooms or cells for prescribed periods of time as punishment for serious acts of misbehavior. An inmate shall not be assigned to DD except on the order of a disciplinary committee or a senior disciplinary hearing officer.

- DD may be served in a housing unit or section of a housing unit specifically designed for that purpose or in any room or cell which provides the necessary security, control, and restriction of the inmate's actions. When DD is ordered in a housing unit other than a designated

DD unit, the conditions of detention shall be the same as prescribed for DD units.

- DD may be ordered as a continuous period of confinement or as intermittent confinement on holidays, weekends or days off from assigned work and program activities. When ordered as intermittent confinement, confinement shall not exceed ten days during a 35-day period. The chief disciplinary officer shall review the treatment of an inmate confined in DD and consider a modification of sentence when evidence indicates the inmate is ready to conform to the rules.

Time served in DD shall be computed on the basis of full days in detention. The day of placement and the day of release shall not count as a day of time served. Intermittent detention may extend from the end of the work day before the first full day of detention to the beginning of the work day following the last full day of detention.

- Continuous DD of an inmate shall not exceed ten full days without approval of the Director, Division of Adult Institutions.
  - If an extension beyond ten days is approved, the Warden shall note that fact in the disposition section of the rule violation report stating the reasons for the extension and the additional amount of time the inmate shall be confined, and shall sign and date the notation.

A request for the director's approval to retain an inmate in DD for longer than 30 days shall be accompanied by a current psychological evaluation of the inmate's mental health. Such evaluation shall include a personal interview with the inmate by the mental health examiner.

#### **52080.21 Conditions of Detention Unit**

Insofar as the safety and security of the institution and for persons will permit, the physical facilities of designated DD units shall approximate those housing general population inmates.

##### **52080.21.1 Detention Housing**

Where adequate and secure facilities are available and the number of inmates assigned to designated DD units permit, inmates so assigned will be housed in single occupancy quarters. When the use of multiple occupancy housing is necessary, the number of inmates so assigned will not exceed the capacity of beds for which such quarters are equipped except as a temporary emergency measure. The Office of the Director, Division of Adult Institutions, or the departmental duty officer shall be notified when such an emergency exists for longer than 24 hours. Institution and department efforts shall be coordinated as necessary to resolve any overcrowding situation as quickly as possible.

##### **52080.21.2 Personal Items**

Inmates shall not be permitted to use or possess items of personally owned property, such as radios, television sets, tape players, musical instruments, and typewriters while undergoing DD. Personal items necessary for health and hygiene may be used if such items are not available for issue by the institution. Inmates shall not be permitted to purchase, use, or possess edible or consumable canteen items while undergoing DD.

Inmates may be deprived of personally owned clothing and footwear while undergoing DD when adequate state clothing and footwear are issued. No inmate in DD shall be required to wear clothing that significantly differs from that worn by other inmates in the unit, except that temporary adjustments may be made for security reasons and for protection from self-inflicted harm. No inmate shall be clothed in any manner intended to degrade the inmate.

##### **52080.21.3 Meals**

Inmates in DD shall be fed the same meal and ration as is provided for general population inmates.

##### **52080.21.4 Mail**

The sending and receiving of first class mail shall not be restricted while an inmate is undergoing DD. Delivery or issue of packages, publications and newspapers shall be withheld during DD.

##### **52080.21.5 Visits**

Inmates undergoing DD retain the right to have personal visits. Privileges and amenities associated with visiting including physical contact with visitors may be suspended during the DD period. When the number, length or frequency of visits are limited, the inmate shall be permitted to choose who shall visit from among persons approved to visit before the detention period began.

##### **52080.21.6 Personal Cleanliness**

Inmates undergoing DD shall be provided the means to keep themselves clean and well groomed. Haircuts shall be provided as needed. Showering and shaving shall be permitted at least three times a week.

##### **52080.21.7 Exercise**

Inmates undergoing DD shall be permitted a minimum of one hour per day, five days per week, of exercise outside their cells unless security and safety considerations preclude such activity.

#### **52080.21.8 Reading Material**

State/vendor supplied reading material shall be provided for inmates undergoing DD. Such material may be assigned to DD units from the inmate library and shall represent a cross section of material available to the inmate general population. At the discretion of the Warden/facility manager, inmates enrolled in educational programs who have textbooks in their personal property may be permitted to study such material while undergoing DD.

#### **52080.21.9 Legal Material**

Inmates undergoing DD shall not be limited in their access to the courts. Legal resources may be limited to pencil and paper, which shall be provided upon request, for correspondence with an attorney or preparation of legal documents for the courts. Other legal material in an inmate's personal property may be issued to the inmate in DD if litigation was in progress before detention commenced and legal due dates are imminent.

#### **52080.21.10 Privileges**

All privileges generally associated with the inmate's work/training incentive group status shall be suspended during a period of DD. This includes but is not limited to:

- Personal non-emergency telephone calls.
- Handicraft activities.
- Use of recreational equipment.
- The viewing of television.

#### **52080.21.11 Restrictions**

A written report by the administrator or supervisor in charge of a DD unit shall be submitted to the chief disciplinary officer when an inmate undergoing DD is deprived of any usually authorized item, activity or privilege. A special report to the chief disciplinary officer and to a classification committee shall be made when an inmate's circumstances indicate a continuing need for separation from general population or from specific persons.

#### **52080.22 Administration and Supervision of Detention Units**

Each Warden and RPA shall establish a supplement to this manual section for the DD of inmates which delineates the housing for detention units as either a unit or section of a unit designated for this specific purpose or in conjunction with other special purpose housing of inmates.

The administration of DD units may be delegated to a staff member at not less than the level of captain.

The supervision of DD units may be assigned to a staff member at not less than the level of sergeant.

#### **52080.22.1 Staff Visitation**

Inmates assigned to DD units shall be visited daily by the supervisor in charge of the unit and by an institution mental health provider, physician, Licensed Vocational Nurse, or Psychiatric Technician. An inmate's request to be visited by other staff shall be promptly referred to the staff member. A timely response shall be given to such requests whenever reasonably possible.

#### **52080.22.2 Supervisor's Responsibilities**

The supervisor in charge of a DD unit shall ensure:

- The physical security of the unit.
- The control of contraband within the unit.
- Safe, sanitary, and decent working and living conditions within the unit.

When any condition within the unit or the behavior, conduct or appearance of any inmate confined therein appears to warrant the attention of specific or specialized staff, the matter shall be promptly brought to the attention of appropriate staff.

#### **52080.22.3 Suicide Risks**

Inmates undergoing DD who are diagnosed by qualified medical staff as a suicide risk shall be moved to a hospital or infirmary setting, and medical staff shall assume placement, observation, and supervision of the inmate. Such movement and supervision shall be in cooperation and coordination with custody staff.

#### **52080.22.4 Detention Records**

A CDC Form 114, Isolation Log shall be maintained in each designated DD unit. Specific information required in this log shall be kept current on a daily and shift or watch basis. A completed logbook shall be retained in the unit for as long as any inmate recorded on the last page of that log remains in the unit. Storage and purging of logbooks shall be in accordance with department schedules. (Refer to DOM 72010.) One isolation log may serve a DD unit

and other special purpose segregation units that are combined and are administered and supervised by the same staff members.

A separate record shall be maintained on each inmate undergoing DD. This record shall be compiled on CDC Form 114-A, Inmate Segregation Record. In addition to the identifying information required on the form, all significant information relating to the inmate during the course of detention, from reception to release, shall be entered on the form in chronological order.

#### **52080.23 Confinement to Quarters**

The term "confinement to quarters" (CTQ) refers to an authorized disciplinary hearing action only whereby an inmate is restricted to their assigned quarters for a period not to exceed five days for administrative rule violations or ten days for serious rule violations.

#### **52080.24 AD-SEG**

When an inmate's presence in an institution's inmate general population presents an immediate threat to the safety of the inmate or others, endangers institution security or jeopardizes the integrity of an investigation of an alleged serious misconduct or criminal activity, the inmate shall be immediately removed from general population and be placed in AD-SEG. AD-SEG may be accomplished by confinement in a designated segregation unit or, in an emergency, to any single cell unit capable of providing secure segregation.

Temporary AD-SEG:

Pending a classification committee determination of the inmate's housing assignment, which may include assignment to one of the segregation program units or to the inmate general population, an inmate may be placed in a designated temporary housing unit.

An inmate's placement in temporary segregation shall be reviewed by the Institutional Classification Committee (ICC) within ten days of receipt in the unit. Action shall be taken to retain the inmate in temporary segregation or release to general population. ICC shall review the inmate at least every 30 days thereafter until the inmate is removed from temporary segregation.

ICC shall refer for CSR review and approval any case in which an inmate is retained in temporary AD-SEG for more than 30 days beyond initial ICC action. ICC shall designate an anticipated length of time needed to complete the investigation or conclude court proceedings. ICC shall recommend one of the following:

- Transfer to another facility.
- Continue in temporary AD-SEG pending completion of an investigation or resolution of court proceedings.

#### **52080.25 Order and Hearing for Placement in Segregated Housing (CDC Form 114-D)**

Authority to order an inmate to be placed in AD-SEG, before such action is considered and ordered by a classification hearing, may not be delegated below the staff level of lieutenant except when a lower level staff member is the highest ranking official on duty.

The reason for ordering an inmate's placement in AD-SEG shall be clearly documented on a CDC Form 114-D by the official ordering the action at the time the action is taken.

In addition to explaining the reason and need for an inmate's placement in AD-SEG, the official ordering the action shall determine and document on the CDC Form 114-D:

- If the inmate needs the assistance of an interpreter or a person capable of explaining the process so the inmate understands.
- If the inmate desires to call witnesses. If so, the inmate shall submit in writing the names of the desired witnesses.
- If the inmate wishes to present documentary evidence at a classification hearing on the reason or need for retention in segregated housing. If the inmate does wish to present documentary evidence, an investigating employee shall be assigned.

A copy of the CDC Form 114-D, with the "order" portion of the form completed, shall if practical, be given to the inmate prior to placement in AD-SEG but not later than 48 hours after such placement. Copies of the CDC Form 114-D with the order portion completed shall also be submitted to the Warden, RPA, or designated staff for review and possible further action. A copy of the CDC Form 114-D shall be routed to the inmate's C-File as a notice of the inmate's current status and pending action(s).

A CDC Form 128-B shall accompany the original CDC Form 114-D which shall depict important inmate case factors such as: enemies that may be housed in the same AD-SEG unit; the inmate's gang affiliation status, if any; medical/psychiatric problems; pending visitation restrictions; or the location of pertinent confidential information.

#### **52080.26 Review of Segregation Order**

Within two working days following an inmate's placement in AD-SEG, designated staff at not less than the level of captain shall review the order portion of the CDC Form 114-D. If retention in AD-SEG is approved at this review, the following shall be accomplished at this level:

- Schedule the inmate for ICC within ten days of placement in AD-SEG.

#### **52080.27 Classification Committee Hearing on Segregated Housing Order**

A classification committee hearing for consideration and determination of the need to retain an inmate in segregated housing, for the reasons set forth in a segregation order, CDC Form 114-D, shall be held as soon as it is practical and possible to do so, but in no case longer than ten days from the date the inmate was initially placed in segregated housing, except for the following reasons:

- The CDC Form 114-D has been withdrawn and the inmate has been returned to general population status.
- A continuing state of emergency exists within the institution. Under such circumstances the hearing shall be held as soon as it is safe and practical to do so.

The inmate shall be present at the classification hearing on an AD-SEG order except under the applicable conditions as described in CCR 3320(f) relating to disciplinary hearings. If the classification committee hearing is held without the inmate present, the reason shall be documented on the segregation order form. Any staff member assigned to assist the inmate shall be present at the hearing.

##### **52080.27.1 Retention for Disciplinary**

When the reason for an inmate's placement in AD-SEG is a disciplinary matter and likely to result in a formal report of violation of institution rules on a RVR or a referral to the appropriate criminal authorities for possible criminal prosecution, the classification hearing shall assume the alleged misconduct or criminal activities to be factual as reported in the segregation order. The hearing shall not consider evidence or information relating to the guilt or innocence of the inmate. ICC may continue the inmate in AD-SEG pending resolution of the disciplinary issues or consider placement in a specialized security unit based upon other non-disciplinary reasons necessitating such placement.

##### **52080.27.2 Retention for Non-Disciplinary**

When the reason for an inmate's placement in AD-SEG is for non-disciplinary reasons, the classification committee hearing shall consider all available evidence or information relating to the validity of the reasons given for such placement as well as the need to retain the inmate in AD-SEG pending resolution of the situation or circumstances set forth in the AD-SEG order.

##### **52080.27.3 Witnesses for Hearing**

Based upon the finding of the investigative employee, the ICC shall permit the inmate to present witnesses and documentary evidence at the hearing unless the chairperson of the committee determines in good faith that permitting such evidence shall be unduly hazardous to institution safety. The reason for disallowing witnesses or evidence shall be documented in the "hearing" portion of the CDC Form 114-D and in the CDC Form 128-G, Classification Chrono.

##### **52080.27.4 Determinations**

The determinations of the classification hearing shall be documented in the hearing portion of the CDC Form 114-D, and in the CDC Form 128-G. Such documentation shall include an explanation of the reason and the information and evidence relied upon for the action taken. The completed CDC Form 114-D and any CDC Form 128-G resulting from hearings shall be routed to the inmate's C-File. The inmate shall be given a copy of all completed forms and of all other documents relied upon in the hearing except those containing restricted/confidential information.

##### **52080.28 Release From AD-SEG**

Release from segregation status shall occur at the earliest possible time in keeping with the circumstances and reasons for the inmate's initial placement in AD-SEG. Nothing in this article shall prevent the official ordering an inmate's placement in AD-SEG, or a staff member of higher rank in the same chain of command, from withdrawing an AD-SEG order before it is acted upon or prior to a hearing on the order after consulting with and obtaining the concurrence of the administrator of the general population unit to which the inmate shall be returned or assigned. Release from segregated housing after classification committee confirmation shall be effected only upon the written order of an equal or higher authority.

##### **52080.29 Retention in AD-SEG After Expiration of Term/11 Months Indeterminate**

Procedural safeguards apply to inmates retained for administrative reasons after the expiration of a SHU term. SHU terms of confinement shall be set or reduced by classification action.

A CDC Form 114-D shall be initiated, giving written notice of the reasons for retention in sufficient detail to enable the inmate to prepare a response or defense. Except in an emergency, a copy of the order shall be given to the inmate prior to the expiration of the term of confinement. In no case shall notice be given later than 48 hours after the expiration of the term.

During the subsequent classification committee hearing, the inmate shall be given a reasonable opportunity to present witnesses and documentary evidence unless institution officials determine in good faith that presentation of the evidence would be unduly hazardous to institutional safety. The reason for disallowing designated evidence shall be explained in writing by the hearing body on the segregated housing order.

A copy of the completed segregated housing order containing a written decision, including references to the evidence relied upon and the reasons for retention in segregated housing beyond the expired term or one year of indeterminate confinement, if so retained, shall be given the inmate upon completion of the hearing.

##### **52080.30 Segregation From General Population – Not AD-SEG**

Segregation from general population for the reasons and under the circumstances described below are not AD-SEG and are excluded from the other provisions of this section:

###### **Medical**

When an inmate is involuntarily segregated from the general population for medical or psychiatric reasons by order of medical staff and the inmate's placement is in a hospital infirmary, or in other housing as a medical quarantine, the inmate shall not be deemed to be in AD-SEG.

When personnel other than medical staff order an inmate placed in AD-SEG for reasons related to apparent medical or psychiatric problems, that information shall be immediately brought to the attention of medical staff. The appropriateness of AD-SEG or the need for movement to a hospital setting shall be determined by medical staff.

When medical or psychiatric reasons are not the primary reason for an inmate's segregation, AD-SEG status will be continued even if the inmate is moved to a hospital setting.

###### **Orientation and Layover**

Newly received inmates and inmates in transit or layover status may be restricted to quarters (RTQ) for that purpose. Such restrictions shall not be more confining than is required for institution security and the safety of persons, nor for a period longer than the minimum time required to evaluate the safety and security factors and reassignment to more appropriate housing. No inmate shall be placed in RTQ for more than ten days.

###### **DD**

Placement in DD is an ordered action of a disciplinary hearing and is not AD-SEG except as provided in CCR 3338(a)(2) and (3).

###### **Confinement to Quarters**

CTQ is an ordered action of a disciplinary hearing and is not AD-SEG.

###### **PHU**

PHU inmates endorsed by CSR action, not requiring segregation other than for protective custody.

###### **Psychiatric Services Unit (PSU)**

PSU inmates posing a serious threat to general population housing, not requiring hospitalization, endorsed by CSR action.

##### **52080.31 SHU**

Refer to CCR 3341.5 and DOM 62050.13.2.

##### **52080.32 Case Review**

The case of every inmate assigned to a segregated housing unit shall be continuously reviewed and evaluated by custodial and casework staff assigned to the unit. Staff will confer on each case no less frequently than once a week during the first two months of the inmate's segregated status. Such case reviews will not be necessary during any week in which the inmate's case is reviewed by a regular or special classification committee or by staff who are authorized to take classification actions. Any significant observations, determinations or recommendations shall be documented on the inmate's CDC Form 114-A.

A psychological assessment of the inmate's mental health will be included in the case review and classification committee review of inmates assigned to segregated housing units. When any indication of psychiatric or psychological problems exists, the case shall be referred to the institution's psychiatrist or

psychologist for further evaluation and recommended classification committee actions.

### **52080.33 Conditions of Segregated Housing**

In keeping with the special purpose of a segregated housing unit, and with the degree of security, control and supervision required to serve that purpose, the physical facilities of special purpose segregated housing shall approximate those of the general population.

#### **52080.33.1 Restrictions**

When an inmate in AD-SEG is deprived of any usually authorized item or activity and the action and reason for that deprivation is not otherwise documented and available for review by administrative and other concerned staff, a report of the action shall be made and forwarded to the unit administrator as soon as possible.

#### **52080.33.2 Clothing**

No inmate in AD-SEG shall be required to wear clothing that significantly differs from that worn by other inmates in the unit, except that temporary adjustments may be made in an inmate's clothing as is necessary for security reasons or to protect the inmate from self-inflicted harm. No inmate shall be clothed in any manner intended to degrade the inmate.

#### **52080.33.3 Meals**

Inmates assigned to AD-SEG shall be fed the same meal and ration as is provided for inmates of the general population, except that a sandwich meal may be served for lunch. Deprivation of food shall not be used as punishment.

#### **52080.33.4 Mail**

Inmates assigned to AD-SEG shall not be restricted in their sending and receiving of personal mail, as authorized by CCR § 3138 except that incoming packages may be limited in number and in content to that property permitted in the segregated unit to which an inmate is assigned.

#### **52080.33.5 Visits**

Inmates endorsed for or assigned to a SHU shall not be allowed contact visits.

#### **52080.33.6 Personal Cleanliness**

Inmates assigned to AD-SEG shall be provided the means to keep themselves clean and well groomed. Haircuts shall be provided as needed. Showering and shaving shall be permitted at least three times a week. Clothing, bedding, linen and other laundry items shall be issued and exchanged no less often than is provided for general population inmates.

### **52080.34 Revisions**

The Director, Division of Adult Institutions, or designee shall ensure that the content of this article is current.

### **52080.35 References**

PC §§ 2081, 2931, 2932, 2933, 3060, 5054, 5058, and 5077.

W&I § 3051.

GC § 11346.2d.

*Wright v. Enomoto* (1976) 462 F. Supp. 397.

*Taylor v. Rushen* (ND Cal) L-80-0139 SAW.

CCR (15) (3) §§ 3290 and 3310 - 3345.

*Coleman v. Brown*, United States District Court, E.D. Cal., No. CIV. S-90-520 LKK DAD PC, Order issued August 11, 2014.

## **ARTICLE 24 — FIRE PROTECTION**

*Revised November 25, 1997*

### **52090.1 Policy**

The Department shall provide reasonably safe facilities for inmates and furnish a place of employment that is reasonably safe and healthful.

Fire and safety related activities shall be in accordance with updated revisions of the CCR. In the event that state or local codes are not applicable, recommendations/standards of the National Fire Protection Association (NFPA) (current edition) shall apply.

Life safety and fire prevention are the responsibility of every employee. Each employee shall attend appropriate training for providing a reasonably safe working and living environment for staff, inmates, and visitors.

The Warden at each facility shall have in place fire prevention and suppression programs.

### **52090.2 Purpose**

The purpose of this section is to provide for the prevention and prompt, efficient suppression of fire within the institutions and to ensure that all concerned, by an effective means of communication, know and understand their role in a fire safety program.

### **52090.3 Fire Department Organization**

Each fire department shall have the following positions:

- Fire Chief, Correctional Facility.
- Firefighters, Correctional Institution.
- Inmate firefighters. Each institution shall be minimally staffed at a level of four (4) inmate firefighters per fire engine and two (2) per supplemental vehicle if applicable, with the exception of LAC and NCWF.

Fire Service/Training Specialist, Correctional Facility or Firefighter, Correctional Institution, may be established on a part-time/permanent intermittent basis at the discretion of the appointing authority.

### **52090.4 Institution's Fire Chief's Responsibilities**

The Fire Chief:

- Performs administrative duties and manages the fire department's operation and personnel.
- Develops training programs for fire fighting personnel (including inmates) utilizing the California Fire Service Training and Education Program (CFSTEP), and Certification Programs, recognized by the State Fire Marshal (SFM).
- Develops work schedules for firefighters/personnel under their jurisdiction.
- Coordinates staff training in fire prevention and suppression methods and technology through, and with the cooperation of, the IST Office.
- Makes or provides for frequent inspections of the institution for fire and life safety hazards and reports findings from the inspections to the Warden/designee.
- Participates in the safety program of the institution.
- Provides inspection and maintenance of fire fighting equipment/systems throughout the institution.
- Takes command during a fire /hazardous material or other life safety related emergency implementing the incident command system as required by the CCR (19) Standardized Emergency Management System including:
  - Directing fire fighting operations, rescue operations, building evacuations, etc., with the assistance and cooperation of custody personnel.
  - Ensure that water from fire hoses is not directed into occupied inmate housing units, cells, or dormitories, unless absolutely necessary to extinguish a fire.
- Requests mutual aid in accordance with established facility plans and procedures.
- Conducts post-fire investigations after the fire is suppressed to determine the cause and prepares required reports.
- Notifies the SFM's Office, Arson and Bomb Investigation Unit, of all fires and explosions pursuant to H&SC 13107.

**Note:** SFM may choose not to investigate every fire. The decision rests with the SFM.

- Maintains the fire station, adjacent grounds, all hydrants, exterior standpipes, etc., in conjunction with the Correctional Plant Manager.
- Assists the SFM's representative on all SFM inspections or surveys.
- Performs as lead person and staff resource for developing and maintaining an effective emergency evacuation plan for every area of the facility in cooperation with all departments. The plan shall provide for quarterly fire drills, the manner in which they are to be conducted, and the designated staff responsible for evacuation procedures.
- Develops fire prevention programs and fire safety procedures in cooperation with appointed facility personnel and the office of the SFM.
- Performs custodial duties relating to inmates assigned to the fire department.

### **52090.4.1 Institutional Firefighters' Responsibilities**

The institutional firefighter(s) and/or Fire Training Specialist:

- Acts as Fire Chief in their absence when designated.
- Assists the Fire Chief in training, fire prevention, safety, hazardous material, inspections, investigations, and carries out duties as assigned by the Fire Chief.
- Inspects fire apparatus and equipment at the fire department at the beginning of each tour of duty.



- Ensures the cleanliness, orderliness, and sanitation of fire department facilities.
- Assists the Fire Chief in record keeping and completing required reports as necessary.
- Responds to emergency alarms in accordance with procedures.
- Performs custodial duties relative to inmates assigned to the fire department and maintains accountability of inmates, equipment, and tools.

#### **52090.4.2 Inmate Firefighters**

Inmate firefighters:

- Shall be assigned to the fire department as a full-time assignment.
- Shall be fed and quartered at the fire department as space and food preparation facilities are available.
- Shall maintain the fire department building, grounds, and equipment.
- Shall be on call at all times.
- Shall participate in fire training through SCC, when possible and program space exists. Regular OJT) provided at each facility fire department shall be in accordance with the CFSTEP.
- Female inmate firefighter shall be trained by a qualified Fire Training Officer or Fire Chief.

#### **52090.4.3 Supervisory Staff Responsibilities**

Supervisory staff shall ensure daily visual inspections of their immediate work areas are performed, making certain that fire extinguishers are placed in their assigned location and charged; fire hoses have not been altered or tampered with; evacuation routes, plot plans, and exit signs are posted; and the area conforms to all fire and life safety regulations.

#### **52090.4.4 Non-Supervisory Staff Responsibilities**

All employees shall notify their supervisors of any fire hazard condition.

Suspected malfunctioning, damaged, or missing fire suppression equipment required in the work or living areas shall be reported to the supervisor of the area and to the fire department immediately.

All employees shall be familiar with the requirements of their assignments, including the appropriate actions to follow in the event of a fire or other life-threatening emergency.

#### **52090.5 Definitions**

##### **Accident(s)**

Deviations from planned events that cause an unexpected and undesirable end result or effect.

##### **Emergency Evacuation Plans**

A posted plan of the area with exits clearly marked the layout of the area, and arrows indicating the appropriate direction to take.

- Posting shall be by means of a durable sign having a contrasting color from the background to which it is attached. Other effective means of communication, including verbal orientation, shall be used for inmates with disabilities for whom such signs do not provide the needed communication.
- Figures shall be of an approved type and shall be maintained in a legible manner.
- No person shall deface or remove such signs except as authorized by the Fire Chief.

##### **Evacuation**

Movement of occupants to a safe area of the facility, a minimum of 50 feet from the building, or to the designated area of refuge of sufficient size to accommodate all occupants.

##### **Exit(s)**

A continuous and unobstructed means of egress to a public way; and shall include aisle(s), intervening doors, doorways, corridors, exterior exit balconies, ramps, stairways, smoke-proof enclosures, horizontal exits, exit passageways, courts, and yards.

##### **Fire Drill(s)**

A practiced plan which follows a written evacuation plan of action for removal of staff, inmates, and visitors in the event of a fire or major emergency. Written evacuation plans must be in accordance with the NFPA standards and approved by the SFM. Fire drills shall be performed quarterly by all appropriate staff.

##### **First-Aid**

Treatment of minor scratches, cuts, burns, splinters, abrasions, etc., which do not ordinarily require further medical care. May also include any emergency treatment provided by a person certified in first aid and/or cardiopulmonary resuscitation (CPR) for the purpose of sustaining life until appropriate professional medical personnel can arrive.

##### **Healthful and Safe**

Freedom from danger to the life and well being of staff, inmates, and visitors as the nature of the employment and environment reasonably permits. Healthful shall also mean clean.

##### **Injury Illness Prevention Program**

A written program to ensure that employees comply with safe and healthy work practices.

##### **Personnel and Staff**

Any non-incarcerated person employed by the Department and/or working under the jurisdiction thereof.

#### **52090.6 Training Firefighters**

All firefighters, including the Fire Chief, shall be trained in the latest methods of fire prevention and suppression in accordance with the CFSTEP. Staff firefighters should attend the Basic Safety Training Course offered by the Office of Insurance and Risk Management Program.

All full-time firefighters shall be required to maintain current peace officer standard training according to PC 832 and other legally mandated training required by their bargaining unit contracts.

Technical training available through SCC, other fire service agencies, local colleges, etc., shall be coordinated through the local IST Manager, to meet the employee record keeping requirements, and the institution Fire Chief.

All fire department personnel shall be trained and certified in first aid and CPR.

##### **Practice Drills**

Mandatory team drills for staff firefighters shall be held for a minimum period of four hours per quarter. Drills shall include training in fire prevention methods, fire suppression techniques, operation of apparatus and life support equipment, and joint mutual aid training per local agreements.

##### **Fire Department Training Records**

Fire department staff training records shall be maintained by the Fire Chief at the fire department with a copy forwarded to the institution IST office.

#### **52090.6.1 Training Other Staff**

As soon as possible after reporting to work, all new staff shall be trained in the proper steps to take in the event of a fire or other life threatening emergency. Training shall include, at minimum:

- Fire and emergency reporting procedures for the institution.
- Location and use of fire extinguishers.
- Knowledge of fire exits and evacuation routes.
- Effects of smoke inhalation.
- Proper manner of reporting emergencies and safety hazards.

##### **Administrative and Custodial Supervisors**

Administrative and custodial supervisors shall attend annual refresher courses to ensure they are current in meeting their training needs for fire and life safety compliance.

All supervisory staff shall be trained in appropriate fire and life safety and sanitation inspections to ensure clean, healthy, and safe working and living environments within their own and adjacent work areas.

All institution staff, including administrative staff, shall attend quarterly fire drills as often as possible. Fire drills shall be documented by supervisors on Health and Welfare Agency Form DS 5003, Fire/Evacuation Drill Report. Attendance shall be documented as OJT by the area supervisor in the employee's training file.

#### **52090.7 Fire Prevention Inspections**

Inspections shall provide for correction of areas that may be potentially dangerous or deficient in meeting acceptable fire and life safety standards.

The maximum degree of safety shall be provided to protect staff, inmates, and visitors from injury or illness caused by fire or other hazards.

Staff shall conduct inspections at the specified interval and in the manner prescribed.

#### **52090.7.1 Daily Inspections**

Assigned staff shall conduct daily visual inspections of their immediate work or living areas to ensure fire extinguishers are placed in their assigned location and charged; fire hoses have not been altered or tampered with; evacuation

routes, plot plans, and exit signs are posted; and all areas conform to fire, safety, and health regulations.

#### **52090.7.2 Weekly Inspections**

Weekly inspections shall be performed in every work and living area. These inspections should be performed by the immediate area supervisor. Deficiencies or items needing correction shall be brought to the attention of the area department/section head so that corrective action can be taken quickly.

#### **52090.7.3 Monthly Inspections**

On-going monthly inspections for compliance with safety, hazardous materials, and fire prevention standards shall be performed by the area department/section head.

- Inspection reports shall be consistent with the Injury and Illness Prevention Program.
- Copies of the monthly inspections shall be forwarded to the Fire Chief and safety coordinator.

#### **52090.7.4 Quarterly Equipment/Systems Inspections**

Quarterly inspections shall be performed on all manual or automatic alarm systems, sprinkler systems, communications systems, detection equipment, and all other types of fire protection equipment, including exit locking devices, doors, fire trucks, and equipment for fire fighting. These systems may be inspected monthly if time and staff allows. The Fire Chief or their designee shall perform these inspections. (Sprinkler systems shall be serviced by State licensed personnel as required by the CCR.)

#### **52090.7.5 Semi-Annual Inspections**

Semi-annual inspections for compliance with safety and fire/accident prevention standards shall be performed by the Fire Chief and/or their designee of the entire institution/facility and grounds. A report shall be generated by the Fire Chief through the chain of command to the Warden on all activities of the fire department and inspection deficiencies not corrected as required by code.

#### **52090.7.6 Annual Inspections**

Annual inspections should be performed by SFM in the manner prescribed by law.

- The SFM has statutory responsibility for institution fire prevention and public safety inspections. The SFM shall have access for annual fire and life safety inspections to all areas within the institution and grounds. The Fire Chief, or designee, shall accompany the SFM on each inspection. Each area supervisor is responsible to participate in the inspection of their own working or living area. Reports of these findings shall be forwarded to:
  - Warden.
  - Assistant Deputy Director, Office of Environmental, Health and Safety Management.
  - Deputy Director, ASD.
  - Assistant Director, OOC.
  - Deputy Director, Institutions Division.
  - Deputy Director, P&CD.
  - Chief, PFAB.
  - Fire Chief.

#### **52090.8 Records Retention for Fire Inspections**

Records of all inspections and corrective actions taken shall be maintained by the fire department for the current year, plus two (2) years.

#### **52090.9 Fire Equipment Maintenance**

The Fire Chief is responsible for the maintenance and repair of all fire fighting equipment. All fire equipment shall be inspected, tested, and maintained in serviceable condition to ensure its proper operation when a fire or other life-threatening emergency occurs.

#### **52090.10 Fire Alarm Systems**

All fire alarm systems, fire detection systems, automatic sprinklers or extinguishing systems, communications systems, and all other equipment, materials, or systems required shall be maintained in an operable condition at all times. When the fire protective qualities of such equipment, materials, or systems are disrupted or diminished, immediate action shall be instituted to reestablish such equipment, material, or systems to their original normal and operational condition.

#### **52090.10.1 Fire Hydrants**

The fire department is responsible for numbering, checking, testing, color-coding, and lubricating all fire hydrants. In addition, the fire department is responsible for the following:

- Hydrants shall be inspected quarterly and flow tested annually. Any repairs necessary shall be reported by the Fire Chief to the Correctional Plant Manager.
- Plot plans indicating the location of fire hydrants throughout the facility grounds shall be maintained at the firehouse.
- The area immediately adjacent to the fire hydrants shall be maintained free of grass, shrubbery, parked cars, or other obstructions.

#### **52090.10.2 Fire Extinguishers**

Fire department staff shall service or test portable fire extinguishers and shall secure a certificate of registration from the SFM. The required fee is to be paid by the State for fire department staff or inmates required to possess this certificate of registration.

- Fire department staff shall be trained, pursuant to CCR, to conduct the appropriate service and testing.
- Fire extinguishers shall be serviced as specified in CCR (8) General Industry Safety Orders. Servicing shall be performed in accordance with the CCR.

#### **52090.10.3 Fire Vehicles**

The Fire Chief shall ensure the maintenance and repair of all vehicles assigned to the fire department. Such maintenance and repair shall be performed on a "first priority basis for fire vehicles." The primary objective of this provision is to keep vehicle out-of-service time to an absolute minimum. Overtime shall be authorized when necessary.

In order to accomplish the stated primary objective, maintenance and/or repair services shall be performed by one of the following:

- Fire department personnel.
- Personnel assigned to the facility garage.
- A local independent dealer, vendor, or repair facility which shall be determined by the Fire Chief in cooperation with an inspector of automotive services from the DGS.

Records of all maintenance and repair work performed by the facility garage or outside vendors shall be maintained by the vehicle maintenance garage. Vehicle Daily Inspection forms conducted by the fire department staff/inmates shall be kept at the fire department and stored for the current year, plus two (2) years.

#### **52090.11 Fire Equipment Inventory**

A complete inventory of all fire fighting equipment, apparatus, and vehicles shall be maintained. This inventory shall specify the equipment item(s), name, date of purchase (or age), installation (if available), and condition upon last inspection. If a replacement item has been ordered, indicate the date the order was placed.

#### **52090.12 Room Capacity Designation**

**Rooms used for assembly, classrooms, or similar purposes having an occupant load of fifty persons or more, where fixed seats are not installed, shall have an occupant load (capacity of the room) posted in a conspicuous place near the main exit from the room.**

- Posting shall be by means of a durable sign having a contrasting color from the background to which it is attached.
- Figures (lettering) shall be of an approved type and shall be maintained in a legible manner.
- No person shall deface or remove such signs except by authority of the SFM.

#### **52090.13 Fire Emergency Exit**

Emergency exits shall be provided to ensure the safety of staff, inmates, and visitors. Exits should be positioned in such a manner that if one exit is blocked by fire and/or smoke, the other exit is available. All exits shall be continuously visible at all times, kept clear and free of obstructions, and maintained in a usable condition. Exits shall lead directly to a hazard free area where adequate supervision can be provided.

Provision for emergency access and exit shall be in accordance with the CCR to allow for efficient removal of handicapped persons.

No person may impede, modify, or otherwise obstruct any designated emergency exit without approval of the Fire Chief.

#### **52090.14 Fire Equipment Entrance to Security Area**

Fire apparatus and personnel responding to an emergency scene shall not be detained. Each institution shall develop procedures to ensure compliance.

#### **52090.15 Response to Fires and Fire Alarms**

The fire department shall respond to all fires and fire alarms.

- Off-duty firefighters may be called in to work whenever their services are needed during a fire or inmate disturbance.
- No fire fighting member/staff shall leave the scene of a fire, fire drill, or other situation where apparatus/equipment has been used until the apparatus/equipment is returned to service condition, unless given express permission by the Fire Chief or their designee.
- Fire department staff shall take matters of internal operations to the Fire Chief.
- Fire department staff shall direct all persons seeking information relative to fires or the fire department operations to the Fire Chief.
- The fire department also may be required to respond to other institutional emergencies.

#### **52090.16 Changes in Fire Policy**

The Fire Chief shall make recommendations to the Warden with respect to matters of policy, personnel, and administration of the fire department.

#### **52090.17 State Fire Marshal's Orders**

All written SFM's orders, special or otherwise, shall be conspicuously posted on a bulletin board for a minimum of three days or until the SFM cited condition (violation) is corrected. All citations shall be maintained for the current year, plus two (2) years.

The SFM has certain responsibilities concerning fire, life, and panic safety in the institution. A working arrangement exists with the SFM's Office for them to periodically confer with the Associate Warden, Business Services, the Fire Chief, and/or any other interested supervisory personnel in the fulfillment of fire and life safety needs in the institution. The SFM's Office will also assist the Fire Chief in developing procedures pertaining to fire suppression in the institution.

- Whenever it becomes necessary to remodel or otherwise modify existing buildings (add or remove walls, install additional doors, etc.), plans shall be submitted to the Fire Chief for review and comment/approval. Plans shall be forwarded by the P&CD in Central Office, to the SFM for final approval prior to the beginning of a project.

#### **52090.18 Fire Reporting**

It is the duty and responsibility of every employee discovering a fire or fire hazard to report it to the fire department immediately or as soon as reasonably possible.

- All fire emergencies shall be reported by the fire department emergency telephone number. A record of all fire calls shall be maintained indefinitely at the institution fire department.
- Any fire which has been extinguished by other than fire department staff or inmates shall be reported by the fire department business telephone number.

When reporting a fire, employees shall provide the following information:

- Exact location and extent of the fire.
- Amount of smoke present.
- Action being taken to control the problem.
- Information relative to any disturbance accompanying the fire.
- Whether inmates or staff are being (or have been) evacuated.
- Nature of any known hazardous substances located within the fire area.

If possible, take corrective action to combat the fire and/or evacuate the area.

#### **52090.19 Evacuation(s)**

Fire protection practices and departmental policy mandate that all employees be instructed and trained concerning their duties and responsibilities should it become necessary to conduct an emergency evacuation for any fire or life threatening condition.

Fire emergency and evacuation plot plans and routes shall be conspicuously posted in every area throughout the institution. Area supervisors shall ensure that all employees and inmates are aware of the correct route to take in the event of an evacuation. Special instructions shall be provided for inmates with disabilities to effectively communicate the correct route to take in the event of an evacuation.

Fire and emergency evacuation procedures shall be modified as necessary to ensure the safe and efficient evacuation of individuals with disabilities. Particular attention should be given to housing units designated for inmates with disabilities. Whenever possible, inmates with disabilities, who may require assistance during an emergency evacuation, should be housed in cells and dorms closest to the emergency exits.

Evacuations may be ordered prior to or during a fire or other emergency by the Fire Chief, institution firefighter, unit lieutenant or other personnel in charge of the life threatening area.

Whenever possible, at least two designated exits shall be identified to permit the prompt evacuation of staff, inmates, and visitors.

Evacuation drills shall be held quarterly under varying conditions on all three watches by designated supervisors. Such drills shall be actual unless the drill would cause a security or unusual safety problem with removing the inmates.

- Where actual evacuation is not feasible due to custody, safety, and welfare of staff or inmates, staff will walk through the evacuation procedures without actual evacuation.
- Such walk through drills shall be monitored by the area supervisor to ascertain that actual evacuation could be accomplished as required. All staff and inmates will be familiar with fire evacuation routes, exits, and procedures.

At the conclusion of fire drills, the area supervisor shall complete a DS 5003 indicating the necessary information, and forward a copy to the Fire Chief.

#### **52090.20 Post Fire Investigation(s) and Reports**

A complete report of all fires, hazardous materials, medical, standbys, public assist, or mutual aid incidents shall be prepared by responding fire department staff and forwarded to the SFM's Office as required by California Fire Incident Reporting System.

- Fire department staff shall conduct a complete investigation of the scene to ensure that the fire is completely extinguished.
- All materials burned or destroyed by the fire shall be itemized and the name of the person or persons involved shall be recorded on the report.

#### **52090.20.1 Individual Fire Injury or Death**

On fires where an inmate or employee is injured or dies as a result of the fire, or when the Fire Chief considers conditions related to a certain incident sufficiently unusual, a written report accompanied by appropriate photographs shall be completed and copies submitted to the SFM and the Assistant Deputy Director, Office of Environmental, Health and Safety Management, Central Office. In addition a copy of the written report shall be sent to the Division of Labor Statistics and Research, DIR.

#### **52090.21 Mutual Aid**

Mutual Aid, by definition, is a fire district request for supplement fire suppression aid in the event of a fire or other emergency beyond the immediate control of that district.

- The Fire Chief or designee may either request assistance from or dispatch firefighters and equipment to the fire district outside of the institution grounds, in accordance with the established local Mutual Aid Plan, existing agreements with the fire district requesting the assistance, and the state OES.
- Mutual aid requests or responses shall not place the institution in jeopardy or violate minimum safety standards.
- Mutual aid requests shall be processed through the institution Fire Chief or designee.
- When a request is received, the Fire Chief or firefighters shall determine the type of fire equipment required and the number of inmate firefighters or staff needed to respond.
- Mutual aid requests from fire districts may be verbal or in writing (prior to the emergency). Such requests shall outline the area to be responded to and the type of incident anticipated. The fire department may respond to such requests, based upon availability of required firefighter staffing and equipment that can be excused from regular duty assignments at the time of the emergency.
- Only inmates who have been so classified in accordance with local procedures in conjunction with the CCR or DOM 62070, once approved for use, are eligible to participate in mutual aid responses.
- Fire apparatus (engines/vehicles) shall be driven by the Fire Chief or firefighter only, when off institution property. All fire department staff shall be trained and licensed in accordance with the VC.
- Prior to leaving the institution grounds with inmate firefighters, the Fire Chief or firefighter shall call the watch commander and advise them of the location of the emergency, names and numbers of inmate firefighters, and staff responding.
- Upon return to the institution after a mutual aid call, the employee in charge shall call the watch commander to advise of the return and report any unusual incidents or activity while away from the institution.

- Inmate firefighters shall not drive on a public road, except in an extreme emergency.
- On extended mutual aid responses where the crew is to be away from the institution for more than one day, the employee in charge shall notify the watch commander at least every 24 hours, or as soon as practical thereafter, of the status of the crew.

#### **52090.22 Revisions**

The Deputy Director, Administration Services, or designee shall ensure that the contents of this section are current.

#### **52090.23 References**

CCR.

National Fire Protection Association Life Safety Code.

PC.

VC.

### **ARTICLE 25 — INMATE INDECENT EXPOSURE AND SEXUAL DISORDERLY CONDUCT MANAGEMENT**

*Effective-September 2007*

#### **52100.1 Policy**

Indecent Exposure and Sexual Disorderly Conduct will not be tolerated by the California Department of Corrections and Rehabilitation (CDCR). Penal Code (PC) Section 314 defines Indecent Exposure as “the willful and lewd exposure of a person, or the private parts thereof, in any public place or in any place where there are present other persons to be offended or annoyed thereby.” Sexual Disorderly Conduct is defined in California Code of Regulations (CCR) Section 3000 as “every person who touches, without exposing, their genitals, buttocks or breasts in a manner, or other circumstance of this touching, that demonstrates it is for the purpose of sexual arousal, gratification, annoyance, or offense, and that any reasonable person would consider this conduct offensive.”

#### **52100.2 Purpose**

To ensure that every Indecent Exposure or Sexual Disorderly Conduct incident is reported, tracked, managed, subject to discipline, and referred for prosecution as set forth in this policy. An inmate who engages in Indecent Exposure or Sexual Disorderly Conduct shall be subject to a variety of Security Measures in an attempt to identify, prevent, reduce, and eliminate the opportunity to repeat the behavior.

It is the policy of the Department to provide support to every employee who observes an Indecent Exposure or Sexual Disorderly Conduct incident. Such support can include the Employee Assistance Program, the Employee Post Trauma Program, the Equal Employment Opportunity (EEO) referral process, and the imposition of Security Measures as described in Section 52100.4.

#### **52100.3 Implementation**

##### **Incident Reporting and Tracking:**

Every Indecent Exposure or Sexual Disorderly Conduct incident shall be documented by the observing employee on a CDC Form 115, Rules Violation Report (RVR).

Indecent Exposure is classified as either a Division D or a Division B offense. If the inmate has no prior criminal convictions for PC Section 314, Indecent Exposure, or PC Section 288, Lewd Act on a Child or Dependent Person, the inmate will be charged with the Division D offense of Indecent Exposure. If the inmate has any prior criminal conviction for PC Section 314 or 288, the inmate will be charged with the Division B offense of Indecent Exposure with a Prior.

In addition, the Indecent Exposure shall be reported as an incident on the CDCR Form 837, Crime/Incident Report. All Indecent Exposure Incident CDCR 837's shall be referred to the District Attorney.

An inmate who masturbates or engages in inappropriate touching of his/her genitals, buttocks, or breasts in public without exposing his/her genitals, for example under the clothing, will be charged with the Division E offense of Sexual Disorderly Conduct.

An inmate who engages in Indecent Exposure or Sexual Disorderly Conduct shall be referred for a mental health assessment through the submittal of a CDCR Form 115-MH, Rules Violation Report: Mental Health Assessment Request.

All employees observing an Indecent Exposure or Sexual Disorderly Conduct incident shall be provided the opportunity to complete a CDCR Form 2152, Employee Report of Inmate Sexual Misconduct. All Supervisors are required

to complete the appropriate sections of the CDCR 2152, regardless of the employee's decision to complete the form.

#### **Inmate clerks shall not prepare or type an Indecent Exposure or Sexual Disorderly Conduct RVR**

The assigned Captain shall be responsible for identifying all Indecent Exposure and Sexual Disorderly Conduct offenders within their area. A tracking list shall be distributed on a monthly basis to Correctional Administrators, Facility Lieutenants, the Chief/Senior Psychiatrist or Chief/Senior Psychologist, and the Indecent Exposure Review Committee (IERC), (see Section 52100.5 “Monitoring”).

This list is highly restrictive and shall not be duplicated, but shall be available for staff review at the facility/unit program office.

#### **52100.4 Security Measures**

Inmates who engage in acts of Indecent Exposure or Sexual Disorderly Conduct will be subject to Security Measures that are designed to decrease the opportunity for the inmate to repeat the behavior and/or minimize the impact that the behavior has on prison staff and others. Security Measures are tools used by staff for a determinate period to identify, prevent, reduce, and eliminate the behavior.

There are two types of Security Measures. They are immediate Security Precautions and post Disciplinary Restrictions.

##### **Security Precautions:**

Immediate Security Precautions are implemented following a report, whether verbal or written, of Indecent Exposure or Sexual Disorderly Conduct. Correctional Officers/Sergeants shall implement Security Precautions. These Security Precautions shall be approved, tracked, and reviewed by the Lieutenant/assigned Captain on a weekly basis. In an Administrative Segregation Unit (ASU), Security Housing Unit (SHU), and Psychiatric Services Unit (PSU) the assigned Captain in consultation with the Interdisciplinary Treatment Team (IDTT) may remove or extend these precautions based on the overall case factors and institution security needs as appropriate.

Security Precautions include:

- Solid door with yellow placard, cell and/or side-window covering, or other devices primarily used to alert staff of an inmate's propensity to engage in Indecent Exposure or Sexual Disorderly Conduct behavior and secondarily used to limit the inmate's ability to observe staff while engaging in the behavior.
- Use of an Exposure Control Jumpsuit to limit the ability of the inmate to engage in the behavior.
- Temporary restriction from yard or other settings which may provide a venue for the behavior.
- Substitution of activity setting to reduce the possibility of the behavior impacting staff.

##### **Application of Security Precautions:**

Upon the first and subsequent Indecent Exposure or Sexual Disorderly Conduct offense(s), the inmate shall be identified on an Indecent Exposure Offender Tracking Memorandum.

##### **Common Area Offenses:**

If the Indecent Exposure or Sexual Disorderly Conduct occurs outside of the cell/bed area in the General Population (GP) the following protocols shall be followed:

All offenses: Place in Administrative Segregation/status. Apply yellow cell front covering and Exposure Control Jumpsuit.

No yard access for 10 days followed by Exposure Control Jumpsuit while outside of cell.

If the Indecent Exposure or Sexual Disorderly Conduct occurs outside of the cell/bed area in ASU/SHU the following protocol shall be followed:

All offenses: Apply yellow cell front covering.

First offense: No yard access for 10 days followed by Exposure Control Jumpsuit while outside of cell, and apply yellow window covering in an equipped facility.

Second offense: No yard access for 10 days followed by Exposure Control Jumpsuit while outside of cell, and apply yellow window covering in an equipped facility.

If the Indecent Exposure or Sexual Disorderly Conduct occurs outside of the cell in PSU the following protocol shall be followed:

All offenses: Apply yellow cell front covering.

First offense: No yard access for 10 days, followed by concrete yard for 60 days. Exposure Control Jumpsuit optional.

Second offense: No yard access for 10 days, followed by concrete yard for 120 days. Exposure Control Jumpsuit optional.

**In Cell/Bed Area Offenses:**

If the Indecent Exposure or Sexual Disorderly Conduct occurs inside the cell/bed area in the GP the following protocol shall be followed:

All offenses: Place in Administrative Segregation/status. Apply yellow cell front covering.

**If the Indecent Exposure or Sexual Disorderly Conduct occurs inside the cell/bed area in ASU/SHU the following protocol shall be followed:**

**All offenses: Apply yellow cell front covering.**

**If the Indecent Exposure or Sexual Disorderly Conduct occurs inside the cell/bed area in PSU the following protocol shall be followed:**

**All offenses: Apply yellow cell front covering.**

Restricted to 30 days concrete yard access.

If the Indecent Exposure or Sexual Disorderly Conduct offense occurs in a PSU Group setting the following protocol shall be followed:

Immediately remove inmate from group and return to cell.

Apply yellow cell front covering.

First offense: Refer to IDTT. Recommend 30-day suspension of group where, on a case-by-case basis, IDTT/clinical staff may temporarily restrict the inmate from group activity. Exposure Control Jumpsuit status upon return to group for 30 days with IDTT review and approval.

Second offense: Refer to IDTT. Recommend 60-day suspension of group where, on a case-by-case basis, IDTT/clinical staff may temporarily restrict the inmate from group activity. Exposure Control Jumpsuit status upon return to group for 90 days with IDTT review and approval.

All Security Precautions are reviewed weekly with the IDTT.

Any group suspension for Enhanced Out Patient level of care inmates requires clinical staff authorization.

**Yellow Cell Front Coverings:**

The application, review, and removal of yellow cell front coverings will be as follows:

The placement of yellow cell front coverings is mandatory for all Indecent Exposure and Sexual Disorderly Conduct offenses as a Security Precaution.

The reporting employee may initiate this Security Precaution immediately. The reporting employee shall submit a CDC 128-B advising of the yellow cell front covering. Distribution will include C-File, inmate, housing unit, and program office. If the reporting employee does not submit the Chrono, it is the Incident Commander's responsibility to ensure that a CDC 128-B is completed.

For the first offense the yellow cell front covering shall be applied for 90 days from the date of the offense.

For a second offense within 12 months from the most recent offense, or while on yellow cell front status, the inmate will be placed on yellow cell front status for 6 months from the most recent offense, which will run concurrent with the existing precaution.

**Cell Front Covering Requirements:**

The Warden will have the discretion to use solid yellow placards or cell front coverings, according to their cell front designs and material on hand, (lexan, paper, cardboard, etc.) as long as there is a review process in place to remove the Security Precautions when an inmate's behavior has been corrected.

**Solid door:** This type of door requires a yellow placard (yellow paper). Yellow paper is applied to the cell front windows as well as the count window, where applicable, leaving approximately eight to nine inches from the top or bottom of the windows uncovered, depending on the angle of control booth visual or upper/lower tier. When removing an inmate from a cell, conducting hourly security checks, and/or during count, it is required practice to remove the yellow paper completely in order to appropriately complete these duties.

**Exposure Control Jumpsuit:**

Exposure Control Jumpsuits are not to be used in the GP as the inmate requires close monitoring when wearing a jumpsuit.

The placement of an inmate onto Exposure Control Jumpsuit status is mandatory for all out-of-cell Indecent Exposure and Sexual Disorderly Conduct incidents as a Security Precaution in SHU and ASU.

The placement of an inmate onto Exposure Control Jumpsuit status is optional for all Indecent Exposure and Sexual Disorderly Conduct out-of-cell offenses in PSU.

The reporting employee may initiate this Security Precaution by submitting a CDC 128-B. If a CDC 128-B is not submitted by the reporting employee, the Incident Commander is responsible to ensure that a CDC 128-B is completed.

First offense: An inmate shall be placed on Exposure Control Jumpsuit Security Precaution for 30 days from the date of the offense.

Second and Subsequent offenses: Should the inmate re-offend within 12 months of the most recent offense, or while on jumpsuit status, the inmate will be placed on jumpsuit status for 90 days from the most recent offense, which will run concurrent with the existing precaution.

**Disciplinary Restrictions:**

Disciplinary Restrictions are applied as a result of a disciplinary action where inmates are afforded due process.

Inmates found guilty of committing an Indecent Exposure or Sexual Disorderly Conduct offense through the inmate disciplinary process may be subject to credit and privilege loss.

The suspension of privileges based on a finding of guilt in a disciplinary hearing, pursuant to CCR Sections 3007, 3323(d)(7), 3323(f)(5), and 3323(g)(8) shall be assessed as follows:

First offense: A finding of guilt in a disciplinary hearing for Indecent Exposure or Sexual Disorderly Conduct may result in the loss of privileges including, but not limited to, any or all of the following, for up to a 90 day period:

- (1) Canteen.
- (2) Appliances.
- (3) Vendor packages.
- (4) Telephone privileges.
- (5) Personal property.

Second or subsequent offense: A finding of guilt in a disciplinary hearing for Indecent Exposure or Sexual Disorderly Conduct may result in the loss of any or all of these privileges for up to a 180 day period.

Following the completion of the disciplinary process and a finding of guilt, security precautions and disciplinary restrictions may remain in affect for a period of time designated by the Senior Hearing Officer (SHO) consistent with this policy. If a finding of not guilty results, the security precautions shall be removed.

**District Attorney Referrals:**

All Indecent Exposure incidents shall be referred to the District Attorney per the current Memorandum of Understanding between the institution and the District Attorney.

This Memorandum of Understanding will include an explanation concerning the reason Indecent Exposure misdemeanor cases require prosecution.

The IERC shall publish a status report concerning Indecent Exposure incident cases referred to the District Attorney no less than quarterly. A copy of the status report shall be provided to the Warden and the District Attorney.

**Classification:**

Any inmate charged with an Indecent Exposure or Sexual Disorderly Conduct offense shall be placed in ASU and reviewed by the ICC to determine the appropriateness of ASU retention, pending disciplinary matters, and/or future housing considerations.

Inmates found guilty in a disciplinary hearing of committing an Indecent Exposure (either Division D or Division B offense) may also be subject to the imposition of an "R" suffix custody designation (refer to DOM Section 62010.4.3.1.).

A review of the "R" suffix custody designation shall be initiated by the Institutional Classification Committee (ICC) when an inmate has been found guilty in a disciplinary hearing for Indecent Exposure.

**Assessment of SHU Term:**

A determinate period of confinement in a SHU may be established for an inmate when found guilty of an Indecent Exposure or Sexual Disorderly Conduct per CCR Section 3341.5(c)(9)(K) "Sexual Misconduct." The term shall be established by the ICC utilizing the standards in the SHU Term Assessment Chart in CCR Section 3341.5.

**Family Visiting Restrictions:**

Per CCR, Title 15, Section 3177(b)(1)(A), an inmate may be restricted from family visiting even without a criminal conviction, provided there is substantial evidence of such misconduct. Substantial evidence includes a guilty finding on a disciplinary report. Therefore, a guilty finding for Indecent Exposure may prohibit the inmate from family visiting. This prohibition may be permanent. This restriction on family visiting is not a penalty imposed by the SHO as part of the disciplinary disposition. A classification committee

may impose this restriction when family visiting is reviewed. In the hearing summary, it is sufficient for the SHO to note the inmate has been found guilty of an offense listed under the CCR, Title 15, Section 3177(b)(1)(A), as prohibiting family visiting.

#### **Mental Health Referral and Evaluation:**

An inmate who engages in Indecent Exposure or Sexual Disorderly Conduct shall be referred for a mental health assessment through the submittal of a CDCR Form 115-MH, Rules Violation Report: Mental Health Assessment Request. At the same time, custody staff will implement Security Precautions as described in Section 52100.4.

Offenders who are already enrolled in the Mental Health Services Delivery System (MHSDS) will have this issue addressed by the IDTT assigned to that unit. The IDTT may recommend specific behavioral security precautions, in addition to appropriate adjustments to medications and/or other therapeutic interventions, in an effort to identify, prevent, reduce, and eliminate the behavior.

The receipt of the mental health assessment by mental health clinicians shall be reviewed for potential further mental health screening or a comprehensive mental health evaluation to determine if the inmate has a condition that warrants entry into the MHSDS. A diagnosis of Exhibitionism requires entry into the MHSDS under the medical necessity designation.

The results of Indecent Exposure or Sexual Disorderly Conduct related Mental Health Assessments shall be provided to the IERC no less than quarterly.

#### **Training:**

Training will be provided to impacted personnel necessary for the ongoing management of the Indecent Exposure and Sexual Disorderly Conduct Procedures.

#### **Employee Policy Recommendations regarding Indecent Exposure or Sexual Disorderly Conduct Incidents:**

All staff shall be allowed to make policy recommendations regarding Indecent Exposure or Sexual Disorderly Conduct incidents to their supervisor at any time. Written recommendations shall be submitted to the employee's supervisor who shall forward the recommendation to the IERC for consideration.

#### **52100.5 Monitoring**

The IERC will monitor the implementation and effectiveness of the policy and procedures set forth above. The IERC will meet no less than quarterly. The IERC is comprised of administrative staff at the level of Associate Warden, Chief or Senior Psychiatrist and Chief or Senior Psychologist, other program staff as appropriate, and other mental health staff as appropriate, Custodial Management, Litigation Coordinator, and a Recorder who will prepare minutes from the meeting. The IERC will evaluate policy compliance and effectiveness, and monitor the impact of Security Measures, and clinical programs using the tracking reports, Incident Reports, and the Employee Report of Inmate Sexual Misconduct.

The Warden will forward monitoring information to headquarters on a regular basis and headquarters will monitor the activities of the IERC.

#### **52100.6 Revisions**

The Director of the Division of Adult Institutions or designee is responsible for ensuring that the contents of this Article are kept current and accurate.

#### **52100.7 Reference**

CCR §§ 3000, 3007, 3177, 3323, 3341.5

DOM, Section 62010.4.3.1,

PC §§ 288, 314

### **ARTICLE 26 — AIRSPACE MANAGEMENT**

*Revised August 17, 2020*

#### **52110.1 Policy**

The Department shall maintain operational control of the airspace immediately adjacent to and above each institution consistent with State and Federal laws and regulations.

#### **52110.2 Purpose**

The purpose of this section is to provide guidelines for maintaining operational control of each institution's airspace.

#### **52110.3 Definitions**

(a) Aircraft means a device that is used or intended to be used for flight in the air.

(b) Airspace means the air available for aircraft to fly in. Title 49 of the United States Code, Section 40103, Sovereignty and Use of Airspace, states the

United States Government has exclusive sovereignty of airspace of the United States (US). The Federal Aviation Administration (FAA) has authority to regulate aircraft in US airspace at any altitude.

(c) Certificate of Waiver or Certificate of Authorization means an FAA grant of approval for a specific flight operation.

(d) Fixed Wing Aircraft means a [flying machine](#), such as an [airplane](#), which is capable of [flight](#) using [wings](#) that generate [lift](#) caused by the aircraft's forward [airspeed](#) and the [shape of the wings](#).

(e) Helicopter means a rotorcraft that, for its horizontal motion, depends principally on its engine-driven rotors.

(f) Model Aircraft means an unmanned aircraft that is capable of sustained flight in the atmosphere, flown within the visual line of sight of the person flying the aircraft, and flown for hobby or recreational purposes.

(g) Unmanned Aircraft System (UAS) means an unmanned aircraft and associated elements (including communication links and the components that control the unmanned aircraft) that are required for the pilot in command to operate safely and efficiently in the national airspace system. A UAS, also referred to as a drone, is controlled from an operator on the ground instead of being flown with a human pilot onboard.

#### **52110.4 Institution Airspace**

(a) Air traffic is controlled by the FAA. The FAA has rules governing all movement of aircraft.

(b) Penal Code Section 4577 states any person who knowingly and intentionally operates an unmanned aircraft system on or above the grounds of a state prison, a jail, or a juvenile hall, camp, or ranch is guilty of an infraction, punishable by a fine of five hundred dollars (\$500). This does not apply to any person employed by the prison who operates the unmanned aircraft system within the scope of his or her employment, or a person who receives prior permission from the Department to operate the unmanned aircraft system over the prison.

(c) Title 14, Code of Federal Regulations (CFR), Section 91.119 requires a fixed wing aircraft to maintain a minimum altitude of 1,000 feet above the highest point of land or structure within a horizontal radius of 2,000 feet from the aircraft.

(d) A helicopter has no altitude restrictions other than that which does not endanger persons or property below and which, if the engine failed, would allow the aircraft to safely auto-rotate to the ground. These altitude standards apply to all manned air traffic in the vicinity of an institution.

(e) An aircraft being used as a model aircraft or UAS (Title 14, CFR, Section 101.41) is: flown strictly for hobby or recreational use; is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization; is limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection, flight test, and operational safety program administered by a community-based organization; is operated in a manner that does not interfere with and gives way to any manned aircraft; and when flown within five miles of an airport, the operator of the aircraft provides the airport and the air traffic control tower with prior notice of the operation.

(f) Small unmanned aircraft regulations (Title 14, CFR, Part 107) cover commercial use of drones. Unless issued a waiver, a commercial pilot shall fly only during daylight or in twilight with the appropriate anti-collision lighting. The maximum allowable altitude is 400 feet above the ground. The maximum speed is 100 mph. A drone shall not be flown over people unless they are directly participating in and are aware of the drone operation. An external load can be carried as long as it is securely attached and does not adversely affect flight characteristics or controllability of the aircraft. A commercial pilot may request a waiver of the operational restrictions listed above if it can be shown that the proposed operation can be conducted safely under the waiver. Requests are to be sent to the FAA for consideration.

(g) All aircraft observed violating Title 14, CFR, Sections 91.119 or 101.41 shall be reported to the local Flight Standards District Office.

#### **52110.5 Responsibility for Manned Aircraft**

(a) Each Warden or designee shall:

(1) Coordinate and implement communication with outside agencies to ensure a clear understanding of departmental policy regarding air traffic needs, emergency response and escape procedures.

(2) Develop or refine mutual aid agreements with local law enforcement or other airborne units. These units may assist in prevention of escapes, identification of unauthorized aircraft in the vicinity, and give airspace protection during a critical incident or major disturbance.

(3) Identify and clearly mark a helicopter landing area for emergency landings, rescue flights, or public official visits. The landing site shall be outside the security area and, if possible, within the coverage of an armed post.

- (4) Establish supplemental procedures for notification or reporting violations of airspace and specify the contact person for notification and coordination with other agencies.
- (5) Ensure that updated post orders are available to all armed posts informing them of the policy concerning airspace control, including use of firearms, emergency landings, attempts to escape, authorized low altitude flyovers and emergency rescue.
- (6) Ensure that all staff and inmates are informed by written or verbal notice of the policy regarding air traffic. Warning signs shall be posted as necessary.

#### **52110.6 Responsibility for Unmanned Aircraft**

(a) Each Warden or designee shall:

- (1) Develop or refine mutual aid agreements with local law enforcement or other airborne units. These units may assist in prevention of escapes, identification of unauthorized aircraft in the vicinity, and give airspace protection during a critical incident or major disturbance.
- (2) Establish supplemental procedures for notification or reporting violations of airspace and specify the contact person for notification and coordination with other agencies.
- (3) Ensure that updated post orders are available to all armed posts informing them of the policy concerning airspace control, including reporting instructions, use of firearms and attempts to escape.
- (4) Maintain observation of any unmanned aircraft that breaches the institution secured perimeter airspace. The institution shall refer to the Emergency Operations Plan and local operating procedures when responding to the sighting of an unmanned aircraft.

#### **52110.7 Emergency Situations**

(a) If any manned aircraft enters an institution's airspace without prior permission, attempts shall be made to wave it off by use of items such as towels, flags, or hands. If it appears to be in distress, attempts shall be made to direct it to the designated landing site or adjacent area.

(1) Occupants shall be directed to remain in the aircraft, under security coverage, until the situation can be resolved, unless exigent circumstances exist.

(2) In the event a firearm or explosive device is attached to the aircraft, institutions shall follow emergency protocol set forth in the All-Hazards Emergency Operations Plan.

#### **52110.8 Escape Attempts**

(a) If any aircraft entering an institution's airspace appears to be involved in an escape attempt, deadly force shall only be used when permitted under Title 15, Section 3268(d).

(b) Attempts shall be made to direct an aircraft away from inmate occupied and security areas. Firearms may be discharged as a warning only in a secure facility and only when deadly force is permitted under Title 15, Section 3268(d).

(c) Firearms shall not be discharged in a direction that would endanger innocent employees or civilians not involved in an escape attempt.

(d) Firearms shall not be used to bring down or disable an aircraft in flight.

(e) Once an aircraft being used for an escape attempt has landed, all efforts will be made, including the use of firearms, to disable the aircraft and render it unable to fly.

(f) Weapons fire may be returned at any attacker within an aircraft when that is the only means available to save the lives of innocent or uninvolved persons.

(g) Recommended target areas for helicopters are to the transmission and motor located below the large horizontal rotor blades on top of the main cabin, and the rear tail rotor. Destroying the wheels or propeller of a fixed wing aircraft will disable it.

(h) Inmates shall be ordered to move away from the aircraft. Failure to do so is considered an attempt to escape and shall be treated consistent with existing policy.

#### **52110.9 Unmanned Aircraft for Use Cases**

Prior to any institution or juvenile facility participating in a program wherein unmanned aircraft are utilized, the Warden, or designee, or Superintendent or designee, shall seek the approval of the Deputy Director, Facility Operations, Division of Adult Institutions, or designee, or Deputy Director, Facility and Programs, Division of Juvenile Justice, or designee, and the Deputy Director, Enterprise Information Services, or designee.

#### **52110.10 Revisions**

The Deputy Director, Institutions Division, shall ensure that the content of this section is accurate and current.

#### **References**

CCR (15) (3) §§ 3268, 3295, 3296, and 3297.

Title 14, Code of Federal Regulations, §§ 91.119 and 101.41.

FAA Modernization and Reform Act of 2012 (Pub. L. No. 112-95 (February 14, 2012) 126 Stat 11).

#### **Revision History**

Effective: September 21, 1989.

Revised: August 17, 2020.

### **ARTICLE 27 — TERRORISM LIAISON OFFICER PROGRAM**

*Effective February 5, 2018*

#### **52200.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) shall establish a Terrorism Liaison Officer (TLO) Program to facilitate the reporting of information between members of the Department and the Homeland Security community.

#### **52200.2 Purpose**

The purpose of this Department Operations Manual (DOM) section is to provide Division of Adult Institutions (DAI), Division of Adult Parole Operations (DAPO), Office of Internal Affairs (OIA), the Division of Juvenile Justice (DJJ), and the Office of Correctional Safety (OCS) with a framework that is intended to appropriately and expeditiously report to the California State Threat Assessment System (STAS) information related to suspected radical or extremist's behaviors occurring within the CDCR purview.

#### **52200.3 Oversight**

The Office of Correctional Safety, Criminal Intelligence Analysis Unit (CIAU) is tasked with the oversight of the CDCR TLO program. The CIAU Senior Special Agent under the direct oversight of the Chief of the Office of Correctional Safety shall maintain oversight of the TLO program through designated Intelligence analysts and Special Agents assigned to the CIAU.

#### **52200.4 Designations**

Each CDCR DAI Institution, DAPO Parole District, OIA Headquarters Office, DJJ Facility, and OCS Field Office shall designate a CDCR Peace Officer to serve as a TLO. This assignment will be considered an additional duty of the staff member's currently assigned duties. This individual shall be considered the Primary TLO and shall serve as the direct point of contact for the Criminal Intelligence Analysis Unit. Backup TLOs should also be designated to assist the primary TLO, and be available in their absence. The number of Backup TLOs at each location should be determined by the department head or Parole Administrator.

DAI should consider assigning the TLO duties to a staff member assigned to the Investigations Unit within each Institution. DAPO should consider assigning the TLO duties to a staff member at the classification of Parole Agent II Supervisor or higher. The Parole Agent II Supervisor assigned to the Correctional Intelligence Task Force shall also be a designated TLO.

The CIAU Special Agent (SA) assigned to the Radicalization/Violent Extremism desk shall serve as the Terrorism Liaison Officer Coordinator (TLOC). The TLOC shall ensure that TLO's are provided relevant and current intelligence to ensure awareness of trends and activities regarding radicalization and homegrown violent extremism. The TLOC will be the primary point of contact for TLO's when reporting incidents of suspected radical behavior.

In addition, the TLOC shall be responsible for the following:

- Conduct quarterly conference calls with TLO's.
- Provide radicalization/homegrown violent extremist training and briefings to CDCR TLO's.
- Maintain a TLO email distribution list in the CDCR email system.
- Maintain working relationships with the Joint Terrorism Task Force, Correctional Intelligence Task Force, and the California regional fusion centers.

#### **52200.5 Training**

Each TLO and assigned backup TLO shall be required to attend the Basic Terrorism Liaison Course hosted by the fusion center in their region. TLO's are encouraged to attend advanced TLO courses offered by the regional fusion centers. TLO's can register for training at the California State Threat Assessment System's website located at [www.calstas.org](http://www.calstas.org).

#### **52200.6 Reporting**

The CDCR TLO reporting protocols are designed to prevent case confliction and to expedite the reporting process to ensure a timely response to reports of suspicious behavior. The following are the steps to be taken when reporting suspected radical/extremist behavior.

CDCR TLOs shall report any suspicious activities by directly contacting the TLOC at [ctfcentralintake@cdcr.ca.gov](mailto:ctfcentralintake@cdcr.ca.gov).

Intelligence analysts assigned to the CIAU Radicalization/Violent Extremists desk will review the submission and, as appropriate, prepare a Suspicious Activity Report (SAR). Prior to submitting the SAR, the Analyst will forward the proposed submission to the TLOC SA and the CIAU Senior Special Agent for review. Upon completion of the review, the proposed submission shall be forwarded to the Federal Bureau of Investigation Correctional Task Force Coordinator for final review and de-confliction. Once the review process has been completed and a determination has been made to release the information, the proposed submission will be made by the CIAU TLO Analyst or the TLOC SA to the California fusion center with jurisdiction over the reported activity. A courtesy copy of the notification will also be sent to the other California fusion centers for their situational awareness.

If an investigation has already been initiated by another agency, the TLOC SA will contact the agency in charge of the investigation to ensure that distribution of the intelligence to the fusion centers will not compromise the on-going investigation.

In cases where an investigation has yet to be initiated, the TLOC SA and the CIAU Senior Special Agent will be responsible for initiating an investigation into the activity and determining the appropriate CDCR response.

Any additional case coordination requiring the deployment of resources between the reporting person, the OCS, and any other affected agency will be the responsibility of the Emergency and Criminal Intelligence Operations' Special Agent-In-Charge and/or the OCS Deputy Chiefs.

#### **52200.7 Revisions**

The Chief of the Office of Correctional Safety or designee shall ensure the content of this Section is correct and current.

#### **52200.8 References**

Governor's Executive Order D-67-03

Government Code § 8585

6 U.S. Code § 101

### **ARTICLE 28 — UNASSIGNED**

### **ARTICLE 29 — SOCIAL SERVICES AND COUNSELING**

*Effective September 22, 1989*

#### **53030.1 Policy**

The Department shall provide a range of individual counseling and social services designed to meet the casework and program needs of inmates.

#### **53030.2 Purpose**

This section establishes objectives to ensure the maximum constructive impact of correctional staff on inmates within the correctional setting.

#### **53030.3 Definition**

Social services are programs or activities designed to assist inmates in their adjustment to institution living or to educate and provide skill training to prepare the individual for return to the community.

#### **53030.4 Responsibility**

Each Warden shall establish and maintain counseling and social service programs in conjunction with inmate classification procedures and individual program or casework needs.

The program shall be administered by a staff member preferably at the associate Warden level.

All institution personnel shall be familiar with social services available at their facility and shall inform inmates of available services when appropriate.

Correctional counselors shall provide needed casework services which may be augmented by volunteer community resources as detailed in DOM 31040, Volunteers.

#### **53030.5 Reception Centers**

Every inmate committed to the Department shall be assigned to the caseload of a Correctional Counselor upon reception.

Inmates shall be provided an orientation to the Department which shall include information related to the:

- CCR (15) (3).
- CCR (15) (2) BPT Rules.
- Available institution social services.

- The work incentive program.

#### **53030.6 Institution Social Services**

Every inmate shall be assigned to the caseload of a Correctional Counselor upon arrival at the receiving institution.

Correctional counselors shall qualify, by experience and education, to provide individual and group counseling services, as needed.

The Correctional Counselor shall be available for scheduled individual interviews and shall provide for a regularly scheduled "open line."

Inmates may request scheduled interviews by "Request for Interview" forms or through contact at "open line."

Counselors may direct inmates from their assignments to facilitate necessary casework contacts when such contacts cannot be reasonably made during the inmate's off-time hours including the inmate's regular days off. (Refer to DOM 53130, IW/TIP)

The assigned counselor shall monitor the inmate's participation in program activity considering mutually established goals.

Social services provided shall include but not be limited to:

- Program development and evaluation.
- Institution adjustment.
- Parole planning.
- Interpersonal relationships.
- Family planning.
- Marital, family relationships.
- Parental education.
- Substance abuse.
- Crisis intervention.
- Assessment of special needs.
- Referral to available academic, vocational, religious, recreational, work and community programs.

#### **53030.7 Community Resources**

For additional information, refer to DOM 31040, Volunteers; DOM 53020, Inmate Activity Groups; and DOM 53130, IW/TIP.

#### **53030.8 Revisions**

The Deputy Director, Institutions Division, or designee shall ensure that the content of this section is current and accurate.

#### **53030.9 References**

PC § 3409.

CCR (15) § 3233.

ACA Standards 2-4472 - 2-4480.

### **ARTICLE 30 — INMATE SMOKING POLICY**

*Revised August 22, 2005*

#### **53040.1 Policy**

Smoking, possession, or use of tobacco products by inmates, is prohibited. A tobacco product in the possession of an inmate is considered contraband.

#### **53040.2 Purpose**

This Article sets forth the operational practices associated with the Department's ban on inmate smoking and tobacco possession. Implementation of the ban is based on the Penal Code (PC) Section 5038.1 and the applicable regulations are found in the Title 15 of the California Code of Regulations (CCR), Sections 3006, 3187, 3188, and 3189.

#### **53040.3 Definitions**

For purposes of this Article, the following definitions shall apply:

- Smoke or smoking means inhaling, exhaling, burning, or carrying any lighted cigarette, cigar, pipe, or smoking paraphernalia used for consuming the smoke of tobacco or any other burning product.
- Tobacco product means any product that contains tobacco, the prepared leaves of any plant belonging to the nicotiana family, which shall include, but not be limited to, cigarettes, loose tobacco, cigars, snuff, chewing tobacco, or any other preparation of tobacco, tobacco substitutes, smoking paraphernalia, and all other items developed or processed for the primary purpose of facilitating the use or possession of tobacco or tobacco related products as well as packaging material. Packing material includes, but is not limited to, snuff or cigarette containers.

#### **53040.4 Tobacco Use Cessation Assistance.**



All institutions/facilities shall provide tobacco use cessation assistance to inmates in a manner consistent with its physical design and security requirements. However, no institution/facility is obligated to purchase tobacco cessation aids for inmates pursuant to this Policy. Tobacco use cessation assistance may include, but will not be limited to, the following:

- Tobacco use cessation classes.
- Distribution of printed tobacco cessation material.

#### **53040.5 Inmate Violations**

Inmates violating the provisions of this Policy and the limitations of CCR, Title 15, Sections 3006, 3187, 3188, or 3189 on July 1, 2005, and thereafter shall be subject to the disciplinary process set forth in the Department Operations Manual (DOM), Chapter 5, Article 23, Inmate Discipline, and the disciplinary methods, administrative and serious rule violation provisions of CCR, Title 15, Sections 3312, 3314, and 3315.

#### **53040.6 Revisions**

The Chief Deputy Secretary, Adult Operations, or designee shall ensure that the content of this Article is accurate and current.

#### **53040.7 References**

PC § 5030.1.

Government Code §§ 7596 through 7598, 19994.30, 19994.33, and 19994.35.

CCR, Title 15 §§ 3006, 3187 through 3189, 3312, and 3314 through 3315.

DOM Chapter 5, Article 23 §§ 52080.1 through 52080.35.

#### **ARTICLE 31 — UNASSIGNED**

#### **ARTICLE 32 — UNASSIGNED**

#### **ARTICLE 33 — UNASSIGNED**

#### **ARTICLE 34 — UNASSIGNED**

#### **ARTICLE 35 — UNASSIGNED**

### **ARTICLE 36 — INSTITUTION PUBLICATIONS**

*Effective October 2, 1989*

#### **53100.1 Policy**

Institutions may publish a newspaper, newsletter or magazine with the specific authorization of the Warden.

Inmates may participate in the publication of such newspapers, magazines, or newsletters with specific authorization of the Warden.

If an institution publication is authorized, as provided above, it shall be produced as part of the work, training or education program of the institution.

#### **53100.2 Purpose**

The purpose of this section is to provide guidelines for the approval and preparation of institution publications and ensure compliance with legal and administrative requirements.

#### **53100.3 Purpose Of Institution Publications**

The publication shall provide a useful and constructive service by disseminating information of interest to inmates and staff, such as institution events and activities, policies and procedures, law changes, and court decisions.

It shall provide work experience and training in journalism, printing and related fields.

#### **53100.4 Responsibility**

The Warden shall appoint an administrative editor from his/her immediate staff (i.e., administrative assistant, chief deputy, PIO, etc.) who shall ensure that guidelines set forth by recent court decisions and departmental policies are adhered to. The administrative editor shall work closely with the supervising editor in the selection of inmates assigned to the institutional publications and shall review all publications prior to printing.

The administrative editor shall attempt to resolve disagreements pertaining to the style, content, etc. of the institutional publications that may occur between the inmate editor and the supervising editor prior to the issue reaching the Warden.

#### **53100.4.1 Supervision of Inmate Staff**

Supervision of inmates in preparing an institution publication shall be the responsibility of the supervising editor. The supervising editor shall be an instructor in journalism or other qualified employee appointed by the Warden. The supervising editor shall participate in the planning and editing of each issue. The production of a satisfactory publication requires the continuing attention and effort of the supervising editor.

#### **53100.5 Volunteer Assistance and Instruction**

Institutions shall try to obtain assistance for the inmate staff from a journalist at a nearby college/university or local newspaper. Inmate reporters and editors shall be provided with journalism textbooks and other instructional material. Where possible they shall be offered basic instruction in journalism ethics and news writing.

#### **53100.6 Selection of Inmate Staff**

The administrative and supervising editors shall be responsible for submission of the names of recommended inmate editors and reporters to the Warden for final decision. Selections shall be made from interested inmates who have writing skills and an understanding of basic journalistic ethics. Inmates selected for these positions shall have demonstrated by prior job performance and behavior a sense of responsibility and personal maturity.

#### **53100.7 Timekeeping**

The supervising editor shall record the work time of the inmate editor and reporters for purposes of pay and the Inmate Work Incentive Program.

#### **53100.8 Responsibility for Content**

The Warden shall be responsible for the content of the institutional publication.

Under the direction of the Warden by the administrative editor, the supervising editor shall:

- Have authority to select, edit, or reject articles, illustrations and layouts.
- Work with the inmate editor to assure that journalistic standards of relevancy, accuracy, objectivity, fairness, and balance are maintained.
- Regularly evaluate in writing the performance of the inmate editor and reporters. Consistently poor performance evaluations shall be cause for removing an editor or reporter from the staff of the publication.

#### **53100.9 Content**

Publications shall be written, illustrated and produced in accord with the highest journalistic standards. Relevancy, accuracy, objectivity, fairness and balance shall be required in all articles.

Publications shall not be designed to cover events and issues outside of the institution, except for matters directly related to institution or departmental operations, such as new laws or court decisions affecting inmates. Articles and news stories should be relevant in the context of prison operations.

Material written by persons not assigned to the staff of the publication is contributed material. Pertinent articles may be accepted from outside contributors. The source of all contributed material shall be included.

Reprinting of news stories and articles from other publications is discouraged, as this practice does not provide experience or training in news writing. When an occasional reprint may be appropriate, the source must be noted.

No inflammatory material shall be published which might threaten institution safety or security. Material offensive to a race, gender, nationality, religious faith or similar group is prohibited. Lewd, obscene, pornographic, sexually suggestive, libelous or defamatory material, or use of profane or vulgar terminology is prohibited. Reports and articles shall not attack any individual or serve as a vehicle for individual inmate complaints, or as a substitute for the departmental inmate appeal procedure.

No advertising material of a commercial nature shall be printed.

Responsible editorial comments by inmate editors and reporters may be included in institution publications. All such material shall carry the by-line of the author and a short editor's note indicating that the expressed opinions are those of the author and do not necessarily represent the position of the management and staff of the institution or the department.

#### **53100.10 Names and Photographs**

Names and photographs of inmates and rank and file employees shall not be used without their permission. Names of management employees may be used without permission when the manager is an official source of information or comment. If an employee or inmate is the frequent subject of published articles or illustrations, he or she may give a single blanket approval for subsequent publication of his or her name and picture.

#### **53100.11 Editing Disagreements**

Disagreements may occur between the supervising editor and the inmate staff regarding the style, language, content, or layout of a particular article or edition. Every effort shall be made to resolve such disagreements relying on

basic journalistic standards as previously defined. The volatility of the prison environment shall be considered in evaluating sensitive material.

When a disagreement on content cannot be resolved, a special editing/ appeal process shall be used. If the issue cannot be resolved, the material in question shall be submitted by the supervising editor to the administrative editor. He/she shall render a decision (within three working days) which may include reasonable editorial changes. If a mutually satisfactory solution cannot be arrived at, the material shall be forwarded to the Warden for review, decision, or transmission to the Assistant Director, Communications. The Assistant Director shall render a decision within three working days following receipt of the questioned material. The Assistant Director may require editing of material to conform to journalistic standards.

#### **53100.12 Suspension and Termination**

Institution publications may be temporarily suspended during lockdowns and other emergencies with the approval of the Warden. Publications may be terminated only with the approval of the Director.

#### **53100.13 Director's File Copy**

A copy of each issue of each publication shall be sent to the Assistant Director, Communications.

#### **53100.14 Expense and Circulation**

The expense of publication shall be covered as general operating expense of the institution.

Subscriptions from outside individuals and organizations may be accepted. Subscription prices shall be determined with the approval of the Warden. Prices shall cover only the cost of production, handling and mailing and shall not be established to return a profit. Solicitation of subscriptions is prohibited.

Exchanges or free circulation shall be limited to schools, libraries, government agencies, other prisons and organizations involved in activities related to prisons. Mailing lists shall expire and be reviewed by October 1 of each year. The supervising editor may approve the sending of single copies of the publication to individuals or groups who have performed a service to the institution. Lists of such mailings shall be subsequently forwarded to the Warden.

#### **53100.15 Revisions**

The Deputy Director, Institutions Division, shall ensure that the content of this section is accurate and current.

#### **53100.16 References**

PC § 2600.

Baily v. Loggins, 32 Cal. 3d 907.

In re Williams, 159 Cal. App. 3d 600.

Diaz v. Watts, 189 Cal. App. 3d 657.

### **ARTICLE 37 — UNASSIGNED**

### **ARTICLE 38 — INMATE ADVISORY COMMITTEES**

*Effective January 2, 1990*

#### **53120.1 Policy**

"Inmate Advisory Council," hereinafter referred to as "IAC," is a departmental term used to describe the body of inmates selected by the general inmate population of each institution to act in an advisory capacity to the Warden, and his or her administrative staff, in matters of common interest and concern to the general inmate population and administration.

With the approval of the Warden, a local IAC may use a title other than IAC, providing the title adequately conveys the group's advisory role. Examples are:

- Men's Advisory Council (MAC).
- Women's Advisory Council (WAC).
- Resident's Advisory Council (RAC).

#### **53120.2 Purpose**

The IAC serves a dual purpose, both of equal importance.

- The first is to provide inmates of the institution with representation and a voice in administrative deliberations and decisions affecting the welfare and best interest of all inmates.
- The second purpose is to provide the Warden and their administrative staff a vehicle to communicate administrative actions, and the reasons for same, with general inmate population.

#### **53120.3 Responsibility**

The scope of IAC activity, as an advisory and communication resource, is limited only by the Warden's prerogatives in this area.

The IAC and its individual members shall not be given nor attempt to assume responsibility or authority over the actions or activities of employees or other inmates.

Administrative staff and IAC representatives shall not rely on personal contacts, written or verbal communications between themselves and administrative staff as a vehicle for implementing or changing institutional routines and procedures.

#### **53120.4 Representation**

IAC representation shall be limited to areas of institution operation that have a direct impact on the general inmate population or on substantial segments of the population as determined by the Warden.

IAC representation shall be provided for all ethnic segments of the general inmate population and of inmates within a designated representation area or activity. This shall be accomplished through the election of all IAC representatives by the entire inmate population or by only those inmates of each ethnic segment of the population.

All inmates to be represented and who desire to participate in the election of an IAC representative shall be given an equal voice in the choice of representatives.

#### **53120.5 Selection**

When subcommittees of the IAC are established to represent specialized segments of the inmate population participation in the election of representatives shall be limited to those inmates in the particular area or segment of the population to be represented.

Duly elected IAC representatives shall elect the temporary representative to fill a vacancy (up to one month) in IAC offices.

The election of IAC members may be by secret ballot or other democratic process. This process must be free of irregularities, coercion, duress, or reprisal in or resulting from an individual inmate's election.

Employees and persons other than inmates may not nominate or select IAC representatives.

#### **53120.5.1 Supervision of Selection**

Employees of the institution shall supervise the election process of all IAC representatives.

When a secret ballot or other written or printed material is used, employees shall directly supervise, distribute, collect and tabulate the results.

IAC representatives shall be permitted to closely monitor the entire process.

Ballots or other written or printed material used in the process shall be delivered to the Warden or to designated staff, and shall be retained for no less than 30 days for review in case of alleged irregularities.

#### **53120.5.2 Eligibility for Nomination**

Eligibility for nomination, election, and retention as a member of the Inmate Advisory Council (IAC), shall be limited only by the inmate's ability to effectively function in that capacity. Disciplinary violations shall not bar an inmate from nomination, election to, or retention on the council unless they reflect behavior detrimental to the effectiveness of the committee.

#### **53120.5.3 Authorization – Other Inmate Committees**

Establishment of an IAC shall not preclude the Warden from establishing other inmate committees to perform special services or to act as a representative group for all inmates for special purposes and under specified conditions, as permitted in the CCR 3231.

Unless such special committees or groups of inmates are composed exclusively of IAC members, the committee or group shall not be considered as an IAC or subcommittee or branch of the IAC.

#### **53120.6 Individual Grievances**

Unless specifically authorized by the Warden, the IAC shall not function as a grievance committee nor involve itself in an individual inmate's grievance or request for action on an appeal.

The IAC may address grievances of concern to the general inmate population and bring the matter to the attention of the Warden or other administrative staff having authority to act on the matter.

Grievances and appeals relating to individual employees shall not be discussed by the IAC or its members with other employees at less than the level of Lieutenant. A matter that may relate to the general inmate population will be the only exception.

#### **53120.6.1 Inmate Advisory Committee Member Retaliation**

IAC members are prohibited from personal confrontation or threats to take an employee's decision or action to higher authority under the authority of the IAC.

#### **53120.6.2 Employee Retaliation**

Employees shall refrain from confrontations or threats of action simply because the inmate is a member of the IAC.

If the conduct of persons, either employees or IAC representatives, warrants the attention of higher authority, a factual report should be submitted to that proper authority.

#### **53120.7 Communications**

All formal meetings of the IAC, whether meeting alone or with staff, shall be recorded and made a permanent record of the IAC's activity.

Agenda, minutes of meetings, and other paperwork generated by IAC business shall be approved by the Warden or chief deputy Warden or designee prior to general distribution.

##### **53120.7.1 Inter-facility Exchange of Minutes**

IAC's may correspond and exchange copies of meeting agenda and minutes by the staff member designated by the Warden as the institution's IAC coordinator with prior approval and agreement between respective Wardens.

Any such mail deemed to be a threat to the security of either institution, the safety of employees, inmates or other persons, or likely to cause dissension, disorder or violence shall be denied at the point where such determination is made.

The Warden of the sending institution shall be informed of the denial and reasons for the denial, as will the chairperson of the sending institution's IAC.

##### **53120.7.2 Inmate Advisory Committee Correspondence Legislation/Media**

As an inmate representative group the IAC shall be permitted to correspond with members of the legislature, other elected and appointed governmental officials, and with representatives of the news media to the same extent as is permitted individual inmates under the CCR, relating to confidential correspondence.

Such correspondence by the IAC shall be confidential and subject to the same inspection as other confidential correspondence.

##### **53120.7.3 General Population Awareness of Inmate Advisory Committee Activities**

The general inmate population should be aware of all formal agenda items and the results of the IAC's meetings with the Warden and their administrative staff. Wardens shall provide bulletin boards in conspicuous locations throughout the institution, facilities and units, accessible to the general inmate population, or space made available on such existing bulletin boards, for posting of approved informational material by the IAC.

Provision shall be made for the duplication and distribution of approved IAC informational material to the general inmate population.

Where they exist, institution publications and institution radio systems may also be utilized for this purpose, with approval of the Warden.

##### **53120.7.4 Candidate/Member Visibility**

Wardens shall make the candidates for IAC membership and IAC members highly visible and recognizable to the general inmate population and staff.

This may be accomplished through the publication and posting of the names and photographs of candidates and members.

Visibility of IAC members may also be enhanced by the designing and issuing of conspicuous and highly recognizable shirts or jackets.

Institutions are encouraged to develop other ways and means to accomplish this desirable recognition of IAC members.

##### **53120.7.5 Staff Response**

Wardens and designated staff who have the delegated authority to consider and act on formal agenda items or issues shall provide the IAC with a timely written response.

The response shall clearly indicate the action taken, the reasons for the action, the manner and approximate time of implementation, or of any referral to higher authority and the reason or need for referral.

If no action will be taken, the reason for this decision shall be specified.

##### **53120.7.6 Inmate Advisory Committee Notice of Changes to CCR**

A copy of all departmental Notices of Proposed Changes in the CCR, as well as Rules Revision Bulletins announcing adopted changes in the CCR, shall be given to each institution's IAC.

The IAC's response to proposed changes, acting on behalf of the institution's general inmate population, is encouraged.

The IAC's may send responses separately and directly to the department's LAD-RMU or include their response attached to the Warden's response to such notices and bulletins.

This does not preclude individual inmate response to such notices and bulletins.

#### **53120.8 Departmental Directives**

Wardens shall place their IAC on the institution's local distribution list for department administrative bulletins and other department directives and announcements when such informational material concerns or is of concern to the general inmate population.

This may be by direct routing or through the institution's IAC coordinator.

In order to avoid resentment and possible confusion, staff who are concerned or affected by the information, instruction, or direction given in such material should be informed of that information as soon as or before such information is disseminated to inmates, including the IAC.

#### **53120.9 Accommodations**

Each Warden shall provide adequate facilities, equipment and supplies for the IAC to carry out its approved activities. This shall include designated IAC office(s), office furniture, typewriter and office supplies and stationery. Provisions shall also include duplicating equipment or ready access to such service.

The IAC shall be given every reasonable assistance to carry out its approved activities, but must secure permission from proper authority on each occasion requiring institution resources not specifically assigned to the IAC office.

#### **53120.10 Staff Involvement**

The effectiveness of an IAC is primarily dependent upon recognition and demonstrated support of its authorized activities by administrative and supervisory staff.

##### **53120.10.1 Warden**

Wardens shall convey and demonstrate to all employees and the general inmate population their recognition and support for IAC functions and activities that they have personally authorized through delegated authority.

All employees and the inmate population shall be made to understand that the IAC is the Warden's council, and as such deserves appropriate recognition and respect when it is performing as authorized.

##### **53120.10.2 Delegation**

Wardens may delegate the authority and responsibility for routine supervision and direction of IAC activity to staff members at not less than the level of Lieutenant.

An institution staff member, at not less than the level of Captain, shall be assigned the function of institution coordinator for the IAC.

##### **53120.10.3 Captain's Involvement**

Captains shall be directly involved in the activities of the IAC within their respective program units, as is the Warden in the overall administration of the institution.

Captains may delegate specific aspects of supervision, direction, and responsibility for IAC activities within the unit to subordinate supervisory personnel assigned to the unit.

##### **53120.10.4 Custodial Supervisory Staff**

Supervisory peace officer personnel assigned as the officer-in-charge of inmate housing areas on each shift or watch shall work directly with the IAC on issues and questions that may arise during that shift or watch which can be resolved at their level of authority.

Second level supervisory staff are considered to be a critical level for success or failure of an IAC, both from the viewpoint of inmates and administration.

The interest and attitude of these supervisory staff members will inevitably be reflected in the interest and attitudes of subordinate staff and inmates.

##### **53120.10.5 Other Personnel**

Other personnel, both supervisory and non-supervisory, should know and understand the purpose, function and role of the IAC.

Other personnel may be involved in IAC activities as deemed necessary by the Warden and their administrative staff in resolving issues relating to their particular area of expertise.

##### **53120.10.6 Orientation/Training**

All employees and inmates shall be trained in the objectives and operation of IACs.

The Warden may include members of the IAC in the orientation for new inmates and employees.

#### **53120.11 Warden Meeting With Inmate Advisory Committee**

Wardens are urged to personally meet with IAC representatives no less frequently than once each calendar month to discuss non-emergency issues that have not been resolved at lower level review with other staff.

Agenda items for scheduled meetings with the Warden shall be submitted at least one week in advance of the scheduled meeting, together with a summary of all IAC efforts at the lower levels of staff review.

When an effort to resolve matters at a lower level is not indicated, the Warden may defer any action on the matter pending the IAC's attempts to resolve the matter at lower levels.

Wardens and other staff who meet routinely with IAC should also submit an agenda to the IAC at least one week in advance of the scheduled meetings.

IAC representatives may bring emergency issues to the attention of the Warden without pre-arrangements of a formal agenda.

This may be through direct telephone contact with the Warden or through his or her office staff.

#### **53120.11.1 Institution Coordinator**

Meetings of IAC representatives with the institution's IAC coordinator shall be scheduled no less often than once each calendar month, separate and apart from the IAC's meeting with the Warden.

Issues, questions, recommendations or requests resolved at this level need not be referred to the Warden except in the form of minutes of such meetings for informational purpose.

The coordinator may also require the submission of a formal agenda for such meetings.

IAC representatives may bring emergency issues directly to the institution coordinator of the IAC.

It is anticipated that most meetings requested on an emergency basis shall be handled at the coordinator's level or be referred by the Warden to that level for appropriate action.

#### **53120.11.2 Program Unit Supervisors**

Meetings of IAC representatives with program unit supervisors shall be scheduled as needed.

A formal agenda is optional at such meetings.

A written summary of subject matter discussed and of decisions and actions shall be made a matter of record and distributed as is indicated for formal agenda and the minutes of meetings.

At the Captain's level, an open-door policy is most desirable in terms of the IAC having timely access to administrative staff.

#### **53120.11.3 Custodial Supervisory Staff**

Meetings of IAC representatives with supervisory custodial personnel shall normally be unstructured, informal, and without a need for agenda, minutes, or written summary except to refer subject matter to a higher authority, or when supervisory personnel are assigned to act for or on behalf of the Captain.

#### **53120.11.4 Other Staff**

Meetings of IAC representatives with other staff may be arranged on an as-needed or on a regular basis to resolve issues and questions relating to specific institutional areas and activities, such as canteen, food services, recreation, work, training, and medical services.

This may also be accomplished through standing subcommittees of the IAC established for a particular purpose.

#### **53120.11.5 Non-supervisory Personnel**

The IAC, its officers and individual members, shall not attempt to transact IAC business with non-supervisory personnel who do not have the authority to act on issues or questions of concern to the IAC, nor will IAC members attempt to force or enforce higher level staff decisions on employees.

If the actions of an employee appear wrong, the employee's supervisor shall correct the situation. The IAC should be encouraged to bring the matter to the attention of supervisory and administrative staff if the concern is one of genuine interest to the general inmate population.

#### **53120.11.6 Director's Staff**

Meetings of the IAC with the Director's staff may be held with individual IACs at the institution where the IAC operates, at regional meetings where selected IAC representatives from several institutions are brought, or on a statewide basis at one location.

Such meetings will be scheduled at the discretion of the Director.

#### **53120.12 Inmate Advisory Committee Appeals**

Formal appeal procedures may be utilized by an IAC on any decision or action, when the matter is not resolved through normal IAC communication channels with the Warden.

Wardens' staff and IACs are urged to consider every reasonable means to resolve issues at the lowest possible level before utilizing the appeals process. No reprisal at any level or in any form will be tolerated against an IAC or its members for performance of authorized and approved actions and activities.

Misbehavior while conducting IAC business, or under the guise of IAC business, shall be cause for disciplinary or other corrective action.

The routine process of the IAC's referral of issues, and requests, to the level of authority required for an action, is not an appeal process.

#### **53120.13 Suspension**

The Warden may suspend the membership of any individual IAC member or the activities of the IAC when there is reason to believe the individual's actions or those of the IAC presents a threat to institutional security, the safety of persons, or is counterproductive to the best interests and welfare of the general inmate population.

When suspension of IAC activities is contemplated, the Warden shall immediately notify the office of the Director of the reason for such contemplated action.

A written report shall follow if the IAC is suspended.

The Warden shall also notify the general inmate population of the action and the reason for it.

At the discretion of the Director or upon request by the Warden, the Director may assign departmental staff to investigate the matter and report their findings to the Director and to the Warden concerned.

Every effort will be made to reactivate an inmate IAC in the shortest time possible, commensurate with institution security and safety.

#### **53120.14 Privileges**

Wardens are encouraged to grant such privileges to the IAC as may be seen as fair and justified by staff and the general inmate population for services rendered.

This may include but is not limited to:

- Establishing IAC chair or vice chairperson as full-time assignments, as provided in the CCR, 3043.5(a)(1). Only two such assignments shall be authorized at each department facility.

#### **53120.15 Organization**

In general practice, the IAC should consist of two major organizational units.

- A general council with the number of members dependent upon the number of inmates, areas or activities to the represented.
- An executive committee with the membership elected by the members of the general council.

The number of executive committee members is at the discretion of the Warden and dependent upon the number that can effectively participate in executive sessions with the Warden.

In addition to these two major organizational units, there may be subcommittees selected to deal with special areas of concern.

Institutions with subordinate facilities, such as reception centers, north, south facilities, etc., may establish separate IACs for these facilities.

#### **53120.16 Constitution and By-Laws**

The Warden shall require that the IAC be governed in its operation by a constitution and by-laws prepared by the inmate group with the advice and guidance of a designated staff member. Such constitutions and by-laws shall be in compliance with existing rules, regulations, and procedures approved by the Director. The constitution and by-laws shall be approved by the Warden.

The following is the format for constitutions and by-laws for Inmate Advisory Councils.

- Article 1 – Name.
- Article 2 – Objectives. This article should contain a clear statement to the effect that the council serves in an advisory capacity to the Warden and that no administrative responsibilities are implied or to be assumed.
- Article 3 – Membership. A brief statement of eligibility for membership, ensuring all inmates the right to vote and defining those who may be elected to membership on the council.
- Article 4 – Officers. A listing of the officers of the council, normally a chairman, vice-chairman, secretary and sergeant-at-arms. A statement regarding the term of office of elected officers of the council, and the frequency of elections.
- By-laws.
  - Section 1 – Membership. A statement describing the areas or units represented by members of the council. Generally this provides for representation of the various housing units within the institution,

but may include the selected representatives from various work assignments.

- Section 2 – Nominations. Provides a system of nomination for selection to the inmate council.
- Section 3 – Election. A description of the election process, which may include secret ballots and supervision of the elections by free personnel.
- Section 4 – Method of Filling Vacancies. Describes method for handling vacancies created by transfer, release, removal, recall or election to an elective office on the council.
- Section 5 – Duties of Officer. Statement of the duties of each officer.
- Section 6 – Meetings. Statement of the time, place and frequency of meetings.
- Section 7 – Committees. A listing of the standing committees of the council plus provision for special committees as the need exists.
- Section 8 – Parliamentary Authority. A general provision that Robert's Rules of Order shall be the authority for parliamentary procedures.
- Section 9 – Executive Committee. To provide for an executive committee of the council ordinarily consisting of the selected officers and two or more elected members from the council.
- Section 10 – Activity Cards. Provision may be made to issue special activity cards to members of the council for their use in conducting business of the council.
- Section 11 – Removal of Members. Provisions shall be made to remove members through recall by their constituents or by administrative order.
- Section 12 – Amendments. General provision for a method to make amendments to the by-laws.

#### **53120.17 Revisions**

The Deputy Director, Institutions Division, or designee shall ensure that the contents of this section are current.

#### **53120.18 References**

PC § 5055.

CCR (15) (3) §§ 3043.5(a)(1) and 3231.

### **ARTICLE 39 — IW/TIP**

*Revised December 5, 2006*

#### **53130.1 Policy**

California law provides that all persons sentenced to prison under PC § 1170 shall serve the entire sentence imposed by the court, except for a credit reduction in time served in the custody of the Secretary of the Department of Corrections and Rehabilitation (CDCR) for performance in credit qualifying work, training or educational programs, or other program activity. Every inmate shall have a reasonable opportunity to participate in a full-time credit qualifying assignment, consistent with institutional security and available resources.

#### **53130.2 Purpose**

This procedure defines criteria, staff/inmate responsibilities, and instructional information necessary for implementation of the departmental IW/TIP as provided for in PC §§ 2933 and 2934. Each Warden and RPA shall ensure administration of the Department's inmate work/training programs in accordance with these standards and procedures.

#### **53130.3 Eligibility Criteria**

Work-time credits are a privilege, not a right. Credits must be earned by inmates through satisfactory performance in a credit qualifying work, education or training assignment. Eligibility to earn day-for-day credits shall be determined by the type of crime committed and the specific date on which the commitment offense occurred.

#### **53130.3.1 Inmates Serving Life Terms**

##### **Exceptions**

Inmates serving sentences of 25 years to life, 15 years to life, or life with possibility of parole are not eligible for work-time credits under PC § 2933, except for those life inmates sentenced under the following PC sections:

- PC § 191.5(d).
- PC § 217.1(b).

- PC § 667.51(d).
- PC § 667.7(a)(1).
- PC § 667.75.
- The above life term cases are eligible to earn PC § 2933 credits toward reduction of their minimum eligible parole dates.

#### **Life Terms with Enhancements or Consecutive Sentences**

Inmates sentenced to life terms, who also have determinate sentence law (DSL) enhancements imposed on the life term, or who have consecutive DSL terms to serve with a life term, may be eligible to receive PC § 2933 credits on the DSL enhancements and/or the consecutive DSL term(s). (Refer to DOM § 73030.19, Case Records.)

#### **53130.3.2 Crimes Committed on or After 1-1-83**

Inmates sentenced to prison on non-life terms, whose crimes were committed on or after 1-1-83, shall automatically be eligible to receive day-for-day credits under the provisions of PC § 2933.

#### **53130.3.3 Crimes Committed Before 1-1-83**

Inmates sentenced to prison on non-life terms, whose crimes were committed prior to 1-1-83, may elect to receive credits pursuant to PC § 2933. Inmates in this category shall be afforded the opportunity to waive their rights to receive credit reduction on their sentences under PC § 2931 (one day credit for two days served) and become eligible to receive credits pursuant to PC § 2933 (one day credit for one day served).

- Eligible lifer cases described in DOM § 53130.3.1 shall require a waiver on crimes committed prior to 1-1-83.

#### **53130.4 Time Credit Waiver**

Pursuant to PC § 2934, eligible inmates may apply in writing, using CDC Form 916 (7/88), Time Credit Waiver, to receive work-time credits provided in PC § 2933. The following conditions shall apply prior to a waiver being effective and accepted by the Department:

##### **Conditions for Acceptance of Time Credit Waiver**

- Assignment to, and performing in, a full-time credit qualifying program.
- A waiver shall not be accepted from inmates who are within 30 days of their release dates or if the waiver is to be retroactive and recomputation of sentence credits would make the inmate overdue for release.
- Upon assignment to a credit qualifying full-time program, the inmate shall present a waiver form to their counselor/caseworker for verification of the program. The counselor/caseworker shall witness the form and enter the date upon which the waiver is effective. The counselor shall forward the waiver to records for inclusion in the inmate's C-File.
- When it is substantiated by staff that an inmate was not provided an opportunity to exercise a waiver, the waiver shall be effective the date the inmate would otherwise have been eligible because of performance in a full-time credit qualifying program.
- Accepted waivers shall be irrevocable.
- All credit attributable to that portion of an inmate's sentence served prior to the effective date of the waiver shall be retained by the inmate, except credit that was forfeited for any disciplinary violation. (Refer to DOM §§ 73030.8.11 and 73030.8.2 for additional details.)

#### **53130.5 Work/Training Groups**

Inmates subject to the provisions of PC § 2933 shall earn credits in accordance with their work/training group designation as determined by classification committee action. The following eight work/training group designations shall be utilized by the Department:

- Group F: Full-time conservation camp work assignment.
  - Two days credit for each day of qualifying performance (two-for-one).
- Group A-1: Full-time work/training assignment.
  - One day credit for each day assigned to this work group (day-for-day).
- Group A-2: Involuntarily unassigned.
  - One day credit for each two days served, or three months credit for each six months served.
- Group B: Half-time work/training assignment.
  - Credit earning; same as provided in A-2 above.
- Group C: Voluntarily unassigned.
  - Zero credit earning.
- Group D-1: Indeterminate lockup status.

- One day credit for each two days served, or three months credit for each six months served.
- Group D-2: Serving SHU term with disciplinary credit loss, or voluntarily unassigned in Administrative Segregation Unit (ASU), SHU or PSU.
- Zero credit earning.
- Group U: Unclassified (process cases).
- One day credit for each two days served, or three months credit for each six months served.

### 53130.5.1 Work Group Criteria and Definitions

Assignments and reassignments of inmates to work/training incentive groups shall be effected by classification committee action. Full-time assignments shall normally require eight hours of participation per day, five days per week exclusive of meals. Half-time assignments, four hours of participation per day, five days per week exclusive of meals.

#### Full-Time Assignments (Group A-1)

- The work day shall not be less than 6.5 hours and the work week no less than 32 hours. Those programs requiring an inmate to participate during other than the normal schedule of eight hours per day, five days per week (e.g., ten hours per day, four days per week) or programs that are scheduled for seven days per week, requiring inmate attendance in shifts (e.g., three days of ten hours and one day of five hours) shall be designated as "special assignments" and require departmental approval prior to implementation. A CDC Form 128-B or E chrono shall be placed in the inmate's C-File stating the hours of participation required for full-time sentence reduction credits. "Special Assignment" shall be entered on the inmate's timekeeping log by the staff supervisor.
- The following assignments and combination assignments shall be considered as credit qualifying full-time programs:
  - Full-time education and training program. Elementary school, high school, and vocational training programs require the same minimum hourly participation as the full-time work assignment.
  - Any combination of half-time work, school or training program resulting in full-time assignment requires the same minimum participation as a regular full-time work assignment. Each combination half-time assignment requires the same minimum participation as a half-time work assignment.
  - A full-time college program may be combined with a half-time work or vocational training program equating to a full-time assignment. The college program shall consist of 12 units in credit courses leading to an associate degree in two years or a bachelor's degree in four years.
  - A full-time Bridging Education Program (BEP) requiring the same minimum participation as a regular full-time assignment. Participation will be evaluated on course curriculum, instructor evaluation, and completed assignments.
- An inmate diagnosed by a physician and/or psychiatrist as totally disabled and therefore incapable of performing a work/training assignment, shall remain in work group A-1 throughout the duration of their total disability.
- An inmate diagnosed by a physician and/or psychiatrist as partially disabled shall be assigned to a work/training assignment within the physical and/or mental capability of the inmate as determined by the physician and/or psychiatrist, unless changed by disciplinary action or classification committee action.

#### Involuntarily Unassigned (Group A-2)

- An inmate willing but unable to perform in a full-time assignment.
  - An inmate placed on a waiting list pending availability of a full-time assignment.
  - An inmate unassigned by classification committee action awaiting an adverse transfer to another institution.

#### Half-Time Assignments (Group B)

- The work day shall be no less than three hours and the work week no less than 15 hours.
  - Full-time enrollment in college consisting of 12 units in credit courses leading to an associate or bachelor's degree shall be classified as a half-time assignment.
  - A work/training assignment of four hours per workday, excluding meals, five-days per-week.

#### Voluntarily Unassigned (Group C)

- An inmate who refuses to accept or perform in work/training assignment, or who is deemed a program failure as defined in CCR § 3000 and who is placed on non-credit earning status by a classification committee.
  - An inmate shall remain in this status until reclassified for placement in a credit qualifying work/training assignment (A-1 or B), or placed on an assignment waiting list (A-2).
  - An inmate must submit a written request for reclassification to be considered for assignment and removal from work group C no earlier than 30 days from the date of placement.
  - An inmate shall be scheduled for a hearing within 30 days of receipt of a written request.

#### Indeterminate Lockup Status (Group D-1)

- An inmate assigned to a segregated housing program.
  - ASU, SHU, or PSU.
  - Inmates placed in assignments by classification committee action while in this status shall be placed in the appropriate work/training group, consistent with their assignment.

#### Determinate Lockup Status (Group D-2)

- An inmate assigned to a determinate SHU term which included a forfeiture of credits shall not be placed in a credit earning assignment during the period of credit forfeiture, or 180 days, whichever is less, starting from the date of change in custodial classification. An inmate confined in a secure housing unit for a division A-1 offense, as designated in CCR § 3323(c), and which included great bodily injury on a non-prisoner shall not receive participation or work-time credits for up to 360 days. Upon completion of the period of credit forfeiture, the inmate shall be re-evaluated by a classification committee.
  - An inmate's status in work group D-2 may be extended in up to six-month increments by a classification committee in unusual cases where no credit qualifying program can be assigned the inmate without causing a substantial risk of physical harm to staff or others. At the end of the designated period (six months or less), the determination shall be reviewed by an institution classification committee.
  - An inmate in ASU, SHU or PSU, on indeterminate or determinate lockup status, who is deemed a program failure as defined in CCR § 3000, may be assigned work group D-2 by a classification committee.
  - An inmate assigned to work group C at the time of placement in ASU, SHU, or PSU, or who refuses to accept or perform work/training assignments, shall be assigned work group D-2.
  - An inmate assigned to work group D-2 must submit a written request for reclassification to be considered for removal from that work group. If work group D-2 has been assigned based solely upon the inmate already being assigned to workgroup C at the time of placement in ASU, SHU, or PSU, the request may be submitted no earlier than 30 days from the original work group C assignment date. If work group D-2 has been assigned following placement into ASU, SHU, or PSU, for refusing to accept or perform a work/training assignment, or for being deemed a program failure as defined in CCR § 3000, the request for removal must be submitted no earlier than 30 days from the date work group D-2 was assigned. Subsequent to the mandatory 30 days placement on work group D-2, if the inmate submits a written request for removal, and work group D-2 has not been assigned pursuant to CCR § 3044(b)(7)(A) or 3044(b)(7)(B), a classification hearing shall be scheduled within 30 days of receipt of the written request to consider removal from work group D-2.

#### Unclassified (Group U)

- An inmate undergoing reception center processing.
  - An inmate shall remain in this status from the date of reception until classified at their assigned institution unless he/she is assigned to a full-time BEP.

### 53130.5.2 Case Records Responsibilities

Case records staff shall be responsible to process and calculate time credits and release dates of inmates subject to the provisions of PC § 2933 through

information provided by the courts, classification committees and program staff. (Refer to DOM § 73030, Time Computations.)

#### **Time Credit Calculations**

All classification actions and inmate appeal actions affecting an inmate's release date, e.g., work group changes, credit forfeitures and/or restorations, etc., shall be forwarded to case records for calculation of a new release date. Time credit calculations shall be computed and processed per DOM § 73030. The inmate shall receive a copy of all release date changes and/or modifications.

#### **53130.6 Privileges**

*Revised December 14, 2012*

Privileges for each work/training incentive group shall be those privileges earned by the inmate. Inmate privileges are administratively authorized activities and benefits required of the Secretary of the CDCR, by statute, case law, governmental regulations, or executive orders. Inmate privileges shall be governed by an inmate's behavior, custody classification and assignment. A formal request or application for privileges is not required unless specified otherwise in this section. Institutions may provide additional incentives for each privilege group, subject to availability of resources and constraints imposed by security needs. Privileges shall be governed by the following conditions:

- To qualify for privileges generally granted by this Section, an inmate shall comply with rules and procedures and participate in assigned work/training activities.
- Privileges available to a work/training incentive group may be denied, modified, or temporarily suspended by a hearing official at a disciplinary hearing upon a finding of an inmate's guilt for a disciplinary offense as described in CCR §§ 3314 and 3315 or by classification committee action which changes the inmate's custody classification, work/training group, privilege group, or institution placement.
- Disciplinary action denying, modifying, or suspending a privilege for which an inmate would otherwise be eligible shall be for a specified period not to exceed 30 days for an administrative rule violation or 90 days for a serious rule violation.
- A permanent change of an inmate's privilege group shall only be made by a classification committee action under provisions of CCR § 3375. Disciplinary or classification committee action changing an inmate's privileges or privilege group shall not automatically affect the inmate's work/training group classification. Worktime credit earning shall be affected only by a work/training group change by a classification committee.
- No inmate or group of inmates shall be granted privileges not equally available to other inmates of the same custody classification and assignment who would otherwise be eligible for the same privileges.

#### **Privileges During Lockup**

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

- An inmate housed in ASU, SHU, or PSU shall be designated privilege group D. However, if assigned to a qualifying work/training program within the special housing unit, the inmate shall be assigned privileges of a higher group, if such privileges are available within the assigned housing unit.
- An inmate working in lockup units while serving a determinate SHU term shall be retained in privilege group D only, irrespective of their work/training assignment.

#### **Re-Entry**

An inmate in a re-entry furlough assignment shall be eligible for available privileges subject to working eight hours per day and shall not require a privilege group designation. A re-entry inmate placed in a county facility shall be entitled to the same privileges afforded to county prisoners and provided for under terms of the Department's contract with the county facility.

All privileges shall be conditioned upon the inmate's compliance with the procedures governing those privileges, continued eligibility in the privilege group, good conduct and acceptable participation in their work/training assignment. Inmates returned to custody from parole may be eligible to receive privileges based on their participation in a work/training assignment.

#### **53130.6.1 Privilege Group Criteria**

Five privilege groups have been established which provide a graduated system of incentives to promote a desire to achieve positive goals. Criteria for assignment to a specific privilege group shall be as follows:

- Group A.
  - Assignment to a full-time credit qualifying work/training program.

- Diagnosed by a physician and/or psychiatrist as totally disabled and incapable of performing a work/training assignment.
- Diagnosed by a physician and/or psychiatrist as partially disabled and assigned to a work/training program within the mental or physical capabilities of the partial disablement as determined by medical staff.

#### **Group B.**

- Assignment to a half-time work/training program.
- Involuntarily unassigned.
- Temporarily placed into the group by a hearing official as a disposition pursuant to CCR § 3314 or 3315.

#### **Group C.**

- Inmates who refuse to accept or perform in a work/training assignment or are deemed a program failure as defined in CCR § 3000.
- Temporarily placed into the group by a hearing official as a disposition pursuant to CCR § 3314 or 3315.
- A classification committee action pursuant to CCR § 3375 places the inmate into the group. An inmate placed into this group by a classification committee action may apply to be removed from privilege group C no earlier than 30 days from the date of placement. Subsequent to the mandatory 30 days placement on privilege group C, if the inmate submits a written request for removal, a classification hearing shall be scheduled within 30 days of receipt of the written request.

#### **Group D.**

- Inmates in special housing units, voluntarily or under the provisions of CCR §§ 3335-3345 who are not assigned to either a full-time or half-time work/training program.

#### **Group U.**

- Reception center inmates undergoing processing.

#### **53130.6.2 Group Privileges and Restrictions**

Privileges for Group A are as follows:

- Family visits limited only by the institution/facility resources, security policy, CCR § 3177, or other law.
- Visits during non-work/training hours, limited only by availability of space within facility visiting hours; or during work hours when extraordinary circumstances exist as defined in DOM § 53130.7.1.
- Maximum monthly canteen draw as authorized by the Secretary of the CDCR.
- Telephone access during the inmate's non-work/training hours, limited only by institution/facility telephone capabilities.
- Access to yard, recreation and entertainment activities during the inmate's non-working/training hours and limited only by security needs.
- Excused time off as described in DOM § 53130.7.
- The receipt of four personal property packages, 30 pounds maximum weight each, per year; exclusive of special canteen purchases.
- Special canteen purchases as provided for by DOM § 54070.

Privileges for Group B are as follows:

- One family visit each six months, unless limited by the provisions of CCR § 3177(b), or other law.
- Visits during non-work/training hours, limited only by availability of space within facility visiting hours; or during work hours when extraordinary circumstances exist, as defined in DOM § 53130.7.1.
- One-half of the maximum monthly canteen draw as authorized by the Secretary of the CDCR.
- One personal telephone access period per month.
- Access to yard, recreation, and entertainment activities during the inmate's non-working/training hours and limited only by institution/facility security needs.
- Excused time off as described in DOM § 53130.7.
- The receipt of four personal property packages, 30 pounds maximum weight each, per year, exclusive of special purchases.
- Special canteen purchases as provided for by DOM § 54070.

Privileges for Group C are as follows:

- No family visits.

- One-fourth the maximum monthly canteen draw as authorized by the Secretary of the CDCR.
- Telephone calls on an emergency basis only as determined by institution/facility staff.
- Yard access limited by local institution/facility security needs. No access to any other recreational or entertainment activities.
- No personal property packages.
- No special canteen purchases.

Privileges for Group D are as follows:

- No family visits.
- One-fourth the maximum monthly canteen draw as authorized by the Secretary of the CDCR.
- Telephone calls on an emergency basis only as determined by institution/facility staff.
- Yard access limited by local institution/facility security needs. No access to any other recreational or entertainment activities.
- The receipt of one personal property package, not to exceed 30 pounds maximum weight, per year, exclusive of special purchases as provided in CCR § 3190. Inmates shall be eligible to acquire a personal property package after completion of one year of Privilege Group D assignment.
- One special canteen purchase of one television or one radio or one radio/TV combination unit.

Privileges for Group U are as follows:

- No family visits.
- Canteen purchases. One-half of the maximum monthly canteen draw as authorized by the Secretary of the CDCR.
- Telephone calls on an emergency basis only as determined by institution/facility staff.
- Yard access, recreation, and entertainment limited by local institution/facility security needs.
- Excused time off as described in DOM § 53130.7.
- No special canteen purchases.
- No personal property packages.

#### **53130.6.2.1 Changing Privilege Groups**

*Revised December 14, 2012*

Permanent changes of inmate privilege groups shall be made by classification committee action.

#### **Reduction/Suspension of Privilege**

Privileges may be temporarily suspended or reduced by either classification committee action or as part of a disciplinary disposition as described in DOM § 53130.6.

#### **53130.7 Excused Time Off**

*Revised October 14, 2009*

Excused Time Off (ETO) shall be authorized by the work supervisor/employer. Inmates assigned to work/training groups A-1 and B may use ETO during approved absences from their assigned work/training assignment.

#### **53130.7.1 Use of ETO**

*Revised September 25, 2007*

ETO must be approved by the work/training supervisor and may be denied based on institutional operational needs or security. Departmentally approved activities for which ETO may be approved by work/training supervisors shall be limited to the following:

- Family visiting. An inmate scheduled for a family visit may be permitted to visit in the visiting room (regular visit) on the first day of a family visit while awaiting processing, and on the last day of the family visit.
- Regular visiting under extraordinary circumstances. Following are extraordinary circumstances for which use of ETO is authorized:
  - Out-of-State visitors. Upon substantiation that the visitor(s) resides out of State, a distance greater than 249 miles, and is in California for a temporary stay of 30 days or less, and the visitor(s) has not visited with the particular inmate for four months. No more than two such visits shall be permitted for each such occurrence.
  - Excessive distance. When a visitor must travel a distance of 250 miles or more, and has not visited the inmate within the last 30 days.

- Weddings. When an inmate marries, the inmate may, with five working days prior approval, use ETO for a visit on the wedding day.
- Handicapped. When a visitor is handicapped as defined by California law and must rely on special transportation to the institution. Approval is required five working days prior to the visit.
- Family emergencies. When death, serious illness, or injury occurs to an inmate's immediate family member as defined in section 3000 of the Title 15; clergymen, family members including registered domestic partners, or close friends may visit the inmate to offer condolences or inform the inmate of the occurrence.
- Infrequent visits. When a visitor unexpectedly arrives who has not visited in the last six months. Infrequent means not more than one visit each six months.
- Visiting during authorized absence. An inmate shall be permitted to visit using ETO during approved periods away from assignment involving circumstances beyond the inmate's control. (Refer to DOM § 53130.8.)
- Work assignment conflicts. When the inmate has not received a visit in the last 30 days and would otherwise be prohibited from visiting because of a conflict in work, training, or education assignment.
- Temporary community leave.
- Attendance at approved religious services or approved religious functions. For routine religious services, the use of ETO shall be limited to instances where it is not possible to change the conflicting work/education assignment.
- Non-routine recreation and entertainment activities.
- Emergency telephone access.
- Medical lay-in status.
- Short term medically unassigned status for 29 days or less.

#### **Usage Limits and Recording**

ETO shall be authorized by the work supervisor/employer in no less than 15 minute increments. An inmate shall not be required to use ETO for any service that the Department requires.

- Inmates shall not receive pay while on ETO.
- Use of ETO hours shall be recorded by work supervisors on the daily inmate timekeeping log.
- Use of ETO for any other reason than outlined above shall require approval by the Secretary of the CDCR.

#### **53130.8 "S" Time**

"S" time (security time off) shall be noted on timekeeping documents for an authorized absence from an inmate's work/training assignment that is required by the prison administration and/or beyond the inmate's control.

Inmates shall receive sentence-reducing credit commensurate with their designated work group. Inmates removed from their work/training assignment for an authorized reason shall retain their existing work/training group status unless otherwise impacted by a classification committee or disciplinary action.

#### **53130.8.1 Authorized Use of "S" Time**

*Revised September 25, 2007*

"S" time shall be authorized for the following reasons:

- Institutional lockdown.
- Emergency recall.
- Attorney visits.
- Fog or inclement weather conditions.
- Work/training supervisor's absence when no relief supervisor is provided.
- Removed to out-to-court status.
- Three working days prior to transfer to another institution.
- Ten working days prior to parole or discharge, including institution base camps.
- Conservation camp inmates shall receive 15 days "S" time prior to release.
- Thirty working days prior to parole or discharge on California inmates serving their terms in other jurisdictions.
- Appearances at classification hearings or casework interviews which cannot reasonably be conducted during the inmate's off duty hours.



- Staff interviews with an inmate regarding a death notice or emergency involving a member of the inmate's immediate family as defined in Section 3000 of the Title 15.
- Emergency or life threatening medical or dental treatment.
- Temporary interruption/delay in the inmate's work/training assignment through no fault of the inmate.
- Medical consultant appointments with other than state employees.
- M-2 job development and/or initial M-2 screening interview.
- Board of Parole Hearings (BPH) hearings.
- Interviews with representatives of other governmental agencies.
- Delay in reporting to work/training assignment because of delayed meal schedule, unlocks, and clearing of the institutional count.
- Interview for staff preparation of a PC § 1170(d) report to the court.
- Temporary leave processing for a family emergency.
- A serious disciplinary hearing if overtime would be required for a staff witness to attend the hearing.

All other institution services and/or circumstances requiring an inmate's presence or participation shall be scheduled or conducted on the inmate's off-duty hours.

The granting of "S" time for reasons other than listed in this Section shall require approval by the Secretary of the CDCR or their designee.

### 53130.8.2 Priority Ducat System

The counseling series and medical department shall be permitted to ducat inmates for casework services or medical treatment during their assigned work hours under the following conditions:

#### Casework Purposes

- The counseling series shall be authorized to use the regular institutional pass (ducat) system for routine casework contacts. When it is necessary to make casework contacts during an inmate's work hours, a "priority ducat request" shall be initiated including only those inmates who will be on scheduled work assignments. This shall be done separately from any normal ducat request and the priority request shall require either the approval of the chairperson of a properly constituted classification committee or the approval of the originator's immediate supervisor.
- Based on a properly approved "priority ducat request" a pass shall be issued which shall be clearly identified in one of two ways. The pass shall either be printed on different color paper clearly distinguishing it as a priority ducat or the word "priority" shall be clearly stamped or printed on the ducat in bold red letters. At the termination of the contact with the inmate, the arrival time and departure time shall be recorded on the back of the pass. This shall be returned by the inmate to their work supervisor for purposes of timekeeping and inmate accountability. Inmates off the job for properly approved casework contacts shall be given "S" time by their work supervisors upon receipt of a properly authorized priority ducat with the arrival and departure times recorded on the reverse side, signed or initialed by the recording employee.

#### Health Care Services

- All health care appointments, medical, dental and mental health shall be via the priority ducat process.
- At the termination of the medical contact, the inmate's arrival and departure time shall be recorded on the back of the pass. The pass shall be returned by the inmate to the work supervisor to facilitate accountability and timekeeping by the work supervisor. "S" time shall be recorded by the work supervisor for the time spent away from the work/training assignment under these circumstances.

### 53130.9 Assignments

Inmates shall be assigned to appropriate work/academic/vocational programs by classification committee action. Ethnic balances shall be considered when making assignments.

Pending assignment to a permanent work/training program, or when a regular program is temporarily suspended, inmates may be assigned, with or without their consent, to any work/training program decided upon by a classification committee or staff member responsible for the assignment of inmates.

Each prison shall establish Bridging Education Programs as work training incentive assignments to provide education programming. Inmates who are undergoing reception center processing, and are day-for-day credit eligible per PC § 2933, will be assigned to the BEP upon their arrival at the reception centers. Inmates who are day-for-day credit eligible and housed in general population institutions will be eligible to be assigned to the BEP. Participation

in the BEP will be evaluated on course curriculum, instructor evaluation, and completed assignments. Assignment to an approved BEP shall qualify as a full-time assignment in work group A-1.

Inmates with the following case factors shall not be placed in Bridging Education Programs:

- Inmates who do not meet the criteria to earn day-for-day credits per PC § 2933, or are sentenced to an indeterminate term, who are undergoing reception center processing.
- Inmates who do not meet the criteria to earn day-for-day credits per PC § 2933, or are sentenced to an indeterminate term, who are housed at a general population institution.
- Inmates who are housed in segregated housing (e.g., ASU, SHU, PSU, etc.).
- Inmates housed in facilities where the BEP is not available (e.g., CCF, DMH, etc.).

The reception center Inmate Assignment Officer shall have the authority to initiate a classification action to assign inmates to reception center Bridging Education Programs and affect a work/training group change.

General population inmates may be assigned to Bridging Education Programs following a classification committee review as detailed in CCR § 3376.

A classification committee action shall not be required to remove inmates from Bridging Education Programs if no other changes in work/training group, custody designation or work waiting list is required.

### 53130.9.1 Performance Standards

Inmates shall perform assigned tasks diligently and conscientiously, and shall not pretend illness, or otherwise evade attendance or avoid performance in their assigned work and program activities. Inmates must report to their place of assignment at the time designated by the institution's schedule of activities and as instructed by their assignment supervisor. Inmates may not leave an assignment without permission.

#### Job Description

A job description shall be developed for each distinct inmate work/training position. The job descriptions shall set forth the minimum acceptable standards of participation and performance and the possible consequences for failure or refusal to meet the standards. Inmates shall sign and be given a copy of their job descriptions.

#### Program Evaluation Reports

Quarterly performance evaluations shall be prepared by staff on all assigned inmates using the following forms:

- Work assignments. CDC Form 101, Work Assignment.
- Education/vocation program. CDC Form 128-D, E, F, or L Educational/Vocational Progress Evaluation as appropriate.
- Medical. CDC Form 128-C, Medical-Psych-Dental Chrono.

Upon termination of an inmate from an assignment for any reason, an appropriate program evaluation report, as described above, shall be submitted by the work/training/medical supervisor.

#### Request for Removal from Program

Staff requests for removal from a program shall be submitted to the inmate's counselor on a CDC Form 128-B for consideration by an appropriate classification committee.

### 53130.9.2 Special Assignments

Special assignments are defined as departmentally approved special programs, temporary or short-term assignments for departmental convenience, and certain medical/psychiatric categories which require specific applications or procedures regarding credit earning eligibility. The following assignments/categories shall be determined special assignments:

#### Inmate Councils

- The chairperson and vice chairperson of an institution/facility Inmate's Advisory Council shall be considered a credit qualifying full-time assignment (work/training group A-1).

#### Pre-release Program

- Inmates assigned to a full-time institution/facility pre-release program shall retain full credit earning status (work/training group A-1).

#### Bridging Education Program

- Assignment to an approved BEP as described in DOM § 53130.5.1 shall qualify as a full-time assignment in work group A-1.

### Transfer/Pre-parole/Discharge Status

Prior to a regular transfer, parole, or discharge, inmates shall be reassigned to checkout status and awarded credit in the following manner:

- Transfer. Three days "S" time prior to transfer.
- Discharge. Ten days "S" time prior to discharge.
- Parole. Ten days "S" time prior to parole.

### Conservation Camps

Inmates assigned to a camp, except conservation center base camps, shall receive 15 days "S" time prior to parole or discharge.

#### 53130.9.2.1 Medical/Psychiatric Special Assignments

Medical/psychiatric categories to be considered as special assignments are as follows:

- Light duty.
- Short-term medical/psychiatric or dental unassignments/lay-ins.
- Long-term medical/psychiatric unassigned cases.
- Temporary medical/psychiatric unassignment.
- Medically disabled.
- On-the-job injuries.
- Inpatient hospitalization cases.
- Medical/psychiatric treatment category cases; "H," "N," and "I."
- DMH placements per PC §§ 2684, 2690, and 1364.

#### 53130.9.2.2 Credit Earning/Work Group Criteria

The credit earning status and work group designations for the above listed special assignments shall be determined by the following:

##### Light Duty Assignments

Inmates determined to have long-term medical/psychiatric work limitations shall be processed in the following manner:

- The inmate shall receive a medical/psychiatric evaluation to determine the extent of the disability and to delineate the capacity to perform work and/or training programs for either a full or partial workday. If the inmate is deemed capable of working only a partial work program, full credit shall be awarded for participation in such a program.
- The medical/psychiatric evaluation shall be reviewed by a classification committee.
  - If the classification committee concurs with the light duty recommendation, the case shall be referred to the institution assignment officer. The assignment officer shall make an effort to provide an assignment which is within the institution's resources and the inmate's capabilities. Upon placement in the assignment, the inmate shall be reclassified into work/training group A-1. Such cases shall be scheduled for semi-annual review by medical staff and a unit classification committee.
  - If the classification committee disagrees with the medical program recommendation, the case shall be returned to the medical department with a CDC 128-G describing the difference of opinion or the rationale for the request for the second medical evaluation. Upon receipt of the second medical evaluation, the unit classification committee shall again review the case. If the committee disagrees with the second medical evaluation, it shall refer the matter to the institution classification committee for final determination of the inmate's work group/credit earning status.

##### Short-Term Medical/Psychiatric/Dental Unassignments or Lay-Ins

Inmates who are sick and require a medical/psychiatric lay-in or a medical unassignment for 29 days or less shall retain their existing work group and utilize ETO during the authorized absent period. Sick time must be approved/authorized by the appropriate institution medical authority.

The appropriate medical staff shall initiate a CDC 128-C specifying the reasons for the approval and the expected date that the inmate shall be able to return to work. The original shall be sent to the records office. The inmate shall be responsible for notifying their work supervisor. Sick time must be approved/authorized by the appropriate institution medical authority. The work supervisor shall record each day of the inmate's absence with the symbol "E" (excused).

##### Long-Term Medical Psychiatric Unassigned Cases

In cases where the medical condition necessitates that the inmate become medically unassigned for 30 days or more, the doctor shall initiate a CDC 128-C which shall indicate a date that the inmate shall be able to return to work. The original CDC 128-C shall be sent to the records office with copies to the assignment lieutenant and the classification committee

coordinator in the inmate's housing/program unit. The assignment lieutenant shall change the inmate's status to medically unassigned pending reclassification. The classification committee shall confirm the inmate's medical/psychiatric unassigned category and change the inmate's work/training group status as follows:

- Inmates in the general population shall be changed to work/training group A-2, involuntary unassigned, to be effective the thirtieth day of unassignment.
- Inmates in lockup units who are in work/training group A-1 or B shall be changed to work/training group D-1, to be effective the first day of placement into Administrative Segregation.
- Inmates in lockup units who are in work/training group D-1 or D-2 shall be retained in their respective D-1 or D-2 work/training group.

##### Medical/Psychiatric Disability Status Determination

When an inmate has a disability that limits his/her ability to participate in a work, academic, vocational or other such program, medical/psychiatric staff shall document the nature, severity, and expected duration of the inmate's limitations on a CDC Form 128-C. Medical/psychiatric staff shall not make program assignment recommendations/decisions on the form. The form shall be forwarded to the inmate's assigned correctional counselor who will schedule the inmate for a classification committee review. The classification committee shall:

- Have sole responsibility for making program assignment and work group status decisions.
- Determine the inmate's program and work group status based on the information on the CDC Form 128-C and feedback from staff from the affected work area, academic/vocational program, and the Inmate Assignment Lieutenant or Work Incentive Coordinator.

Only when an inmate's documented limitations are such that the inmate, even with reasonable accommodation, is unable to perform the essential functions of any work, academic, vocational or other such program, will the inmate be placed in one of the two following categories by the classification committee:

- **Temporary medical/psychiatric unassignment.** When an inmate's medically determinable physical/mental impairment is expected to last for less than six months. Inmates in temporary medical/psychiatric unassignment shall:
  - Be scheduled for classification review any time there is a change in his/her physical/mental impairment or no less than every six months for reevaluation.
  - Be assigned work group A-2 credit earning status if unassignment is for less than six months.
  - Be assigned work group A-1 credit earning status and appropriate privilege group retroactive to the first day of the temporary medical/psychiatric unassignment if the inmate's condition lasts six months and the classification committee still cannot assign the inmate due to his/her impairment.
- **Medically disabled.** When an inmate's medically determinable physical /mental impairment is expected to result in death or last six months or more. The inmate's credit earning status shall be in accordance with work group A-1 and privilege group A.

##### On-The-Job Injuries

On-the-job injuries shall be documented on CDCR Form 7219 by the CMO. With the exception of inmates assigned to work group F, inmates shall be retained in their existing work group until medically approved to return to work. Work group F inmates shall revert to work group A-1 effective on the date the CMO determines the on-the-job injury excludes the inmate from conservation camp placement providing that the CMO's exclusion determination is within 29 days following the date of the inmate's removal from conservation camp assignment. If the CMO's exclusion determination is not within the 29 days, the inmate shall revert to work group A-1 effective the thirtieth day following the date of the inmate's removal from conservation camp assignment.

##### Medical/Psychiatric Inpatient Hospitalization

Inmates determined to be in need of short-term (29 calendar days or less) inpatient care shall be retained in their existing credit earning category. In the event that a longer period of inpatient care is required, the attending physician/psychiatrist shall prepare a CDC Form 128-C for referral to a unit classification committee. The classification committee shall confirm the inmate's inpatient unassigned category and change the inmate's work/training group status as follows:

- Inmates in the general population shall be changed to work/training group A-2, involuntary unassigned, to be effective the thirtieth day of unassignment.
- Inmates in lockup units who are in work/training group A-1 or B shall be changed to work/training group D-1, to be effective the first day of placement into Administrative Segregation.
- Inmates in lockup units who are in work/training group D-1 or D-2 shall be retained in their respective D-1 or D-2 work/training group.

#### Medical/Psychiatric Treatment Categories

Inmates who are assigned into the below list of medical/psychiatric treatment categories or transferred to a state hospital, unless otherwise specified, shall be deemed incapable of performing a work/training assignment. Inmates so designated shall be classified as work/training group A-1.

##### Category H

For inmates who require medical services and/or surgical care in an acute general hospital. This category is provided at CMF, CIM, COR, and CMC-East. Inmates with medical needs that cannot be met in CDCR hospitals may be transferred to a community hospital with the Warden's approval.

##### Category N

For inmates with chronic medical illnesses requiring skilled nursing or intermediate level medical care. This program has licensed nursing staff on duty at all times and is provided at CMF, CMC-East, and CCWF. Female inmates requiring this level of service shall be transferred to a community hospital unless special arrangements can be made at the CIW's infirmary. This category is not for inmates in infirmaries for undergoing short-term treatment of minor illnesses.

##### Category I

For inmates with major mental illness of psychotic magnitude requiring inpatient psychiatric hospitalization such as those with an acute, recurrent, or chronic illness which requires intensive treatment. This category includes inmates who are determined to be:

- Acutely psychotic, severely depressed or suicidal.
- Mentally ill inmates who are management problems, providing the psychosis warrants treatment in a hospital setting.

Category I is provided at CMF and the Salinas Valley Psychiatric Program (SVPP) at SVSP and this designation shall be made by CMF or SVSP staff. Other institutions with inmates who appear to meet category I criteria shall transfer such cases to CMF or the SVPP for inpatient psychiatric observation pending category classification.

Females requiring treatment in this category shall be referred to a state hospital.

##### DMH

The DMH also provides inpatient services for inmates who may be transferred from any CDCR adult institution pursuant to PC §§ 2684 and 2690.

Inmates transferred to DMH and retained under the jurisdiction of the Department per PC §§ 2684 and 2690 shall be deemed incapable of performing a work/training assignment. Inmates so designated shall be classified as work/training group A-1.

##### Experimental Treatment

Inmates transferred to DMH to participate in a voluntary experimental treatment program per PC § 1364 shall be required to participate in a full-time credit qualifying work/training assignment in order to earn full work-time credit.

For details concerning specifics of DMH psychiatric placements, refer to DOM § 53130.12.

#### 53130.9.2.3 Reception Center/Layover (Credit Earning Status)

Inmates undergoing processing in reception centers, not on layover (en route) status, who are eligible to earn day-for-day credit per PC § 2933, are eligible to be assigned to a full-time BEP.

Inmates undergoing processing who are ineligible to earn day-for-day credits per PC § 2933, or inmates on layover (en route) status in other institutions shall only be assigned into half-time assignments. Any exceptions to this policy require special approval from the Director, Division of Adult Institutions.

Process or layover status inmates placed on a half-time assignment shall have their time recorded on the reception center timekeeping log CDC Form 1690. This form shall be filled out by the work supervisor on a daily basis. The completed form shall be maintained in a secure area for four years at the initiating institution. A copy shall not be placed in the C-File. A copy may be issued to the inmate upon written request.

This temporary assignment status shall not require any change in the inmate's work/training group status.

#### 53130.10 Timekeeping/Reporting

Work/training supervisors shall be responsible to record and report all work/training time and absences of inmates assigned under their supervision as outlined in this section.

##### Inmate Work Supervisor's Time Log

The Inmate Work Supervisor's Time Log, CDCR Form 1697, shall be used to record work attendance for inmates housed within the institution, work furlough and return-to-custody facilities, the exception being those mandated by Education, CalPIA and the camp program. This timekeeping log shall be the source document for the resolution of complaints or appeals.

This document is to be secured in a locked metal container and upon completion shall be retained at the location designated by local administration for a period of four years. Any staff member responsible for recording the work or training time and absences of each inmate shall also be responsible for the security of the documents.

The top portion of the Work Supervisor's Time Log must list the following information and be printed legibly in ink, preferably black.

- CDC number.
- Inmate's name.
- Ethnicity.
- Month.
- Year.
- Job title.
- Position number.
- Pay rate (hourly).
- Regular days off.
- Hours of assignment.
- Work/training supervisor's name.
- Work/training supervisor's title.
- First line supervisor's name.
- First line supervisor's title.

Work/training supervisors are responsible for recording and reporting all work/training time and absences of inmates assigned to their supervision. When an inmate is reassigned, paroled or transferred during the month, a diagonal line shall be drawn through the appropriate dates of unassignment and a notation made indicating the reason. (e.g., transferred, paroled, out-to-court, AD-SEG.)

##### Mismanagement/Falsification of Timekeeping Logs

Mismanagement and/or falsification of inmate timekeeping logs by staff is a violation of GC §§ 6200 and 6201 which may result in adverse personnel action and/or prosecution.

##### Security of Timekeeping Logs

Timekeeping logs are considered legal documents from which sentence reduction credits for inmates are computed. Timekeeping logs shall be securely stored. Inmates shall not have unauthorized access to any timekeeping log. Any staff member who reviews, processes, audits, or handles timekeeping logs shall be responsible for their security.

#### 53130.10.1 Completion/Processing of Timekeeping Logs

Work/training supervisors shall complete and process timekeeping logs on inmates under their supervision using the following symbols and procedures:

- "X" – with the number of hours an inmate is on their assignment; i.e., X-6, X-7 1/2, or X-16.
- "A" – with the number of hours of unauthorized absence.
- "E" – with the number of hours of ETO authorized by the work/training supervisor shall be recorded in 15-minute increments.
- "R" – when the inmate is on regular days off.
- "RX" – with the number of hours worked during the inmate's regular day off.
- "H" – when the inmate is authorized time off for a state holiday.
- "HX" – with the number of hours worked during a state holiday.
- "S" – with the number of hours an inmate is unable to report to work through no fault of the inmate as defined in DOM § 53130.8.

##### Forwarding Timekeeping Logs

Upon completion of the work month, reassignment, or notification of pending transfer, the work/training supervisor shall immediately forward the

completed timekeeping log to his or her immediate supervisor who shall audit and sign the timekeeping log. Timekeeping logs that have not been completed as outlined in this article and/or are missing information, shall be returned to the work/training supervisor for correction.

#### **Prerelease Checkout Status**

Case records staff audit an inmate's release date at least 9 months, 45 days, and 10 days prior to the scheduled release. If the projected release date is changed, the inmate and the inmate's counselor shall be notified. The records office staff shall notify the assignment lieutenant of the names of inmates who are scheduled for release. The assignment lieutenant shall publish the inmate's name and number on the daily movement sheet (DMS) indicating prerelease checkout status 10 working days prior to release.

Work/training supervisors shall review the DMS for inmates who have been assigned to their supervision. They shall complete the timekeeping log for parole/discharge inmates by awarding "S" time for the 10 working days prior to scheduled release. Conservation camp inmates shall receive 15 days "S" time prior to release. All timekeeping documents shall be submitted to the appropriate records office the following working day after notification of prerelease status.

#### **Transfer Notification**

A list of transfers scheduled for the following week shall be issued by the records office staff. Managers and supervisors shall ensure that the timekeeping documents for those inmates being transferred are submitted 3 working days prior to the inmate's departure. If notification of transfer is received in less than 3 days, the timekeeping log shall be submitted immediately. Inmates being transferred shall be awarded "S" time for the 3 working days prior to departure.

#### **53130.10.2 AD-SEG Placement/Timekeeping Process**

The term "AD-SEG" shall be used on the DMS to identify inmates placed on lockup status.

Work/training supervisors shall review the DMS daily to determine if any of their assigned inmates have been placed on lockup status. If so, the following processes shall occur:

- The work supervisor shall draw a diagonal line through the appropriate date on the inmate timekeeping log writing "AD-SEG" on the line. The timekeeping log shall be signed by the work/training supervisor and by his or her immediate supervisor. In the event that the inmate is released from lockup and returned to the assignment, the work/training supervisor shall begin a new timekeeping log.
- A classification committee shall evaluate the reasons for placement in AD-SEG to ensure that an appropriate work group is awarded. If the placement was due to a disciplinary action which resulted in a finding of not guilty or pending an investigation which resulted in the inmate's release, the classification committee shall prepare a CDC 128-G stating the facts of the case and shall return the inmate to the same work group he or she was in prior to AD-SEG placement. The work group effective date shall coincide with the original date established prior to AD-SEG placement.
- If the placement in lockup was due to a disciplinary action which resulted in a finding of guilty or due to an investigation which resulted in classification committee action which changed the inmate's custody classification, work/training assignment, or facility placement, the classification committee shall classify the inmate's work-time, credit-earning status to D-2 from the date of lockup to date of classification action.

#### **53130.11 Transfers**

The work/training group and credit-earning status of inmates being transferred shall be governed and processed by the following criteria:

##### **Nonadverse Transfer**

Inmates shall not be placed in a lower work/training group as a result of a non-adverse transfer, including intra-facility. A non-adverse transfer is defined as movement of an inmate to a less restrictive institution or program where the security level is the same or lower, movement to a secure perimeter from a non-secure camp or Level I (Minimum Support Facility) by order of the prison administration for non-adverse reasons or transfers from reception centers; e.g., from Level III to Level II due to a lowering of an inmate's classification score; to the same level of facility due to overcrowding, special skills, or special program assignments.

With the exception of inmates assigned to work group F, an inmate transferred for non-adverse reasons shall retain their work/training and privilege group status. Work group F inmates shall revert to work group A-1 effective the date removed from camp assignment.

Inmates in vocational/training programs at the sending facilities shall be assigned same or similar programs, if eligible, at the receiving facilities unless such programs are full or unavailable. If the receiving facility's program is full or unavailable, the inmates shall be placed on any existing waiting list. If eligible, inmates on waiting lists at the sending facilities shall be merged into the receiving facility's waiting lists based on credit earning status, release date, and the length of time they have already spent on the sending facilities waiting list. Inmates who are PC § 2933 day-for-day credit eligible, shall be given priority for assignment.

Inmates shall be merged into the receiving institution's waiting list in the following manner:

- First, those inmates who are day-for-day credit eligible, approved for the program and are not assigned work group A-2. Inmates eligible to earn credits per PC § 2933 shall be given priority for placement on waiting lists, with the inmate with the earliest release date given first priority.
- Second, those inmates who are day-for-day credit eligible and already designated work group A-1. Inmates eligible to earn credits per PC § 2933 shall be given next priority for placement on waiting lists and the inmate with the earliest release date shall be given first priority.
- Third, those inmates who are not PC § 2933 day-for-day credit eligible and are already designated work group A-1. Inmates will be placed on waiting lists based upon the work group effective date.
- Fourth, those inmates who are not PC § 2933 day-for-day credit eligible and are not assigned work group A-2. Inmates will be placed on waiting lists based upon the work group effective date.

#### **Adverse Transfers**

Inmates in a work/training group A-1 or F who are transferred as a result of an adverse classification action, shall be reclassified to involuntarily unassigned status and placed in work/training group A-2 by the sending institution to be effective the date of transfer. The inmate shall remain in group A-2 until reclassified. An inmate in group A-2, C, or D at the time of transfer shall be retained in that group pending receiving institution classification.

#### **Special Housing Unit Transfers**

Inmates found guilty of a credit loss offense that may result in a determinate term of SHU confinement shall be evaluated for SHU placement by an institutional classification committee (ICC). If the committee concludes that SHU placement is required, it shall establish a MERD. The committee shall reclassify the inmate to credit earning group D-2 (zero credit) effective the date of placement in lockup status and shall retain the inmate in AD-SEG until transfer to an appropriate institution.

#### **DMH Transfers**

Inmates transferred to the DMH, and retained under jurisdiction of the Department, shall be classified prior to actual transfer by the sending institution. The transfer chrono, CDC Form 128-G, shall reflect the reasons for the transfer and any change in the inmate's credit earning group. (Refer to DOM § 53010.9.2.2 for details on credit earning for DMH transfers.)

- The hub institution shall maintain the inmate's records and apply appropriate time credits.

#### **Re-Entry Transfers**

Inmates who are accepted for a work furlough/re-entry program will be transferred as a non-adverse transfer and they shall retain their current work/training group status while en route.

#### **53130.12 Denial/Forfeiture/Restoration of Credits**

The terms denial/forfeiture and restoration of credits shall be defined as follows:

##### **Denial**

- Refers to an inmate's inability to earn credits as a result of the inmate's own actions as follows:
  - Failure or refusal to perform assigned, ordered, or directed work or program activities.
  - Unauthorized absences from assignment.
  - While serving a SHU term wherein a disciplinary credit loss is imposed, but not to exceed the number of days of credit forfeited.

Credits shall be denied inmates who are serving SHU terms resulting from disciplinary action and concurrent credit loss. No credit shall be earned for the same period of the credit loss. This non-earning period shall commence effective the date of lockup. The period may be extended by a classification committee in six-month increments when it is determined that a substantial risk exists to the safety of persons or the security of the institution. For those

inmates remaining under PC § 2931, the non-earning period applies to participation credit.

#### **Forfeiture**

- Refers to a removal of credits through disciplinary action that an inmate has earned or is projected to earn in the future.

#### **Restoration**

- Refers to a return or reinstatement of forfeited credit through classification committee action or through the inmate appeal system.

#### **53130.12.1 Credit Forfeiture Procedure**

Forfeiture of credit shall be governed by the provisions contained in CCR § 3323, Disciplinary Credit Loss Schedule, and PC §§ 2932 and 2933.

Appropriate credits shall be forfeited as part of the disposition following a finding of guilty for a serious rule violation.

#### **Classification Committee Review**

Disciplinary cases resulting in a loss of credit shall be reviewed by a classification committee which shall determine the appropriateness of the credit forfeiture and any program/housing changes required as a result of the rule infraction circumstances. The results of the committee action shall be forwarded to the records office for recalculation of the inmate's release date.

#### **53130.12.2 Restoration of Credit Procedure**

Credits forfeited for disciplinary offenses on or after 1-1-83 shall be considered for restoration, subject to limitations outlined in PC §§ 2931 through 2933.

#### **Non-Restorable Credits**

Credit shall not be restored for any disciplinary offense in which a victim died or was permanently disabled.

- One hundred and eighty days of credit forfeited for the commission of any felony listed in CCR § 3323 as a division A-1 offense shall not be restored.
- Ninety days of credit forfeited for either conspiracy or attempt to commit a division A-1 offense shall not be restored.

Inmates may apply for credit restoration through their counselor, or re-entry specialist, using CDC Form 958, Credit Restoration Application.

#### **Eligibility/Hearing Determinations**

The CDC Form 958 shall be reviewed by the counselor/re-entry specialist to determine eligibility for a scheduled hearing as follows:

- When criteria for restoration is met, a classification hearing shall be scheduled and held within 30 days of receipt of the application.
- When criteria for restoration is not met, a written explanation shall be provided by the counselor/re-entry specialist on the CDC Form 958 and the form returned to the inmate.
- Hearing decisions resulting in credit restoration shall be forwarded to the records office by a copy of the CDC Form 128-G, for recalculation of the inmate's release date.
- Credit shall not be restored in an amount which will make the inmate overdue for release. The counselor/re-entry specialist shall carefully review the work records and disciplinary history of inmates with close release dates who are seeking restoration. The counselor shall recommend to the committee the number of days credit that can reasonably be restored at the hearing without making the inmate overdue for release. In any event, the inmate shall be advised at the hearing that the records office will determine the actual release date which shall include a minimum of 10 staff working days for release processing.
- Credit shall not be restored if it is determined at the hearing that the inmate has refused or failed to participate in a work/training assignment during the required disciplinary free period.

#### **53130.12.3 Disciplinary Free Periods**

All credit, (100 percent), forfeited through the disciplinary process is restorable, except those credits deemed non-restorable by statute.

Inmates are eligible to apply for restoration of restorable credits in the percentage amounts shown, following completion of disciplinary free periods as outlined in the following formula:

- Division A or A-1 offenses.
  - Twenty-five percent following disciplinary free period of one year.
  - If less than one year remains before the inmate's anticipated release date, an application may be made within 90 days of the anticipated

release date when the inmate has remained disciplinary free for a minimum of four months.

- Division B or C offenses.
  - Fifty percent following disciplinary free period of six months.
  - If less than six months remain before the inmate's anticipated release date, an application may be made within 90 days of the anticipated release date when the inmate has remained disciplinary free for a minimum of three months.
- Division D or E offenses.
  - One hundred percent following disciplinary free period of six months.
  - If less than six months remain before the inmate's anticipated release date, an application may be made within 90 days of the anticipated release date when the inmate has remained disciplinary free for a minimum of two months.
- Division F offenses.
  - One hundred percent following disciplinary free period of three months.
  - If less than three months remain before the inmate's anticipated release date, an application may be made within 60 days of the anticipated release date if the inmate has remained disciplinary free for a minimum of one month.

#### **Disciplinary Defined**

Disciplinary free, as defined in this section means no guilty finding for a CDC Form 115, Rule Violation Report, classified as either administrative or serious during the required disciplinary free period.

#### **Additional Applications**

If less than one hundred percent of the restorable, forfeited credits are restored by the committee, the inmate may make additional applications for restoration upon the completion of additional disciplinary free periods.

#### **53130.12.4 Factors in Aggravation**

A finding of substantial factors in aggravation by a classification committee during a restoration hearing shall be cause to postpone credit restoration consideration for one additional disciplinary free period.

Factors in aggravation may regard the specifics involved in the commission of the violation or the prior behavioral pattern of the perpetrator as follows:

#### **Factors Relating to the Act**

- The act involved great violence, great bodily harm, a threat to do great bodily harm or other acts showing a high degree of cruelty, viciousness or callousness.
- The perpetrator was armed with or used a weapon at the time of the act.
- The victim was particularly vulnerable.
- The act involved multiple victims.
- The perpetrator induced others to participate in the act or occupied a position of leadership/dominance over the other participants.
- The perpetrator threatened witnesses, prevented or dissuaded witnesses from testifying, induced others to perjure themselves, or in any way interfered with the investigation of the act.
- The perpetrator committed other acts which could have resulted in the loss of additional credits.
- The plan, sophistication or professionalism with which the act was carried out, or other facts, indicated premeditation.
- The perpetrator used or involved non-prisoners in the act.
- The act involved an actual, or attempted, taking of a hostage.
- The act resulted in the damage to property of great monetary value.
- The act involved a large quantity of contraband.
- The perpetrator took advantage of a position of trust or confidence.

#### **Factors Relating to the Perpetrator**

- Inmate has a pattern of violent conduct.
- Inmate's prior record indicates numerous acts or increasing seriousness of behavior.

#### **53130.13 Credits for Interstate Transfer Inmates**

The Western Interstate Corrections Compact and the Interstate Corrections Compact Agreements enable the Department to transfer and exchange prisoners with other states.

Inmates who agree to their placement in another state or federal institution or who are serving a concurrent term in another jurisdiction, shall be eligible to earn work credits as authorized under provisions of PC § 2933.

The inmate's work/program participation must be verified on a regular basis by a delegated official of the Host State or federal institution and reported to the Interstate Compact Unit.

- Reports must be submitted every six months.
- Work/participation hours must be comparable to California institution hours.

#### **53130.14 Revisions**

The Director, Division of Adult Institutions, or designee shall ensure that the contents of this Section are accurate and current.

#### **53130.15 References**

PC §§ 2080, 2600, 2601, 2700, 2701, 2930 - 2934, 3057, 5005, 5045, 5050, 5055, and 5058.

GC § 12838 et seq.

W&I § 3051.

CCR (15) §§: 3040 - 3045.1, 3310 - 3329, 3375 - 3379.

ACA Standards 2-4115 - 2-4126, 2-4323 - 2-4495.

### **ARTICLE 40 — JOINT VENTURE**

*Revised September 12, 2008*

#### **53140.1 Policy**

The Secretary of the Department of Corrections and Rehabilitation (CDCR) shall establish Joint Venture Program (JVP) operations within State prison facilities to allow businesses as a Joint Venture Employer (JVE) to employ inmates confined in the State prison system for the purpose of producing goods or services. Such programs shall be patterned after operations outside of prison so as to provide inmates with the skills and work habits necessary to become productive members of society upon their release from State prison.

The JVE and any and all agents and employees of the JVE are an independent business entity and are not officers or employees of the State. "Joint Venture Program" is merely the colloquial name of the program, and does not create or connote a "joint venture" partnership or any other business relationship between a JVE and the State as defined under California law or any other law.

Nothing in these provisions is intended to establish an employer/employee relationship between any inmate participating in the JVP and the State of California, the CDCR, or any individual agency or office of the State of California.

#### **53140.2 The Prison Inmate Labor Initiative of 1990**

The Prison Inmate Labor Initiative of 1990, also known as Proposition 139, mandates that inmates who are confined in State prison or county jails should work as hard as the taxpayers who provide for their upkeep, and that those inmates may be required to perform work and services in order to do all of the following:

- Reimburse the State of California or counties for a portion of the costs associated with their incarceration.
- Provide restitution and compensation to the victims of crime.
- Encourage and maintain safety in prison and jail operations.
- Support their families to the extent possible.
- Learn skills which may be used upon their return to free society.
- Assist in their own rehabilitation in order to become responsible law abiding citizens upon their release from a State prison or a local jail.

Priority consideration shall be given to establishing Joint Venture projects that will retain or reclaim jobs in California, support emerging California industries, or create jobs for a deficient labor market.

#### **53140.3 Purpose**

This procedure establishes guidelines for the uniform interpretation, application, and administration of the JVP.

#### **53140.4 Definitions**

The purpose of this Section is to provide clarification and definition of requirements and terms regarding Joint Venture projects.

##### **Joint Venture Program (JVP)**

For the purpose of this Section, JVP means the program responsible for implementing the Prison Inmate Labor Initiative of 1990 (Proposition 139).

##### **Joint Venture Program Unit (JVPU)**

The staff responsible for the administration of the JVP.

#### **Joint Venture Employer (JVE)**

Any public entity, nonprofit or for profit entity, organization, or business which contracts with the CDCR for the purpose of employing inmate labor under the provisions of Proposition 139.

#### **Inmate-Employee**

Any inmate who is employed by a JVE.

#### **Prison Industry Enhancement Certification Program (PIECP)**

Under the Office of Justice Programs, the Bureau of Justice Assistance (BJA), PIECP administers and monitors the Federal guidelines for all JVPs nationwide.

#### **53140.5 Responsibility**

##### **Headquarters**

The Administrator of the JVP Unit (JVPU) is responsible for implementing the Prison Inmate Labor Initiative of 1990 (Proposition 139), and the Prison Industry Enhancement Certification Program (PIECP) Federal guidelines, April 1999 or most recent revision. This shall be accomplished by negotiating contracts and leases with fiscally sound and ethically managed businesses which will create JVP businesses to employ inmates under the provisions of Proposition 139. The JVPU will assist institutions in implementing JVPs, assist and monitor JVEs, and maintain and coordinate all inmate payroll functions.

##### **Warden**

Each Warden is responsible for the implementation of appropriate Joint Venture projects at his or her institution. This shall include participation in the processes of the contract/lease development, problem identification/resolution, and ongoing operational management. In addition, the Warden is responsible for appropriate administrative and security support to facilitate the success of the project.

The Warden shall determine all necessary security procedures for the JVP business. Discipline of inmate-employees is the responsibility of the CDCR and the Warden.

##### **Joint Venture Coordinator**

Each Warden will appoint a Joint Venture Coordinator who is responsible for the direct implementation/coordination of that institution's JVP. This position is responsible for providing a stable, readily available, and properly screened inmate workforce as well as appropriate administrative, security, and training support to facilitate the success of the project. Each Coordinator is responsible for providing JVPU with inmate hiring documentation, including any information on changes, terminations, or paroling inmates (see CDCR Form 1873, Inmate-Employee Payroll Distribution – Joint Venture Program (JVP)). In addition, each Coordinator is responsible for the completion of the CDCR Form 1872, Inmate Participation Agreement-Joint Venture Program (JVP), for each inmate employee.

##### **Joint Venture Employer (JVE)**

As defined in California Penal Code (PC) Section 2717.1(b), the JVE shall be the sole employer of all inmate-employees in the program. The JVE shall be solely responsible for determining the applicability of, and ensuring compliance with, all State and Federal laws concerning employment of inmates and free staff including, but not limited to, applicable wage and hour laws and record keeping requirements. Nothing in this Section should be construed to modify the responsibility of the State and defined in the California Code of Regulations (CCR), Title 15, Division 3, Section 3484.

The final decision in the hiring of inmates shall be made by the JVE.

The JVE shall be solely responsible for paying comparable wages in accordance with applicable Federal and State laws including, but not limited to, Employment Development Department (EDD) guidelines.

##### **California Prison Industry Authority (CALPIA)**

The CDCR may contract with CALPIA to operate and manage the JVP pursuant to PC Section 2717.1 et seq. The CALPIA shall cooperate with the Warden of each facility to ensure that there is no conflict between the CALPIA operation and the proposed Joint Venture project.

##### **Division of Adult Parole Operations**

The Parole Agent in the field is responsible for coordinating the introduction of the paroled JVP inmate to the Employment Development Department (EDD) representative located in their unit.

##### **Community Correctional Center/Facility**

Any Community Correctional Center/Facility may participate in the JVP as long as it is certified by the CDCR. Inmate-employees must have been convicted in a California jurisdiction.

##### **Employment Development Department**

The JVP will obtain from EDD, wage data, applicable Standard Occupational Classification Code (SOC), and survey data from Occupational Employment Surveys (OES) for each inmate-employee's job description.

#### **53140.6 Federal Certification**

The Bureau of Justice Assistance (BJA) administers the PIECP. Federal guidelines (Federal Register: April 7, 1999, Volume 64, Number 66) outline Federal participation and certification requirements. The CDCR is required to ensure that businesses that enter into an agreement with the CDCR be designated by BJA as having met all program guideline requirements. This designation allows businesses to engage in interstate commerce pursuant to Title 18 U.S. Code Section 1761(c) for the sale of prisoner-made goods.

This designation shall remain in effect until cancelled, through written notice, by the CDCR. The BJA may cancel State certification if it finds that California's JVP businesses are not being conducted in conformity with the requirements of the Federal guidelines.

#### **53140.6.1 Sale of Inmate Goods or Services to the Public**

PC Section 2717.7 allows for services performed and articles manufactured by JVP inmate-employees to be sold to the public. PC Section 2812, which prohibits the sale of inmate-provided services or inmate-manufactured goods to the public, is not applicable to the JVP. Also, under Title 18, U. S. Code Section 1761(c), the PIECP exempts participating agencies from Federal restraints placed on the marketability of prison-made goods by permitting the transport of such goods in interstate commerce.

#### **53140.7 Joint Venture Policy Advisory Board**

The Joint Venture Policy Advisory Board (Board) was created as a result of the Prison Inmate Labor Initiative of 1990. The Board shall serve to advise the Secretary of CDCR on policies that further the purpose of the JVP. The Board shall meet at the call of the Chairperson.

##### **Membership**

As mandated by statute, the Board shall consist of the following individuals:

- The Secretary of CDCR (Chairperson).
- The Director of EDD.
- Five members to be appointed by the Governor.
  - One member shall represent organized labor.
  - One member shall represent industry.
  - Three members shall represent the public.

Five members shall constitute a quorum, and a vote of the majority of the members in office shall be necessary for the transactions of the business of the Board.

All members shall serve for four years.

##### **Purposes and Duties**

The duties of the Board are to advise/assist the Secretary on policies that further the purposes of the Prison Inmate Labor Initiative of 1990 and provide advice on strategies for accomplishing the following activities:

- Advise/assist in the development of approaches to prospective JVEs in the businesses that may be interested in establishing Joint Venture projects.
- Advise/assist CDCR in assessing the economic impact of prospective Joint Venture projects in the business community.
- Advise/assist in the development of strategies to promote the Joint Venture concept within the business community.
- Provide advocacy for program expansion and resources.
- Provide input and react to proposed policy and program changes.
- Provide ongoing assessment of program effectiveness.

#### **53140.8 Criteria for Inmate Placement in the JVP**

Inmate participation in the JVP is voluntary as evidenced by their written consent (see CDCR Form 1872, Inmate Participation Agreement-Joint Venture Program (JVP)). Each institution, in cooperation with the JVE, shall establish participation eligibility criteria. These criteria shall address custody level, excluded commitment offenses, previous work history, disciplinary record, length of time to serve, required skills and abilities, and education level. The decision to hire an eligible inmate shall be made by the JVE. The JVE shall determine the number of inmates required to maintain production, and shall determine when increases/decreases in the inmate workforce are required.

Inmates with an "Immigration Hold/Detainer" shall not be permitted to participate in the JVP as stipulated under Federal Immigration guidelines.

Inmate employment is "at will" and as such, is at the complete discretion of the CDCR and the JVE, and may be lawfully terminated with or without cause, but not for unlawful reasons.

As a condition of employment, all inmate-employees agree to participate in random urine testing.

#### **53140.8.1 Social Security Number**

JVP inmate-employees shall have a verified social security number. The JVP Coordinator shall be responsible for verifying social security numbers in the inmate-employee's Central File or by any other available methods prior to referring an inmate to the JVE for an interview.

An inmate cannot be employed by the JVE unless his/her social security number is verified. It is the inmate's responsibility to contact the U.S. Social Security Administration Office to resolve any issues if verification of the social security number cannot be established.

#### **53140.8.2 Required Inmate Employment Documents**

Once selected for employment by the JVE, the JVP inmate-employee shall sign the CDCR Form 1872, Inmate Participation Agreement-Joint Venture Program (JVP). The inmate shall receive a copy of the CDCR Form 1872. The JVP Coordinator is responsible for completing the CDCR Form 1873, Inmate-Employee Payroll Distribution – Joint Venture Program (JVP). The Coordinator shall send this form as well as the Inmate Participation Agreement to the JVPU. A bank signature card signed by the inmate-employee is also required.

#### **53140.8.3 Strikes by JVP Inmate-Employees**

JVP inmate-employees are not permitted to strike or be utilized as strike breakers.

#### **53140.9 Procedures for Terminating an Inmate who is Participating in the JVP**

Pursuant to Department Operations Manual (DOM) Section 53140.8, inmate employment is "at will" and as such, is at the complete discretion of the CDCR and the JVE, and may be lawfully terminated with or without cause, but not for unlawful reasons.

If the inmate refuses to work, quits, or is removed from the JVP, he/she shall be immediately returned to their housing unit, temporarily unassigned, and referred to a classification committee for placement either on a facility waiting list, or if they refuse to work, in a non-credit earning group pursuant to CCR, Title 15, Section 3375. The JVPU must be notified as soon as possible of this termination.

The JVE shall operate in a similar fashion as conducted outside of the prison. Should the JVE wish to terminate an inmate for work related reasons, the following procedures shall be followed:

- The JVE shall inform the inmate-employee and Joint Venture Coordinator at the facility.
- The inmate-employee shall be immediately removed from the JVP worksite and returned to his/her housing unit. The JVE shall complete a CDC Form 128-B, Chrono General.
- The JVP Coordinator shall inform the JVPU of the termination by completing the CDCR Form 1873, Inmate-Employee Payroll Distribution – Joint Venture Program (JVP). If the inmate-employee has been accused of violating any section of the CCR related to the termination of his or her employment, then a CDC Form 115, Rules Violation Report, shall be completed by the JVE.

#### **53140.10 Comparable Wages for Inmate-Employees**

The JVE shall pay inmates participating in a Joint Venture project, a wage that is comparable to wages paid by the JVE to non-inmate employees performing the same or similar work for that employer. If the JVE does not employ non-inmate employees for the same or similar work, compensation shall be comparable to wages paid for such work of the same or similar nature in the locality in which the work is to be performed.

#### **53140.11 Job Descriptions**

A job description shall be developed by the JVE for each inmate position, establishing the standards of acceptable participation and performance. The job description must be in sufficient detail to include all tasks performed, the skills required for the job, and all machinery to be used in the job. The inmate-employee shall sign a copy of the job description, acknowledging the conditions of employment, and shall receive a copy. The JVE shall submit to the JVPU for its review and approval, detailed job descriptions for any new job position created annually, upon activation of a new JVP business, or when there is a twenty-five percent or more change in job duties. The JVE shall certify the accuracy of all job descriptions under oath.

If the JVE has non-inmate employees performing the same or similar work, a detailed job description, wage rate, and a wage plan for its non-inmate work force shall be submitted to the JVPU.

#### **53140.12 Wage Plans**

Each JVE shall submit a wage plan annually to the JVPU for its review and approval that reflects the JVP business's compliance with comparable wage standards. Wage plans may take into consideration a worker's experience, seniority, performance, the technical nature of the work being performed, and other relevant factors.

The entry level wage shall be increased by a minimum of two and one-half percent for each 2,080 work hours. Deviation from this wage increase is authorized only where the JVE provides a reasonable performance-based rationale for denial of the increase. The JVE shall notify the JVPU and the affected inmate-employee of such performance deficiencies. Performance deficiencies shall be documented in the inmate-employee's file and provided to the inmate-employee no later than the date by which the required minimum raise is denied. The JVP Administrator shall have the final authority to determine the reasonableness of the JVE's performance-based rationale.

An inmate-employee shall receive a written performance evaluation after every 1,040 hours worked regarding the worker's performance and whether the JVE intends at that time to deny any required wage increase.

#### **53140.13 Wage Plan Compliance**

Pursuant to CCR, Title 15, Section 3486, if a JVE is not in compliance with the Wage Plan, the JVE shall be given thirty days to come into compliance. At the close of thirty days, if the JVE remains non-compliant, the administrator of JVP shall provide the JVE with a thirty day cancellation notice indicating a material breach of the Standard Agreement. If this breach concerns inmate wages, the JVE will forfeit amounts held as a security deposit. If at the close of the thirty day period specified in the cancellation notice, the JVE has not come into full compliance, the JVE shall be immediately terminated from the JVP.

#### **53140.14 Employment Development Department**

Annually, upon the creation of any new job position, upon the alteration of any existing position, or upon the establishment of any new JVP business, the JVPU is responsible for submitting job descriptions for each inmate-employee position to EDD. The EDD shall, upon completion of their review, provide wage survey data for each inmate-employee job description, and will make the wage information available to the CDCR on an annual basis. In addition, the JVPU will request wage data from EDD on any new JVEs throughout the year or as needed. EDD will also provide information on whether the employment of inmates would result in the displacement of currently employed and unemployed non-inmate workers performing the same work in the locality.

If the JVE does not employ non-inmate workers in the same or similar job positions as those worked by its inmate-employees, the EDD will determine the SOC applicable to each position.

Using the SOC, the EDD will randomly select twenty OES by industry from the locality of the JVE's prison work site. If twenty OES surveys are unavailable from that locality, the EDD will obtain OES surveys from the most appropriate proxy locality. In the event twenty OES surveys are unavailable statewide, the total available statewide shall be used to identify entry level wages.

If, in the opinion of the Administrator of the JVPU, the entry level wage should be reviewed, the Administrator may request that the EDD pull an additional twenty OES surveys. This will be the final review. In the event of different survey results, the Administrator will designate the entry level wage supported by one of the two wage surveys.

#### **53140.14.1 Entry Level Wage**

A minimum entry level wage for a JVE that does not employ non-inmate workers in the same or similar job position as those worked by its inmate-employees will be established as described in DOM Section 53140.14. The minimum entry level wage will be the lowest wage in the reporting wage range interval reported to the EDD for which a minimum of twenty percent of the survey data reflects a wage included in or lower than that wage interval. In no event can the minimum entry level wage be lower than the minimum wage under Federal or State laws or local ordinances.

#### **53140.15 Compensation of Inmate-Employees**

Earned wages paid by the JVE will be distributed to inmates by the CDCR once per month regardless of the frequency the employer issues payroll. Wage payments shall be made no less than twice a month by the JVE, and delivered according to instructions provided by the JVPU.

The JVE shall provide to the JVPU all applicable inmate-employee payroll data.

#### **53140.15.1 Inmate Payroll Distribution**

JVEs are responsible for withholding all Federal, State, and local payroll taxes from the wages of inmate-employees. Net wages, after taxes, shall be distributed as follows:

- Twenty percent for costs of room and board shall be remitted to the CDCR.
- Twenty percent for any lawful restitution fine or contributions to any fund established by law to compensate the victims of crime.
- Twenty percent for support of family pursuant to State statute, court order, or agreement of the inmate. If the inmate-employee chooses not to send money to a family member, and there is no court-ordered withholding, these funds will be deposited in mandatory savings for the inmate-employee.
- Twenty percent to the inmate-employee's trust account.
- Twenty percent to mandatory inmate savings account to be released by the CDCR to the inmate-employee upon parole.

#### **53140.15.2 Inmate Restitution Fines**

JVP deposits are exempt from fines and direct orders of restitution deductions enumerated in CCR, Title 15, Section 3097(j), except for any lawful restitution fine as described in DOM Section 53140.15.1.

#### **53140.15.3 Inmate Savings Accounts**

Inmate-employee savings accounts are restricted and under the control of the JVPU. Each inmate-employee's savings, plus the interest accrued on that savings, shall be provided to the inmate upon his/her release. Inmate-employee savings accounts are intended solely for the deposit of wages earned from employment with the JVE.

Wardens may authorize an early withdrawal of up to fifty percent of the balance of an inmate-employee's savings in cases where the inmate-employee is sentenced to 15 years or more and he/she has accrued \$6,500 or more from Joint Venture wages in their account (See Title 15, Section 3485(i)(3)). Examples of reasons for early withdrawal would include personal or family obligations of an urgent nature. JVP Coordinators should contact the JVPU for instructions on the procedure for this early withdrawal.

Inmate-employees who terminate from JVP with a savings account balance of \$500 or less may voluntarily elect to close their account and have the balance forwarded to their institutional trust account in order to avoid account fees. JVP Coordinators should contact the JVPU for instructions on the procedures for this provision.

#### **53140.15.4 Selection of Victim Restitution Organizations**

Each Warden/Community Correctional Facility Director shall select a suitable victim restitution organization with the following criteria:

- Any selected program shall be a fund established by law for the purpose of providing crime victim compensation. Examples of a fund established by law include District Attorney's Victim/Witness Programs or a crime victim program that has obtained a local governmental agency's resolution authorizing the program to receive funds, i.e. Board of Supervisors or City Council.
- Programs/organizations shall provide direct victim services (e.g., rape crisis, domestic violence, victim/witness, child abuse).
- Programs have been established in either the public or private sector.

These funds are to be used for direct services to crime victims (e.g., emergency funds for immediate victim needs, counseling, relocation costs, temporary needs such as immediate or crime-related day care fees). These funds are not to pay for overhead/operating costs of an agency or program.

Wardens shall contact the JVPU for assistance in determining eligibility of any crime victim fund.

The JVPU will provide for the transfer of funds to the designated crime victim compensation program on an annual basis.

#### **53140.16 JVPU Responsibilities**

- The JVPU shall monitor compliance with PC Section 2717.1 et seq., and Prison Industry Enhancement Certification Program Federal guidelines.
- The JVPU shall provide statewide coordination and support to effect program compliance and uniformity.
- The JVPU shall provide statewide oversight in the development, maintenance, amendment, and termination of JVP Standard Agreements (contracts) and leases.
- The JVPU shall provide information and assistance to institution staff and JVP businesses.
- The JVPU shall train institution staff on JVP duties and responsibilities.



- The JVP shall contract with a private financial services firm to perform the distribution of JVP inmate payroll, and the collection of appropriate payroll data.
- The JVP shall open and maintain bank accounts for the savings portion of JVP inmate-employee compensation. Inmate-employees shall have no access to these accounts until they are released. Upon release, JVPU will make available to the inmate-employee the savings account funds.
- The JVP shall conduct a minimum of four unannounced on-site visits for all new JVEs and annually for all existing JVEs to determine the accuracy of the job descriptions and wage plan. The JVPU will provide a written report including the observations and findings of each visit, and maintain these records for five years.
- The JVPU will maintain a database which includes each inmate-employee's date of hire, hourly wage, hours worked, and the SOC Code for each inmate position.
- The JVPU shall conduct desk audits every ninety days from a random selection of ten percent of the inmate-employee workforce, reviewing salary levels to verify the wage rates established by the wage plan are being paid.

#### **53140.17 JVE Responsibilities**

- The JVE shall be responsible for completing inmate-employee work incentive time-keeping documentation, the CDCR Form 1697, Inmate Work Supervisor's Time Log, according to CDCR requirements.
- The JVE shall complete quarterly inmate-employee performance evaluations in the CDC Form 101, Work Supervisor's Report.
- The JVE must represent and warrant that the JVE business will not result in the displacement of any non-inmate workers performing the same work. The JVE agrees not to displace its non-inmate employees with inmate-employees.
- The JVE must comply with all applicable record-keeping requirements set forth in the California Labor Code and applicable Industrial Welfare Commission (IWC) Wage Orders.
- The JVE is solely responsible for compliance with all applicable Federal, State, and local laws and regulations. Nothing in this Section should be construed to modify the responsibility of the State as defined in the CCR, Title 15, Section 3484.
- The JVE shall adhere to all applicable Federal, State, and local health and safety laws and regulations.
- The JVE shall pay inmate-employees a wage that is comparable to wages paid to non-inmate employees performing the same or similar work in the locality in which the work is to be performed.
- The JVE will submit to the JVPU, detailed job descriptions for each inmate position.
- The JVE shall submit a wage plan annually to the JVPU.

#### **53140.17.1 Notices**

The JVE shall post at the JVP worksite, and provide to each inmate-employee, a notice of applicable employment laws and relevant Labor Code provisions.

The JVE shall post at the worksite, the CDCR Inmate Appeals and Non-Retaliation Notice provided by the JVPU.

#### **53140.18 Inmate Hours and Work Schedule**

As a part of the contract negotiations, the Warden and the JVE will establish the normal hours and days of the week that inmate-employees will work.

#### **53140.19 Inmate Appeal**

The CDCR's approved Inmate Appeal Procedures, CCR, Title 15, Section 3084.1 apply to the JVP. Under these provisions, an inmate-employee may appeal the substance or application of any written or unwritten policy, decision, or condition of CDCR or of the JVE to which the inmate-employee is employed, or appeal any behavior or action directed toward the inmate-employee by the staff of either the State, the JVE, or another inmate-employee. Inmate-employees may file complaints regarding alleged violations of their employment related rights under PC Section 2717.8, relevant Labor Code provisions, and applicable Industrial Welfare Commission Wage Orders.

To address JVE related matters, inmates shall not be subject to retaliation by the CDCR for their use of the inmate appeal process pursuant to CCR, Title 15, Subsection 3084.1(d). Inmates shall not be subject to retaliation for exercising rights guaranteed under the State Labor Code or elsewhere in law to address JVE related matters.

Pursuant to CCR, Title 15, Subsection 3084.7(m) any current or former JVP inmate-employee who believes he/she has a grievance regarding a wage and

hour or retaliation claim against a JVE, shall complete the CDC Form 602, Inmate/Parolee Request For Appeal, within 15 working days after the occurrence of the alleged violation. The informal and first level response will be deemed waived. The institution's Appeals Coordinator shall log the appeal and immediately forward the appeal to the JVP Administrator. The Administrator, JVP, has thirty (30) working days in which to respond to the appeal.

The JVP Administrator shall attempt to resolve the grievance. If the inmate-employee is dissatisfied with the JVP Administrator's resolution, including rejection for timelines, the inmate-employee may file a complaint with the Labor Commissioner. The inmate-employee will be advised of his/her rights and responsibilities for filing a complaint with the Labor Commissioner, the Division of Labor Standards Enforcement (DLSE). Rejection by the JVP Administrator does not limit or change the right of the inmate-employee to file a complaint with the DLSE. Any complaint filed with the Labor Commissioner will be governed by the DLSE's time frames for filing grievances including, but not limited to, Labor Code Section 98.7 and Code of Civil Procedure, Sections 337, 338, and 339, and is deemed filed when the CDC Form 602, Inmate/Parolee Request For Appeal is filed.

No inmate-employee may be discriminated against or discharged for filing an appeal or a complaint regarding wage and hour or retaliation violations on the part of a JVP employer. If the Labor Commissioner determines that no violation has occurred and that the complaint was frivolous, unreasonable, groundless, or was brought in bad faith, the Commissioner may direct the complainant to pay reasonable attorney's fees to cover the costs of any hearing(s) associated with the complaint.

#### **53140.20 Custody Costs**

During normal working hours, custody costs are the responsibility of the institution. Under normal situations, if custody is available or budgeted for the area where the JVE is located, no costs will be billed to the JVE. If the JVE requires custody staff during time periods not normally covered by institutional custody staff, the JVE will be charged for this custody cost at the discretion of the Warden.

#### **53140.21 Workers' Compensation Insurance**

The CDCR will provide workers' compensation coverage for inmates employed in the JVP. In return, the JVE will pay the CDCR a fee equal to 75 percent of the published rate for the classification of similar private employers as outlined in the California Workers' Compensation Insurance Manual.

All inmate-employees' claims will be processed by the institution. The JVE is responsible for completing all required CDCR forms relating to any work related accident.

#### **53140.22 Parole Procedures**

The JVP Coordinator shall inform the JVPU thirty to sixty calendar days prior to the parole of an inmate-employee. This information should include the parole date, identification of the parole unit and parole agent if known. The JVPU shall close the savings account, inform the financial service, and arrange for remaining savings and final payroll to be forwarded to the paroled inmate-employee.

#### **53140.23 Lease Agreements**

The Director of the Department of General Services (DGS) with the consent of the CDCR may let, in the best interest of the State, any real property located within the grounds of a facility of the Department to a public or private entity for a period not to exceed five (5) years for the purpose of conducting a JVP. The lease may provide for renewing the lease for additional successive terms not to exceed a total of twenty (20) years. Any lease for State property entered into pursuant to this section may be at less than market value when the Director of DGS determines it shall serve a statewide public purpose (Government Code Section 14672.16(b)).

#### **53140.24 Standard Agreement (Contract)**

A Standard Agreement (Contract) shall be entered into between CDCR and any public entity, non-profit or for profit entity, organization, or business for the purpose of employing inmate labor pursuant to the Prison Inmate Labor Initiative of 1990. These contracts are non-competitively bid, and are awarded for five-year terms up to a total of twenty (20) years.

#### **53140.24.1 Security Deposit**

The JVE shall provide CDCR with a Security Bond or equivalent security. This requirement shall be included in the Contract. The amount of the bond shall be not less than two months wages for the inmate-employee workforce contemplated by the JVE after six months of operations, and shall be determined on a case-by-case basis based on, but not limited to, the size of the inmate-employee workforce and the size of space leased by the JVE. The bond or its equivalent shall be retained by the CDCR and may be used by the CDCR

in the event a JVE fails to submit payroll or defaults on any of its obligations to the State. The CDCR shall apply the bond first to pay past due wages to inmate-employees and thereafter to unpaid obligations to the State, including, but not limited to, rent, utilities, workers' compensation, and custody costs.

#### **53140.24.2 Contract Termination**

Termination of a Joint Venture contract shall be completed in compliance with State contract regulations. See DOM Section 22040.21 for further details.

#### **53140.25 In-Service Training**

The Warden, or designee shall determine the type and amount of orientation training to be provided to the JVE non-inmate staff prior to occupying the facility, and any relevant annual updates particularly on the topic of Inmate-Staff Relations. All effort will be made to include only topics appropriate to the JVE non-inmate employees.

#### **53140.26 Institutional Communications**

The JVEs shall be included in the distribution of all relevant information that is circulated to institutional Departments.

#### **53140.27 Institutional Lockdowns**

When an institution lockdown occurs that effects the JVEs operation, inmate-employees will be designated as critical workers, and returned to work as soon as possible without effecting the safety and security of the institution.

#### **53140.28 Personal Protective Equipment**

The JVE's non-inmate personnel shall be required to be in possession of a whistle whenever they are on facility property. Personal alarm devices shall be provided to JVEs if they would be provided to CDCR employees working in similar conditions.

#### **53140.29 Incident Investigation**

Institution staff shall investigate any unusual occurrences or incidents that occur in the JVP worksite. The investigation shall be conducted in compliance with all departmental rules, regulations, and expectations.

#### **53140.30 Revisions**

It is the responsibility of the JVPU Administrator, or designee to ensure that the contents of this Article are kept current and accurate.

#### **53140.31 References**

PC §§ 2717.1 - 2717.8 and 2812.

CCR (15)(3) §§ 3084.1, 3084.7(m), 3097(a), (b), and (j), 3375, and 3480 – 3486.

GC § 14672.16(a).

LC §§ 98.7, 1132.6, 1132.8, 2926 and 2927.

R&TC §§ 7, 8, 17039, 17053.6, and 23036.

The Prison Inmate Labor Initiative, 1990, Proposition 139.

Federal Guidelines (Federal Register: April 7, 1999, Vol. 64, Number 66).

18 USC 1761(c).

41 USC 35(d).

DOM § 22040.21.

### **ARTICLE 41 — INMATE MAIL**

*Revised June 5, 2017*

#### **54010.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) encourages correspondence between inmates and persons outside correctional institutions/facilities. The sending and receiving of mail by inmates shall be uninhibited except as provided for in this Article. Mail shall be delivered to inmates, regardless of housing, unless it is: contraband per the California Code of Regulations (CCR), Title 15, Article 1, Section 3006; or is Disturbing or Offensive Correspondence, per CCR, Article 4, Section 3135, or excessive property per the Department Operations Manual (DOM), Chapter 5, Article 43, Inmate Property.

#### **54010.2 Purpose**

The purpose of this Article is to provide guidelines for orderly processing of inmate mail and to give direction to staff, inmates, and their correspondents concerning institution/facility mail requirements.

#### **54010.3 Compliance**

Correspondents are personally responsible for the contents of their mail. All persons corresponding with inmates must comply with existing laws, regulations, and local rules. Violations of law or the CCR, Title 15, Division 3, may be referred to the appropriate federal, State, or local authorities for proper disposition. Such violations may also result in the temporary suspension or the denial of correspondence between the involved

parties. Each newly arrived inmate shall be promptly informed of all Department regulations and procedures governing inmate mail. Upon receipt at each subsequent institution, inmates shall be promptly informed of all institutional policies and procedures governing mail.

#### **54010.4 Definitions of Classes of Mail**

##### **First Class Mail**

The United States Postal Services (USPS) regulations define First Class Mail as all matter wholly or partly in writing or typewriting, all actual and personal correspondence, all bills and statements of account, and all matter sealed or otherwise closed against inspection. The maximum weight for a First Class letter is 13 ounces.

All First Class Mail shall be delivered to the inmates as soon as possible, but not later than seven (7) calendar days from receipt of the mail from the Post Office.

##### **Standard Mail**

USPS regulations define Standard Mail as mail used for advertising mail, catalogues, and newsletters of a non-personal nature that are not required to be mailed as First Class Mail. The maximum weight for Standard Mail is 16 ounces. Standard mail used to be referred to as "Bulk Mail."

##### **Periodicals**

USPS regulations define Periodicals as a class of mail consisting of magazines, newspapers, or other publications formed of printed sheets that are published at least four times a year at regular, specified intervals (frequency) from a "known office of publication." Periodicals usually must have a list of subscribers and/or requesters, as appropriate.

##### **Package Services**

USPS regulations define Package Services as Parcel Post, bound Printed Matter, Media Mail, and Library Mail.

With the exception of Parole Clothes and third party special purchase health care appliances, inmates shall not be allowed to receive Package Services directly from personal correspondents. Packages containing parole clothes or third party special purchase medical assistive devices must be clearly marked with either "parole clothes" or "health care appliance" on the outside of the package. Personal correspondents do not include the Courts, Law Firms, County, State and Federal Agencies, Publishers, Bookstores, Book Distributors, etc.

All incoming packages, regardless of their contents or whom they are addressed to, shall be put through an x-ray machine to prevent the introduction of contraband into the institution.

All packages received in the mailroom that are addressed to an inmate shall be processed through Receiving and Release where they will be searched, inventoried, and issued to the inmate.

All appropriately addressed mail shall either be delivered to the inmate, or forwarded per the CCR Subsection 3133(f) and DOM Section 54010.25.

#### **54010.5 Paper, Envelopes, and Stamps for Indigent Inmates**

Indigent inmate means an inmate who has \$1.00 or less in their Inmate Trust Account for 30 consecutive days.

Upon an indigent inmate's request, writing paper, envelopes, a writing implement, and the postage required for five 1 ounce First Class letters per week shall be supplied. Indigent inmates shall only be given the supplies for five letters per week in accordance with DOM, Chapter 5, Article 43, Inmate Property.

Except as provided in CCR, Subsection 3138(h) and DOM Section 54010.5.2 for mail to the courts or to the Attorney General, indigent inmates may request to mail correspondence that weighs more than one ounce. Indigent inmates must relinquish the appropriate number of indigent envelopes to either their assigned Correctional Counselor or housing unit staff with the item to be mailed. If the item to be mailed weighs more than five ounces, the indigent inmate must relinquish all five indigent envelopes. Staff must forward the indigent envelopes with the item to be mailed to the mailroom with the notation that it is to be mailed for the indigent inmate. In order to facilitate this mailing, if requested, staff shall provide the indigent inmate with one appropriately sized envelope.

Foreign mail requiring postage in excess of the minimum required for First Class Mail shall be limited to two of the five letters.

Indigent envelopes issued to an inmate become their property. The inmate shall be allowed to utilize the envelopes regardless of current financial status. A charge shall not be placed against future deposits to the inmate's trust account to recover the cost of materials and postage provided while the inmate was indigent as defined above.

Indigent inmates desiring to correspond with their attorney or any other confidential correspondents per CCR, Section 3141, shall be required to utilize their weekly allotment of indigent supplies to send such correspondence.

#### **54010.5.1 Processing Request for Indigent Inmate Envelopes**

All inmate requests for indigent envelopes shall be authorized by the Institutional Inmate Trust Account Office.

Any inmate attempting to use a State issued envelope intended for an indigent inmate or found altering envelopes that were not issued to them, shall receive progressive discipline.

#### **54010.5.2 Postage for Indigent Inmates for Correspondence to the Courts and Other Persons as Required**

In addition to indigent writing supplies and postage for the five 1 ounce letters per week, indigent inmates shall have free and unlimited mail to any court or Attorney General's Office.

Upon request, institutions shall also provide indigent inmates free copying and postage of legal documents required by the court, plus one copy for the opposing party and one copy for the inmate's records.

If the case is accepted by the court, the need for future copies of legal documents and necessary postage will be evaluated on a case-by-case basis.

A charge shall not be placed against future deposits to the inmate's trust account to recover the cost of materials, copying, and postage provided, while the inmate was indigent as defined in DOM Section 54010.5.

#### **54010.5.3 Indigent Inmate Writing Supplies**

Each institution shall establish local procedures for the issuance of writing supplies to indigent inmates.

Indigent inmates shall be given no more than five indigent envelopes per week, and shall be given enough paper to allow them to send out five 1 ounce First Class letters per week. Inmates are not allowed to trade, transfer, or swap indigent inmate supplies with another inmate.

#### **54010.6 Recipient's Address**

All outgoing mail shall be properly addressed. It must contain the sender's name, Department identification number, and the return address designated by the institution for inmate mail (to include housing). It shall also contain the recipient's Name, Address, City, State, and appropriate zip code.

All incoming mail shall be properly addressed. Appropriately addressed mail shall include the inmate's name and Department identification number. The mail should also include the address designated by the institution for inmate mail. The receiving institution is required to update any mail piece that does not reflect accurate housing or institutional location.

Appropriately addressed, Standard Mail must be addressed to an individual inmate, showing their name, CDCR number, and the address for the applicable institution.

All appropriately addressed mail shall either be delivered to the inmate, or forwarded per CCR Subsection 3133(f) and DOM Section 54010.25.

#### **54010.7 Identifying Mail Originating from California State Prison**

All outgoing mail including, but not limited to, letters, packages, and parcels shall be clearly identified as originating from a California State Prison or Community Correctional Facility. Outgoing mail shall be stamped or labeled, utilizing black ink only, with block letters not exceeding one-quarter inch in height, and the stamp or label not exceeding two and one-half inches in width by one and one-half inches in height. The stamp or label shall read "California Department of Corrections and Rehabilitation."

#### **54010.8 Inspection and Reading of Incoming and Outgoing Mail**

All non-confidential inmate mail, incoming or outgoing, is subject to being read in its entirety by designated staff.

All non-confidential inmate mail that is "returned to sender" shall be opened and inspected before being returned to the inmate.

The only weight limits that can be imposed for incoming mail are outlined in DOM Section 54010.4.

All incoming mail shall be inspected for contraband prior to issuance. Mail shall only be disallowed if it violates CCR Sections 3006, 3135, any other applicable regulations, or DOM Sections 54010.13 and 54010.14.

Institutions shall not require incoming books, magazines, or newspapers to have an institution pre-approved "vendor approved" label affixed to the packaging. Per CCR Subsection 3133(b)(4), a departmentally approved vendor is any publisher, book store, or book distributor that does mail order business.

Books, periodicals, or other publications that are mailed from a religious organization bookstore shall be considered as coming from an authorized vendor.

#### **54010.8.1 Items Enclosed in Incoming First Class Mail**

In addition to the written word, such as letters, internet downloads, newspaper clippings, religious pamphlets or leaflets, or photocopies of written words, etc., First Class Mail can have the following items enclosed:

- Photographs.
- Calendars.
- Blank greeting cards (No 3-dimensional attachments or stamps).
- Postage embossed envelopes, maximum of forty.
- Blank envelopes.
- Writing paper/tablets (white or yellow lined only – no cotton paper).
- Typing paper (no cotton paper).
- Legal paper; to include colored paper required by court (no cotton Paper).
- Children's drawings.
- Forty postage stamps (unless there is a rate change; then the intent is forty stamps at the old rate and forty stamps at the amount needed to equal the new rate). Personalized postage stamps will not be accepted.

The weight limits for First Class Mail are outlined in DOM Section 54010.4. The size and quantity of items listed above is limited per DOM, Chapter 5, Article 43, Inmate Property.

Inmates may receive photographs in First Class mail in accordance with the exception of the following:

- All photographs must comply with the CCR Section 3006, and DOM Section 54010.14.
- Amount and size shall not exceed allowances specified in DOM, Chapter 5, Article 43, Inmate Property.
- Photo albums (available through the canteen and the Vendor Package Program).
- Photographs with attached backing are not permitted.
- Photographs framed in such a manner that they cannot be adequately searched are not permitted.
- Poloroid photographs are not allowed.
- Negatives are not allowed.
- Slides are not allowed.

Any unacceptable mail shall be immediately returned to sender with the envelope annotated "Unauthorized Mail, Return to Sender." Inmates shall be notified pursuant to CCR Section 3136.

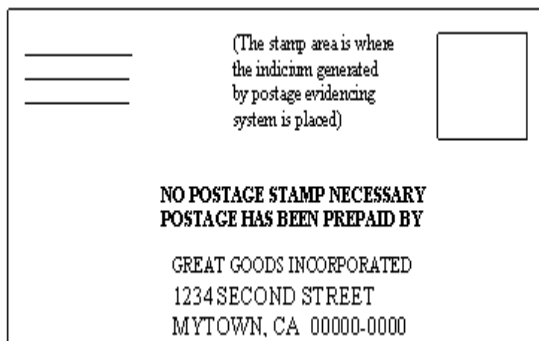
#### **54010.8.2 Metered Envelopes in Correspondence**

Per the USPS Domestic Mail Manual, Section 604, metered reply envelopes sent in with correspondence must adhere to the following conditions:

- The postage amount must be enough to prepay the postage in full.
- Indicia may be printed directly on the mail piece or on a label and must be positioned in accordance with 604.4.8.3 (Position of Indicum on Mail Piece). An applied label must meet the standards in 604.4.8.11 (Adhesive Tape of Label).
- Indicia used to prepay reply postage, except for Information Based Indicia (IBI) generated by a Personal Computer Postage system, must not show the date.
- IBI generated by a Personal Computer Postage System to prepay reply postage must show the date the licensee printed the indicium and must include the words "REPLY POSTAGE."
- The mail piece must be pre-addressed for return to the licensee. Prepaid reply mail is delivered only to the address of the licensee. When the address is altered, the mail is held for postage.
- Except for those Personal Computer Postage systems with the capability to print an address for the given class or size of mail piece, the address side of reply may be prepared by any photographic, mechanical, or electronic process or combination of such processes (other than handwriting, typewriting, or hand stamping). For those Personal Computer Postage systems with the capability to print destination addresses for the given size and class of mail piece, the address must be prepared using the Personal Computer Postage system.
- The words "NO POSTAGE STAMP NECESSARY POSTAGE HAS BEEN PREPAID BY" must be printed above the address.
- For bar-coded letter-size First Class Mail reply mail for all postage evidencing systems except Personal Computer Postage, a Facing Identification Mark (FIM) A may be used. For Personal

ComputerPostage, FIM D is required for prepaid reply when the indicium is printed directly on the mail piece.

- The address side must follow the style and content as described in this Section and shown in the illustration below. Nothing may be added except a return address, FIM, or bar-code.



This is the only type of Metered envelope that will be allowed to come in to any inmate with correspondence.

#### **54010.9 Inspection of Incoming and Outgoing Packages**

All incoming packages addressed to an inmate shall be opened and inspected in the presence of the inmate. The contents of the package are inspected to record authorized personal property and to prevent the introduction of contraband.

Delivery by staff of packages and special purchases shall be completed as soon as possible, but not later than 15 calendar days, except during the holiday season and during lockdowns of affected inmates.

Packages shall be inspected pursuant to institutional policy. Packages shall be processed and issued from a designated distribution area. All outgoing packages shall be inspected for contraband prior to being sealed and mailed.

- When there is reasonable cause to believe the mail presents a threat to the security of the facility or the safety of persons, mailing or delivery may be delayed to allow for staff translation of the correspondence, if needed. When such delay exceeds 48 hours from the date received at the facility or from the date submitted for mailing by the inmate, the inmate shall be promptly notified in writing of the delay, the reason for the delay, and all subsequent determinations and actions regarding that item of mail.

#### **54010.10 Internet Downloaded Material, Electronic Mail Correspondence, and Newspaper Clippings**

Inmates may receive First-Class Mail containing newspaper clippings, Internet downloaded articles, photocopies of clippings/articles, or electronic mail (e-mail). Prior to issuance, they shall be reviewed to ensure that they comply with CCR Sections 3006, 3135, and DOM Sections 54010.14 and 54010.15.

#### **54010.11 Certified Mail**

Certified mail that is received at the institution can be signed for by institutional staff since the USPS designates them as the agent of record. However, the person to whom the Certified mail is addressed must sign for delivery before receiving the mail piece.

#### **54010.12 Confidential Correspondence**

Confidential correspondence is a right guaranteed by law. Using confidential correspondence for personal non-business correspondence, the transmission of contraband items, or the smuggling of letters and other communications to be forwarded to persons not listed in DOM Subsection 54010.11 is an abuse of this right and such proven abuse shall be subject to legal, administrative, and disciplinary action.

Confidential Correspondents will not be limited to First Class mail standards. Mail received from confidential correspondents will be processed regardless of weight or postage class.

##### **54010.12.1 Persons with Whom Inmates May Correspond Confidentially**

Persons and employees of persons with whom inmates may correspond confidentially, and receive correspondence confidentially from, include:

- All state and federal elected officials.
- All state and federal officials appointed by the governor or the President of the United States.

- All city, county, State, and federal officials having responsibility for the inmate's present, prior, or anticipated custody, parole, or probation supervision.
- County agencies regarding child custody proceedings, as clearly identified in the communication and listed on the envelope.
- All state and federal judges and courts.
- Any attorney at law, on active status or in good standing, listed with a state bar association.
- All officials of a foreign consulate.
- The Secretary, Undersecretary, Executive Director, Assistant Secretaries, Division Directors, Associate Directors, the Chief, Inmate Appeals, and the Chief, Office of the Ombudsman.
- A legitimate legal service organization that consists of an established group of attorneys involved in the representation of offenders in judicial proceedings that includes, but not limited to:
  - The American Civil Liberties Union.
  - The Prison Law Office.
  - The Young Lawyers Section of the American Bar Association.
  - The National Association of Criminal Defense Lawyers.
  - California Appellate Project.

Per DOM Subsection 54010.11, all incoming confidential mail from an attorney or legal service organization shall include the attorney's name, title, and return address of their office.

Institution mailroom staff shall contact the CDCR, Office of Legal Affairs, if there is any question regarding the legitimacy of a legal service organization.

##### **54010.12.2 Processing Outgoing Confidential Mail**

In order to be accepted and processed as confidential correspondence, an inmate's letter shall comply with the following requirements:

- The letter shall be addressed to a person, official, or office listed in Subsection 54010.11.
- The address of the attorney must match the address listed with the State Bar.
- The inmate's full name, Department identification number, and address of the facility shall be included in the return address appearing on the outside of the envelope.

The word "Confidential" shall appear on the face of the envelope. Mail received in the mailroom without this notice of confidentiality shall be processed as regular mail. If for any reason the mail cannot be processed as regular mail, it shall be returned to the sending inmate.

Inmates shall post confidential mail by presenting the mail unsealed to designated staff. In the presence of the inmate, the staff shall remove the contents of the envelope upside down to prevent inadvertent reading of the contents. Staff shall remove the pages and shake them to ensure the absence of prohibited material. If no prohibited material is discovered, the contents shall be returned to the envelope and sealed. Staff shall place their signature, badge number, and date across the sealed area on the back of the envelope. Staff shall then deposit the confidential mail in the appropriate depository.

If prohibited material is found in the confidential mail, the prohibited material shall be confiscated; however, the letter may be returned to the inmate or mailed following the process outlined above. If the prohibited material indicates a violation of the law or intent to violate the law, the matter may be referred to the appropriate authorities for possible prosecution. Administrative and/or disciplinary action shall also be taken against all parties involved.

It is the responsibility of staff to transport inmate mail to the appropriate depository as designated by the Warden.

##### **54010.12.3 Processing Incoming Confidential Mail**

Incoming letters must show the name, title, return address, and office of persons listed in Subsection 54010.11 on the outside of the envelope for them to be processed as confidential correspondence. An attorney's return address must match the address listed with the State Bar. A notice of or a request for confidentiality is not required. Letters that are appropriately addressed with a return address that indicates it is from any of the persons or employees of persons outlined in Section 54010.11 shall be processed and treated as confidential correspondence whether or not they are stamped as such. Designated staff shall open the letter in the presence of the addressed inmate at a designated time and place. Staff shall remove the contents of the envelope upside down to prevent inadvertent reading of the contents. Staff shall remove the pages and shake them to ensure the absence of prohibited material.

Inmates shall sign for all confidential mail at the time of delivery. This shall be accomplished by use of a permanent log book or use of receipts. If receipts

are used, the receipts shall be forwarded to the mailroom for filing. The log book, at a minimum, must record the date of delivery, the inmates name and departmental identification number, and the senders name and address.

#### **54010.12.4 Confidential Enclosures**

Newspapers, published articles, pamphlets, books, etc., enclosed in confidential correspondence shall not be treated as confidential mail and shall be handled as outlined below.

#### **54010.12.5 Examination of Enclosures in Confidential Correspondence**

The inmate may consent to an immediate examination of the enclosure by staff who issues the mail. Such examination shall be limited to the extent necessary to determine if the enclosure may be safely admitted into the institution/facility under the standards of CCR Sections 3006, 3134, 3135, and 3145, or DOM Sections 54010.8.1, 54010.13, and 54010.14. If the enclosure can be safely admitted into the institution/facility, it shall be given to the inmate. If, in the examiner's opinion, the enclosure does not meet the standards of CCR and cannot be safely admitted into the institution/facility, it shall be referred to staff at not less than the Correctional/Facility Captain level for final determination. If the enclosure is not released to the inmate at this level, the process outlined in DOM Section 54010.15 shall be followed and the inmate shall be allowed to return the enclosure to the sender or dispose of it pursuant to CCR Section 3191(c).

#### **54010.12.6 Inmate Declines Consent for Examination of Confidential Enclosures**

The inmate may decline to consent to examination of enclosures in confidential mail by any staff. When this occurs, the enclosure shall be immediately placed in an envelope and sealed in the presence of the inmate. The separate envelope will, at the inmates choosing, be returned to the sender with the mailing cost charged to the inmate's trust account, or disposed of pursuant to CCR 3191(c). The inmate is entitled to keep the letter or correspondence and the envelope it came in.

#### **54010.12.7 Restriction of Confidential Mail Privileges**

Administrative action may be taken to restrict, for cause, the confidential mail privileges afforded to an attorney based upon the information contained in this Article. The confidential mail privilege may be a statewide suspension for any offense that could be prosecuted as a felony. Only the Secretary or his/her designee shall issue a statewide suspension of confidential mail privileges.

A first offense of a non-serious mail rule violation of the Department's mail regulations shall result in a written warning or up to a six-month suspension of the attorney's confidential mail privileges.

A second offense of a non-serious mail rule violation shall result in modification/suspension of confidential mail privileges for a period of up to 12 months.

A third offense of a similar nature and/or a first offense that could be charged as a felony that jeopardizes the safety of persons or the security of the facility, shall result in confidential mail privileges being suspended for a minimum period of one year or beyond for an indefinite period.

The attorney must petition the Warden or Secretary for reinstatement of his/her confidential mail privilege.

#### **54010.13 Staff Confidentiality Requirements**

Any person who examines the content of mail under the authority of this Article or in connection with an appeal by an inmate of a ruling under this Article shall keep the content of the examined material in strict confidence.

No original, copy, excerpt, or summary of personal correspondence to or from an inmate shall be made or be placed in an inmate's C-file unless such correspondence is or has been the subject of:

- Legal, disciplinary, criminal investigation, or casework determination and actions affecting the inmate.
- When the recipient of an inmate's disturbing or offensive mail corresponds with the facility and requests administrative action subject to CCR Section 3135.
- If an inmate requests that a copy of personal correspondence be placed in their C-file and the inmate's caseworker deems it appropriate to do so based on the relationship of the correspondence to the inmates incarceration.

#### **54010.14 Correspondence that is Offensive/Threatening/Contains Security Concerns**

Non-confidential correspondence may be disallowed if the text of such correspondence presents a danger or a threat of danger to any person or place. The authority to disallow such correspondence shall not be delegated below the level of Correctional/Facility Captain.

Disagreement with the sender's or receiver's morals, values, attitudes, veracity, or choice of words shall not be cause for correctional staff to disallow mail. Correctional staff shall not challenge nor confront the sender or receiver with value judgments.

Certain correspondence, including but not limited to the following, is disallowed, regardless of values or morals in order to ensure the safety and security of the institution/facility:

- Any mail of a character tending to incite murder, arson, a riot, or any form of violence or physical harm to any person or any ethnic, gender, racial, religious, or other group.
- Threatens blackmail or extortion.
- Contraband, or sending or receiving contraband.
- Concerns plans to escape or assist in an escape.
- Concerns plans to disrupt the order, or breach the security of any institution/facility.
- Concerns plans for activities which violate the law, these regulations, or local procedures.
- Contains coded messages.
- Describes the making of any weapon, explosive, poison, or destructive device.
- Contains illustrations, explanations, and/or descriptions of how to sabotage or disrupt computers, communications, or electronics.
- Contains maps depicting any area within a ten-mile radius of an institution/facility.
- Contains gambling or lottery information or paraphernalia.
- Contains obscene material in nature as described in Section 54010.15.
- Contains human or animal hair, substances, or fluids.

#### **54010.15 Obscene Material**

Inmates shall not possess or have under their control, obscene material and/or mail containing information concerning where, how, or from whom obscene material may be obtained.

Obscene material means catalogs, advertisements, brochures, and/or material taken as a whole, which to the average person applying contemporary statewide standards, appeals to the prurient interest. It is material which taken as a whole, depicts or describes sexual conduct, and when taken as a whole, lacks serious literary, artistic, political, or scientific value.

Additionally, material is considered obscene when it appears from the nature of the matter or the circumstances of its dissemination, distribution, or exhibition that it appeals to deviant sexual groups.

Material subject to the test of the above includes, but is not limited to:

- Portrays sexually explicit materials, which are defined as materials that show frontal nudity including personal photographs, drawings, and magazines and pictorials that show frontal nudity.
- Portrays, displays, describes, or represents penetration of the vagina or anus, or contact between the mouth and genitals.
- Portrays, displays, describes, or represents bestiality, sadomasochism, or an excretory function, including urination, defecation, or semen.
- Portrays, displays, describes, or represents the nudity of a minor or person who appears to be under 18 years old.
- Portrays, displays, describes, or represents conduct that appears to be non-consensual behavior.
- Portrays, displays, describes, or represents conduct that appears to be forceful, threatening, or violent.
- Portrays, displays, describes, or represents conduct where one of the participants is a minor, or appears to be under 18 years old.

#### **54010.16 Notification to Inmates of Disapproval-Mail/Packages/Publications and Disposition of Undelivered Mail**

Disapproved material that is in clear violation of CCR Sections 3006, 3135, 3139, and 3135 or DOM Subsections 54010.11, 54010.13, 54010.14, and 54010.21 shall be referred to staff not below the level of Correctional/Facility Captain for determination and appropriate action. Disapproval of material that is not in clear violation of the above noted CCR and DOM sections shall be referred to the Warden, but not lower than the Chief Deputy Warden, for determination and appropriate action. The CDCR Form 1819, Notification of Disapproval-Mail/Packages/Publications, shall be utilized by each institution/facility when incoming or outgoing mail/packages/publications addressed to or being sent by an inmate are withheld or disallowed. Additionally, in accordance with CCR,

Subsection 3134(i), the CDCR Form 1819 informs the inmate of the reason, disposition, name of official disallowing the mail/package/publication, and the name of the official to whom an appeal can be directed.

When inmate mail is disapproved based on the criteria established in CCR Section 3006 and 3135, DOM Subsection 54010.8.1, or DOM Section 54010.13 and 54010.14, a copy of the CDCR Form 1819 and the supporting document(s) (e.g., a photocopy of representative pages) shall be retained by each institution/facility for a minimum of seven years for litigation purposes.

After seven years if the material is not needed it shall be destroyed.

If a lawsuit has been filed as a result of mail being disapproved, the CDCR Form 1819 and the supporting document(s) will be retained for two years from the conclusion of the suit.

It is noted that a publication can be a book, magazine, newspaper, or periodical.

#### **54010.17 Non-English Language Mail**

Correspondence in language other than English to or from an inmate is subject to the same regulations governing all other mail and may be subject to a delay for translation of its contents by staff.

When such delay exceeds normal mail processing by five business days, the inmate shall be notified in writing of the delay, the reason for the delay, and subsequent determinations and actions regarding that item of mail.

If staff is unable to translate the letter and its contents within 20 business days of notice to the inmate, then the letter shall be delivered to the inmate untranslated.

#### **54010.18 Funds Enclosed in Correspondence**

Funds may be mailed to an inmate in the form of:

- Money order.
- Cashier's check.
- Certified check.
- Personal check.
- Any other negotiable means except cash and traveler's checks.

The personal check, money order, cashier's check, certified check, or any other negotiable instrument shall be made payable to the California Department of Corrections and Rehabilitation with the inmate's last name and Department identification number. This information, along with the sender's name and address, shall be on the face of the negotiable instrument.

The following restrictions apply:

- Funds from other inmates/parolees shall be only accepted from approved correspondents who are members of the same family, or the parent of the inmate's child(ren).
- If a personal check, money order, cashier's check, certified check, or any other negotiable instrument is received in the mailroom and it does not contain the sender's name and address on its face, it will be considered contraband per CCR, Title 15, Section 3006, and will be disposed of in accordance with CCR, Title 15, Section 3191(c). The negotiable instrument will be held in the Trust Office safe for thirty days while the inmate is contacted in regards to the disposition of the contraband, in accordance with CCR, Title 15, Section 3191(c).
- Funds received in the mail shall be removed from the envelope by mailroom staff and processed as follows:
  - Staff shall ensure that the inmate's name and Department identification number are on the check or money order.
  - The envelope shall be imprinted with a stamp that reads "Funds Enclosed." The date, amount, and initials of the person processing the funds shall be recorded on the envelope before it is forwarded to the inmate.
  - The stamped envelope is the inmate's receipt for the funds.
  - Cash shall not be accepted for an inmate.
  - Cash received in incoming mail will be returned to the sender. Mailroom staff shall complete a memorandum for disallowed cash money to the inmate, informing them that cash was received and will be returned to sender. The envelope containing the cash and two copies of the memo will be forwarded to the Inmate Trust Office. The two copies of the memo shall be folded around the envelope and held in place with a rubber band/paperclip. The information in the center of the form shall be clearly visible to the reader. The Inmate Trust Office will process the cash and mail per current departmental policy.

- Mailroom staff shall arrange the day's remittances in numerical order. The remittances shall be listed in sequence on the report of collections. This report shall include each inmate's name, Department identification number, type of payment (check, money order), amount, and the total received.
- The report shall be prepared in triplicate and distributed with the original and secondary copies sent to the Inmate Trust Office, and the triplicate retained in the Mailroom.
- Funds shall not be released for spending by the inmate for thirty (30) days from the date of deposit into the inmate trust account and must have cleared the bank upon which they were drawn. When any personal check, money order, cashier's check, certified check, or any other negotiable instrument is received, the face of the envelope in which the funds were received shall be imprinted with a stamp indicating the funds have been accepted at this time. This stamp is not intended to indicate that the funds are immediately available for inmate use, but only that the funds were accepted for processing by the Department.

#### **54010.18.1 Receipt of Social Security/Welfare/Tax Refund Checks**

Generally, inmates are not eligible to receive Supplemental Security Income (SSI) checks from the Social Security Administration, Veteran Affairs Benefits, or Welfare checks from the California Department of Social Services/County Welfare agencies. Depending upon eligibility, inmates may be allowed to receive tax refund checks.

A facility representative shall be appointed by the Associate Warden, Business Services, to assist outside agencies in determining an inmate's eligibility.

Mailroom staff shall deliver all received SSI, Veteran Affairs Benefits, and/or welfare and/or tax refund checks to the Inmate Trust Office. The Accounting Officer shall notify the facility representative that checks are being held pending determination of eligibility of the inmates to receive the checks.

The facility representative shall contact the appropriate agency.

Unauthorized checks shall be returned to the appropriate agency.

#### **54010.18.2 Receipt of U.S. Government Checks for Deceased or Discharged Inmates**

When a U.S. Government check is received for an inmate who is deceased or discharged from CDCR, the following shall occur:

- The check and envelope shall be returned to the sending agency with the necessary information shown as to the inmate being deceased or discharged.

#### **54010.18.3 Receipt of U.S. Government Checks for Transferred or Paroled Inmates**

If an inmate has been transferred to another institution/facility, the check shall be forwarded including a note requesting the inmate to notify the state or federal agency of their change of address. Mail received for inmates who have been paroled shall be forwarded to the office of the parole region to which the inmate was released, or if unable to locate the parolee, the check should be returned to the originating state or federal agency.

#### **54010.18.4 Foreign Currency**

No foreign currency shall be accepted. If foreign currency is received, the entire envelope and its contents shall be returned to sender with a pre-printed notice to the sender which states: "Unauthorized item \_\_\_\_\_."

#### **54010.19 Contests**

Inmates shall not participate in any contest when a financial obligation is involved or when such participation shall result in an expense to the facility beyond the cost of processing mail.

If lottery tickets, lottery scratchers, or other contest materials are discovered in incoming inmate mail, the entire envelope and its contents shall be returned to sender with a pre-printed notice to the sender which states: "Unauthorized item \_\_\_\_\_."

#### **54010.20 Inmate Manuscripts**

Manuscripts include, but are not limited to, written, typed, or printed articles of fiction and nonfiction, poems, essays, gags, plays, skits, paintings, sketches, drawings, or musical compositions created by an inmate.

Any manuscript remains the property of the inmate who created it. It may be retained in the inmate's possession, unless it violates CCR Sections 3006, 3134, or 3135 or DOM Sections 54010.13 or 54010.14.

If unauthorized State materials have been used in the creation of a manuscript, the item shall be confiscated pending disciplinary action and reimbursement by the inmate for the unauthorized use of State material.

Incoming and outgoing manuscripts shall be processed as regular mail in accordance with the provisions of this Article.

#### **54010.21 Publications**

Inmates may subscribe to, purchase, or have the items listed below purchased for them by a third party:

- Newspapers.
- Periodicals.
- Magazines.
- Books.

If subscriptions or books are purchased for the inmate by a third party (or donated to an inmate) they must be mailed directly from a book store or publisher. If subscriptions or books are purchased for the inmate by a third party (or donated to an inmate) they must be mailed directly from a book store, book distributor, a publisher, or a religious organization. Personal correspondents cannot mail books, periodicals, or publications directly to inmates and state that they are a donation.

There shall be no "Approved Vendor Lists" for any publication.

The CDCR shall distribute a centralized list of disapproved publications that are prohibited as contraband. Publications that are enumerated on this centralized list are not allowed in any institutions. Local institutions may not add items to the centralized list.

#### **54010.21.1 Processing/Inspection of Incoming Magazines and Newspapers**

All magazines and newspapers shall be inspected prior to issuance to ensure that they comply with CCR Sections 3006, 3134, and 3135 or DOM Sections 54010.13 and 54010.15.

In order to expedite the issuance of magazines the following shall be adhered to:

- Magazines that contain page flap samples of perfume shall be issued to inmates.
- Attached free CD's, packaged samples of perfume or stickers from magazines shall be removed. The removal of these items will not require the issuance of a CDCR Form 1819, Notification of Disapproval-Mail/Packages/Publications, as the item was not ordered by the inmate. Rather, it is an advertisement that was not solicited.

Sample packages of lotions or moisturizers can either be removed before delivery to the inmate, or be left in the magazine and given to the inmate. The removal of any sample item will not require the issuance of a CDCR Form 1819, Notification of Disapproval-Mail/Packages/Publications, as the item was not ordered by the inmate; rather it is an advertisement that was not solicited.

No other items shall be removed from a magazine or other publication in order to issue it to an inmate. If any other items that violate departmental policy are contained in the magazine or publication, it shall be withheld or disallowed and processed per DOM Section 54010.15.

Staff shall not delay the delivery of an inmate's publications for personal use.

#### **54010.21.2 Processing/Inspection of Incoming Books**

All incoming paperback and hardback books, and any enclosures within them, must be inspected prior to being altered and/or issued; per CCR Section 3134; to ensure that they comply with CCR Sections 3006, and 3135 and DOM Sections 54010.13 and 54010.14.

For hardback books, staff shall allow the inmate to determine whether he/she will accept the book with the cover removed or, if he/she declines that option, decide how it is to be disposed of per CCR Section 3191(c). If the inmate chooses to accept the hardback book staff shall, in front of the inmate, remove the entire cover from the book. Before removing the cover, staff shall insure that it does not violate any other departmental policy. If upon removal of the cover the book becomes unstable (the pages are no longer bound together), staff shall take measures to ensure that the pages are kept intact, such as with a rubber band or a clip.

Delivery by staff shall be completed as soon as possible, but not later than 15 calendar days after the institution receives the book, except during the holiday season and during modified programs of affected inmates.

Hardback books shall be processed and issued from a designated distribution area.

#### **54010.21.3 Notification to Publisher for Disapproval of Publication**

When incoming books, magazines, or publications to an inmate are withheld or disallowed, a letter shall be sent to the publisher explaining why the item was denied. A book, magazine, or publication denied to the entire population based on a violation of departmental regulations or policy, shall only require one letter per institution to be sent to the publisher. At a minimum, the letter must include the reason why the book, magazine, or publication was denied, the names and CDCR numbers for all inmates affected, the applicable CCR section that is in violation, and the fact that the Publisher has the right to appeal

this issue in accordance with CCR Section 3137(c) and DOM Section 54010.27.

The letter must be sent within 15 calendar days of the determination to censor the book, magazine, or publication.

When a book, magazine, or publication is withheld based on the criteria established in CCR Sections 3006 or 3135 and DOM Sections 54010.13 and 54010.14, a copy of the Letter of Notification to the Publisher and the supporting document(s) (e.g., a photocopy of representative pages) shall be retained by each institution/facility for a minimum of seven years for litigation purposes.

After seven years if the material is not needed for a lawsuit or any other purpose, the material shall be destroyed.

If a lawsuit has been filed, as a result of a publication being disapproved, the CDCR Form 1819 and the supporting document(s) will be retained for two years from the conclusion of the lawsuit.

The letter of Notification to Publisher for Disapproval of Publication shall be done in conjunction with the process outlined in DOM Section 54010.15 for notification to the inmate.

#### **54010.22 Correspondence between Inmates/Parolees/Probationers**

Inmates shall obtain written authorization from the Warden/Regional Parole Administrator or their designee/assigned probation officer, person in charge of the County Jail and/or other State Correctional Systems, at a level not less than Correctional Captain/Facility Captain or Parole Agent III to correspond with any of the following:

- Inmates under the jurisdiction of any county, state or federal, juvenile or adult correctional agency.
- Persons committed to any county, state or federal program as a civil addict.
- Persons on parole or civil addict outpatient status under the jurisdiction of any county, state or federal, juvenile or adult correctional agency.
- Persons on probation.

Inmates may be allowed to correspond with the above provided they meet the criteria of no known gang affiliation, or involvement with a known terrorist or conspiracy organization.

#### **54010.22.1 Process for Approval/Denial of Correspondence Requests**

Inmates may initiate requests to correspond with the above by sending their Correctional Counselor I (CCI) an Inmate Request for Interview form. Parolees may initiate request by contacting their Parole Agent (PA).

The CCI/PA shall interview the inmate/parolee and/or review their C-file/Field File to obtain the information required to process an inmate's Request for Correspondence Approval. If an inmate's request to correspond with another inmate/parolee is denied, the CCI/PA shall annotate the reason for denial on the Inmate Request for Interview. The Inmate Request for Interview shall be returned to the inmate. A CDCR Form 1074, Request for Correspondence Approval, shall not be generated for the initiating inmate whose request is denied.

When reviewing the initiating inmates C-file, staff shall ascertain whether prior approval exists. If prior approval exists, a copy of the previously approved CDCR Form 1074 shall be forwarded to both institutional mailrooms.

When an initiating inmate's request to correspond with another inmate meets the criteria for approval, and no prior approval exists, the CCI/PAI shall ensure that a CDCR Form 1074 is completed.

If the request is approved, staff shall retain the fifth page at the requesting institution/parole office. The remaining four pages shall be forwarded, intact, to the institution/parole office/probation office/other county, state or federal facility where the other requested correspondent is housed. Neither a photocopy of the CDCR Form 1074, nor the fifth page, shall be forwarded to the C-File or mailroom while the correspondence approval is pending.

If the request to correspond is denied at the institution/parole office/probation office/other state correctional facility, the reason for denial shall be annotated on the CDCR Form 1074, and it shall be returned, in its entirety, to the sending institution/parole office.

Copies/photocopies shall not be delivered to the requested inmate, the receiving institutions mailroom, or the housing unit.

Upon receipt of the disapproved CDCR Form 1074, staff at the sending institution/field office shall ensure that the 2<sup>nd</sup> page is returned to the initiating inmate.

If correspondence is approved at the institution/parole office, staff shall ensure that the CDCR Form 1074 is completed. They shall retain the third and fourth pages for distribution. If the third page and fourth pages are not legible, the

CCI/PAI shall make photocopies of the first page prior to forwarding the completed CDCR Form 1074 to the sending institution.

The approved CDCR Form 1074 is distributed as follows:

- Page 1 (original) returned to initiating inmate/parolees institution/parole office for placement in the initiating correspondents file.
- A photocopy of page 1 (original) shall be made for the mailroom at both the sending and receiving institutions.
- Page 2 (NCR Copy) returned to initiating inmate/parolees institution/parole office for deliver to the inmate.
- Page 3 (NCR copy) kept by the receiving institution/parole office for placement in the requested correspondents file. If this page is not legible, a photocopy of page 1 shall also be placed in the C-File, attached to page 3.
- Page 4 (NCR copy-or photocopy) kept by the receiving institution/parole office for the requested correspondent. If this page is not legible, a photocopy of page 1 shall be made and given to the requested correspondent with page 4.

Photocopies of the CDCR Form 1074 shall not be made for the housing unit(s). The housing units shall not keep records of approved correspondents.

The mailroom supervisor shall establish and maintain a record of approved CDCR Form 1074's.

When a CDCR inmate requests to correspond (and meets the criteria for approval) with an inmate in a county, state, or federal facility, the CCI shall ensure that a CDCR Form 1074 is completed along with a cover letter that thoroughly explains the need for the CDCR Form 1074. Upon receipt of the approved CDCR 1074 from the specific agency, the CCI shall distribute the form as outlined above.

When a request for correspondence between inmates is received from another county, state, or federal facility (and meets the criteria for approval) the CCI shall ensure that a CDCR Form 1074 is completed and returned to the agency with a cover letter that thoroughly explains the need for the CDCR Form 1074. Upon receipt of the approved CDCR 1074 from the specific agency, the CCI shall distribute the form as outlined above. If the request is denied, the CCI shall ensure that a letter is forwarded to the requesting agency thoroughly explaining the denial.

There shall be no limits set on the number of times approved inmates can correspond with one another unless revoked per the procedures outlined below.

The approval to correspond may be revoked due to disciplinary violations involving correspondence between the inmates/parolees or as a result of a classification action based on safety and security. Any such restriction, or revocation of approval, shall be communicated to inmate(s)/parolee(s) and to the warden(s)/parole administrator(s) of the institution/facility where the inmate(s)/parolee(s) are housed.

#### **54010.22.2 Correspondence between Inmates in SHU/ASU/PSU/THU/BMU**

Wardens at institutions where there are Security Housing Units (SHU), Administrative Segregation Units (ASU), Psychiatric Security Units (PSU), Transitional Housing Units (THU), and Behavior Management Units (BMU), shall, in their local procedure, outline any further restrictions on correspondence due to safety and security concerns. The local procedure shall follow the processing procedures outlined in DOM subsection 54010.21.

The most restrictive an institution can be is to limit correspondence between inmates to only the following:

- Immediate Family Members as defined in CCR Section 3000.
- Co-litigants on active cases, until the case is resolved.
- Incarcerated natural parent of the inmate's child.

A facility may not restrict mail privileges between an inmate and any of the above three types of correspondents, unless they violate CCR Section 3006 or other aspect of the regulations.

#### **54010.22.3 Transfers**

Approval to correspond, pursuant to DOM Section 54010.21, shall remain in effect upon transfer to another departmental facility or another parole office.

If an inmate's transfer is based on case factors that create security concerns, such as placement in SHU/ASU/PSU/THU/BMU, a reexamination by committee of all approved correspondence shall be conducted. The CCI shall review and recommend to committee whether to continue approval of the correspondence.

#### **54010.22.4 Unapproved Correspondence**

If an institution/parole office receives mail from an unapproved inmate/parolee correspondent, staff shall mark the envelope with "Not an Approved Correspondent" or equivalent language and return it to the sender.

#### **54010.23 Mailing of Confidential Documents with Inmate Trust Account Withdrawals**

Confidential mail submitted with a CDC Form 193, Trust Account Withdrawal Order, to pay for filing fees or other costs, may be left unsealed so that the voucher (check) can be enclosed after the trust account withdrawal has been processed. Inmates who do not wish to forward this type of mail unsealed should attach a stamped, appropriately addressed envelope to the confidential mail so the check can be enclosed and forwarded in the extra envelope.

#### **54010.24 Mail Returned by the U.S. Post Office**

All undelivered letters and packages returned to an institution/facility by the post office shall be opened and inspected before being returned to the inmate. This inspection is to determine if the content originated with the inmate sender identified on the letter or package, and to prevent the transmission of contraband, material, substances, and property that an inmate is not authorized to possess in the correctional facility.

The inspection of returned mail includes regular mail and letters that were mailed as confidential correspondence.

In the case of returned confidential correspondence, the envelope shall be opened in the presence of the inmate. It shall be examined and read to the degree necessary to determine if it was sent by the inmate and opened or tampered with before its return to the institution/facility. Upon completion of this examination, the returned correspondence shall be given to the inmate. Any contraband found in the returned correspondence shall be confiscated and processed per DOM Section 54010.15. Appropriate disciplinary action shall be taken.

#### **54010.25 Un-mailed Correspondence**

If for any reason set forth in this Article, any First Class Mail is not accepted for mailing, or is accepted for mailing but is not properly mailed, the inmate shall be notified in writing of the reason for refusal to accept or to promptly mail the item(s). When the delay in mailing exceeds 5 business days the notice shall be sent and shall include the disposition of such mail. Unless retention of such mail is required in administrative, legal, or disciplinary proceedings against the inmate or other persons, it shall be promptly mailed or returned to the inmate.

#### **54010.26 Forwarding Mail**

Mail received for an inmate who has been transferred from the institution/facility where the mail is received, shall be immediately forwarded to the institution/facility, administrative office or agency that has current custody of the inmate.

Mail addressed to an inmate who has been transferred or released shall not be returned to the sender as "Addressee Unknown" unless the individual has been discharged from CDCR.

First Class Mail and Periodicals addressed to an inmate who has been transferred within the CDCR shall have a label affixed with the current address and shall be forwarded via the USPS. For inmates who have paroled, the affixed label shall state "Parole (Northern or Southern) Region" and shall show that Parole Region's address. Whenever possible, the Strategic Offender Management System should be accessed and the parolee's mail should be forwarded to the specific unit that is listed.

Standard Mail that has a "Mailer Endorsement", but is undeliverable because the inmate is not currently housed at the institution, shall be returned to the USPS for processing. Mailroom staff shall affix a label to the Standard Mail piece showing the correct address before returning it to the USPS for processing. For inmates who have paroled, the label affixed to the Standard Mail piece shall state "Parole (Northern or Southern) Region" and shall show that Parole Region's address. The Mailer Endorsement will appear either near the address block or below the return address in the top left corner of the mail piece. A mailer endorsement is any of the following phrases:

- Address Service Requested.
- Forwarding Service Requested.
- Change Service Requested.
- Return Service Requested.

Staff may dispose of any Standard Mail piece that does not have a Mailer Endorsement, and that is undeliverable because the inmate is not currently housed at the institution.

Daily newspapers that are delivered by courier will not be forwarded nor will they be held for an inmate who is temporarily away from the facility for longer than 72 hours. Exceptions will be made when the absence results from the inmate's participation in Department or facility approved activities such as a



community release program, firefighting, or other disaster control assignments. Newspapers that are delivered by the USPS will have a forwarding address label affixed and shall be returned to the USPS for processing.

#### **54010.27 Forwarding Confidential Correspondence from the Court**

All confidential correspondence for inmates that must be forwarded will be done on a daily basis. If delivery of confidential correspondence from the courts is impeded because the addressee's name and CDCR number do not conform to each other, the mailroom will contact the Litigation Coordinator who will telephone the court to clarify the identification of the addressee in order to expedite delivery of confidential correspondence. Staff will document their efforts to identify the addressee when confidential correspondence from the courts cannot be delivered. The Litigation Coordinator will inform the courts of the circumstances preventing delivery.

#### **54010.28 Appeals Relating to Mail and Correspondence**

Inmates, their correspondents, and publishers may appeal Department regulations, and their application relating to mail and correspondence.

Inmates shall use established appeal procedures as provided in CCR, Section 3084, etc. seq.

Persons other than inmates should address any appeal relating to Department policy or regulations to the Secretary of the California Department of Corrections and Rehabilitation. Appeals relating to a specific institution/facility procedure and/or practice shall be addressed in writing to the Warden or Associate Director of the institution/facility where the appeal issue arises. A written response shall be provided within 15 business days. Appeals that are not satisfactorily resolved at this level may be forwarded in writing to the Secretary who shall provide a written response within 20 business days.

##### **54010.28.1 Appeals of Withheld Mail**

An inmate who submits an appeal in accordance with CCR Section 3084, after being noticed that mail is being withheld pending appeal, shall stay any disposition of the mail until an appeal decision is made at the third level of appeal review.

If the inmate's appeal is denied at the third level of appeal review, the item of mail shall be disposed of per CCR 3191(c).

#### **54010.29 Complaints from Recipients of Inmate Mail**

If the receiver of any mail, confidential or non-confidential, directs a written complaint to the Department administration or to institution/facility officials, consideration shall be given to any reasonable remedy sought by the individual. This may include discussion of the complaint with the inmate in an attempt to resolve the matter, reading of all mail, including confidential mail addressed to the individual, and either disallowing only that which appears to perpetuate the problem, or disallowing all mail to the individual. Complaints and requests for action which would, if approved, restrict an inmate's correspondence, and any action taken in response to such complaints or requests shall be fully documented via CDC Form 128 B, Chrono-General. The inmate shall receive a copy of the documentation and the original shall be placed in the inmate's C-file. An exception to the prohibition contained in Section 54010.12 against placing copies of an inmate's personal correspondence in the inmate's C-file may be made under the circumstances described herein.

#### **54010.30 Temporary Absence**

Mail shall be held for an inmate who is temporarily away from the institution/facility when the inmate's return is anticipated within one week.

#### **54010.31 Revisions**

The Director, Division of Adult Institutions, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **54010.32 References**

PC § 2601.

United States Postal Service, Domestic Mail Manual

CCR 15, Chapter 1, Subchapter 2, Articles 1, 4, 5, 6, and 9.

CCR 15, Chapter 1, Article 1, Section 3009.

ACA Standards 4-4487 through 4-4496.

### **ARTICLE 42 — VISITING**

*Revised May 1, 2003*

*Updated May 10, 2010*

#### **54020.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) encourage inmates to develop and maintain healthy family and community relationships. It is a privilege for inmates to have personal contact visits while confined in CDCR institutions and facilities. Visiting in CDCR institutions and facilities shall be conducted in as accommodating a manner as possible in keeping with the need to maintain order, the safety of persons, the security of the institution/facility, and the requirements of prison activities and operations.

Employees are to be alert, courteous, and professional in their dealings with inmates, inmate visitors, and members of the public. The employee shall maintain a helpful, but professional, attitude and demeanor.

Except as is necessary to enforce standards of conduct, prevent the introduction of contraband, and ensure valid identification, visitor privacy shall not be imposed upon.

Video-recording devices may be utilized in visiting areas, excluding family visiting units or confidential attorney consultation areas.

Smoking is prohibited in all CDCR facilities/institutions. All tobacco and tobacco products are prohibited.

#### **54020.2 Purpose**

This Article establishes methods and procedures to administer the inmate visiting program and provides operational direction to staff, inmates, and visitors.

#### **54020.3 Definitions**

*Revised September 25, 2007*

##### **Minor**

As used in this Section, a minor is an unemancipated person, under 18 years of age, who is not the spouse of the inmate being visited.

##### **Clothed Body Search**

A clothed body search entails individuals being physically searched by staff. Staff will use their hands to conduct a security search of the person in question. Additionally, staff may use other detection devices to conduct such security searches. Individuals may also be asked to remove outer garments, heavy clothing, and/or shoes to complete the security search.

##### **Unclothed Body Search**

An unclothed body search may consist of the removal of a portion or all of an individual's clothing so as to permit a visual inspection by staff of the body and body cavities for security reasons. Additionally, staff may use other non-intrusive detection devices to conduct the security search of the person in question.

##### **Immediate Family Members**

In accordance with California Code of Regulations (CCR), Title 15, Division 3, Section 3000, immediate family members are defined as:

- Legal spouse.
- Registered domestic partner.
- Natural parents.
- Adoptive parents, if the adoption occurred and a family relationship existed prior to the inmate's incarceration.
- Stepparents or foster parents.
- Grandparents.
- Brother or sister, stepbrother or stepsister, foster brother or foster sister.
- Natural children, adoptive children, and grandchildren of the inmate.
- The inmate's legal stepchildren.
- Aunts, uncles, and cousins are not considered immediate family members unless a bona fide foster relationship exists.

##### **Exclusion**

An administrative action by the Director or institution head to bar, for cause, a person from entering a CDCR institution/facility when that person would otherwise be permitted to enter.

##### **Suspension**

An action by the institution head or designee, which temporarily ceases the visiting program or suspends an individual visitor's access to the visiting program for a specified time.

##### **Termination**

An action by the official in charge of visiting, which ends a visit in progress.

##### **Revocation**

The denial of visiting privileges or access to the institution/facility for an indeterminate length of time when visiting has been previously approved.

#### **54020.4 Access to Visiting Policies and Regulations**

*Revised April 3, 2014*

New inmate arrivals shall receive current written visiting policies and procedures. Institutions/facilities shall allow visitors access to all visiting policies and regulations. Copies of all visiting regulations and policies shall be maintained by visiting staff to provide access to all interested parties. Institutions/facilities shall post visiting dress standards and a schedule of visiting days and hours in all visiting centers and processing areas.

#### **54020.5 Dignitaries**

*Revised April 3, 2014*

Dignitaries, as defined in DOM Chapter 1, Article 14 shall be required to produce official identification, sign the official visitor's log book, receive a visitor's pass, and declare and present the contents of briefcase, computer bags, or other allowable property for evaluation. For accountability purposes, the dignitary information shall be recorded in the Strategic Offender Management System (SOMS) as a non-regular visit.

Refer to DOM Chapter 1, Article 14 for definitions and instructions related to tours and visits by official visitors and dignitaries.

#### **54020.6 Official Visits by Other Departments/Agencies/Foreign Officials and Other Distinguished Visitors**

*Revised April 3, 2014*

Officials of other departments/agencies/foreign officials and other distinguished visitors shall be required to produce official identification, sign the official visitor logbook, receive a visitor's pass, and submit to a search consisting of a contraband/metal detection and visual search of briefcase or other allowed property. For accountability purposes, this information also must be recorded in SOMS.

- Commissioners and Deputy Commissioners of the Board of Parole Hearings are not required to submit to contraband/metal detection inspections. Refer to DOM Chapter 1, Article 14, for definitions and instructions related to visits by members of other departments/agencies.

#### **54020.7 Visiting Days and Hours**

Each institution/facility shall establish a schedule that provides a minimum of 12 visiting hours per week. Each institution head shall develop an operational supplement to this Section, which includes their respective visiting schedules as follows:

- Visiting days.
  - Four-day visiting: Thursday through Sunday.
  - Three-day visiting: Friday through Sunday.
  - Two-day visiting: Saturday and Sunday.
- Visiting hours.
  - Holiday visiting schedule.
  - Security Housing Units (SHU) and Administrative Segregation Units (ASU) visiting requirements.
  - The institution/facility shall specify procedures and criteria for scheduling an appointment.

Any routine modification to visiting hours and/or days shall be posted in areas accessible to visiting participants at least two weeks prior to implementation. Inmates may visit only during non-work/training hours including "S" time, except as provided in CCR Section 3045.

#### **Emergency Modifications of Visiting Schedule Information**

Visiting may, without prior notification, be terminated, temporarily suspended, or modified in response to an institution/facility emergency as determined by the institution head or designee. Modification of the visiting schedule, including updates to the telephonic visiting information system, shall be posted as soon as practical. The visiting supervisor or designee is responsible for ensuring that the telephonic visiting information system is kept updated on a daily basis to ensure minimal impact on visitors.

#### **54020.8 Visitor Application Procedure**

*Revised April 3, 2014*

All adult visitors shall be required to obtain the institution/facility's approval before being permitted to visit, except as otherwise authorized in this Article. Visitor applicants shall complete and sign a CDCR Form 106, Visiting Questionnaire. In order to retain the status of approved visitor, a new CDCR Form 106 shall be submitted whenever there is a change in the visitor's address, telephone number, or arrest history or periodically upon request. The frequency of any periodic update initiated by the institution/facility shall be no more than once every two years.

Upon receipt of an updated CDCR Form 106 and absent information that would warrant immediate disapproval, the visitor shall be allowed to visit pending review and approval of the updated information.

A new CDCR Form 106 shall be submitted prior to visiting any inmate returned to an institution/facility from parole, or admitted into a substance abuse treatment control unit while on parole.

Any visitor approved at one institution/facility shall be approved to visit the same inmate upon a transfer to another institution/facility provided the visitor's approval status remains unchanged.

The CDCR Form 106 shall be processed as follows:

- The inmate is responsible for mailing CDCR Form 106 to any prospective visitor(s).
- The applicant shall return the completed form with an original signature via a common carrier or personal delivery to the institution, Attn: Inmate Visiting.
- The CDCR Form 106 shall not be accepted from inmates.
- Visiting staff will process only those Visiting Questionnaires that have been sent by the inmate to a prospective visitor in accordance with the provisions of CCR Subsections 3172(a) and (e). Forms reproduced from any other source, such as from an Internet download, will not be accepted for processing.
- Some other legitimate verification of inmate mailing of the questionnaire may be proved with an original dated signature provided by the inmate on the form in question. Questionnaires lacking such inmate mailing verification may not be processed absent alternative proof that the requirements of 3172(a) have been met or there is explanation for the absence of a signature.

Acceptable explanations for the absence of a signature include, but are not limited to:

- A documented physical and/or mental condition or disability that may exclude the inmate from mailing and/or signing the questionnaire.
- Verification of inmate mailing has been established by other means, such as a date officially stamped by the institution or by a staff signature.
- In accordance with CCR Subsection 3172(e) the visitor has been directed to update a questionnaire on file by designated staff in conjunction with a periodic review or a change in name, address, telephone number, or arrest history.
- When the completed CDCR Form 106 is received and processed at the institution/facility, the inmate shall receive a SOMS Notice of Visitor Approval/Disapproval.
- Inmates shall be responsible for notifying visitor applicants of their approval to visit.
- Visitors may be required to contact the Department of Justice regarding their criminal or arrest history.

#### **54020.8.1 Approval/Disapproval of Application to Visit**

The authority to approve or disapprove a CDCR Form 106 shall not be delegated below the rank of correctional sergeant, parole agent II, or correctional counselor II. An application to visit may be disapproved in accordance with CCR Section 3172.1.

#### **54020.8.2 Arrest History Inquiry**

*Revised April 3, 2014*

Upon receipt of the CDCR Form 106 an arrest history inquiry shall be completed and a determination to approve or disapprove visiting should be made within 30 working days at a minimum, a Criminal Identification and Information (CI&I) report shall be obtained if the California Law Enforcement Telecommunication System lists a CI&I number for the applicant. Reasons for delay beyond 30 days may be provided to prospective visitors upon inquiry by the individual applicant.

#### **Notification**

If the visiting application is disapproved, the applicant and the inmate shall receive from visiting staff via SOMS Notice of Visitor Disapproval, written notification of the disapproval and the process to appeal the decision. The visitor shall be informed of the specific reason(s) for disapproval.

#### **54020.8.3 Reconsideration of Disapproval**

*Revised April 3, 2014*

Reconsideration of disapproval shall occur upon receipt of supporting documentation and information, and included on a new CDCR Form 106 subject to the provisions of CCR Section 3172.1.

#### **54020.8.4 Revocation of Approval to Visit**

*Revised April 3, 2014*

An individual's approval to visit may be revoked when:

- Information that would have resulted in visiting disapproval becomes known after visiting approval has been granted.
- Any activity or event occurs subsequent to an approval to visit that would have resulted in disapproval of the initial application.

#### **54020.8.5 Violations of State Law on Institution/Facility Property**

Visitor violations of State or federal law on institution/facility property may be referred to prosecuting authorities in accordance with CCR Section 3176.2. The visitor's visiting privileges shall be revoked pending investigation and/or court disposition. If the visitor is not prosecuted or not referred for prosecution, the visitor shall be subject to action in accordance with CCR Subsections 3176.2(a) and (b). If the visitor is found not guilty or a court dismisses the charges, visiting approval may be restored upon the written request of the visitor.

#### **54020.9 Extenuating Circumstances for Visitor Approval**

*Revised September 25, 2007*

Exceptions to approval requirements for visitors may be made when death, life-threatening illness, or injury occurs to an immediate family member, including registered domestic partner, of the inmate.

Family emergency exceptions shall be made only for an inmate's immediate family members as defined in Section 3000 of the Title 15 or clergy.

Each request to visit because of a family emergency shall require proof of the emergency and approval of the supervisor in charge of visiting.

Visitors must present acceptable picture identification and pass an arrest history inquiry in accordance with this Section.

The visit shall be conducted under the direct supervision of visiting or designated staff.

#### **54020.10 Visiting Requirements for Minors**

*Revised April 3, 2014*

Minors shall be accompanied by an adult who has been approved to visit the inmate.

Approval of an emancipated minor's visit requires a one-time submission of a certified copy of the court order of emancipation. Staff shall note that the original is certified, and verification of the order shall be noted in SOMS. The emancipated minor is subject to all the rules and regulations as set forth for adult visitors.

If the accompanying adult is not the parent, legal guardian, or spouse of the minor, a notarized written consent shall be required from the person with legal custody of the minor, or a certified copy of a court order authorizing the minor to visit while accompanied by a designated adult.

- The notarized written consent or court order shall state the duration of approval and must be presented each time the minor visits. The notarized written consent must be renewed annually.
- Staff shall note the notarized consent form is current and shall annotate it in SOMS.

#### **54020.10.1 Visiting Restrictions for Minors**

*Revised May 10, 2010*

Any inmate convicted of specified criminal acts against minors shall be prohibited from visiting with minors in accordance with provisions of CCR Section 3173.1.

- For inmates convicted of Penal Code (PC) Section(s) 261, 264.1, 266c, 285, 286, 288, 288a, 288.5, or 289 when the victim is a minor, visitation with the minor victim shall be prohibited, except as authorized by an order of the juvenile court pursuant to Welfare and Institutions Code Section 362.6. Visitation pursuant to such an order shall be limited to non-contact status.
- For inmates convicted of PC Section(s) 261, 264.1, 266c, 269, 285, 286, 288, 288a, 288.5, or 289 when the victim is a minor, visitation with any minor who is not the victim of the crime shall be limited to non-contact status except as authorized by the Institution Classification Committee.
- For inmates convicted of PC Section(s) 273a, or 273d, visitation with the minor victim shall be limited to non-contact status.
- For inmates convicted of violating PC Section(s) 187, 269, 273a, 273ab, or 273d, when the victim is a minor, visitation with any other minor shall be limited to non-contact status except as authorized by the Institution Classification Committee.
- When an inmate has been arrested, but not convicted of any crime involving a minor victim included in this Section, a classification committee shall determine whether all visitations with a minor(s) is to be limited to non-contact status.

- Unless otherwise prohibited, the inmate's visiting status shall be unrestricted until a classification committee has done the following:
  - Made a case-by-case determination whether the inmate poses a threat of harm to minor visitors in contact visitation.
  - Considered the circumstances of the misconduct involving a minor victim in determining whether the inmate poses a threat of harm to minor visitors in contact visitation. In making its determination, the classification committee shall consider, but is not limited to, arrest reports, probation officer reports, court transcripts, and parole revocation transcripts.
- If a classification committee determines that the inmate will pose a threat of harm to minor visitors in contact visitation, it will order all the inmate's visitation with minors be restricted to non-contact visiting status.
- If the inmate disagrees with the decision of a classification committee, the inmate may file an inmate grievance via the CDC Form 602 appeal process as outlined in CCR Sections 3084.1 through 3085.

#### **54020.11 Processing Visitors**

*Revised April 3, 2014*

Upon arrival at the visitor processing area, the visitor shall be issued a SOMS, Visitor Pass.

Visiting staff shall:

- Request picture identification in accordance with this Article. A certified copy of each minor's birth certificate or county-embossed abstract of birth shall be presented.
- Verify approval to visit via the inmate visitor approval list in SOMS.
- Determine visiting status; e.g., non-contact, order for an unclothed body search or other restriction/instructions, and follow any special instructions posted in SOMS.
- Enter the date of the visit in SOMS.
- Stamp the right wrist of all visitors age seven and older with fluorescent ink prior to their entrance into the institution/facility.
- Search/Inspect all visitors in accordance with CCR Section 3173.2.

Staff shall identify visitors prior to their exit from the institution/facility by positive physical identification, inspection of their identification card, SOMS visitor pass and wrist stamp.

#### **54020.11.1 Visiting Program Reasonable Accommodation**

*Revised December 16, 2010*

Subject to the Americans with Disabilities Act and other applicable law, reasonable accommodations shall be afforded visitors and inmates with disabilities to facilitate their full participation in contact, non-contact, and family visiting.

#### **54020.11.2 Processing Visitors with Medical Implants, Prosthetic, or Assistive Devices**

*Revised April 3, 2014*

Visitors with temporary medically implanted or prosthetic devices, wheelchairs, or other assistive devices who cannot clear contraband/metal detection devices shall be required to present a signed letter which includes the address, telephone number, and the California Medical License number (if applicable) of their physician, physiatrist, prosthetist, or orthotist.

Visitors with permanent medically implanted or prosthetic devices shall be required to present a letter with the initial submission of an application requesting visitation with an inmate. A visitor who had already been approved to visit and later has a permanent or prosthetic device(s) installed shall be required to submit medical verification as prescribed in CCR Subsection 3173.2(d). Once accepted, this verification will be incorporated into SOMS and will only require update to coincide with changes to the visitor's permanent implanted or prosthetic device(s).

The verification letter shall:

- Be renewed at least every two years or coinciding with the requirement for updating visitor information.
- Detail the specific location of the medical implant or prosthetic device in or on the body.
- Detail the specific type of mobility impairment and verify the need for a wheelchair or assistive device.

#### **Processing Visitors with Medical Implants or Prosthetic Devices**

Staff shall conduct an inspection of the prosthetic device to the extent possible without the removal of clothing. A hand-held contraband/metal detection device shall be utilized to process visitors with medical implants.

Any required removal of prosthetic and medical implants for inspection will be done in private setting or area.

If reasonable suspicion exists to believe that a visitor is attempting to introduce contraband or substances into or remove contraband out of the institution and the visitor has a medical implant, prosthetic device, or uses a wheelchair or assistive device(s), a search will be initiated in accordance with this Section. Licensed physician and/or nursing staff of the same sex shall be present to assist with the unclothed body search consistent with the duties of their classification.

#### **Processing Visitors with Wheelchairs or Mobility Assistive Devices**

The visitor shall be asked to temporarily transfer from his/her personal wheelchair to an institutional wheelchair while an inspection of the visitor's wheelchair is conducted.

Institution/facility staff are not authorized to physically assist the visitor with the wheelchair transfer.

Hand-held contraband/metal detection devices shall be used to process the visitor during the transfer from his/her personal wheelchair to the designated wheelchair.

If the visitor provides no written verification of impairment and/or need for assistive device and/or refuses to comply with the transfer, the visit shall be denied by the appropriate staff.

Visitors who present letters signed by their physician, etc., which details a specific type of mobility impairment which precludes the wheelchair transfer or verifies the need for using battery-powered or custom designed wheelchairs, shall be exempt from the wheelchair transfer requirement.

When an institutional wheelchair is not available or the visitor is unable to transfer to another wheelchair, the visitor is exempt from the transfer requirement.

Visiting staff shall conduct a visual inspection of the wheelchair and hand-held contraband/metal detection devices shall be used to process visitors deemed exempt from the wheelchair transfer requirement.

#### **54020.12 Proof of Identity**

*Revised December 16, 2010*

All Adult visitors shall present picture identification before being permitted to visit. The following are acceptable forms of identification for visitors:

- Valid driver's license with picture.
- Valid Department of Motor Vehicles identification card with picture.
- Valid government-issued passport with picture.
- Armed Forces' identification card with picture.
- Identification cards issued by the United States Department of Justice or United States Immigration and Naturalization Service.
- Picture identification Matricula Consular De Alta Seguridad (MCAS) issued by the Mexican Consulate.

#### **54020.13 Inspection/Search of Visitors**

*Revised May 10, 2010*

All persons, their property or possessions, and/or vehicles when on institution/facility property are subject to inspection/search to the degree necessary to ensure institution/facility security and prevent the introduction of contraband.

Visitors shall not be forcibly searched unless institution/facility officials possess a court-issued warrant to conduct the search or the visitor is being detained for unlawful actions or activities in accordance with CCR Section 3292.

##### **54020.13.1 Contraband/Metal Detection Devices**

*Revised January 10, 2014*

All visitors shall be processed into the security area through a contraband/metal detection device and/or a hand-held wand metal detector device. Visitors shall have property in their possession searched prior to being allowed entry into the institution/facility. Visitors shall remove all items from their pockets and remove jackets, belts, shoes, etc. These items shall be placed in a designated area for inspection by the visitor processing center staff.

Additional screening will occur when an individual sets off the alarm of the metal detector, an individual is selected for additional screening, or an individual has provided documentation to substantiate a condition that precludes successful screening by metal detector. Additional screening may include a hand-held wand inspection in conjunction with a clothed body search of the visitor's body (including the torso), a clothed body search alone, or an unclothed body search.

When additional screening is required, visitors should let staff know of any personal needs or concerns they may have due to religious or cultural

considerations, disability, or other medical concern. Additional searches will be conducted by staff of the same gender as the visitor.

Staff shall use a hand-held wand inspection to identify what may have set off the alarm on the walk-through metal detector or to confirm an alarm present during the initial screening. During the wandering procedure the visitor shall be asked to stand with feet and legs apart and arms out to the side while the staff member passes the wand in close proximity to all areas of the visitor's body.

A visitor who fails to clear any contraband/metal detection device may be subject to a clothed or unclothed body search prior to beginning a visit.

Before the clothed or unclothed search is conducted, authorization and visitor consent shall be obtained in accordance with this Article.

#### **54020.13.2 Clothed Searches of Visitors**

*Revised January 10, 2014*

Staff may conduct a clothed body search and use a variety of detection devices when the visitor fails to clear any contraband/metal detection device, or information has been obtained indicating that a visitor is in possession of contraband as described in DOM Chapter 5, Article 20. To ensure security, a clothed body search may be used in conjunction with the hand-held wand inspection. A clothed body search may also be performed as a stand-alone procedure, when appropriate, or to resolve alarms set off during an inspection by a metal detector. A clothed body search may include touching sensitive areas of the body.

Visiting staff of the same sex as the visitor shall conduct authorized clothed body searches.

In emergency situations, custody staff of either sex may conduct a clothed body search.

Removal of outer garments, heavy clothing, and possibly shoes may be requested to complete the security search.

Discretion shall be exercised when issuing instructions to persons being searched.

Clothed body searches may be conducted on reasonable suspicion that the visitor is carrying contraband.

#### **54020.13.3 Unclothed Searches of Visitors**

*Revised January 10, 2014*

Staff may conduct an unclothed visual body search and use a variety of detection devices to conduct a more intensive security search of the visitor's person when the visitor fails to clear any contraband/metal detection device, or information is obtained that a visitor is in possession of contraband as described in DOM Chapter 5, Article 20. An unclothed body search is a security procedure that involves visual inspection of a person's body with all of their clothing removed and a thorough inspection of the person's clothing for the purpose of detecting contraband. This procedure may be conducted with the visitor's consent when there is a reasonable suspicion that the visitor is carrying contraband and when no less intrusive means are available to conduct the search.

Unclothed searches are especially appropriate when clothed searches prove inconclusive and the presence of contraband remains a reasonable suspicion.

Unclothed body searches shall be accomplished in accordance with the following provisions and recorded on a CDC Form 888, Notice of Request to Search.

Visiting staff of the same sex as the visitor shall conduct authorized unclothed body searches. The search shall be conducted in a private setting, in a dignified manner, and by at least two staff members. Unclothed body searches may be done on probable cause.

Consistent with their duties or classification, a licensed physician and/or nurse of the same gender shall be present to observe and assist in searches when an unclothed body search is required of visitors having a medical implant, prosthetic device, wheelchair, or assistive device(s).

Discretion shall be exercised when issuing instructions to persons being searched.

If staff identifies what appears to be contraband in a body cavity and the visitor refuses to remove the suspected contraband from the body cavity, the visitor shall be detained and referred to the local law enforcement agency.

When probable cause exists that a visitor has concealed contraband in a body cavity; local law enforcement shall be summoned. CDCR staff shall not perform any body cavity searches of visitors.

A copy of the CDC Form 888 excluding confidential information shall be given to the visitor.

#### **54020.14 Visitor Consent for Search**

When a clothed or unclothed body search of a visitor is authorized and/or necessary due to the failure to clear any contraband/metal detection device, the

visitor shall be verbally informed of the reason(s) for the search and the name of the official ordering the search. Before the search is conducted, the visitor shall provide written consent by signing a CDC Form 888.

A CDC Form 888 shall be completed for each person searched, including minors. The parents or legal guardian of the minor shall be required to consent to the search of minor children by signing the CDC Form 888.

A copy of the CDC Form 888 and all information relied upon for ordering the search shall be sent to the institution head or designee immediately following the search.

Within 24 hours, a detailed written report shall be submitted to the institution head and shall include the following information:

- The reason for the clothed or unclothed search of the visitor's person or exceptional search of property or vehicle.
- The visitor's response.
- The results of the search.

On weekends and holidays, this report shall be submitted to the institution head on the first working day following the search.

#### **54020.14.1 Refusal to Submit to a Search**

Visitors who refuse to submit to a clothed or unclothed body search shall have their visiting privileges denied for that day. Future visits may be conditional upon the visitor's willingness to submit to a clothed or unclothed body search prior to each visit.

Any parent or legal guardian refusing to provide consent for clothed or unclothed search of a minor shall be denied the opportunity to visit that day.

The institution head may delegate authority, to authorize clothed and/or unclothed body searches of visitors and search their property or vehicles, to staff at the level of correctional captain or higher. The Administrative Officer of the Day (AOD) shall exercise this authority in the absence of appropriate staff.

The visiting supervisor/watch commander shall advise the captain/administrator in charge of visiting of a search of a minor. During non-business hours the AOD shall be notified.

#### **54020.14.2 Documentation of Information Leading to a Search of a Visitor**

*Revised April 3, 2014*

When staff obtains information that indicates that a visitor may be in possession of contraband on institution/facility property, the employee shall document the information on a confidential memorandum.

The report shall include:

- The name and number of the inmate(s) intended to be visited.
- Visitor's name, physical description, personal relationship to the inmate; e.g., wife, sister, brother, etc. (if known).
- Specific details of the circumstances.
- Means by which the documenting employee obtained information.

The report shall be personally delivered to the correctional custody captain or designated staff for approval to conduct an unclothed body search of the designated person.

A written report documenting the reason for any exceptional probable cause search of a visitor's person, property, or vehicle shall be submitted to the institution head or designee by the official in charge of visiting no later than the first working day following the incident. This report will also include any visitor's response and the results of the search.

A copy of the SOMS Notice of Visitor Warning/Termination/Suspension/Denial/Revocation, with all confidential information redacted shall be given to the inmate whom the person visited or intended to visit, and to the prospective visitor(s).

#### **54020.14.3 Searching of Minors**

The accompanying parent or legal guardian of the minor must consent to, and shall be permitted to, witness the search. The procedure to search a minor is as follows:

- A custody supervisor and at least one other staff member of the same sex of the minor shall be present during the search.
- Care shall be exercised not to traumatize the minor(s) being searched.

If personal contact is necessary to facilitate the search, it shall be performed by the parent or legal guardian at the direction of, and to the satisfaction of, the searching officer. If a minor experiences difficulty in comprehending instructions, the parent or legal guardian shall be utilized to relay instructions. Simultaneous searches of minors of the opposite sex in the same area is prohibited.

If necessary, visiting staff shall supervise minors while separate searches are conducted.

#### **54020.15 Allowable Visitor Items**

*Revised April 3, 2014*

Visitors may be permitted to take the following items into the visiting area:

##### **Miscellaneous Items**

- One pair of eyeglasses.
- One handkerchief or a small package of tissues, no bandannas.
- One comb and/or hairbrush, non-metallic, no pointed ends or detachable parts.
- Two keys on a ring with no other attachments. One key may be an electronic car key.
- Visiting locker key.
- Identification.
- One transparent coin purse, maximum two compartments, maximum size of 6"x 8".
- Fifty dollars per adult visitor and twenty dollars per minor visitor, coin or one dollar bills only.
- Indian Medicine Bag. (Upon inspection and approval.)
- Two small (less than 12 inches in length) solid toys.

##### **Baby Items**

The following baby care items are permitted for each baby:

- One transparent diaper bag.
- Six disposable diapers.
- Three factory-sealed jars of baby food.
- Any combination of the following; two factory-sealed single serving size, ready to feed bottles of baby formula or two transparent plastic baby bottles, either empty or containing pre-mixed formula/milk/juice/water.
- Two factory-sealed, single serving size packets of powdered baby formula.
- One change of clothes.
- Single-layer baby blanket.
- One transparent pacifier.
- Factory-sealed baby wipes.
- One baby feeding spoon (plastic).
- One single-layer burp cloth.
- One infant carrier.

##### **Necessary Reasonable Accommodations**

The following items are permitted, as-needed, and upon submission of verifiable documentation from a medical doctor that a physical or mental limitation exists, for visitors who require reasonable accommodations to ensure that proper hygiene is met:

- One to two articles of clothing (pants).
- Two adult incontinence products (diapers).
- A container of cleaning wipes.
- Wheelchair and one additional assistive device (i.e., cane, walker, etc.).

The one or two articles of clothing (pants) shall be maintained in a secure location (e.g., locker at the visitor processing center readily available to the visitor as needed or the visitor's secured vehicle). When necessary, visiting staff shall provide a disposable jumpsuit and clear plastic bag for soiled diapers and/or articles of clothing. The visitor may use the jumpsuit to walk to the visiting processing center and retrieve clean articles of clothing previously stored there. The disposable jumpsuit will be collected and disposed of in accordance with institution procedures. The visitor will be allowed to return to the visiting room to resume their visit.

If necessary due to physical inability to walk and/or stand without an assistive device, visitors will be allowed to bring with them a wheelchair and one additional assistive device (i.e., cane, walker, etc.), to provide a sufficiently stable platform while in a toilet facility to allow a visitor to stand while a diaper and/or clothing is changed, and if necessary due to physical limitations, visitors are also allowed one non-inmate caregiver of the same sex to assist with personal hygiene needs as well as to assist the visitor back into or out of a wheelchair or toilet facility. Persons designated as caregivers must meet all visitor requirements set forth in DOM Article 42, Visiting.

Visitors requiring reasonable accommodations in order to meet proper hygiene, must submit with their visitor application, verifiable documentation

from a medical doctor that a physical or mental limitation, for which accommodation is needed, exists. Approved visitors must bring with them a copy of this documentation on the day of the visit.

#### **Photographs/Documents**

Photographs, papers, or documents permitted into the visiting area for the inmate's examination shall be retained by the visitor and carried from the visiting room and the institution/facility at the conclusion of the visit.

Photographs, papers, or documents require approval of the institution/facility designated staff.

Ten approved photographs may be allowed; maximum size 8" x 10"; no false backs or instant photographs.

During processing, visiting staff shall:

- Inspect and count the items.
- Record the number of items on the SOMS Visitor Pass.

Upon conclusion of the visit, staff shall again count the items verifying the amount with the number recorded.

The institution/facility shall provide, upon request, one pencil and notebook paper to be checked out by the adult visitor, as needed. At the conclusion of the visit, the pencil shall be returned to visiting room staff. The paperwork shall be inspected for contraband and the visitor shall be allowed to remove the paperwork from the institution/facility.

Institutions/facilities may provide games, children's books, crayons, and coloring books upon receipt of donations from the community.

#### **54020.16 Lockers**

Lockers may be available in some visitor processing areas for storage of items that are not permitted into the visiting areas.

The institution/facility shall not be responsible for the loss or theft of personal items left in lockers.

#### **54020.17 Visitor Medication**

Visitors may retain only life-sustaining, condition-stabilizing medication with the prescribing physician's written statement of its immediate need, and only in the physician's prescribed amount immediately required to sustain or stabilize the condition during the visit.

The physician's written statement shall include the physician's medical license number, address, and phone number.

All medication shall be in its original pharmacy container with the patient's name, pharmacy, name of medication, prescribed dosage, and the physician's name indicated on the container's label.

#### **54020.18 Number of Approved Visitors**

Limitations shall not be placed on the number of visitors approved to visit an inmate.

The number of visitors allowed in the visiting area at one time is limited as follows:

- No more than five visitors per inmate, including minors. Visitors in excess of five may be accommodated by means of rotation through the visiting area on a one time basis. Such rotation shall be considered a single visit in the event it is necessary to terminate a visit in progress.
- Non-contact visits shall not exceed three visitors, including minors. Visitors in excess of three may be accommodated by means of rotation through the visiting area on a one time basis. Such rotation shall be considered a single visit in the event it is necessary to terminate a visit in progress.

#### **54020.19 Visitor Emergency Medical Assistance**

Emergency medical attention may be provided to visitors who become ill, injured, or require medical attention while on institution/facility property. The responding staff member shall make every effort to preserve life.

- This may include first aid, CPR, and other life-saving measures for which the employee is trained and/or certified. Life support measures shall be continued until the medical personnel arrive.
- Staff may contact a visitor's relative or friend to assist in the transportation of the visitor. An ambulance may be summoned for visitors requiring emergency medical attention. The institution/facility is not responsible for payment of services provided by outside agencies.
- The watch commander shall immediately be notified, and the appropriate documentation shall be completed.

If a visitor alleges injury, or was involved in an accident on institution/facility property, a STD Form 268, Accident Report, shall be completed by visiting staff.

#### **54020.20 Visitor Basic Dress Standards**

*Revised January 10, 2014*

Visitors shall remain fully clothed when visiting. Appropriate attire includes undergarments; a dress or blouse/shirt with skirt/pants or shorts; and shoes or sandals.

Visitors over 36" tall shall adhere to the following dress standards.

- Shoes or sandals shall be worn at all times. Shower shoes and bedroom slippers will not be allowed.
- Buttons, snaps, and zippers shall remain fastened.
- Undergarments shall be worn beneath translucent clothing, under all circumstances.
- For security reasons, no brassiere will have metal underwire.
- All shorts and skirts, including slits in the garment, shall not expose more than two inches above the knee when standing.

#### **Prohibited Attire:**

Prohibited attire consists of, but is not limited to, the following:

- Clothing that resembles state-issued inmate clothing worn to visiting (e.g., blue denim or blue chambray shirts and blue denim pants, reception center attire).
- Clothing that resembles law enforcement or military-type clothing, including raingear, when not legitimately worn by an individual on active duty or in an official capacity.

#### **Clothing that:**

- Exposes the breast/chest area, genitals, or buttocks.
- By design, manner worn, or due to the absence of, allows the anatomical detail of body parts or midriff to be clearly viewed.
- Are sheer or transparent or excessively tight.
- Attire or accessories displaying obscene/offensive language, drawings, or objects.
- Head coverings, readily removable hair pieces, or gloves, with the exception of clear see-through rain gear for inclement weather.
- Any other clothing, garment, or accessory that when compared to the expressly specified standards above would warrant disapproval.

#### **Exceptions:**

Hats, wigs, gloves, religious veils, or hairpieces are permitted with the prior written approval of the institution head or designee.

- Approval shall be based on verification of the visitor's necessity to wear the hat, wig, gloves, or hairpiece.
- Approval of hats and gloves shall be based on weather conditions at the institution/facility.
- Approved hats, wigs, gloves, religious veils, or hairpieces shall be inspected by visiting staff prior to the visit.

#### **54020.21 Processing of Inmates**

*Revised January 4, 2006*

Before allowing inmates into the visiting area, staff shall:

- Search the inmate in a manner consistent with institution/facility security prior to, and upon conclusion of, each visit.
- Verify the inmate's identity.

Inmates shall be permitted to take any of the following items into the visiting area:

- One handkerchief.
- One comb.
- One wedding band.
- One religious medal on a necklace.
- Prescription eyeglasses.
- Approved medical assistive device.
- Written or printed legal material or case-related documentation pertaining to the inmate's case for an attorney visit only.
- One article of approved Religious headgear may be worn in the visiting area.

#### **54020.21.1 Inmate Visiting Dress Standards**

Inmates shall wear only those items of state-issued clothing issued to them at the time of the visit.

Inmates are permitted to wear one each of the following state-issued clothing items:

- Shirt.
- Pair of pants.
- Belt.

- Jacket.
- Pair of socks.
- Pair of shoes.
- Under garments.

Inmates may wear the following state-issued or personal items, if allowed at the institution/facility at the time of the visit:

- Thermal clothing.
- Sandals or shower shoes may be permitted for inmates housed in institution/facility medical units.

Exceptions to the approved inmate attire shall be based on medical necessity, and authorized by the health care manager or treating physician.

#### **54020.21.2 Authorization of Excused Time off for Visits**

*Revised April 3, 2014*

An inmate's work supervisor may approve excused time off (ETO) from a work assignment to participate in a visit in accordance with CCR Section 3045.2.

During lockdowns, when visiting programs have not been suspended, inmates prevented from working as a result of the lockdown may be permitted ETO visits during their normal work hours.

- When inmates are not required to report to their work assignments because of temporary suspension of the work program, they may be allowed to participate in ETO visits.

In each instance, the approval or disapproval of this action shall be documented in SOMS on a CDC Form 128-B, General Chrono, by the approving authority.

Inmates should not be denied visiting opportunities solely on the basis of the unanticipated absence or temporary unavailability of their work supervisor.

#### **54020.21.3 Inmate Refusal to Visit**

*Revised April 3, 2014*

Inmates may refuse to see a visitor. The refusal shall be documented in SOMS on a CDC Form 128-B and shall be signed by the inmate. If the inmate refuses to sign the form, the staff member having knowledge of the refusal shall document the refusal on the CDC Form 128-B.

The original form shall be placed in the inmate's file and the visitor and the inmate shall be given a copy.

Refusal by the inmate to see a visitor on one occasion shall not result in the visitor's removal from the approved visitor list, unless the inmate requests removal.

Inmates who desire to remove a visitor from their visiting list shall make a written request to the supervisor in charge of visiting. It is the inmate's responsibility to notify visitors of their removal from the visiting list.

Visitors shall be removed from the visiting list on the date the request is received by visiting staff for a minimum of six months, and this information shall be recorded in SOMS.

The inmate may make a written request to place the visitor back on the visiting list in accordance with this Section at the conclusion of the six-month period.

#### **54020.22 Non-Contact Visiting**

*Revised April 3, 2014*

Inmates assigned to Administrative Segregation Unit / Security Housing Unit (ASU/SHU) are not normally eligible for contact visits. On a case-by-case basis, the institution head or designee may allow contact visits for inmates in ASU.

Inmates not assigned to an ASU/SHU may be placed on non-contact visiting status for specific periods of time by disciplinary disposition, or classification committee action in accordance with CCR Sections 3170(d) and 3176.4.

Visitors who have made appointments in advance for non-contact visits shall be given priority.

- Non-contact visits shall be scheduled in one-hour increments and may be extended depending on space availability and scheduling. When overcrowding occurs, those who have visited at least one hour and who have been visiting for the longest time may have their visits terminated as outlined in CCR Subsections 3176(a)(9) and (10).
- Each institution/facility shall develop an operational supplement for the scheduling of non-contact visits.
- Inmates undergoing reception center processing shall be limited to non-contact visiting. If the institution does not allow non-contact visiting, the institution head shall develop an alternative visiting plan to allow visiting in accordance with this Section.

- Inmates determined to be disabled and housed at a reception center for periods exceeding 61 days solely due to their disability, shall be allowed regular visiting privileges in compliance with this Article.

#### **54020.22.1 Temporary Imposition of Non-Contact Visits**

*Revised April 3, 2014*

In accordance with CCR Section 3176.4(a) the ranking custody officer on duty, or the supervisor in charge of visiting, may temporarily impose noncontact visiting restrictions but may not deny visiting as a security measure. Non-contact visiting may be imposed as a temporary measure for willful failure or refusal to abide by visiting regulations. This status may be invoked pending the outcome of a disciplinary or classification committee hearing. In addition, an inmate on non-contact visiting status may have all visits temporarily suspended when displaying disruptive behavior during a visit. The reason(s) for the non-contact visiting status or suspension of visiting shall be recorded in SOMS and the affected inmate shall be given a copy of the documentation. Subsequent disciplinary or classification committee action shall supersede any temporary action.

#### **54020.22.2 Non-Contact Visits for General Population Inmates**

Non-contact visiting for general population inmates shall be imposed by a classification committee for specified periods of time when there is substantial reason(s) to believe that physical contact with a visitor(s) or with other inmates may:

- Endanger the safety of persons.
- Jeopardize the security of the institution.

Non-contact visiting may be imposed in accordance with CCR Sections 3170(d), 3176.3, and 3315.

#### **54020.22.3 Review of Newly Arriving Inmates for Visiting Status**

The initial classification committee shall review all newly arrived inmates who are eligible for general population placement to determine visiting status.

Criteria for imposition of non-contact visiting status shall include, but are not limited to:

- Violations of visiting regulations.
- Recent or repeated possession of contraband (such as money, narcotics, and/or paraphernalia, escape tools or devices, etc.), the evidence or circumstance of possession of which suggests illicit acquisition through the visiting process and/or from smuggling into the institution/facility.
- Assaultive, irrational, or bizarre behavior suggesting that the inmate has a high violence potential and may prove disruptive to the visiting program.
- Escape risk or escape history.
- The inmate is temporarily housed at an institution/facility of another law enforcement agency.
- The inmate may be placed on non-contact visiting if assigned to a drug rehabilitation program which requires non-contact visiting.

#### **54020.23 Rule Violations Related to Visiting**

A Hearing Officer or Senior Hearing Officer may place limitations and restrictions on an inmate's visits for specified periods of time when the inmate is found guilty of rules violations related to visiting, distribution/possession of controlled medications, or possession of contraband likely to have been introduced through visiting; ( i.e., money, jewelry), or by classification committee action in accordance with CCR Sections 3170.4(e) and 3315.

#### **54020.24 Food in Visiting Areas**

Visitors and inmates are permitted only those items purchased in their respective visiting areas.

- Inmates and visitors may not take any food items from the visiting area. Visitors at CDCR Conservation Camps are permitted to bring the following vendor-sealed food items to the picnic visiting area:
  - Prepared, non-marinated, unprepared, and/or lunch meats.
  - Cheeses.
  - Non-alcoholic beverages.
    - Six 12-ounce unopened cans or plastic bottles per inmate and visitor.
    - One unopened quart of milk per inmate and visitor.
    - One unopened six-ounce jar of instant coffee.
  - One unopened 16-ounce jar of barbecue sauce and/or steak sauce.
  - Individual sealed condiment packets: ketchup, mustard, mayonnaise, relish, sugar, etc.
  - One large unopened bag of chips per inmate and visitor.

- Four hot dog buns per inmate and visitor.
- Four hamburger buns per inmate and visitor.
- One package of tortillas per inmate and visitor.
- Two unsliced fruits per inmate and visitor.
- One potato per inmate and visitor.
- One onion or pepper per inmate and visitor.
- Two bakery product servings per inmate and visitor.

Food items taken into designated visiting areas shall be consumed during the visit or taken from the visiting areas by the visitors at the conclusion of the visit.

#### **54020.25 Visiting Photo Program**

Photographs may be taken of the inmate and/or visitor in designated visiting area locations when purchased through the institution/facility's photo program.

Inmates and visitors shall be authorized to retain any approved photographs taken during the visit.

#### **54020.26 Visiting with More Than One Inmate**

*Revised April 3, 2014*

Except for visits with immediate family members as defined in Section 3000 of the Title 15, visiting with more than one inmate at the same time shall require the approval of the institution head or designee. Consistent with all other requirements specified in DOM 54026.10.1.

Visiting more than one inmate at the same time shall require that both inmates are approved to visit in the same visiting room and that either:

- The visitor(s) has prior written approval from the institution/facility head or designee, or
- The visitor(s) and inmates are immediate family members including registered domestic partner.

#### **54020.27 Visiting in CDCR Hospitals and Infirmaries**

*Revised April 3, 2014*

Authorization from the health care manager and the correctional captain or AOD shall be obtained to approve visits for inmates housed in CDCR infirmaries or hospital facilities.

- Visitors shall be immediate family members as defined in Section 3000 of Title 15 including registered domestic partner.
- Visitors shall be supervised by custody staff during the visit.
- Approval for visits by minors shall be obtained from the institution head or designee.
- Visitors shall only be authorized to retain two keys on a single key ring (with no attachments), life sustaining medication, and a valid form of identification.

The length of visiting in a CDCR infirmary, hospitals, or community hospitals shall be determined by the institution head or designee based on staff availability.

#### **54020.28 Visiting in a Community Hospital**

*Revised September 25, 2007*

Visits for inmates in a community hospital may be approved under the following conditions:

- The inmate has a life-threatening or critical illness/injury.
- The visitor is an immediate family member including registered domestic partner.
- The visitor has prior approval to visit the inmate in an institution/facility.
- The institution head or designee approves the visit.
- The attending physician authorizes the visit.

Visitors in a community hospital shall comply with the CDCR visiting rules and any restrictions or requirements imposed by the institution/facility or hospital.

The length of visiting in a CDCR infirmary, hospitals, or community hospitals shall be determined by the institution head or designee based on staff availability.

#### **54020.29 Visiting Conduct**

*Revised May 10, 2010*

Each inmate and visitor is responsible for their conduct during visits. Violation of laws, whether or not on CDCR property, and/or CDCR policies or regulations, may result in restrictions, suspension, denial, revocation of visiting privileges, and/or arrest.

An inmate and their visitor may briefly embrace and kiss at the beginning and end of each visit. Except for holding hands, no other body contact is permitted except as specified below:

- An inmate may hold his or her minor children. Inmates may also hold minor children accompanied by an adult. Such contact will be monitored to ensure compliance with CCR Sections 3007 (Sexual Behavior) and 3173.1 (Visiting restrictions with minors).
- Nursing mothers shall be discreet and covered when breast feeding their child in the visiting room. Failure to do so shall result in termination of visiting for that day.
- Minors shall remain under the constant control and supervision of the accompanying adult.
- Visitors shall not leave the designated visiting area except at the conclusion of the visit.
- All food or beverage items shall be consumed or disposed of at the conclusion of the visit. During contact visits, the inmate and visitor may exchange or examine any items of property or consume any items of food or beverage that either party is permitted to bring into or purchase in the visiting area. Inmates may retain photographs that were taken during the visit.
- Inmates shall not retain any items taken into any visiting area by the visitor except legal materials approved in accordance with CCR Subsections 3178(n) and (o).
- In accordance with CCR Section 3006, inmates shall not be authorized to possess contraband as defined in CCR Section 3000.
- Inmates shall clean their respective visiting area upon conclusion of the visit.

#### **54020.29.1 Suspension or Exclusion of Visitors from the Visiting Program**

*Revised April 3, 2014*

All visitors entering the institution/facility for the purpose of visiting an inmate are subject to all applicable policies, regulations, local procedures, and laws:

- Visitors violating a policy, regulation, or law are subject to denial, suspension, or revocation of a visit in progress or exclusion from the visiting program in accordance with CCR Subsections 3176-3176.3.
- Actions affecting a visitor's access to the visiting program shall be recorded on SOMS titled Notices.

When verbal warning and/or restrictions fail to achieve compliance, or fail to correct the conduct by a visitor, the visit shall be terminated for the day.

For serious or repeated violations of the rules, regulations, or procedures and/or upon belief of the visitor's involvement in a criminal act and pending the outcome of an investigation, the official in charge of visiting may impose a suspension of the visitor's access to the visiting program for up to six months in accordance with CCR Subsection 3176.1(c).

- The institution head or director or designee, as appropriate, and in accordance with CCR Subsections 3176.1(d) and (e), may impose suspension for up to twenty-four months when visitors are involved in misdemeanor or felony criminal activities on institution/facility property.
- Subsequent discovery of information that would have resulted in disapproval or disqualifying contact are grounds for revocation of the previously granted permission to visit an inmate.

The warning, visit termination, suspension, and revocation information recorded in SOMS shall clearly state the reason for the action and the length of time any sanction or action taken will apply. The notification content of the form shall include the signature of the official taking the action and advise the visitor of the right to appeal in accordance with CCR Section 3179. An original shall be provided to the visitor at the time of the action or mailed to the visitor's last known address within five working days of the action. Records shall be maintained in SOMS and the institution head shall be notified.

In all instances of exclusions made in accordance with the provisions of CCR Subsection 3176.3, a written report will be made to the Director via the Deputy Director, Division of Adult Institutions or appropriate Associate Director designee within two working days of the effective date of the order.

#### **54020.30 Denial or Termination of Visits Due to Overcrowding**

*Revised April 3, 2014*

Visits may be terminated or denied when the visiting areas are in use to maximum capacity, and there are other approved visitors waiting to visit.



Termination of visits due to overcrowding shall be based on the recorded order of arrival time of the inmate (first in/first out). Exceptions to this termination procedure are as follows:

- **Excessive distance:** The visitor has traveled a distance of 250 miles or more and has not visited within the last 30 days. This exception shall be applied to allow two consecutive days of visiting.
- **Disabled Visitor:** A visitor who is certified as disabled as defined by California law and must rely on special transportation to the institution.
- **Weddings:** When a visitor is married to an inmate on that particular day.
- **Family Emergencies:** When death, serious illness, or injury occurs to an inmate's immediate family including registered domestic partner. Clergy or approved visitors may visit the inmate to offer condolences or inform the inmate of the occurrence.
- **Infrequent Visits:** When an inmate receives not more than one visit each six months. A visit meets this definition when the inmate normally receives few visits, and a visitor arrives unexpectedly.

When visit terminations are complete and the overcrowding situation persists, the visits of those remaining shall be terminated as necessary. When overcrowding occurs, those who have visited at least one hour and who have been visiting for the longest time may have their visits terminated as outlined in CCR, Subsection 3176(a)(9) and DOM Article 42, Section 54029.1.

Upon termination of a visit due to overcrowding, the official taking the action shall prepare a SOMS Termination Notice explaining the reason for termination. The visiting supervisor authorizing the action shall sign the notice.

Records shall be maintained in SOMS and copies forwarded to the institution head, the inmate and the visitor.

Any visitor whose visit is terminated due to overcrowding shall not be allowed to re-enter on the day of termination.

#### **54020.31 Suspension of Visiting Program**

The institution head or designee may suspend the visiting program during an emergency.

#### **54020.32 Attorney Visitations and Consultation**

Inmates have a right to access the courts and the judicial system. It is the policy of the CDCR to facilitate both correspondence and personal consultation for this purpose.

An attorney visit is a private consultation between an inmate and his/her attorney or representative.

Conversations between an inmate and an attorney or attorney representative shall not be listened to or monitored with the exception of visual observation by staff as required for the safety and security of the institution/facility.

Attorneys or attorney representatives shall not be permitted to attend or participate in any conference or committee meeting of staff and the inmate concerned, except as may be authorized by law or regulation.

##### **54020.32.1 Clearance and Approval for Attorney Visit**

An attorney or attorney representative seeking an in-person consultation with an inmate shall contact the institution/facility at which the inmate is housed. Such request(s) shall be in advance and can be made in person, in writing, by telephone, or facsimile directed to the staff designated in the institution/facility's operational supplement to this Section.

The following personal and professional information is required in writing for approval of the attorney's request to visit:

- Inmate's name, CDCR number, and date of birth.
- Proof of the attorney's current registry, in good standing, with a state bar association and indication of the jurisdiction(s) licensed to practice law.
- The attorney's date of birth, mailing address, and valid driver's license or state-issued identification card number.

The requesting attorney must also report any prior felony convictions, explain any prior suspension or exclusion from a correctional facility, and declare one or more of the following:

- They are the attorney of record either by appointment by the court, appointment by the Board of Parole Hearings, or at the inmate's request.
- They have been requested by a judge to interview a named inmate for purpose of possible appointment as counsel by the same court.
- They are seeking to visit an inmate who may be a witness relevant to a legal matter.
- They are seeking to interview an inmate at that inmate's request for the purpose of possible representation.

- They have been requested by a third party to consult with the inmate when the inmate cannot do so because of a medical condition, disability, or other circumstance.

Any false statement or deliberate misrepresentation of facts specific to the information requested above shall be grounds for denying the request and/or cause for subsequent suspension or exclusion from all institutions/facilities administered by the Department.

- The attorney or attorney representative must present a copy of the declaration to staff prior to each visit with the specified inmate. The original declaration shall be maintained on file at the institution where the inmate is housed.
- Any written information required by CCR Subsection 3178(d) may be submitted by facsimile transmission.

#### **Processing of Attorney Visit Requests**

Upon receipt of the written request and required information, a California Law Enforcement Telecommunications System (CLETS) check through the Department of Justice and verification of the attorney's credentials through the governing state bar association shall be conducted. The institution/facility conducting this background check shall subsequently maintain and update, as appropriate, all records relevant to processing such requests. Once the clearance and verification has been obtained, the attorney shall be contacted to schedule the initial visit. The attorney clearance shall be granted only for the institution/facility that conducted the clearance.

Attorneys and attorney representatives must report any change in personal or professional information, arrest history, and declarations in order to retain their approval/clearance, which shall otherwise be indefinitely valid throughout the inmate in question's period of confinement at the institution/facility. Upon the inmate's return to custody, a new visiting request and declaration shall be submitted.

Each institution/facility shall maintain a current list of all approved attorneys.

#### **Exceptional or Unscheduled interviews**

Should an attorney believe information acquired in the course of a scheduled visit warrants immediate follow-up in the form of a separate interview with a different inmate, the opportunity for an exceptional or unscheduled interview with the other inmate may be requested at the conclusion of the visit in progress. Such requests shall be honored subject to reasonable operational limitations and upon completion of a declaration in accordance with the requirements of **DOM 54020.31.1**. If the request imposes an unreasonable burden on staffing or unduly disrupts an institution function, (i.e., interferes with count or feeding), it will be deemed unreasonable. Under such circumstances, the attorney shall be so informed and a visit with the inmate in question may be scheduled in accordance with the procedures set forth above.

#### **54020.32.2 Inmate Notification of Attorney Visit**

*Revised April 3, 2014*

The visiting sergeant or designee shall notify the inmate of the scheduled attorney visit via the CDC Form 1081, Notice of Attorney/Legal Visit. It is the inmate's responsibility to appear for the visit at the scheduled time. Approval or disapproval of any attorney request to visit shall be documented on the SOMS Notices. If disapproved, the inmate shall be notified via the CDC Form 128-B.

#### **Visits during Work/Training Hours**

When an appointment is scheduled during an inmate's work/training hours, the inmate shall be released from the assignment.

#### **54020.32.3 Attorney Visiting Hours**

Attorney visits shall normally be accommodated and/or scheduled during the institution/facility's established regularly scheduled visiting hours and days.

When regular visiting is scheduled on both weekdays and weekends, the scheduling preference will be weekdays because of the personnel and resources needed for the greater volume of weekend visits by friends and relatives.

When an institution/facility regular visiting schedule provides for inmate visitation only on weekends, an attorney visit shall be scheduled as specified below upon request of the attorney or designated attorney representative. Upon authorization of the attorney visit, the visit shall be scheduled during weekday business hours.

With the exception noted below, attorneys or attorney representatives who have not been previously approved to visit should provide the institution in writing with the information required by DOM 54020.32.1 no less than five business days in advance of the desired date of the visit.

This advance verification is necessary in order to conduct clearance checks, verifications, and to permit scheduling of available staff and facilities.

If the clearance cannot be obtained and approved prior to the requested visit date, the attorney or attorney representative shall be contacted and informed of the reasons for the delay.

Attorneys with a compelling need to visit an inmate during other than the established visiting hours shall submit a request to the institution head or designee.

- Written verification of a Board of Parole Hearings hearing or consultation, scheduled evidentiary hearings, and trial or court filings that are within 30 days from the date of the visit are examples of acceptably documented compelling or emergency need for the attorney visit.

Attorneys previously approved to visit at the institution/facility shall request private consultations no less than two business days in advance.

- Two business days written, faxed, or phoned notices to schedule an attorney visit are particularly appropriate for attorney visits during regularly scheduled visiting days, or when scheduling an attorney visit during a normal weekday at an institution that only provides for regular visiting during the weekend, or to schedule an attorney visit on a non scheduled visiting weekday because of scheduling conflicts or other declared need.
- When a previously approved attorney or attorney representative is unable to provide the two business days notice due to a scheduling conflict or for some other declared need, the institution head or designee may authorize a visit with 24-hour notice so long as the visit does not interfere with the safety and security of the institution/facility and as necessary to accommodate the attorney visit on a non scheduled visiting day.
- Under extraordinary circumstances, attorneys who have not been previously approved to visit and are unable to provide the required information within five business days may be authorized by the institution head or designee to visit with no less than \*\*24-hour notice so long as the visit does not interfere with the safety and security of the institution.

#### **54020.32.4 Location of Attorney Visits**

Attorney visits shall be conducted in institution/facility visiting rooms.

Inmates shall be granted contact or non-contact visits, according to their visiting status at the time of the attorney visit.

- When a compelling need exists, the institution head or designee may grant an inmate on non-contact visiting status a contact attorney visit. Such visits shall occur in private visiting accommodations specified by the institution facility in accordance with this Section.
- If an attorney or attorney representative does not desire private accommodations, the attorney or attorney representative may visit the inmate on any regularly scheduled visiting day and shall be provided the same accommodations as a regular visit, with the exception that, notwithstanding the limitations of DOM 54020.15, legal documents may be exchanged in accordance with CCR Section 3178(o).

#### **54020.32.5 Processing**

An approved attorney or attorney representative and any accompanying authorized support personnel shall be processed upon arrival at the institution/facility in the manner set forth in DOM 54020.11.

- Attorneys, representatives, and authorized support personnel with appointments shall be expeditiously processed, and if necessary to do so, may be advanced to the front of any processing line.

All items, legal or related case documents and required equipment or apparatus in possession of the above identified individuals, shall be inspected prior to entry into the institution/facility. Once inspected and cleared, these materials may then be conveyed into the confidential consultation area.

- Attorneys shall also be required to present proof of active registry with a state bar association and a copy of the declaration of the reasons for the consultation as specified above.
- Attorney representatives and litigation support personnel shall be required to provide valid written authorization by an attorney who has been cleared and approved in accordance with DOM 54020.32.1.

No more than two attorneys, or attorney representatives and litigation support personnel, may visit privately with an inmate or witness at the same time. Exceptions may be authorized by the official in charge of visiting when an attorney declares that litigation support personnel are needed to assist in the legal process/proceeding, commensurate with space and staff availability.

#### **54020.32.6 Attorney Representatives/ Litigation Support Personnel**

An attorney or court may designate, by name and in writing, representatives to interview an inmate or witnesses on behalf of an attorney. Such designated

representatives shall be afforded the same accommodations and services as an attorney, providing all other requirements of this Section are met.

Representatives acting on behalf of an inmate's attorney shall be one of the following:

- Private investigator, licensed by any state and sponsored by the attorney or appointed by the court.
- A law student sponsored by the attorney.
- An employee of an attorney, legitimate legal service organization, or licensed private investigator who is sponsored by the attorney or licensed private investigator.
- A legal paraprofessional sponsored by the attorney or appointed by the court.
- An investigator who is employed by a government agency, public agency, or public institution.

Litigation support personnel include, but are not limited to, the following individuals retained or sponsored by the attorney or attorney representative in a formal capacity as specified below:

- Certified language interpreters, sign language interpreters, and court reporters.
- Polygraph examiners.
- Licensed mental or medical health care professionals.

Such personnel may accompany the attorney or attorney representative during the private consultation in order to assist in the legal process, proceeding, or case investigation.

With the exception of licensed mental or medical health professionals, the attorney or attorney representative must accompany all litigation support personnel assisting in the performance of legal functions during any private consultation.

For purposes of this Section, verifiable proof of employment or sponsorship shall be, at minimum, a formal agreement between parties outlining the duties or services to be performed by the designee and the start date of such services.

#### **54020.32.7 Authorization of Attorney Representative**

A letter of authorization to act on the attorney's behalf shall be signed by the attorney or judge and the designee. The letter must be dated within 180 days of the visit and clearly indicate that the representative is a court appointee or authorized agent of the attorney as appropriate and specific to DOM 54020.32.6 and shall contain the following:

- The designee's name and position of employment or title.
- The designee's date of birth, driver's license, and Social Security number.
- Certification in the form of a license that the representative is a licensed private investigator retained by the attorney or appointed by the court; or valid identification that the investigator is employed by a government agency, public agency, or public institution; or a letter in the form of a declaration that the attorney representative is being sponsored by the attorney and that the attorney accepts responsibility for all actions taken by the attorney representative.
- The name and CDCR number of the inmate(s) to be visited.

Designations of litigation support personnel and personnel admitted in accordance with the deposition provisions of DOM 54020.32 shall be in writing, dated within 30 days of the visit, and signed by the attorney and/or judge.

- The letter of authorization, required designations, copy of any employment contract or sponsorship agreement, and declaration of purpose of visit shall be submitted to the institution head or designee for review.
- The letter of authorization shall be presented by the attorney representative or litigation support personnel, along with verifying proof of identity at the time of the scheduled visit and shall be subject to verification.

In declaring that the attorney assumes full responsibility for the actions of their designees, the attorney is certifying that the designee is performing a recognized legitimate legal function. Therefore, upon proof of misconduct or deliberate misrepresentation of the part of the designee or upon proof that the designee is not employed by or has no verifiable sponsored relationship with the attorney, the attorney risks losing the ability to designate others to act on their behalf or may face suspension of their own attorney visiting privileges on a department wide basis in accordance with CCR Section 3178(s).

#### **54020.32.8 Exchange of Confidential Material**

All items, documents, and case related materials conveyed into the confidential consultation area shall be inspected. The purpose of the inspection is to ensure the contents pose no threat to the safety or security of the institution/facility, including the introduction of unauthorized drugs, controlled substances, and/or contraband as defined in CCR Section 3006.

Staff may open and inspect, but shall not read any part of a legal written or printed document without the express consent of the inmate, attorney, or attorney representative.

All legal documents or associated case related materials the attorney or attorney representative provides or receives from the inmate are deemed necessary for the furtherance of a legitimate legal process, proceeding, or action. Therefore, the exchange of any other item or document can result in restriction, suspension, and/or exclusion of the attorney's visiting privileges on a department wide basis in accordance with CCR Section 3178(s).

After proper inspection, written and printed material may be exchanged. The attorney or attorney representative may retain, and take from the visiting area and institution/facility, any legal document or case related material given to him or her by the inmate and not otherwise prohibited by law or regulations. After inspection, inmates may retain and take from the visiting area any legal documents and case related materials not otherwise prohibited by law or these regulations and given to them by the attorney or attorney representative.

Staff shall limit inspection(s) to the extent minimally necessary to ensure that the contents pose no threat to the security or safety of the institution/facility.

Legal documents or case related materials refused by an inmate shall be returned to the attorney or attorney representative in person or by mail.

#### **54020.32.9 Depositions**

Depositions should be scheduled by prior arrangement. The attorney desiring the deposition must make a written request to the institution head or designee, which includes the following:

- Inmate's name and CDCR number.
- Deposition date and time.
- Name of court reporter.
- Name of videographer (if applicable).
- The court reporter's and videographer's date of birth, social security, and driver's license numbers.

The requesting attorney shall be responsible for notifying the court reporter of all requirements necessary for entry into the institution/facility in accordance with this Section.

##### **54020.32.9.1 Audio Recording**

With the inmate's consent, an attorney or attorney representative may record the interview. The institution/facility shall provide audio recording equipment.

The attorney or attorney representative must provide factory-sealed audio tape(s).

##### **54020.32.9.2 Video Recording**

With prior approval of the institution head and the inmate's consent, a video recording of the interview may be made.

- The attorney or attorney representative must provide factory-sealed videotapes.
- Unless provided by the institution/facility, video recording equipment shall be thoroughly searched for contraband.
- If the equipment cannot be searched without the risk of damage, the interviewer shall agree to pay for the cost of escort and control of the equipment while it is on institutional/facility property. Charges for the escort and control services shall be at the escort officer's current pay rate, including overtime, if applicable.

#### **54020.33 Family Visiting General Information**

Family visiting is a privilege earned by the inmate through successful program participation.

- Misconduct on the part of the inmate or visitor(s), violation of a law, rules, or regulation may be cause for termination of the visit.
- Family visits are restricted to the living quarters and the yard assigned for the family visit.
- Visitors shall not be permitted to leave and return during the visit.

##### **54020.33.1 Inmate Family Visiting Eligibility**

Eligibility for participation in the Family Visiting Program (FVP) is subject to the provisions of CCR Sections 3044 and 3177.

Family visiting shall be restricted as necessary to maintain order, the safety of persons, the security of institution, and required prison activities and operations, pursuant to CCR Section 3170.

#### **54020.33.2 Inmate Applications for Family Visits**

*Revised April 3, 2014*

Each inmate's assigned Correctional Counselor I (CC-I) is responsible for determining his/her eligibility to participate in the FVP.

Applicants shall submit their initial institutional request, on a CDC Form 1046, Family Visiting Application, to their respective CC-I.

The CC-I shall evaluate the following areas of specific interest:

- Escape history.
- Commitment offense and behavior history to determine eligibility, pursuant to CCR Section 3177(b) (1).
- Current case factors to determine eligibility pursuant to CCR Section 3177(d).

If the CC-I finds that based on criteria, the inmate is ineligible; they shall annotate specific reasons for denial on the CDC Form 1046 and in SOMS under "Inmate Case Notes". If one or more of the above factors are present and the CC-I cannot readily make a determination for eligibility, a case conference with the CC-II and/or the Facility Captain shall be held to determine eligibility. If necessary, the case shall be referred to a classification committee for approval or disapproval.

Upon review and approval, the CC-I shall complete a CDC Form 128 B noting the approval and/or restrictions. forward a copy to the family visiting coordinator, and record the results in SOMS. After the initial approval, all subsequent requests shall be submitted on a CDC Form 1046, Family Visiting Application, directly to the family visiting coordinator.

Proof of marriage or registered domestic partnership shall be established by the family visiting coordinator. A certified copy of the marriage certificate or Certificate of Registered Domestic Partnership, issued by the Secretary of State, shall be presented to the coordinator prior to each visit.

Family visits shall be scheduled with specified family members as defined in Section 3000 of the Title 15. Once an application is submitted, no changes or substitutions of visitors shall be permitted.

#### **54020.33.3 Requests for Specific Family Visiting Dates**

Inmates may request specific dates for a family visit. When applying for a specific family visiting date, inmates shall submit two alternate dates.

A reasonable effort shall be made to accommodate the inmate's preference; however, no scheduled family visit shall be canceled to accommodate a preferred date request.

If all requested dates are filled, the next available date will be determined by the family visiting coordinator and offered to the inmate.

#### **54020.33.4 Notification of Scheduled Family Visiting Dates**

*Revised April 3, 2014*

A SOMS Notice Family Visiting Inmate Notification, shall be provided to the inmate upon scheduling of family visiting dates.

- It shall be the inmate's responsibility to return the signed form to the family visiting coordinator within ten working days to secure the dates.
- Exchange of family visiting dates shall not be permitted.

#### **54020.33.5 Visiting Status Changes**

Any disciplinary or classification committee action that restricts, suspends, or denies an inmate's regular visiting, shall also apply to participation in the FVP for the duration of the imposed sanction.

#### **54020.33.6 Inmates on Non-Contact Visiting Status**

Inmates on the FVP list, who are placed on temporary non-contact visiting status as a result of pending disciplinary charges and/or classification committee action, shall not be permitted to participate in the FVP until the pending charges or classification committee action that led to the restricted status is resolved.

The inmate's name shall remain on the list until all the charges and/or committee actions are resolved.

If an inmate's family visit is canceled due to pending disciplinary and/or classification action and the inmate is found not guilty, the visit shall be rescheduled on the first available date.

#### **54020.33.7 Cancellation of a Family Visit**

During emergency situations, the family visiting coordinator shall make a reasonable effort to notify the family of the cancellation of the family visit.

#### **54020.33.8 Processing Inmates for Family Visiting**

Inmates shall present their CDCR identification card to the family visiting coordinator, report to a designated area for inspection of their property, and submit to an unclothed body search.

Inmates shall submit urine samples as ordered by the family visiting coordinator.

The family visiting coordinator shall complete a CDC Form 1070, Family Visit Inmate Property Inventory – Male Inmate Items/1070-A, Female Inmate Items, as appropriate.

The inmate shall be escorted to the proper family visiting unit.

Inmates shall be authorized to bring the following items into a family visit:

- Two changes of underwear.
- Toothbrush.
- Safety razor.
- Items in accordance with this Article.

The family visiting coordinator, or staff, shall provide a brief orientation of the unit to the occupants.

#### **54020.33.9 Urinalysis**

Inmates participating in the FVP shall, at minimum, submit to a urinalysis upon completion of the visit. Refusal to submit to a urinalysis shall result in disciplinary action; visit cancellation, and removal from the FVP by classification committee action.

#### **54020.33.10 Family Member Participation**

*Revised September 25, 2007*

Participation in the FVP is restricted to the inmate's immediate family members including registered domestic partner.

- A certified copy of the marriage certificate shall be presented to the family visiting coordinator prior to each visit by the inmate's spouse.
- A certified copy of the Certificate of Registered Domestic Partnership, issued by the Secretary of State, shall be presented to the family visiting coordinator prior to each visit by a registered domestic partner of an inmate.

#### **54020.33.11 Minor's Participation**

Unescorted minors shall not be permitted to participate in the FVP, except as authorized by the institution head or designee.

Notarized, written approval of the parent or legal guardian is required when a minor accompanies an adult who is not the parent or legal guardian of the minor.

The approval shall specify by name, the approved family member who is authorized to chaperone the minor and the specific date of each family visit authorized for the minor's attendance.

Adult children of the inmate, 18 years of age or older, shall present their birth certificate and a valid form of identification prior to each family visit.

#### **54020.33.12 Standby Family Visits**

Standby family visits are not authorized.

#### **54020.33.13 Family Visiting Length and Visitor Reporting Requirements**

Institutions shall require family visitors to check-in at the visitor processing area prior to 11:00 a.m. on the day of the visit.

- Family visitors shall report to the visitor processing area at the time designated by the institution.
- Visitors failing to report to the visitor processing area by 11:00 a.m. without the notification and approval of the family visiting coordinator are subject to cancellation of the visit and suspension of FVP privileges for six months.

Inmates and visitors shall be permitted to spend approximately 46 consecutive hours in the family visiting units.

#### **54020.33.14 Processing of Visitors for Family Visiting**

Visitors shall report to the visitor-processing center. All visitors shall be searched in accordance with this Section. All personal articles shall be inspected. Those items that cannot be visually or manually inspected shall be x-rayed or disallowed.

The family visiting coordinator shall transport the visitors and their property in a state vehicle to their respective family visiting units when necessary.

#### **54020.33.15 Authorized Property for Family Visiting**

*Revised September 25, 2007*

Visitors are authorized to possess the following items while participating in the family-visiting program:

- One bag of clothing per visitor; no suitcases are permitted.

- Clothing shall be in paper, plastic, or fabric bags.
- Basic personal hygiene and cosmetic items in the amount necessary for the length of the family visit.
  - No aerosol containers.
- Disposable diapers only.
- Children's toys.
  - Simple games, coloring books, crayons, or pencils (as authorized by the institution).
- Locker key.
- Prescribed medications in accordance with this Article.
- Prescribed birth control pills.
- A spouse or registered domestic partner shall be permitted to bring in a maximum of ten commercially sealed condoms per visit.
  - Condoms in unsealed packaging shall not be permitted into the institution.
  - All unused condoms shall be retained in their sealed packaging and taken from the institution by the visiting spouse or registered domestic partner.
  - Under no circumstances shall an inmate be permitted to possess condoms outside of the family visiting quarters.

#### **54020.33.16 Food for Family Visiting**

*Revised May 10, 2010*

Inmates participating in the FVP shall be required to purchase all food for the visitor and themselves with funds from their trust account. A minimum of two meals per day, per person, shall be purchased prior to commencement of the family visit.

##### **Family Visiting Food Menu**

Each institution shall maintain a family-visiting menu from which to choose. The family visiting menu shall provide the following food items:

- Minimum of five, maximum of ten, breakfast entrees.
- Minimum of five, maximum of ten, lunch entrees.
- Minimum of five, maximum of ten, dinner entrees.
- Beverages, including bottled water, milk, and soda.
- Fresh fruit.
- Maximum of ten miscellaneous items.

Visitors with infants may be allowed the following items:

- Powdered or bottled formula in vendor-sealed containers.
- Baby food in vendor-sealed jars.

##### **Medically Prescribed Diets**

Visitors shall be allowed to bring medically prescribed food items to a family visit under the following conditions:

- The visitor shall provide a physician's statement to the family visiting coordinator, which includes a description of the diet, and describes why the diet must be continued during the visit.
- All food items must be vendor-sealed with recognizable labels.

If an inmate is being supplied a nourishment bag and/or food supplements ordered by a physician or dentist, the inmate shall be provided with the prescribed dietary additions during the visit.

##### **Funds for FVP Meals**

Inmates shall submit a completed FVP menu form with a CDC Form 193, Trust Account Withdrawal Order, authorizing a charge to the inmate's trust account, to the family visiting coordinator at least three weeks prior to the visit.

At least two weeks prior to the visit, a copy of CDC Form 193 shall be delivered to the trust office by the family visiting coordinator. If sufficient funds are not available in the inmate's trust account, the family visiting coordinator shall inform the inmate that the scheduled visit has been canceled. Funds sent to an inmate's trust account specifically designated for family visit food item and accompanied by a completed, signed CDC Form 1839, Exemption of Family Visit/Temporary Community Leave Funds from Restitution Fines/Orders, shall be exempt from restitution fines or orders.

##### **Processing of Food Order**

On the day of the visit, the family visiting coordinator shall facilitate the delivery of the food order to the visiting units at the commencement of the visit.

**Unclaimed Food Items**

If a family visit is canceled due to institution operations after the purchase of a food order, the inmate may request reimbursement to their trust account for the amount of the food order.

Reimbursement of trust account funds shall be limited to family visit cancellations due to institutional actions such as:

- Suspension of the FVP due to institution emergency.
- A disciplinary hearing finding of not guilty after a charge of misconduct which restricted family visiting privileges.

Such reimbursement is subject to the provisions of DOM Chapter 5, Article 53, Section 54100, and applicable Victim Compensation and Government Claims Board rules.

If the family visit is canceled due to the actions of the inmate and the inmate has been charged for the food, the institution shall allow person(s) designated by the inmate to claim the food within 72 hours of the cancellation.

The final disposition of food remaining unclaimed after 72 hours shall be the responsibility of the institution.

**54020.33.17 Family Visitor Medication**

Medication shall be retained in a secure location by designated staff. Verification of the need to possess medication shall be provided by a physician's statement.

Visitors may retain only life-sustaining, condition-stabilizing medication with the prescribing physician's written statement of its immediate need, and only in the physician's prescribed amount immediately required to sustain or stabilize the condition during the visit. Female visitors may retain their birth control pills.

Other required medications shall be distributed to the visitor at prescribed times by staff designated by the institution.

Any unauthorized items may be secured in a visiting locker and retrieved at the conclusion of the visit.

**54020.33.18 Family Visiting Count Procedures**

Inmates in the family visiting quarters shall present themselves for count in accordance with institutional procedures. A minimum of four counts per 24-hour period shall be conducted.

Inmates who fail to present themselves for count are subject to disciplinary action and termination of the family visit.

**54020.33.19 Unscheduled Inspection/Search of Family Visiting Units**

Every effort shall be made to ensure the privacy of the inmate and their visitor(s). However, the safety of persons and security of the institution may require the inspection and/or search of a family visiting unit while a visit is in progress.

The watch commander has the authority to order a search/inspection when the need arises. The watch commander and/or visiting supervisor shall be responsible to ensure that the search/inspection is conducted in a courteous and professional manner.

**54020.33.20 Condition and Cleanliness of Family Visiting Units**

Each inmate shall be responsible for the care and cleanliness of the family visiting unit during a visit.

Before and after each family visit, the family visiting coordinator and each inmate scheduled to visit, shall conduct a detailed inspection of their assigned unit to verify the unit's condition, cleanliness, and contents. A CDC Form 1069, Family Visiting Inventory, shall be completed by the family visiting coordinator.

Each inmate shall be subject to disciplinary action, which may include suspension from participation in the FVP, for any willful damage of the unit and/or furnishings or for failure to maintain the cleanliness of the FVP unit. Inmates and/or visitors may be excluded from the FVP for willful damage of the family visiting unit. Prior to each family visit, the inmate shall submit a completed CDC Form 193.

Each family visiting unit shall be thoroughly cleaned by the occupants prior to the conclusion of each visit. Cleaning materials and equipment shall be provided by the institution.

**54020.34 Appeals Related to Visiting**

*Revised May 10, 2010*

Visitors who wish to discuss visiting-related issues are encouraged to contact the visiting supervisor for resolution. Interviews shall be conducted or scheduled at the earliest opportunity. Visitors and/or inmates may register complaints/appeals regarding visiting through procedures contained in CCR Section 3179 and DOM Chapter 5, Article 53.

**54020.35 Transfer of Visiting Records**

*Revised April 3, 2014*

The inmate's visiting file shall be forwarded in accordance with DOM Chapter 7, Article 3.

**54020.36 Revisions**

The Director, Division of Adult Institutions, or designee shall ensure that this Article is accurate and current.

**54020.37 References**

*Revised January 4, 2006*

PC § 2601.

CCR (15) (3), §§ 3000; 3002(a)(2); 3044(c), (d), (e), (f), (g), and (h); 3045 and 3045.1; 3170 through 3178; 3190(a) and (h)(4); 3213 (a)(2) and (3)(c); 3343; and 3383(b)(3).

ACA Standards 4-4498 through 4-4504.

**ARTICLE 43 — INMATE PROPERTY**

*Revised March 16, 2020*

**54030.1 Policy**

(a) Inmates shall be permitted to possess in their quarters or living areas, state-issued and authorized personal property as established in the Authorized Personal Property Schedule (APPS), located in Appendix A; the Religious Personal Property Matrix (RPPM), located in Appendix B; the Non Disciplinary Segregation Personal Property Matrix (NDSPPM), located in Appendix D; and the Transgender Inmates Authorized Personal Property Schedule (TIAPPS), located in Appendix E; and based upon criteria delineated in Subsection 54030.7. The APPS, RPPM, NDSPPM and TIAPPS are the primary references for allowable inmate property and identify limitations to the number of items allowed, dimension restrictions, if applicable, cost and value limitations, etc. The APPS, RPPM, NDSPPM and TIAPPS standardize allowable inmate property Department-wide based upon assigned Privilege Group, assigned security level, institution mission, constitutional and legal mandates, and gender considerations. Any requests to add or delete items from the APPS, RPPM, NDSPPM and TIAPPS shall be forwarded to the Deputy Director, Division of Adult Institutions (DAI), for review and approval prior to implementation. Approved departmental modifications shall be reflected in the institution's local Operational Procedure regarding Inmate Property. The possession of personal property is a privilege and is subject to conditions and restrictions established in California Code of Regulations (CCR), Title 15 Sections 3044, 3314, and 3315.

(b) Inmates may not exchange, borrow, loan, give away, sell or convey personal property to or from other inmates.

(c) *Note:* As a result of the standardization of allowable inmate property, some items are no longer permissible based on the APPS, RPPM, NDSPPM and TIAPPS. Non-clear case appliances currently possessed by inmates shall be allowed to be retained until no longer operational. Inmates shall be allowed to retain other items of personal property that are no longer authorized until either transferred or for a period of up to one year after which time they will be considered disapproved property and disposed of per Subsection 54030.12.2, Processing Disapproved Property.

(d) The APPS, RPPM, NDSPPM and TIAPPS can be accessed at the following links:

- (1) [Authorized Personal Property Schedule \(APPS\)](#)
- (2) [Religious Personal Property Matrix \(RPPM\)](#)
- (3) [Non Disciplinary Segregation Personal Property Matrix \(NDSPPM\)](#)
- (4) [Transgender Inmates Authorized Personal Property Schedule \(TIAPPS\)](#)

**54030.2 Purpose**

This Article establishes inmate personal property volume limits; describes the forms necessary for the processing of property; establishes liability and methods of acquisition of personal and religious property; lists approval criteria, and describes the approval process for vendors; provides for acquisition of religious items, and the disposal of contraband; establishes protocols for the handling of inmate personal property during transfer, extradition, escape, discharge, and upon death in custody. This Article also establishes a standardized list of allowable personal property items in the form of the APPS, based upon privilege group, and/or assigned security level, and/or institution mission, and a method for institutions to obtain exemptions to the standardized list.

**54030.3 Responsibility**

(a) The institution head shall administer this policy within their respective institutions or facilities.

**(b) Associate Warden Operations**

The Associate Warden, Operations, shall implement and monitor the operation of this procedure.

**54030.4 Volume**

The combined volume of state-issued and authorized personal property shall not exceed six cubic feet, except as specifically allowed in Subsection 54030.10.

**54030.5 Required Forms**

Departmental employees involved in the handling of an inmate's property shall document such involvement on the following CDCR forms as appropriate:

**(a) CDCR Form 104, Property and Cash Receipt-Arrival:** A CDCR Form 104 shall be completed by Reception Center staff upon receipt of new arrivals. The CDCR Form 104 is used to document an inmate's cash, personal securities, and property, and is used to document the proper disposition of unissued property and inmate funds.

**(b) CDC Form 143, Property Transfer Receipt:** A CDC Form 143 shall be required to document the number of containers and boxes of personal property an inmate is transferring with and the progress of containers and boxes in transit. The CDC Form 143 may be used to identify multiple inmates with multiple boxes of property (Bill of Lading).

**(c) CDC Form 160-H, Inmate Property Control Card:** A CDC Form 160-H shall be required to maintain a record of all registerable property and its value. The CDC Form 160-H provides accountability to discourage theft and bartering of property of significant value or security interest (e.g., television, radio, handicraft tools, etc.).

**(d) CDCR Form 1083 Inmate Property Inventory:** A CDCR Form 1083 (male or female) shall be completed when there is a need to inventory an inmate's property (e.g., Administrative Segregation Unit [ASU] placement, inter-institutional transfer, Out-to-Medical, Out-to-Court, extradition, property control, etc.), to ensure all property is accounted for and to provide a vehicle for the evaluation of inmate property claims. The CDCR Form 1083 is the only acceptable document for this purpose.

**54030.6 Liability**

(a) The Department does not accept liability for the theft, loss, damage, or destruction of inmate personal property resulting from the intentional or careless act or activities or riotous behavior of any inmate(s). The Department does not accept liability for the loss or destruction of personal property in the inmate's possession or control at the time of any willful act by the inmate, such as escape, which exposes such property to loss or theft before it can be recovered and controlled by staff.

(b) Correctional staff shall assume responsibility for an inmate's property upon notice that an inmate is being retained elsewhere by taking control of that inmate's property. If the property cannot be secured, as in a double occupied cell or dormitory, the property shall be removed and stored in a secured area.

(c) Upon notification of the inmate being retained elsewhere, but within 24 hours, the inmate's property shall be inventoried, packaged for transfer, and placed in a secure area. A copy of the CDCR Form 1083 signed by the person who inventoried the property, shall be furnished to the inmate.

(d) The Department shall accept liability for the loss or destruction of inmate personal property when it is established that such loss or destruction results from employee action. Inmates shall utilize the inmate appeal process if unable to resolve a personal property claim with staff pursuant to Subsection 54100. If the issue involves a prescribed health care appliance belonging to an inmate with a documented disability, the inmate may utilize the CDCR Form 1824, Reasonable Accommodation Request, to attempt to resolve the issue. Upon acceptance of liability, staff shall provide similar items of equal or greater value to the inmate when such items are available via donated property items consistent with Subsection 54100.23.4, Granted Property Appeals. If donated items are not available, monetary compensation to the inmate for such loss shall not exceed either:

(1) The dollar value as documented on CDC Form 160-H.

(2) The cost of the item for which they have a receipt.

(3) The replacement value of a similar item as determined by a custody supervisor. Staff recommendations to the California Department of General Services Government Claims Program regarding monetary reimbursement will be made accordingly.

(e) The Department shall not assume responsibility for property abandoned by an escapee. Staff shall inventory the property as specified in these regulations and provide secure storage. The final disposition of the escapee's property shall be processed in accordance with California Penal Code (PC) Sections 5062 and 5063.

**54030.7 Inmate Personal Property Acquisition**

Inmate personal property shall not be accepted at the front entrance gate or visiting desks. Inmates may be allowed to acquire specific items of personal property through the following methods:

**(a) Special Purchases**

(1) Facilities shall allow for inmates to purchase the below listed items utilizing funds in their inmate trust account. Special purchases of the below listed items shall not be counted as a personal property package. Special purchases shall be from departmentally approved, special purchase vendors. Special purchases shall be made in accordance with approved local procedure.

(2) Facilities may submit for departmental approval, local special purchase vendors as required, to provide religious food items, handicraft material, health care appliances, subscriptions to local newspapers, etc. The facility requesting departmental approval of a special purchase vendor shall submit the approval request to the office of the Deputy Director, DAI, along with rationale for approval and a statement that the vendor meets the local facility's security and business requirements.

(3) *Note:* The approval criteria for personal property package vendors established in Subsection 54030.9.1 does not apply to special purchase vendors. The approval criteria for religious personal property vendors is established in Subsection 54030.9.3.

(b) The amount charged an inmate for ordering entertainment appliances, a musical instrument, handicraft material, periodicals, or fiction books as a special purchase shall include a 10 percent service charge. Service charges shall be deposited in the inmate welfare fund.

(c) Special purchases of health care appliances, correspondence courses, nonfiction books, and legal materials are not subject to service charges.

(d) Facilities will make available to all inmates, procedures for special purchases. Purchases of health care appliances, correspondence courses, religious food items, and handicraft material require an inmate to obtain prior written approval.

**(e) Health Care Appliances** are prescribed by health care staff and subject to approval by designated custody staff. Health care appliances may be purchased by third parties. All health care appliances are to be received by designated health care staff from an approved vendor and inspected by designated custody staff prior to issuance. Health care appliances are not subject to the six cubic foot property limitation and do not count towards the two appliance limit as described in Subsection 54030.7 (refer to Subsection 54030.11).

**(f) Correspondence Courses** and materials are subject to approval by designated custody and educational staff. Correspondence courses shall be received by designated education staff and inspected by designated custody staff prior to issuance (refer to Subsection 54030.10.3).

**(g) Legal Material** is legal reference materials and books, legal pads, and pencils not available in the institution canteen. Legal material purchases are to be received by Receiving and Release (R&R) staff and inspected prior to issuance (refer to Subsection 54030.10.2).

**(h) Religious Items**, as described in the RPPM. Inmates shall be authorized to order religious personal property based upon assigned Privilege Group as specified in the RPPM. Religious personal property items shall be ordered by inmates or third parties via a departmentally approved religious vendor.

(i) Religious items as described in the RPPM are to be shipped directly from a departmentally approved religious vendor in vendor sealed packages and inspected by designated custody staff prior to issuance (refer to CCR, Title 15, Subsection 3134(c)).

**(j) Entertainment Appliances and Musical Instruments**, as described in the APPS are to be shipped directly from a departmentally approved vendor in factory sealed packages, received by R&R staff, and inspected prior to issuance. Packages that are damaged or opened shall be refused (Subsection 54030.10.6).

**(k) Books and Periodicals**, purchases and subscriptions shall be submitted according to local procedures and may be purchased for an inmate by a third party. *(Note:* For purposes of this subsection a departmentally approved vendor is any publisher or book store that does mail order business as outlined in CCR, Title 15, Subsection 3190(k)(7)).

**(l) Handicraft Material**, restricted to inmates approved to participate in the handicraft program. Handicraft items shall be received by the handicraft manager and inspected by designated custody staff prior to issuance (Subsection 54030.10.4).

**54030.7.1 Personal Property Packages**

(a) Inmates may receive personal property based upon assigned privilege group as specified in Subsection 54030.8. Items of authorized property shall be limited to the items and categories listed in the APPS contained in Appendix A. Personal property packages shall be ordered by inmates or third parties via a departmentally approved vendor. A departmentally approved vendor may be chosen by an inmate or third party to provide items for inclusion into a personal property package. While no more than one vendor may be used per

package, inmates and their correspondents will be able to choose a different vendor for subsequent personal property package purchases. Personal property packages are limited to a 30 pound maximum weight limit and maximum dimensions of 24" x 24" x 24".

(b) Religious food items may be purchased from locally approved vendors. All religious food items shall be consistent with the criteria and categories established in the APPS located in Appendix A.

(c) Individual purchases of entertainment appliances and musical instruments by inmates using funds in their trust account or by third party shall not be counted as a personal property package unless additional items of personal property are also included.

(d) Quarterly personal property packages may be received by inmates at any time during a quarterly period. Upon arrival of a package at an institution, designated staff shall verify the eligibility of the inmate to receive the package before issuance. Prior approval is not necessary as the arrival date of a package at an institution shall be the basis for the eligibility determination.

(e) Facilities will make available to all inmates, procedures for the receipt of packages from approved vendors in accordance with limits set for their assigned privilege group. Facilities are responsible for ensuring that current vendor catalogs and order forms are available in the inmate library and visiting room.

(f) When a package is received at a facility with an address insufficient to locate the inmate, staff shall exhaust all avenues of information in locating the inmate before returning the package to the sender including, but not limited to, determining whether the inmate is Out-to-Court, Out-to-Medical, transferred to another institution, jurisdiction, or parole.

(g) Issuance of inmate packages shall be as soon as possible, but not later than 15 calendar days from delivery to the institution, except during the holiday season and during modified programs of affected inmates. For purposes of this Article, the holiday season is designated as beginning on November 15 and ending on January 15.

(h) Institutions may temporarily suspend delivery of inmate packages to all portions of the institution during emergency lockdowns.

(i) Upon resumption of normal operations, inmates who are released from modified program status, housed in an institution experiencing a modified program, shall continue to receive packages within 15 calendar days.

(j) Issuance of packages to inmates affected by modified program status may be temporarily suspended for up to 90 calendar days (one quarter). After 90 days, issuance of previously stored packages is mandatory. A modified program status shall not result in the loss of a quarterly package.

(k) Packages received for inmates who are on modified program status may be temporarily stored in appropriate locations designated by the institution. The institution is responsible for identifying and designating adequate storage space, including emergency overflow storage as required, until such time as staff are able to issue packages.

(l) Inmates previously affected by modified programs shall receive unissued inmate packages within 15 days after their release from modified program status.

(m) Institutions shall not instruct vendors to stop shipment of packages unless authorized by the Deputy Director, DAI. Upon receiving authorization from the Deputy Director, DAI, the institution shall be responsible for notification of the inmate population. The inmates shall be responsible for notification of family or other correspondents.

(n) Packages shall not be returned based solely on the existence of a modified program.

#### **54030.7.2 Service Charge**

The amount charged an inmate for a self-purchased personal property package order shall include normal taxes and a 10 percent service charge. Service charges shall be deposited in the inmate welfare fund. This service charge is exclusive of such costs as state sales tax, freight, and handling. Personal property packages sent from third parties via approved vendor shall not be subject to any service charge.

#### **54030.8 Personal Property Package Criteria**

(a) Items of personal property may be purchased from approved vendors by third parties of the inmate or purchased directly by the inmate. Authorized items, appliances, or food may be acquired by utilization of this package procedure consistent with the APPS. The determining factor in the number of packages an inmate may receive per year is the privilege group in which the inmate is placed in accordance with the work or program.

(b) Inmates may obtain approved appliances and musical instruments from approved vendors by having them ordered by correspondents or using the funds in their inmate trust account. A limit of three appliances applies to all inmates based upon the following definition, with the exception of female hair care appliances as described in Subsection 54030.10.6(a)(2).

(c) *Note:* For purposes of this Article, an appliance is defined as:

(1) Any electrical appliance, (excluding prescribed medical appliances and battery rechargers) that relies on institution power resources to operate (all electrical appliances are subject to the three appliance limit).

(2) Any audio or visual entertainment appliances, such as radios, televisions, cassette or disk players, etc. (all audio and visual appliances are subject to the three-appliance limit, regardless of electric or battery operated power source).

(3) Battery operated, non-entertainment appliances that do not rely on institution power resources (battery operated, non-entertainment appliances are not subject to the three-appliance limit).

(d) Items shall be shipped to the inmate's respective institution by the approved vendor in a factory sealed container.

(e) It is the responsibility of the inmate or the third party to ensure that packages are ordered in advance to ensure adequate delivery time.

(f) The year shall begin January 1 and end on December 31. The quarters are:

1<sup>st</sup> – January 1 through March 31.

2<sup>nd</sup> – April 1 through June 30.

3<sup>rd</sup> – July 1 through September 30.

4<sup>th</sup> – October 1 through December 31.

#### **(g) Privilege Group A and Privilege Group B**

Inmates in Privilege Groups A and B shall be allowed 4 packages per year (1 per quarter) not to exceed 30 pounds each. Maximum allowable package dimensions are 24" x 24" x 24".

#### **(h) Privilege Group C**

Inmates in Privilege Group C shall not be allowed a personal property package. Inmates prohibited from receiving a package resulting from recent placement into Privilege Group C shall not be allowed to retain a package which was ordered prior to Privilege Group C placement and received after placement in Privilege Group C. Disallowed packages shall be disposed of pursuant to Subsection 54030.12.2.

#### **(i) Privilege Group D**

(1) Inmates in Privilege Group D, including those inmates housed in an Administrative Segregation Unit (ASU), a Security Housing Unit (SHU) or a Psychiatric Services Unit (PSU) shall be permitted to acquire one personal property package per year not to exceed 30 pounds each. Maximum allowable package dimensions are 24" x 24" x 24". Eligibility to acquire a personal property package commences one year after the date of Privilege Group D assignment.

(2) Inmates in a SHU or PSU may also purchase an entertainment appliance via the Special Purchase Process. Eligibility to acquire an entertainment appliance commences one year after the date of Privilege Group D assignment.

(3) Inmates prohibited from receiving a package as a result of ASU placement shall be allowed to retain the package in their stored personal property if the package was ordered prior to ASU placement and the inmate was otherwise qualified to receive it.

#### **(j) Privilege Group U**

Inmates in Privilege Group U shall not be allowed a personal property package.

(k) *Note:* The local Inter-Disciplinary Treatment Team (IDTT) may further restrict or allow additional authorized personal property on a case-by-case basis above that allowed by the inmate's assigned privilege group.

#### **54030.9**

#### **Personal Property Package Vendor Approval**

(a) Vendors for personal property packages, except those vendors approved locally for special religious foods as provided for in Subsection 54030.7.1, shall receive Department approval prior to providing products to inmates.

(b) The Deputy Director, DAI, has the authority to establish vendor approval guidelines for personal property packages and to add or remove vendors from the Approved Inmate Package Vendors list for vendor non-compliance concerns.

(c) Vendors shall submit a completed vendor application package to the Deputy Director, DAI. Requests for approval shall include all additional materials and catalogs of items provided with prices. The vendor name and contact information will be provided to the institutions upon approval.

(d) It is the intent of the Department to ensure Inmate Package Program catalog items are priced competitively with common retailers in major markets.

(e) The CDCR reserves the right to withdraw any vendor approval subject to 30 calendar day's written notice to the vendor. However, any agreement can be immediately terminated for cause. The term "for cause" shall mean that the vendor fails to meet the terms, conditions, or responsibilities of an agreement. In this instance, the agreement termination shall be effective as of the date indicated on the State's notification to the vendor.

#### **54030.9.1 Personal Property Package Vendor Criteria**

(a) Vendors submitting requests for Department approval shall meet the following minimum requirements:

1. All merchandise offered for sale by the vendor is subject to price comparison. Price comparison shall be conducted by the CDCR during initial



vendor approval and throughout the length of any agreement or contract based upon advertised catalog prices.

(A) Vendor's prices will be compared with non-sale prices on an identical product for product basis at major retailers in the following major California markets:

1. Fresno
2. Los Angeles
3. Sacramento
4. San Diego

(B) A resulting median price for the specific product will be identified. The vendor's advertised catalog price shall not exceed the median price by more than 10 percent.

(C) If identical items are not located during the initial price comparison in the major California markets identified above, the CDCR may extend the price comparison to include other California markets or online retailers, if necessary.

(D) If identical items are not located during an extended price comparison, similar items may be relied on as determined by the CDCR. The basis for any price comparison shall be the sole discretion of the CDCR.

(E) The vendors will be notified if the prices of merchandise are in excess of the 10 percent limit. If prices are determined by the CDCR to be excessive, the vendors will be requested to reduce prices within the acceptable price range as determined by the CDCR or remove the item from inmate availability. Inability or unwillingness of or by the vendors to comply with a CDCR price reduction or removal request within 30 calendar days of notification shall be cause for termination of any agreement or contract and shall result in disapproval of the vendor to provide services.

2. Vendors shall maintain insurance with Commercial General Liability with Warehouse Legal Liability for a minimum of \$1,000,000 per occurrence.

3. Vendors shall possess a valid California city or county business license (if applicable) or if a corporation located within the State of California, incorporation documents or letter from the Secretary of State or if not a California business, an affidavit that business is in good standing with the state, province, or country in which business is headquartered.

4. Vendors shall provide a self-certified Inventory Report showing a minimum of \$250,000 worth (advertised retail value) of merchandise on premises (subject to physical verification by the CDCR).

5. All merchandise purchased by a single order shall be packaged in one single container. Multiple boxes are not permitted.

6. Vendors shall provide copies of CDCR approved catalogs and order forms, free of charge, to institutions. Catalog shall indicate prices for all items and expiration dates of prices. Prices advertised in catalogs shall have a guaranteed minimum term of 12 months.

7. Upon vendor's approval, all catalogs, order forms, and web sites shall prominently display the following disclaimer:

The California Department of Corrections and Rehabilitation (CDCR) has approved this independent vendor to sell merchandise to inmates and the public. CDCR's brief review and approval of this vendor was strictly limited to minimum security requirements and general business intent. The CDCR is not affiliated with this vendor and does not guarantee that the vendor will fulfill any obligations, perform as expected, nor permanently remain in business, nor does the CDCR guarantee the vendor's products in any way. Any purchases from this vendor are at the buyer's sole risk. The CDCR assumes no liability whatsoever for such purchases, nor any aspect thereof. Any issues or disputes regarding the vendor's products are the sole responsibility of the buyer and the vendor, and the CDCR is not obligated to mediate or resolve any such disputes.

8. CDCR approved catalog shall only present items authorized for purchase by CDCR inmates based upon privilege group.

9. Catalog shall identify items allowable by privilege group as identified in Appendix A.

10. Vendors shall require customer to select a privilege group prior to completion of a purchase. The selection of a privilege group shall act to restrict the purchase of merchandise not allowed by the selected privilege group. Refer to the APPS located in Appendix A for more information.

11. Items listed in catalogs shall regularly be in stock. Catalogs and order forms shall clearly indicate that back orders or substitutions shall not be permitted. In the event that an item is out of stock, a refund will be issued to the purchaser.

12. Two copies of the purchase receipt or shipping invoice shall be included in each package and a copy shall be forwarded to the purchaser if purchased by a non-inmate. (E-mail confirmation is acceptable for orders placed over the Internet.)

13. Maximum allowable package weight is 30 pounds. This weight limit includes merchandise, packing material, and packaging (tare weight).

Packages in excess of 30 pounds shall not be accepted and will be returned at the vendor's expense.

14. The catalogs and web sites shall include the shipping weight of each individual item and a method of calculating the total gross weight of the inmate package as customers are limited to a gross weight of 30 pounds or less.

15. Maximum allowable package dimensions are 24" x 24" x 24".

16. All catalogs and web sites shall clearly inform customer of the 30 pound weight limit.

17. All packages shall be labeled either Privilege Group A, B, or D based upon the contents of the package. Privilege Group D packages may only contain items authorized for Privilege Group D.

18. The vendor's return policy shall be clearly stated in catalogs and on web sites. The CDCR shall not be a party in any dispute between the vendor, inmate or the purchaser.

19. Vendors are responsible to correct any errors in package contents. When an incorrect item is received in a vendor package, CDCR staff shall verify and may contact the vendor to request a United Parcel Service call tag in order to ship the incorrect item back to the vendor. This does not preclude individual facilities from alternative methods of resolution.

20. Vendors shall restrict knowledge of identities of both package recipients and purchasers from staff responsible for assembling packages.

21. Vendor's staff responsible for receiving orders, assigning purchase order numbers, and secure numerical identifiers shall not be allowed to assemble packages.

22. Vendors shall conduct pre-employment urinalysis testing on all employees and provide evidence of such on demand.

23. Vendors shall provide names and identification information of all staff on demand. Current state issued driver's licenses or identification cards are accepted as valid identification.

24. Vendors employing staff possessing felony convictions less than 10 years old shall be disqualified. Vendors employing staff possessing drug-related arrests or convictions less than 5 years old shall be disqualified.

25. Vendors shall be willing to submit to, and cooperate with, frequent CDCR inspections without notice.

26. Vendor's receiving, packaging, and shipping areas shall be monitored by a Closed Circuit Television System. Video tapes or other medium providing a record of activities in packaging and shipping areas shall be maintained for a minimum of 30 days. All videos shall provide a date and time stamp and the ability to identify vendor staff.

27. Vendors shall employ the security measures described in Subsection 54030.9.2.

28. Packages shall be sealed with tamper resistant tape.

29. Approval and use of vendors shall result in no expense to the CDCR.

30. Vendors shall be capable of supplying packages within no more than 10 days after purchase. Occasional delays in shipments are understood and will not be reason for disapproval of a vendor.

31. Institution personnel shall maintain a verified copy of the shipping invoice in order to assist in the resolution of any disputes between the vendor and the purchaser. However, all order disputes are solely between the purchaser and the vendor and shall be settled without additional involvement of the CDCR.

#### **54030.9.2 Shipping Security**

(a) Prior to each shipment of packages, the vendor shall provide the receiving institution a shipping manifest containing inmate names, CDCR numbers, and a list of secure numerical identifiers (confidential purchase order numbers) that corresponds to each package shipped. The shipping manifest shall be sent to the institution via e-mail or facsimile (FAX) as determined by the institution. Under no circumstances shall the shipping manifest accompany the shipment of packages.

(b) Packages shall display only the secure numerical identifier. Neither the inmate's name, CDCR number, shipping manifest containing secure numerical identifiers, nor any other inmate identifying information may be shipped with a package. Standard shipping labels may be used, but shall only provide the vendors return address, the institution's address, and the secure numeric identifier. The numeric identifier and inmate's Privilege Group shall be clearly displayed on each package to facilitate comparison with the shipping manifest.

#### **54030.9.3 Religious Personal Property Vendor Criteria**

(a) Vendors submitting requests for Department approval as vendors of religious property shall meet the following minimum requirements:

(1) All merchandise offered for sale by the vendor is subject to competitor price comparison. Price comparison shall be conducted by the CDCR during initial vendor approval and throughout the length of any agreement based upon advertised catalog prices.

(A) Vendors' prices will be compared with non-sale prices on an identical product for product basis.



(B) A resulting median price for the specific product will be identified. The vendor's advertised catalog price shall not exceed the median price by more than 10 percent.

(C) If identical items are not located during an extended price comparison, similar items may be relied on as determined by the CDCR. The basis for any price comparison shall be at the sole discretion of the CDCR.

(D) Vendors will be notified if the prices of merchandise are in excess of the 25 percent limit. If prices are determined by the CDCR to be excessive, the vendors will be asked to reduce prices within the acceptable price range as determined by the CDCR or remove the item from the catalog. Unwillingness or inability of the vendors to comply with a CDCR price reduction or request for removal within 30 calendar days of notification, shall be cause for termination of any agreement and shall result in disapproval of the vendors to provide services.

(2) Vendors shall maintain insurance with Commercial General Liability and Warehouse Legal Liability for a minimum of \$1,000,000 per occurrence.

(3) Vendors shall possess a valid California city or county business license (if applicable) or if a corporation located within the State of California, incorporation documents or letter from the Secretary of State; or if not a California business, an affidavit the business is in good standing with the state, province, or country in which business is headquartered.

(4) Vendors shall provide a self-certified Inventory Report showing a minimum of \$25,000 worth (advertised retail value) of merchandise on premises (subject to physical verification by the CDCR).

(5) All merchandise purchased by a single order shall be packaged in one single container. Multiple boxes are not permitted.

(6) Vendors shall provide copies of CDCR approved catalogs, product sheets and order forms, free of charge, to institutions. Catalogs shall indicate prices for all items and expiration dates of prices. Prices advertised in catalogs shall have a guaranteed minimum term of 12 months.

(7) Upon vendor's approval, all catalogs, product sheets, order forms, and web sites shall prominently display the following disclaimer:

The California Department of Corrections and Rehabilitation (CDCR) has approved this independent vendor to sell merchandise to inmates and the public. CDCR's brief review and approval of this vendor was strictly limited to minimum security requirements and general business intent. The CDCR is not affiliated with this vendor and does not guarantee that the vendor will fulfill any obligations, perform as expected, nor permanently remain in business, nor does the CDCR guarantee the vendor's products in any way. Any purchases from this vendor are at the buyer's sole risk. The CDCR assumes no liability whatsoever for such purchases, nor any aspect thereof. Any issues or disputes regarding the vendor's products are the sole responsibility of the buyer and the vendor, and the CDCR is not obligated to mediate or resolve any such disputes.

(8) CDCR approved catalog or product sheet shall only present items authorized for purchase by CDCR inmates based upon the RPPM and privilege group.

(9) Catalog or product sheet shall identify items allowable by privilege group as identified in the RPPM.

(10) Vendors shall require customer to select a privilege group prior to completion of a purchase. The selection of a privilege group shall act to restrict the purchase of merchandise not allowed by the selected privilege group. Refer to the RPPM located in Appendix B for more information.

(11) Items listed in catalogs shall regularly be in stock. Catalogs, product sheets, and order forms shall clearly indicate that back orders or substitutions shall not be permitted. In the event that an item is out of stock, a refund will be issued to the purchaser.

(12) Two copies of the purchase receipt or shipping invoice shall be included in each package and a copy shall be forwarded to the purchaser if purchased by a non-inmate. (E-mail confirmation is acceptable for orders placed over the Internet.)

(13) Maximum allowable package weight is 30 pounds. This weight limit includes merchandise, packing material, and packaging (tare weight). Packages in excess of 30 pounds shall not be accepted and will be returned at the vendor's expense.

(14) The catalogs and web sites shall include the shipping weight of each individual item and a method of calculating the total gross weight of the inmate package as customers are limited to a gross weight of 30 pounds or less. All catalogs and web sites shall clearly inform customer of the 30 pound weight limit. Maximum allowable package dimensions are 24" x 24" x 24".

(15) All packages shall be labeled either Privilege Group A, B, C or D based upon the contents of the package. Privilege Group D packages may only contain items authorized for Privilege Group D.

(16) The vendor's return policy shall be clearly stated in catalogs and on web sites. The CDCR shall not be a party in any dispute between the vendor, inmate or the purchaser.

(17) Vendors are responsible to correct any errors in package contents. When an incorrect item is received in a vendor's package, CDCR staff shall verify and may contact the vendors to request a United Parcel Service call tag in order to ship the incorrect item back to the vendors. This does not preclude individual facilities from alternative methods of resolution.

(18) Packages containing contraband shipped from the vendors will subject the vendors to removal from the CDCR Approved Inmate Religious Vendors list.

(19) Religious oil bottle caps shall be sealed with shrink wrap. Any bottles received without shrink wrap will be disposed of in accordance with Subsection 54030.12.2.

(20) Vendors shall conduct pre-employment urinalysis testing on all employees and provide evidence of such on demand.

(21) Vendors shall provide names and identification information of all staff on demand. Current state issued driver's licenses or identification cards are accepted as valid identification.

(22) Vendors employing staff possessing felony convictions less than 10 years old shall be disqualified. Vendors employing staff possessing drug-related arrests or convictions less than 5 years old shall be disqualified.

(23) Vendors shall be willing to submit to, and cooperate with, frequent CDCR inspections without notice.

(24) Vendors shall document staff responsible for filling and shipping orders and maintain the information in the vendor's packaging and shipping areas.

(25) Packages shall be sealed with tamper resistant tape.

(26) Approval and use of vendors shall result in no expense to the CDCR.

(27) Vendors shall be capable of delivering packages within no more than 10 days after an order is placed. Occasional delays in shipments are understood and will not be reason for disapproval of a vendor.

(28) Institution personnel shall maintain a verified copy of the shipping invoice in order to assist in the resolution of any disputes between the vendor and the purchaser. However, all order disputes are solely between the purchaser and the vendor and shall be settled without additional involvement of the CDCR.

(29) The statewide CDCR Approved Inmate Religious Vendors list may be reviewed by the Statewide Religious Review Committee (SRRC) and renewed annually.

(30) The SRRC may cap the number of religious vendors of like commodities. Selection of vendors may be based upon competitive merchandise pricing, policy compliance and review of vendor previous performance concerns.

(31) Vendors shall employ the security shipping measures described in Subsection 54030.9.2.

#### **54030.10 Property Classifications/Restrictions**

The following subsection gives direction on the control, possession, recording, and disposition of inmate property.

##### **54030.10.1 Food and Hygiene**

(a) Inmates may possess food, personal care, and hygiene items in their quarters or living area consistent with their privilege group unless otherwise prohibited by departmental policy as outlined in CCR, Title 15, Subsection 3190(a). The maximum amount of food, personal care, and hygiene items an inmate may possess shall not exceed the amount which can be purchased through the canteen by the inmate in one month, as required by CCR, Title 15, Section 3094 and as described in CCR, Title 15, Subsection 3190(e). Inmates shall be required to maintain their purchase receipt to verify purchases until such items are expended. Possession of canteen items (personal hygiene and other miscellaneous items), except for consumable food items, shall be consistent with the six cubic foot limitation.

(b) Inmates shall be permitted to temporarily exceed the six cubic foot volume limit by the amount of the current month's purchase of consumable food items verifiable by the current month's canteen receipt. By the following month's canteen draw, the inmate is expected to be within established volume limits.

(c) In the event the inmate does not comply with these provisions for consumable food items (canteen in excess of the one month standard as described in CCR, Title 15, Section 3094 or exceeds the temporary excess allowed for consumable food items or is not able to produce a receipt for items) as described above, the inmate will be required to dispose of property of his or her choice pursuant to Subsection 54030.12.2 to become compliant with the volume limitation policy.

##### **54030.10.2 Legal Materials**

(a) Inmates may possess legal materials, documents, and books in their quarters or living area consistent with the six cubic foot limitations, except as otherwise set forth in this subsection. In addition to the six cubic feet limitation of authorized property as set forth in this Article, inmates may possess up to one cubic foot of legal materials or documents related to their active cases in their assigned quarters or living area. Inmates may request that the institution securely store excess legal materials or documents related to their active

case(s) when such materials or documents exceed this one cubic foot additional allowance. Only that material in excess of the additional one cubic foot shall be stored.

(b) *Note:* An active case may be defined as any legal action, cause, suit, writ, etc. that an inmate is currently involved in writing or responding to.

(c) A suitable area as designated by the Warden shall be reserved for the storage of excess legal material. A log record of material(s) stored showing inmate's name, CDCR number, date of storage, and the materials receipt and removal shall be required.

(d) The material shall be placed in a box and sealed at the time of storage with the initials of the inmate and staff member involved. When the material is removed, the inmate shall acknowledge its removal by signing the log record.

(e) Upon an inmate's request, staff shall schedule appointments for the inmates to have access to their stored materials. Inmates shall have access to their stored legal material one time per week, if they have an active case.

(f) Inmates assigned to ASU, SHU, or PSU shall provide the necessary identifying information for staff to access stored legal material. The inmate is responsible for organizing stored legal material in a manner that allows staff to identify a specific box for exchange.

(g) Legal books shall not be stored by the institution. Inmates who require access to the excess active case legal materials or documents from secured storage may exchange such documents for active case materials or documents in their quarters or living area upon written request to the property coordinator or designee on a box-for-box basis while adhering to the limitations set forth in this subsection. Legal materials or documents and books that do not pertain to the inmate's active case(s) and are in excess of the allowable property limitation shall be disposed of pursuant to Subsection 54030.12.2.

#### **54030.10.3 Correspondence Course Materials**

Inmates may possess correspondence course materials, including textbooks, in their quarters or living area as approved by the Supervisor of Correctional Education Programs (SCEP) and designated custody staff consistent within the six cubic feet limitation. Correspondence courses requiring tools, construction kits, or other materials that may pose a threat to the institution's security or the safety of persons shall not be allowed. The SCEP shall provide the inmate with a CDC Form 128B, General Chrono, indicating approval of the course and materials supplied. The inmate shall display this chrono conspicuously in their quarters or living area.

#### **54030.10.4 Inmate Handicraft**

(a) Inmates who participate in handicraft programs may possess in their quarters or living area, handicraft articles, and written and artistic material produced or created by that inmate, consistent with departmental regulations and within the six cubic feet limitation. Facilities may designate additional storage for handicraft articles and materials based upon availability of space. Excess handicraft items, articles, or materials in an inmate's possession shall be confiscated and disposed of in accordance with Subsection 54030.12.2.

(b) Inmate donation of handicraft items, articles, tools, and materials to the institution is subject to provisions of Subsection 101050.14. Such articles shall be controlled by the handicraft manager, become the property of the State, and shall be utilized in the same manner as other State owned tools and materials.

#### **54030.10.5 Education Materials**

In addition to the six cubic feet limitation of authorized property as set forth in this Article, inmates who are assigned to institution Academic or Vocational Educational Programs shall be allowed to possess State provided textbooks or materials necessary to complete their education requirements in their quarters or living area. Inmates shall sign a CDC Form 193, Trust Account Withdrawal, for replacement costs prior to being issued the material. Inmates shall have posted in their cell a CDC 128-B signed by the appropriate instructor indicating the inmate is authorized to possess the listed texts or materials. Any course textbooks furnished by the State shall be returned to the Education Department at the end of the course or upon the inmate's transfer or parole. State supplies not returned in serviceable condition will result in the Trust Account Withdrawal form being submitted for the replacement value. The Supervisor of Correctional Education Programs shall be responsible for determination of the replacement value of educational supplies.

#### **54030.10.6 Appliances / Musical Instruments**

##### **(a) Privilege Groups A and B**

(1) Inmates assigned to Privilege Group A or B may possess up to three appliances, with the exception of female hair care appliances, as indicated in Subsection 54030.8.

(2) Based upon inmate grooming standards as described in CCR, Title 15, Subsection 3062(f) female inmates may possess up to four appliances when one of the appliances is a hair care appliance.

(3) *Note:* In order to facilitate female hair care needs, female institutions shall maintain a hairdryer in each housing unit for inmate use.

(4) One musical instrument with case may be substituted as one of the three appliances in their quarters or living area consistent with the six cubic foot limitations. When an inmate assigned to Privilege Group A or B is placed in Administrative Segregation, any appliances and musical instrument shall be inventoried and stored pending the outcome of ASU placement. If the inmate is released back to the general population and maintains their Privilege Group A or B status, the appliance(s) and musical instrument shall be returned to the inmate. If the inmate receives a SHU or PSU term, the inmate shall be required to dispose of the appliance(s) and musical instrument in accordance with Subsection 54030.12.2.

(5) *Note:* Inmates housed at conservation camps shall not possess personal television sets.

##### **(b) Privilege Groups C and U**

(1) Inmates assigned to Privilege Group C or U may not possess any appliances (i.e., television, radio, CD player, etc.) or musical instruments, nor may they purchase any electrical entertainment or battery-operated type of appliances.

(2) When an inmate is placed on Privilege Group C via a classification committee action, the inmate shall be required to dispose of any appliance(s) and musical instrument in accordance with Subsection 54030.12.2.

##### **(c) Privilege Group D (ASU, SHU, and PSU)**

(1) Inmates assigned to ASU may possess one entertainment appliance.

(2) Inmates assigned to SHU or PSU may possess or acquire through the inmate personal property package process or Special Purchase process, two entertainment appliances as outlined above and as identified in the APPS located in Appendix A. Eligibility to receive an entertainment appliance commences on the date of Privilege Group D assignment. Inmates assigned to Privilege Group D may not possess a musical instrument.

#### **54030.10.6.1 Additional Appliance/Musical Instrument Requirements**

(a) Appliances may be AC plug-in or may use an AC/DC adapter. Battery operated non-entertainment appliances shall not be counted against the three-appliance limit. Inmates may purchase and use rechargeable batteries with a recharger unit. Recharger units and AC/DC adapters are considered appliance accessories and shall not be counted as a separate appliance. Inmates shall not possess or use a remote control device. Entertainment appliances with internal mechanisms for recording, downloading, or transmitting shall not be allowed. All appliances, including entertainment appliances, shall be portable models. Entertainment appliances with antennas shall be built in. Entertainment appliances shall have earphones or earplugs that shall be worn on the head or in the ear when the appliance is in use within the housing units.

(b) All appliances shall have the inmate's name and CDCR number engraved on the back and be sealed by staff. Staff shall make the necessary entries on the inmate's CDC Form 160-H before releasing the property to the inmate. Any inmate who breaks or tampers with the seal may be subject to disciplinary action and confiscation of the item. Inmates that are found guilty of breaking or tampering with the seals of any personal appliance may have the appliance confiscated and disposed of in accordance with Subsection 54030.12.2.

(c) Inmates ordering new or replacement appliances shall be required to purchase clear-case appliances. Non-clear case appliances shall be eliminated through attrition.

(d) Musical instruments and case combined dimensions shall not exceed 46" x 24" x 12".

#### **54030.10.6.2 Repair of Appliances**

(a) In the event of a malfunctioning appliance, the inmate shall be responsible for returning the unit to R&R for shipment to an authorized repair vendor or institution vocational repair shop, if available. The inmate shall have a minimum of \$50 on their trust account for estimates only. If the unit costs more to repair, the inmate shall be contacted regarding the cost. The inmate shall forward the necessary funds to the vendor prior to repair.

(b) Inmates are prohibited from keeping inoperable appliances in their possession. Appliances that cannot be repaired or for which the inmate has insufficient funds for repair shall be disposed of per Subsection 54030.12.2.

#### **54030.10.7 Clear Technology**

(a) Inmates shall be restricted to only clear personal care and hygiene items encased in clear containers or tubing based upon availability. An exemption from using clear personal care and hygiene items encased in clear containers or tubing shall only be authorized by the institution's health care manager or chief medical officer and only when an exemption is deemed medically necessary by a physician. Such exemption shall not exceed one year. If the condition persists, another exemption request shall be submitted by the inmate.

(b) Inmates ordering new or replacement appliances shall be required to purchase clear case appliances. Inmates currently possessing non-clear case appliances shall be allowed to keep those appliances until they are no longer

functioning. Non-functioning, non-clear case appliances are considered contraband and shall be disposed of according to Subsection 54030.12.2.

#### **54030.10.8 Personal Clothing**

Inmates shall not be permitted any personal clothing items other than those listed in the APPS located in Appendix A. No advertising, letters, or pictures depicting or reasonably associated with alcohol, Security Threat Group, profanity, sex, nudity, weapons, drugs, or drug paraphernalia shall be authorized.

#### **54030.10.9 Religious Items**

(a) Inmates may possess authorized personal religious items in accordance with the RPPM and which are consistent with the six cubic feet limitation.

(b) Custody staff shall consult the Religious Review Committee (RRC) when recommending the disapproval of religious items. The RRC shall forward recommended disapproval of religious items to the SRRC.

#### **(c) Procedures**

(1) Religious personal property items can be purchased by an inmate or by a third party from a departmentally approved religious vendor. Purchases by an inmate shall be paid for by utilizing funds from the inmate's trust account.

(2) Items arriving via third parties, or items shipped from other than approved vendors, shall be returned or disposed of in accordance with Subsection 54030.12.2.

#### **54030.10.10 Membership Cards**

Inmates shall not possess any membership cards, identification cards, or service-type cards other than those issued by the Department.

#### **54030.10.11 Contraband**

(a) Anything not permitted or in excess of the maximum quantity permitted or no longer functioning as designed or that have been modified or tampered with or which is received or obtained from an unauthorized source is contraband. Possession of contraband may result in disciplinary action and confiscation of the contraband (CCR, Title 15, Section 3006).

(b) The inmate shall be given a written notice for any item(s) of personal and authorized state-issued property that is removed from their quarters during an inspection or search and the disposition made of such property. The notice shall also list any contraband or any breach of security noted during the inspection or search.

#### **54030.11 Health Care Appliances**

(a) Approval for an inmate to permanently or temporarily possess or retain a health care appliance requires a clinical prescription for the appliance and shall be documented on a CDC Form 128C Medical, Psych, Dental, Chrono.

(b) Inmates shall be allowed to retain possession of a prescribed health care appliance until a health care evaluation is performed providing that safety and security of the institution will not be compromised. Health care appliances are not subject to the six cubic foot volume limitation nor count towards the three-appliance limit as described in Subsection 54030.8.

(c) Approved health care appliances include durable medical equipment, assistive devices, adaptive equipment, prosthetic or orthotic appliances, or equipment or medical support equipment, which include, but are not limited to:

- (1) Eyeglasses.
- (2) Prosthetic Eyes.
- (3) Dental prosthesis.
- (4) Prosthetic limbs.
- (5) Orthopedic braces or shoes.
- (6) Hearing aids.
- (7) Wheelchairs.
- (8) Canes.

#### **54030.11.1 Disallowance of Health Care Appliances**

Following review or inspection of the appliance should custody supervisor determine that a significant safety or security concern appears to exist, the institution Health Care Manager, Chief Medical Officer, Chief Physician and Surgeon, or Chief Dentist, Correctional Health Services Administrator, or Physician on Call, or Medical Officer of the Day shall be consulted immediately to determine actions required to safely accommodate the affected inmate-patient's needs. Accommodation appropriate to the safety and security of the institution may include, but should not be considered limited to:

- (a) Modification of the appliance. If this alternative is chosen, equivalent, effective, alternative accommodation shall be provided the inmate-patient while the original appliance is being modified.
- (b) Replacement of the appliance with an acceptable one. If this alternative is chosen, equivalent, effective, alternative accommodation shall be provided the inmate-patient while the alternate appliance is being procured.
- (c) Special housing. If this alternative is chosen, and housing in a medical bed is required because of nursing care needs that would not be necessary if the

inmate-patient could be allowed an effective appliance, the inmate-patient shall be seen as being housed solely on the basis of a disability.

(d) Expedited transfer to a designated institution.

(e) Substitution of non-medical personal services for an appliance (where Inmate Assistant programs have been established) or expedited transfer to an institution where such programs exist.

#### **54030.12 Property Issuance**

(a) When issuing items of property to an inmate, whether originating from a special purchase or an inmate package, issuing staff are required, at a minimum, to visually observe and physically hand each item of registerable and non-registerable property to the inmate. Staff shall not be responsible for conducting an inventory of non-registerable property during the issuance process.

(b) At the completion of the issuance process, the inmate shall verify that the property is correct as compared with the shipping invoice contained inside the package by signing the staff copy of the shipping invoice. If a discrepancy is identified, the inmate is responsible for showing the discrepancy to staff who shall note the discrepancy on the staff copy of the invoice. One copy of the invoice is retained by the institution for a minimum of one year and one copy of the invoice is provided to the inmate. While resolution of discrepancies is strictly between the purchaser and the vendor, the copy of the invoice maintained by institutional staff shall serve as verification of any discrepancy claims.

#### **54030.12.1 Property Registration**

(a) Personal property items, which are not consumable and that possess enough intrinsic value to be a significant target for theft or bartering, are considered registerable property. Registerable personal property is identified in the APPS located in Appendix A.

(b) When designated items are identified as registerable, such items shall be registered under the inmate's name and number on the CDC Form 160-H, Inmate Property Control Card. Staff shall include the purchase date and purchase price, and attach a copy of the purchase receipt to the CDC Form 160-H, if available.

(c) It is the responsibility of the inmate to account for all registerable property listed on the CDC Form 160-H. Staff shall document property inmates cannot account for on appropriate forms (CDC 128 A and/or Rules Violation Report).

(d) The inmate, in writing, shall report all registerable property that is lost, stolen, or worn-out to R&R personnel as soon as the loss or unusable wear is discovered. A description of the item(s) and the circumstances surrounding the loss shall be included in the report.

#### **54030.12.2 Processing Unauthorized Property**

(a) Unauthorized inmate personal property, including that which is altered, exceeds volume limitations, or is beyond repair, shall be disposed of in accordance with the provisions of this subsection. The institution shall not store unauthorized inmate property except as provided for inmates placed in ASU as provided for in Subsection 54030.13.2.

(b) Inmates shall sign the CDCR Form 1083 indicating their choice of disposition and agreement to the method for disposing of their property. If the inmate makes no selection or has insufficient funds, staff shall document that fact and determine the method of disposition. Unauthorized personal property shall be disposed of as follows:

- (1) Mail the item to an address provided by the inmate via United States Postal Service (USPS) or common carrier at the inmate's expense. This option is not available for inmates with insufficient funds in their trust account. Failure to provide an address of an individual willing to accept the personal property will result in the property being donated to a charitable organization, donated to the institution, or rendered as useless and disposed of per institution procedures. Inmates are not permitted to send their property to any State agency or agent of the State. Failure to comply may result in disciplinary action.
- (2) Return the item to the sender via USPS or common carrier at the inmate's expense. This option is not available for inmates with insufficient funds in their trust account.
- (3) Unopened packages may be refused and returned to sender. Staff shall complete a CDCR 1819 Notification of Disapproval – Mail/Package/Publications to notify the inmate the package has been returned.
- (4) Donate the item to a charitable organization as designated by the institution.
- (5) Donate the item to the institution.
- (6) Render the item useless and dispose of it according to institution procedures.

#### **54030.13 Movement of Personal Property**

The following subsection gives direction, disposition, and processing of inmate property when being transferred, placed in ASU, Out-to-Court, Out-to-Medical, or extradition.

#### **54030.13.1 Transfers**

(a) Upon an inmate's transfer between CDCR institutions, the sending institution shall inventory the inmate's property on a CDCR Form 1083. R&R staff shall account for all personal property and document the disposition of any property not allowed at the receiving institution. For purposes of inmate transport, canteen and hygiene are included within the six cubic feet of allowable property.

(b) The APPS shall be used as the basis for determination of property decisions. Changes in an inmate's privilege group and volume limitations are addressed in the APPS located in Appendix A.

(c) When the inmates report to R&R with their personal property, they shall be informed that any item that cannot be transported or will not be accepted at the receiving institution shall be disposed of by the methods outlined in Subsection 54030.12.2.

(d) A signed copy of the CDCR Form 1083 shall be placed in each box containing the inmate's personal property. A copy shall also be provided to the inmate and a copy retained by the sending R&R and receiving institution to facilitate the resolution of inmate property claims. The receiving institution shall document the disposition of any disallowed property items that were not identified and confiscated by the sending institution.

(e) The CDC Form 143 shall be completed by R&R staff and a copy shall be provided to transporting staff.

(f) All boxes and containers used to transport inmate property shall not exceed 24" x 24" x 24" maximum dimensions nor contain in excess of 30 pounds of property each.

(g) All health care appliances belonging to an inmate shall be transported with the inmate. Upon an inmate paroling, all health care appliances permanently issued to the inmate shall be retained and maintained by him or her. Health care appliances temporarily issued to the inmate for use during incarceration shall be retained at the institution.

#### **54030.13.2 Temporary Placements, Transfers, and Returns**

##### **(a) Administrative Segregation**

(1) Unissued authorized property for inmates on ASU status shall be inventoried by appropriate staff and stored in areas designated for property storage pending the outcome of ASU placement. Property inventory shall be completed in accordance with Subsection 54030.6.

(2) Upon initial ASU placement, the institution shall provide the inmate basic hygiene and writing materials, (i.e., fish kit). In addition, the inmate shall be provided access to his or her personal address book and stamps in order to facilitate access to correspondents and the courts.

(3) If the Institution Classification Committee retains the inmate in ASU after initial ASU review, the inmate shall have access to canteen as provided for in Subsection 54070.6.1 based upon a schedule determined by the facility. Additionally, the inmate shall have access to all authorized personal property as determined by the APPS located in Appendix A.

(4) If the inmate is released back to the general population and maintains his or her original Privilege Group status, the personal property shall be returned to the inmate. If the inmate receives a SHU or PSU term, the inmate shall be required to dispose of all unauthorized property prior to transfer in accordance with Subsection 54030.12.2.

(b) The property of inmates on temporary transfer status shall be processed as follows:

##### **(1) Out-to-Court**

(A) Inmates going Out-to-Court who are not returning the same day shall report to R&R with all of their personal property. R&R staff shall inventory and store the property until the inmate returns from court. If an inmate is paroled or discharged while on Out-to-Court status, all tangible property, such as clothing, appliances, and paperwork shall be stored for a period of one year. Intangible property, such as inmate funds, shall be maintained for a period of three years. If no claim is made on the property after expiration of time frames, final disposition shall be in accordance with PC Sections 5062 and 5063.

(B) In institutions that have authorized property storage areas within the housing unit, staff from the respective unit may inventory and store the inmate's property.

##### **(2) Hospital, Out-Patient Housing Unit or Correctional Treatment Center**

(A) Inmates transferring to the hospital, Out-Patient Housing Unit (OHU), or Correctional Treatment Center (CTC) who are not returning the same day shall turn in all property to the housing unit officer or R&R. The property shall be inventoried and properly stored in accordance with this subsection until the inmate returns from the hospital, OHU, or CTC.

(B) Inmates going to the hospital, OHU, or CTC and returning the same day shall not be required to store their property in the property room.

(C) Inmates placed in the hospital, OHU, or CTC due to accident or emergency shall have their property collected, inventoried, and stored in R&R (or other approved area) by the housing unit officer or designee.

(D) Inmates transferring on medical and return status to other institutions shall store their property in R&R or other designated areas.

##### **(3) Return**

Upon release and return from the hospital, OHU, CTC, or special housing units, the inmate's property shall be returned. The inmate shall be provided an opportunity to sign the property inventory form acknowledging receipt of the property. Issuing staff shall also sign the property inventory form acknowledging the inmate's receipt or refusal to sign.

#### **54030.13.3 Extradition**

(a) Inmates or parolees requiring extradition transport from any state or territory of the United States are personally responsible for the disposition of their personal property. It is the inmate's responsibility to make arrangements with the holding agency for the disposal, storage, or mailing of their property prior to being transported by extradition agents. Extradition agents shall not be responsible for inmate property left at the sending agency or institution. At no time shall inmate property be checked onto airplanes or transported in the baggage compartment of the aircraft. The only exception is wheelchairs or other prescribed health care appliances.

(b) Inmates being extradited shall not retain any property on their person except prescribed medications and health care appliances as necessary, e.g., prescribed eyeglasses. Only authorized property that can fit into a 10" x 12" clasp envelope including, but not limited to, jewelry, wallet, watch, family pictures, or printed material shall be allowed to be transported with the prisoner. Inmate property shall be inventoried on a CDCR Form 1083. A copy of the CDCR Form 1083 shall be placed in the sealed envelope, a copy shall be provided to the inmate, and a copy shall be retained by the extradition agent. The envelope shall then be secured in the agent's carry-on baggage or secured compartment in a transportation vehicle. The inmate may wear his or her own clothing and shoes if deemed appropriate for transport purposes by the assigned State agents.

(c) Inmates being extradited from the CDCR to other jurisdictions, states, or territories of the United States may be allowed to retain all or a portion of their property as determined by the transporting extradition agent. In cases where personal property is not permitted to be transported, inmates shall be provided the opportunity to select appropriate disposition of their property as follows:

(1) Inmates permanently transferring to the custody of another agency shall be provided with the opportunity to mail all property to an address of their choosing via the USPS or common carrier at the inmate's expense.

(2) Indigent inmates shall have property shipped to an address of their choosing at the CDCR's expense.

(3) *Note:* If no address is provided or previously mailed property is returned as undeliverable, all tangible property shall be placed in storage for a period of one year. Intangible property shall be maintained for a period of three years. If no claim is made on the property after expiration of time frames, final disposition shall be in accordance with PC Sections 5062 and 5063.

(4) Inmates temporarily transferring OTC and other temporary transfers, shall have property stored pending their return to CDCR custody. All property will remain in storage until the inmate is either returned to CDCR custody or paroled or discharged. If paroled or discharged, all tangible property shall be stored for a period of one year. Intangible property shall be maintained for a period of three years. If no claim is made on the property after expiration of time frames, final disposition shall be in accordance with PC Sections 5062 and 5063.

#### **54030.14 Release Clothing**

Inmates scheduled for parole or awaiting discharge may be sent a release-clothing package via USPS or common carrier no earlier than 30 days prior to their scheduled parole or discharge date. Inmate release-clothing packages, limited to one set of clothing, shall be retained in a secure location by departmental staff.

#### **54030.15 Escapees' Property**

(a) The Department shall not assume responsibility for property abandoned by an escapee until such time as the escape is discovered and the property is inventoried.

(b) All personal property of escapees shall be inventoried and transferred to the investigating lieutenant. In accordance with PC Section 5062 tangible property shall be stored for a period of one year. Intangible property shall be maintained for a period of three years. Final disposition of property shall be in accordance with PC Sections 5062 and 5063.

#### **54030.16 Deceased Inmate Property**

(a) All personal property of a deceased inmate shall be inventoried on a CDCR Form 1083 and stored in a location designated by the Warden. The deceased

inmate's Central File shall be reviewed for written directions of the decedent as to the next-of-kin. The deceased inmate's property shall be shipped to the next-of-kin as designated on the SOMS – Notification in Case of Death, Serious Injury, or Serious Illness, at the inmate's expense. If funds are not available in the inmate's trust account, the property shall be shipped to the person designated on the SOMS – Notification in Case of Inmate Death, Serious Injury, or Serious Illness only after contact and willingness to receive property is established.

(b) If no willing recipient can be identified or previously mailed property is returned as undeliverable, all tangible property shall be placed in storage for a period of one year. Intangible property shall be maintained for a period of three years. If no claim is made on the property after expiration of time frames, final disposition shall be in accordance with PC Sections 5062 and 5063.

#### **54030.17 Revisions**

The Deputy Director, DAI, shall ensure the contents of this Article are current.

#### **54030.18 References**

PC §§ 2085, 2600, 2601, 5054, 5058, 5061, 5062, 5063.

CCR (15) (3) §§ 3002, 3006, 3010, 3011, 3044, 3064, 3092, 3101, 3102, 3151, 3152, 3161, 3164, 3175(l), and (m), 3190, 3191, 3193, 3287, 3331(c), 3343(g).  
*In re Rodney Alcalá* (1990) 222 Cal.App.3d 345

#### **Revision History**

Revised: December 30, 2005

Revised: March 16, 2020

### **ARTICLE 44 — PRISON RAPE ELIMINATION POLICY**

*Revised May 19, 2020*

#### **54040.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) is committed to providing a safe, humane, secure environment, free from offender on offender sexual violence, staff sexual misconduct, and sexual harassment. This will be accomplished by maintaining a program to address education/prevention, detection, response, investigation, and tracking of these behaviors and to address successful community re-entry of the offender. CDCR shall maintain a zero tolerance for sexual violence, staff sexual misconduct and sexual harassment in its institutions, community correctional facilities, conservation camps, and for all offenders under its jurisdiction. All sexual violence, staff sexual misconduct, and sexual harassment is strictly prohibited. This policy applies to all offenders and persons employed by the CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole.

Retaliatory measures against employees or offenders who report incidents of sexual violence, staff sexual misconduct or sexual harassment as well as retaliatory measures against those who cooperate with investigations shall not be tolerated and shall result in disciplinary action and/or criminal prosecution. Retaliatory measures include, but are not limited to, coercion, threats of punishment, or any other activities intended to discourage or prevent a staff or offenders from reporting the incident(s) or cooperating with investigation of an incident(s).

#### **54040.2 Purpose**

The purpose of this policy is to ensure compliance with Public Law 108-79, the Prison Rape Elimination Act of 2003 (PREA), California Assembly Bill 550 (Chapter 303, Statutes of 2005), the Sexual Abuse in Detention Elimination Act, and 28 Code of Federal Regulations, Part 115, National Standards to Prevent, Detect, and Respond to Prison Rape. It will provide guidelines for the prevention, detection, response, investigation, and tracking of sexual violence, staff sexual misconduct and sexual harassment against CDCR offenders. A further purpose of this policy is to provide guidelines for the successful community re-entry of offenders.

Lastly, this policy informs staff of their responsibility and liability as specified in the law.

#### **54040.3 Definitions**

##### **Aggressor**

A person who attempts to commit, or commits sexual violence, staff sexual misconduct or sexual harassment.

##### **Bisexual**

A person who is sexually attracted to both sexes.

##### **Coercion**

A threat, however communicated, to commit an offense; to inflict bodily injury in the future on the person threatened or another, to accuse a person of any offense, to harm the credit or business reputation of any person, to take or withhold action as a public servant, or to cause a public servant to take or withhold action.

#### **Cross-Gender**

Of the opposite biological sex. Example: Male Custody Staff patting down female inmates is cross-gender searching.

#### **Gay**

A person who is attracted to people of the same gender.

#### **Gender Expression**

A person's expression of his/her gender identity, including appearance, dress, mannerisms, speech, and social interactions.

#### **Gender Identity**

Distinct from sexual orientation and refers to a person's internal, deeply felt sense of being male or female.

#### **Gender Non-conforming**

Gender characteristics and/or behaviors that do not conform to those typically associated with a person's biological sex.

#### **Intersex**

An individual born with external genitalia, internal reproductive organs, chromosome patterns, and/or endocrine systems that do not seem to fit typical definitions of male or female.

#### **Lesbian**

A female person who is attracted to people of the same gender.

#### **LGBTI**

An acronym that refers to sexual minorities, including lesbian, gay, bisexual, transgender and intersex.

#### **Locally Designated Investigator (LDI)**

The Investigative Services Unit Investigator or other designated institutional staff who have been trained to conduct investigations into allegations of sexual violence and/or staff sexual misconduct.

#### **"Need to Know" basis**

When the information is relevant and necessary in the ordinary performance of that employee or contractor's official duties.

#### **Non-consensual**

Not giving permission for or consent to an action being taken by another person.

#### **Offender**

Any inmate, ward, parolee, or other person currently under the jurisdiction of the CDCR.

#### **PREA Compliance Manager (PCM)**

Institutional employee with sufficient time and authority to coordinate the institutions efforts to comply with the CDCR Prison Rape Elimination Policy.

#### **PREA Coordinator**

Agency wide Coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all institutions.

#### **Rape**

Refer to PC Section 261.

#### **Sexual Violence (committed by offenders) will Encompass:**

##### **Abusive Sexual Contact**

Contact of any person without his or her consent, or by coercion, or contact of a person who is unable to consent or refuse AND intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person.

##### **Nonconsensual Sex Acts**

Contact of any person without his or her consent, or by coercion, or contact of a person who is unable to consent or refuse AND contact between the penis and vagina or the penis and the anus including penetration, however slight; or contact between the mouth and the penis, vagina, or anus or penetration of the anal or genital opening of another person by the hand, finger, or other object.

#### **Sexual Assault Response Team (SART)**

A coordinated interdisciplinary team of law enforcement, prosecution, contract medical, and advocacy experts collaborating to meet the forensic needs of the criminal justice system, and the medical and emotional needs of the victim of sexual violence or staff sexual misconduct.

In the CDCR, unless an institution has been previously authorized for contracted on-site SART exams, they will utilize the resources available via contract at the local community hospital for SART examination of the victim and offender-suspect.

#### **Sexual Assault Nurse Examiner (SANE)**

A nurse who has received specialized training to conduct sexual assault evidentiary exams. SANE's are trained in the medical, psychological, and forensic examination of sexual assault victims.

#### **Sexual Harassment by an Offender (towards an offender)**

Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by an offender toward another offender.

#### **Staff Sexual Harassment (towards an offender)**

Repeated verbal comments or gestures of a sexual nature to an offender by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

#### **Staff Sexual Misconduct**

Any threatened, coerced, attempted, or completed sexual contact, assault or battery between staff and offenders.

Any sexual misconduct by staff directed toward an offender, as defined in California Code of Regulations (CCR), Title 15, Section 3401.5 and Penal Code (PC) Section 289.6. The legal concept of “consent” does not exist between staff and offenders; any sexual behavior between them constitutes sexual misconduct and shall subject the staff member to disciplinary action and/or to prosecution under the law.

#### **Staff**

Any person employed by the CDCR, including employees, volunteers, and independent contractors assigned to an institution, community correctional facility, conservation camp, parole, or headquarters. Employee refers to those individuals who are appointed through civil services employment laws and assigned to a CDCR institution.

#### **Transgender**

Means a person whose gender identity is different from the person’s assigned sex at birth.

#### **Transgender Man**

A person whose birth sex was female but who understands oneself to be, and desires to live life as a male.

#### **Transgender Woman**

A person whose birth sex was male but who understands oneself to be, and desires to live life as a female.

#### **Victim**

For purposes of this policy, a victim is an offender who has been subjected to inmate sexual violence, staff sexual misconduct, or sexual harassment.

#### **Victim Advocate**

An individual typically employed by a Rape Crisis Center whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by an approved counseling center. The Victim Advocate will be summoned to assist the alleged victim of an in-custody sexual assault including rape, sodomy, oral copulation, or forcible acts of sexual penetration for the SANE exam and interview process. The victim advocate will also be summoned for in-custody abusive sexual contact allegations when appropriate. In cases where an outside Victim Advocate is not available, a designated employee will be summoned, if available; an employee who has been certified by a rape crisis center as trained in counseling of sexual assault victims and who either:

- (1) A psychiatrist, psychologist, licensed clinical social worker, psychiatric mental health registered nurse, staff person with a master’s degree in counseling, or others listed in Evidence Code Section 1010; or
- (2) Has the 40 hours of specialized training listed in Evidence Code Section 1035.2 and is supervised by a staff member in subsection (1) above.

If a designated employee is utilized as a Victim Advocate proof of required training must be on file in their personnel or IST file.

#### **Victim Support Person**

Any person of the alleged victim’s choosing which could include another offender, personal friend, or family member including registered domestic partner.

### **54040.4 Education and Prevention**

#### **Staff Training**

All staff, including employees, volunteers, and contractors, shall receive instruction related to the prevention, detection, response, and investigation of offender sexual violence, staff sexual misconduct, and sexual harassment. This training will be conducted during new employee orientation, annual training, and will be included in the curriculum of the Correctional Training Academy. The training will be gender specific based on the offender population at the assigned institution. Participation in the training will be documented on a CDCR 844, Training Participation Sign-in Sheet. Employees shall also be trained in how to conduct cross-gender pat-down searches, transgender pat-down searches, and unclothed body cavity searches. When conducting these types of searches, employees shall ensure that these searches are conducted in a professional, respectful manner, and in the least intrusive manner possible consistent with security needs. Searches shall be conducted in accordance with policy, procedure and training as per CCR, Title 15, Section 3287(b).

Institutions shall train all staff on how to communicate professionally with inmates, including inmates who identify themselves as Lesbian, Gay, Bi-Sexual, Transgender, Intersex, and Gender Non-Conforming in accordance

with Inmate/Staff Relations Training, on file with the Peace Office Selection and Employee Development (POSED).

Specialized training may be offered to employees who volunteer to act as victims’ advocates. This training includes certification by a rape crisis center as trained in the counseling of sexual assault victims. For any employee volunteer who is not a psychiatrist, psychologist, licensed clinical social worker, psychiatric mental health RN, staff person with a master’s degree in counseling, or other’s listed in Evidence Code section 1010, this specialized training also includes the 40 hours of specialized training listed in Evidence Code 1035.2. Only employees who voluntarily agree to act as a victim advocate shall be utilized in that capacity. Employees who volunteer will be subjected to background clearance to ensure no prior history of violence.

All employees who are assigned to investigate sexual violence and/or staff sexual misconduct will receive specialized training per PC Section 13516(c). The curriculum utilized in the class must be POSED approved. The Hiring Authority or PREA Compliance Manager (PCM) shall ensure employees investigating incidents of sexual violence and/or staff sexual misconduct are properly trained.

#### **Offender Education**

Verbal and written information shall be provided to offenders which will address:

- Prevention/Intervention.
- Reporting.
- Treatment and Counseling.

Initial offender orientation on PREA will be provided to the offender population in reception centers (RC) via either written or multi-media presentation on a weekly basis in both English and Spanish.

Approved PREA posters which contain departmental policy and the sexual violence, staff sexual misconduct, and sexual harassment reporting telephone numbers shall be posted in designated locations throughout the institution and parole offices. At a minimum, these areas shall include all housing units, medical clinics, law libraries, visiting rooms, program offices, and offender work areas.

The PREA brochure entitled “Sexual Violence Awareness” and the PREA booklet entitled “Sexual Abuse/Assault – Prevention and Intervention” will be distributed during initial processing in RC institutions. Both the brochure and booklet shall be available through Receiving and Release or the correctional counselors at each institution, and the information will also be included in each institution’s offender orientation handbook.

Appropriate provisions shall be made to ensure effective communication for offenders not fluent in English, those with low literacy levels, and those with disabilities.

Institutions may consider the use of offender peer educators to enhance the offender population’s knowledge and understanding of PREA and sexually transmitted diseases.

PREA offender education shall be documented on a CDC Form 128-B, General Chrono. The offender shall be asked to sign the CDC Form 128-B indicating they received the training. Refusal to sign will be noted by staff on the CDC Form 128-B. The CDC Form 128-B shall be forwarded to Inmate Records for appropriate scanning into the Electronic Records Management System (ERMS).

#### **Preventative Measures**

Each institution shall enable offenders to shower, perform bodily functions, and change clothing without non-medical staff of the opposite biological sex viewing their breast, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks. Except in circumstances where there would be an impact to safety and security, modesty screens shall be placed strategically in areas that prevent incidental viewing.

Per 28 CFR, Standard §115.42, upon request, transgender and intersex inmates shall be given the opportunity to shower separately from other inmates.

In order to minimize cross gender exposure, staff of the opposite biological sex shall announce their presence when entering the housing unit. This announcement is required at the beginning of each shift and/or when the status quo within the housing unit changes.

This policy shall be included in each institution’s orientation handbook. This will allow the inmate to take into consideration that staff of the opposite gender may be present when performing bodily and bathing functions.

#### **Security Rounds**

A custody supervisor assigned to each facility or unit shall conduct weekly unscheduled security checks to identify and deter sexual violence, staff sexual misconduct, and sexual harassment of any kind. These security checks shall be documented in the Unit Log Book in red pen. The Unit Log Book shall indicate the date, time, and location that the security check was conducted.

Staff is prohibited from alerting other staff members that these security rounds are occurring, unless such announcement is related to the legitimate operational functions of the facility.

#### **54040.4.1 Communication and Pronoun Usage with Transgender Inmates**

The language used by staff toward inmates helps to create a culture of safety and respect and can impact the emotional well-being of inmates, including transgender inmates.

When communicating with a transgender inmate, there are acceptable methods for addressing the transgender inmate. These are:

- Use of gender-neutral language which means referring to them by the legal last name such as “inmate Jones” or “inmate Smith” or simply by the term “inmate”.
- Use of the preferred pronoun, if staff is aware of the preference of the inmate. These pronouns would be “she” and “her” for a transgender woman and “he” and “him” for a transgender man.

The type of prohibited discriminatory, harassing, or retaliatory behavior which may be found to constitute a violation of CDCR’s PREA policy includes, but is not limited to:

- Bullying or abusive conduct, including repeated infliction of verbal abuse and use of derogatory remarks, insults, and epithets.
- Repeatedly calling a transgender inmate by the wrong pronouns or name, after the transgender inmate has provided notice of his or her gender identity to staff.

#### **54040.5 Searches**

Institutions shall document all cross-gender strip searches and cross-gender visual body cavity searches in accordance with DOM Section 52050.16.5, and shall document all cross-gender pat-down searches of female inmates in accordance with DOM Section 52050.16.4 utilizing the Notice of Unusual Occurrence (NOU). Completed NOU forms shall be reviewed by the supervisor and routed to the institutional PCM to retain for audit purposes. If the search is incidental to an emergency or crime that constitutes a CDCR Form 837, Crime Incident Report, the search shall also be documented within the incident report.

#### **54040.6 Offender Housing**

Offenders at high risk for sexual victimization, as identified on the PREA Screening Form, shall not be placed in segregated housing unless an assessment of all available alternatives has been completed, and a determination has been made that there is no available alternative means of separation from likely abusers.

Offenders at high risk for sexual victimization shall have a housing assessment completed immediately or within 24 hours of placement into segregated housing. If temporary segregation is required, the inmate shall be issued an Administrative Segregation Placement Notice, explaining the reason for segregation is the need to complete a housing assessment based on the high risk for sexual victimization. If a determination is made at the conclusion of the assessment that there are no available alternative means of separation from likely abusers, the inmate will be retained in segregated housing and issued an Administrative Segregation Placement Notice, explaining the reason for retention. The assigned counseling staff shall schedule the offender for appearance before the Institution Classification Committee for discussion of his/her housing needs. The offender’s retention in segregation should not ordinarily exceed 30 days. If retention is continued beyond 30 days, staff shall ensure compliance with DOM Section 54040.14.1, PREA Victims-Non-Disciplinary Segregation.

##### **Single Cell Status**

The process of review and evaluation for single cell status shall be initiated during RC processing as part of initial screening. This process will include completion of the PREA Screening Form, which includes questions related to sexual violence and victimization. Upon the offender’s arrival at his/her assigned institution, this information will again be assessed and a PREA Screening Form will be updated as necessary. Offenders will not be disciplined for refusing to answer, or not disclosing complete information related to mental, physical, or developmental disabilities, their sexual orientation, sexual victimization or perception of vulnerability. The offender shall be referred to a classification committee for determination of single cell status in accordance with CCR Section 3377.1(c), based on documented evidence that the offender may not be safely housed in a double cell or dormitory situation. An offender’s need for single cell status shall be reviewed as part of initial/annual classification, or any time an offender is referred for transfer or placement consideration.

#### **54040.7 Detection, Notification, and Reporting**

Offenders may report violations of this policy to any staff member verbally or in writing, utilizing the Inmate Appeals Process, through the sexual assault hotline, or through a third party.

The Department shall not rely on offender interpreters, offender readers, or other types of offender assistants except in limited circumstances where an

extended delay in obtaining an effective interpreter could compromise the offender’s safety, the performance of first-response duties, or the investigation of the offender’s allegations.

CDCR employees have a responsibility to protect the offenders in their custody. All staff are responsible for reporting immediately and confidentially to the appropriate supervisor any information that indicates an offender is being, or has been the victim of sexual violence, staff sexual misconduct, or sexual harassment. In addition to reporting, employees have a responsibility to assist the offender and refer him/her to medical/mental health for evaluation. Staff shall ensure the reporting of information is done as soon as possible and in a confidential manner. A CDCR Form 837, Crime Incident Report, shall be submitted for each allegation of Sexual Violence against an offender by an offender in compliance with DOM Section 51030.3, except as described in DOM Section 54040.7.3.

An offender may report sexual violence, staff sexual misconduct, or sexual harassment that occurs under the jurisdiction of the CDCR to any staff member. If the staff who receives the report is non-custody, he/she shall immediately notify his/her supervisor and the Watch Commander. Each employee who observes the incident or is provided a report by the victim must complete required reports.

Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans and security and management decisions, including housing, bed, work, and program assignments, or as otherwise required by Federal, State, or local law. An offender may also report sexual violence, staff sexual misconduct, or sexual harassment that occurs under the jurisdiction of the CDCR, to the Ombudsman for Sexual Abuse in Detention Elimination in the Office of the Inspector General. In addition, offenders being retained solely for civil immigration may contact consular officials or officials at the Department of Homeland Security.

Staff are reminded that victims of sexual violence, staff sexual misconduct, or sexual harassment may be seriously traumatized physically and/or mentally. Staff are expected to be sensitive to the offender during their interactions with him/her.

##### **Screening for Appropriate Placement**

Based on information that the offender has been a victim of sexual violence or victimization, the custody supervisor conducting the initial screening shall discuss housing alternatives with the offender in a private location. The custody supervisor shall not automatically place the offender into administrative segregation. Consideration shall be given to housing this offender with another offender who has compatible housing needs. If single cell status is appropriate, the custody supervisor may designate the offender for single cell housing pending a classification review.

An inmate’s risk level shall be reassessed when warranted due to a referral, request, incident of sexual abuse, or receipt of additional information that bears on the inmate’s risk of sexual victimization or abusiveness.

Per the Department’s Mental Health Services Delivery System (MHSDS), all offenders shall receive a mental health screening within the required timeframe after arrival at an institution.

Any staff member, with significant concern that an offender may be subject to sexual victimization, shall immediately notify a custody supervisor who will refer that offender for a mental health evaluation per existing policy regarding mental health referrals. This referral will be completed using the CDCR Form 128-MH5, Mental Health Referral Chrono.

##### **Mental Health Referrals**

##### **Post-SANE (Sexual Assault Nurse Examiner) Forensic Medical Examination- Mental Health Emergent Referral:**

Inmates reporting sexual assault and who were referred to a contracted SANE forensic medical examination, even if the inmate refused the examination, shall be referred for an emergency mental health evaluation. The Mental Health Emergent Referral shall be completed utilizing the CDCR Form 128 MH5: Mental Health Referral Chrono, requesting a PREA Emergency mental health contact. If this Referral is made after hours the on-call clinician shall be contacted to respond to the institution. The emergent referral must be completed by mental health within **four (4)** hours of the inmate victims return to the facility following the SANE forensic medical examination or their refusal to participate in the SANE examination.

The abuser must also receive a referral to mental health per the Substantiated, Perpetrator, protocol below.

##### **Substantiated, Perpetrator:**

Mental health shall conduct a mental health evaluation of all known inmate-on-inmate abusers within sixty (60) calendar days of the facility having learned of such abuse history. Investigative staff shall ensure the inmate abuser is referred to mental health as soon as an allegation of inmate-on-inmate sexual abuse has been substantiated and/or knowledge of previous inmate-on-

inmate sexual abuse arises, which has not previously been addressed utilizing the CDCR Form 128 MH5: Mental Health Referral Chrono, to request a PREA Perpetrator Routine mental health contact. The mental health evaluation shall be conducted as a face-to-face contact in a confidential environment. The clinician shall determine if a Suicide Risk and Self-Harm Evaluation (SRASHE) is clinically indicated, as well as what, if any, additional follow-up care is deemed appropriate for the referred inmate.

**Initial Custody Intake or Subsequent Screening Information Regarding Prior Sexual Victimization and/or Prior Perpetration of Sexual Abuse:**

If it is reported by an inmate during the initial custody intake screening or at any other occasion during their confinement within the CDCR; that they have experienced prior sexual victimization or previously perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure that the inmate is offered a follow-up meeting with mental health staff. If the inmate accepts the offer to meet with mental health, custodial staff shall ensure the inmate is referred to mental health by utilizing the CDCR 128 MH5: Mental Health Referral Chrono to request a PREA Routine mental health contact. This referral shall be completed by mental health staff by conducting a face-to-face contact with the inmate in a confidential environment within fourteen (14) calendar days of the referral.

**54040.7.1 Notification via Inmate Appeals or Form 22 Process**

Any employee receiving notice of alleged staff sexual misconduct via a completed CDCR appeal form, or CDCR Form 602HC, Inmate/Parolee Health Care Appeal shall immediately notify the institution head, unit supervisor, or highest-ranking official on duty as required by CCR, Title 15.

**54040.7.2 Notification via Third Party Reporting of Misconduct Against an Employee, Contractor, or Volunteer**

When a third party, on behalf of an inmate, makes an allegation of staff sexual misconduct or sexual harassment against a departmental employee, contractor, or volunteer, that allegation or complaint shall be submitted in writing to the Hiring Authority of the area in which the individual is assigned. Complaints against departmental employees should be filed in accordance with CCR 3391. The term "third party" includes inmates, family members, attorneys, or outside advocates. Inmates will file complaints against staff utilizing the CDCR appeals forms.

Complaints determined to involve personnel from other agencies or institutions shall be forwarded to the proper Hiring Authority through the chain of command for appropriate response.

When a third party files such a complaint on behalf of an offender, a supervisory employee shall take the alleged victim to a private setting to discuss the complaint and assess immediate housing needs.

Third party reports of staff sexual misconduct or staff sexual harassment shall be forwarded to the Hiring Authority. The Hiring Authority shall forward the documented third party report of the allegation to a Locally Designated Investigator (LDI). The LDI will conduct inquiry work until sufficient information is obtained to warrant an Office of Internal Investigations (OIA) investigation, or the information collected refutes the allegation, as determined by the Hiring Authority. The inquiry and/or investigative information will be thoroughly documented on a Confidential Memorandum. The Confidential Memorandum shall be maintained with the investigatory file. Standard investigatory procedures will be utilized and the complaint will be logged on the CDCR Form 2140, Internal Affairs Allegation Log.

Any allegation of staff sexual misconduct or staff sexual harassment believed to constitute an emergency shall be reported immediately to a supervisor. The supervisor shall notify the Watch Commander who shall immediately notify the Hiring Authority. Notification to the OIA, Regional Office, Special Agent in Charge (SAC) or OIA Administrative Officer of the Day (AOD) shall also be made when immediate investigative action is necessary. In the event of such an emergency, staff shall follow-up with a written report within one (1) day of learning the information. Examples that constitute an emergency are as follows:

- Possible loss of life or serious bodily injury;
- Serious breach of facility security;
- Further aggravation of a potentially dangerous situation;
- Activities which seriously compromise or jeopardize an investigation;
- An illegal activity which may occur imminently.

**54040.7.3 Notification via Third Party Reporting of Sexual Violence or Sexual Harassment Against an Offender**

When a third party, on behalf of an inmate, makes an allegation of sexual violence or sexual harassment against an offender, that allegation or complaint shall be submitted in writing to a custody supervisor. The Custody Supervisor shall forward the documented third party report of the allegation to the Locally

Designated Investigator (LDI) for investigation and determination of the appropriate disposition.

Complaints determined to involve offenders from other agencies or institutions shall be forwarded to the proper hiring authority through the chain of command for appropriate response. Any allegation believed by staff to constitute an emergency shall be reported immediately to a supervisor. See examples listed in previous section.

The allegation will be investigated and documented on a Confidential Memorandum or CDC Form 128-B, General Chrono utilizing standard investigatory procedures, as outlined in DOM, Chapter 5, Article 44, Section 54040.12. If warranted the suspect may be subject to administrative/criminal proceedings per DOM, Chapter 5, Article 44, Section 54040.11.

Completion of a CDCR 837, Crime Incident Report is required on third party reports and anonymous reports only if the allegation is substantiated.

**54040.7.4 Notification from/to Other Confinement Facilities**

Upon receiving an allegation that an offender was the victim of sexual violence or staff sexual misconduct while confined at another institution/confinement facility, the hiring authority where the allegation was received shall notify the hiring authority of the institution or appropriate office of the agency where the alleged sexual violence or staff sexual misconduct occurred. This initial notification shall be made via telephone contact or electronic mail and will be followed up with a written summary of the alleged victim's statements. Such initial notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation. The institution or facility where the alleged sexual violence or staff sexual misconduct is reported will be responsible to complete the SSV-IA form.

The Hiring Authority or agency office receiving notification that an incident occurred at their institution, shall assign and ensure that the allegation is investigated and reported in accordance with DOM Section 54040.12. The Hiring Authority shall be responsible to conduct an Institutional PREA Review Committee. Upon completion, a copy of all documentation related to the allegation shall be returned to the institution where the alleged incident was reported for tracking and audit purposes.

**54040.8 Response**

It is the expectation that all staff shall maintain professional behavior when interacting with an alleged victim of sexual violence or staff sexual misconduct and display sensitivity to the potential emotional impact of the situation. All staff are reminded that this is a very serious situation. Incident-specific information shall be treated as confidential, and disclosure made only to employees who have a "need to know" and to other persons and entities as permitted or required by law.

**Initial Contact**

Upon the initial contact with an employee, that employee will take the alleged victim to a private secure location. The Initial Contact Guide has been developed to assist employees in completing the tasks associated with initial contact.

The employee shall request the victim does not:

- Shower;
- Remove clothing without custody supervision;
- Use the restroom facilities and/or;
- Consume any liquids.

When receiving an allegation from an offender of sexual violence or staff sexual misconduct that occurred in a detention facility while the offender was a minor, it will be the responsibility of the Watch Commander to notify the appropriate agencies.

**54040.8.1 Custody Supervisor Responsibilities**

The custody supervisor has significant responsibility in this policy, and a Custody Supervisor Checklist has been developed to assist in identifying the duties to be completed.

If the victim alleges staff sexual misconduct, the Hiring Authority will be immediately notified via the Watch Commander. The Hiring Authority will assign Locally Designated Investigator (LDI) to conduct inquiry work until sufficient information is obtained to warrant an OIA investigation, or the information collected refutes the allegations, as determined by the Hiring Authority. The inquiry and/or investigative information will be thoroughly documented on a Confidential Memorandum. The Confidential Memorandum shall be maintained with the investigatory file. The complaint will be investigated utilizing standard investigatory procedures. Upon conclusion of the investigation, the alleged victim will be provided written notification of the findings as described in DOM Section 54040.12.5.

Any allegation of staff sexual misconduct or staff sexual harassment believed by staff to constitute an emergency shall be reported immediately to a supervisor. Notification to the OIA, Regional Office, SAC or OIA AOD shall also be made when immediate investigative action is necessary. In the event of such an emergency, staff shall follow-up with a written report within one



(1) day of learning the information. Examples that constitute an emergency are as follows:

- Possible loss of life or serious bodily injury;
- Serious breach of facility security;
- Further aggravation of a potentially dangerous situation;
- Activities which seriously compromise or jeopardize an investigation;
- An illegal activity which may occur imminently.

The custody supervisor must tell the victim that his/her name will become a matter of public record unless he/she requests that it not become a matter of public record, per PC Section 293 (a). The victim should be provided the Victim of Sex Crimes form to complete to either request or waive confidentiality of his/her name. If the victim chooses to have his/her name remain confidential, any written report concerning these offenses must indicate that the victim requested confidentiality of his/her name per PC Section 293(a). If the victim has requested confidentiality, the victim's name and address may not be released except to specified persons or as authorized by law.

Please refer to DOM Sections 54040.12.1 and 54040.12.2 for information related to the inmate being transported for a forensic examination.

The custody supervisor shall assign a custody escort to the victim who shall remain with the victim for the entire exam process, whenever possible. Gender preference should be considered when assigning a custody escort to the victim. The custody escort will ensure effective communication (i.e., complexity of the issues, language barriers, and literacy).

A Watch Commander Notifications Checklist has been developed to identify the tasks to be completed.

When the call is made to request the ambulance, it is critical to inform the dispatcher that the injured offender is the victim of sexual assault/battery. At the time the victim is sent to the outside hospital or on-site location, the Watch Commander is required to contact the Rape Crisis Center to request a Victim Advocate be dispatched. If one is not available, designated, trained staff from the facility will be dispatched or called in to act as the Victim Advocate as defined in Section 54040.3.

#### **Crime Scene Preservation**

The custody supervisor shall ensure that a perimeter has been established and an officer has been posted to keep persons out of the crime scene area. The custody supervisor shall ensure the assigned officer(s) maintain a chronological log of all persons entering the crime scene area and their purpose for entering the crime scene area. ISU staff and/or trained personnel shall process the crime scene including collecting and securing evidence. ISU staff shall photograph/videotape the crime scene and evidence collected, make a diagram of the crime scene, and collect/package all evidence.

#### **Evidence**

Care must be taken to ensure that any potential evidence is identified, preserved, and collected. Examples of evidence include, but are not limited to any clothing worn by the victim and suspect, hair or clothing fibers, dried or moist secretions, semen, blood or saliva stains, stained articles of clothing, blankets, or other foreign materials on the body of the victim or suspect, fingernail scrapings, and any other trace evidence (including the rape examination kit).

Based on when/where the incident occurred, a designated evidence officer will be requested to collect evidence that may be destroyed if not preserved. The designated evidence officer and any other employee who collects evidence will process it according to institutional procedure.

All DNA related evidence taken from the body of the victim or suspect (i.e., fingernail scrapings, body fluid, hair, etc.) must be collected by the Sexual Assault Nurse Examiner (SANE), this individual is located at the SART location, in accordance with State of California, Office of Emergency Services Reporting Instructions. Refer to the institutions local MOU or DOM Supplement regarding processing of the clothing that the victim and suspect wore at the time of the incident. All other evidence such as clothing (from his/her bed area) and bedding will be collected per institutional procedure.

Once the SANE has finished collecting the evidence, it will be processed following local protocols.

#### **Parole or other Community Based Housing Incidents**

If a parolee reports sexual violence by another parolee, local law enforcement will be contacted.

If an inmate in a community based housing/re-entry program reports sexual violence by another inmate in the community based housing/re-entry program, appropriate custody staff will be contacted. An inmate in a community based housing/re-entry program may require transportation for a forensic medical exam at a local hospital in accordance with time frames established in DOM Sections 54040.12.1 and 54040.12.2. If the suspect is identified, a separate transport may be required in accordance with DOM Section 54040.11.

If any person reports staff sexual misconduct or staff sexual harassment by a Division of Adult Parole Operations (DAPO) staff member, the employee to

whom the report was made shall contact his/her supervisor and document the allegation on a CDCR Form 1617, Memorandum. The employee shall document the person's identifying information, contact information, and any information the person provides about the incident on the CDCR Form 1617, and submit the CDCR Form 1617 to the supervisor. The supervisor shall contact the Regional Administrator who shall notify the Office of Internal Affairs in accordance with Chapter 3, Article 22. If the alleged incident occurred outside the confinement, as a CDCR inmate, of a CDCR institution, the incident does not meet the criteria for PREA because the offender is not currently incarcerated; however, an allegation inquiry must be initiated, in accordance with DOM Chapter 3, Article 22. Therefore, the Regional Administrator will ensure an appropriate DAPO staff member is assigned to conduct an inquiry until sufficient information is obtained to warrant an OIA investigation, or the information collected refutes the allegations. The inquiry and/or investigative information will be thoroughly documented on a Confidential Memorandum. The Confidential Memorandum shall be maintained with the investigatory file. The complaint will be investigated utilizing standard investigatory procedures.

If a parolee makes an allegation to a DAPO staff member that a PREA incident occurred while he/she was an inmate in a CDCR institution, the employee to whom the report was made shall contact his/her supervisor and document the allegation on a CDCR Form 1617. The supervisor will contact the Regional Administrator. The Regional Administrator shall notify the Hiring Authority of the institution where the alleged incident occurred within 72 hours, as described in DOM 54040.7.4. Upon conclusion of the investigation, the alleged victim will be provided written notification of the findings as described in DOM Section 54040.12.5.

If an incident of sexual violence or staff sexual misconduct is reported at a contract facility responsible for housing CDCR offenders, the contracted employee shall initiate the Initial Contact Guide.

#### **54040.8.2 Victim Advocate and Victim Support Person**

Victims of alleged sexual violence or staff sexual misconduct have the right under PC 264.2, PC 679.04, and/or 28 CFR, Standard §115.21 to a Victim Advocate and Victim Support Person for both forensic medical examination (where evidentiary or medically appropriate) and for the investigatory interview.

##### **Victim Advocate and Victim Support Person for Medical Examination**

In incidents where an offender has alleged sexual violence or staff sexual misconduct, the watch commander or designee shall immediately notify the local Rape Crisis Center whenever a victim of a sexual violence or staff sexual misconduct, is treated at the local SART location and/or transported to an outside hospital for any forensic examination.

The victim has the right to have a victim advocate present and a victim support person of the victim's choosing (see PC Sections 679.04 and PC 264.2 and/or 28 CFR, Standard §115.21) at the forensic medical examination. In most cases, the victim advocate will be from the local rape crisis center. The victim support person may be excluded from the examination if the watch commander/designee or medical provider determines that the presence of the victim support person would be detrimental to the purpose of the examination or poses a threat to the safety and security of the institution or outside hospital. If a victim support person is excluded, the watch commander/designee or medical provider who made the decision shall document the reason (i.e., if time for the support person to attend would result in a significant delay and/or the person requested would present a risk to the safety/security of the institution) on the CDCR Form 837 if the allegation is against another offender or on a confidential memorandum if the allegation is against staff.

A Memorandum of Understanding (MOU) between the Institution and Local Rape Crisis Center (Victim Advocate) shall be established to ensure that both agencies understand their roles and responsibilities when responding to sexual violence or staff sexual misconduct.

##### **Victim Advocate and Victim Support Person for Investigatory Process**

Victims of alleged sexual violence or staff sexual misconduct, have the right to have a victim advocate and a victim support person of the victim's choosing (see PC Sections 679.04 and 264.2 and/or 28 CFR, Standard §115.21) present at any investigatory interview, interview by law enforcement, the district attorney, or defense attorneys.

If the investigator or the district attorney determines that the presence of the victim support person would be detrimental to the interview, the victim support person may be excluded from the interview. The victim must be notified verbally or in writing of this right by the attending investigator or the district attorney prior to the interview. Reasons for exclusion of the victim support person are the same as identified previously in the medical examination process and shall be documented as required above.

### **Victim Advocates for Emotional Support Services**

The facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available. This information is available to the inmate population in the PREA Brochure entitled "Sexual Violence Awareness" and the PREA booklet entitled "Sexual Abuse/Assault – Prevention and Intervention". It should also be included in each institution's offender orientation handbook. For persons detained solely for civil immigration purposes, information for the appropriate immigrant services agency shall be provided by staff.

The facility shall enable reasonable communication between inmates and these organizations and agencies, in as confidential a manner as possible.

#### **54040.8.3 Medical Services Responsibilities**

California Correctional Health Care Services (CCHS) medical staff will provide indicated emergency medical response.

The assigned Registered Nurse will initiate the CDC Form 7252, Request for Authorization of Temporary Removal for Medical Treatment and have it delivered to the Watch Office or designated area to expedite the transportation process. To the extent possible, staff in the Triage and Treatment Area (TTA) will maintain physical separation and visual separation between the victim and suspect(s).

CCHCS medical staff will conduct follow-up testing for sexually transmitted infections/diseases, HIV, Hepatitis B and/or C, and pregnancy (if appropriate) as indicated. As required in Penal Code Section 2638, immediate HIV/AIDS, and sexually transmitted infections prophylactic measures will be provided. In addition, information regarding sexually transmitted infections, HIV and pregnancy options, will be discussed with the victim and suspect.

Licensed health care staff shall determine and identify any injuries sustained by the alleged victim and suspect, assess and identify if they are urgent/emergent, and provide immediate emergency medical care to the alleged victim and suspects. The injuries sustained by the alleged victim and suspect shall be documented on a CDCR Form 7219, Medical Report of Injury or Occurrence and CDCR Form 837-C for use in the inmate disciplinary process and provide to custody. The Chief Medical Executive, or designee shall review the medical documentation of the incident.

#### **54040.8.4 Transportation Responsibilities**

The transportation sergeant or designated sergeant shall maintain Sexual Assault/Battery Transportation Kits in a plastic storage bin. This kit will consist of:

- One clean jumpsuit;
- Two pieces of "examination table" type paper (approx. 18" x 36" each);
- Two Evidence Collection Envelopes;
- Two Evidence Collection Paper Bags; and
- Two pairs of latex gloves and other required personal protective equipment (PPE).

A Transportation Checklist has been developed to identify the duties to be completed related to the transportation of Sexual Assault victims and suspects.

#### **54040.9 Forensic Medical Examination**

In accordance with DOM Sections 54040.12.1 and 54040.12.2, the victim will be taken to the designated outside hospital, or on-site location, where SART Contract Staff will complete the forensic exam. The SANE shall provide the required Forensic Medical Examination, per the Office of Emergency Services, as well as the appropriate Forensic Medical Report: Acute (<72 hours) Adult/Adolescent Sexual Assault Examination, the Forensic Medical Report: Non-Acute (>72 hours) Child/Adolescent Sexual Abuse Examination, or the Forensic Medical Report: Sexual Assault Suspect Examination. These examinations will consist of an explanation of the process, the offender's signature on consent forms (some offenders will require assistance to explain the consent forms prior to signing them), discussion of the incident and when/how it occurred, and a detailed physical examination that will include evidence collection and photographs. As required in Penal Code Section 2638 (part of AB 550), immediate HIV/AIDS prophylactic measures will be provided. In addition, information regarding sexually transmitted infections, HIV and pregnancy options, will be discussed with the victim and/or suspect. Testing for sexually transmitted infections, HIV, and pregnancy (if appropriate) will be offered.

#### **54040.10 Return to Triage and Treatment Area/Receiving & Release**

Upon the return of the victim from the SART/SANE Exam, the offender will be assessed following Inmate Medical Services Policies and Procedures (IMSP&P). The TTA Registered Nurse will also complete a request for an emergent Suicide Risk and Self-Harm Evaluation (SRASHE). Mental health staff will evaluate the victim within four hours of referral. Until that time, the offender shall be placed under

constant and direct supervision to ensure he/she does not attempt to hurt him/herself or someone else.

Staff are reminded to be aware of warning signs of post-trauma mental health problems. These behaviors would typically be a change from their usual behavior prior to the alleged assault. No single behavior listed below indicates mental health problems, but if several or more are present you should make a referral to or consult with the mental health program.

- Sleep problems
- Agitation or restlessness (for example, pacing in the cell or housing unit)
- Suspiciousness or heightened vigilance – may have an exaggerated startled response
- Withdrawal from customary activities and friends
- Loss of appetite
- May stand and stare blankly
- Hyperactivity
- New ritualistic or highly repetitive behavior
- Crying or tearfulness
- Fear of others
- Marked change in personality
- No longer wants to engage in activities
- Self-injurious or suicidal behavior
- May be heard putting themselves down or be very critical of themselves
- Bizarre or unusual behavior or outbursts
- Fear of venturing beyond "security blanket" areas
- Newly developed clinginess on friends or custody staff
- May display impulsiveness or violence toward others (new behavior)

Upon the victim's return to the institution TTA or designated medical location, the custody supervisor will arrange housing for the victim. All housing options should be considered, including input from the victim regarding his/her housing preference, a bed move, a transfer to a sister institution and safety concerns. Consideration should also be given to housing the victim with another offender with compatible housing needs.

#### **Mental Health Responsibilities:**

Within four (4) hours of the inmates return to the facility, following the SANE forensic medical examination or refusal of the SANE examination, mental health staff must complete a face-to-face emergency mental health evaluation in a confidential location. The mental health evaluation shall include a (SRASHE), determination of the patient's mental health treatment and monitoring needs, along with arrangements made for any necessary mental health follow-up services. If appropriate, the victim shall be given educational materials to provide information related to the mental health conditions, which may result after being subjected to sexual violence and/or staff sexual misconduct. As clinically indicated, victims shall be monitored for signs and symptoms of self-harm, suicidality, post-traumatic stress disorder, depression, and other mental health issues which may arise secondary to sexual abuse. Mental health staff shall document the evaluation on a PREA note in the Electronic Health Record System (EHRS). Specific responsibilities of mental health staff shall be consistent with statewide IMS P&P, MHSDS Program Guide (2009), and supplemented by local operating procedures.

#### **54040.11 Suspect Processing**

##### **Offender on Offender**

To the extent possible, all staff will ensure that there is no physical, verbal, or visual contact between the victim and suspect. The suspect will be escorted to the TTA or designated medical location for medical screening and then to the SART location as necessary. The suspect must consent to the forensic examination or custody staff will take steps necessary to obtain a search warrant or will follow procedures outlined in a Memorandum of Understanding (MOU) with the local District Attorney's Office. The custody supervisor will contact ISU, or the local District Attorney's Office for assistance in obtaining a search warrant.

Upon initial contact with the suspect, the employee shall make every effort to ensure the suspect does not:

- Shower;
- Remove clothing without custody supervision;
- Use the restroom facilities and/or;
- Consume any liquids.

Steps identified earlier in this article for collection of evidence, transportation, and physical examination of the alleged victim shall be the same for the suspect.

Upon completion of the forensic medical examination, the suspect will be re-housed in the Administrative Segregation Unit (ASU). The custody supervisor shall complete the required forms for ASU placement.

ISU staff or the LDI will provide a Miranda warning and interview the suspect to obtain his/her account of the incident. The custody supervisor will complete

a referral to mental health for a mental health evaluation and assessment of treatment needs.

#### **Staff on Offender**

Immediate efforts shall be made to eliminate sight and sound contact between the victim and the staff member. Suspects are afforded due process; therefore, when a staff member is identified as a suspect, and before processing, contact with the Hiring Authority and OIA should be made. The Hiring Authority or designee shall determine if the employee should be placed on administrative time off consistent with departmental policy during the course of the investigation.

#### **54040.12 Investigation**

All allegations of sexual violence, staff sexual misconduct, and sexual harassment shall be investigated and the findings documented in writing. No standard higher than the preponderance of the evidence is to be used when determining whether allegations of sexual abuse or sexual harassment are sustained. In addition, all allegations require completion of the Survey of Sexual Violence (SSV-1A) form. Except in limited circumstances or exigent circumstances, investigators shall not rely solely on inmate interpreters, readers, or other types of inmate assistance during a sexual violence, staff sexual misconduct, or sexual harassment investigation.

The departure of the alleged suspect or victim from the employment or control of CDCR shall not provide a basis for terminating an investigation.

#### **Staff on Offender**

Allegations of staff on offender sexual misconduct or staff sexual harassment will be immediately reported to the Hiring Authority via the Watch Commander. The Hiring Authority will assign an LDI to conduct an inquiry until sufficient information is obtained to warrant an OIA investigation, or the information collected refutes the allegations, as determined by the Hiring Authority. The inquiry and/or investigative information will be thoroughly documented on a Confidential Memorandum. The investigator will include an effort to determine whether staff actions or failures to act contributed to the abuse. The Confidential Memorandum will include: 1) a description of the physical and testimonial evidence; 2) the reasoning behind credibility assessments; and 3) the investigative facts and findings. The Confidential Memorandum shall be maintained with the investigatory file. The complaint will be investigated utilizing standard investigatory procedures. Upon conclusion of the investigation, the alleged victim will be provided written notification of the findings as described in DOM Section 54040.12.5.

Any allegation of staff sexual misconduct or staff sexual harassment believed by staff to constitute an emergency shall be reported immediately to a supervisor. Notification to the OIA, Regional Office, SAC or OIA AOD shall also be made when immediate investigative action is necessary. In the event of such an emergency, staff shall follow-up with a written report within one (1) day of learning the information. Examples that constitute an emergency are as follows:

- Possible loss of life or serious bodily injury;
- Serious breach of facility security;
- Further aggravation of a potentially dangerous situation;
- Activities which seriously compromise or jeopardize an investigation;
- An illegal activity which may occur imminently.

#### **Offender on Offender**

All sexual violence allegations to include sexual assaults, attempted sexual assaults, and sexual battery committed by offenders, as well as allegations of sexual harassment committed by offenders shall be investigated by the LDI. These staff designated by the Hiring Authority will be responsible for completion of the investigation and will follow standard investigative procedures.

The LDI or Custody Supervisor may utilize the Sexual Assault/Battery Interview Guidelines when questioning the alleged victim regarding the specific facts of the allegation. The ISU Lieutenant or LDI shall be responsible for completing the SSV-1A.

Credibility of an alleged victim, suspect, or witness must be determined based on sound facts and evidence rather than an individual's status.

Pursuant to PC Section 293(b), the Victims of Sex Crimes form must be attached to all criminal reports relating to offenses listed in Government Code section 6254(f), which in adult prisons are: PC Sections 220, 261, 261.5, 262, 264, 264.1, 266(c), 273(a), 273(d), 273.5, 286, 288, 288(a), 289, 422.6, 422.7, 422.75, and 646.9.

#### **54040.12.1 Investigation of Sexual Violence or Staff Sexual Misconduct – less than 72 hours post incident**

If the alleged incident is reported or discovered less than 72 hours after the occurrence, in addition to the provisions discussed in DOM Section 54040.8, the custody supervisor shall secure the alleged crime scene (if feasible) and secure the alleged inmate suspect (if he/she can be identified) for potential

forensic processing. The custody supervisor shall determine the need to transport the inmate for a forensic exam as follows:

- Sexual Harassment Incidents: The victim/suspect will not be transported for a forensic exam.
- Abusive Sexual Contact Incidents: The SART/SANE shall be consulted to make a determination as to whether the inmate victim/inmate suspect should be taken for a forensic examination. The inmate victim may refuse the forensic examination and the refusal should be video recorded.
- Nonconsensual Sex Acts: The inmate victim/inmate suspect shall be transported for a forensic examination. The inmate victim may refuse the forensic examination and the refusal should be video recorded.
- Staff Sexual Misconduct: The inmate victim shall be transported for a forensic examination when the allegation includes behavior identified in CCR 3401.5(a)(3)(A) through 3401.5(a)(3)(D). The inmate victim may refuse the forensic examination and the refusal should be video recorded.

#### **54040.12.2 Investigation of Sexual Violence or Staff Sexual Misconduct – Greater Than 72 Hours Post-Incident**

If the alleged incident is reported or discovered more than seventy-two (72) hours after the occurrence, in addition to the applicable provisions discussed in this article, the custody supervisor shall secure the reported crime scene (if feasible) and the alleged inmate suspect (if they can be identified) for potential forensic processing. The victim may be questioned using the Sexual Assault/Battery Interview Guidelines. The SART/SANE nurse shall be consulted to make a determination as to whether the abuse occurred within a time period that allows for the collection of physical evidence, by which the inmate victim's and inmate suspect's participation in a forensic examination would provide additional evidence. If the examination is indicated the victim may refuse the SART/SANE forensic medical examination and the refusal should be video recorded. In cases where a SART/SANE forensic medical examination is not offered, or is refused, institutional medical staff shall then offer to conduct an examination of the victim and alleged inmate suspect to determine the presence or absence of physical trauma and perform follow-up testing for sexually transmitted infections/sexually transmitted diseases and/or pregnancy testing, as appropriate. As required in Penal Code Section 2638 (part of AB 550), immediate HIV/AIDS, and sexually transmitted infections prophylactic measures will be provided. Medical staff shall also offer the victim a follow up meeting with Mental Health and document the referral and/or refusal.

#### **54040.12.3 Reporting to Outside Agencies**

Written allegations of sexual misconduct by a patient against licensed health care staff shall be reported to the relevant licensing body by the hiring authority or designee within 15 days. All terminations for violations of agency sexual misconduct or harassment policies, or resignations by employees that would have been terminated if not for their resignation, shall be reported to any relevant licensing body by the hiring authority or designee.

#### **54040.12.4 Reporting to Outside Agencies for Contractors**

Any contractor or volunteer who engages in staff sexual misconduct shall be prohibited from contact with offenders and shall be reported to relevant licensing bodies by the hiring authority or designee.

#### **54040.12.5 Reporting to Offenders**

##### **Staff on Offender**

Following an offender's allegation that a staff member has committed sexual misconduct against an offender, the alleged victim shall be informed as to whether the allegation has been substantiated, unsubstantiated, or unfounded. The PCM or designee shall inform the offender (unless the allegation has been determined to be unfounded) whenever the alleged abuser has been:

- the staff member is no longer posted within the inmate's unit;
- the staff member is no longer employed at facility;
- indicted on the alleged sexual misconduct; or
- convicted of the alleged sexual misconduct.

##### **Offender on Offender**

Following an investigation into an offender's allegation that he or she suffered from sexual violence by another offender, institution shall inform the alleged victim if the allegation has been substantiated, unsubstantiated or unfounded. The institution shall also inform the alleged victim whenever the alleged abuser has been:

- indicted on the alleged sexual violence; or
- convicted of the charge.

The agency's obligation to report/inform the offender of changes shall terminate if the offender is released from the agency's custody.

As a reminder, investigative staff shall ensure the inmate abuser is referred to mental health as soon as an allegation of inmate-on-inmate sexual abuse has been substantiated and/or knowledge of previous inmate-on-inmate sexual abuse arises, which has not previously been addressed utilizing the CDCR

Form 128 MH5, Mental Health Referral Chrono, to request a PREA Perpetrator Routine mental health contact.

#### **54040.13 Allegation Follow-up**

For at least 90 days following a report of sexual violence or staff sexual misconduct, the institutional PCM shall monitor the conduct and treatment of inmates or employees who reported the sexual violence or staff sexual misconduct and of the victim to ensure there are no changes that may suggest retaliation. The PCM may delegate these monitoring functions to staff assigned to the Investigative Services Unit or to a supervisory staff member and has the discretion to assign this monitoring in other circumstances: If the reported conduct is sexual harassment, when a volunteer or independent contractor made the report of sexual violence, staff sexual misconduct, or sexual harassment, or if any person fears retaliation for cooperating with an investigation. The assigned supervisor shall notify the institutional PCM of any such changes. The PCM shall act promptly (in accordance with DOM Article 14, Section 31140.22) to remedy any such retaliation and ensure a CDCR Form 2304 or 2305, Protection Against Retaliation, is initiated. Items to be monitored on the CDCR Form 2304 or 2305 include periodic inmate status checks, inmate disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. The monitoring shall continue beyond 90 days if the initial monitoring indicates a continuing need. The PCM shall ensure all Protection Against Retaliation forms are maintained as required in the Records Retention Schedule.

The obligation to monitor shall terminate if the investigation determines that the allegation is unfounded or proven false.

When the inmate is transferred to another institution within the 90-day monitoring period, the CDCR Form 2304 shall be forwarded to the receiving institution. The PCM/designee at the sending institution shall make contact with the PCM/designee at the receiving institution to provide an overview of the case, noting the remaining monitoring timeframes. Upon completion of the monitoring period, the PCM/designee at the receiving institution shall return the completed CDCR Form 2304 to the PCM/designee at the sending institution for retention in the file and audit purposes.

#### **54040.14 Classification Process**

In cases of alleged sexual violence, staff sexual misconduct or sexual harassment, a determination shall be made for all victim(s) and offender suspect(s) if placement in an ASU is warranted, for reasons outlined in CCR Section 3335 and the reason shall be documented on the Classification Committee Chrono. Following ASU placement, an administrative review shall occur in accordance with CCR Section 3337.

Consideration during Institution Classification Committee (ICC) must be given to:

- Completion of Departmental Disciplinary Process.
- Yard assignment while in ASU.
- Single or double cell status.
- Referral to the District Attorney for Criminal Prosecution.
- Housing including a consideration of alternate General Population Facilities, Sensitive Needs Yard placement, Out-of-State placement (requires Departmental Review Board (DRB) approval), or Indeterminate SHU (DRB approval).

#### **54040.14.1 PREA Victims Non-Disciplinary Segregation**

PREA victims being removed from general population may be placed on non-disciplinary segregation status, in accordance with CCR Section 3335(b) and shall be assessed for any ongoing safety concerns. The assessment shall be documented on the inmates CDC Form 114-A, Inmate Isolation Segregation Record.

The assigned custody supervisor will be responsible for reviewing the circumstances of the incident and documenting his/her observations on a CDC Form 128-B, General Chrono. The assigned custody supervisor will attend the initial ICC and will make a recommendation regarding the need for continued housing on this status. ICC will consider the supervisor's input and make the final decision on retention or release from non-disciplinary segregation status.

A custody supervisor is required to conduct assessments every thirty days from the date the inmate is initially placed on non-disciplinary segregation status. These assessments will be documented on the CDC Form 114-A. When the assigned custody supervisor determines the inmate's non-disciplinary segregation status is no longer needed, he/she shall submit a CDC Form 128-B requesting the inmate be seen by ICC for housing review.

#### **54040.14.2 Transgender Biannual Reassessment for Safety in Placement and Programming**

On a bi-annual basis, Division of Adult Institutions (DAI) staff will send each PREA Compliance Manager (PCM) a list of identified transgender and intersex inmates, as known to the Department. This list will reflect the

institution's respective inmates, along with the month of the inmate's next scheduled annual classification review.

If an inmate is due to be seen for his/her annual classification review during the identified review period (August through January or February through July), the assigned caseworker will ask the inmate about any threats they have received during the pre-committee interview. In addition to interviewing the inmate, the assigned caseworker shall review the inmate's case factors in SOMS and ERMS for any additional information, which may indicate the inmate, has any placement or programming concerns. After the annual review is completed, the assigned caseworker will document his/her actions, as they relate to the PREA Biannual Assessment, in the Classification Committee Chrono.

If the inmate is not scheduled to be seen for his/her annual classification review during the identified review period (August through January or February through July), the assigned caseworker shall conduct a Transgender Biannual Assessment-PREA and complete a pre-formatted CDC Form 128-B, General Chrono. This form includes information to be asked of the inmate during a face-to-face interview to assess any threats to their safety. In addition to interviewing the inmate, the assigned caseworker shall review the inmate's case factors in SOMS and ERMS for any additional information, which may indicate the inmate, has any placement or programming concerns.

If, during the interview for either the annual review or the Transgender Biannual Assessment-PREA, the inmate discloses threats to safety, the assigned caseworker shall immediately notify a Custody Supervisor. Any information related to a PREA allegation shall be documented and forwarded to the institution's Locally Designated Investigator according to the DOM, Article 44, Prison Rape Elimination Policy.

The PCM shall coordinate with the Classification and Parole Representative to ensure the assessments are completed. The PCM shall maintain a copy of the biannual list with the dates the annual classification reviews or the PREA Biannual Assessments were completed. The PCM will forward a copy of this list to the PREA Captain in the Division of Adult Institutions within five days of completion of the review period.

#### **54040.15 Disciplinary Process**

Upon completion of the investigative process, the existing disciplinary process, which includes referral for criminal prosecution and classification determinations, shall be followed.

If the allegation of sexual violence warrants a disciplinary/criminal charge, a CDCR Form 115, Rules Violation Report shall be initiated. The offender who is charged will be entitled to all provisions of CCR Section 3320 regarding hearing procedures and time limitations and CCR Section 3316, Referral for Criminal Prosecution.

#### **54040.15.1 Alleged Victim – False Allegations**

Following the investigation into sexual violence or staff sexual misconduct, if it is determined that the allegations made were not in good faith or based upon a reasonable belief that the alleged conduct occurred, the offender making the allegations may be subject to disciplinary action. A charge of "making a false report of a crime," a Division "E" offense, is appropriate only if evidence received indicates the offender **knowingly** made a false report. An allegation deemed unsubstantiated or unfounded based on lack of evidence, does not constitute false reporting.

#### **54040.16 Referral of Completed Cases for Independent Review**

Designated staff in CDCR headquarters shall provide the Sexual Abuse in Detention Elimination Ombudsperson with copies of all completed Survey of Sexual Violence Incident – Adult (SSV-IA) forms. Inmate appeals forms, Ward Grievances, sexual assault investigation reports, and other data related to allegations of sexual assault will be made available to the Office of the Sexual Abuse in Detention Elimination Ombudsperson upon request.

#### **54040.17 Institutional PREA Review Committee**

*Revised September 9, 2022*

(a) The purpose of this section is to set forth California Department of Corrections and Rehabilitation (CDCR) policy governing the sexual violence and staff sexual misconduct incident review process. The policy has its foundation in Code of Federal Regulations (CFR), tit. 28, Prison Rape Elimination Act (PREA) National Standards.

(b) Per 28 CFR, Standard §115.86, each Hiring Authority is required to conduct an incident review of every sexual violence or staff sexual misconduct allegation, including allegations that have not been substantiated. A review is not required for allegations that have been determined to be unfounded.

(c) The PREA Compliance Manager (PCM) shall make a good faith effort to reach a judgment on whether staff's actions prior to, during, and subsequent to the reporting of the incident are in compliance with regulations, procedure, and applicable law and determine if follow-up action is necessary.

(d) The PCM shall normally schedule these PREA incidents for review by the Institutional PREA Review Committee (IPRC) within 30 days of the conclusion of the investigation or within 60 days of the date of discovery, whichever is sooner.

(e) A subsequent IPRC shall be completed whenever an initial IPRC was conducted prior to the completion of the investigation. A subsequent IPRC shall also be completed when the initial IPRC was unable to provide a thorough review, or if requested by the Hiring Authority.

(f) It shall be the responsibility of the IPRC to conduct the incident review for all allegations, which are alleged to have occurred at the institution, including those that were received from an institution or facility in accordance with Department Operations Manual (DOM) section 54040.7.4.

(g) Institutional PREA Review Committee

(1) The IPRC is a committee of institution staff, chaired by the respective Institution Head, tasked with reviewing PREA related incidents except those determined to be unfounded.

(2) The IPRC shall meet to review PREA incidents on at least a monthly basis, or on a schedule to ensure all cases are reviewed within 60 days of the date of discovery or within 30 days of the conclusion of the investigation. All PREA investigations shall have an IPRC conducted within 30 days of the date of closure of the investigation, even if the case had been reviewed initially upon 60 days of the date of discovery. The IPRC shall ensure the report of its findings and recommendation is completed within 30 days of the conclusion of the investigation.

(3) The IPRC shall normally be comprised of the following staff:

(A) Hiring Authority or designee, as chairperson and final decision maker.

(B) PREA Compliance Manager.

(C) At least one other manager.

(D) In-Service Training Manager.

(E) Health Care Clinician.

(F) Mental Health Clinician.

(G) Incident Commander or Investigative Services Unit Supervisor.

(4) The IPRC shall:

(A) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse.

(B) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility.

(C) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse.

(D) If the staffing plan was not complied with, this fact shall be documented during this review and addressed in the corrective action plan.

(E) Assess the adequacy of staffing levels in that area during different shifts.

(F) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

(G) Prepare a report of its findings and any recommendations for improvement.

(H) Determine a plan to correct findings and document in the report.

(I) Document implementation of the Action Plan or reasons for not doing so.

(J) Submit the report to the Hiring Authority for final review.

(h) The facility shall implement the recommendations for improvement, or shall document its reasons for not doing so. The final report shall be provided to the appropriate Associate Director, upon approval of the Hiring Authority, if the findings require physical plant modification or other fiscal resource needs that cannot be addressed through their existing budget (i.e., staffing).

(i) Departmental PREA Coordinator

(1) Title 28 CFR, Standard §115.88, requires the agency to review data collected pursuant to 28 CFR §115.87 in order to assess and improve the effectiveness of its sexual violence prevention, detection, and response policies, practices, and training.

(2) On an annual basis:

(A) The departmental PREA Coordinator shall forward to each institution, a data collection tool, which shall be utilized by the institutional PCM to summarize information gathered through the Institutional PREA Committee.

(B) The institution shall complete the data collection tool and return it to the Departmental PREA Coordinator.

(C) The Departmental PREA Coordinator shall review the information contained on the data collection tool.

(D) The Departmental PREA Coordinator shall prepare an annual report of the findings and corrective actions for each facility, as well as the agency as a whole.

(E) The report shall be routed through the chain of command to the Agency Secretary for review and approval.

(F) Once approved by the Secretary, the annual report shall be forwarded to the Office of Public and Employee Communication for placement on the CDCR Website.

(j) Records Retention

All case records associated with such reports including incident reports, investigation reports, offender information, case disposition, medical and counseling evaluation findings, and recommendations for post-release treatment or counseling shall be retained in accordance with the CDCR Records Retention Schedule.

#### **54040.17.1 Annual Review of Staffing Plan**

Whenever necessary, but no less frequently than once each year, in consultation with the PREA Coordinator, the institutional PCM and the Program Support Unit shall assess, determine, and document whether adjustments are needed to: (1) The staffing plan; (2) The facility's deployment of video monitoring systems and other monitoring technologies; and (3) The resources assigned to ensure adherence to the staffing plan.

#### **54040.18 Institutional Staffing Plan**

CDCR shall ensure that each facility it operates develops, documents and makes its best efforts to comply on a regular basis with a staffing plan that provides for adequate levels of staffing, and where applicable, video monitoring to protect offenders against sexual abuse. In calculating adequate staffing levels and determining the need for video monitoring, facilities shall take into consideration: (1) Generally accepted detention and correctional practices; (2) Any judicial findings of inadequacy; (3) Any findings of inadequacy from Federal investigative agencies; (4) Any findings of inadequacy from internal or external oversight bodies; (5) All components of the facility's physical plant (including "blind-spots" or areas where staff or inmates may be isolated); (6) The composition of the inmate population; (7) The number and placement of supervisory staff; (8) Institution programs occurring on a particular shift; (9) Any applicable State or local laws, regulations, or standards; (10) The prevalence of substantiated and unsubstantiated incidents of sexual abuse; and (11) Any other relevant factors. In circumstances where the staffing plan is not complied with, the facility shall document and justify all deviations from the staffing plan through the Telestaff Program and Daily Activities Report. The Watch Commander is responsible for reporting and justifying all deviations from the approved staffing plan.

#### **54040.19 Community Services**

Institutions shall provide victims of in-custody sexual violence, or staff sexual misconduct with access to mailing addresses and phone numbers of outside rape crisis organizations, victim advocacy groups and immigrant services agencies per 28 CFR, Part 115, Standard 115.53.

This PREA standard requires that inmates be allowed to correspond with staff in the rape crisis center/victim advocate in as confidential manner as possible. To facilitate this correspondence, inmate mail that is being sent to the locally designated rape crisis center will be treated as confidential mail.

(a) The letter must be addressed to the Rape Crisis Center and may include a specific staff member's name.

(b) The inmate's full name, Department identification number, and the address of the institution shall be included in the return address appearing on the outside of the envelope.

(c) The word "confidential" shall appear on the face of the envelope. Failure to do this will result in the letter being processed as regular mail or being returned to the inmate if for any reason the mail cannot be processed as regular mail.

(d) Inmates shall post confidential mail by presenting the mail unsealed to designated staff. In the presence of the inmate, the staff shall remove the contents of the envelope upside down to prevent reading of the contents. Staff shall remove the pages and shake them to ensure there is no prohibited material, consistent with the CCR. If no prohibited material is discovered, the contents shall be returned to the envelope and sealed. Staff shall place their signature, badge number, and date across the sealed area on the back of the envelope. Staff shall then deposit the confidential mail in the appropriate depository.

(e) If prohibited material is found in the confidential mail, the prohibited material shall be confiscated; however, the letter may be returned to the inmate or mailed following the process outlined above. If the prohibited material indicates a violation of the law or intent to violate the law, the matter may be referred to the appropriate authorities for possible prosecution. Administrative and/or disciplinary action shall also be taken against all parties involved.

Mental Health Services shall be provided as directed under the Mental Health Responsibility Section 54040.10.

If the victim is a parolee, the victim may be referred to the Parolee Outpatient Clinic, local mental health agencies, and Rape Crisis Intervention Centers, as the need arises.

#### **54040.20 Tracking – Data Collection and Monitoring**

The PCM or the Parole Employee Relations Officer shall report investigations into allegations of sexual violence and staff sexual misconduct on the monthly update of the Yearly Tracking Report (YTR), including whether the perpetrator was a staff member or offender, disposition and current status. This information shall be reported to the Department's PREA Coordinator by the fifth day of every month. Additionally, the ISU Lieutenant or Locally Designated Investigator shall be responsible for completing the Survey of Sexual Violence-Incident Adult (SSV-IA). The SSV-IA will be submitted to the Department PREA Coordinator no later than two business days from the date of the allegation. This information shall also be provided (via copy of the CDCR Form 837, Crime Incident Report) to the Offender Information Systems Branch (OISB) for compilation and tracking.

The OIA shall maintain records of investigations into allegations of staff/offender sexual misconduct, and will report by case number, the type of sexual misconduct, subcategory (male staff with female offender, female staff with male offender, etc.); whether the allegations were sustained; and whether a DA referral was made.

The CDCR shall aggregate the incident-based data at least annually. The data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Federal Department of Justice. CDCR shall maintain, review, and collect data as needed from all available documents including incident reports, investigation files, and PREA incident reviews. CDCR shall also obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates. Upon request, the agency shall provide all such data from the previous calendar year to the federal Department of Justice no later than June 30.

Reports shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in addressing sexual violence and staff sexual misconduct. The report shall be approved by the CDCR Secretary and made readily available to the public through the CDCR website. Specific material may be redacted from the reports when publication would present a clear and specific threat to the safety and security of a facility; however, the report must indicate the nature of the material redacted.

#### **54040.21 PREA Data Storage and Destruction**

CDCR shall ensure that all PREA data collected are securely retained. All aggregated PREA data, from facilities under CDCR's direct control and private facilities with which it contracts, shall be made readily available to the public at least annually through the CDCR website. Before making aggregated PREA data publicly available, all personal identifiers shall be removed. PREA data collected shall be maintained for 10 years after the date of the initial collection.

#### **54040.22 Revisions**

The Agency Secretary, or designee, shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **References**

Title 28, Code of Federal Regulations, Part 115, Prison Rape Elimination Act National Standards.

California Assembly Bill 550 (Chapter 303, Statutes of 2005), Sexual Abuse in Detention Elimination Act, PC Section 2635 et seq.

California Penal Code Sections 220, 261, 261.5, 262, 264, 264.1, 264.2, 273(a), 273(d), 273.5, 286, 288, 288(a), 289, 289.5, 289.6, 293(a), 422.6, 422.7, 422.75, 646.9, 646.9, and 679.04.

CCR, Title 15, Division 3, Sections 3005(d)(1), 3007, 3316, 3335, 3337, 3377.1(c), and 3401.5.

Evidence Code 1035.2.

Government Code Section 6254.

Public Law 108-79, Prison Rape Elimination Act of 2003, Title 34 United States Code Section 30301 et seq.

#### **Revision History**

Revised: May 15, 2018.

Revised: May 19, 2020.

Revised Section 54040.17: September 9, 2022.

## **ARTICLE 45 — CARE, TREATMENT, AND SECURITY OF PREGNANT**

### **OFFENDERS**

*Effective June 9, 2006*

#### **54045.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) staff shall ensure a pregnant offender is not placed in restraints by the wrists, ankles, or both during labor, including during transport, delivery, and while in

recovery after giving birth, except as provided in Penal Code Section 5007.7. Health care staff shall provide medical care for the pregnant offender population. Pregnant offenders shall receive, within the second trimester of gestation, a dental examination, periodontal evaluation, and the necessary periodontal treatment in order to maintain periodontal health during the gestation period.

#### **54045.2 Purpose**

This policy will ensure the safety of female offenders and the unborn child during pregnancy. It will also ensure medical care concerns are met regarding the pregnant offender population and birth of children at local hospitals and to establish protocols which prevent or treat gingivitis and/or periodontitis during pregnancy.

#### **54045.3 Medical Care – Reception**

The pregnant offender's medical care is initiated in Receiving and Release (R&R) when it is determined, by self report or physical appearance that the offender is pregnant, confirmed by physical examination and laboratory test results.

A Registered Nurse (RN) or Medical Technical Assistant (MTA) shall conduct the initial health screening in R&R. The health care staff shall notify the Obstetrical (OB) Coordinator by telephone or written documentation of the offender's name, CDC number, and any pertinent medical information regarding the offender's pregnancy status. The R&R RN shall notify the Supervising Obstetrician if information provided by the offender or from written information indicates that the offender has any medical conditions that place the patient in a high-risk status. The RN shall notify the Supervising Obstetrician, Health Care Manager/Chief Medical Officer (HCM/CMO) or designee if the offender needs to be seen for any urgent/emergent conditions.

A priority ducat for laboratory work to verify the pregnancy will be issued to all suspected pregnant offenders within three (3) business days of arrival at the institution.

A priority ducat for an examination by the OB Physician or OB Nurse Practitioner (NP) will be issued to all pregnant offenders within seven (7) business days of arrival at the institution.

A CDCR form 7410, Comprehensive Accommodation Chrono, for lower bunk and lower tier housing, if housed in a multi-tier housing unit, will be issued to all pregnant offenders.

Pregnant offenders on methadone maintenance shall be recommended for immediate transfer to the California Institution for Women (CIW) through the CMO to CMO transfer process. (Refer to methadone treatment for pregnant offenders later in this Article).

#### **54045.4 Medical Follow-up**

Positively identified pregnant offenders shall be provided with the following:

- Within seven (7) business days, the pregnant offender shall be scheduled for her first OB visit wherein a thorough history and examination shall be performed by the Supervising Obstetrician or NP, to determine the term of pregnancy and plan of care. Diagnostic studies shall be ordered based on the information provided in the Hollister Maternal/Newborn Record System forms.
- Pregnant offenders shall be referred for HIV counseling and testing.
- Pregnancy termination counseling regarding pregnancy interruption shall be provided if requested by the offender.
- Pregnant offenders shall receive pregnancy and childbirth education, information pamphlets, and other pertinent material.
- Pregnant offenders shall receive prenatal vitamins, iron, and folic acid.
- Pregnant offenders shall receive two (2) extra cartons of milk, two (2) extra servings of fresh fruit, and two (2) extra servings of fresh vegetables daily. The physician may order additional nutrients as necessary.
- Pregnant offenders shall be issued a CDCR Form 7410 for any medical accommodations or restrictions if indicated.
- Pregnant offenders shall be referred to the dentist on a priority basis for evaluation and treatment of periodontal disease.
- The OB Coordinator shall prepare, in advance, a Request for Authorization of Temporary Removal form for all pregnant offenders within 30 days prior to the delivery date. These forms shall be delivered to the Watch Commander's office. This shall enable custody staff to prepare the offender for transportation to an outside facility in a timely manner.

- Pregnant offenders shall be scheduled and educated for their OB visits as follows, unless otherwise indicated by the supervising OB or NP:
  - Every 4 weeks in the first trimester and up to 24 – 26 weeks gestation.
  - Every 3 weeks up to 30 weeks gestation.
  - Every 2 weeks up to 36 weeks.
  - Weekly after 36 weeks up to delivery.
- Pregnant offenders shall be provided additional services based on the information provided in the Hollister Maternal/Newborn Record System forms.
- Every pregnant offender shall be referred to a Medical Social Worker for Case Management, to discuss placement of her unborn child and options available for proper placement and care of the child after delivery. A Medical Social Worker shall assist the pregnant offender with access to a phone to contact relatives even during their unendorsed status regarding newborn placement. The Medical Social Worker shall initiate and oversee the management of all newborn placements.

#### **54045.5 Outside Consultation – Labor**

Each institution housing pregnant offenders, based on geographical location in relation to the hospital, shall develop a local operating procedure to ensure a safe and healthy delivery.

When the pregnant offender is sent for medical treatment or consultation to an outside facility, copies of all prenatal forms and the completed referral form to the outside facility shall accompany her. Any paperwork returning with the offender shall be given to the RN on duty in the Triage and Treatment Area (TTA), OHU or CTC, who shall notify the Supervising OB of the offender's return, medical status, and recommendations.

At the time of labor/delivery, a copy of all prenatal forms shall accompany the offender to the hospital.

#### **54045.6 Emergency Transport**

The HCM/CMO shall ensure that all institution medical staff are instructed in the emergency protocol. In the event of an emergency transport for the delivery of a baby, the Supervising Obstetrician, Physician, or RN shall immediately be notified and provide appropriate assistance and/or orders. A pregnant offender in labor shall be treated as an emergency and shall be transported immediately via ambulance. The HCM/CMO or supervising Obstetrician shall be informed of all emergencies by the medical staff on duty and be apprised of the offender's labor status.

The RN in the OHU, CTC, or OB clinic shall prepare all copies of prenatal forms that shall accompany the offender to the hospital. These prenatal forms shall be taken to the Watch commander's office immediately.

Custody staff shall prepare and accompany the offender for transportation to the outside facility via ambulance following emergency transport procedures.

All emergency medical transports shall take immediate priority and be expedited through the Vehicle Sallyport. The Watch Commander must take all necessary steps to ensure the emergency transport is processed as quickly as possible. Emergency medical transports shall be allowed to depart institutional grounds before, during, or after any institutional count.

The Outside Patrol Sergeant shall coordinate with the Central Control Sergeant and the Watch Commander for clearance of the offender being transported through the Vehicle Sallyport. The Watch Commander shall immediately notify the Correctional Captain/Administrative Officer-of-the-Day (AOD) in the event an emergency medical transport is delayed for any reason.

The Watch Commander shall notify the AOD of a child's birth. Notification shall include the name and CDC number of the offender, time of departure, location of transport, and time of delivery. The medical department shall notify the Watch Commander of any non-routine deliveries.

#### **54045.7 Postpartum Care**

Upon return, any inmate-patient who delivers a child via C-Section shall be admitted to the OHU or CTC via the TTA. Any offender who delivers a child vaginally shall be assessed in the TTA to determine appropriate housing and initiate postpartum care.

Orders for routine postpartum care shall be noted and initiated by the RN in the TTA, CTC, or OHU.

The Supervising Obstetrician or RN/NP shall determine when the offender is cleared for housing in the general population.

Medical lay-in shall be completed by the Supervising Obstetrician or RN/NP.

A ducat shall be issued for the offender's 6-week postpartum check-up. At the post-partum check-up, the Supervising Obstetrician or RN/NP shall determine whether the offender may be cleared for full duty or if medical restrictions are still warranted.

Offenders housed in the CTC shall follow the CTC policies and procedures as written.

Offenders shall be afforded family planning services if their release and/or parole date fall within 6 to 8 weeks after delivery.

#### **54045.8 Unit Health Records (UHR)**

The OB Coordinator shall maintain a health record, which includes the offender's name, CDC number, housing status, expected date of delivery, and the Hollister Maternal/Newborn Record System forms.

All documentation regarding pregnancy-related information shall be placed inside the Unit Health Record (UHR) by the Medical Records Department staff.

The Medical Records Department shall be notified of all pregnant offenders. Their responsibilities include:

- Entering the offender's name on the OB roster for distribution.
- Updating the roster every two weeks and distribute it to pertinent staff.
- Obtaining the offender's consent for record release and sending for any necessary medical records as requested by the provider. Prenatal records shall be faxed immediately.
- Maintaining the confidentiality of the UHR in accordance with Section 3370 of the Title 15.

#### **54045.9 Methadone Maintenance**

The CDCR shall provide methadone treatment to all pregnant offenders who have been on heroin or who are currently receiving methadone treatment.

The HCM/CMO or designee shall ensure that all medical staff are instructed on the Methadone Maintenance Treatment Programs protocol and procedures of the institution. Offenders on methadone maintenance shall be recommended for immediate transfer to CIW through the CMO to CMO transfer process.

The time and the last administered daily dose of methadone shall be verified by the OB Coordinator or RN on duty in the OHU, CTC, or TTA after hours, on weekends, and holidays; and reported to the HCM/CMO and the classification and Parole Representative.

While awaiting transfer, the OB Physician or the Physician on Call (POC) after hours shall admit the offender to the OHU or CTC where she shall remain until the transfer process is complete.

#### **54045.10 CIW Methadone Treatment**

The RN in R&R shall notify the Supervising Obstetrician of any offender being processed in R&R who is determined to be pregnant either by her own admission, physical appearance and/or written documentation, and who has used heroin within 2-3 days prior to incarceration either by her own admission or written documentation by the parole agent. The offender shall be referred to verify pregnancy, drug screening, and initiation of methadone if treatment is indicated.

Any pregnant offender receiving methadone treatment shall be enrolled in the Methadone Maintenance Program at the institution.

The RN or MTA in R&R shall notify the Supervising Obstetrician of any pregnant offender on methadone treatment who has transferred from another institution, county jail, or from the community. Once methadone treatment, including the dose, has been verified, the offender shall be enrolled in the Methadone Maintenance Program. The treating physician of the methadone program shall provide regular assessment of all pregnant offenders on methadone.

A methadone chart shall be initiated and maintained to include all the forms required by the State and Federal Drug and Alcohol Departments.

#### **54045.11 Security**

Staff shall supervise pregnant offenders in the same manner as other female offenders, with the exception of application of restraint gear and physical restraint of pregnant offenders with force. Restraint gear (handcuffs) and physical restraint shall only be utilized when a pregnant offender poses a threat to the physical safety of herself or others (including the unborn child), threat of substantial damage to state property, or attempted escape. **No leg restraints or waist chains shall be applied to pregnant offenders.** In every instance, special effort shall be made to avoid harm to the unborn child. If handcuffs are applied, the offender's arms shall be brought to the front of her body for application.

When transporting the offender off grounds for medical care and treatment, the application of restraint gear shall be restricted to handcuffs to the front of the offender only. The Request for Authorization of Temporary Removal for Medical Treatment Form (CDC Form 7252) shall state in the "Remarks" section, "Application of restraint gear limited to handcuffs in front of offender only." **At no time shall a pregnant offender who is in labor be placed in**

**restraints by the wrists, ankles, or both, including during transport, delivery, and while in recovery at the hospital after giving birth.** Recovery is the length of time the offender stays in the hospital after giving birth.

Pregnant offenders who have committed a serious disciplinary offense warranting placement in an Administrative Segregation Unit (ASU) shall be placed in segregation status, pending medical evaluation and administrative review. When escorting an offender to the ASU, application of restraint gear shall be restricted to handcuffs to the front of the offender only. No leg restraints or waist chains shall be applied to pregnant offenders. The Physician or RN shall perform the medical evaluation, with concurrence of the POC, within 24-hours, to document the offender's suitability for housing in the ASU. Pregnant offenders housed in the ASU shall be housed on the lower tier. Housing status, i.e., ASU or Security Housing Unit, does not require a special level of medical care. Medical care, regardless of housing status, shall be based on the offender's medical condition as determined by appropriate medical care providers.

The Facility Captain shall conduct the Administrative Segregation Placement Order review and hearing in accordance with applicable California Code of Regulations. If it is determined that the offender's medical condition would not preclude housing in the ASU and her behavior warrants continuous segregation, the offender shall be retained in the ASU and housed on the first tier in a lower bed. The offender shall be referred to the Institutional Classification Committee if retention is recommended beyond 10 days. While in ASU, the offender shall continue to receive prenatal medical care and treatment.

#### **54045.12 Diagnosis of Periodontal Disease**

Pregnant offenders, in the second trimester, shall receive a comprehensive full mouth periodontal examination, charting, and classification to determine the periodontal condition and an appropriate treatment plan. The second trimester is the safest period in which to provide routine dental care. The emphasis in the dental treatment during this time period is to control active disease and eliminate potential problems that occur later in pregnancy. Elective dental care and treatment is best postponed since prolonged chair time should be avoided to prevent complication of supine hypotension. Pregnant offenders shall have their plaque index score determined and recorded on a CDCR Form 237B or 237C.

#### **54045.13 Treatment of Periodontal Disease**

Pregnant offenders shall benefit from the Periodontal Disease Program as delineated here and in Inmate Dental Services, Chapter 2.5, Periodontal Preventive Program for Pregnant Inmates.

#### **54045.14 Education**

Methods and procedures to control periodontal disease shall be taught and demonstrated to pregnant offenders by dental staff as outlined in Chapter 2.4, Periodontal Disease Program.

#### **54045.15 Clinical Treatment**

Pregnant offenders, in the second trimester, shall receive routine scaling and prophylaxis regardless of their ability to comply with acceptable personal oral hygiene procedures during the gestation period. This treatment shall occur within their second trimester of gestation. A re-evaluation shall be accomplished within the first half of the third trimester.

Pregnant offenders with moderate or advanced periodontitis shall receive non-surgical deep scaling and root planning procedures, regardless of their ability to comply with acceptable personal oral hygiene procedures during the gestation period. This treatment shall occur within their second trimester. A charting and re-evaluation shall be accomplished 30 days following completion of deep scaling and root planning procedures, and subsequent follow-up care planned.

The attending dentist shall not utilize subgingival periodontal medication (e.g., Atridox, Periostat, etc.) in the treatment of pregnant offenders. Tetracycline medications are contraindicated in the treatment of pregnant women.

All pregnant offenders' periodontal treatment visits shall be documented by the attending dentist on the appropriate CDCR Form 237B or 237C.

#### **54045.16 Childbirth**

During childbirth, pregnant inmates may elect to have one support person present. The support person may be an approved visitor or the institution staff designated to assist with prenatal care, labor, childbirth, lactation, and postpartum care. The approval for the support person shall rest with the Warden or designee and shall be on a case-by-case basis. A reason for denial shall be provided to the pregnant inmate in writing and shall address the safety and security concerns for the inmate, infant, public, and staff. Pregnant inmates shall be allowed to walk during labor as prescribed by the attending

doctor. The area used to walk during labor shall be determined based on safety and security needs.

#### **54045.17 Visiting**

Appointed guardians of the child and individuals who wish to visit the inmate-patient and child in the hospital shall comply with applicable California Code of Regulations, Article 7, Visiting Rules.

#### **54045.18 Pregnant Offender Property**

Pregnant offenders will be allowed one additional larger pair of shoes to accommodate the swelling of their feet.

#### **54045.19 Breastfeeding**

Offenders shall be informed of the benefits of breastfeeding. In addition to the benefits, offenders should be educated about breastfeeding with active tuberculosis, HIV infection, illicit drug use, and while on certain prescribed medication. Offenders who choose to breastfeed their baby shall be allowed access to a breast pump and refrigerator/freezer to store the pumped milk. The breast pump shall be a manual pump able to be cleaned with soap and water. Coordination for the milk to be picked-up by the child's care giver shall be arranged prior to pumping and storing the milk.

#### **54045.20 Community Treatment Programs**

Any offender who gives birth after her receipt by the CDCR shall be provided notice of and written application for the Community Prisoner Mother Program (CPMP) and declared eligible to participate upon meeting the criteria. The notice shall contain the guidelines for qualification, the timeframe for application, the program, and the process for appealing a denial of admittance.

Family Foundations Program (FFP) is an alternative sentencing program in which mothers are recommended for placement by the sentencing court. When an offender who meets the criteria for FFP placement is received in prison, staff shall refer the offender's case back to the sentencing judge recommending placement into the FFP program.

Any community treatment program shall include, but is not limited to:

- Prenatal Care.
- Access to prenatal vitamins.
- Childbirth education.
- Infant care.

#### **54045.21 Revisions**

Revised August 16, 2022

The Associate Director, Female Offender Programs and Services or designee shall ensure that the contents of this article are current.

#### **References**

Assembly Bill 478 (Lieber) (Chapter 608, Statutes of 2005).

Assembly Bill 732 (Bonta) (Chapter 321 Statutes of 2020).

CCR §§ 3074.3.

PC §§ 5007.7.

Inmate Dental Services, Chapter 2.5, Periodontal Preventive Program for Pregnant Inmates.

Inmate Medical Services, Volume 4, Chapter 24.

#### **Revision History**

Effective: June 9, 2006

Revised Sections 54045.16 and 54045.21: August 16, 2022.

*Redesignated as DOM 93052 and 93053 on June 18, 1995*

### **ARTICLE 46 — INMATE HOUSING ASSIGNMENTS**

*Effective April 13, 2009*

#### **54046.1 Policy**

It is departmental policy and therefore the expectation that inmates accept Inmate Housing Assignments (IHA) as directed by staff. Additionally, it is the expectation all inmates double cell when instructed to do so by staff and this policy is adhered to in the General Population (GP), an Administrative Segregation Unit (ASU), or a Security Housing Unit (SHU). The procedures for GP shall also apply to inmates who are housed in specialty program housing units such as a Protective Housing Unit, Transitional Housing Units, etc. If staff determines an inmate is suitable for double-cell housing, the inmate shall be expected to accept the housing assignment. Inmates shall be held accountable and responsible for their actions, and be subject to disciplinary action and consideration for placement in more restrictive housing for refusing a double-cell housing assignment. All IHA's shall be made on the basis of available information, individual case factors, and objective criteria



necessary to assign appropriate housing for all inmates. The IHA policy will ensure housing practices are made consistent with the safety, security, and treatment of the inmate, as well as the safety and security of the public, staff, and institutions.

#### **54046.2 Purpose**

The purpose of the IHA policy is to establish the procedures for determining the initial and subsequent housing assignments of inmates. This policy informs staff and inmates of their responsibility, provides details of the double-cell housing process and the expectation for all inmates to accept double-cell housing, and explains the ramifications for noncompliance.

#### **54046.3 Responsibility**

The Warden/Administrator of the institution/facility shall be responsible for maximizing proper bed utilization, ensuring inmates are appropriately housed at the institution, implementing departmental policy in accordance with prison design and institution safety and security. Staff must use correctional experience and training, correctional awareness, and a sense of correctional reasonableness to determine suitability for dormitory, celled, and single-celled housing.

#### **54046.4 Review of Inmate's Case Factors**

All staff involved in the review and approval of an inmate's housing assignment must be cognizant of all available factors to be considered prior to determining an inmate housing assignment.

When evaluating compatibility, the approving authority shall consider each inmate candidate's background and make a discretionary decision based on case factors that include, but are not limited to, the following:

- Length of sentence.
- Enemies and victimization history.
- Criminal influence demonstrated over other inmates.
- Vulnerability of the inmate due to medical, mental health, and disabilities.
- Reason(s) for segregation.
- History of "S" suffix determination.
- History of in-cell assaults and/or violence.
- Prison gang or disruptive group affiliation and/or association.
- Nature of commitment offense.

Staff involved in the review of an inmate's case factors must be particularly aware of case factors that indicate an inmate has been either the victim of, or the perpetrator of, a sexual assault, and must screen for appropriate housing pursuant to Chapter 5, Article 44.

A classification committee and/or the screening authority shall review the Central File (C-file) and other available information to determine if the inmate has a history of in-cell assaultive, abusive, or predatory behavior towards a cellmate, or has been the victim of a sexual assault. A staff member at the level of a correctional supervisor or above shall be designated as the screening authority. Staff shall weigh circumstances documented in the C-file such as:

- Documented reports from a prior cellmate(s) the inmate intimidated, threatened, forced, and/or harassed him or her for sex.
- Documentation the cellmate(s) refused to return to a cell occupied by the inmate because of fear, threats, or abuse perpetrated by the inmate.
- Documentation the inmate has been the victim of a sexual assault.
- Adjudicated Department Rules Violations Reports (RVR) where the inmate was found guilty as a perpetrator in an act of physical abuse, sexual abuse, sodomy, or other act of force against a cellmate.

#### **54046.5 Initial Screening**

*Revised September 6, 2013*

Upon arrival at an institution reception center, a program institution, or an ASU or SHU, an inmate shall be screened for an appropriate housing assignment. The screening authority shall review the C-file and other available information, interview the inmate, and complete the Strategic Offender Management System (SOMS) Initial Housing Review (IHR).

Based on available information, including an interview with the inmate, the screening authority shall determine if the inmate is suitable for dorm/cell housing with or without restrictions. Restrictions are any case factors which may limit the inmate's placement options at the institutions, such as, but not limited to:

- Security issues including ASU and SHU placement.
- Request for Protective Custody.
- Medical or mental health case factors.
- Integrated Housing Code.

Staff will continue to ensure current housing policies regarding special category inmates such as *Coleman, Plata, Madrid, Armstrong, and Clark*, covered under specific litigation, remain in place during the housing process. Staff will also ensure those inmates in need of effective communication will be provided appropriate accommodation during the process.

Additionally, the screening authority shall review prior in-cell behavior towards cell partners. Verification an inmate is or has been predatory towards a cell partner, has a history of in-cell sexual abuse, is or has been assaultive towards a cell partner, has been the victim of in-cell physical or sexual abuse, or demonstrates any significant in-cell violence against a cell partner, shall require the inmate be referred to a Unit Classification Committee (UCC) and/or an Institution Classification Committee (ICC) for single-cell status consideration.

The screening authority shall document the placement concerns which require single-cell assignment on the IHR. If the information is derived from the inmate interview, the screening authority shall document the interview information on a CDC Form 128-B, General Chrono, and reference it as supporting documentation by date on the IHR. If single-cell status is recommended by a screening authority at the level of Correctional Sergeant, an approving authority at the level of Correctional Lieutenant or above will document their approval, or disapproval, on the IHR/Single Cell approval.

#### **54046.5.1 Initial Screening – Administrative Segregation Unit/Security Housing Unit**

Upon placement in an ASU or SHU, inmates shall be screened for an appropriate cell assignment. The segregation authority shall be a designated staff member at the level of Correctional Lieutenant or above. The segregation authority shall review the C-file and other available information, interview the inmate, and shall be responsible for ensuring the completion of CDC Form 114A-1, Inmate Segregation Profile.

Based on the available information, including an interview with the inmate, the segregation authority shall determine if the inmate is suitable for single-/double-cell housing.

Verification an ASU or SHU inmate is or has been predatory towards a cell partner, has a history of in-cell sexual abuse, is or has been assaultive towards a cell partner, has been the victim of in-cell physical or sexual abuse, demonstrates any significant in-cell violence against a cell partner, or has a history of propensity for victimization, shall require the inmate be single celled pending administrative review and subsequent ICC review and approval.

The segregation authority shall document placement concerns which require single-cell assignment on the CDC Form 114A-1. If the information is based on the inmate interview, then the segregation authority shall document the interview information on a CDC Form 128-B, and reference it as supporting documentation by the date on the CDC Form 114A-1. In cases where the segregation authority temporarily approves an inmate for double-cell assignment pending Administrative Review, the decision shall be based upon an evaluation of the inmate's case factors through review of the C-file or completed CDC Form 114A-1, consideration of reasons for ASU placement, and the interview with the inmate. The segregation authority shall complete a CDCR Form 1882-B, Administrative Segregation Unit/Security Housing Unit Double-Cell Review, and sign the CDC Form 114A-1, Inmate Segregation Profile, in the Special Information section, in the Double Cell/Pending Administrative Review box.

During the first workday following an inmate's placement in ASU, the Administrative Reviewer shall review the screening authority's cell determination and confirm or amend the screening authority's temporary cell assignment.

The Administrative Reviewer decision shall be based on:

- Interview with the inmate.
- Review of the C-file and/or completed CDC Form 114A-1.
- Circumstance of ASU/SHU placement.
- Any medical issues and/or mental health clinical staff input.

The Administrative Reviewer shall note the decision for double cell or single cell assignment on the CDC Form 114-A, Inmate Segregation Record, in the Daily Activity section, CDC Form 114A-1, and the CDC Form 114-D, Order for Placement/Retention ASU. The case shall be referred to ICC to review the inmate's long-term housing assignment.

ICC shall review the inmate's housing and safety concerns. ICC shall determine if the inmate is compatible with the other inmate assigned to the cell, if double celled. If the inmate is the only inmate assigned to the cell, ICC shall evaluate if the inmate is cleared for double-cell occupancy, or designate the inmate as being on single-cell status.

If ICC confirms single cell assignment, an “S” suffix shall be applied to the inmate’s custody designation. This information shall be documented as a committee action on the CDC Form 128-G, Classification Chrono, entered in the Distributed Data Processing System (DDPS), and noted on the CDC Forms 114A, 114A-1, and 262, Custody Classification Assigned. Additionally, at each subsequent ASU/SHU review, ICC shall determine the suitability for double-/single-cell occupancy.

#### **54046.6 Documentation**

*Revised September 6, 2013*

The decision regarding inmate housing and determination of suitability for dormitory or celled housing, eligibility for double housing, or designation of single-cell status, shall be documented as follows:

- IHR.
- CDCR Form 1882-B.
- In the Evaluation section of the Institutional Staff Recommendation Summary for Reception Center inmates.
- On the CDC Form 128-G during the following actions:
  - Initial Review.
  - Annual Review.
  - Housing Review (including reasons for segregation).
  - Referral to the Classification Staff Representative.
  - Referral to the Departmental Review Board.

The designation of an “S” suffix shall be documented and affixed to the inmate’s custody on the following documents and data:

- CDC Form 262.
- Distributed Data Processing System.
- CDC Form 128-G.
- IHR.
- Temporary Single Cell Status Request.

#### **Affixing and removing Single Cell and Temporary Single Cell**

##### **Designation in SOMS**

SOMS can accommodate the two types of Single Cell designations, **Temporary Single Cell** and **Single Cell** status (“S” suffix that has been affixed by Classification Committee).

The Temporary Single Cell is designed to appropriately house an inmate pending confirmation by Classification Committee and affixing an “S” suffix. A Temporary Single Cell is affixed in SOMS via SOMS screens IPTT105-Initial Housing Review or IPTS028B-Temporary Single Cell Status Request.

An “S” suffix must be entered in the Distributed Data Processing System (DDPS) via the Counselor entry screen. Once the entry is made in DDPS the “S” suffix is automatically transferred to SOMS within an hour of entry. Once SOMS has received the “S” suffix designation it is reflected in the Inmate Header and SOMS prevents the “S” suffix inmate from being housed with another inmate.

##### **Review and Approval/Denial of Temporary Single Cell Status on the SOMS IHR**

Temporary Single Cell requests must be approved by a staff member at the level of Correctional Lieutenant or higher. The Approving staff member shall note the Approval or Denial of the Temporary Single Cell in SOMS.

##### **Confirmation/Denial of Temporary Single Cell requests at Classification Committee review in SOMS.**

If as a result of Committee decision the Temporary Single Cell inmate will be given an “S” suffix, the approval will be entered on SOMS screen IPTS028B and the “S” will be entered in the Counseling entry screen of the DDPS. Once the “S” is entered in DDPS it will automatically update SOMS and the “S” will be displayed in the inmate’s SOMS Header.

If Committee elects to disapprove the “S” suffix no entry will be required in DDPS. However, the decision to remove the Temporary Single Cell must be entered in SOMS in order to remove the Temporary Single Cell status from the inmate.

If an inmate has been incorrectly identified as single-cell status after a UCC/ICC action, a subsequent UCC/ICC action shall be required to remove/correct the “S” suffix.

To reduce the possibility of housing single-cell status inmates with another inmate or non-designated single-cell housing status inmate, staff shall review the housing status of all inmates being processed for a bed cell move via SOMS prior to authorization.

#### **54046.7 Double-Cell Assignments in General Population**

*Revised September 6, 2013*

Unless approved for single-cell assignment, inmates are expected to share occupancy of living quarters, either in a dormitory setting or within an individual cell. The day of arrival at an institution, or a reception center, an IHR shall be completed, and if the screening authority determines there are no double-cell prohibitions, the inmate shall be expected to double cell. If the inmate refuses to double cell, progressive discipline shall be initiated, and the inmate will be considered for alternative and more restrictive housing.

#### **54046.7.1 Double-Cell Assignments in ASU or SHU**

In an ASU or SHU, determining double-cell assignment shall be based upon an evaluation of the involved inmate’s case factors through a review of the C-file, the reason for ASU or SHU placement, and an interview with the affected inmate(s). In these cases, the segregation authority shall complete a CDCR Form 1882-B, and sign the CDC Form 114A-1, Special Information section, in the Double-Cell/Pending Administrative Review box. The segregation authority shall note the decision for single or double-cell assignment on the CDC Form 114-A, Daily Activity section, and CDC Form 114A-1. The case shall be referred to ICC to review the inmate’s long-term housing assignment.

Unless approved for single-cell assignment, an inmate in ASU or SHU is expected to share a cell with another inmate. The process for assigning more than one inmate to the same cell in ASU and/or SHU shall be initiated by a staff recommendation or per request by the inmate candidate. The documentation of the process shall be recorded on the CDCR Form 1882-B.

Approval of double-cell assignments shall be based upon a review of the C-file, an interview with each inmate candidate, consideration of each inmate’s signature affirming compatibility, and an evaluation of security concerns. Each inmate candidate who agrees to the assignment is expected to sign the CDCR Form 1882-B to indicate compatibility prior to double celling the inmates. If an inmate refuses to sign the agreement, then this shall also be documented in the designated section of the CDCR Form 1882-B.

A staff member at the level of Correctional Officer, CC-I, or above shall complete parts 1 and 2 of the CDCR Form 1882-B by identifying the initiator of the request, interviewing each inmate candidate, and having the inmate candidates sign the form to indicate their placement in the same cell is a compatible assignment. The staff member performing this function shall also provide his or her printed name and signature as the staff witness, and date the CDCR Form 1882-B.

The staff witness shall then forward the CDCR Form 1882-B to a staff member at the level of Correctional Lieutenant, CC-II, or above. The approving authority shall be responsible for considering each inmate’s case factors and deciding whether to approve or disapprove the proposed cell assignment. An approving authority may determine there is no information available to indicate the inmates are incompatible, but there are other circumstances that lead the evaluator to believe approving the assignment would be contrary to legitimate penological interests or may threaten institution safety and security.

#### **54046.8 Single-Cell Criteria**

Single-cell status shall be considered for those inmates who demonstrate a history of in-cell abuse, significant in-cell violence towards a cell partner, verification of predatory behavior towards a cell partner, or who have been victimized in-cell by another inmate. Staff shall consider the inmate’s pattern of behavior, not just an isolated incident. Staff must weigh information in the inmate’s C-file with correctional awareness and knowledge of the inmate population, facility environment, and the level of supervision in the housing unit. The following factors must be considered when evaluating single-cell status:

- An act of mutual combat in itself does not warrant single-cell status.
- Predatory behavior is characterized by aggressive, repeated attempts to physically or sexually abuse another inmate.
- Documented and verified instances of being a victim of in-cell physical or sexual abuse by another inmate.

Staff shall consider whether the inmate has since proven capable of being double celled.

The classification committee shall consider the circumstances of a prior assault, length of time in general population without disciplinary violations, precipitating factors, or new issues affecting the inmate’s behavior.

When confidential information is relied upon to designate single-cell status, the reliability of the source shall be determined in accordance with the California Code of Regulations (CCR), Title 15, Section 3321, and shall be properly disclosed to the inmate via the CDC Form 1030, Confidential Information Disclosure.

#### **54046.8.1 Single-Cell Assignments in ASU or SHU**

In cases where an inmate on single-cell status is being referred for transfer to the General Population, the ICC is required to address the removal or the retention of the single-cell status as part of the referral for transfer review. The committee shall document the specific reason(s) on a CDC Form 128-G supporting the removal or retention of the single-cell status.

#### **54046.9 Classification Review**

The UCC/ICC shall review and determine an inmate's need for single-cell status as part of the Initial and the Annual Classification Review. If upon review a UCC determines the "S" suffix is no longer warranted and an ICC imposed the "S" suffix, the UCC shall refer the case to ICC for review and final determination.

As it is the expectation all inmates will double cell, the determination of single-cell status shall be documented as part of the ICC review and updated at the inmate's annual classification committee review. Prior to referral for transfer or placement consideration, the UCC or ICC shall determine the inmate's need for continued single-cell status. A classification committee's decision regarding involuntary cell assignments or housing status reevaluations shall be documented on a CDC Form 128-G.

#### **54046.10 Recommendation for Double Cell or Single Cell Due to Mental Health Concerns**

In cases where single-cell status is recommended by clinical staff due to mental health or medical concerns, a classification committee shall make the final determination of an inmate's cell assignment. The classification committee shall consider the clinical recommendations made by the evaluating clinician with assistance from the clinician who participates in the committee and review the inmate's case factors when determining the housing assignment. Single-cell status based upon clinical recommendation is usually a temporary short-term measure and must be periodically reviewed, minimally at an inmate's annual review or more frequently at the UCC/ICC or clinician's request.

#### **54046.11 Disciplinary Factors**

If an inmate refuses to be housed in appropriately determined housing, they shall be subject to the disciplinary process, with the potential to be housed in alternative and more restrictive housing. Refusal to participate will result in the issuance of a RVR for Conduct, CCR subsection 3005(c), Refusing to Accept Assigned Housing, for the specific act of Willfully Resisting, Delaying, or Obstructing any Peace Officer in the Performance of Duty (CCR subsection 3323(f)(6)), and shall be considered after the first RVR for placement in more restrictive housing such as an ASU or a SHU.

Violation of Refusing to Accept Assigned Housing of subsections 3005(c), 3323(f)(6), and 3323(g)(8) shall result in:

- First offense violation shall result in placement in Privilege Group C for up to 90 days.
- Second offense and subsequent offense violation(s) within a 12-month period shall result in placement on Privilege Group C for up to 180 days and a referral as a program failure to classification committee for placement on Work Group C and Privilege Group C. An inmate who is deemed a program failure by a classification committee is subject to having their personal property/appliances disposed of in accordance with procedures outlined in Section 3191.

Following the completion of the disciplinary process and a finding of guilt, security precautions and disciplinary restrictions may remain in effect for a period of time designated by the Senior Hearing Officer consistent with this policy. If a finding of not guilty results, the security precautions shall be removed.

#### **54046.11.1 Placement in more Restrictive Housing**

Any inmate charged with Refusing to Participate in the IHA shall be considered for placement in an ASU and reviewed by the ICC to determine the appropriateness of ASU retention, pending disciplinary matters and/or future housing considerations. At each ICC review, the inmate's case factors shall be reviewed for the appropriateness of the double cell or dormitory approval status, and to determine if the inmate will participate in the IHA if case factors do not preclude such.

#### **54046.11.2 Assessment of SHU Term**

A determination period of confinement in a SHU may be established for an inmate when found guilty of Refusing to Participate in an IHA. The term shall be established by an ICC utilizing the standards set forth in the SHU Term Assessment Chart in CCR Section 3341.5.

#### **54046.12 Revisions**

The Director, Division of Adult Institutions or designee shall be responsible for ensuring the contents of this Article are kept current and accurate.

#### **54046.13 References**

CCR, Title 15, Division 3, Sections 3000, 3005(c), 3191, 3269, 3269.1, 3321, 3323(f)(6), 3323(g)(8), and 3341.5.

DOM, Chapter 5, Article 44.

### **ARTICLE 47 — INTEGRATED HOUSING**

*Effective January 18, 2008*

#### **54055.1 Policy**

It is the policy of the California Department of Corrections and Rehabilitation (CDCR) that race will not be used as a primary determining factor in housing its inmate population. All inmate housing assignments shall be made on the basis of available information and individual case factors necessary to implement an integrated housing plan. This policy will ensure that housing practices are made consistent with the safety, security, treatment, and rehabilitative needs of the inmate, as well as the safety and security of the public, staff, and institutions.

It is the intent of the Department to establish a housing policy for male inmates that integrates them Department-wide, and that is consistent with housing practices already in place for female inmates.

#### **54055.2 Purpose**

The purpose of the Integrated Housing Policy (IHP) is to safely integrate inmates in celled and dormitory housing. This policy informs staff and inmates of their responsibilities, provides details of the integrated housing process and codes, and explains the ramifications of noncompliance.

#### **54055.3 Definitions**

##### **Integrated Housing**

Integrated Housing refers to the housing of inmates into beds without using race as the sole determinative criterion while minimizing any potential impact upon an inmate's safety, and maintaining the safety and security of the public, staff, and institutions.

##### **Integrated Housing Code**

The Integrated Housing Code (IHC) is a housing code that reflects the inmate's eligibility to be racially integrated in a housing environment. The inmate may be eligible to be housed with all races, with only certain races, or with only his own race based on individual case factors. The IHC will be assigned during the reception center intake process and is subject to review by a classification committee.

#### **54055.4 Integrated Housing**

An inmate's race will not be used as a primary determining factor in housing an institution's inmate population. Inmate housing assignments shall be made on the basis of available documentation and individual case factors to implement an IHP. Individual case factors include, but are not limited to:

- History of racial violence.
- Commitment offense/time to serve.
- Classification score.
- Custody level.
- Education.
- Disciplinary history.

Housing assignments will be determined in a manner that will ensure that the safety, security, treatment, and rehabilitative needs of the inmate are considered, as well as the safety and security of the public, staff, and institutions.

#### **54055.5 Information Technology and Integrated Housing**

The information contained in this section is applicable to male inmates. The CDCR will update the authorized computer tracking system fields to include coding that will be used to identify each inmate's eligibility to integrate. Based on a review of an inmate's individual case factors, all available information, and a personal interview with an inmate, an IHC will be assigned.

#### **54055.5.1 Integrated Housing Codes**

*Revised October 9, 2013*

- RE Racially Eligible: an inmate can live with members of any race.
- RP Restricted Partially: an inmate is unable to live with members of a particular race(s).
- RO Restricted to Own: an inmate can live only with member of his own race/ethnicity.
- RT Temporarily Restricted by Custody: this is used whenever custody has concerns about the inmate's ability to be appropriately housed, pending further review.

- **RR Restricted by Refusal:** an inmate is otherwise eligible for integrated housing but refuses to participate. This inmate shall be restricted by management to ensure safety and security, but the basis of the restriction is the inmate's refusal.

#### **Racially Eligible**

Inmates that are racially eligible to house with any race will be coded as RE in the Strategic Offender Management System (SOMS) Integrated Housing Review. It is the expectation of the CDCR that all inmates will be coded RE, unless specific case factors dictate otherwise. Those inmates that have been victims or perpetrators of racially motivated crimes shall be evaluated on their case factors in totality before being determined racially eligible or ineligible for an integrated housing assignment.

#### **Restricted Partially**

Inmates considered ineligible to house with inmates of a particular race shall be coded RP for Restricted Partially. For example, a Black inmate may be determined to be ineligible to house with Hispanic inmates, but eligible to house with White or Other inmates. This inmate would be coded RP. His ineligibility to house with another race/ethnicity shall be based on individual case factors. The individual case factors shall be considered by custody and classification staff in assigning this code. Assignment of this code will require staff to identify the races/ethnic groups with whom the inmate is determined ineligible to house.

#### **Restricted to Own (Race)**

Inmates who are determined eligible to be housed with only their own race or ethnic group based on individual case factors will be coded RO for Restricted to Own. During the intake process or classification process, when available information and case factors indicate the inmate cannot successfully house with inmates of other races, the IHC of RO will be applied. Inmates who are deemed restricted to their own race will not necessarily be precluded from integration in other aspects of institutional operations such as an integrated cellblock, dormitory setting, or program assignments.

#### **Temporarily Restricted by Custody**

Inmates with insufficient information or documentation for the Receiving and Release supervisor to make an objective determination shall be coded RT for Temporarily Restricted by Custody. This code may be used when conflicting information arrives with the inmate or when questionable statements or behavior by the inmate are observed that are not consistent with the inmate's claim of eligibility. This code may also be used during the inmate's incarceration when his observed behavior is not consistent with his assigned eligibility code and it is therefore appropriate to have the assigned code reviewed by classification committee. The IHC of RT is temporary and shall be changed when additional information and documentation are obtained and evaluated.

#### **Restricted by Refusal**

Inmates who are determined eligible to house with inmates of other races, but who simply refuse to be housed with a race other than their own, will be coded RR for Restricted by Refusal. This code will be used when an otherwise eligible inmate refuses to accept a housing assignment consistent with his IHC, and his case factors and all available information and documentation do not preclude such placement. Refusal to accept an integrated housing assignment, when all available documentation and information does not preclude such, shall result in disciplinary action. Additionally, the inmate will be deemed a threat to the safety and security of the institution, and will be considered for alternative and more restrictive housing such as an Administrative Segregation Unit (ASU), or a Security Housing Unit (SHU).

#### **54055.6 Receiving and Release Responsibility for Determining Integrated Housing Eligibility**

Inmates arriving in Receiving and Release at an institution will be interviewed by a custody supervisor in accordance with the established process for intake. The interview process will elicit initial information about the inmate that will be used, in conjunction with any known case factors, to determine the inmate's housing eligibility. Staff will also consider other available information that would indicate or present an immediate risk or safety concern for the inmate, such as, but not limited to:

- Security issues including ASU placement.
- SHU.
- Request for Protective Custody.
- Prison gang or disruptive group affiliation or association.
- Medical or mental health issues.
- Length of term.
- Height, weight, and age.

Receiving and Release supervisors shall use the information provided during the interview with all available information and documentation to determine the inmate's eligibility for an integrated housing assignment.

#### **54055.7 Housing and Discipline**

*Revised October 9, 2013*

Inmates will be housed in the first available and appropriate bed, consistent with their assigned IHC. Staff shall not delay housing an inmate in the first available and appropriate bed for the sole purpose of accomplishing an integrated assignment between races/ethnicities. When housing inmates, staff shall be alert to security issues that may be present, including the inmate's prior placement in an ASU or SHU or documented safety concerns. Integrated housing procedures do not supersede housing policies governing the placement of inmates into special programs including, but not limited to, those of the Mental Health Services Delivery System.

Inmate movement will be initiated using existing departmental practices, inclusive of the SOMS internal movement/bed assignment processes, and housing and control room index cards.

Any inmate that refuses to be appropriately housed consistent with his assigned IHC shall be subject to the disciplinary process applicable to the specific act.

#### **54055.8 Non-Compliance with the IHP**

Non-compliance with the IHP by an otherwise eligible inmate will require review of the individual case factors. Every inmate is expected to comply with the IHP in the absence of precluding case factors. Non-compliance shall subject the inmate to disciplinary action and consideration of being housed in alternative and more restrictive housing in keeping with departmental policy regarding program failure.

#### **Disciplinary Process**

Inmates refusing to participate in the IHP, when all case factors deem they are eligible to participate, shall be issued a Rules Violation Report (RVR) for Conduct, California Code of Regulations Section 3005(c), Conduct, for the Specific Act of Willfully Resisting, Delaying, or Obstructing any Peace Officer in the Performance of Duty (Title 15 subsection 3323(f)(6)), a Division D offense. The inmate shall be recoded with an IHC of RR, Restricted by Refusal. The inmate shall be considered after the first RVR for placement in more restrictive housing such as an ASU or a SHU. At any time during this process the inmate may elect to participate in the IHP.

Disciplinary restrictions will be applied as a result of a disciplinary process where inmates are afforded due process. Inmates found guilty of committing a Refusal to Participate in the IHP offense through the inmate disciplinary process may be subject to credit and privilege loss process. The suspension of privileges based on a finding of guilt in a disciplinary hearing, pursuant to CCR Section 3269.1, shall be assessed as follows:

- **First offense:** A finding of guilt in a disciplinary hearing for Refusal to Participate in the IHP may result in the loss of privileges including, but not limited to, any or all of the following, for up to a 90 day period:
  - Canteen.
  - Appliances.
  - Vendor Packages.
  - Telephone Privileges.
  - Personal Property.
- **Second or subsequent offense:** A finding of guilt in a disciplinary hearing for Refusal to Participate in the IHP may result in the loss of any or all of these privileges for up to a 180 day period.

Following the completion of the disciplinary process and a finding of guilt, security precautions and disciplinary restrictions may remain in effect for a period of time designated by the Senior Hearing Officer consistent with this policy. If a finding of not guilty results, the security precautions shall be removed.

#### **Classification**

Any inmate charged with Refusing to Participate in the IHP shall be considered for placement in an ASU and reviewed by the Institution Classification Committee (ICC) to determine the appropriateness of ASU retention, pending disciplinary matters, and/or future housing considerations. At each ICC review, the inmate's case factors shall be reviewed for the appropriateness of the inmates IHC, and to determine if the inmate will participate in the IHP if case factors do not preclude such.

#### **Assessment of SHU Term**

A determinate period of confinement in a SHU may be established for an inmate when found guilty of Refusing to Participate in an IHP per Section 3005(b), Conduct, Refusing to Participate in an IHP. The term shall

be established by the ICC utilizing the standards set forth in the SHU Term Assessment Chart in CCR Section 3341.5.

#### **54055.9 Temporary Suspension of Assignments to Integrated Housing**

In the event that management determines that a temporary suspension of assignments to integrated beds within a unit is warranted, the Warden or designee shall request approval from their mission-based Associate Director for a temporary suspension of integrated housing assignments consistent with the lockdown and modified program protocols defined in Department Operations Manual Article 55015. Regular housing assignment procedures shall be resumed in accordance with the IHP policy upon resolution of the incident.

#### **54055.10 Revisions**

The Director, Division of Adult Institutions, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **54055.11 References**

*Johnson v. California*, 125 S. Ct. 1141 (2005), Settlement and Release Agreement.

CCR, Title 15, Division 3, Section 3269.

### **ARTICLE 48 — TRANSITIONAL HOUSING UNIT**

*Effective December 21, 2009*

#### **54058.1 Policy**

The Transitional Housing Unit (THU) provides a program of observation to evaluate that an inmate has successfully disassociated from prison gang activity, and that they are capable of programming in a General Population (GP) setting.

#### **54058.2 Purpose**

Inmates must have completed the first phase of the debriefing process from a validated prison gang in order to be placed into the THU. Placement into the THU can be from either a Security Housing Unit (SHU) or from GP. Inmates will be admitted into the program to participate in multifaceted programming components designed to verify the inmate is able to successfully integrate back into the GP.

#### **54058.3 Criteria for Entry into the THU**

The THU is primarily designed for inmates who have served lengthy SHU terms due to validated gang affiliation and activity, although it shall also be made available to inmates currently housed on a GP who are involved in gang activity but desire to participate in the debriefing process. The Correctional Counselor shall screen inmate candidates and present them to the Institutional Classification Committee (ICC) for approval. The minimum eligible criteria shall consist of:

- The debriefing interview as set forth in California Code of Regulations, Section 3378.1(b) must be satisfactorily completed at the institutional level through the Institution Gang Investigator, and the debriefing package submitted to the Office of Correctional Safety.
- The inmate must be willing to commit to personal change and provide staff with sufficient evidence of their sincerity to the extent that staff feel confident of that commitment.

The debriefing process is designed to review and monitor the sincerity of each individual and ensure that the inmate participating in the process is not a threat to staff or other inmates, and has sincerely renounced all prison gang activities.

The first portion of the debriefing process is designed to obtain sufficient verifiable information from the inmate about their gang related activity, which is detrimental to the gang such that the gang will no longer accept the subject as either a member or associate. Also, a successful debriefing provides staff with information about the gang's structure, activities, and affiliates.

The second portion of the debriefing process will involve participation in the THU program. The THU program allows for a period of staff observation, and a time for the inmate to adjust back into an integrated group yard setting and double celled housing. This observation/adjustment period helps to ensure that an inmate will be able to program with inmates of all races and ethnic groups, as well as other disassociated prison gang members/associates.

#### **54058.4 Methods**

This article provides the policies that are necessary to establish a THU at a designated institution. The THU program will be up to a 6 month program consisting of components to include, but not be limited to, conflict resolution, anger control, substance abuse education, communication skills, individual counseling, and group exercises.

THU inmates shall be required to attend and actively participate in the program, and shall be assigned work group/privilege group A1A. Inmates shall be advised of program expectations and that inappropriate behavior may result in the issuance of a Rules Violation Report. Any disciplinary action deemed serious in nature, or one that is related to gang activity, shall result in referral to an ICC for program review and possible removal from the THU.

#### **54058.5 Stages of the Program**

The THU program at the designated institutions will be carried out in three stages.

##### **Stage 1 – Orientation Status**

Upon arrival at the designated institution, THU designated inmates shall be placed on orientation status not to exceed 14 calendar days. This period of orientation has been established for the inmate's safety. It affords inmates the opportunity to familiarize themselves with the prison and apprise appropriate staff members of any problem situation, such as potential enemies, prior to being placed in the actual THU program. During the orientation period, the inmate shall be housed in a THU orientation designated section, and considered for double cell housing by ICC. Inmates shall appear before a classification committee to affirm proper endorsement into the THU program and for appropriate program assignment.

During this period:

- Inmates' program activities will be limited to housing unit activities, and will not include yard or dayroom activities. Authorized emergency phone calls will be allowed. All inmates shall be fed in their cell during this phase.
- Inmates shall be escorted when it is necessary for them to leave the unit.
- Interviews, tests, and other activities related to the orientation process shall be conducted within the orientation unit, when possible.
- Inmates will be reminded that gang related activity or behavior of any nature will not be tolerated, and will be grounds for dismissal from the program.
- All inmates on THU orientation status will be instructed to contact the assigned housing unit floor officer and/or assigned correctional counselor about questions or issues that arise.
- Following their appearance before committee, eligible inmates will be removed from THU orientation status and assigned to the second stage of the program.

##### **Stage II – Program and Participation**

Upon completion of the Stage I orientation, participants shall be placed in the THU GP portion of the program, for approximately five and one-half months.

During this period:

- Inmates are allowed to participate in dayroom and yard activities, as well as eat in the THU dining hall.
- Inmates are required to double cell in accordance with the Department's Integrated Housing and Housing Assignment Policy (see Title 15, Sections 3269 and 3269.1). Failure to comply may result in the inmate failing to satisfactorily complete the THU program.
- Inmates must participate in one or more of the available self help group activities, such as Alcoholics Anonymous, Narcotics Anonymous, Conflict and Anger/Lifelong Management, Substance Abuse Education, Basic Vocational Skills, and Alternatives to Violence or victim awareness programs. Inmates must also participate in any assigned Adult Basic Education and General Education Development.
- Inmates in this stage of the program shall be allowed special purchases, canteen draw, and allowed to attend religious services when offered. These privileges shall not conflict with a work assignment unless otherwise permitted in regulations.
- Inmates are eligible for work assignments as THU mentors, THU housing unit porters, or THU clerks.

##### **Stage III - Completion**

Upon satisfactory completion of the THU program, inmates shall be housed in a specific portion of the THU housing unit, and will be referred to a classification committee for transfer consideration. Pending transfer, inmates will be assigned as mentors to other THU inmates or to other work assignments as available, and retain their work/privileges group designation.

Inmates failing to satisfactorily complete the THU program shall be referred to ICC for further program and housing determination.

#### **54058.6 THU Custody Operations**

Custody operations are designed to provide adequate services for an inmate's housing and program needs. These services, with certain limitations, are the

same basic services offered to GP inmates. They shall allow the THU inmates meaningful interaction with other inmates within the THU program. Limitations will occur in the process of ensuring THU inmates are separate at all times from other GP inmates due to potential safety concerns related to gang disassociation. Although it is recognized that the THU inmates will ultimately be integrated into various GP settings, their initial status and program restrictions require that THU inmates be separated from non-THU inmates. All movement to any satellite service or function outside of the THU housing unit shall be by staff escort and require the securing of all accessible gates, doors, and adjacent inmate programs. All canteen will be dispersed inside the THU. Visiting accessibility is required and must be incorporated into the institutional visiting schedule, according to the Department's inmate visiting regulations.

All specifics relative to such inmate activities as canteen, telephone calls, dayroom activities, etc., shall be set forth in the designated institution's DOM supplement.

#### **54058.7 Revisions**

The Director, Division of Adult Institutions, shall ensure the contents of this Article are current.

#### **54058.8 References**

CCR §§ 3000, 3378, 3378.1, 3378.3, 3269, and 3269.1.  
DOM articles 52070, 54046, and 54055.

### **ARTICLE 49 — INMATE CLOTHING AND LAUNDRY EXCHANGE SERVICES**

*Effective January 8, 1990*

#### **54060.1 Policy**

The Department shall provide and maintain a basic issue of clothing for all inmates that shall enable them to present a neat and acceptable appearance in their assignment and leisure time activities.

#### **54060.2 Purpose**

This Article establishes the procedure for the issue, exchange, replacement, and laundry of clothing and linen.

#### **54060.3 Initial Budgeted Complement**

Clothing and bedding provided to inmates shall be limited to the styles and types approved for Prison Industry production. Other clothing requirements shall be acquired through the normal purchasing process. Funds shall be budgeted to provide a complement of clothing items on an initial and replacement basis.

#### **54060.4 Male Reception Center Clothing**

*Updated February 2, 2011*

Male inmates being processed upon reception to the Department shall be issued quantities of clothing in accordance with items detailed in DOM 54060.6. Green outer clothing may be issued in lieu of regular blues.

- Inmates have the option of sending personal clothing in their possession upon arrival at the reception center to:
  - Family or friends at their own expense.
  - Donating the clothing to the institution.
  - Donating the clothes to a charitable organization.

#### **54060.4.1 Female Reception Center Clothing**

*Updated February 2, 2011*

Female reception center inmates shall be issued quantities of clothing in accordance with the items detailed in DOM 54060.6.1. Personal clothing may be worn in lieu of institutional-issued clothing.

- Female inmates upon arrival at a reception center for processing have the option of retaining three sets of personal clothing consisting of pants and tops or dresses. Lettering, pictures or logos on clothing is not permitted except manufacturer's logo.
- Excess personal clothing, at the inmate's option, shall be:
  - Sent to family or friends at inmate's own expense.
  - Donated to the institution.
  - Donated to a charitable organization.

#### **54060.4.2 Basis for Budgeted Clothing at Reception Centers**

- Shoes, socks, and underclothing shall be budgeted on the number of cases processed, while other items of clothing shall be based on the average daily population.

#### **54060.5 Special Clothing**

Special clothing shall be provided for all workers who have assignments that require either distinctive clothing or protective clothing, such as culinary, medical/dental, gym, conservation camps and maintenance assignments. When special clothing is required, it shall be purchased from the operating expense allotment of that particular activity.

#### **54060.5.1 Transportation Clothing**

During interdepartmental transportation of male inmates, red, one-piece coveralls shall be provided by the transportation unit on an exchange basis with the respective institutions. Female inmates shall be provided two-piece orange jump suits for interdepartmental transfer by the transportation unit. Inmates shall wear their regular issue shoes, socks, underclothes, T-shirts and may take one handkerchief.

#### **54060.5.2 Court Clothing**

Inmates appearing in court shall be dressed in clean, blue denim or khaki chambray shirts and trousers unless otherwise ordered by the court (male and female).

#### **54060.5.3 Release Clothing**

Inmates shall be encouraged to supply all or a portion of their release clothing. An inmate may have clothing at home to wear upon release preferable to state-issued clothing. Additionally, the inmate's family or friends may be able to supply clothing for release. These possibilities shall be explored with the inmate by institutional staff.

Institutions may offer alteration services for privately furnished release clothing.

State-issued release clothing shall be kept to a minimum. State-issued release clothing shall be charged against the inmate's release allowance.

#### **54060.5.4 Reentry Clothing**

Prior to an inmate's transfer to a reentry program, the sending institution shall provide appropriate dress-out clothing in keeping with the inmate's reentry program needs.

#### **54060.5.5 Special Altered Clothing**

*Updated February 2, 2011*

For inmates that require specially made clothing, non-medical, the captain, or designee shall submit a written request for the clothing to the clothing distribution supervisor. For inmates requiring clothing modification for medical reasons, the CMO shall initiate the request. Informational copies of the requests shall be distributed to linen issue, laundry supervisor and the warehouse manager. The item restriction (DOM 54060.6) shall not apply to specially altered clothing.

#### **54060.6 Standard Clothing Issue for Male Inmates**

*Revised May 27, 1992*

The minimum standard clothing complement for male inmates, including initial issue, is as follows:

- Three pair jeans, blue denim
- Three shirts, blue chambray
- Four T-shirts, white
- Six pair socks, stretch
- Four pair shorts
- One jacket, blue denim
- One belt, web
- One pair work shoes
- Two sheets
- One pillow case
- Two blankets
- Two towels

No lettering or pictures, exclusive of manufacturer's logos.

Inmates assigned to special jobs (e.g., dairy, garage, and plumbing) may be allowed to have extra clothing, extra exchange, or both, as determined by the Warden.

#### **54060.6.1 Standard Clothing Issue for Female Inmates**

*Revised May 27, 1992*

Female inmates may wear their personal clothing rather than their state issued clothing. The minimum standard clothing complement for female inmates, including initial issue, is as follows:

- Three blouses/T-shirts
- Three pair slacks
- Three bras (complement each six months)
- One dress (muu-muu)/robe/duster

- One coat
- Five panties (complement each six months)
- One nightgown
- One pair work shoes
- Six pair socks
- Two sheets
- One pillow case
- Two towels
- Two blankets

No lettering or pictures, exclusive of manufacturer's logos.

#### **54060.6.2 Nylon Jacket and Liner**

In addition to the denim jacket, a nylon cloth jacket and liner may be provided for inmates who are required to work out-of-doors in inclement weather on a regular basis.

#### **54060.7 CDC Form 176 Clothing Record Card**

All clothing issues shall be posted on a CDC Form 176, Clothing Record Card. The CDC Form 176 shall be retained in the clothing room. Inmates shall be held accountable for all issued clothing.

##### **54060.7.1 New Arrivals – Male Inmates**

When entering an institution, each male inmate shall be issued by the institution's receiving and release (R&R) staff the following:

- One shirt.
- One pair blue jeans.
- One pair shorts.
- One T-shirt.
- One pair socks.
- One pair shoes.
- Two sheets.
- One pillow case.
- One towel.
- Two blankets.

The R&R sergeant shall send the clothing room a laundry slip with the inmate's name, number, and the size of clothing needed in addition to the new arrival issue.

#### **54060.7.2 Initial Clothing Issue ("Fish" Bundle)**

*Updated February 2, 2011*

Upon receipt of a laundry slip, the clothing room shall issue new arrivals a "fish" bundle. The bundle shall bring each inmate's complement of state-issue clothing up to standard issue as outlined in DOM 54060.6.

#### **54060.7.3 New Arrivals – Female Inmates**

*Updated February 2, 2011*

The Associate Warden, Business Services, or designee shall establish the schedule and location of exchange for all clothing and linens.

A new female inmate arrival will be provided state issue clothing up to the maximum allowable in DOM 54060.6.1 that was not received during reception processing.

#### **54060.8 Clothing and Linen Exchange**

The following clothing and linen exchange shall be provided to inmates each week and shall be limited to a one-for-one laundry exchange:

- Two shirts/two blouses.
- Two pairs jeans/two pairs slacks.
- Three T-shirts.
- Three undershorts/three panties.
- Two sheets.
- One pillow case.
- Three pairs socks.
- Two towels.

#### **54060.9 Damaged/Worn Out Clothing or Linen**

Inmates and correctional employees shall not dispose of damaged/worn out clothing or linen. These items shall be returned to the clothing room. All items deemed repairable shall be repaired and reissued. Non-repairable items shall be set aside for "rag" usage or discarded at the discretion of the clothing room supervisor. Exchanges shall be recorded on CDC Form 176.

#### **54060.9.1 Issue or Exchange of Shoes/Boots**

The Department has established the issuance of serviceable used shoes/boots to inmates on an as-needed basis. The clothing room supervisor shall personally review all requests and make a determination on whether to issue replacement. If the supervisor does not have a pair of serviceable used shoes/boots in the requested size, they shall issue from new stock to the inmate concerned.

#### **54060.9.2 Orthopedic Shoes**

For inmates requiring orthopedic shoes, the institution physician shall provide written approval, by a CDC Form 128-C, medical chrono, specifying the type or variance needed. The chrono and copies shall be distributed to the inmate, clothing distribution, medical file and C-File.

#### **54060.9.3 Mattress Exchange**

All mattresses shall meet construction and flammability standards established for CALPIA products. Damaged or worn out mattresses shall be taken to the designated location during established hours of exchange. The Associate Warden, Business Services, or designee shall establish the schedule and locations for the exchange. Unit/program staff shall inspect all mattresses periodically for replacement.

#### **54060.9.4 Blanket Exchange**

Blankets that have been soiled or worn out shall be exchanged, one-for-one, at the designated location and pursuant to an established schedule. Exchange shall be bi-annual or on an as-needed basis upon approval by correctional staff.

Inmates having a documented allergy to wool shall be issued a thermal cotton blanket. The institution physician shall provide a CDC Form 128-C, medical chrono, confirming the allergy. The CDC Form 128-C shall be distributed to the C-File, medical file, clothing room supervisor and inmate. Exchange shall be on an as needed basis.

#### **54060.9.5 Contaminated Inmate Clothing and Bedding**

State-issued/personal clothing, linen, pillows, mattresses and blankets which have become contaminated shall be placed in a marked "contaminated" plastic bag or container and taken directly to a designated location for proper decontamination or disposal.

#### **54060.9.6 Shortages**

Inmates shall account for their issued clothing and bedding. If a shortage occurs, through no fault of the inmate and verified by correctional staff, the short items shall be replaced.

- Inmates who have lost issued clothing and bedding shall notify unit staff who shall issue a replacement slip to the clothing room. A CDC Form 193, Trust Account Withdrawal Order, shall be prepared for replacement costs and submitted with the replacement slip.

#### **54060.9.7 Excess Clothing**

Inmates may possess only those items of state clothing and linen that have been issued and items of personal clothing authorized and acquired in accordance with departmental procedure. Excess items of state clothing and linen shall be confiscated by correctional staff and returned to the clothing room for reissuing.

#### **54060.9.8 Altered Clothing and Linen**

Inmates shall not alter state-issued clothing or linen in any manner without specific authority to do so. If regular issue clothing does not meet a special need because of physical problems, the institution medical officer may authorize special issue.

- Inmates shall not alter their own or another inmate's personally owned clothing in any manner that would change its characteristics or style from that approved for its acceptance into the institution.

#### **54060.10 Rags**

All linens and underwear (T-shirts and shorts) that are declared beyond repair or usage by the institution clothing room supervisor shall be used as rags. The laundry room personnel shall dye these yellow. Any inmate having in their possession torn clothing or linen that is not dyed shall be subject to disciplinary action.

- Deliberate destruction of state-issue property shall result in a CDC Form 115, Rules Violation Report, being submitted.

#### **54060.11 Special Housing Clothing**

Inmates housed in special housing units who are unable to go to the laundry room shall exchange clothing and linen in their respective unit. Correctional staff shall prepare a clothing/linen exchange list with the size requirements to meet the needs of the inmates. Once clean linen and clothing is received, the unit staff shall exchange on a one-for-one basis according to the unit's pre-arranged schedule.

#### **54060.12 Departing Inmates**

All inmates departing an institution (i.e., transferred, paroled, and discharged) shall return their complete clothing and linen issue to receiving and release (R&R). The only exception may be items that may be needed for overnight; and these items shall be returned to R&R prior to departure. All items returned shall be posted on CDC Form 176, Clothing Record Card. R&R shall return all items collected to the laundry.

- Special housing inmates' release check-out shall be completed in their units.

#### **54060.13 Revisions**

*Updated February 2, 2011*

The Director, Division of Adult Institutions or designee shall ensure that the contents of this Article are current.

#### **54060.14 References**

PC §§ 2084, 5054, and 5058.

CCR (15) (3) §§ 3011, 3030 - 3033.

ACA Standards 4-4263 and 4-4334 through 4-4340.

### **ARTICLE 50 — CANTEEN**

*Revised November 19, 2010*

#### **54070.1 Policy**

Canteens for inmate use shall be established in all institutions and camps of the Department pursuant to the California Penal Code (PC) Section 5005. The administration of canteens shall conform to all applicable laws, regulations, and the content of this procedure.

Designated staff shall assure:

- That all funds earned as profit from such canteens shall be deposited in the Inmate Welfare Fund (IWF).
- That unless a uniform price on a canteen item is established, articles in inmate canteens shall be sold at the lowest possible price that assures the profit margin established in the annual budget and is sufficient to support the institution's IWF program.
- That all commodities sold in canteens are approved items for that purpose.
- That a price list is established, kept current, and posted at the inmate canteen. Copies shall be made available to inmates and a copy shall be forwarded to the IWF Manager, Central Office.

#### **54070.2 Purpose**

The purpose of this section is to provide a standardized inmate canteen procedure that establishes guidelines for use, storage, accountability, and ordering of supplies. It provides for the purchase of approved merchandise for the inmate population from outside vendors, and establishes a method to prevent the introduction of contraband and/or unauthorized items into the prison through special canteen orders.

#### **54070.3 Responsibility**

The Warden shall be responsible for the administration of the institutional canteen program. They may delegate the administration/supervision of this program to the Associate Warden of Business Services.

##### **Associate Warden, Business Services**

The Associate Warden of Business Services shall assign or delegate one of their subordinates to:

- Supervise the canteen manager.
- Ensure canteens are well-stocked with approved sale items and a list of available approved merchandise, prices for each item, and canteen operating hours are posted at each canteen.
- Implement the provisions of this section.
- Periodically consult with the inmate Institution Advisory Council (IAC) and/or their inmate canteen committee in canteen stock selections.

##### **Captain**

The captain shall ensure that all canteen lines are properly supervised and controlled during the canteen hours of operation.

Sufficient custody staff shall be assigned to provide direct supervision and control to ensure the safety and security of the canteens.

#### **54070.4 Trust Statements**

Inmates shall be issued account statements upon their written request from the Trust Office that reflects an inmate's current balance, provided 90 days have elapsed since their previous request.

Inmates shall be permitted to withdraw from their accounts by signing a canteen sales receipt.

#### **54070.5 Canteen Draw Schedule**

A canteen draw schedule developed by the trust office and approved by the Warden or their designee, shall:

- Be published at least semi-annually.
- Be posted in the housing units at each institution and camp.
- List three canteen draws for each month based on the last two digits of the inmate's departmental identification number.

Each inmate may withdraw funds from their trust account for canteen purchase no less than once per month in accordance with the posted schedule.

If an inmate misses a scheduled draw for their group (last two digits), they may submit a request for a "make-up" draw.

**Note:** Due to overpopulation at some institutions, some Wardens do not authorize a "make-up" draw.

#### **54070.5.1 Canteen Sales Receipt**

When purchasing merchandise inmates shall:

- Complete an itemized order list prior to purchasing canteen items.
- Place a clear thumb print or three fingerprints on the canteen sales receipt.
- Sign the canteen sales receipt each time a purchase is made to acknowledge the amount of the purchase and the remaining balance. Segregated inmates shall sign the approved canteen shopping list prior to submitting it to the segregation unit staff authorizing the Trust Account withdrawal, and upon receipt of the merchandise, shall sign the approved institution distribution forms to verify the amount purchased and received.

#### **54070.5.2 Non-routine Canteen Draw**

Newly arrived inmates may, within 30 days of arrival, be permitted to make purchases at the canteen during any scheduled draw regardless of their last two digits of departmental identification number. Such exceptions shall not be made for the inmate's subsequent draws.

- Conservation camp inmates shall submit their request for canteen draw to the camp lieutenant or designee.
- Segregation inmates shall not be permitted to go to canteen and shall submit their canteen shopping list to the segregation unit staff.
- Outpatient Housing Unit (OHU), Correctional Treatment Center (CTC), General Acute Care Hospital (GACH), or Department of Mental Health (DMH) patients shall submit their canteen shopping list to the OHU, CTC, GACH, or DMH unit staff.

#### **54070.6 Maximum Monthly Canteen Draw**

*Revised December 14, 2012*

The maximum amount allowed to be withdrawn from an inmate's trust account for the purpose of canteen purchases is \$220.00.

The maximum amount an inmate may withdraw for canteen purposes is in accordance with their IW/TIP privilege group. (Refer to DOM, Section 53130 or CCR, Section 3044.) The maximum draw for each privilege group is:

- Privilege group A: Maximum monthly canteen draw as authorized by the Secretary.
- Privilege group B: One-half the maximum monthly canteen draw as authorized by the Secretary.
- Privilege group C: One-fourth the maximum monthly canteen draw as authorized by the Secretary.
- Privilege group D: One-fourth the maximum monthly canteen draw as authorized by the Secretary.
- Privilege group U: One-half of the maximum monthly canteen draw as authorized by the Secretary.

Withdrawal orders received by the Trust Office, requesting an amount larger than the inmate's work/training privilege group maximum authorized draw shall be reduced by Trust Office staff to comply with the inmate's work/training privilege group limit. An inmate's regular canteen purchases shall not exceed the limits above or the inmate's trust account balance, whichever is less.

- All inmates shall present their picture identification card to the canteen staff to purchase canteen items or ducats.
- Canteen staff shall review SOMS to determine the inmate's privilege group.
- Each inmate shall complete an itemized order list prior to arrival at the canteen for purchases.

#### **54070.6.1 AD-SEG Inmate**



Inmates confined to AD-SEG status shall submit their canteen shopping list to the unit staff. Inmates assigned to this unit shall draw according to the last two digits of their identification numbers the same as the general population. Orders placed by these inmates shall be delivered by staff. The inmates shall not be permitted to go to the canteen. Segregated inmates shall sign the approved canteen shopping list prior to submitting it to the segregation unit staff authorizing the Trust Account withdrawal and upon receipt of the merchandise, shall sign the approved institution distribution forms to verify the amount purchased and received.

#### **54070.6.1.1 General Population Lockdown**

During a general population lockdown, canteen purchases may or may not be permitted at the Warden's discretion.

#### **54070.6.2 OHU, CTC, GACH, or DMH Inmate**

OHU, CTC, GACH, or DMH patients shall submit their canteen shopping list to the OHU, CTC, GACH, or DMH unit staff for processing.

Patients shall submit their lists of canteen purchases to the OHU, CTC, GACH, or DMH unit staff for the appropriate draw each week up to their maximum monthly privilege group amount or their available trust account total, whichever is less. The OHU, CTC, GACH, or DMH staff shall submit the order to the canteen and return the filled order to the inmate.

#### **54070.6.3 Camp Inmate**

Conservation camp inmates shall submit their request for canteen draw to the camp lieutenant or designee for processing.

#### **54070.6.4 Transferred Inmates**

Inmates arriving at the institution from other institutions shall be allowed to keep any item purchased at the canteen of the institution from which they came, unless the articles were obtained in an illegal manner or are not allowable property at the receiving institution.

Inmate canteen ducats shall not be transferred to other institutions. These ducats shall be returned to the canteen to be canceled when the inmate is transferred and the value of the ducats shall be posted on the inmate's trust account.

#### **54070.6.5 Inmates on Loss of Privilege Status**

Inmates on loss of canteen privilege pursuant to 3090(d) status shall not purchase canteen during the period of loss of canteen privileges. One monthly draw shall be lost for each 30 day loss of privileges. The disciplinary hearing officer or disciplinary committee shall notify the canteen and trust office in writing of the loss of canteen privileges.

#### **54070.7 Redemption of Canteen Yard Ducats**

On May 31 of each year ducats of a different color shall be made available and only these ducats shall then be authorized. The institution shall provide sufficient notice of the ducat exchange by posting this information in a conspicuous location available to the inmate population and by using any other means available which shall have the effect of notifying all inmates.

June 30 is the established date by which to exchange old ducats for new.

Upon expiration of the established period of time, ducats shall not be accepted for purchase, exchange, or redemption, except in cases of extenuating circumstances, such as the inmate being out-to-court or in any medical or mental health facility licensed under Title 22 of the California Code of Regulations.

#### **54070.8 Hours of Operation**

A working canteen schedule for each facility shall be established by the Business Office and approved by the Associate Warden, Business Services, and shall consider input from the Inmate Advisory Council. The hours that canteens shall be open each day shall be posted for the benefit of all concerned. The canteens shall be closed on inventory days.

#### **54070.9 Quantity**

Inmates shall not possess canteen items and ducats (combined) in excess of the authorized monthly allowable canteen dollar limit as set by the Director. Possession of canteen items and/or ducats in excess of this limit shall result in the issuance of a disciplinary report and confiscation of the excess items and/or ducats.

Special purchases of merchandise not carried in stock shall not be included in this limitation.

Confiscated items shall be stored in a secure area pending adjudication of the disciplinary charges and resolution of any appeal of the disciplinary finding or disposition.

If the confiscation is upheld through the disciplinary/appeal process the confiscated items shall be disposed of as described in DOM, Section 52051.

#### **54070.10 Inventories**

The canteen and the IWF canteen warehouse shall be closed a minimum of two days each month for inventory and reconciliation of the Inventory Reconciliation Report (IRR).

The IWF canteen warehouse shall be inventoried by a materials and stores supervisor and verified by the canteen manager.

At least two teams consisting of either canteen civil service personnel only or two teams consisting of a civil service employee and an inmate on each team shall take separate monthly inventories of the canteen merchandise. The two counts are then compared and any differences shall be recounted. The Consolidated Inventory Report (CIR) shall be prepared by a civil service employee only. The original listing of the monthly count sheets shall be retained along with the working copy of the monthly CIR.

Upon verification of both the IRR and CIR, the reports shall be turned in to the IWF accountant by the canteen manager.

#### **54070.11 Revisions**

The Director, Division of Adult Institutions, shall ensure that the content of this Article is accurate and current.

#### **54070.12 References**

PC § 5005.

CCR (15) §§ 3090(a), (b) and (c), 3091 - 3095.

### **ARTICLE 51 — FOOD SERVICE**

*Revised July 13, 2010*

#### **54080.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) shall provide inmates with a healthy and nutritionally balanced diet, served in an orderly manner with food flavor, texture, temperature, appearance, and palatability taken into consideration. Current Recommended Dietary Allowances (RDA), and Dietary Reference Intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine, National Academy of Science, shall be considered authoritative in setting levels of nutritional need. Sanitation, safety, and food handling standards and practices shall be established and maintained in keeping with applicable requirements established by the Industrial Safety Standards (California Code of Regulations (CCR), Title 8) and the California Health and Safety Code (H&SC).

#### **54080.2 Purpose**

This Article provides instructions and guidelines for properly administering the food service program at CDCR institutions.

#### **54080.3 Responsibility**

The Departmental Food Administrator (DFA) represents the CDCR in all food service issues and activities. The DFA develops, administers, and monitors CDCR's food service programs while the institution heads are responsible for their respective food service operations and oversight of Institution Chaplains. Physicians at each institution are responsible for ordering outpatient therapeutic diets, nourishments, and supplements.

#### **54080.4 Review of CDCR Menu**

The standardized CDCR Menu and nutritional analysis shall be reviewed by a registered dietitian on an annual basis to ensure compliance with the RDA and DRI. This review shall be coordinated through the DFA's office and any findings shall be reported to the DFA.

#### **54080.5 Hot Meals**

No more than 14 hours shall elapse between the evening meal and breakfast. A minimum of two hot meals shall be served every 24-hours with three meals provided at regular hours during each 24-hour period. Variations to the two hot meals per day requirement may be allowed to accommodate religious observances and religious diet programs and institution emergencies. Inmates shall be allowed 20 minutes in the dining halls to eat their meals after receipt of their food tray. The institution head or designee may, at his/her discretion, modify the time allotment based on operational necessity. The time allotment may be increased by the Chief Medical Officer for inmates in licensed health care facilities, or due to an individual inmate's documented medical or disability requirements.

#### **54080.6 Diets**

The standardized CDCR "Heart Healthy" menu shall be followed by all institutions for all general population meals. Physicians ordering a therapeutic diet shall be limited to renal dialysis, gluten-free diets, or other situations as defined by Division of Correctional Health Care Services (DCHCS).

The DFA shall ensure that:

- The CDCR food plan meets the dietary needs of most inmates by providing a CDCR "Heart Healthy," low fat, low salt diet.

- A nutritional analysis of the CDCR food plan is done whenever menu changes are made.
- That standardized CDCR recipes are maintained, consistent with the CDCR menu.

Each institution's food service program is responsible for the procurement, and preparation of Physician-ordered nourishments. Either institutional Food Service or DCHCS is responsible for distribution of nourishments to inmates. Procurement, preparation, and distribution of inmate nutritional supplements are the responsibility of institutional DCHCS and/or institutional Food Service staff.

Institution heads and correctional food managers (CFM) shall ensure consistent adherence to the CDCR standardized menus and recipes, and CDCR Menu Substitution Guidelines.

#### **54080.6.1 Vegetarian Diet Program**

Any inmate with determined religious, personal, or ethical dietary needs may request to participate in the vegetarian diet program. Participation in the vegetarian diet program requires the approval of an institution chaplain. The approval process and administration of the vegetarian diet program will be in accordance with established procedures as defined in DOM 54080.14.

#### **54080.7 Food Service Handbook**

In addition to this Article, the Food Services Handbook provides information and copies of the forms necessary to keep food service records. The Food Service Handbook shall be issued to all Associate Wardens, Business Services, and CFMs, and maintained in inmate libraries.

#### **54080.8 Emergency Food Supply**

*June 6, 2014*

Each institution shall at all times maintain sufficient quantities of non-perishable food items, such as canned stew or pork-free beans, to serve at least eight meals to the inmate population in an emergency. If judged necessary, the emergency food supply may be maintained separately from general supplies. The emergency food supply shall be rotated into the menu within 36 months of purchase. Departmental Correctional Food Managers shall rotate one-third of the emergency food items annually.

#### **54080.9 Food Management System**

The Food Management System (FMS) is the CDCR approved personal computer program for institutions. The FMS may be used to generate a quarterly food ration and cost analysis, and other reports using the Inventory Control, Recipe Production, and Menu Planner functions.

#### **54080.10 Menus**

The DFA shall develop and distribute menus semi-annually to the institutions. Copies of the standardized menus are to be maintained by the DFA for five years, including current year. In agreement with a low fat and low sodium menu plan, CDCR institutions serve pork free meals. The institution menus shall reflect the standardized menus in like food served, quantity, portion, size, color, flavor, and nutritional value, with particular attention to levels of fat and sodium to assure CDCR heart healthy goals. Established standardized menu substitution guidelines and policies shall be used when making menu substitutions. Institutions shall follow CDCR standardized recipes. Institution menus shall be generated in the office of the CFMs at least one week in advance and posted in locations accessible to staff and inmates. Any menu changes that vary from the standardized menu shall be noted in red ink on the approved standardized menu. This will become the "menu as served," and be forwarded to the DFA within 30 working days after completion of each quarter.

#### **54080.11 Food Sampling**

To maintain proper standards for the preparation and serving of foods in institutions, each institution head, or designee shall designate an employee to sample all items of food prepared prior to service to the inmates. If the food sampler believes that a food item is not edible, the food sampler shall:

- Immediately notify the CFM or supervising correctional cook.
- Request that the item be immediately checked and appropriate action taken.
- Complete the Meal Sample Report generated by the FMS.

##### **54080.11.1 Meal Sample Report**

The Meal Sample Report shall be generated from the CFM and completed by the individual designated to sample the meal. Inmates, randomly selected, should also sample meals. A report shall be completed for each meal served and submitted to the CFM and Associate Warden, Business Services, or designee. The report shall include at least the following:

- Date items sampled.
- Copy of menu for the meal.

- Description of replacement items, if applicable.
- Signature of sampling employee or inmate.

#### **54080.11.2 Retention of Food Samples**

The CFM shall retain a sample of each food item served to the inmates to determine which food items may be the source of contamination in the event of alleged food poisoning or infection. These meal samples are to be retained at all kitchens and serving units. At the serving of each meal, a tray with a minimum of four ounces of each food item offered shall be prepared, covered with plastic or aluminum wrap, dated, and stored in a specified locked section of a secure refrigerator where it shall be retained for a 72-hour period for cook/serve operations, and 120 hours for cook/chill operations. In case of allegations of food poisoning or infection, these samples shall be made available for analysis by institution medical staff or a representative from Department of Health Services (DHS). Each CFM shall maintain an approved food sampling kit in the food service area for use in the event of a food borne illness outbreak.

#### **54080.12 Pork/Pork Derivatives**

In agreement with a low fat and low sodium menu plan, CDCR institutions shall serve pork-free meals. Therefore, pork or pork derivatives are not included in CDCR institution recipes or on CDCR standardized menus. CDCR Camps may be provided food from other sources. As a result, pork may be part of Camp meals. If pork is served in a camp, the camp food services staff shall identify all inmate menu items containing pork and/or pork derivatives for the benefit of those inmates desiring a pork-free diet for religious reasons. Food services staff shall implement and enforce the identification of all food items containing pork, or prepared or seasoned with pork derivatives with a "P" on the menu. If there is uncertainty as to whether an item contains pork, it shall be identified with an asterisk (\*). Menus shall be prominently displayed.

#### **54080.13 Foods for Religious Events**

Inmate religious groups shall not be permitted more than two events each year where foods with recognized religious significance are provided by the institution in place of the regularly planned meal. These event meals must be verified as specifically connected to a religious event and approved and sponsored by a Chaplain. A Chaplain means a local Institution Chaplain or designee representing the religious group. The cost to the institution of meals for a religious event shall not exceed that of the meal replaced, unless approved by the CFM. Special ceremonial foods that cannot be provided by the institution may be provided through the chaplain or an outside source(s).

At least 30 days, but no more than 90 days, prior to the event, the Chaplain of the approved religious group must submit a written request to the institution head or designee, which includes at least the following:

- Date of event.
- Location of event.
- Proposed menu.
- Specific ceremonial foods.
- Number of inmates, and when applicable, guests to be served.

#### **54080.14 Institution Religious Diet Program**

Each institution shall make reasonable efforts, as required by law, to accommodate those inmates who have been determined to require a religious diet.

- Within the institution, religious meals shall not be restricted from inmates based on their classification or housing placement.
- If a medical diet is ordered for an inmate, it shall take precedence over the religious diet.
- Inmates who are transferred shall continue to have the ability to participate in their current religious diet program at the receiving institution, barring medical needs or other extraordinary circumstances. The inmate Central File (C-File) shall contain verification of religious diet participation (CDCR Form 3030, "Religious Diet Request," and CDCR Form 3030-A "Religious Diet Program Agreement").
- The current Religious Diet Card shall be transferred with the inmate's property and be provided to the inmate upon the inmate's arrival. During the initial processing at the receiving institution, staff shall identify the inmate as a participant in a Religious Diet Program and notify the CFM and appropriate Chaplain or designee of the inmate's arrival. The Chaplain or designee at the receiving institution shall oversee the inmate for continuing eligibility and any compliance violations.
- Each institution shall provide ongoing religious awareness training for custody and food service staff, and others as appropriate. This may be

provided in regularly scheduled In-Service Training, Equal Employment Opportunity training, or on-the-job training.

- No staff may disparage an inmate's religion or religious views, or attempt to dissuade an inmate from participating in the Religious Diet Program.
- Early call may be used, and is encouraged, for serving religious diets.
- The Religious Diet Program will consist of three distinct options:
  - A vegetarian diet program.
  - A Jewish kosher diet program.
  - A religious meat alternate program

#### **Vegetarian Diet Program**

Vegetarian meals shall be available at all CDCR institutions statewide. Institution vegetarian meals shall be lacto-ovo vegetarian (includes dairy products and eggs), and may contain fish when it appears on the menu. Inmates with determined religious, personal, or ethical dietary needs and showing a Religious Diet Card shall be provided with an approved vegetarian protein alternate, often from that same days' scheduled meal. Inmates may participate in the program, by submitting to any appropriate Chaplain a CDCR Form 3030 Religious Diet Request.

#### **Jewish Kosher Diet Program**

A Jewish Kosher Diet Program (JKDP) shall be established at designated CDCR institutions statewide, for Jewish inmates desiring to practice Jewish kosher law.

- Each designated institution with a JKDP shall endeavor to have a Jewish Chaplain or Rabbi employed at all times. In the absence of an employed Jewish Chaplain, the institution shall either make arrangements to utilize the services of a CDCR Jewish Chaplain from a neighboring institution, or consult with the Boards of Rabbis of Northern or Southern California to administer the JKDP.
- Institutions that have an operational JKDP but have a vacant Jewish Chaplain position shall fill the position as soon as possible, but shall continue to operate the JKDP. However, no inmates will be added to the JKDP in those institutions unless they meet either criteria below:
  - The inmate has already been approved by a Jewish Chaplain to participate in the JKDP at another institution; or
  - A CDCR Jewish Chaplain from a neighboring institution, or a consultant from the Boards of Rabbis of Northern or Southern California approves the inmate.
- Only Jewish inmates, as determined by a Jewish Chaplain, may participate in the JKDP.
- If a Jewish inmate is housed at an institution that does not have a JKDP, he/she may, upon request, be considered for transfer to another institution that meets their kosher need and classification.
- The JKDP is offered solely in designated institutions. Therefore, prior to referral to a classification committee, the assigned counselor at the sending institution shall contact the receiving institution's CFM to ensure that the receiving institution has an operational JKDP. Classification committees shall ensure that, barring medical needs or other extraordinary circumstances, the inmates currently participating in the JKDP are transferred only to those institutions that currently have an operational JKDP. If an exception is made by classification committee and the recommendation for transfer is not to an institution with a JKDP, reasons for the exception will be fully documented in the CDC Form 128-G, Classification Chrono.
- Only a Jewish Chaplain, Rabbi, representative(s) of the Boards of Rabbis of Northern or Southern California, or their designee shall have the authority to administer, oversee, and approve participation in and removal from the JKDP.
- Each designated institution shall arrange for appropriate training for all inmate workers, and custody and food service employees involved in the supervising, ordering, preparation, and serving of Jewish kosher meals.
- The observance of Passover constitutes a single religious event requiring kosher Passover foods be provided during the eight days of observance.
- All designated institutions shall adhere to the CDCR standardized Jewish kosher menus and approved procedures for purchasing, preparing, and serving Jewish kosher meals.
- The JKDP shall otherwise be administered in accordance with the provisions of this Article.

#### **Oversight Responsibilities**

A Jewish Chaplain, Rabbi, representative(s) of the Boards of Rabbis of Northern or Southern California, or their designee shall oversee the JKDP in order to assure the program is following CDCR policy and procedures and kosher laws. Oversight responsibilities include:

- Reviewing each institution's JKDP annually for compliance with kosher law and CDCR policy. Results of the review shall be provided to the CFM.

#### **Observance of Jewish Fasting Days**

Inmates participating in the JKDP shall have the option to fast on a recognized Jewish fasting day, for the period required by that day. The Jewish Chaplain will provide food services with a list of those participating at least three days ahead of the intended fast. A Jewish Kosher inmate who chooses to fast will not be provided any regular meals for the recognized fasting day. The fasting inmate will instead be provided with an approved sack meal, to be eaten at the end of the fasting period. The sack meal will be equivalent to two (2) kosher sack lunches. Under no circumstances can the inmate give away, trade, or sell a sack meal. Doing so may result in a compliance violation of the Religious Diet Program Agreement.

The following are recognized Jewish fasting days:

Yom Kippur (Day of Atonement) – A 25-hour fast, from sunset to the following sunset. Observed in early fall on the 10<sup>th</sup> day of the Jewish month of Tishrei.

Fast of Tisha B'Av – A 25-hour fast, from sunset to the following sunset. Observed in the late summer on the 9<sup>th</sup> day of the Jewish month of Av.

Fast Of Esther – A short fast, from sunrise to sunset of the same day. Observed in early spring on the 13<sup>th</sup> day of the Jewish month of Adar.

Fast of the 17<sup>th</sup> of Tammuz – A short fast, from sunrise to sunset of the same day. Observed in early summer on the 17<sup>th</sup> day of the Jewish month of Tammuz.

Fast of Gedaliah – A short fast, from sunrise to sunset of the same day. Observed in the early fall on the 3<sup>rd</sup> day of the Jewish month of Tishrei.

Fast of 10<sup>th</sup> of Tevet – A short fast, from sunrise to sunset of the same day. Observed in winter on the 10<sup>th</sup> day of the Jewish month of Tevet.

#### **Religious Meat Alternate Program**

A Religious Meat Alternate Program (RMAP), offering meat that has been certified as halal, shall be available at all institutions. Muslim inmates may participate in the program, as determined by a Muslim Chaplain or designee Chaplain. Each institution shall endeavor to have a Muslim Chaplain employed at all times. In the absence of an employed Muslim Chaplain, the institution shall either utilize a designee Chaplain or make arrangements to utilize the services of a CDCR Muslim Chaplain from a neighboring institution.

Non-Muslim inmates with a religious dietary need may seek participation in the program by submitting to any appropriate Chaplain a CDCR Form 3030 Religious Diet Request, for determination by the Religious Review Committee RRC, as described by CCR Section 3210(d).

The RMAP is only offered at the dinner meal. Inmate participants in the RMAP shall receive the vegetarian option at breakfast and lunch. An inmate participant must show his or her religious diet card in order to receive the RMAP or vegetarian option.

All institutions will offer standardized departmental RMA items, and will adhere to approved procedures for procuring, and serving the RMA.

Each institution shall arrange for ongoing and appropriate training for all inmate workers, and custody and food service employees involved in the supervising, ordering, and serving of the RMA.

A designee Chaplain shall:

- Oversee the program and determine inmate compliance violations.
- Review each institution's RMAP annually and provide results of the review to the CFM.

#### **Participation in a Religious Diet Program**

A Religious Diet Card will be issued to the inmate by the Chaplain, or their designee. The Religious Diet Card shall follow the inmate if he/she is transferred to another CDCR institution.

At each meal, a positive check list will identify the inmates that have received a religious meal. This list may be used to issue a CDC Form 128-B, General Chrono, for Religious Diet Program Non-Compliance.

The following CDCR forms shall be used:

- Religious Diet Request (used for all religious diet requests)
- Religious Diet Program Agreement

- Religious Diet Program Agreement – Notice of Non-Compliance
- Religious Diet Cancellation Request
- Religious Diet Card

The Institution chaplain or designee shall document an inmate's participation in the JKDP, vegetarian diet program or the RMAP using the appropriate CDCR forms (i.e., Religious Diet Card, Religious Diet Request, Religious Diet Agreement, Religious Diet-Notice of Non-Compliance, and Religious Diet Cancellation Request). The completed originals shall be placed in the inmate's central file (miscellaneous section), as indicated on the forms.

#### **Inmate Responsibilities**

##### **Inmates have the responsibility to:**

- Complete a CDCR Religious Diet Request form and submit it to the appropriate Institution Chaplain or designee.
- Show their Religious Diet Card obtained from the Chaplain or designee when receiving a religious meal.
- Follow the conditions in the signed Religious Diet Program Agreement.

#### **Chaplain Responsibilities**

Chaplain means a local Institution Chaplain or their designee representing the religious group. Upon receiving a completed inmate's "Religious Diet Request" form, the Chaplain, or their designee shall:

- Ensure that no more than 30 calendar days shall pass from the day the Chaplain receives the completed "Religious Diet Request" in which a determination of program eligibility is made, and an accepted inmate begins receiving the religious meals requested.
- Interview the inmate to explain the three religious diet options, including what the meals consist of.
- Determine the inmate's religious diet eligibility, with one exception:
  - The RRC shall determine the eligibility of a non-Muslim inmate to participate in the RMAP. When a non-Muslim inmate seeks the RMAP, the Chaplain shall forward the CDCR Form 3030, Religious Diet Request, to the RRC for consideration.
- If Religious Diet Program eligibility is determined, explain the Religious Diet Program Agreement.
- Have the inmate sign all required documents. Document an inmate's refusal to sign any of the required documents.
- Complete and distribute the Religious Diet Request, and if applicable the Religious Diet Program Agreement as indicated on the forms, within two working days.
- Notify the inmate of the decision in writing (by copy of their Religious Diet Request).
- Enter pertinent information for each inmate approved to participate in the Religious Diet Program onto a religious diet participant list within 24 hours of approval. Food Service will begin serving those approved for religious meals normally within two days of receiving this notification.
- Along with food service staff, regularly monitor the religious diet lists to ensure that all participating inmates are served their religious dietary meals with minimal delay.
- Update the list identifying inmate religious diets every 30 days and provide the list to the CFM.
- Coordinate with the CFM to determine which dining area will provide the inmate his/her meals.
- Provide each approved inmate with a Religious Diet Card. Collect Religious Diet Cards that are no longer valid.
- Meet with inmates, giving them the opportunity to respond to allegation(s) of noncompliance with Religious Diet Program. Utilize the Religious Diet Program Notice of Noncompliance form.

#### **Monitoring for Religious Diet Program Inmate Compliance**

Any staff may report an incident of an alleged inmate Religious Diet Program Agreement compliance violation, as described on the CDCR Form 3030-A, Religious Diet Program Agreement.

The incident report must be in writing using a CDC Form 128-B, General Chrono, citing CCR, Title 15, Section 3054. All written reports shall be sent to the appropriate Chaplain who shall make the final determination of continuing eligibility.

#### **54080.15 Meals Served to Non-Inmates**

The meal charge for State employees and persons other than official guests in State-operated dining rooms maintained and operated for inmates shall be

\$1.00 plus sales tax. The meal charge for institution-operated employee dining rooms shall be in accordance with this section.

#### **54080.15.1 Reimbursement for State Purchased Food**

Outside guests attending inmate banquets, luncheons, or other special events where State-purchased food is provided shall be charged a minimum of \$1.00 plus sales tax per meal, per guest. Funds collected in excess of \$1.00 plus sales tax, for the event shall be accompanied by a statement, signed by a non-inmate representative of the group, which reads: "We donate the sum of \$\_\_\_\_\_ to the Inmate Welfare Fund." If the cost of the meals exceed the allowance of \$1.00 per meal, an additional charge to the inmate group's trust account shall be made in accordance with this section.

#### **54080.15.2 Institution Operated Employee Dining Rooms**

In institution-operated employee dining rooms, meal charges shall be set by the institution and shall reflect the actual cost of serving an average meal, including staffing costs. Employee dining rooms shall not be allowed to operate at a loss.

#### **54080.15.3 Employee Meetings**

At conferences, workshops, training classes, or other employee meetings held at an institution, coffee and/or other beverages may be served only if the total cost for the refreshments is paid by the participants.

#### **54080.15.4 Official Guests**

Representatives of any city, county, state, federal, or foreign government who are guests of CDCR, and official staff who are inspecting the food services operation may be provided a sample of the meal served to inmates free of charge. Examples include persons on a grand jury, state legislators, officials of foreign prisons, or official CDCR or state inspectors.

#### **54080.15.5 Group Visits and Tours**

Meals may be served to participants of tours or visitors of approved groups in accordance with this section.

#### **54080.16 Employee Uniforms**

Food service staff, supervising correctional cooks, correctional supervising cooks, correctional bakers, correctional butcher/meat cutters shall wear the CDCR-approved uniform to distinguish them from inmates assigned to food-service duties. This uniform shall consist of:

- TROUSERS: dark brown, equivalent to Big Mac or Levis. Not tight-fitting.
- SHIRTS: tan, equivalent to Big Mac or Levis with the CDCR patch over the left breast pocket.
- CAPS: solid brown, baseball type, to match clothing, with the CDCR patch and the employee classification rocker arm above/atop the patch.
- JACKETS: brown color with the CDCR patch on the left breast.
- SHOES: brown or black, smooth leather. Soles must be oil resistant and non-skid type, no buckles or design (no cowboy, tennis, or gym-type shoes or boots).
- BELT: black or dark brown.
- WHISTLE: gold or chrome or black in color; metal only.
- ALARM HOLDER: black leather.
- DEPARTMENTAL NAME PLATE

The following items are optional:

- SMOCK: tan with CDCR patch over the left breast.
- JUMPSUIT: solid brown with CDCR patch over the left breast.

Employees shall report to their assigned area in clean uniforms, which are in good condition.

#### **54080.17 Inmate Smocks /Aprons**

Each inmate food handler shall be provided a clean white smock or apron and other appropriate clothing. Such garments will be maintained in the food service area and stored in a sanitary manner separate from personal clothing.

#### **54080.18 Sanitation Standards**

Sanitation standards are based on the H&SC. Standards for sanitation, sanitation training, purchasing, receiving, storage, preparation, holding, and serving of food shall meet the requirements set forth in the most current H&SC, Sections 113975 through 114180 (California Retail Food Code (CFC)), the State law regulating food establishments and facilities, and CDCR food service policy. The CFM is responsible for ensuring compliance with all standards at their respective institutions.

#### **54080.18.1 Sanitation Inspection**

An inspection of the food service area of each institution/camp shall be performed at least every year by a state-registered sanitarian with the environmental health section of the DHS. Administrative audits may be

conducted throughout the year at various institution locations on a rotating basis.

#### **Institution Head or Designee**

The institution head-or designee shall inspect the institution/camp kitchens at least once each month, record the findings on an institutional inspection report form, and keep the report on file for inspection by the DFA or State sanitarian.

#### **Correctional Food Manager**

The CFM or designee shall prepare a weekly sanitary inspection and report using the institutional inspection form. This report shall be kept on file at the institution for a minimum of two years. Additional inspections of the food service area shall be performed by institutional staff as often as necessary to enforce food service standards.

#### **54080.18.2 Suspected Foodborne Illness Outbreak Procedures**

Each institution/camp shall adopt the statewide standardized Suspected Foodborne Illness Outbreak Operational Procedures, issued October 2004. The CFM shall ensure that all procedures pertaining to food service responsibilities are enforced, including the maintenance of a food sampling kit. A copy of the Foodborne Illness procedures shall be located in the Food Service Handbook in the central kitchen.

#### **54080.19 Food Service Training**

The CFM is responsible to ensure that an adequate food service employee training program is in effect, and that all food service personnel participate in the required training.

In accordance with CFC, each institution must have at least one staff working in food services that has successfully passed an approved and accredited food safety certification examination. The CDCR encourages food safety certification and/or training of all food service staff, culinary custody staff, and inmate workers.

Methods of training shall include verbal and written instruction and demonstration, and shall include technical and safety instruction regarding inmate food service worker responsibilities.

Hazardous materials training shall be provided to all food service staff to ensure the safe handling of hazardous materials. The institution fire department is responsible for providing training to all food service staff including inmate workers.

The CFM shall maintain Material Safety Data Sheets (MSDS) in all areas where chemicals are used. Food service staff and inmates shall be trained on the MSDS program so they understand the hazardous properties of the chemicals they work with.

#### **54080.20 Health and Safety Law and Regulations**

A Hazard Analysis Critical Control Point (HACCP) program shall be developed and followed at each institution/camp to ensure food safety. The HACCP program shall include written policies and procedures and a system for assuring compliance. The Critical Control Points shall be identified in the program as well as corrective action procedures.

Food handlers (staff and inmates) shall be instructed on the importance of sanitation, personal hygiene, and the safe preparation and service of food. Food handlers shall have clean hands and fingernails, wear hairnets or caps that entirely cover their hair, wear clean garments, be in good health, and follow hygienic food handling practices as required in CFC.

A medical clearance shall be required prior to placing an inmate in a food handling assignment. Food service correctional officers and correctional cooks shall hold daily inspections of all workers who handle food for cleanliness, open sores, proper clothing, hair nets (covers) or any condition that may contaminate the food. Inmates found to have open sores or other conditions that may contaminate food shall be referred to the institution's health care services staff for examination. Medical clearance shall be obtained prior to their return to work. Staff found to have open sores or other conditions that may contaminate food shall be excluded from any type of food handling or preparation until they are no longer considered contagious. All food handlers shall be instructed on the importance of proper hand washing. Hand washing signs shall be posted in all food service restrooms. Enforcement of proper and frequent hand washing of inmate workers and staff shall be a priority of the CFM.

The temperature of refrigeration units and dishwashing machines shall be recorded daily on the log maintained by the CFM for a minimum of two years. Dishwashing machines shall be inspected daily to ensure proper operation. This inspection is also noted on the log. Refer to the Food Service Handbook and CFC for further information.

#### **54080.21 Restricted Food Items**

Supervisory food service staff shall ensure that restricted food items that may be used to produce alcohol are stored in a lockable receptacle, caged area,

and/or maintained in a locked supply room. Supervisory food service staff shall also provide a method to strictly control and provide direct supervision of inmates handling any restricted food item. Restricted food items include, but are not limited to: yeast, sugar, bread/pastry dough, and heavy syrup canned fruit.

Supervisory food service staff shall maintain a running inventory log of all restricted items. The log shall indicate the date, time, and amount of supplies, either dispensed, used, or received and the name of the staff authorizing the transaction.

#### **54080.22 Revisions**

The DFA or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **54080.23 References**

*June 6, 2014*

PC § 2084.

H&SC §§ 113700 through 114437 (California Retail Food Code).

CCR, Title 15, §§ 3050, 3051, 3052, 3053, 3054 and 3055; Title 8, California Administrative Code (Industrial Safety Standards).

ACA Standards 4-4313, 4-4316 and 4-4318.

CDCR Food Service Handbook.

Food and Nutrition Board of the National Academy of Sciences, Recommended Dietary Allowances.

Food and Nutrition Board of the Institute of Medicine, National Academy of Science, Dietary Reference Intakes.

"Food Safety Basics," United State Department of Food and Agriculture, Website.

U.S. Public Health Standards (42 CFR) Occupational safety, healthcare, health insurance, health facilities.

FDA Codes (21 CFR) Human Food Standards: Manufacture and Handling.

### **ARTICLE 52 — REQUEST FOR INTERVIEW, ITEM, OR SERVICE**

*Effective July 29, 2011*

#### **54090.1 Policy**

It shall be Department policy to facilitate communication between staff and inmates and parolees via a written request process. Effective communication is essential to the orderly management of correctional settings as well as the success of prison, parole supervision, and rehabilitation programs. For that reason, the Department promotes constant communication between staff and inmates and parolees. Normally, when requesting items or service, the use of informal means of communication is encouraged for timely resolution of requests. When it is useful or necessary to document these attempts however, the provisions of this article shall afford inmates and parolees a means for so doing.

#### **54090.2 Purpose**

The purpose of this article is to:

- Establish a process to facilitate requests for interviews, items, and services.
- Afford the inmate or parolee the opportunity to create a record of their attempt to contact staff when requesting interviews, items, or services.
- Establish a transparent process subject to supervisor's review for the purpose of improved oversight of local operations.

#### **54090.3 Responsibility**

Each hiring authority shall implement this written request process to ensure its efficient and consistent operation in accordance with the policy and purpose provisions of this article.

#### **54090.4 Written Request Process**

Inmates and parolees may request interviews with staff and/or request items and services via a CDCR Form 22, Inmate/Parolee Request for Interview, Item or Service. This form has been redesigned to achieve expanded non-conflictive communication objectives. Timely resolution of many routine matters will be achieved through application of the processes and practices set forth in this article and henceforth applied uniformly toward that end.

- The written request process may be used when the inmate or parolee seeks a response to an issue related to his or her confinement or parole.
- This process is not intended to preclude or inhibit inmates or parolees from engaging in verbal communication and making verbal requests to staff outside of the written request process.

- Inmates and parolees shall be considerate in the use of this process, making allowance for staff who are otherwise occupied by submitting their requests reasonably and in a manner not to interfere or delay a peace officer in performance of his or her duties.
- Staff must accept and respond to the written request unless otherwise occupied in duties which require their full attention. Under such circumstances staff can advise the inmate of alternative submittal options.
- Staff shall attempt to resolve inmate and/or parolee issues expeditiously, whether brought to their attention verbally or in writing.
- All communication on the request form should be polite, professional, and to the point.
- Misuse or abuse of the form may be noted in staff responses to facilitate appropriate use of the form.

#### **54090.4.1 Form Availability**

The Department shall ensure that the CDCR Form 22, Inmate/Parolee Request for Interview, Item or Service, is readily available to inmates and parolees. This form shall be available in all inmate housing units, general or segregated; all institutional libraries; any facility under the Department's jurisdiction, whether residential or medical, where inmates are required to remain more than 24 hours; and all parole field offices.

This form is printed on NCR (no-carbon-required) paper, which facilitates:

- A record of the date the form was first presented to staff, and the date of each staff response.
- A record of the nature of the request and any subsequent efforts to address it.

#### **54090.4.2 Submission**

When seeking a response or outcome to a written request for an interview, item or service, the inmate/parolee shall complete the CDCR Form 22 to describe his or her request.

- The inmate shall deliver or mail via institutional mail the completed form to any staff member who is able to respond to the issue.
- The parolee shall deliver or mail via the United States Postal Service the completed CDCR Form 22 to his or her parole agent who shall respond to the issue or, as appropriate, route the form to another staff member able to respond to the issue.
- However, if the parolee mails the form, the receipted copy of their request may also be returned by staff via external mail services/US Mail.
- The CDCR Form 22 process does not stay the time constraints for filing an appeal and therefore does not preclude the inmate or parolee from filing an appeal on the same issue prior to receiving a response to their written request. However, the appeal may be rejected by the appeals coordinator or designee and an extension granted to complete the request form process before resubmitting the appeal.
- An employee shall not refuse the CDCR Form 22 unless exigent circumstances described in this article apply.

#### **54090.4.3 Employee Responsibilities**

Upon receipt of an inmate or parolee completed CDCR Form 22, the employee shall:

- Immediately date and sign the form unless occupied in duties which otherwise require full attention. Employees so occupied shall advise the inmate or parolee to select another suitable recipient, present the request at another time or the employee shall advise that they will return at the first opportunity, when duty permits, to retrieve the request.
- Provide the inmate or parolee the bottom copy of the employee signed form which shall serve as the inmate/parolee's receipt to verify the date of submittal. The employee, at his or her discretion, can respond to the request at this time or wait until to respond within the constraints of this section.
- The receipt of a completed CDCR Form 22 from an inmate or parolee does not preclude a staff member from forwarding the document to a more appropriate responder. However, employees shall either deliver the form to the staff member or place it in intra-office mail addressed to the intended staff member within 24 hours.
- Within three working days after receipt of the form, the responding employee shall:
  - Note his or her decision or action on the form.
  - Sign and date the form.
  - Retain a copy for his or her records.
  - Return the original and remaining copies of the NCR form to the inmate or parolee

- The willful delay or obstruction of an inmate/parolee's attempt to resolve a problem by failing to respond to or destruction of a submitted CDCR Form 22 is subject to corrective action in accordance with the employee discipline policies of the Department.

#### **54090.4.4 Responses and Further Review**

If the inmate or parolee is dissatisfied or disagrees with the staff member's response, he or she may submit the CDCR Form 22 to the employee's supervisor for review, while retaining a copy for his or her records. Only in the absence of the staff member's supervisor may the inmate/parolee submit the form to an alternative supervisor of the same office or unit authorized and/or able to respond to the issue in question. Upon receipt of this form the supervisor shall within seven calendar days:

- Indicate a decision or action on the form.
- Sign and date the form.
- Ensure a copy is made and retained in the facility records or parole field files for a period of time no less than prescribed for inmate correspondence in the approved Departmental records retention schedule, being mindful that originals are returned to the inmate/parolee.
- Return the original to the inmate or parolee.

An inmate or parolee's documented use of a CDCR Form 22 does not constitute exhaustion of administrative remedies as defined in DOM Section 54100.13.

#### **54090.5 Revisions**

The Director, Division of Adult Institutions, or designee in conjunction with the Chief, Office of Appeals, shall ensure that the content of this Article is accurate and current.

#### **54090.6 References**

Title 15, California Code of Regulations, §§ 3084, 3086.

### **ARTICLE 53 — INMATE/PAROLEE APPEALS**

*Revised October 18, 2016*

#### **54100.1 Policy**

It shall be Department policy, consistent with correctional best practice, to provide through the appeal process the means for expressing and resolving identified grievances to inmates or parolees and an administrative mechanism for review of departmental policies, decisions, actions, conditions, or omissions that have a material adverse effect on the health, safety, welfare, status, and/or program of inmates and parolees.

#### **54100.2 Purpose**

The purpose of this Article is to:

- Maintain the integrity of the Department through a fair, objective, and effective appeals process.
- Provide for the resolution of inmate or parolee grievances at the lowest possible administrative level with timely responses to the appellant.
- Provide the inmate or parolee grievant a meaningful remedy focused on correcting an identified problem.
- Afford the grievant an avenue for the exhaustion of administrative remedies prior to initiation of a court action.
- Audit the internal processes and operations of the Department to identify, modify, or eliminate practices which are unnecessary or may impede the accomplishment of correctional goals.
- Utilize inmate and parolee appeal information as an early warning indicator to identify and respond to potential sources of liability to the Department.
- Gather and disseminate data and statistics about appeals in order to satisfy statutory responsibilities and in furtherance of policy, management and program improvement goals.

#### **54100.3 Responsibility**

Each hiring authority shall implement the appeal process and ensure it operates effectively and consistently with specified policies as set forth herein.

- At least one staff member, at a level not less than a CC-II, shall be designated as the appeals coordinator in each institution; and one staff member of a level not less than PA-II shall be designated as the appeals coordinator in each parole region.
- The appeals coordinator or delegated staff under direct supervision shall process all appeals, monitor the system, prepare the quarterly appeals report, recommend corrective action where indicated, and work with the IST officer to ensure training on the appeals process is carried out.

Delegated staff under appeals coordinator direction shall be properly trained, audited regularly and undertake only those duties and responsibilities appropriate to their job classification, background and experience.

- The Appeals Coordinator's Office shall receive, log, route, and monitor disposition of the CDCR Form 602, Inmate/Parolee Appeal, and the ancillary appeal forms, CDCR 602-A, Inmate/Parolee Appeal Form Attachment, and the CDCR 602-G Inmate/Parolee Group Appeal, supplement.
- Hiring authorities are expected to meet with appeals coordinators on a regular basis to receive and disseminate information respecting process, emergent issues, best practice trends and related matters.
- Each inmate upon arrival to an institution shall be provided written material (instructions, guidelines and/or examples of forms as appropriate) describing the appeal process. Each inmate prior to being released to parole shall be provided with a copy of CDC Form 1570, Guidelines for Parole, which contains a notice of appeal rights and procedures for filing an appeal. Each parole unit shall maintain copies of the appeal procedure which shall be made available to the parolee upon request. Parolees shall be informed of the appeal process at the initial parole interview.
- Copies of DOM §54100, Inmate/Parolee Appeals, and any facility appeal supplement shall be filed and maintained in each inmate law library including libraries in segregated housing units, community correction facilities, treatment and/or transitional living and out-of-state facilities where inmates/parolees remain under the custody of the Department.

#### **54100.4 Right to Appeal**

Any inmate or parolee under the Department's jurisdiction may appeal any policy, decision, action, condition, or omission by the Department or its staff that the inmate or parolee can demonstrate as having a material adverse effect on his or her health, safety, or welfare. A material adverse effect means harm or injury that is measurable or demonstrable or the reasonable likelihood of such harm or injury. In either case, the harm or injury must be due to any policy, decision, action, condition, or omission by the Department or its staff. In the context of this article, an "appellant" means an inmate or parolee who has submitted an accepted appeal and a "remedy" means a process or means to address an issue or correct a wrong.

No reprisals shall be taken for the good faith use of or responsible participation in the appeals process. This shall not prohibit appeal restrictions against an appellant for abusing the appeal process nor shall it prohibit the pursuit of disciplinary sanctions for violations of Department rules. A complaint of reprisal may be pursued through the appeals process. If, after investigation, it is determined that a reprisal has occurred, the staff member(s) involved shall be subject to adverse action in accordance with the employee discipline policies of the Department.

#### **54100.5 Exclusions**

The CDCR Form 602, Inmate/Parolee Appeal form shall not be utilized in the following appeals:

- Board of Parole Hearings (BPH).
- Health or Safety complaints – California Prison Industry Authority (CALPIA). (See CCR Title 15 §3084.9(e) and CCR Title 8 §344.40(a).)

#### **54100.6 Appeal Preparation**

*Revised September 28, 2016*

The Department shall make its appeal forms readily available to all inmates and parolees, ensuring that those who have difficulty communicating have equal access to the appeal process and the timely assistance necessary to participate in this process including completing or clarifying the appeal. Timely, in this particular instance, means promptly and without deliberate delay, insofar as prevailing organizational resources permit.

The inmate or parolee shall describe the specific issue under appeal, the relief requested, and state all facts known and available to him/her regarding the issue being appealed upon one original copy of the CDCR Form 602, and if needed to clarify the issue or matter in question, one original Inmate/Parolee Appeal Form Attachment (CDCR 602-A), attach all original relevant supporting documents and forward them, in a single mailing, to the appropriate appeals office.

The CDCR Form 602 provides a system of accountability at each level of review. When the appeal material is submitted without a completed and signed CDCR Form 602, the appeals coordinator shall return it to the inmate or parolee with instructions to fill out and sign the CDCR Form 602 (and/or CDCR Form 602-A, if applicable) and resubmit the appeal for processing.

- If originals are not available, copies may be submitted with an explanation and the appeals coordinator shall have the discretion to request that any submitted copy is verified by staff.
- The inmate or parolee is limited to the space provided on the CDCR Form 602 and one CDCR Form 602-A to describe the specific issue and action requested. The appeal content must be printed legibly in ink or typed on the lines provided on the appeal forms in no smaller than a 12-point font. There shall be only one line of text on each line provided on these forms.
- The inmate or parolee shall list all staff member(s) involved and shall describe their involvement in the issue. To assist in the identification of staff, the inmate or parolee shall include the staff member's last name, first initial, title or position (if known) and the date(s) of the staff member's involvement in the issue under appeal. Absent the requested identifying information, the inmate or parolee shall provide any other available information that would assist the appeals coordinator in making a reasonable attempt to identify the staff in question.
- Relevant supporting documents are defined as documents needed to substantiate the allegation(s) made in the appeal, including but not limited to, classification chronos, property inventory sheets, receipts, completed disciplinary reports with supplements, incident reports, notifications of disallowed mail, trust account statements, memoranda, letters, medical records, and/or a written request for interview, item or service (See DOM 54100.8). Only supporting documents necessary to clarify the appeal shall be attached to the appeal.
- The inmate or parolee shall not delay submitting an appeal within established time limits if unable to obtain supporting documents, but shall submit the appeal with all available supporting documents and provide an explanation why any remaining supporting documents are not available.
- Supporting documentation does not include documents that simply restate the matter under appeal, argue its merits or raise new issues not identified in the appeal and stated as such on the relevant original 602 forms. New issues raised in the supporting documents shall not be addressed, and any decision rendered will pertain only to the present appeal issue and requested action(s).
- The inmate or parolee shall not include or attach extraneous physical objects, exhibits, tabs or dividers, including organic materials of any type with their appeal packet or otherwise deface or contaminate submitted forms and attachments. Appeals submitted with hazardous or toxic material that present a threat to the safety and security of staff, inmates, or the institution may subject the appellant to disciplinary action and/or criminal charges commensurate with the specific act.
- For third level appeals, the inmate or parolee shall be responsible for mailing the appeal form and supporting documentation directly to the third level Appeals Chief using their own funds and US mail service, unless the appellant is indigent in which case the third level appeal shall be processed in accordance with the indigent mail provisions (15 CCR §3138). An indigent inmate/parolee shall not, however, be required to divide their appeal into separate mailings to conform to indigent mail weight restrictions.
- Another inmate or parolee, staff member, family member as defined in Section 3000 of the Title 15, or other interested party may assist the inmate or parolee in completing the appeal form. However, the act of providing such assistance does not render or convey upon that individual status as party to the appeal. In addition, assistance is disallowed if the act of providing such would create an unmanageable situation including but not limited to; acting contrary to the principles set forth in 15 CCR §§ 3163 and 3270, allowing one offender to exercise unlawful influence/assume control over another, require an offender to access unauthorized areas or areas which would require an escort, or cause avoidance or non-performance in assigned work and program activities.
- An inmate or parolee shall not submit an appeal on behalf of another person, unless the appeal contains an allegation of sexual violence, staff sexual misconduct, or sexual harassment.
- Inmates or parolees shall not give any form of compensation to other inmates or parolees or receive any form of compensation for assisting in the preparation of another's appeal. The giving or receiving of compensation is considered misconduct and is subject to disciplinary action.
- The appellant shall sign, date, and submit the appropriate appeal document(s) at each level in the appeal review process.
- Unless otherwise provided for in this article, the appeal shall not be

accepted at the third level for review without first having been reviewed at second level.

#### **54100.7 Group Appeal**

A group of inmates or parolees may appeal a specific issue that affects all group members. In this situation, one CDCR Form 602 shall be accompanied by an Inmate/Parolee Group Appeal (CDCR Form 602-G), containing the name, Department identification number, assignment, housing, and dated signature of the inmate or parolee who prepared the appeal.

- This appeal shall be logged as one appeal.
- Each CDCR Form 602-G shall state the appeal issue, the action requested and affirmation that the undersigned agree with the appeal issue/action requested.
- The legible names of the other participating inmates or parolees with dated signatures, departmental identification numbers, assignments, and housing shall be entered on the CDCR Form 602-G.
- Only signatures submitted on a CDCR Form 602-G shall be accepted for purposes of a group appeal.
- Sufficient interviews (one or more) with the participating inmates or parolees shall be held to clarify the issue under appeal.
- At each level of review, a response shall be attached to the CDCR Form 602 and returned to the appellant who shall then share the response with all inmates or parolees who signed the CDCR Form 602-G.
- If the inmate or parolee submitting the group appeal is transferred, released, or requests withdrawal from the appeal, the response shall be addressed to the next name on the CDCR Form 602-G, who shall then share the appeal response with the other group appellants.
- Group appeals shall not be cancelled at the request of the original individual appellant unless all of the inmate or parolee signatories are released, transferred, or agree to withdraw the appeal.
- A group appeal shall not be accepted or processed if the matter under appeal requires a response to a specific set of facts (such as disciplinary and staff complaint appeals) which are not the same for all participants in the appeal. In such case, the group appeal shall be screened out and returned to the original appellant with direction to advise all those who signed the CDCR Form 602-G to submit individual appeals of their separate issues.
- An inmate or parolee who signs a group appeal is ineligible to submit a separate appeal on the same issue.
- A group appeal counts toward each appellant's allowable number of appeals filed in a 14 calendar day period.

#### **54100.7.1 Multiple Appeals of the Same Issue**

Instances where a number of inmates or parolees have independently of each other filed an identical appeal regarding the same issue arising from similar circumstances will be considered multiple appeals of the same issue.

- The original (initial or first) appellant and, as needed for clarification of the matter or issue, one or more other inmates/parolees concerned shall be interviewed, and a response given to the inmate or parolee who filed the initial appeal.
- This initial appeal response will serve as a template for all other responses to the same issue.

A statement shall be included in the initial response indicating that the appeal has been designated one of multiple identical appeals and a common response is being distributed to each appellant.

- This appeal response shall be given to each inmate/parolee with the recipient's name and identification number substituted and shall state that one or more appellant was interviewed regarding the issue.
- All multiple appeals shall be individually logged. Any appeal of the same, identical issue received subsequently shall be identified as a multiple appeal in the response which shall reference the original interview date(s) and redact information that would identify other appellants individually.
- An unrelated appeal issue submitted in conjunction with a multiple appeal of the same issue is subject to processing as an individual appeal separate from the multiple appeal topic.

#### **54100.8 Supporting Documents**

Prior to the submission of an appeal to the appeals coordinator, the inmate or parolee shall obtain and attach all supporting documents necessary for the substantiation, clarification and/or resolution of his or her appeal issue.

- The inmate or parolee shall not delay submitting an appeal within time limits established in DOM 54100.16. If unable to obtain supporting documents, he or she shall submit the appeal with all available

supporting documents and provide in Part B of the CDCR Form 602 an explanation why any remaining supporting documents are not available.

- The time limits for filing an appeal are not stayed by failure to obtain supporting documentation.
- Failure to attach all necessary supporting documents may result in the appeal being rejected as specified in CCR Title 15 §3084.6/DOM §54100.11. The appeals coordinator (or when appropriate, third level Appeals Chief) shall in such circumstances inform the inmate or parolee that the appeal is rejected because necessary supporting documents are missing. The appellant shall be allowed an additional 30 calendar days to secure any missing supporting documents and resubmit the appeal.
- The appeals coordinator may grant additional time extensions beyond the initial 30 calendar day extension if the inmate or parolee submits a reasonable explanation why the supporting documents still are not available.
- Appellants shall not attach copies of previously processed appeals as supporting documents to the present (current) appeal, except when appealing a previously cancelled appeal or when expressly requested by the appeals coordinator. The appeals office shall clearly stamp as "attachment" any appeals form (Form 602, 602-A or 602-G) submitted as an exhibit under these circumstances.

Supporting documents include, but are not limited to, the inmate's or parolee's copy of the following:

#### **Disciplinary**

- An appeal of an administrative or serious disciplinary action requires as supporting documentation the completed CDC Form 115, Rules Violation Report (RVR).
  - A disciplinary action is not considered complete until all processing requirements including the hearing, postponement, and any re-hearing are completed as evidenced by the signature of the Chief Disciplinary Officer (CDO).
  - The date that the final RVR copy is issued to the appellant shall serve to establish the time limits for filing an appeal of the RVR, not the date of the disciplinary hearing.
- An appeal of a CDC Form 128-A, Custodial Counseling Chrono requires a CDC Form 128-A to be submitted as a supporting document.

#### **Classification**

- An appeal of a classification committee action requires as supporting documentation the CDC Form 128-G, Classification Chrono, reflecting the committee's action under appeal. If the committee's action did not include a referral to the Classification Services Representative (CSR), the date of the committee's action shall serve to establish the time limits for filing an appeal.
- An appeal of a classification committee action that requires CSR endorsement or decision including, but not limited to, affixing a suffix or assessing an administrative determinant, shall include the CDC Form 128-G reflecting the CSR's endorsement or decision. The date of the CSR's endorsement or action shall serve to establish time limits for filing an appeal.
- An appeal of a classification committee action recommending transfer to another facility, prison, or program requiring CSR endorsement or decision, shall include as a supporting document, the CDC Form 128-G reflecting the CSR's endorsement or decision. The filing of an appeal of a transfer endorsement/decision shall not normally be cause to stay or delay the transfer except in extraordinary circumstances and at the discretion of the Warden or designee.

#### **Parole**

- An appeal of conditions of parole, including special conditions, requires as supporting documentation the inmate/parolee's CDCR Form 1515, Notice and Conditions of Parole. A verified copy of the original Notice and Conditions of Parole shall be accepted by the appeals coordinator in place of the parolee's copy.
- An appeal of county of last legal residence may be submitted within 30 calendar days following the inmate's receipt of the CDCR Form 611, Release Program Study, which is completed and returned to the institution/facility by the parole region.

#### **Mail**

- An appeal of disallowed/disapproved mail, magazine, or publication shall include as a supporting document the CDCR Form 1819, Notification of Disapproval-Mail/Packages/Publications, which is



received by the inmate informing him or her of the disapproval of the mail, magazine, or publication under appeal.

### Property

- An appeal of a property issue resulting from a cell/dorm/room search shall include the search receipt as a supporting document.
- An appeal of a property issue arising from the inmate's placement in segregated housing shall include a copy of the CDCR Form 1083, Inmate Property Inventory, reflecting staff's inventory of the inmate's property at the time of his/her placement in segregated housing.
- An appeal of a property issue arising from the inmate's transfer shall include a copy of the CDCR Form 1083 from the sending institution which reflects staff's inventory of the inmate's property in preparation for the inmate's transport/transfer, and a copy of the CDCR Form 1083 provided to the appellant at the time of receipt of his/her property at the receiving institution.

### CDCR Form 22

- The original of the CDCR Form 22, Inmate/Parolee Request for Interview, Item, or Service, processed through the supervisory level pursuant to CCR Title 15 §3086 need not be included as supporting documentation in the following appeal instances:
  - Classification committee actions.
  - Classification Staff Representative endorsements/decisions.
  - Disciplinary rules violations.
  - Emergency appeals.
  - Involuntary psychiatric transfers to state hospitals or Department of Mental Health Facilities.
  - Staff complaints.
  - CALPIA Health or Safety complaints.
  - Any appeal wherein the appeals coordinator determines that the appellant's submittal of a CDCR Form 22 is unwarranted and/or would not contribute to the outcome of the appeals process.
- An inmate or parolee who intends to file an appeal shall not delay in filing the appeal if the written request process is not yet complete. The inmate or parolee shall note on the CDCR Form 602 that a response is pending at the time of the appeal submission.
- If a completed CDCR Form 22 is essential for further appeal processing but not yet available to the appellant, the appeals office shall date stamp the appeal and reject it for missing documentation. However, the appellant will have met time constraints pending subsequent receipt and attachment of the pertinent CDCR Form 22.
- In the event the completed CDCR Form 22 is not received by the appellant within 30 days of the appeal being rejected by the appeals office, the inmate or parolee shall send the appeal to the appeals office and request processing without the form. The appeals office may grant an additional extension if receipt of the form appears likely or process the appeal without such documentation.

### 54100.9 Appeal Procedure Abuse and Restriction

Excessive and fraudulent filings overload the appeals system, disrupt the orderly and timely processing of appeals and thereby deprive the Department of its ability to exercise due diligence. Therefore, misuse or abuse of the appeals process may lead to appeal restriction as described in this section. The appeals coordinator shall have the discretion to take specific action when it is deemed that:

- An inmate or parolee submits more than one appeal for initial review within a fourteen (14) calendar day period, unless the inmate or parolee is submitting an emergency appeal or the appeal has been accepted due to exceptional circumstances as determined by the appeals coordinator or the third level Appeals Chief. The 14 day period shall commence on the day following the appeals office's date stamp of the appellant's last accepted appeal.
- Appeals previously cancelled pursuant to CCR §3084.6(c)/DOM §54100.11 are repeatedly submitted by the same complainant(s).
- The appeal submission contains information the appellant knows to be false or consists of a deliberate attempt at distorting the facts.
- Appeals containing threatening, grossly derogatory, slanderous, or obscene statements and/or organic contamination is included in or makes up any part of the appeal package.
- The description of the problem and/or requested action exceeds the space provided on the Inmate/Parolee Appeals form series.

- The appeal is repeatedly filed contrary to clear and explicit previous instructions. A resubmitted rejected appeal that does not comply with appeals coordinator instructions for correction shall, in addition to not being processed, be subject to confiscation.

When an inmate or parolee submits appeals described above:

- The first appeal received shall be screened for routine processing.
- All subsequent non-emergency appeals submitted by that individual shall be screened and the appeals coordinator shall document any abuse as evidenced by the screening results.

### Warning Letter

- If an inmate or parolee continues to submit excessive, demonstrably false, noncompliant or abusive appeals, he or she shall receive a warning letter from the appeals coordinator documenting the history and nature of appeal system abuse.
- If the abuse of process continues after the issuance of a warning letter, the appeals coordinator shall meet with the inmate or parolee in a timely manner before imposition of any restriction to provide instruction in the appropriate use of the appeals process and to rule out any unintended basis for non-compliance. If a face-to-face meeting with the appeals coordinator is not possible, an agent acting on behalf of the appeals coordinator shall conduct the meeting.
- Excessive, demonstrably false, noncomplaint or abusive appeals submitted by an inmate or parolee after the issuance of a warning letter shall be subjected to screening by the appeals coordinator to ensure they do not contain qualifying urgent or emergency issues.
  - An appeal found to contain emergency issues, as described in Section 51100.20, shall be processed as an emergency appeal.
  - If no such issue is determined to be present, the appeal shall be retained by the appeals coordinator pending placement of the appellant on appeal restriction by the third level Appeals Chief.
  - The appellant shall be informed in writing why the appeal constitutes abuse of process and informed that the appeal processing has been suspended pending determination of appeal restriction status.

### Appeal Restriction

- If the appeal abuse continues after the issuance of a warning letter and a face-to-face meeting, the inmate or parolee is subject to appeal restriction.
  - The appeals coordinator shall notify the third level Appeals Chief describing the individual's abuse of the process and requesting placement of the inmate or parolee on appeal restriction.
  - The appeals coordinator shall advise the third level Appeals Chief in writing of the extent and frequency of the abuse and the corrective steps which have been taken, including issuance of a warning letter and date of face-to-face meeting(s).
  - Any appeal submitted by the inmate or parolee after abuse has been identified but prior to a decision being rendered by the third level Appeals Chief shall be processed in accordance with the "Not Processed" protocol above, including screening to ensure bona fide emergency issues are appropriately identified for processing.
- Upon determination of continued abuse and verification that a face-to-face interview and warning letter have occurred, the third level Appeals Chief shall have the discretion to authorize preparation of a notice by the Appeals Coordinator restricting the inmate or parolee to one non-emergency appeal every 30 calendar days for a period of one year effective the date of the notice.
  - At the time a determination is made regarding imposition or non-application of appeal restriction, any prior appeal retained by the appeals coordinator in accordance with the provisions set forth above shall be returned to the appellant stamped "Not Processed."
  - An imposed appeal restriction shall remain in effect for the period specified when the appellant is returned from parole or transfers to another facility. Parolees are subject to continuing restriction initiated by the institution, subject to review and ratification by the third level Appeals Chief.
  - Any subsequent violation of the appeal restriction shall result in an extension of the restriction for an additional one-year period upon approval by the third level Appeals Chief.
- Upon the decision of the third level Appeals Chief to impose an appeal restriction, any appeal returned to the appellant marked "not processed"

may only be later resubmitted by the inmate or parolee in accordance with the terms of his or her appeal restriction and in conformance with the timeframes and practices set forth in this article (The original submittal date of the appeal may serve, under exceptional circumstances, to satisfy filing time requirement).

- Upon a decision by the third level Appeals Chief to **not** place the inmate or parolee on appeal restriction, any retained appeal returned to the appellant and marked “not processed” may be resubmitted by the appellant in accordance with the standard submittal requirements set forth in this article except that the appellant’s original submittal date of the appeal may serve to satisfy filing time requirements.

#### 54100.10 Screening and Managing Appeals

The appeals coordinator or a delegated staff member under the direct oversight of the appeals coordinator shall be responsible for ensuring that each appeal has been screened and categorized in compliance with this article and shall coordinate the processing and logging of appeals. These be exercised in any manner that would place unreasonable restraints on the inmate’s or parolee’s right to appeal.

- When it is determined that an appeal will not be accepted an Inmate/Parolee Screening Form, CDC Form 695, preprinted or automated version, shall be completed, attached to the CDCR Form 602 and returned to the inmate or parolee.
- Appeals received describing staff behavior or activity in violation of law, regulation, policy, or procedure or appearing contrary to an ethical or professional standard that could be considered misconduct within the 15 CCR §3084(g)/DOM §54100.25 definition, whether specifically alleged or not, shall be processed pursuant to the Staff Complaint provisions of this article to determine appropriate disposition.
- The appeals coordinator shall use the automated Inmate Appeals Tracking System (IATS) or equivalent system approved by the third level Appeals Chief which designates a log number for each appeal accepted.
- The IATS shall contain the assigned appeal log number, name and number of the inmate/parolee appellant(s), date received, level of review, name of person designated reviewer, due date, date of written notification to inmate/parolee on late response, date completed at each level of review, and decision reached.
- Accepted appeals shall be assigned for response within five working days of receipt from the inmate or parolee.
- The receipt date shall be stamped each time the appeal is received by the appeals coordinator and recorded in IATS (or equivalent).
- The IATS will be updated on an ongoing basis so as to establish a complete and official departmental record.
- Rejected/cancelled appeals shall be tabulated for reporting purposes.

#### 54100.11 Reasons for Rejection, Cancellation, and Withdrawal of Appeals

Appeals may be rejected, cancelled or withdrawn:

- A **rejected** appeal is one that the appeals coordinator or third level Appeals Chief has returned to the appellant with instructions to correct a deficiency. Clear and sufficient instructions regarding further actions the appellant must take to qualify the appeal for processing shall be provided.
- A **cancelled** appeal is one that the appeals coordinator or third level Appeals Chief has returned to the appellant without response to the specific appeal issue and is considered closed with the appellant having not exhausted administrative remedies.
- An inmate or parolee may **withdraw** an appeal by requesting to have the processing stopped at any point up to receiving a signed response. It shall be at the discretion of the appeals coordinator or third level Appeals Chief whether an appellant’s request to withdraw an appeal shall be accepted.

Erroneous acceptance of an appeal at a lower level does not preclude the next level (inclusive of the third level of review) from taking appropriate action, including rejection or cancellation of the appeal.

Under exceptional circumstances any appeal may be accepted if the appeals coordinator or third level Appeals Chief concludes that the appeal should be subject to further review. Such a conclusion shall be reached on the basis of compelling evidence or receipt of new information such as documentation from health care staff that the inmate or parolee was medically or mentally incapacitated and unable to file. Likewise, failure to conform to or to comply with any submission requirement (such as mandatory use of ink) shall be excused if the appellant is unable to comply due to reasons beyond their

control at the time the appeal is written.

#### Rejection

The appeals coordinator may reject an appeal for any of the following reasons, which include but are not limited to:

- The appeal concerns an anticipated action or decision. This includes the premature filing of an appeal without first bringing an issue to the attention of staff so that an action can be taken or a decision rendered.
- The appellant has failed to demonstrate a material adverse effect on his or her welfare (see 15 CCR §3084(c)/DOM §54100.4).
- The allowable number of appeals filed in a 14 calendar day period has been exceeded contrary to 15 CCR §3084.1(f)/DOM §54100.9.
- The appeal makes a general allegation, but fails to state the facts or identify an act or decision consistent with the allegation. “General” allegation means an allegation that lacks the specificity or factual evidence necessary to support the statement in question.
- The appeal contains threatening, obscene, demeaning, or abusive language and/or organic contamination is included in or makes up any part of the appeal package. Appeals submitted with hazardous or toxic material that present a threat to the safety and security of staff, inmates, or the institution may subject the appellant to disciplinary action and/or criminal charges commensurate with the specific act.
- The inmate or parolee has not submitted his or her appeal on the departmentally approved forms.
- Contrary to printed form instructions, the inmate or parolee has submitted more than one CDCR Form 602 or CDCR Form 602-A. The appeals coordinator has the discretion to authorize one or more additional pages in an acceptable format upon compelling evidence that the appellant cannot coherently describe the issue or the relevant facts in the allotted space.
- Requirements respecting original copy, font size, allotted space, numbers of pages, dividers and tabs etc., set forth in the “appeal preparation” section of this article have not been met or the appeal documentation is defaced. For example, the inmate or parolee has not submitted his/her appeal printed legibly in ink or typed on the lines provided on the appeal forms no smaller than a 12-point font or failed to submit or has defaced original copy with drawings or obscenities. Attaching dividers or tabs to the appeal forms and/or supporting documents is also unacceptable because it impedes appeal processing.
- The appeal is incomplete with regard to required signatures, dates or other identifying details or use of required attachments. For example, the inmate or parolee has not provided a signature, date, or other identifying information in the designated areas provided on the appeal form or, as 15 CCR §3084.3/DOM §54100.8 requires, the supporting documents necessary for the clarification and/or resolution of the appeal issue are missing.
- The appeal is incomprehensible and/or the issues are obscured by pointless verbiage or voluminous unrelated documentation such that the reviewer cannot be reasonably expected to identify the issue under appeal.
  - Exercise caution not to screen out appeals submitted by inmates or parolees who have difficulty in expressing themselves in writing or whose primary language is not English.
  - When it is determined the inmate or parolee is having such difficulty, a personal interview with the appellant shall be directed by the coordinator to assist them in filing the appeal.
  - Refer to DOM §54100.8 as necessary for clarification of the document attachment requirements.
- The problem, issue, or event constituting the basis for grievance cannot be understood as submitted and the reviewer cannot reasonably identify the matter in question and/or the basis for appeal.
- The appeal involves multiple issues that do not derive from a single event, or are not directly related and which cannot be reasonably addressed in a single response due to this fact.
- Unrelated issues have been combined on a single appeal form for the purpose of circumventing filing process requirements.
- The inmate or parolee has submitted the appeal for processing at an inappropriate level; bypassing required lower level(s) of review, e.g., submitting an appeal at the third level prior to lower level review.
- The appeal issue or complaint emphasis has been changed at some point in the process to the extent that the issue is entirely new, and the required lower levels of review and assessment have thereby been circumvented.

This includes instances where the issue and/or requested action has been changed from that described originally in Parts A and B of the CDCR Form 602.

When rejecting an appeal, a CDC Form 695, Inmate/Parolee Appeals Screening Form, shall be completed and sent to the appellant noting the reason for the rejection.

- The CDC Form 695 shall also provide clear instruction regarding further action(s) the appellant must take to qualify the appeal for acceptance.
- If the appellant is identified as requiring assistance in filing the appeal that assistance shall be provided before processing the CDC Form 695.

An appeal that is rejected may later be accepted if the reason(s) noted for rejection are corrected and the appeal is re-submitted within 30 calendar days from the date of rejection. As the appellant has the ability to resubmit a rejected appeal, appeals of a rejected appeal will not be accepted.

#### **Cancellation**

The appeals coordinator may cancel an appeal for any of the following reasons:

- The action or decision being appealed is not within the jurisdiction of the Department.
- The appeal duplicates an inmate or parolee's previous appeal upon which a decision has been rendered or is pending.
- The inmate or parolee continues to submit a rejected appeal while disregarding appeal staff's previous instructions to correct the appeal, including failure to submit necessary supporting documents, unless the inmate or parolee provides in Part B of the CDCR Form 602 a reasonable explanation of why the correction was not made or documents are not available.
- Time limits for submitting or correcting and returning a rejected appeal are exceeded even though the appellant had the opportunity to file within these prescribed time constraints.
  - In determining whether the time limit has been exceeded, the appeals coordinator shall consider whether the issue being appealed occurred on a specific date or is ongoing.
  - If the issue is ongoing—such as, but not limited to continuing lockdowns, retention in segregated housing, or an ongoing program closure—the inmate/parolee may appeal any time during the duration of the event. The inmate/parolee is precluded from filing another appeal on the same issue unless a change in circumstances creates a new issue.
- The appeal is filed on behalf of another inmate or parolee.
- The issue is subject to a review independent of the appeal process such as a Departmental Review Board (DRB) decision which is not subject to appeal and concludes the inmate or parolee's administrative remedies on classification issues pursuant to the provisions of 15 CCR §3376.1/DOM §62010.10.
- The appellant is deceased before the timeframes for responding to an appeal have expired and the appeal is not a group appeal.
- The appellant refuses to be interviewed or cooperate with the reviewer.
  - The appellant's refusal to be interviewed or to cooperate with the reviewer shall be clearly articulated in the cancellation notice and the appellant given an opportunity to explain the reason for the failure or refusal.
  - If the appellant provides sufficient evidence to establish that the interviewer has a bias regarding the issue under appeal, the appeals coordinator shall assign another interviewer.
- The presented appeal is on behalf of a private citizen.
- Failure to correct and return a rejected appeal within 30 calendar days of rejection.
- The issue appealed has been fully resolved at a previous level or as determined by the appeal coordinator or the third level Appeals Chief. In such cases, the appeals coordinator's or third level Appeals Chief's rationale for concluding or determining that the appeals issue has been fully resolved shall be provided.
- All members of a group appeal have been released, transferred or are no longer subject to the conditions giving rise to the appeal.

Once cancelled, the appeal may not be resubmitted unless there is a determination by the appeals coordinator or third level Appeals Chief (when cancellation was made at the third level) that the cancellation was made in

error or new information is received which causes the appeals coordinator or Chief to conclude that the appeal should be subject to further review.

- The appeals coordinator or the Chief has the discretion to waive a cancellation requirement if, in their opinion, such application would deny review of an issue that could result in extraordinary and serious irreparable harm or loss.
- When an appeal is cancelled, the inmate or parolee may file a separate appeal if they believe the screening policy or the application of the screening policy by the appeals coordinator was inappropriate. The new appeal shall include the original CDCR Form 602 as an attachment to facilitate the review of the original cancellation decision.
- The new appeal shall address only the cancellation decision, not the issue(s) raised in the original appeal.

Upon determination that the original appeal was inappropriately cancelled, the appellant will be allowed to resubmit the original appeal for processing in accordance with the filing requirements of this article.

#### **Withdrawal**

An inmate or parolee may withdraw an appeal by completing the appropriate section of the CDCR Form 602 stating his or her reasons for the withdrawal accompanied by a dated signature. If a withdrawal is conditioned upon an express promise of relief noted in writing at the time of withdrawal and the promised relief is not provided, the matter may be re-submitted within 30 calendar days of the failure to grant the relief promised.

- The withdrawal of an appeal does not preclude further administrative action by the Department regarding the issue under appeal.
- A withdrawn staff complaint shall be returned to the hiring authority for determination of further administrative action.
- Group appeals shall not be withdrawn at the request of the primary appellant unless all of the signatories agree to withdraw the appeal.

#### **54100.12 Referral for Review**

After logging an appeal, the appeals coordinator shall assign the appeal for first or second level review as appropriate. Time limits for reviewing appeals shall commence the day following the date of receipt of the appeal form by the appeals office. An appeal response shall not be assigned to any staff member who participated in the action, decision, determination, or review being appealed. Another appropriate person at the same or higher level shall be assigned this responsibility instead.

This does not preclude the following:

- The use of staff to research the appeal issue(s) who are at a lower level than the staff whose actions or decisions are being appealed.
- The involvement of staff who may have participated in the event or decision being appealed, but whose involvement with the appeal response is necessary to determine the facts or provide an administrative remedy, as long as the staff person is not the reviewing authority for the appeal and/or their involvement in the process would not reasonably be expected to compromise the integrity or outcome of the process.

Staff at an Associate Warden or Parole Administrator level shall review and sign off on first level decisions, and the hiring authority (Warden, Regional Parole Administrator, etc.) or designee shall review and sign off second level decisions.

#### **54100.13 Levels of Review**

Because the appeal process provides for a systematic review of inmate and parolee grievances and is intended to afford a remedy at each level of review, administrative remedies shall not be considered exhausted until each required level of review has been completed. Cancellation or rejection decisions also do not exhaust the administrative remedies available. As used in this article, "reviewer" means the individual with signature authority for the approval or disapproval of an appeal response completed or drafted at any level.

The appeal process shall consist of three levels of review; the first and second levels are normally reviewed at the institution or parole region, and the third level review occurs at the Department Secretary's level. Third level review shall consist of an evaluation of decisions relative to an appeal including all supporting documentation and modification orders (see DOM §54100.17) issued at the first, second or third level. For each subsequent level of review, the inmate or parolee shall submit the original CDCR Form 602 (and, as necessary, the Inmate/Parolee Appeal Form Attachment, CDCR Form 602-A), with supporting material and explanation stating, in detail, the reason(s) for his or her dissatisfaction with or disagreement with the reviewer's response.

##### **54100.13.1 First Level**

All appeals shall be initially filed and screened at the first level unless the first

level is otherwise waived. In the institution, the appeals coordinator shall determine the nature of the problem and assign the appeal to the appropriate division head. In the parole division, the regional appeals coordinator shall determine the nature of the problem and assign the appeal to the appropriate administrator. The appeal issue shall be reviewed, the appellant interviewed (see DOM §54100.14), and a response prepared for the division head's review and signed approval. If the appeal is denied at first level, it then may be appealed at the second level.

#### **First Level Bypass**

The appeals coordinator may bypass the first level for appeals of:

- A policy, procedure, or practice implemented by the institution head.
- A policy, procedure, practice or rule implemented by the Department.
- An issue that cannot be resolved at the division head's level.
- Serious disciplinary infractions.

#### **54100.13.2 Second Level**

Second level is for review of appeals denied at the first level or for which first level review has been bypassed. The second level shall be conducted by the hiring authority, not to be delegated below the level of Chief Deputy Warden, Deputy Regional Parole Administrator, or the equivalent. If the appeal concerns a department-wide policy, rule, practice or procedure, and the first level review therefore bypassed, the second level shall include an interview with the inmate or parolee.

The second level must be completed except for Psychiatric Transfer appeals (see DOM §54100.22), or when appeals are filed directly with the Third Level (such as a complaint about Third Level appeals staff or appeals of a cancellation decision made by the Third Level).

#### **54100.13.3 Third Level**

The third level constitutes the Department Secretary's decision on an appeal, and shall be conducted by a designated representative of the Secretary under the supervision of the third level Appeals Chief. The third level of review exhausts administrative remedies; however, this does not preclude amending a finding previously made at the third level. Administrative remedies shall not be considered exhausted relative to any new issue, information or person later named by the appellant that was not included in the originally submitted CDCR Form 602 and addressed through all required levels of administrative review (up to and including the third level, unless the third level of review is waived by regulation).

#### **54100.14 Interviews**

In order to provide the appellant the opportunity to clarify his or her issue(s) and the reviewer to ask questions, at least one face-to-face interview with the inmate or parolee shall be conducted at the first level of review, unless:

- The inmate or parolee waives the interview by initialing the appropriate box on the CDCR Form 602. An appellant's waiver of the interview shall not preclude staff from conducting an interview in the event of a staff determination that an interview is necessary.
- The first level review is bypassed, in which case a personal interview will be conducted at the second level unless waived by the inmate on the CDCR Form 602.
- The appeal is a request for a Computation Review Hearing in which case the initial interview shall occur at the second level of review.
- The reviewer has decided to grant the appeal in its entirety.
- The appellant is not present at the institution or parole region where the appeal was filed.
  - In such case, a telephone interview with the appellant shall meet the requirement of a personal interview.
  - The response must note that the interview was conducted by telephone, explain the extraordinary circumstances that required it, and state why a face-to-face interview was not possible under the circumstances described.
  - If the appellant is not available for a telephone interview, the reviewer may request that an employee in that jurisdiction where the appellant is located conduct the interview on behalf of the appeal coordinator and provide a report.
  - If the appeal concerns a disciplinary action and the appellant has transferred, the telephone interview may be waived if the appeals coordinator determines an interview would not provide additional facts.

Regardless of any inmate waiver, if additional clarification is needed, interviews may be conducted at the first or any subsequent level of review when the appeals examiner determines that the issue under appeal requires

further clarification.

- In addition, one or more of the participating inmates/parolees shall be interviewed as necessary to clarify issues when group or multiple appeals are processed.
- Interviews may be conducted at the third level as necessary to obtain information not elicited at lower levels or to clarify the appeal issue(s), when the first and second level has been bypassed.

#### **54100.15 Written Response**

At each level not bypassed, the original appeal shall be returned to the appellant with a written response providing the reason(s) for the decision. Responses shall be provided in letter or memo format and attached to the CDCR Form 602 submitted by the appellant. Each written response shall contain the appellant's name, departmental identification number, the appeal log number, level of review, and the name of the reviewer and interviewer. The written response shall accurately describe the matter under appeal and fully address the relief requested. Responses shall be objective and professional, and shall provide a reasonable finding in light of the facts and arguments presented. If the decision is a partial grant of the appellant's requested action(s), the response shall clearly state which action(s) or relief has been granted, granted in part, or denied, and shall also state the action taken.

#### **54100.16 Fixed Time Limits**

In order to afford a timely review, the appeal shall be filed within 30 calendar days of the occurrence of the event or decision being appealed or of the inmate or parolee's knowledge of the action or decision being appealed, or of receiving an unsatisfactory response to an appeal filed at the previous level, unless otherwise specified in this article. The acceptance, under exceptional circumstances, of an appeal beyond the 30 day policy is at the discretion of the appeals coordinator or third level Appeals Chief. The basis of this discretion shall be compelling evidence or receipt of new information, such as documentation from health care staff that the inmate or parolee was medically incapacitated and unable to file, supporting the conclusion that the appeal should be subject to further review.

All appeals shall be responded to and returned within the following time limits:

- First level responses shall be returned within 30 working days.
- Second level responses shall be returned within 30 working days.
- Third level responses shall be returned within 60 working days.

With regard to time frames for response processing, "day one" commences the next working day following receipt of the appeals form by the appeals office. Exceptions to the above time limits may be authorized by the appeals coordinator in the event of:

- Unavailability of the inmate/parolee, or involved witnesses.
- Complexity of the decision, action, or policy requiring additional research by responding staff.
- Necessary involvement of other agencies or jurisdictions.
- Reopening of a lower level decision at the direction of the third level.
- The normal time requirements for review and action on appeals has been suspended pursuant to a state of emergency as defined by 15 CCR §3383(c).

Except for the third level, if an exceptional delay prevents completion of the review within the specified time limits, the inmate or parolee shall be informed, in writing, of the reasons for the delay and estimated completion date.

#### **54100.17 Modification Orders**

A modification order is a formal instruction by the institution, parole region, or third level Appeals Chief directing a previous decision to be modified or reconsidered. Modification orders issued by the institution or the parole region at the first and second level shall be completed within 60 calendar days. Reasonable documented proof of completion of the modification order shall accompany the completed order, or a statement shall be added by the responder clarifying the action taken and why documentation is not available.

- If, due to extraordinary circumstances, the modification order cannot be completed within these time limits, staff responsible for compliance shall notify the appeals coordinator of the reason for delay and provide a projected date of completion. The appeals coordinator shall use this information to assign a new due date, and then enter this information in the tracking system.
- Staff responsible for complying with the modification order shall advise the appeals coordinator every 30 calendar days of the reason for delay and provide an updated projected completion date until the modification order is completed.

- All time constraints for an appellant to submit an appeal to the next level are considered postponed up to 120 days until completion of a previous level modification order.
- However, if the modification order is not completed after 120 calendar days of the initial issuance date, the appellant may submit the appeal to the next level for administrative review within 30 calendar days.

Modification orders issued at the third level shall be subject to the same time constraints as local modification orders, i.e. 60 calendar days.

- If it is not possible to comply within this timeframe, the institution or parole region shall notify the third level Appeals Chief in writing of the reason for the delay and provide a projected completion date.
- Updates on any delay shall be provided to the third level Appeals Chief every 30 calendar days.

Appellants shall be advised by the appeals coordinator of the reason for modification order delay and the anticipated date of completion.

- This process shall occur every 30 calendar days until the modification order is completed.
- Any third level appeal submission must occur within 30 calendar days of receiving a modified second level appeal response.

Upon completion of a third level modification order, the institution/parole region shall provide a proof of compliance memorandum to the third level Appeals Chief containing evidence of compliance with the name, signature and title of the person fulfilling the modification order. As necessary, a statement shall be added by the responder, clarifying the action taken.

If the appellant transfers prior to the completion of the modification order, the originally assigned institution or parole region shall retain responsibility for completion of the modification order.

In cases where a modification order is issued on an emergency appeal, the order shall specify the timeframe for the completion of the action granted. The appeals coordinator (if granted at the second level), and the third level Appeals Chief or designee (if granted at the third level), shall notify the hiring authority expeditiously of the emergency timeframe for completion of the granted action and confirm that notification was received.

#### **54100.18 Appeal Processing Responsibilities Involving Two Departmental Institutions/Regions**

When an inmate/parolee files an appeal at one institution or parole region, and is then transferred prior to the appeal response being completed, the sending institution/parole region shall continue to complete the response.

The receiving institution/parole region shall provide assistance as needed by the sending institution/parole region, including but not limited to coordinating and/or interviewing the appellant, to facilitate the timely completion of the appeal response.

- When an inmate/parolee has been transferred and files an appeal at the receiving institution or parole region of an action taken by the sending institution/parole region, the receiving institution or parole region shall date stamp the appeal and forward it to the sending institution/parole region for processing.
- When an inmate has been transferred and files an appeal concerning property loss or damage, the provisions of DOM §54100.23.2 shall apply.
- When an inmate has been transferred and is appealing a disciplinary action, the first level and, if applicable second level review, shall be conducted by the staff of the institution where the infraction took place. Interview(s) may be waived upon appeals coordinator determination that obtaining additional information will not affect the outcome of the appeal.

Interviews may be conducted by telephone pursuant to procedures set forth in DOM §54100.14.

Appeals on actions taken at contract facilities shall be handled by the institution or parole region responsible for the management of the facility, regardless of an emergency placement in an institution for security purposes.

Time limits on appeals forwarded to sending institutions/parole regions for response shall not commence until received by the responding institution/parole region.

#### **54100.19 Emergency Appeals**

An emergency appeal is defined as an urgent matter wherein disposition according to the regular time limits would subject the inmate or parolee to a substantial risk of personal injury, or cause other serious and irreparable harm to the inmate or parolee. Emergency appeals should not, however, be used by inmates or parolees as a substitute for verbally or otherwise informing staff of an emergency situation requiring immediate response.

Examples include but are not limited to:

- Threat of death or injury due to enemies or other placement concerns.
- Serious or imminent threat to health or safety.

The inmate/parolee shall clearly substantiate in writing the need for emergency handling of the appeal and send it directly to the appeals coordinator, who shall determine whether an emergency exists and so inform the inmate/parolee. The appellant shall also be notified in the event that the appeal does not satisfy the definition of an emergency, meets regular processing criteria, or is rejected for the specific reason(s) cited.

- If emergency processing is warranted, the first level shall be bypassed and the second level review shall be completed within five working days.
- If dissatisfied with the second level response, the appellant may resubmit to the appeals coordinator who shall electronically transmit it to, and confirm receipt by, the third level Appeals Chief for third level review.
- The third level review shall also be completed within five working days of receipt.

#### **54100.20 Appeal of Disciplinary Actions**

A disciplinary action is not considered complete until all processing requirements including the hearing, postponement and any re-hearing are completed as evidenced by the signature of the Chief Disciplinary Officer (CDO).

- A second level review shall constitute the Department's final action of appeals of disciplinary actions of a CDC Form 115, Rules Violation Report (RVR) classified as "administrative" (15 CCR §3314) and of Custodial Counseling Chronos (CDC Form 128-A) documenting minor infractions, and shall exhaust administrative remedies on these matters.
- The date of the final RVR copy issued to the appellant shall serve to establish time limits for filing an appeal of the RVR, not the date of the disciplinary hearing.
- Inmates who wish to exhaust their administrative remedies for serious disciplinary issues must appeal through the third level of review.

The appeal review, at the first and second levels, shall not be delegated to a rank lower than the person who audited the disciplinary under appeal.

Regardless of what issue an appellant may raise concerning his or her RVR, the reviewer shall determine whether all due process and procedural requirements were met. Each disciplinary appeal submitted by an inmate or parolee shall be reviewed on the basis of conformance with the provisions of the Penal Code, the California Code of Regulations Title 15, Division 3, Rules and Regulations of Adult Institutions, Programs and Parole, and Chapter 5 of the Operations Manual — Custody and Security Operations.

When the reviewer of a disciplinary appeal determines that there was an error in either the due process or procedural requirements, or determines that the disciplinary finding was not supported by a preponderance of evidence presented at the hearing, one of the following remedies shall be considered:

- The original disposition shall be vacated and the charges dismissed.
- The RVR shall be modified.
- Vacating the original disposition accompanied by a reissuance and rehearing of the charges.

When a disciplinary disposition is vacated or modified by appeal, the second level responder shall either direct that the RVR be removed from the inmate's C-File pursuant to 15 CCR §3326, or order that the changes as mandated by the appeal decision be made with appropriate annotations entered on file documents.

#### **54100.20.1 Dismissal of the Charges**

The original disciplinary disposition shall be vacated and the charges dismissed if the reviewer determines that any of the following circumstances apply or are evident:

- The finding was based on information that was later determined to be false or unsubstantiated and the remaining evidence is not sufficient to support the charge.
- There has been a significant lapse of time which makes it improbable, if not impossible, for the accused to present an adequate defense.
- Witnesses of significant import, either staff or inmates, are no longer available and their absence prevents the accused from presenting an adequate defense.

#### **54100.20.2 Modification of the RVR or of the Disposition**

The RVR normally shall be modified when all due process was afforded the appellant and errors identified during the review process are clearly minor or procedurally insignificant. Reasons for modifying the RVR include, but are not limited to:

- Clerical errors and typographical mistakes that have no bearing on the charge and do not inhibit the ability of the accused to understand the charge and present an effective defense
- Adding a notation to the RVR disposition to satisfy fundamental procedural requirements, including when the hearing failed to document the disposition of any contraband item or substance related to the RVR.

The disciplinary disposition shall normally be modified when all due process was afforded the appellant and the evidence presented supports an equal classification but different offense, a lesser included offense, the imposition of a mandated sanction or the removal of a disposition or sanction that was improperly imposed. When the classification of the RVR and/or the disposition is not consistent with the evidence presented for which the appellant was found guilty, the following remedies shall be considered:

- If the RVR is classified higher than required for the specific act, the division shall be corrected and the assessed credit forfeiture shall be modified to within the range allowed for the corrected division.
- If the RVR is classified correctly, but the assessed credit forfeiture was greater than that allowed for that division, the assessed credit forfeiture shall be reduced to within the range allowed for that division.
- If the RVR is correctly classified, but the assessed credit forfeiture was less than that allowed for that division, the assessed credit forfeiture shall be reduced to zero.
- If the RVR is classified lower than that required for the charged offense, the division shall be corrected and the assessed credit forfeiture shall be reduced to zero.
- If the hearing official imposed a disposition or sanction (other than credit loss) that was not authorized by regulation, the unauthorized disposition and/or sanction shall be rescinded.
- If the hearing official imposed the incorrect level of a disposition or sanction (other than credit loss) than that mandated by regulation, the disposition and/or sanction shall be corrected. Such impositions shall be calculated from the date of the RVR hearing or when they should have been imposed pursuant to law or regulation.

#### **54100.20.3 Rehearing of the Charges**

The original disposition shall be vacated and a new hearing ordered if the reviewer determines that any of the following circumstances apply or are evident:

- The accused was not given copies of required documents within specified time limits before the hearing and did not waive the time limits.
- The appellant requested but was not allowed to review a videotape or photographic evidence at least 24 hours prior to the hearing (or within 24 hours of the hearing if he or she waived the 24 hour period).
- The charge was based upon confidential information and the accused was not given a copy of the CDC Form 1030, Confidential Information Disclosure
- Confidential information was used and the disciplinary finding did not address the reliability of the source and the validity of the information.
- The disciplinary hearing officer failed to articulate the reasons for finding the accused guilty, the evidence relied upon to make the disposition, or failed to note the reasons why the reporting employee or witness was not present or the reason(s) why time constraints were not met.
- The accused was inappropriately denied witnesses or denied witness statements or testimony which would have contributed to the accused's defense.
- The senior hearing officer and the accused stipulated to what the witness testimony would be and waived the requested witness' presence at the hearing, but the stipulation was not documented in the hearing portion of the RVR.
- Failure to obtain and document the appellant's waiver of the reporting employee's presence at the disciplinary hearing, when the appellant previously requested the reporting employee's attendance.
- The reasons why the hearing was postponed beyond time constraints or the reasons for denying the appellant's written request for postponement have not been provided, or if provided, are unsound and unsupportable.
- Failure to document the justification, consistent with regulatory expectations, of why the hearing was suspended.
- The accused was not allowed to speak or present documentation in their own defense or the hearing officer failed to articulate the defendant's statement made at the time of the hearing in the body of the RVR.
- The accused was not assigned a staff assistant or language interpreter if

required.

- An investigative employee (IE) was not assigned if required or the IE did not properly carry out their duties, and it appears that such an investigation was needed.
- A staff assistant did not properly perform his or her required duties or did not meet with the appellant at least 24 hours prior to the RVR hearing.
- The hearing official engaged in activities that would lead to a predetermined belief on their part with respect to the appellant's guilt or innocence relative to the matter in question.

#### **54100.20.3.1 Holding the Rehearing**

A decision to order the rehearing of disciplinary charge functions to void the disposition of the RVR being appealed. When a disciplinary charge is ordered reheard, a new RVR shall be written and processed.

- The disciplinary time constraints for holding a rehearing shall begin on the date the CDO orders a rehearing and shall conform to those for original processing, except when an inmate/parolee is being returned to a facility for a disciplinary rehearing, the time constraints shall begin upon the inmate/parolee's return to that facility.
- The circumstances section of the RVR shall indicate that the RVR is a re-issue resulting from a CDO's order to correct a noted deficiency. The statement shall include the date of the order.
- When a disciplinary action is ordered reissued and reheard, the original disciplinary disposition shall be vacated and no longer have effect. Any appeal of the original disciplinary disposition shall be cancelled unless there are other issues that are not resolved by the dismissal and rehearing of the original charge. If the appeal contains other issues not directly arising from the disciplinary action, those issues shall be addressed while noting that the disciplinary issues will not be addressed.

#### **54100.20.3.2 Time Limits**

Time limits for holding a rehearing shall conform to those specified in 15 CCR §3320 for processing the original charge.

#### **54100.20.3.3 Notifications**

If the inmate remains at the institution where the behavior causing the original charge occurred, the appeals coordinator shall ensure that responsible staff are notified of the rehearing order and reasons for the rehearing. The notification shall be in writing and shall be conveyed to staff responsible for conducting the rehearing.

#### **54100.20.3.4 Classification and Parole Representative (C&PR) Collaboration**

If the inmate has been transferred, and the decision is to have him or her returned for the hearing, the appeals coordinator shall be responsible for notifying the institutional C&PR of said decision.

- The institutional C&PR shall arrange with the other location, where the inmate resides, for the inmate's case to be reviewed by the CSR for endorsement and prompt return to afford staff the opportunity of a timely hearing of the RVR.
- Time constraints for conducting a rehearing under these circumstances shall not begin until the inmate has been returned to the institution where the hearing will be conducted.

If the inmate has been transferred and the decision is made not to have him or her returned for the hearing, the C&PR working with the facility that issued the disciplinary charges shall arrange for all necessary documents to be sent to the receiving institution to facilitate the disciplinary hearing within time constraints and one of the following shall occur:

- Staff at the receiving institution shall hear the disciplinary report and afford the appellant access to witnesses via a speaker phone or its equivalent or
- Staff from the institution that issued the disciplinary report shall travel to the receiving institution and conduct the hearing providing for witnesses via speaker phone or its equivalent.

#### **54100.21 Transfer Appeals**

A decision for transfer to another institution or facility may be appealed by the affected inmate after endorsement by the Classification Staff Representative (CSR). The filing of an appeal by the inmate shall not routinely stay or delay the pending transfer except in extraordinary circumstances and at the discretion of the Warden or designee.

- For appeals of regular transfer endorsements:
  - The first level review is waived.
  - If the appeal is granted at the second level, the appellant's case

shall be presented to a second CSR for reconsideration.

- If the second CSR disagrees with the institution's decision, the institution head may submit the case to the Department Review Board (DRB) for final decision.
- If the appeal is denied at the second level, or the institution head does not refer the case to the DRB, the inmate/parolee may appeal to the third level.
- For appeals of reception center transfers:
- First level review shall be conducted by reception center staff at the level of correctional administrator.
  - If the appeal is granted, the inmate/parolee may be retained at the reception center until the case is presented to a second CSR only if the proposed transfer poses a threat to the health or safety of the appellant.
  - If the second CSR disagrees with the first level appeal decision, the inmate/parolee may resubmit the appeal for second level review.
  - Second level review shall be conducted by the institution head, who may retain the inmate/parolee at the reception center as a second level review action and refer the appeal to the DRB for resolution. The DRB's decision shall constitute final review.

#### **54100.22 Psychiatric Transfer Appeals**

An inmate who is involuntary transferred to the California Medical Facility (CMF)—Department of Mental Health, Atascadero State Hospital, Patton State Hospital, Coalinga State Hospital or Salinas Valley Psychiatric Program for psychiatric reasons may appeal that action, utilizing a CDCR Form 602 directly to the third level within 30 days of the hearing decision on the need for involuntary transfer. A copy of the hearing decision shall be attached to the appeal form, but the absence of such documentation shall not be cause for rejection of the appeal.

#### **54100.23 Lost or Damaged Property**

When an inmate or parolee believes that the State is responsible for the loss of or damage to his or her personal property, he or she shall first attempt to resolve the matter with either the departmental employee on duty at the time and place that the damage or loss was first realized or identified or alternatively, the employee best able to address the alleged loss or damage.

- To facilitate resolution, copies of any relevant documentation concerning the lost or damaged property should be presented.
- In the event of an apparent loss or damage during transfer, the complainant shall first contact staff at the receiving institution to establish whether the property did or did not arrive, and in what condition.
- If this attempt at resolution of the problem is unsuccessful, the inmate/parolee may file an appeal on CDCR Form 602.

##### **54100.23.1 Appeals of Lost or Damaged Property**

All property loss or damage arising from the same departmental event or action shall be included by the appellant in one appeal form. Such appeals are subject to rejection if relevant documentation is not attached, including a signed copy of the CDCR Form 1083, Inmate Property Inventory.

Staff assigned to respond to appeals alleging property loss or damage shall conduct a thorough examination of all documents submitted and any other pertinent information that will assist in resolving the property claim including, but not limited to:

- A thorough search for the lost property.
- Inspection and assessment of the damaged property.
- Interviews, especially when documentation identified staff who handled the property.
- Review of departmental records, including but not limited to, property receipts, property transfer receipts, property control cards, and property inventory sheets.

Any decision denying a property claim shall inform the inmate/parolee of the right to file a claim directly with the Victim Compensation and Government Claims Board (VCGCB) (formerly Board of Control) and shall provide instructions for such filing. An inmate/parolee who wishes to file a claim with the VCGCB shall adhere to the timeframes governing these claims which may be more restrictive than the CDCR appeal process and may require the appellant to file a claim prior to receiving a final decision on his or her CDCR appeal.

First and second level appeals concerning lost or damaged property shall be processed at the institution/parole region where the loss or damage occurred.

All provisions of this article concerning property loss or damage apply to inmates housed in a contract facility, including inmates transferred to or from a contract facility.

#### **54100.23.2 Inmate Appeals of Lost or Damage Property During Transfer**

Appeals alleging property loss or damage following a transfer, regardless of where the loss or damage occurred, shall be submitted to the appeals coordinator at the receiving institution. The receiving institution appeals coordinator shall:

- Date stamp the appeal.
- Conduct an initial review of the appeal for conformance with appeal processing requirements, including time constraints, missing signatures, and supporting documents.
- Review the appeal and determine which institution shall respond to the appeal in accordance with the following:
  - If able to determine that the property loss or damage occurred some time after the property arrived at the receiving institution, or if records indicate that the property was issued to the appellant at the receiving institution, the receiving institution appeals coordinator shall process the appeal.
  - If unable to determine where the loss or damage occurred, or information suggests that the loss or damage occurred prior to arrival at the receiving institution, the appeal shall be forwarded to the sending institution for review. Upon receipt, the sending institution appeals coordinator shall date stamp and process the appeal.

The transportation unit or any facility that housed the appellant or the property in question in transit during the transfer shall assist and provide any information necessary for a thorough review of the property claim. The first level response shall instruct the appellant, if dissatisfied, to resubmit the appeal to the receiving institution for a second level review. Exceptions, where the sending institution would be expected to complete the second level response, include but are not limited to:

- The appellant was not in possession of the property at the time of transfer.
- The property was not sent with the appellant by the sending institution.
- The property loss or damage occurred at the sending institution.

#### **54100.23.3 Parolee Appeals of Lost or Damaged Property during Release To Parole**

When a paroled inmate alleges property loss or damage, the parolee shall submit the appeal to the institution where he or she last relinquished the property, unless the parolee has documentation to indicate the property was in the possession of another CDCR entity. Parolees who relinquished their property to a federal, county, or other State agency official should seek resolution directly with that entity. When it is established that the Department is responsible for a parolee's property loss or damage during release to parole, the sending institution shall settle the claim, regardless of where the loss or damage occurred.

#### **54100.23.4 Granted Property Appeals**

Unless otherwise specified in this Article the facility where the property loss or damage took place shall settle the claim. If the loss or damage took place during transit, or staff are unable to determine where the loss or damage occurred, the sending institution shall settle the claim. When the property loss or damage occurred during transit between the sending and receiving institutions, a copy of all granted property claims shall be forwarded to the Director, Division of Adult Institutions, for corrective action if warranted.

If a property appeal is granted, an attempt shall first be made by staff to use local resources to substitute for or replace lost or damaged property at no cost to the State, or to repair the item at the institution's expense. An inmate/parolee's refusal to accept repair, replacement, or substitution of like items and value shall be cause to deny the appeal.

- When denying an appeal on the basis of appellant's refusal to accept like item and value substitution, the reviewer must state why they believe the replacement offered is considered a like item of equivalent value.
- Monetary compensation to the inmate/parolee shall be considered only if repair is not possible, and replacement or substitution of like items of equivalent value are not available.
  - Both a first and second level review is required prior to awarding a monetary reimbursement for lost or damaged property. First level responses recommending a monetary reimbursement shall instruct the appellant to resubmit the appeal for a second level

review. The second level review may affirm, modify or deny the first level recommendation.

- Actual monetary reimbursements shall not exceed limits imposed in accordance with the Personal Property provisions of 15 CCR §§ 3190-3195.

Monetary claims for amounts of \$100 or less are filed with and settled by the Department directly. Under Government Code Section 935.6 the VCGCB may authorize the Department to settle and pay claims for higher amounts. In the event such delegation is granted, guidance provided by departmental accounting officials specific to this matter shall be prevailing.

- The distribution of completed second level property appeals for \$100 or less includes:
  - Original to appellant.
  - Copy to institution or parole region appeals coordinator.
  - Copy to institution accounting office (inmate cases).
  - Copy to Central Office accounting office (parolee or reentry cases).
  - Copy to institution or parole region records.
- Before payment of any granted claim, the inmate/parolee shall discharge the State in writing from further liability for the claim pursuant Government Code Section 965. The original of this discharge shall be maintained in the institution/parole region accounting office and the inmate/parolee shall be provided a copy.

#### **54100.23.5 Granted Third Level Appeal**

If the Secretary's level action is to grant and/or endorse a monetary claim, a written response shall be prepared, attached to the appeal package, and returned to the appellant.

- Copies of granted appeals for claims of \$100 or less shall be forwarded by the third level Appeals Chief to the hiring authority for payment as described in DOM §54100.23.4.
- Additional copies shall be sent to the appeals coordinator, and to the records office for inclusion in the appellant's file pursuant to DOM §54100.23.4.

Granted second level appeals exceeding \$100 shall require third level review and VCGCB approval prior to payment.

- Copies of granted appeals for claims over \$100 shall be forwarded by the third level Appeals Chief to the VCGCB.
- Additional copies shall be forwarded to the hiring authority for inclusion in the appellant's file, to the appeals coordinator, and to the institution or Central Office accounting office BSS as appropriate pursuant to DOM §54100.23.4.

#### **54100.24 Conditions of Parole Appeals**

Inmates or parolees may appeal discretionary imposition by the Department of special and additional special conditions of parole, requesting removal or amendment of any condition unnecessary for public safety, security or rehabilitation purposes. Prior to filing an appeal, a request to remove or amend an imposed condition or conditions may first be made via a written request (CDCR Form 22) directed to the assigned parole agent and submitted in accordance with the provisions of the Request for Interview, Item or Service article (DOM §54090).

- Specific reasons for objection to the condition(s) in question shall be stated and any necessary supporting document or information attached to the request.
- An appeal of parole conditions shall be reviewed and signed at the Second Level of Review.

#### **Review and Time Limits**

An appeal regarding a request to remove or amend one or more of the condition(s) of parole shall be filed within 30 calendar days of imposition or within 30 calendar days following receipt of the written confirmation of the supervisor's decision to uphold the condition(s) as originally imposed (With respect to supporting document requirements, see DOM Section 54100.8).

- The first level review shall be waived and the second level of review shall be completed by the regional parole administrator or designee.
  - Appeals of special conditions of parole shall be addressed by the parole region.
  - If the appeal is sent to the institutional appeals coordinator by mistake, it shall be forwarded to the appropriate parole region and the inmate/parolee notified that the appeal has been forwarded.
- The appellant, if dissatisfied with the second level of review, shall

forward the appeal to third level.

#### **54100.24.1 Parole to County of Last Legal Residence**

Appeals on release to county of last legal residence shall not be accepted until the CDCR Form 611, Release Program Study/Parole Assessment (RPS) has been returned to the institution by the parole region. Institution caseworkers, upon receipt of an appeal alleging safety concerns in the county of last legal residence, shall review and compare the factual information contained in the inmate's C-File. This review shall include a personal interview with the inmate and all information obtained shall be documented by the caseworker on a CDC Form 128-B. A copy of the CDC Form 128-B shall be attached to the appeal prior to submission to the parole region. The appeal shall be sent to the regional appeals coordinator where the RPS was completed, who shall route the appeal to the appropriate assistant RPA for first level review. The RPA shall conduct the second level review. The inmate/parolee may appeal to the third level Appeals Chief if dissatisfied with the second level response.

#### **54100.24.2 Re-entry Program Placement or Denial**

Appeals of placement in specific reentry locations or programs shall be sent directly to the appeals coordinator of the parole region from where the decision occurred. The first level review of the placement decision shall be conducted by the supervisor of the staff member who made the decision. The Regional Administrator or designee shall conduct second level reviews.

The appellant may, if dissatisfied, forward the appeal to third level.

#### **54100.25 Staff Complaints**

An inmate/parolee appeal which alleges facts that would constitute misconduct by a departmental employee shall be logged as a staff complaint by the appeals coordinator only after review and categorization as a staff complaint. Such review must be completed by an employee designated by the hiring authority at a level not below Chief Deputy Warden, Deputy Regional Administrator or equivalent.

- In the context of this Article, "staff misconduct" means staff behavior that violates or is contrary to law, regulation, policy, procedure, or an ethical or professional standard.
- Confidentiality of a staff complaint may be achieved through submission as confidential correspondence addressed to any official having responsibility for the custody, parole supervision or care of the inmate or parolee appellant. Hiring authorities receiving such allegations shall, in addition to the requirements of this article, ensure that the procedures and safeguards pertaining to Employee Misconduct investigations/Inquiries (see DOM §31140.4) are satisfied.
- Unless circumstances suggest a potential threat to the safety and security of the institution or persons, appeals which generally allege misconduct but provide no facts or evidence of behavior that could be construed as misconduct, shall ordinarily be rejected and sent back to the sender for additional information. If the appellant does not provide the requested clarification of the alleged misconduct the appeal need not be processed as a staff complaint.
- This process is distinct from the filing of a citizen's complaint lodged pursuant the provisions of Penal Code §832.5 by a person not under the jurisdiction of the Department.
- A staff complaint alleging excessive or inappropriate use of force shall be addressed pursuant to the procedures set forth in 15 CCR §§ 3268-3268.2.
- Upon referral after date stamping, the hiring authority of the involved area will review and/or respond to any staff complaint except those filed directly against the hiring authority or above.

When an appeal is received alleging staff misconduct that also includes issues such as property complaints, classification actions, or other issues, the appeals coordinator will:

- Inform the inmate/parolee in writing that the appeal will be addressed as a "staff complaint" and that other appeal issues(s) may only be appealed separately and resubmitted if the intention is to seek resolution of those issues.
- 30 day time constraints for the additional appeal begin the date the inmate/parolee receives notice from the appeals coordinator of the above determination.

In the event the hiring authority makes a determination that the complaint will not be categorized as a staff complaint, it shall be processed as a routine appeal based upon the issues raised including those alleged as misconduct. The appeal response must show why the appeal did not meet criteria for processing as a staff complaint, explaining how the issues raised were not indicative of misconduct.

#### **54100.25.1 Rights and Responsibilities Statement**



An appeal that alleges misconduct by a departmental peace officer as defined in 15 CCR §3291(b) shall be accompanied by the 15 CCR §3391(b) Rights and Responsibility Statement.

- An appeal received without such statement shall be processed and the statement obtained from the appellant at the time of the initial appeal interview.
- Should the inmate/parolee refuse to sign the Rights and Responsibilities Statement, the appeal shall be cancelled for lack of cooperation.
  - Cancellation does not relieve the Department of its responsibility to address alleged staff misconduct as revealed or suggested via the cancelled appeal. Therefore, the appeal shall be returned to the hiring authority for determination if an inquiry remains appropriate in light of the refusal to cooperate.
  - The result of any such inquiry shall not be shared with the appellant and the appellant will not be considered to have exhausted administrative remedies.

#### **54100.25.2 Processing of Staff Complaints**

No less than weekly (within five working days), complaints alleging staff misconduct will be presented by the appeals coordinator to and shall be reviewed by the hiring authority or designee who shall make a determination whether the allegation will be processed as a staff complaint. That determination shall consider whether the appeal alleges staff behavior which would be a violation of law, regulation, policy, procedure or prevailing professional or ethical standards. Such misconduct need not be the focus of the appeal, but if facts are alleged which suggest misconduct, the matter must be referred to the hiring authority to determine the following type of processing:

- As a routine appeal, but not as a staff complaint, as there is no evidence to suggest staff misconduct.
- As a confidential staff complaint appeal inquiry as the nature of the allegation or the lack of evidence makes adverse action unlikely.
- As a referral to Internal Affairs for an investigation as the evidence or the circumstances suggest that adverse action is likely if the allegations are proven.

The employee shall be notified as soon as possible in accordance with any applicable bargaining unit agreement when an appeal is accepted as a staff complaint unless the hiring authority determines that the matter involves a confidential investigation that would be compromised by such notice.

If the hiring authority makes a determination that the complaint warrants an Internal Affairs investigation, the following shall occur:

- The appeals coordinator shall bypass the first level review and respond at the second level, noting that the appeal is granted or partially granted and referred for an Internal Affairs investigation.
- An Internal Affairs Investigation Request shall be completed and forwarded to the Office of Internal Affairs with all accompanying information and documentation.
- Upon completion of the investigation, the appellant shall be notified of the outcome.

When an allegation does not warrant an Internal Affairs investigation or the matter is declined by the Office of Internal Affairs, but does warrant an inquiry, the following shall occur:

- The appeals coordinator will assign the staff complaint for a first or second level response at the discretion of the hiring authority.
- A Confidential Appeal Inquiry shall be conducted in conjunction with the review response.
  - Review and approval of the Confidential Appeal Inquiry supplement by the hiring authority or their delegated representative no lower than the level of a Chief Deputy Warden or equivalent shall occur.
  - The appellant need not be interviewed by the person preparing the appeal response if a confidential inquiry has been completed.
  - The appeal inquiry supplement with a red cover sheet attached, designating it as confidential, is to be placed in the appeal file. The appellant will not be provided a copy.
- After completing interviews with pertinent witnesses, the subject of the staff complaint may be interviewed (if necessary to reach a determination) by a person trained to conduct administrative reviews. A Notice of Interview shall be served at least 24 hours prior to such interview.
  - If the subject chooses to waive the 24 hour requirement, he or she

must indicate this at the time he or she is given notice.

- Upon voluntary waiver, the subject may be interviewed immediately, if desired.
- At the time of the interview the subject of the interview shall be served with an advisement of rights which is to be signed prior to any interview.
  - The subject may request to record the interview and will be allowed to retain their copy of the recording. However, under such circumstances, a concurrent separate recording shall be made by the Department and retained in the appeal office. Only the subject can initiate a request to record the interview.
  - Pertinent witnesses are those individuals in possession of information or knowledge necessary to come to a reasonable conclusion as to whether or not policy was violated.
  - The witnesses need not be noticed or admonished, nor shall a witness be allowed to record the interview or have a representative present.
- If at any time during the course of the appeal inquiry the reviewer discovers information indicating misconduct may have taken place of a severity that would likely lead to adverse personnel action the reviewer shall:
  - Cease further interviewing of staff or inmates/parolees.
  - Bring the matter to the attention of the hiring authority.
  - The hiring authority shall make a determination whether the matter will be referred for Internal Affairs investigation.
- The confidential inquiry shall review the information available to determine whether policy was violated and the confidential report shall summarize the review and include a determination of the findings concerning the allegation.
  - The author of the report shall provide sufficient facts and testimony to reasonably support the conclusion(s) given.
  - This report shall be kept with the appeal file in the Appeals Office and no other copies shall be kept or maintained except as described in this subsection or as needed for third level review or litigation. The document is strictly confidential to all inmates and any staff except those involved in the inquiry process or litigation involving the Department.
  - Accused staff may view the confidential report in the appeals office upon approval of the Litigation Coordinator, but if any information relating to other staff is contained therein, a copy shall be made and that confidential information redacted prior to the review. Neither the original nor the copy shall leave the appeals office (except as specified above) and any redacted copy shall be placed with the original after review.

The institution/parole region's appeal response to a staff complaint shall inform the appellant of the status of the referral for investigation and outcomes as follows:

- The referral for investigation and the status of the investigation. Additionally, the appellant shall be notified of the outcome at the conclusion of the investigation.
- The decision to conduct a confidential inquiry and whether the findings determined that the staff in question did or did not violate department policy with regard to each of the specific allegations(s) made.
- In the event that the matter is rejected by Office of Internal Affairs (OIA) due to insufficient evidence and the hiring authority elects not to complete an inquiry because the OIA review is sufficient to exonerate staff, the appellant shall be notified that a finding has been made that policy was not violated.

An appeal alleging staff misconduct by an appeals coordinator shall be reviewed by the hiring authority for determination of processing. If accepted for processing at the first level, neither the appeal response nor the Confidential Supplement to Appeal, Appeal Inquiry shall be prepared or reviewed by staff assigned to the Appeals Office.

#### **54100.26 Reserved**

#### **54100.27 Health or Safety Complaint (CALPIA)**

Inmates employed by CALPIA shall submit any complaint concerning perceived health or safety hazards relating to prison industries to the prison industries' safety committee, in accordance with Labor Code (LC) and Industrial Relations regulations.

- The CDCR Form 602 shall not be used for the purpose of such

complaints. A Cal/OSHA form for the reporting of alleged safety or health hazards may be used, but is not required.

- A health and safety complaint should not be used by inmates as a substitute for verbally or otherwise informing staff of an urgent health or safety situation requiring immediate response or action.

An inmate who believes a health or safety hazard exists in a CALPIA operation is afforded the opportunity to submit a written complaint.

- The complaint shall be deposited in a readily accessible complaint box or presented to any CALPIA staff member, including the inmate supervisor, member of the health and safety committee, or the affected shop superintendent or their equivalent.
- Any CALPIA staff member receiving a written health and safety complaint for an inmate worker shall direct it to the health and safety committee for review and response.

If the inmate finds the committee's conclusions to be unsatisfactory for any reason, he or she may request the complaint be forwarded to the Department of Industrial Relations, Division of Occupational Safety and Health (DOSH).

- The CALPIA Health and Safety Unit shall coordinate the submission of any health and safety complaint submitted pursuant to this section which cannot be resolved by the Safety Committee or for which the complainant is not satisfied to DOSH.
- DOSH shall determine whether any complaint is bona fide and respond in accordance with the requirements of LC Subsection 6304.3(b).

Should the inmate believe that retaliatory action has taken place as a result of the complaint, the inmate may file a CDCR Form 602 appeal of this alleged retaliation with the institution appeals coordinator.

#### **54100.28 Movie/Video Selection or Exclusion Appeal**

Movies/videos that have been given a rating of other than "G," "PG," or "PG-13" by the Motion Picture Association of America are not approved for either general inmate viewing or for viewing within institutional classrooms, and are not subject to appeal at any level. The first level of appeal shall be waived for appeals related to the selection or exclusion of a "G," "PG," or "PG-13" rated or non-rated movie/video for viewing and the second level response shall constitute the Department's final response on appeals of this nature.

#### **54100.29 Term Computation Appeals**

Whenever an inmate or parolee files a CDCR Form 602 which sets forth a specific, clearly stated claim regarding an error in the computation of a term of confinement or period of parole based upon documentation in the record, and the issue is not resolved (granted) at the first level, the inmate or parolee may request a computation review hearing. (Reference: *Haygood v. Younger*, (1985)-769 F. 2d 1350.)

- Other classification, pay or work time issue appeals shall be addressed by a classification committee or work supervisor, and shall not warrant a computation hearing.
- The only issue to be determined in the hearing is whether or not an error has been committed which adversely affects a term of confinement or period of parole.
- The computation review hearing, when scheduled, shall constitute the second level of review.

##### **54100.29.1 First Level**

Parole period and term computation appeals shall be reviewed at the first level by the Department's records staff. The inmate or parolee must state in detail the alleged error or reason for disputing the calculation of his or her release date. The case records staff shall research the case, considering case law and Department policy and procedure. If the relief requested is not granted at the first level, the CDCR Form 602 appeal shall be returned to the inmate or parolee along with two copies of the CDC Form 1031, Notice of Right to Request a Computation Review Hearing. The inmate/parolee shall sign the notice acknowledging receipt. The signed form shall be returned to case records staff for filing in the miscellaneous section of the inmate's/parolee's C-File. The inmate/parolee shall retain the second copy.

##### **54100.29.2 Appeals Coordinator**

If the inmate or parolee wishes to have a computation review hearing, he or she shall submit the same CDCR Form 602, filling out Section D, to the appeals coordinator. The appeals coordinator shall forward the CDCR Form 602 within five working days of receipt to the case records supervisor/manager. The case records supervisor/manager shall date stamp and log the appeal on the CDC Form 1059, Computation Review Hearing Log.

##### **54100.29.3 Second Level**

The case records supervisor/manager shall schedule the computation review hearing, which shall be held within 15 working days of receipt of the CDCR

Form 602. The case records supervisor/manager shall send two copies of the CDC Form 1032, Notice of Time, Date and Place of Computation Review Hearing, to the inmate or parolee who shall be notified at least 24 hours prior to the hearing unless the inmate or parolee waives the time constraints. The counselor or designated staff shall immediately return the signed original to the case records staff for logging on the CDC Form 1059. The case records supervisor/manager shall research the case, taking into consideration all case law and department policy and procedures.

##### **54100.29.4 Hearing**

The case records supervisor/manager shall conduct the hearing during the inmate's non-assigned hours.

- Other staff designated by the institution/parole administration may attend this hearing. Location of the hearing shall be at the discretion of local authorities.
- It may be necessary to conduct the computation review hearing by telephone for those inmates housed in camp, other jurisdictions and parolees.
- If so, the completed notice of time, date, and place of computation review hearing shall reflect that the inmate/parolee was advised of the time of the hearing by telephone or other means.

If it is determined an error has been made, the case records manager/supervisor shall grant the appeal and correct the error.

- At the conclusion of the hearing, two completed copies of the CDC Form 1033, Computation Review Hearing Decision, shall be made. A completed copy shall be given to the inmate.
- At the conclusion of a computation review hearing conducted by phone, the inmate/parolee shall be advised of the decision and that a completed computation review hearing decision shall be mailed that day.

If the appeal is a matter that the Department has no authority to change, the appeal shall be denied. The appellant will be referred to the appropriate agency or court with jurisdiction of the matter for disposition. If the appeal is a sentencing discrepancy of which the Department seeks clarification from the sentencing court, the appeal shall be partially granted to the extent that an inquiry is being pursued and the Department shall pursue clarification of the noted discrepancy from the appropriate court.

##### **54100.29.5 Electronic Records Management System (ERMS)**

The CDCR Form 602 and the original CDC Form 1033, Computation Review Hearing Decision shall be sent to the appeals coordinator for processing.

Upon completion of processing, a copy of the CDCR Form 602 and the CDC Form 1033 shall be forwarded to Case Records along with the CDC Form 1031, Acknowledgement of Receipt and the CDC Form 1032, Notice of Time, Date, and Place of Computation Review Hearing for placement into the ERMS.

##### **54100.30 Joint Venture Program (JVP) Employer Related Grievances**

The Department's participation in the Joint Venture Program is authorized pursuant 15 CCR §§ 3480-3486. Any current or former Joint Venture inmate-employee who believes he or she has a grievance regarding a wage and hour or retaliation claim against a JVP employer shall submit the written grievance to the JVP Chief.

- The JVP Chief shall attempt to resolve all complaints.
- Time frames for filing grievances will be governed by the Division of Labor Standards Enforcement's (DLSE) statutes of limitations, including but not limited to, Labor Code §98.7, and Code of Civil Procedure §§337, 338 and 339, for the appropriate type of complaint.
- If the inmate is dissatisfied with the JVP Chief's decision, the inmate may file a complaint with the Labor Commissioner.

##### **54100.31 Appeals Reports**

Institution and parole region appeals coordinators shall prepare and provide reports upon request. These appeal reports may include appeal types, outcomes, volume, and similar statistical results of appeal actions.

As necessary, the Office of Appeals shall audit and compile this data in reports distributed to departmental administrators, the courts, and other jurisdictions or agencies.

##### **54100.32 Revisions**

The Director, Division of Adult Institutions, in conjunction with the Director, Division of Adult Parole Operations, or designee shall ensure that the content of this Article is accurate and current.

##### **54100.33 References**

Civil Rights of Institutionalized Persons Act; Title 42 U.S.C. §1997 et seq.

Public Law 96-247, 94 Stat. 349.

Title 28 Code of Federal Regulations §35.107.

PC §§ 148.6, 832.5, 832.7, 832.8, 3003(a), 5054, 5058, 5058.4(a) 10006(b).

GC §§ 935.6, 965, 3300-3313, 19570-19575.5, 19583.5(a), and 19635.

CCP §§337, 338, 339.

LC §§98.7, 6304.3.

CCR Title 15 §§ 3084 and 3086, 3138, 3190-3195, 3220.4, 3268-3268.2, 3312, 3314, 3318, 3220, 3326, 3376.1, 3383, 3480-3486.

CCR Title 8 §§ 344.40, 344.41, 344.42, 344.43.

Titles I and V of the Americans with Disabilities Act of 1990 (Pub. L. 101-336) (ADA), as amended (Volume 42 of the United States Code, beginning at §12101.

*Wolff v. McDonnell*, 418 U.S. 539 (1974).

*Armstrong v. Schwarzenegger*, United States District Court, N.D. Cal., No. C-94-2307 CW, Stipulation and Proposed Order issued November 30, 2006.

*Vasquez v. State of California*, 105 Cal.App.4th 849 (2003) as implemented by the Stipulated Injunction and Order entered by the Superior Court of San Diego County in Case No.GIC-740832.

*Haygood v. Younger* (1985) 769F, 2nd 1350.

Board of Parole Hearings, Administrative Directive 04/01, May 1, 2004.

## ARTICLE 54 — INVESTIGATION OF GASSING INCIDENTS

*Effective June 23, 2005*

### 54110.1 Policy

The Department shall implement and maintain a protocol for the investigation of gassing incidents in order to establish the elements of PC 4501.1(b) and successfully prosecute crimes under this Statute.

### 54110.2 Purpose

This Article delineates the roles and responsibilities of staff involved in the investigation of gassing incidents.

### 54110.3 Definition of Gassing

Gassing, as defined by PC 4501.1(b), means "...intentionally placing or throwing, or causing to be placed or thrown, upon the person of another, any human excrement or other bodily fluids or bodily substances or any mixture containing human excrement or other bodily fluids or bodily substances that result in actual contact with the person's skin or membranes."

Pursuant to Penal Code Section 4501.1(a), a "...person confined in state prison who commits a battery by gassing upon the person of any peace officer, as defined in Penal Code Chapter 4.5 (commencing with Section 830) of Title 3 of part 2, or employee of the state prison is guilty of aggravated battery."

Hereinafter, inmate/parolee will be referred to as inmate unless specifically identified otherwise by references to the PC.

### 54110.4 Initial Response

As soon as possible, the victim should attempt to determine if the substance was a gassing substance such as urine, feces, sputum, blood, semen, etc. This determination is accomplished by the victim noting the odor, color, and texture of the substance and any chemical reactions, etc. The victim does not have to examine the substance that was thrown on them. Rather, as soon as practical, the victim should either relay their impression of what the substance was to the officers assigned to investigate the gassing or include it in their report.

The victim's clothing that is contaminated by the gassing substance is evidence. As soon as practical, the clothing should be relinquished by the victim, replaced with an available garment, and any stains that appear to be from the gassing substance should be outlined with a black permanent ink marker to assist laboratory personnel to locate the site on the clothing. The stains should also be photographed while they are still wet. Caution should be taken to ensure that separate stains on the clothing articles do not touch each other. Staff are advised to practice universal precautions and wear proper protective clothing when handling the clothing, as well as, to maintain the chain of custody of the clothing item.

Every effort should be made to obtain a statement or report from the victim regarding what they observed including, but not limited to:

- What the suspect stated before, during, and after the gassing.
- The type of container, if any, used by the suspect to commit the gassing.
- The actions of the suspect both before and after the gassing.

Any admissions or inculpatory statements made by the suspect that were overheard by the victim can be critical in achieving a successful prosecution.

Any employee that comes into contact with a human body fluid, as recognized by the Centers for Disease Control and Prevention, will be evaluated by appropriately licensed and trained medical staff. The medical evaluation will take priority over the collection of evidence, report writing, or other non-emergency issues or duties. The requirement to fill out paper work or receive paper work relating to the incident will not delay the employee from seeking offsite medical care.

The inmate suspect(s) should be removed from their cell or area where the attack occurred and searched for evidence. Any clothing items worn by the suspect(s) that appear to be stained with the same substance as thrown on the victim should be marked, photographed, and collected in the same manner as the victim's clothing. The suspect(s) should be placed in a secure holding cell and a crime scene search should be initiated. If there is more than one suspect, they should be separated immediately.

### 54110.5 Handling of Evidence

Any clothing item contaminated with body fluids should be dried and then stored in clean paper bags. Transport or shipment of the evidence items to the laboratory conducting the testing should be expedited.

When collecting articles of clothing as evidence, each article is to be placed into a separate paper bag. Protective gloves should be changed each time a separate article of clothing is handled to prevent cross contamination of evidence items. Each evidence bag must be properly identified with the date, time, case number, charge, suspect name and CDC number, and victim name. Each evidence item can be marked with the finder's initials and the date the item was obtained.

If there is any information that the substance used in the gassing contains a communicable disease, the laboratory personnel who are testing the substance should be made aware of this information. This information will help to ensure the safety of the laboratory personnel testing the substance and will also help in isolating and identifying the suspect.

Evidence should be submitted to the appropriate California Department of Justice, Bureau of Forensic Services, laboratory that other evidence is submitted to as per each institution/facilities Investigative Services Unit (ISU).

### 54110.6 Crime Scene Investigation

The staff investigating a crime scene where a gassing has occurred should ensure they are wearing proper protective equipment, such as gloves. The outer door of the cell or the general area where the gassing occurred should be photographed. Any areas on the door, door opening, or general area that appear to be contaminated with the same substance that was thrown on the victim should also be photographed. If the crime scene is a cell, the door of the cell should be opened and photographed as discovered. A search for any container used by the suspect to commit the gassing should be initiated, and if discovered, should be photographed in place and collected and processed as evidence.

Investigating staff should look for traces of the gassing substance on the floor, walls, or any other surface where the substance may be located to be photographed and for the purpose of collecting samples. When collecting samples, staff should use sterile swabs, and should also take a "control" swab of an apparent uncontaminated area adjacent to the area contaminated by the gassing substance prior to taking a swab of the suspected gassing substance. The control swab and the contaminated swab should also be processed as evidence. All evidence must follow an appropriate chain of custody and be retained in an evidence locker maintained by the ISU for possible future criminal prosecution.

### 54110.7 Employee Considerations

In the event of a possible exposure to body fluids, the CDC Exposure Control Plan and any local institutional procedures regarding the exposure to human body fluids or blood should be followed. The health and welfare of the victim must be given priority. The medical evaluation of the employee should take precedence over collection of evidence, report writing, or other non-emergency issues or duties. The employee Post Trauma Program should be offered to the victim along with referrals to the Employee Assistance Program, as needed.

The employee's supervisor will be responsible for filling out and/or collecting the following documents:

- State Compensation Insurance Fund Report of Occupational Injury or Illness.
- Employees Claim for Workers Compensation Benefits.
- Any local Institutional Report of Job-Related Injury/Illness as required.

PC 4501.1(c) establishes that the Chief Medical Officer (CMO), or their designee can order an inmate to receive an examination or test for hepatitis and/or tuberculosis on a voluntary or involuntary basis, if there is probable

cause to believe the inmate has committed a crime under this Section and the test is medically necessary to protect the health of the officer or employee who was the victim of the violation. Following a potential exposure to a blood borne pathogen, an employee will immediately be told by the Warden, Administrative Officer of the Day, or Watch Commander if the medical staff have evidence indicating that the inmate has Human Immunodeficiency Virus or any other communicable disease, such as Hepatitis B or C.

PC 7510-7515 establishes procedures for the requirement that employees report possible exposure to body fluids from inmates or parolees; employees may request that the inmate or parolee be tested for the HIV virus. This request should be made in writing, in the form of a report of exposure, and submitted to the CMO within two days after the incident. The CMO may waive this filing period requirement if it is determined that good cause exists.

If an employee's garment has been contaminated with a potential blood borne pathogen and not retained for criminal prosecution, the employee will be provided an alternate garment to wear and afforded an opportunity to shower. Additionally, the contaminated garment will be cleaned at Department expense and returned to the employee within 30 calendar days of the incident. If a garment has been contaminated with a potential blood borne pathogen and retained as evidence for criminal prosecution, the employee will be reimbursed by the institution for the cost of the garment within 60 calendar days of the incident. CDCR Form 892, Employee Claim for Loss or Damage of Personal Property, should be used by the employee for reimbursement.

#### **54110.8 Suspect Interviews**

The suspect(s) is to be interviewed with a tape recording made of the interview. As the interview constitutes a custodial interrogation, the suspect(s) must be advised of their Miranda Rights before questioning. If there is more than one suspect, they are to be interviewed separately. During the interview an attempt should be made to establish the elements of the crime including, but not limited to, the type of substance thrown, how the suspect(s) obtained the substance, how the substance was delivered to the victim, how the suspect(s) planned and carried out the gassing, and motive for the gassing. The investigator should make every effort to obtain an admission, or as much information as possible, from the suspect(s) in order to establish culpability.

#### **54110.9 Filing Considerations**

The penalty for violation of PC 4501.1 is imprisonment in the county jail, or imprisonment in the state prison system for up to 4 years. Further, inmates who commit gassings can also be charged under the provisions of PC 4501.5, Battery by Prisoner on Non-confined Person, with a penalty of up to 4 years in the state prison system to be served consecutively. Each institution/facilities ISU should confer with their local District Attorney's Office to determine the most appropriate statute to charge an inmate who has committed this crime.

#### **54110.10 Revisions**

The Deputy Director, Office of Occupational Safety, Field Support, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **54110.11 References**

PC §§ 4501.1, 4501.5.

PC §§ 7510-7515.

PC §§ 830 and following.

CCR (15)(3) §§ 3315 and 3323.

**CHAPTER 6 — ADULT CLASSIFICATION****ARTICLE 1 — RECEPTION CENTERS***Revised July 26, 2004***61010.1 Policy**

Penal Code (PC) § 2900 provides that defendants sentenced to state prison shall be delivered to the custody of the Secretary at the place designated by the Secretary to serve the term of imprisonment ordered by the court.

**61010.2 Purpose**

This Section establishes standard procedures for the orderly reception, processing, and transfer of inmates into the California Department of Corrections' and Rehabilitation (CDCR) institutions.

**61010.3 Reception Center (RC) Processing**

CIM, CCI, DVI, HDSP, NKSP, RJD, SQ, and WSP are designated to receive and process male felons committed to the jurisdiction of the CDCR.

CIW, CCWF, and VSPW are designated to receive and process all female felons committed to the CDCR.

**Reception of Condemned Males**

Condemned male inmates shall be received and housed at SQ.

**Reception of Condemned Females**

Condemned female inmates shall be received and housed at CCWF.

**Reception of Civil Addicts**

Female and male civil addict commitments shall be received at CRC and processed in accordance with the Board of Parole Hearings procedures.

**61010.4 RC Processing Staff – Responsibility**

RC staff shall collect social and criminal history information on each inmate received by the CDCR as well as interview and test all newly received inmates.

**Social History/Staff Reports**

The counselor shall complete an Institutional Staff Recommendation Summary (ISRS) or CDC Form 816, CDC Form 812, CDC Form 839, or CDC Form 840, or CDC Form 841, and the Social Factor Sheet, all of which are explained in detail in DOM §§ 61010, 61020, and 61030.

**Institution Gang Investigator (IGI) Referral**

The counselor, in conjunction with the IGI, shall also complete a CDC Form 812-A, Notice of Critical Information – Prison Gang Identification, as required.

**Prison Gang Involvement**

Inmates shall be advised that any involvement with a prison gang may result in segregated housing placement.

**United States Immigration and Naturalization Service (USINS)****Referral**

The counselor shall refer all inmates, including parole violators, who are foreign born, to the USINS for deportation hold determination by completing a CDC Form 850, Detainer Summary.

**Psychiatric/Medical Referral**

Inmates shall be referred to psychiatric and medical staff as necessary for diagnosis, treatment, or recommendations.

**Inmate Orientation**

RC processing provides the inmate with an orientation to prison life, introduction to available programs, and initial preparation for release.

**61010.5 Notification of Rules and Available Programs**

Within 14 days of arrival at an RC, inmates shall be furnished written information concerning program availability for reduction of sentences as required by PC § 2930. Inmates shall be issued a current copy of the California Code of Regulations (CCR) and treatment programs available at each institution.

**61010.5.1 Documentation in C-File CDC Form 128-O**

Each inmate shall sign a CDC Form 128-0, Chrono-Document Receipt, indicating receipt of notification of rules and available programs. A copy of the signed CDC Form 128-0 shall be placed in each inmate's C-file.

**61010.6 Withdrawal of Inmate Trust Funds**

Counselors involved in the processing of initial commitments to the CDCR and the readmission processing of parole violators or persons returned to the CDCR shall determine if the inmate has or anticipates any outstanding debts or other financial obligations, which may require funds be withdrawn from their trust account for transmittal to any business, agency, or individual. This does not include withdrawals for purchases or for other payments/reimbursements to the CDCR, nor does it include any debt or

financial obligation, which will be met for the inmate by other means. A summary of this determination shall be noted on the CDC Form 825, Trust Withdrawal Case Information.

**61010.7 RC Transfers****General**

Transfers from the RCs shall be based on the recommendations of the counselor and supervising counselor or classification committees subject to Classification Staff Representative (CSR) approval.

**61010.8 CDC Form 839, 840, and 841**

Classification and reclassification of inmates will normally be made pursuant to the CDCR Inmate Classification Score System, except when in the exercise of the discretion and judgment of departmental officials it is deemed necessary to deviate from that classification score system. Deviations from the system shall be made on an individual case for the purpose of ensuring the safety of inmate(s), correctional personnel, and the general public as well as for special institutional and/or programming needs.

**61010.8.1 When to Use the CDC Form 839****Processing Newly Received Felon Inmates**

All felon inmates who are newly received in the CDCR shall be scored on a CDC Form 839. An inmate who has served a prior term in the CDCR, but whose commitment is subsequently discharged, shall be processed as a newly received felon inmate. Parole Violators will not be scored on the CDC Form 839. Parole Violators Returned to Custody (PVRTC) and Parole Violators With a New Term (PVWNT) will be scored on the CDC Form 841.

**Processing Adverse and Non-Adverse Transfer Cases from California Youth Authority (CYA)**

A newly received felon inmate who arrives directly from DJJ/CYA placement to a CDCR RC, either because the inmate has reached the maximum age allowed to remain housed in CYA or the inmate was moved to CDCR as a "program failure" and/or received a felony commitment while housed in CYA, shall be processed with both a CDC Form 839 and a CDC Form 840. The date of arrival in CYA shall be recorded as the Date Received CDC. The CDC Form 839 shall then be prepared as it would have been prepared at the time that the inmate arrived in CYA. A CDC Form 840 shall then be prepared which records the inmate's positive and negative behavior while incarcerated in CYA. An ISRS shall also be prepared.

**Processing CYA Parolees Sentenced to State Prison**

An inmate who receives a sentence to state prison while on CYA Parole shall be handled as a newly received felon inmate. The Date Received CDC shall be recorded as the actual date received in the CDCR RC. A CDC Form 839 shall be prepared. Documented CYA behavior shall be recorded as Prior Incarceration Behavior.

**Processing Civil Addict Commitments Excluded from the California Rehabilitation Center (CRC)**

An inmate who has been excluded from the Civil Addict Program shall be processed as a newly received felon inmate. The Date Received CDC shall be recorded as the actual date received in the CDCR RC. A CDC Form 839 shall be prepared. Evaluate any serious in-custody disciplinary behavior that occurred during the inmate's Civil Addict commitment for documentation in the Prior Incarceration Behavior section of the CDC Form 839.

**Processing Interstate, Federal, and International Placements received from other jurisdictions**

SACCO (Sacramento Central Office) Cases

- A SACCO case is one of the following:
  - An inmate who was sentenced to serve a prison term in California, but is serving a concurrent or consecutive term in a facility in another jurisdiction; or
  - An inmate who served time in a county jail was, sentenced to serve a prison term in California, and was released before being transferred to an RC to undergo processing because the time served in county jail was equal to or exceeded the prison sentence at the time of sentencing.
- Processing SACCO cases returned to the CDCR from another agency.
- SACCO cases with a CDC Form 839.

A SACCO case who was processed through a CDCR RC and has had a CDC Form 839 prepared prior to transfer to another federal or state agency and who is returned from the other agency to finish the term imposed by California, shall have a CDC Form 840 prepared to update the inmate's Placement Score. The CDC Form 840 shall reflect the adjustment to incarceration while housed in the other jurisdiction. An ISRS shall also be prepared.

- SACCO cases without a CDC Form 839.

A SACCO case who was not processed through an RC, but who subsequently returned to California to finish his or her term, shall have both a CDC Form 839 and a CDC Form 840 prepared. The Date Received CDC on the CDC Form 839 shall be the date that is reflected on the CDC Form 112 or the Legal Status Summary. A CDC Form 840 shall also be prepared to update the inmate's placement score to reflect the inmate's adjustment to incarceration while housed in the other jurisdiction. An ISRS shall also be prepared.

- Processing SACCO cases returned from parole.

If a SACCO case, who served time in a county jail or another jurisdiction, was released to parole and then returned to prison as a Parole Violator or a Parole Violator with a New Term, a CDC Form 839 and a CDC Form 841 shall both be prepared. The Date Received CDC recorded on the CDC Form 839 shall be the date indicated on the CDC Form 112 or the Legal Status Summary. The Date Received This Incarceration, recorded on the CDC Form 841, shall be the date of arrival at the RC. The CDC Form 841 shall be prepared to update the inmate's placement score. This score sheet shall include the inmate's adjustment to incarceration while housed in the other jurisdiction as well as record any changes in term points. The Date Paroled is the date that the inmate paroled from the CDCR term. An ISRS shall also be prepared.

#### **Western Interstate Corrections Compact (WICC) and Interstate Corrections Compact (ICC) Cases**

A WICC/ICC case may be either a California inmate serving a term as a boarder in another state or federal jurisdiction or an inmate who is being boarded in California, but serving a term imposed by another state or federal jurisdiction.

- WICC/ICC cases arriving at an RC in California from another jurisdiction.

WICC/ICC cases arriving at an RC in California from another jurisdiction shall have a CDC Form 839 prepared during RC processing. The date that the inmate arrived in the CDCR RC shall be recorded as the Date Received CDC. Positive or negative behavior exhibited in the previous jurisdiction shall be recorded on the CDC Form 839 under "Prior Incarceration Behavior." An ISRS shall also be prepared.

- WICC/ICC cases returned to California.

When a California felon inmate serving a term as a boarder in another state or federal jurisdiction is returned to California, designated staff shall prepare a CDC Form 839. The date of the inmate's original "term starts" date as noted on the Legal Status Summary shall be recorded as the Date Received CDC. A CDC Form 840 shall be prepared to update the inmate's Placement Score based on the inmate's adjustment to incarceration in the other jurisdiction. An ISRS shall also be prepared.

If the inmate had been released to parole and has since returned to the RC, a CDC Form 841 shall be prepared instead of a CDC Form 840. The inmate's previous incarceration behavior and program shall be documented on an ISRS.

- Family Foundations Program (FFP) Program Failures and FFP Cases Returned from Parole.

The Family Foundations Program is an alternative sentencing program for pregnant or parenting women sentenced to state prison with children under the age of six. Under the authority of Penal Code § 1174.4, the Court may impose a state prison sentence with the recommendation that the defendant participate in the program. A female inmate who is sentenced to state prison by the court and subsequently accepted for the Family Foundations Program is not received at a reception center. The inmate is transferred from the county jail directly to the program. Although the inmate is issued a CDC number, a score sheet is not prepared for these inmates. Participation in the program is voluntary and the expectation is that the female inmate will complete the 12-month program prior to release back to the community.

A program failure at the FFP will result in the inmate being transferred to a CDCR reception center to serve the remainder of her original sentence.

- Processing FFP Inmates Received at a Reception Center as program failures.
  - The inmate shall undergo reception center processing in the CDCR.
  - A CDC Form 839, Classification Score Sheet, shall be prepared.
  - The date that the inmate was received at the FFP shall be entered as the Date Received CDC on the CDC Form 839.
  - A CDC Form 840 shall also be prepared to reflect the inmate's adjustment to the FFP when favorable behavior points or unfavorable behavior points need to be recorded.
- Processing FFP Inmates Received at the Reception Center as Parole Violators.

- An inmate who was released to parole from the FFP, but returned to prison as a parole violator, shall have both a CDC Form 839 and a CDC Form 841 prepared.
- The date that the inmate was initially received at the FFP shall be entered as the Date Received CDC on the CDC Form 839.
- The date that the inmate was returned to the reception center shall be entered as the Date Received This Incarceration on the CDC Form 841.
- Favorable and/or Unfavorable Behavior points for the period in FFP until parole shall be recorded on the CDC Form 841.

#### **61010.8.2 When to use the CDC Form 840**

The CDC Form 840 shall be completed as part of the regular reclassification process. It is intended to provide a cumulative record of the inmate's institutional adjustment and changes in case factors. A CDC Form 840 shall also be completed on each of the following:

- An escapee.
- A Community Correctional Reentry Center (CCRC) failure.

Refer to DOM § 61020.19 for instructions to complete the CDC Form 840.

#### **61010.8.3 When to use the CDC Form 841**

The CDC Form 841 is prepared when an inmate's parole status has been revoked, the inmate has been returned from parole to a reception center, and the parole period has been suspended. A CDC Form 841 shall also be completed for an inmate whose parole is lawfully revoked because he/she refused to sign conditions of parole. If the inmate is not physically paroled to the community, the inmate's status shows that he/she has been paroled, revoked, and returned the same day.

A CDC Form 841 shall not be completed for any of the following cases:

- An inmate returned to the CDCR, but then Continued On Parole (COP) by the BPH.
- A parolee who was revoked by the BPH, but not returned to the CDCR.
- An inmate who has been returned to the CDCR from parole, but is still considered a "parolee." Examples of these situations are a SATCU case returned for drug treatment/"dry out" or an inmate returned for "psych treatment" only. In these types of situations, the inmate's parole period continues uninterrupted.

Refer to DOM § 61020.20 for instructions to complete the CDC Form 841.

#### **61010.9 Procedures**

##### **The Counselor**

The counselor shall review all relevant documents available during the RC process to complete the score sheet. Since the Placement Score usually determines the institution to which the inmate will be assigned, it is extremely important that the information considered be as complete as possible. The Probation Officer's Report (POR) is the document of choice when information conflicts; the POR is reviewed by legal counsel and the court and contents may be challenged in court.

##### **Inmate Interview**

In the process of completing the CDC Form 839, 840, or 841, the counselor shall interview the inmate. In the interview the inmate shall be informed of the nature and purpose of the CDC Form 839, 840, or 841 and allowed to verbally contest specific score items and other case factors on the form. Documentation for score items that is absent or conflicting shall be discussed during the interview. The inmate shall be responsible for providing documentation to support his or her challenge of information on the CDC Form 839.

##### **Corrections**

Counselors are responsible for initiating a corrected CDC Form 839, 840, or 841 when the inmate or other party presents verifiable documentation, which supports the change. When the change to the score results in a different security level, the inmate shall be referred to the appropriate classification committee and subsequently to a CSR. (Refer to DOM § 61020.20.9 for instructions in the correction process.)

##### **Reflects the Inmates Status at Time of Reception**

The CDC Form 839 score reflects the inmate's status at the time of reception and, apart from correcting errors of fact, remains the same during incarceration. During incarceration the inmate will have opportunity to earn favorable behavior points (documented on CDC Form 840 and CDC Form 841) to lower the total score.

After the counselor has completed the CDC Form 839, 840, or 841 and other case summary material and printed his/her name in the appropriate boxes on the form, the CDC Form 839, 840, or 841 shall be reviewed by the supervising counselor for accuracy and completeness.

**61010.9.1 Requesting an Archive File**

To ensure accurate classification and appropriate placement of inmates, available information regarding an inmate's prior incarceration is to be reviewed and considered as part of a thorough, objective evaluation of the inmate's security and custody needs. The counselor shall order and review an archive file upon discovery that the inmate has a prior CDCR term, Civil Addict commitment, DJJ, or CYA commitment, which has not been previously reviewed and incorporated into the inmate's current C-file. If the inmate was incarcerated in a federal institution or out-of-state, an attempt shall be made to get a synopsis of the inmate's prior incarceration behavior. (See also DOM § 61020.12.)

**61010.10 Distribution of Copies/C-File Placement**

The CDC Form 839 shall be temporarily attached to other documents prepared by the RC staff and placed in the classification portion of the C-file when presented to a CSR as described in DOM § 61030. Following CSR action the original shall be permanently placed in the classification section of the C-file, a copy of the CDC Form 839 shall be provided to the inmate. The computer copy shall be reviewed for legibility and computation. Computer copies shall be compiled and mailed weekly to:

Department of Corrections and Rehabilitation  
Information Quality Support Section  
P.O. Box 942883  
Sacramento, CA 94283-0001

**61010.11 Instructions for Completing the CDC Form 839**

The CDC Form 839 shall be written on a hard surface with ballpoint black ink pen only. Do not use pencil or felt, fiber, or other soft tip pens. This is required so that the printing will come through clearly on the self-carbonized copies. The Information Quality Support Section cannot accept items, which have been erased or marked over to correct because the copies will not be legible. Destroying the erroneous form and completing a new CDC Form 839 shall correct errors detected before copies are distributed.

Key data entry operators read only those letters and numbers which are inside the boxes on the form. Therefore, underlining and notations in the margins are permitted. Do not write more than one letter or number in each box.

**Right Hand Justified**

Numbers are to be right-hand justified; that is, end in the box furthest to the right with any empty boxes on the left. The most common problem is zeros that look like sixes, and vice versa, so take special care making these two numbers.

Except as noted in these instructions, any unused letter or number item is simply to be left blank.

On the CDC Form 839 box numbers appear to the right, but refer to the first box on the left of each field.

**61010.11.1 Identifying Information****CDC Number (Boxes 1 through 6)**

At the bottom of the CDC Form 839, first print the CDC number for the inmate in boxes 1-6 from information obtained from the Legal Status Summary.

Print the letter prefix (such as C, D, or W) in Box 1. Print the numbers in Boxes 2 through 6, always ending in Box 6. Do not enter a letter in the number boxes. Example:

D-27854

D	2	7	8	5	4
---	---	---	---	---	---

**Inmate's Last Name (Boxes 7-11)**

Print the first eight letters of the inmate's last name using, CAPITAL BLOCK letters. Do not use lowercase or written script letters. Letter boxes are left-hand justified. Begin printing the name in the box furthest to the left and end with any empty boxes on the right. If the name consists of more than eight letters, enter only the first eight letters of the inmate's last name. Although eight boxes are provided on the score sheet, the database captures only the information in Boxes 7-11 or the first five letters entered. For names with less than eight letters, leave empty the remaining boxes to the right. If the last name is two words, run the words together. Do not leave an empty box in between letters. Example:

Mac Knight

M	A	C	K	N	I	G	H
---	---	---	---	---	---	---	---

**Date Received CDC (Boxes 12-17)**

For newly received felon inmates the Date Received CDC is the date that the inmate physically arrived at the RC. This date is noted on the CDC Form 112 and the Legal Status Summary. Enter this date in the boxes. A zero need not be entered in front of a single digit month or day, but must be entered as part of the two digits for the year when applicable.

Some exceptions to this process are outlined in DOM § 61010.8.1.

**County of Last Legal Residence (CLLR) (Boxes 18-20)**

This information is obtained from the POR, sentencing transcripts, or arrest report. For new commitments, the CLLR is the county of residence prior to incarceration. If the POR identifies that the inmate last resided out-of-state or was a transient prior to his or her commitment, the CLLR shall be the county of commitment. If the inmate transfers to the CDCR to serve a term from another state or federal jurisdiction, use the code "WIC" as the CLLR.

Print the two or three letter OBIS code for the county name in Boxes 18-20.

ALA	Alameda	ORA	Orange
ALP	Alpine	PLA	Placer
AMA	Amador	PLU	Plumas
BUT	Butte	RIV	Riverside
CAL	Calaveras	SAC	Sacramento
CC	Contra Costa	SB	Santa Barbara
COL	Colusa	SBD	San Bernardino
DN	Del Norte	SBT	San Benito
ED	El Dorado	SCL	Santa Clara
FRE	Fresno	SCR	Santa Cruz
GLE	Glenn	SD	San Diego
HUM	Humboldt	SF	San Francisco
IMP	Imperial	SHA	Shasta
INY	Inyo	SIE	Sierra
KER	Kern	SIS	Siskiyou
KIN	Kings	SJ	San Joaquin
LA	Los Angeles	SLO	San Luis Obispo
LAK	Lake	SM	San Mateo
LAS	Lassen	SOL	Solano
MAD	Madera	SON	Sonoma
MAR	Marin	STA	Stanislaus
MEN	Mendocino	SUT	Sutter
MER	Merced	TEH	Tehama
MNO	Mono	TRI	Trinity
MOD	Modoc	TUL	Tulare
MON	Monterey	TUO	Tuolumne
MPA	Mariposa	VEN	Ventura
NAP	Napa	YOL	Yolo
NEV	Nevada	YUB	Yuba

**Form Identification (Boxes 21-29)**

At the top of the CDC Form 839, three blank boxes are labeled "New," "Correction," and "Delete." Place an "X" in the appropriate box.

- Print an X in the "New" box (Box 21) if the inmate is a new felony commitment and has no previous CDC Form 839 for this commitment.
- Print an X in the "Correction" box (Box 22) if the form is being completed as a correction to a previously submitted CDC Form 839. Enter the date of the correction in the boxes provided.
- Print an X in the "Delete" box (Box 29) when a CDC Form 839 was completed for an inmate in error and the document is to be deleted. For example, a PV-RTC was misidentified upon reception as a new commitment and a CDC Form 839 was completed instead of a CDC Form 841.

For more information on the preparation of "correction" and "deletion" documents refer to DOM §§ 61020.20.9 and 61020.20.10.

**61010.11.2 Background Factors**

There are two lines at the beginning of this Section that are identified as the First Arrest Date or Age and the Date of Birth.

- Enter the date of the inmate's first arrest or age at first arrest. This information may be on the CI&I, the POR, sentencing transcripts, or provided verbally by the inmate.
- Enter the birthdate found on the Legal Status Summary.

**Age at First Arrest (Boxes 30-31)**

Calculate the inmate's age at first arrest based on the date of the inmate's first arrest. If there is no record of arrests prior to the commitment offense, use the date that the inmate was arrested for the current commitment offense.

If there is a record of the “age” of first arrest, but no date is given, use the age given. If there is a record of the “year” of first arrest, but no date, use the age the inmate would have become during that year.

Age at First Arrest is the record of an arrest regardless of the outcome. A sustained petition or conviction is not required.

- Contact with law enforcement that is noted as “detention only” shall not be considered an arrest.

If during the interview, the inmate voluntarily indicates that he/she was first arrested at a younger age than is documented, use that information, and enter “per inmate” on the CDC Form 839. Document the inmate’s statement within the ISRS.

When the Age at First Arrest is determined, drop the months and use the full year, and apply that information to the Age at First Arrest Matrix. Enter the corresponding point value in Boxes 30-31. If the value is zero, enter zero. Enter all single digit numbers in Box 31.

#### Age at Reception (Box 32)

Using the date of birth and the Date Received CDC, calculate the Age at Reception. When the Age at Reception is determined, drop the months and use the full year. Apply that information to the Age at Reception Matrix. Enter the corresponding point value in Box 32. This is always a single digit value. If the value is zero, enter zero.

#### Term in Years (Boxes 33-34)

Enter the number of years of the total term between the brackets provided on the form. The number of years is documented on the Legal Status Summary.

- A sentence of death or life without possibility of parole shall result in a maximum score of 50.
- For sentences of 25 years-to-life for murder (including conspiracy), the base term is 25 years.
- For sentences under PC § 667.7 with a term of life without parole for 20 years, the base term is 20 years.
- For all other life sentences, the base term is 15 years. This includes Third-Strike and non-murder life sentence of 25 to life.
- Any enhancements or determinant terms for other counts or offenses to be served consecutive to a life term shall be added to the base term before calculation of the term score.

Drop the months and use full years.

- Multiply the number of years by two (2) and enter this value in Boxes 33 and 34. Any single digit value is entered in Box 34.
- The maximum number of points for term in years is 50.
- If the sentence is less than one year, enter zero.

If an inmate’s term changes during this incarceration, do not prepare a correction to the CDC Form 839. Prepare a CDC Form 840 and complete the Section F #4 “Change in Term Points.” Term points shall be based on the inmate’s total term as identified on the most current Legal Status Summary.

#### Street Gang/Disruptive Group (Boxes 35-38)

For the purpose of Placement Score evaluation, if available information indicates that the inmate is or has been involved with gang activity; enter six (6) points in Box 35. An inmate’s housing preference alone is not indicative of gang activity. Do not assess points unless the Method of Verification Code is one of those listed. “Validation” by an IGI is not required in order to identify and document street gang/disruptive group activity for the purposes of assessing a score on the CDC Form 839.

Points are applied for involvement in street gang/disruptive group activity. Points are not assessed for prison gang membership. Unless there is a record of street gang or disruptive group activity for this inmate, you will not apply points for street gang/disruptive group activity. For example, if the inmate is a member of Nazi Low Riders and demonstrated involvement in the Nazi Low Riders disruptive group or any street gang faction prior to arrival to the CDCR, he is assessed six (6) points for involvement in street gang/disruptive group activity. Since Nazi Low Riders is also a prison gang, the inmate is also subject to further investigation and potential validation as a member of the Nazi Low Riders prison gang.

**Type of Street Gang/Disruptive Group Codes.** Apply the code that most closely identifies the inmate’s street gang/disruptive group. Enter the appropriate alpha codes in Boxes 36-37.

- CR Crip
- BL Blood
- NH Northern Hispanic street gang/disruptive group
- SH Southern Hispanic street gang/disruptive group
- AS Asian street gang/disruptive group

- BD Bulldogs
- WH White Supremacists, Neo Nazi, Skinheads, etc.
- BK Black street gang/disruptive group (not Crip or Blood)
- MC Outlaw Motorcycle Clubs
- OT Other street gang/disruptive group not listed

**Method of Verification Code.** Apply the letter code that is most indicative of the gang activity in Box 38. Use the letter code provided. Indications of street gang or disruptive group activity are:

- Self Admission.
- Tattoos and symbols. Body markings, hand signs, distinctive clothing, graffiti, etc., which have been identified by gang coordinators/investigators as being used by and distinctive to specific gangs.
- Written material. Any material or documents evidencing gang activity such as the membership or enemy lists, constitutions, organizational structures, codes, training material, etc., of specific gangs.
- Photographs. Individual or group photographs with gang connotations such as those, which include insignia, symbols, or validated gang affiliates.
- Staff information. Documentation of staff’s visual or audible observations which reasonably indicate gang activity.
- Other agencies. Information evidencing gang activity provided by other agencies. Verbal information from another agency shall be documented by the staff person who receives such information, citing the source and validity of the information.
- Association. Information related to the inmate’s association with gang affiliates.
- Offenses. Where the circumstances of an offense evidence gang activity, such as where the offense is between rival gangs, the victim is a verified gang affiliate or the inmate’s crime partner is a verified gang affiliate.
- Legal documents. POR or court transcripts evidencing gang activity.
- Communications. Documentation of telephone conversations, mail, notes, or other communication, including coded messages evidencing gang activity.

Do not assess points for an inmate’s housing preference. Housing preference alone is not indicative of street gang/disruptive group activity.

#### Mental Illness (Boxes 39-43)

If a CDC Form 128C, Mental Health Placement Chrono, has been prepared in the RC that indicates the inmate is a participant in the Mental Health Services Delivery System (MHSDS), except for those cases that have been designated Medical Necessity, enter four (4) points in Box 43.

If the determination is made after the CDC Form 839 has been prepared and endorsed, but prior to leaving the RC, the CDC Form 839 shall be corrected and the case referred to the CSR on a CDC Form 840 for appropriate housing.

- Determine the Level Of Care (LOC) that has been designated by the RC health care staff on the inmate’s CDC Form 128C. Place an “X” in the appropriate box only if 4 points have been entered in Box 43, if not, leave the LOC box blank.
- LOC:
  - Correctional Clinical Case Management System (CCCMS) (Box 39).
  - Enhanced Outpatient Program (EOP) (Box 40).
  - Mental Health Crisis Bed (MHCb) (Box 41).
  - In-patient hospitalization at a Department of Mental Health (DMH) facility (Box 42).

Do not prepare a correction if the inmate continues in the MHSDS, but there is a change to the inmate’s LOC prior to transfer from the RC.

#### Prior Jail or County Juvenile Sentence of 31+Days (Box 44)

These items require a review of the POR and the CI&I, CLETS, and FBI Multi State Record in order to identify prior sentences of 31 days or more. A “sentence” is imposed by the court. Incarceration time or time in custody is not considered a “sentence.” Apply no more than one (1) point for each category.



- Count any sentence of 31 days or more. Do not count suspended sentences.
- Count any sentence under a delinquency petition which involves a crime rather than “status offender” placements. For example, “beyond parental control” should not be counted. Burglary, however, would be counted.
- Count CDCR placements for diagnostic evaluation (PC § 1203.03 “Z” cases) followed by a grant of probation. In these cases, the inmate is sentenced to county jail, given credit for time served, and released to probation rather than being returned directly back to the CDCR to serve a prison term.

#### **Prior Incarceration(s) (Boxes 45 and 46)**

- CYA, Juvenile State or Federal Level (Box 45)
  - Count placement in state or federal facilities for juvenile offenders.
- CDC, CRC, Adult State, or Federal Level (Box 46)
  - Count any state or federal level incarceration for adult offenders.
  - Count previous commitments to the Civil Addict program.

#### **Total Background Factors Score**

Total the number of points assessed for this Section and place the sum on the line provided.

#### **61010.11.3 Correction to CDC Form 839 Score Sheet (Prior to Rev. 07/02) (Boxes 47-49)**

The Correction to CDC Form 839 Score Sheet area is provided for the purpose of recording any corrections to a CDC Form 839 with a revision date prior to 07/02. Information shall never be recorded in this area when preparing a “New” CDC Form 839 score sheet.

This area is not to be used for changes or adjustments to term points. The Change in Term Points area on the CDC Form 840 continues to be used for all adjustments or corrections to term points.

See DOM §§ 61020.20.9 and 61020.20.10 for instructions in the correction and deletion process.

#### **61010.11.4 Prior Incarceration Behavior (Boxes 50 through 64)**

Prior Incarceration Behavior that meets the definitions below is to be recorded here. For example, behavior while in the county jail awaiting sentencing or during transportation shall be counted. Behavior while incarcerated in other correctional agencies, such as county jail, juvenile hall, federal prison, or Civil Addict commitment incarceration, which meets the criteria, shall also be counted. The behavior must have occurred prior to the inmate’s Date Received CDC in order to be counted in the Prior Incarceration Behavior section of the CDC Form 839.

##### **Last 12 Months of Incarceration (Boxes 50 through 52)**

Prior Incarceration Behavior “in the last twelve months of incarceration(s)” in any correctional agency shall include the last 12 cumulative months in custody, going as far back as necessary to attain a total of 12 months, prior to the date the inmate was received in the CDCR.

- Twelve months of incarceration is also defined as 360 days.
- For ease of calculation and consistency of rule application, months are considered 30-day months.

Review the Abstract of Judgment (AOJ), CI&I, and POR to identify those periods of prior incarceration. The POR is the document of choice when information conflicts; the POR is reviewed by legal counsel and the court, and contents may be challenged in court. (See DOM § 61010.9.)

The following is a sample case for determining the inmate’s “last 12 months of incarceration”:

Inmate “X” was received in the CDCR on 5-7-93. She paroled on 10-1-94 and discharged on 11-18-95. She was received again in the CDCR as a new felon commitment on 2-10-03. She spent 120 days in county jail prior to her arrival in the RC.

- The “last 12 months of incarceration” begins on 2-9-03, which is the date prior to the date the inmate was received in the CDCR. She spent 120 day, or 4 months, in the county jail prior to her arrival in the CDCR. There are 8 months left to account for. Her next period of incarceration ended on 10-1-94, the date she paroled from her previous incarceration. Therefore, beginning on 10-1-94, and counting backwards in time for 8 months, the end of the 12 month period is 2-1-94.
- Using this example, the “last 12 months of incarceration” is all incarcerated time during the period of 2-1-94 through 2-9-03.
- In the Criminal History section of the ISRS, note whether or not the inmate has been incarcerated for a period of 12 months or more.

The application of favorable points or unfavorable points is mutually exclusive. Do not enter values for both Favorable Behavior and Unfavorable Behavior in the last 12 months of incarceration.

#### **Favorable Prior Incarceration Behavior (Box 50)**

Award favorable points in Box 50 according to the following rules of application only if the inmate has had a total of twelve months or more of continuous or cumulative prior incarceration and there is no evidence or documentation of serious disciplinary behavior for which the inmate was found guilty.

If an inmate has been incarcerated for less than 12 months, but there is no evidence or documentation of serious disciplinary behavior for which the inmate was found guilty, leave Box 50 blank.

The information to be used to evaluate the inmate’s behavior may be obtained from prison institution records, DJJ/CYA ward files, CDCR archives, serious disciplinarys (CDC Form 115) and similar documents from other correctional agencies. The POR and CI&I shall also be reviewed for any indication of disciplinary problems or positive behavior while incarcerated.

#### **Unfavorable Prior Incarceration Behavior (Boxes 51-52)**

When recording Unfavorable Prior Behavior, the documentation shall establish that the inmate was determined to be guilty of conduct described as a serious disciplinary in the CCR § 3315 within the last 12 months of incarceration. Such behavior may be documented by means other than a CDC Form 115. For example, an assault on another inmate in jail or distribution of any controlled substance in jail may be documented by a report from the sheriff. If the disciplinary problem occurred in the CDCR, it will have been documented on a CDC Form 115.

- Enter the date of each occurrence that is counted as a serious disciplinary in last 12 months of incarceration in the space provided.
- Count the number of serious disciplinarys, or their equivalent, for which the inmate was found or pleaded guilty occurring within the last 12 months of incarceration, multiply by four (4) points and enter the total in Boxes 51-52.
- The maximum number of points that can be assessed for Unfavorable Behavior during the last 12 months of incarceration is 99.

Negative behaviors occurring after the Date Received CDC and during RC processing shall be documented on a CDC Form 840. If a new felon inmate is found guilty of a serious rule violation during reception processing, the behavior shall be documented on a CDC Form 840, not on the CDC Form 839. The CSR shall then endorse the inmate’s initial placement on the CDC Form 840. In these cases, the CDC Form 839 shall require no CSR action.

#### **Serious Disciplinary History (Boxes 53-64)**

A single disciplinary problem that occurred in the last 12 months of incarceration and recorded in D,1,b, may also result in the assessment of points in more than one category under D,2, Serious Disciplinary History. For example, if within the inmate’s last 12 months of incarceration, the inmate incited a disturbance during which he assaulted another inmate, he shall be assessed points as follows:

- Four (4) points for Unfavorable Prior Incarceration Behavior (Boxes 51-52).
- Four (4) points for a Battery on an Inmate (Boxes 55-56).
- Four (4) points for Inciting a Disturbance (Boxes 61-62).

In addition to considering the content of serious disciplinary behavior that occurred within the last 12 months of incarceration, review all serious disciplinary behavior for which the inmate was found guilty and record that behavior which occurred during any prior incarceration if they meet the definitions below. In other words, the serious disciplinary behavior noted below shall be counted even if it occurred outside of the last 12 months of incarceration. Enter the date of every occurrence that is being counted in the space provided under each item. The maximum number of points that can be assessed for each category is 99.

#### **Battery or Attempted Battery on a Non-prisoner (Boxes 53-54)**

- Include any well-documented battery or attempted battery on a non-prisoner, which occurred during any prior incarceration. Do not restrict to the last twelve months in custody.
- Count the number, multiply by eight and enter in Boxes 53-54.

**Battery or Attempted Battery on an Inmate (Boxes 55-56)**

- Include any well-documented battery or attempted battery on an inmate, which occurred during any prior incarceration. Do not restrict to the last twelve months in custody.
- Do not include mutual combat where both inmates were co-responsible.
- Include situations where one or more inmates is clearly the victim. Usually results in some injury that may involve a group attack or some type of weapon.
- Count the number, multiply by four (4) and enter in Boxes 55-56.

**Distribution of Drugs (Boxes 57-58)**

- Include any distribution/trafficking of any controlled substance that occurred during any prior incarceration. Do not restrict to the last twelve months in custody.
- This refers to inmates who are involved in an operation to smuggle drugs into a jail or an institution or facility for distribution and sales.
- Do not count a disciplinary determination in which the inmate was found or pled guilty to possessing a small quantity of drugs.
- Count the number, multiply by four (4) and enter in Boxes 57-58.

**Possession of a Deadly Weapon (Double-Weight if Within the Last 5 Years) (Boxes 59-60)**

- Include only well-documented incidences of manufacturing or possessing a deadly weapon where apparent use was intended, which occurred during any prior incarceration. Do not restrict to the last twelve months in custody.
- Except as noted below, do not include possession of commonly available and unmodified objects unless they are used as weapons and this fact is documented in a disciplinary hearing process. For example, hobby craft tools, common shop tools, and baseball bats are not considered deadly weapons unless their use, or intent for use, as such is clear.
- Include possession of a razor blade (whether it has been modified or not) in a segregated program housing unit (e.g. Ad Seg Unit, Security Housing Unit [SHU], Psychiatric Services Unit).
- If the incident was within the past five years (60 months) of the reception date, it shall be weighted double by giving eight points. Indicate the date of the incident under the item.
- Count the number, multiply by four (4) or eight (8) and enter in Boxes 59-60.

**Inciting a Disturbance (Boxes 61-62)**

- Include any inciting a disturbance that occurred during any prior incarceration. Do not restrict to the last twelve months in custody.
- Typically, this involves a leadership role in an institution riot, racial disturbance, or work strike.
- Include any willful and deliberate behavior which might lead to violence or disorder, and any willful attempt to incite others, either verbally or in writing, or by other deliberate action to use force or violence upon another person of the type described in CCR § 3005.
- Count the number, multiply by four (4) and enter in Boxes 61-62.

**Battery Causing Serious Injury (Includes Conspiracy) (Boxes 63-64)**

- Include any battery that caused serious injury that occurred during any prior incarceration. Do not restrict to the last twelve months in custody. Serious injury is defined in CCR § 3000.
- Include an inmate who conspired in, or ordered such a battery.
- Count the number, multiply by sixteen (16) and enter in Boxes 63-64.

**Total Prior Incarceration Behavior Score**

If points were assessed for Unfavorable Prior Incarceration Behavior and/or Serious Disciplinary History, combine the total and subtract the Total Favorable Points if any. Enter the result in the space provided for Total Prior Incarceration Behavior Score. Indicate whether this total is a plus or minus value. For example, if there are no points assessed for serious disciplinary behavior, but there are four favorable points for no serious disciplinarys during the last twelve months of incarceration, the total is minus 4 (-4).

If points were neither added nor subtracted, enter a zero on the line provided for Total Prior Incarceration Behavior Score.

It is possible for an inmate to be awarded four favorable points in Box 50 for no serious disciplinary in the last 12 months of incarceration, but also be assessed points for serious disciplinary history in Boxes 53 through 64 that occurred outside of the last 12 months of incarceration.

**61010.11.5 Placement****Preliminary Score (Boxes 65-67)**

This is the Total Background Factors Score and Total Prior Incarceration Behavior Score combined.

Right-hand justify the total score. Enter the results of this computation in Boxes 65-67. Any empty boxes are to appear on the left.

If the computation results in a negative value or zero value, enter zero for the score. The maximum Preliminary Score is 999.

**Mandatory Minimum Score Factor**

A Mandatory Minimum Score Factor is a case factor that requires the application of a Mandatory Minimum Score.

**Mandatory Minimum Score Factor Code (Box 68)**

A Mandatory Minimum Score Factor Code is an alpha code associated with a Mandatory Minimum Score Factor.

- If an inmate has a case factor that requires the application of a Mandatory Minimum Score Factor Code, enter the applicable code in Box 68. If more than one Mandatory Minimum Score Factor Code applies, enter the code that appears first on the list.
- Document the RC justification for applying a Mandatory Minimum Score Factor Code in the CDC Form 816 or ISRS, as applicable. When the Mandatory Minimum Score Factor is applied other than in the RC, justify application in a CDC Form 128-G.
- If eligibility for a Mandatory Minimum Score Factor Code requires further consideration, refer to DOM § 61020.19.7.
- Absent overriding security or safety considerations, inmates pending case-by-case evaluation to determine eligibility for a Mandatory Minimum Score Factor Code shall not be transferred, except from the RC, until the application of a Mandatory Minimum Score Factor Code is resolved.
- Determine if one or more of the case factors listed below apply to the inmate. If no factors apply, proceed to the instructions for Placement Score.
- Prepare a new CDC Form 840 score sheet to record a change in or removal of a Mandatory Minimum Score Factor Code.

Mandatory Minimum Score Factor Code and Scores:

CODE	FACTOR	SCORE
[A]	Condemned	52
[B]	Life Without Possibility of Parole	52
[C]	CCR 3375.2(a) (7) Life Inmate	28
[D]	History of Escape	19
[E]	Warrants "R" Suffix	19
[F]	Violence Exclusion	19
[G]	Public Interest Case	19
[H]	Other Life Sentence	19

Specific Criteria for Applying Mandatory Minimum Score Factor Codes:

- **A. Condemned.** Apply Mandatory Minimum Score Factor Code A to inmates sentenced to Death.
- **B. Life Without Possibility of Parole.** Apply Mandatory Minimum Score Factor Code B to inmates sentenced to Life Without the Possibility of Parole (LWOP).
- **C. CCR 3375.2(a)(7) Life Inmate.** Apply Mandatory Minimum Score Factor Code C to life-term inmates who are excluded from placement in Levels I or II based on any of the following factors per CCR § 3375.2(a)(7):
  - The commitment offense involved multiple murders, unusual violence or execution-type murders, or received high notoriety. Each of these factors is defined in CCR § 3000.
  - The inmate has a history of multiple walkaways, an escape from a secure perimeter, or an escape with force or threat of force.
  - A classification committee shall determine the application of Mandatory Minimum Score Factor Code C. The Unit Classification Committee (UCC) shall refer more complex cases to the Institutional Classification Committee (ICC) as needed.
  - Justification in the CDC Form 128-G shall address the specific element(s) of the inmate's commitment offense that substantiates

the application of Mandatory Minimum Score Factor Code C, which precludes Level II placement, as opposed to Mandatory Minimum Score Factor Code F or Mandatory Minimum Score Factor Code H.

- **D. History of Escape.** Apply Mandatory Minimum Score Factor Code D for those case factors listed below. This code is not to be used to assess risk factors for escape involving any other offenses, i.e. the sale or possession of large quantities of narcotics.
  - Apply to an inmate with any history of escape from within a secure perimeter or attempted escape from within a secure perimeter whether or not force was used. This inmate is permanently excluded from minimum custody placement.
  - Apply to an inmate who has a conviction for, or whose commitment offense includes, Escape with Force or Attempted Escape with Force from any correctional setting or armed escort. This inmate is permanently excluded from minimum custody placement.
  - Apply to an inmate who verbalizes that he or she is going to escape, and/or states he or she does not wish Minimum Support Facility (MSF) placement because he or she will be tempted to escape/walkaway. The inmate is permanently excluded from minimum custody/MSF/camp placement.
  - When applying the ten-year exclusion criteria in reference to the following escapes or walkaways, use the date of conviction. If the escape did not result in a conviction, use the date of apprehension. In a case where there is no escape conviction and the date of apprehension is unknown, use the date of the escape or attempted escape or walkaway.
  - Apply to an inmate who has a history of (one or more) walkaways without force from a nonsecure perimeter facility setting (such as camp, MSF, county road camp, etc.). The inmate is ineligible for minimum custody placement, camp, or MSF for ten years.
  - Apply to an inmate with a pattern of (two or more) walkaways from CCRC within the last 10 years. These inmates are excluded from minimum custody for 10 years.
  - Apply to an inmate who has a walkaway from CCRC that resulted in a court conviction for escape within the last ten years. The inmate is ineligible for minimum custody for 10 years.
- **E. Warrants "R" Suffix.** Apply Mandatory Minimum Score Factor Code E when the "R" suffix has been affixed to the inmate's custody. Criteria for the "R" suffix is provided in CCR § 3377.1 and DOM § 62010.4.3.1. Do not apply Mandatory Minimum Score Factor Code E for a case pending an evaluation.
- **F. Violence Exclusion.** Apply Mandatory Minimum Score Factor Code F when an inmate has a current or prior conviction for a violent felony or a sustained juvenile adjudication including, but not limited to, those listed under PC § 667.5(c) that does not require "case-by-case" consideration.
  - A sustained juvenile adjudication is a guilty determination or ruling rendered in a juvenile judicial proceeding.
  - In addition, the following administrative determinations regarding an allegation of a violent act including, but not limited to, those offenses described in Penal Code § 667.5(c), shall have the same force and effect as a current or prior conviction for a violent felony or a sustained juvenile adjudication:
    - Board of Parole Hearings (BPH) or Parole Hearings Division good cause finding or,
    - California Youth Authority/Youthful Offender Parole Board sustained allegation or,
    - A probation violation finding in a court of law.
  - Do not apply the Mandatory Minimum Score Factor Code F pending case-by-case evaluation.
- **G. Public Interest Case.** Apply Mandatory Minimum Score Factor Code G when a CSR determines that the inmate is a Public Interest Case as defined in CCR § 3000, CCR § 3375.2(b)(20) and DOM § 62010.4.3.3. Staff shall refer potential public interest cases to a CSR for determination and endorsement, if applicable, as a public interest case.
- **H. Other Life Sentence.** Apply Mandatory Minimum Score Factor Code H for an inmate serving a current life sentence commitment whose case factors are not already addressed by another Mandatory Minimum Score Factor. This inmate is excluded from placement in a minimum

custody setting until a release date is granted by the BPH. The granting of a release date by the BPH does not result in the removal of Mandatory Minimum Score Factor Code H.

#### **Mandatory Minimum Score (Boxes 69-70)**

A Mandatory Minimum Score is a numerical value identifying the least restrictive security level for an inmate who has a case factor that requires he/she be housed no lower than a specific security level.

When the Mandatory Minimum Score Factor Code is applied, enter the corresponding point value in the field labeled Mandatory Minimum Score, Boxes 69-70.

If more than one factor applies, enter the code in Box 68 that appears first on the list and enter the corresponding numeric value in Boxes 69-70.

#### **Placement Score (71-73)**

If a Mandatory Minimum Score Factor Code has not been applied, enter the Preliminary Score as the Placement Score.

If a Mandatory Minimum Score has been applied, enter the Mandatory Minimum Score or the Preliminary Score whichever is greater.

The Placement Score is one of the factors used to determine the security level to which the inmate is assigned.

#### **61010.11.6 Special Case Factors**

This provides the opportunity to alert classification staff of special concerns, which should be considered in placement or program assignment.

#### **Holds, Detainers, and Warrants (Boxes 74-75)**

Review all relevant documents and the "Detainers" section of the C-file for holds. This item requires careful evaluation regarding the seriousness of the hold and the likelihood that the jurisdiction will exercise the hold at the end of the sentence. The importance of the hold for classification is the extent to which the prospect of an additional term to serve may motivate the inmate to attempt escape.

- Holds, Detainers, and Warrants for felony charges or USINS are coded "P" for potential or "A" for actual.
- Code only those holds which are likely to result in an additional prison sentence or deportation. Exclude simple holds for probation or parole violation where the commitment offense is the basis for the violation.

#### **Restricted Custody Suffix (Box 76)**

Enter an "R" if a restricted custody suffix needs to be applied by the receiving institution pursuant to DOM § 62010.

#### **Current Institution and Facility (Boxes 77-83)**

Beginning with the first box, enter the letters that abbreviate the name of the RC. RC refers to the facility where the case is presented to a CSR or Correctional Counselor (CC) III for initial placement. Inmates may go through an RC, but actually be processed at an institution. Also, out-of-state inmates may be delivered directly to an institution. In such cases, enter the abbreviation for the institution where the processing takes place. Refer to DOM § 61020.19.8 for abbreviations.

#### **Eligible for Restitution Center (Box 84)**

The Restitution Center program allows inmates who meet program criteria to work in the community and repay their victims for monetary losses. Inmates are eligible for placement in the Restitution Center program pursuant to PC § 6228. Inmates are eligible for placement consideration if they meet the following criteria:

- Have agreed or been ordered by the court to make financial restitution to a crime victim.
- Have not served a prison term within the five years prior to the present conviction.
- Do not have a criminal history of a conviction for the sale of controlled substance.
- Do not have a criminal history of a conviction for a crime involving violence or sex.
- Received a sentence of 36 months or less.
- Present no unacceptable risk to the community.
- Are employable.

Inmates from any county are eligible for placement if they meet the criteria.

A court ordered restitution to the victim, whether payable to the court, directly to the victim, or in any other manner, qualifies an inmate to participate. A restitution fine constitutes financial restitution to a crime victim; therefore, a restitution fine meets the criteria for Restitution Center placement.

There are no medical staff assigned to the Restitution Center. However, an inmate who is otherwise eligible for placement in a restitution center who

requires regular monitoring/intervention by medical personnel may be considered if he or she is medically cleared on a case-by-case basis.

In Box 84, enter "Y" for "yes" if the inmate is eligible or enter "N" for "no" if the inmate is ineligible. This is a one-time entry for the duration of the inmate's CDC number unless the inmate's eligibility changes from "Y" to "N."

#### Level IV Design (Item F.5.)

**180 Status.** If a male inmate has a Level IV Placement Score, the counselor shall make a determination regarding the exclusion of the inmate from a Level IV 270-design institution. If the inmate meets the guidelines for exclusion from a Level IV 270-design prison, the counselor shall place the capital letter "Y" on the line provided.

If the male inmate has a Level IV Placement Score, but does not meet the guidelines for exclusion from a Level IV 270-design institution, the counselor shall enter an "N" on the line provided.

**Reason Code.** If a "Y" has been entered on the "180 Status" line provided, the counselor shall then enter the "Reason" code on the line provided that describes the reason for exclusion from a Level IV 270-design institution based on the established guidelines noted below.

Reason Codes are consistent with the Group A and Group B reasons outlined below. For example, an inmate who is excluded from placement in a Level IV 270-design institution because he is a street gang member, has two or more prior offenses listed in PC § 667.5(c), and has been in the CDCR for less than three (3) years at the time of review, "B3" would be entered as the Reason Code.

#### GROUP A

Any single factor is exclusionary and prevents placement in a Level IV 270-design prison:

- 1) SHU placement during the last three (3) years of incarceration.
  - SHU terms suspended upon initial review by ICC do not count.
- 2) Disciplinary CDC Form 115 for a Division A-1, A-2, or B offense in the last three years of incarceration.
  - Excluding Possession of Narcotics.
- 3) Validated Member or Associate of a Prison Gang.
  - If the inmate was housed in General Population (GP) during the last three (3) years of incarceration, he may be housed in a 180-design or a 270-design facility.
- 4) Disciplinary CDC Form 115 for Riot (Rout) or for Inciting a Riot in the last three (3) years of incarceration.

#### GROUP B

These factors must be applied together. There must be some evidence of street gang membership or association and one or more of the additional elements numbered 1 through 6 below. Exclusion for these factors will be for whichever comes first, three years or until the Placement Score is adjusted to Level III or below.

- 1) Disciplinary CDC Form 115 for Assaultive Behavior within the last three years of incarceration.
  - Exclude mutual combat.
- 2) Commitment offense where street gang activity was directly involved.
- 3) Two or more prior offenses listed in PC § 667.5(c).
- 4) Committed under PC § 667.5(e)(2) (Three Strikes Law).
- 5) Committed for Life Without Parole.
- 6) Determinate sentence of 50 years or more.

#### US Armed Forces (Box 85)

Enter a "Y" if the inmate answers "Yes" to the following question: "Have you ever been a member of the US Armed Forces and were you honorably discharged?" If the inmate answers "No" enter "N." After a response has been documented on the CDC Form 839, CDC Form 840, or CDC Form 841, it is not necessary to address the issue again.

#### Caseworker Name (Boxes 86-94)

The counselor shall print his or her last name and first initial in capital block letters, in the boxes, indicating that the CDC Form 839 is accurate and complete.

#### 61010.11.7 CSR Action

This Section is to be completed only by a CSR or a staff member specifically authorized to act in that capacity.

Inmates who are found guilty of a serious disciplinary while undergoing RC processing shall have that behavior recorded on a CDC Form 840 and not on a CDC Form 839. The endorsement shall then occur on the CDC Form 840. No endorsement is required on the CDC Form 839 in these cases.

#### Last Name (Boxes 95-102)

The CSR shall print the first eight letters of his or her last name in CAPITAL BLOCK letters in the boxes provided.

#### Date of Action (Boxes 103-108)

Enter the number of the month, day, and last two digits of the year in which the action is taken.

#### Level IV Design (Boxes 109-111)

**180 Status.** If a male inmate has a Level IV Placement Score, the CSR shall make a determination regarding the exclusion of the inmate from a Level IV 270-design institution. If a male inmate meets the guidelines for exclusion from a Level IV 270-design prison, the CSR shall print the capital letter "Y" in Box 109.

**Reason Code.** If a "Y" has been entered in Box 109, the CSR shall print the reason code in Boxes 110-111 that describes the reason 270-design institution based on the established guidelines. Refer to DOM § 61010.11.6, Special Case Factors for Reason Codes.

- The counselor's evaluation regarding a male inmate's exclusion from a Level IV 270-design institution will be recorded in the Special Case Factors area of the score sheet.

#### Minimum Custody (Boxes 112-115)

**Eligibility.** The CSR shall print the letter "E," "L," or "P" in Box 112, consistent with the findings recorded on the Minimum Custody Screening Form. Print the letter "E" in Box 112 to document that the inmate is eligible for minimum custody. Print the letter "L" in Box 112 to document that the inmate is temporarily ineligible for minimum custody. Print the letter "P" in Box 112 to document that the inmate is permanently ineligible for minimum custody.

**Reason Code.** Print the code in Boxes 113-115 to identify the reason the inmate is either temporarily or permanently ineligible for minimum custody, for example, VIO, ESC, HOL, etc. If the inmate is eligible for minimum custody, print an "E" in the Minimum Custody Eligibility Box 112. Do not enter a reason code.

If an inmate is permanently excluded from Camp due to Arson, but is otherwise eligible for minimum custody in an MSF, enter "P" in Box 112 and enter ARS for Arson in Boxes 113-115 to ensure that inmate is not placed in a Camp.

#### CCRC Eligibility (Boxes 116-118)

The CSR shall enter the appropriate code for reentry eligibility.

- Print the letters REN in Boxes 116-118 if the inmate is eligible and wants to participate in CCRC.
- Print the letters REX in Boxes 116-118 if the inmate is eligible but does not want to participate in CCRC.

If the inmate is ineligible for CCRC placement, leave Boxes 116-118 blank.

#### Developmental Disability Program (DDP) Code (Boxes 119-121)

The Developmental Disability Program evaluation is recorded on a CDC Form 128-C2. The CSR shall print the most recent DDP code in the Boxes 119-121. The DDP code is the designation assigned by clinical staff.

#### Disability Placement Program (DPP) Code (Boxes 122-133)

The CSR shall make every effort to endorse a case that is identified as DPP on the CDC Form 1845, Inmate/Parolee Disability Verification, (Section C), to an appropriate institution.

The first three boxes are to be used for the impacting DPP code that most affects the inmate's placement. The CSR shall print the appropriate DPP code in Boxes 122-124. If there are additional codes that affect placement, enter those codes in Boxes 125-133.

The CSR shall print the non-impacting DPP codes assigned to the inmate in Boxes 125-133.

The C&PR or the RC-CCIII has the authority to code the DPP designation of inmates who have only non-impacting physical disabilities as identified in Section D of the CDC Form 1845. The C&PR or RC-CCIII shall print the non-impacting DPP code(s) in Boxes 125-133.

#### Administrative Determinants (Boxes 134-148)

An inmate whose Placement Score falls within one of the following ranges shall be placed in an institution, which is designated at the security level indicated, unless a reason for administrative or irregular placement is specified:

**Placement Score    Security Level**

0-18	I
19-27	II
28-51	III
52+	IV

Appropriate inmate placement is determined by both Placement Score and consideration of unusual or special case factors. Some case factors affect placement because of administrative policy requirements, commonly referred to as “administrative determinants.” Placements based on these case factors, in a facility that does not correspond to the inmate’s Placement Score, are “administrative placements.”

Space is provided to record up to five administrative determinants. Enter applicable administrative determinants. An administrative determinant identifies both temporary and permanent case factors and alerts staff to safety and security considerations which may limit the inmate’s eligibility for placement.

If there are not enough boxes to identify all applicable administrative determinants, give priority to those most related to security and safety.

Record those determinants, which are supported by documentation using the administrative determinant codes provided. If an administrative determinant code has already been entered as a Minimum Custody Reason Code (Boxes 113-115), it is not necessary to repeat that code here.

For example, if the inmate has an active felony hold, mental health concerns, medical concerns, and a possible restricted “R” custody, enter the applicable administrative determinants. Unless the medical condition is driving placement, the mental health diagnosis is the primary concern. Enter HOL for the Hold if the hold is active, is either a felony or a USINS hold, and supporting documentation for the hold is in the file. The “R” suffix is not entered pending evaluation. The CSR would therefore enter:

a)                      b)                      c)

P	S	Y	M	E	D	H	O	L
---	---	---	---	---	---	---	---	---

The following codes are the Administrative Determinant codes:

- **AGE.** Inmate’s youthfulness, immaturity, or advanced age should be given strong consideration in placement or program decisions.
- **ARSon.** Current or prior conviction or a sustained juvenile adjudication as defined in CCR § 3375.2(b)(25) or good cause finding ruling rendered in a BPH or Parole Hearings Division proceeding, a sustained allegation in DJJ/CYA or Youthful Offender Parole Board proceeding or a probation violation finding in a court of law for arson, which limits where the inmate may be placed.
- **BEHavior.** Inmate’s behavior record indicates he or she is capable of successful placement at an institution security level lower than that indicated by the inmate’s Placement Score. Not to be used if the inmate is housed at a security level higher than the inmate’s Placement Score.
- **CAMP.** Placement due to a shortage of camp qualified inmates. Enter CAM to identify an inmate who is eligible or potentially eligible for camp placement.
- **DEATH** sentence. Inmate was formerly on death row or currently is sentenced to death.
- **DEPARTMENTAL** review board. Special placement ordered by the Departmental Review Board.
- **DISciplinary** history. Inmate’s disciplinary record indicates a history of serious problems or threatens the security of the facility.
- **ENEMies.** One or more persons under the jurisdiction of the CDCR has been documented on a CDC Form 812 or 812-C as an enemy. This should also be used when victimization is very probable due to case factors, such as where the nature of the offense will very likely create an enemy situation at certain institutions. Includes current Protective Housing Unit cases and those who are natural victims because of their appearance or commitment offense.
- **ESCAPE** potential. Unusual circumstances suggest the inmate is a much greater escape risk than indicated by his or her Placement Score. For example, the inmate verbalized intent to escape.
- **FAMILY** ties. Inmate has strong family ties to a particular area where other placement would cause an unusual hardship.
- **GANG** involvement or affiliation. Documentation establishes that the inmate’s gang association requires special attention or placement consideration.
- **HOLD,** warrant, or detainer likely to be exercised. For purposes of justifying a need for irregular placement based on a hold, the hold is to be active, be either a felony hold or USINS hold, and substantiating documentation must be located in the C-File.
- **INActive.** Documentation establishes that the inmate’s inactive gang status requires special attention or placement consideration.
- **LIFe** sentence. Apply LIF to identify an inmate serving a life sentence or life sentences.
- **MEDical.** The inmate’s medical condition requires treatment or continuing medical attention not generally available at all facilities.
- **OUT-to-court.** Inmate needs to be housed in a particular facility in order to be close to a court jurisdiction where the inmate is required to testify in court or is being prosecuted. Includes situations where involvement in a court trial is anticipated because a disciplinary has been referred to the district attorney. Also, use this designation when a BPH appearance is imminent.
- **POPulation** pressures. Shall be used by a CSR only. No beds presently exist at an institution with a security level indicated by the inmate’s Placement Score.
- **PRE**release. The short time remaining to serve limits or otherwise influences placement or program options. This factor shall also be used when a release date is so close that transfer or starting a long-term program is not warranted and when a short release date warrants special placement or program consideration.
- **PSY**chiatric. A mental condition requires special treatment or may severely limit placement options. Includes Category B. Apply PSY to justify the administrative placement of an inmate who requires designated housing in accordance with an impacting DDP code.
- **PUBLIC** interest case. High notoriety of an inmate has caused public interest in the case and requires exceptional placement.
- **SCH**ool. Inmate is involved in an academic program which is not available at an institution security level consistent with the inmate’s Placement Score. Apply SCH to identify an inmate currently participating in a Substance Abuse Program who is being retained out of level to complete the Substance Abuse Program.
- **SEX.** Inmate has a prior incidence of rape, oral copulation, sodomy, or a lewd and lascivious act which requires restricted custody or placement.
- **SOR.** Sexual orientation. Inmate’s bisexual or homosexual orientation may require special placement.
- **TIME** to serve. Inmate’s time to serve is long, requiring placement at a facility with a security level higher than that indicated by the inmate’s Placement Score.
- **VIO**lence. Inmate has a current or prior conviction for a violent felony, or a sustained juvenile adjudication including, but not limited to, those listed under PC § 667.5(c), which, as determined by the CSR, requires placement in a facility with a higher security level than that indicated by the inmate’s Placement Score.
  - A sustained juvenile adjudication means a guilty determination or ruling rendered in a juvenile judicial proceeding.
  - In addition, the following administrative determinations regarding allegations of violent acts including, but not limited to, those offenses described in PC § 667.5(c), shall have the same force and effect as a current or prior conviction for a violent felony or a sustained juvenile adjudication:
    - Board of Parole Hearings or Parole Hearings Division good cause finding, or
    - DJJ/CYA/Youthful Offender Parole Board sustained allegation, or
    - A probation violation finding in a court of law.
- **VOC**ational training. Inmate is involved in a vocational program which is not available at a facility with a security level which is consistent with the inmate’s Placement Score.
- **WORK** skills. Inmate has a work skill in a critical trade for which special placement consideration may be warranted. This should also be used to request or approve work crew placements.

**Mental Health Level of Care (LOC) (Box 149)**

The CSR shall enter a “C” for CCCMS or an “E” for EOP in Box 149 to identify the inmate’s mental health LOC only at the time of endorsement.

**Institution Approved (Boxes 150-156)**

Print the first two, three, or four initials of the institution or facility name in Boxes 150-153. Print the security level, subfacility designation, or program in Boxes 154-156. Enter only one letter or number in each box. Empty boxes should be to the right.

For example, Sierra Conservation Center, Level I is recorded as:

S	C	C		I		
---	---	---	--	---	--	--

CSP, San Quentin, Level II is recorded as:

S	Q			I	I	
---	---	--	--	---	---	--

California Institution for Men, Minimum is recorded as:

C	I	M		I		
---	---	---	--	---	--	--

North Kern State Prison, Level III is recorded as:

N	K	S	P	I	I	I
---	---	---	---	---	---	---

Endorsement to the Restitution Center is recorded as:

L	A			C	C	C
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**Reason for Administrative or Irregular Placement (Boxes 157-159)**

The CSR or authorized staff completes this item only if the security level approved is not commensurate with the inmate’s Placement Score. If the level does not correspond, the CSR or authorized staff shall enter the reason for the administrative or irregular placement using the appropriate administrative determinant code to justify placement.

Some case factors affect placement because of administrative policy requirements. Policy-determined factors are “administrative determinants” and placements in a facility based on these, which do not correspond to the inmate’s Placement Score, are “administrative placements.”

There are also special case factors that, while not governed by policy, influence placement by determining program priorities. For example, the inmate’s score level is reduced, but he or she is retained in a higher security level to complete academic or vocational train or to fill a skilled worker position or the population is such that no suitable bed at the inmate’s security level is immediately available. When placement occurs under such circumstances, it shall be recorded as an “irregular” placement.

**61010.12 RC Transfer Disagreements**

If the RC’s Associate Warden disagrees with the CSR’s action, the inmate shall be retained at the RC while the case is presented to another CSR. If a second CSR does not resolve the issue, the Chief, Classification Services Unit, shall be contacted for a decision.

**61010.13 CSR Special Transfer Review**

RC cases determined to require security housing placement shall be presented for routine CSR review.

**61010.14 CSR Review of Transfer Delays**

*Revised December 15, 2016*

CSR endorsements for transfer are valid for 180 days from the date of endorsement unless the CSR provides an earlier expiration based on the current case factors. A single 180-day extension can be completed if the case factors remain the same. The CCI will track the endorsement to ensure the endorsement extension is prepared timely. The endorsement extension shall require the CCI and the CCII Supervisor to audit the central file and complete a Classification Chrono referring the case for the endorsement extension. The endorsed case awaiting transfer shall be presented to the CSR prior to the 181st day for the 180-day extension.

The request for a 180-day extension of a CSR endorsement shall not require a classification committee action unless case factors have changed or other information is identified, which renders the CSR endorsement to be no longer appropriate. When this occurs, a classification committee shall be required to review the changed case factors and determine appropriate housing.

**61010.15 Processing of Inmates into Community Correctional Facilities (CCF)**

The efficient and timely processing of inmates into CCFs requires the sharing of information, cooperation, and coordination among the staff of CDCR institutions, transportation, and non-State private vendors. Parole Violators Returned to Custody are eligible to be processed via the Detention Processing Unit to a Community Correctional Facility.

**Institutions’ Function/Responsibility**

Inmates shall be processed from RC and program institutions. The sending institution shall screen and approve inmate placement in CCFs per established placement criteria.

**Documents to be Forwarded**

Institutional records’ staff shall prepare the CDC Form 135, Inmate Transfer Record, and copies of Central File (C-file) documents per CDC Form 1740, Community Correctional Facilities Field File Checklist, to accompany the inmate.

Institution records’ staff shall update Offender Based Information System (OBIS).

Institution records’ staff shall forward the C-file the day after the inmate is transferred, to the CCF records office.

Institution staff shall coordinate with the appropriate regional transportation unit regarding the number of inmates to be transferred and to schedule their movement.

**Regional Transportation Unit Responsibilities**

Regional transportation staff shall coordinate with the CC III/Classification & Parole Representative (C&PR) and facility staff to ensure the timely movement of inmates to and from CCF. All incoming movement is coordinated with the Division of Adult Institutions and then disseminated to the Regional Hubs with pick-up dates and number of inmates.

**CCF Responsibilities**

Coordinate with regional transportation units and institution CC-III/C&PR to ensure timely movement of inmates.

The receiving facility staff shall ensure a signed SOMS – Notification in Case of Inmate Death, Serious Injury, or Serious Illness, and a release of information is obtained from each inmate at the intake interview.

The facility staff shall ensure existing guidelines are followed for the return of inmates who are, or become, unacceptable for their program.

**61010.16 Endorsement of Cases Paroled from RCs**

All inmates who are delivered to a reception center to serve a term in the CDCR shall receive an endorsement from a CSR or other staff member specifically authorized to act in that capacity. This requirement is not waived for inmates who parole from RCs. This endorsement is required by departmental data systems and shall be obtained for every inmate received by the CDCR. This does not apply to “paper commitments” (inmates who are committed to the CDCR but are not delivered to the RC).

The CSR shall enter the date of endorsement and enter the institution abbreviation followed by the letters “RC”; e.g. “NKSP-RC” with an irregular placement reason of “PRE.” The endorsement may be completed by an RC CCIII in the absence of a CSR.

**61010.17 Revisions**

The Director, Division of Adult Institutions, or designee shall ensure that the content of this Section is current and accurate.

**61010.18 References**

PC §§ 1203 and 2930.

CCR (15) §§ 3000 and 3375.

**ARTICLE 2 — CASE CONSIDERATIONS**

*Revised July 26, 2004*

**61020.1 Policy**

Inmates received by the California Department of Corrections and Rehabilitation (CDCR) shall be evaluated on an ongoing basis, and significant case information shall be documented in the central file (C-file).

**61020.2 Purpose**

This Section establishes standard procedures and guidelines for the orderly acceptance and documentation of significant case information necessary for the transfer and safety of inmates. It includes methods to update inmate classification scores and the proper documentation of critical and confidential information.

**61020.3 CDC Forms 812, 812-A, 812-B, and 812-C**

Any information regarding an inmate/parolee which is or may be critical to the safety of persons inside or outside an institution shall be documented as required below on a CDC Form 812, Notice of Critical Case Information—Safety of Persons (Nonconfidential Enemies); a CDC Form 812-A, Notice of Critical Information—Prison Gangs Identification; CDC Form 812-B, Notice of Critical Information—Disruptive Group Identification; and CDC Form 812-C, Notice of Critical Information—Confidential Enemies. The

purpose of these forms is to alert staff to safety/security concerns and/or information regarding an inmate/parolee that may be critical to his/her placement. CDC Forms 812, 812-A, 812-B, and 812-C and all documents referred to on the forms shall be filed in the C-file of each identified inmate/parolee. These forms, as applicable, and all supporting documents shall be reviewed and considered in the transfer, placement, and case supervision of any inmate/parolee. Any confidential material affecting the critical case factors of an inmate/parolee shall conform to the provisions of CCR § 3321. Entries on these forms must be supported by detailed documentation required elsewhere in the C-file. The reverse sides of these forms shall not be written on.

#### **61020.3.1 Reception Center (RC) Initiation of CDC Forms 812 and 812-C**

RC staff shall complete CDC Forms 812 and 812-C (if applicable) for each newly committed or returned inmate and place it in the inmate's C-file before referral to the Classification Staff Representative (CSR) or before the inmate's release to parole, discharge, or another jurisdiction.

#### **61020.3.2 Institution Update of CDC Forms 812 and 812-C**

Counseling staff shall update the CDC Forms 812 and 812-C (if applicable) as any critical information becomes known and is documented in the inmate's C-file and within 30 days of transfer. The CSR shall not take any action on transfers unless the CDC Forms 812 and 812-C (if applicable) or updates are within 30 days. When updates can no longer be accomplished on a current form due to lack of available entry space, staff shall prepare new CDC Forms 812 and 812-C (if applicable) to update the previous information and use the OBIS to verify all enemy locations.

Upon verification of a previously undocumented enemy, where that enemy is located at another institution, facility, or parole region, the assigned Correctional Counselor (CC) I shall, within five working days of receiving the documentation related to the enemy situation, complete a CDC Form 812X, Enemy Information Transmittal, and forward the form with supporting documentation to the institution's Classification & Parole Representative (C&PR) or RC-CCIII. Within five working days of receiving the forms, the C&PR or RC-CCIII shall ensure that the green copy is placed in the C-file of the identified enemy and forward the white and yellow copies of the CDC Form 812X and supporting documentation to the C&PR or RC-CCIII at the institution or facility or the Case Records Administrator in Parole Case Records North/South where the identified enemy is located. For those CDC Form 812Xs being sent to the Case Records Administrator in Parole Case Records, the CDC Form 812Xs shall be placed in an envelope marked "Confidential" and separate from any other mail and be addressed to the Case Records Administrator. A separate CDC Form 812X shall be completed for each newly identified enemy. A CDC Form 812X shall not be completed when the inmate identified as an enemy has been discharged. When the CDC Form 812 is updated and the identified inmate enemy has returned to the CDCR with a new number, a CDC Form 812X shall be completed within five (5) days of discovery and the process as outlined above shall be followed.

Within one (1) working day of receiving a CDC Form 812X, the C&PR/RC-CCIII shall ensure that the documents are forwarded to the identified inmate's assigned CCI. Within five (5) working days of receiving the documentation, the CCI shall ensure that the identified inmate's CDC Form 812/812-C is updated and that the CDC Form 812X and supporting documentation are placed in the inmate's C-file. The CCI will return the yellow copy of the completed CDC Form 812X to the C&PR/RC-CCIII who shall, within four (4) working days, return the yellow copy of the CDC Form 812X to the sending institution or parole region. Upon receipt of the completed yellow copy of the CDC Form 812X, the C&PR/RC-CCIII at the sending institution shall ensure that the completed yellow copy of the CDC Form 812X is placed in the identified inmate's C-file and the green copy is removed and destroyed.

Within five (5) working days of receiving a CDC Form 812X, the Case Records Administrator at Parole Case Records North/South shall ensure that the CDC Form 812X and accompanying documentation are placed in the inmate/parolee's C-file on the top of the Classification section of the file. If returned from Parole/CCF/CCRC to an institution, the receiving institution shall ensure that the file is updated with the enemy information and that the yellow copy of the CDC Form 812X is returned to the sending institution. Upon receipt of the completed yellow copy of the CDC Form 812X, the C&PR/RC-CCIII at the sending institution shall ensure that the completed yellow copy of the CDC Form 812X is placed in the identified inmate's C-file and the green copy is removed and destroyed.

#### **61020.3.3 Paroles Update of CDC Form 812**

Parole staff shall update the CDC Form 812 as any critical case information becomes known and is documented for inclusion in a parolee's file. The form

shall be updated before the parolee's file is forwarded by the parole region to any other location, including the CDCR's Archives Unit.

#### **61020.3.4 Verification and Documentation of Enemy Information**

Inmates, who staff believe are likely to do mortal or serious injury one to the other if given the opportunity, shall be considered enemies. Inmates, who claim to have an enemy, are responsible for providing sufficient information to positively identify the claimed enemy. Staff shall make concerted efforts to evaluate, verify, and document this information. Verification may include an interview with the alleged enemy when it can be done without jeopardizing an investigation or endangering the inmate. Information shall be documented on a CDC Form 812, 812-C (if applicable), and a CDC Form 128-B, General Chrono, indicating the results of the investigation, which supports or verifies this information.

#### **61020.4 Recording on the CDC Form 812**

When notations (names, number, circumstances, and comments) are recorded on a CDC Form 812 and 812-C (if applicable), the recording staff person shall ensure such critical information is included on the CDC Form 812 of each identified inmate or parolee. Where inmates or parolees are located elsewhere, such notifications shall be made by a photocopy of both the CDC Form 812 and the supporting documentation.

#### **61020.5 Information Documentation CDC Form 812**

The CDC Form 812 is non-confidential. It shall contain no references to documents in the confidential materials folder and not be filed in the confidential folder. Care shall be exercised in making notations on the CDC Form 812 to avoid disclosing any confidential information. Confidential information shall be documented on a CDC Form 128-B. Confidential enemies shall be recorded on a CDC Form 812-C.

The inmate shall have access to the fact that there is confidential information in the file; however, the contents shall not be disclosed.

Notations are reserved for three specific kinds of information: "Non-Confidential Enemies," "Deletion of Prior Enemies," and "Suspected Gang Affiliations." When there are numerous documents in a file, all related to the same critical information, the notation on the CDC Form 812 shall refer the reader to only the original sources or most significant documents. The reader is thus alerted that critical information exists in the file and is responsible for locating and considering any other related information/documents.

#### **No Known Enemies or Gang**

When there is no critical case information relating to the safety of persons to document, indicate "NONE" under CDC Number and/or gang section if there are no enemies and/or gang concerns. Decisions or actions, which may affect the safety of persons, shall consider all available information and not solely the presence or absence of notations.

Notations on a CDC Form 812 shall be typed or printed in ink and dated. The staff person making or authorizing the notation shall be identified by their name, title, and institution or parole region.

Each CDC Form 812 and all documents referred to on the form are permanent and shall be retained in the inmate's/parolee's file in accordance with procedures outlined in Department Operations Manual (DOM) § 72010, Types of Records.

#### **Supporting Information**

All written notations on a CDC Form 812 shall be supported by documentation contained elsewhere in the file. A CDC Form 128-B shall be used to document notifications unless the information is already supported by other file material, which need only be referenced. It is the reporting employee's responsibility to ensure that the information is placed in the file and that it is properly listed on the CDC Form 812.

#### **Institution Gang Investigator (IGI) Referral**

Gang involvement information shall be verified by a thorough investigation using the IGI, investigative lieutenant, or other designated staff.

#### **Providing False Information**

If it is determined the inmate has given false information, staff shall take appropriate action pursuant to California Code of Regulations (CCR) § 3021.

#### **61020.6 Prison Gang Information Documentation on CDC**

##### **Form 812-A, Notice of Critical Information-Prison Gang Identification**

When a prison gang affiliation is entered on the CDC Form 812, staff shall prepare a CDC Form 812-A. This form shall be completed only when inmates have been designated as a member, associate, or drop-out of a prison gang.

The CDC Form 812-A shall be completed in detail. The designation of an inmate as a member, associate, or drop-out, or in need of protection from a prison gang shall be verified, and all supporting documentation listed on the form.

**IGI**

The IGI shall prepare a CDC Form 128-B to summarize the verification of the inmate's involvement. In many cases, it will be necessary to provide more than one item of verification. IGIs or investigative lieutenants shall review and sign each CDC Form 812-A prior to its placement in the inmate's file to ensure that an inmate is not given a prison gang designation unless adequate supporting documentation is contained in the inmate's file. The reverse side of the CDC Form 812-A shall not be written on.

**Updating**

The CDC Form 812-A shall be reviewed and updated at each annual classification review and during any review for a transfer.

**61020.7 Prison Gang Identification Methods**

Methods of identification shall include a reference to each source document in the inmate's/parolee's file and adhere to the following guidelines:

**Self Admission.** Shall require verification from another source.

**Tattoos and Symbols.** Body markings identified by IGIs are indicative of specific prison gangs.

**Written Material.** Any material or documents determined to indicate prison gang involvement or activity such as membership lists, enemy lists, gang constitutions, structure, codes, or training materials of specific groups.

**Photos.** Individual or group photographs with gang connotations such as insignia or symbols or group photos with known gang members.

**Staff Information.** Documented staff observations, which reasonably indicate and verify gang involvement or association. The inmate's C-file shall be reviewed for corroborating CDC Form 115, Rules Violation Reports, CDCR Form 837 Series, Incident Reports, probation officer reports and other reports.

**Other Agencies.** Information provided by other agencies shall be documented. If the information is received orally, CDCR staff shall document the information, citing the source and the validity (such as the other agency's basis for determining an affiliation).

**Association.** Enter only information related to the inmate's/parolee's association with known gang members or with persons directly linked to known gang members. Such information can relate to street associations, crime partners, institutional associations, or visitors or correspondents of gang members.

**Confidential Sources.** The date of the information and the type of the source shall be noted. Any document relating confidential information from an inmate source shall also include an evaluation of the source's reliability and otherwise meet the requirements for the use of confidential information as specified in DOM § 61020.8.

**Commitment Offense.** Where the circumstances of an offense reveal evidence of gang affiliation, the counselor shall check for such indicators as victim, gang related crime, crime partners, witnesses, ethnic consideration, area of commitment, or "home town." "Home town" and ethnic considerations alone shall not determine gang affiliation, but shall be considered in context with other substantiating information.

**Legal Documents.** Probation Officer's Report (POR) or court transcripts.

**Visitors.** Documentation shall be made of visitors who are known gang "runners," street members, or members of an organization which associates with prison gangs.

**Debriefing Reports.** Official material detailing the voluntary statement of an inmate or parolee who claims to have dropped out from a prison gang or disruptive group.

**61020.8 Confidential Material Criteria**

The following types of information shall be classified as confidential:

- Information which, if known to the inmate, parolee, or others would endanger the safety of any person.
- Information which would jeopardize the security of the institution.
- Specific medical or psychological information which would be medically/psychologically detrimental if known to the inmate or parolee.
- Information provided and classified confidential by another governmental agency.
- Notwithstanding the above, information provided by an inmate/parolee, which is documented in a debriefing or other report, providing the inmate/parolee has requested a confidential designation and the gang coordinator/investigator or other staff per DOM § 61020.10 has determined security or safety would best be served by filing the report in the inmate/parolee's confidential folder rather than another section of the C-file.

**61020.9 Confidential Material Use**

CSRs are designated auditors of confidential information.

The hearing officer for a rules violation report shall ensure that the use of confidential information pertaining to the violation being adjudicated is properly disclosed and documented.

No inmate shall be approved for transfer to another institution based on confidential information, which is not properly documented and disclosed on a CDC Form 1030, Confidential Disclosure Form.

The identity of a confidential source may be kept confidential if disclosure would endanger the source, any person, or institutional security.

Decisions in disciplinary hearings based upon confidential information shall be supported in a confidential memorandum, incident report, or finding portion of the CDC Form 115 with investigative information and appropriate documentation.

These documents shall contain:

- A statement in support of CCR § 3321(c)(1) detailing the past information provided and why the confidential informant is considered reliable for the current incident.
- Whether the current information is first-hand or hearsay.
- Whether documentation or other "circumstances surrounding the event" would lead the decision maker to believe the information is true.
- In the case of multiple confidential sources, the degree of reliability of each source shall include how each statement compares with the other statements, and the circumstances or evidence on which the conclusion of reliability was based.
- The description of the "circumstances" shall state how it was possible that the events occurred as described by the confidential sources, and include any facts or evidence (who, what, when, and how) which confirm the truthfulness of "some" aspect of the source's statement.

**61020.9.1 Confidential Material/Reliability of Source**

No decision shall be based on information from a confidential source unless other documentation corroborates the information received from the source, or unless the circumstances surrounding the event and the documented reliability of the source satisfies the decision maker(s) that the information is true.

The description of the "circumstances" shall state how it was possible that the events occurred as described by the confidential sources, and include any facts or evidence (who, what, when, and how) which confirm the truthfulness of "some" aspect of the source's statement.

A confidential source's reliability may be established by any one of the following:

- The source has previously given information which proved to be true. The type of information provided and, if possible, the date the information was provided, (e.g., the CDC Form 128-B dated 3-2-01 in which the inmate informed staff on the location of weapons which were subsequently found).
- Multiple sources independently provide the same information. If two or more reliable informants give conflicting information, staff must provide a statement explaining why information provided by one source is more reliable than that provided by another. If two or more sources give conflicting information and all sources have not been determined to be reliable, then further efforts must be undertaken to determine the reliability of at least one source.
- The source implicates him/herself in criminal activity when providing the information. For example, a drug trafficker who identifies others and in doing so implicates him/herself.
- Part of the information provided is corroborated through investigation or by information provided by non-confidential sources. For example, a source provides information on the location of a weapon and the person responsible, and the location of the weapon proves true.
- The confidential source is the victim.

Note: Extreme care shall be taken to ensure that the evaluation of reliability does not reveal the identity of the confidential source.

**61020.10 Confidential Material Folders**

A removable confidential materials folder shall be provided in each C-file containing confidential information. Only case information, which meets the criteria for confidentiality shall be filed in the confidential material folder.

Proposed confidential documents shall be reviewed, signed, and dated by a staff person at the Correctional Counselor (CC) III, Parole Agent (PA) III or higher staff level to approve their being marked confidential and placed in the confidential folder of an inmate's or parolee's C-file or a parolee's parole field file.



### Classification Committee

Every classification committee shall review the confidential material folder of each case being considered. If unclassified or inappropriately classified material is present, it shall be reclassified and appropriately refiled.

#### 61020.11 Confidential Material Security

Every reasonable administrative, procedural, and physical safeguard shall be established and followed to ensure the security and confidentiality of files to protect against disclosure, damage, harm to an individual, or destruction of the information.

#### Hand Deliver

Material designated as confidential shall be either hand delivered by a staff person to the person responsible for placing it in the confidential folder of the C-file or parole field file, or it shall be placed inside of a sealed envelope which has been marked confidential and mailed to the office which maintains the C-file or parole field file.

#### Stamped “CONFIDENTIAL”

Any document designated as containing confidential information, either in total or in part, shall be conspicuously stamped at the top and bottom of the document with the word “CONFIDENTIAL” in red ink. If the document consists of more than one page, each page shall be so marked.

#### Authorized Limited Disclosure

Inmate/parolees shall be permitted to review their own debriefing reports, which may be designated confidential at their request. Disclosure of the debriefing report shall be authorized by the gang coordinator/investigator. Disclosure of reports other than debriefing reports shall be authorized by a CCIII, PAIII, or higher. Prior to the inmate/parolee’s review, the report shall be reviewed by appropriate staff to ensure other types of confidential information are not contained therein and subsequently wrongfully disclosed.

#### 61020.12 Archive File Reviews

To ensure accurate classification and appropriate placement of inmates, available information regarding an inmate’s prior incarceration is to be reviewed and considered as part of a thorough, objective evaluation of the inmate’s security and custody needs. The counselor shall order and review an archive file upon discovery that the inmate has a prior CDCR term, Civil Addict commitment, or Division of Juvenile Justice/California Youth Authority (DJJ/CYA) commitment, which has not been previously reviewed and incorporated into the inmate’s current C-file. An inmate may have a prior Civil Addict commitment that is still active. The central file of an active Civil Addict commitment can be requested from the California Rehabilitation Center (CRC).

If the inmate was incarcerated in a federal institution or out-of-state, an attempt shall be made to get a synopsis of the inmate’s prior incarceration behavior. If the inmate has a prior CDCR term or Civil Addict commitment, the counselor shall also check the “COFQ” screen in the OBIS to determine if there is a confidential folder to request.

Archive files often contain critical information, which may or may not be found in an inmate’s current C-file. Some examples are as follows:

- Enemy concerns.
- Escape history.
- Gang involvement.
- Investigative findings.
- Serious Rule Violation Reports.
- A “Sustained” petition from a juvenile court (which may be located in a DJJ/CYA file only).
- A finding of “Good Cause” by the Board of Parole Hearings (BPH).
- Medical information.
- Victim notification (which would be located in the confidential folder).

Performance of archive file reviews may result in a need to correct the Placement Score, change the security level, and/or refer the case to the CSR for transfer consideration. Inmates temporarily ineligible for Camp/Minimum Support Facility (MSF) placement due only to Placement Score may become eligible after completion of the archive file review. Conversely, inmates may appear to be eligible for Camp/MSF placement; however, the archive file may reflect case factors which exclude Camp/MSF placement.

#### 61020.12.1 Impact of Archive Review on Camp/MSF/CCRC Placement

If an archive file review is pending completion and the inmate is otherwise eligible for Camp/MSF placement, the case may be endorsed by a CSR for Camp/MSF (not direct placement). After a thorough review of available case information, a classification committee has the discretion to grant minimum custody and place an inmate into a Camp/MSF prior to receipt and completion

of the archive file review. If the committee finds no precluding factors for Camp/MSF and there are no concerns to warrant waiting for the archive file review, the committee may grant minimum custody and clear the inmate for Camp/MSF placement.

However, when there is a possibility of a case factor contained in the archive file that may preclude Camp/MSF eligibility, the Archives Unit shall be informed of the need to expedite the request for the archive file.

Do not endorse a case for CCRC placement pending archive review.

#### 61020.12.2 Archive File Review Procedures

The counselor shall review the inmate’s current criminal history through the California Law Enforcement Telecommunication System (CLETS) and the Criminal Identification and Information (CI&I) to determine if there is a discharged CDCR term, Civil Addict commitment, DJJ/CYA commitment, federal term, or out-of-state term, which has not been previously reviewed and documented.

If the inmate has a discharged CDCR term or Civil Addict commitment and the archive file has not been previously requested, the counselor shall complete the Request for Discharged Archives Files. The request shall include the inmate’s full name, current CDC number, discharged CDC number, box number (assigned to discharged cases beginning in the late 1990’s), and discharge date. Discharge dates can be obtained from the OBIS “COFQ” screen or CLETS/CI&I. Box numbers can be obtained from the OBIS “KMHQ” screen. Pursuant to Penal Code (PC) § 1203.03 (“Z” cases), records on diagnostic cases are not available after three years from the discharge date. (Note: When an inmate’s CDCR term is discharged, the parole region indicates in the OBIS “KMHQ” screen the box number in which the Central File is placed. Indicating the box number, when noted on the request form, assists the Archives Unit in locating the C-file.)

The “COFQ” screen in OBIS shall be checked to determine if there is a confidential folder under the discharged CDC number. If there is a confidential folder, the counselor shall complete the Request for Discharged Confidential Folder form. The request shall include the inmate’s full name, current CDC number, discharged CDC number(s), discharge date, and CI&I number.

If the inmate has a discharged DJJ/CYA commitment and the DJJ/CYA file has not been previously requested and reviewed, the counselor shall complete the DJJ/CYA file request.

NOTE: DJJ/CYA archive files are no longer available if the DJJ/CYA commitment has been discharged for seven (7) or more years.

The counselor shall complete the Notice of Requested Archive File, Confidential Folder, or DJJ/CYA File half-sheet, punch holes, and place it inside the back of the C-file folder where the archive file is normally located. This will be utilized to ascertain whether or not the archive file, confidential folder, or DJJ/CYA file has been requested. The counselor shall complete a separate half-sheet for each archive file, confidential folder, or DJJ/CYA File requested.

If an archive file, confidential folder, or DJJ/CYA file has been requested but not received prior to completion of the Institution Staff Recommendation Summary (ISRS), the RC counselor shall note the discharged number and date the archive file was requested in the Casework Follow-up section of the ISRS.

The counselor shall submit the request for the archive file, confidential folder, or DJJ/CYA file to the Records Office. The Records Office shall FAX the request to the appropriate destination (as indicated on the request form) within seven (7) days. If the archive file, confidential folder, or DJJ/CYA file is not received within 90 days, the counselor shall call the Archives Unit, ID/Warrants Unit, or DJJ/CYA Master Files Section to determine if the request needs to be sent again.

If applicable, federal institutions and out-of-state agencies shall be contacted by the counselor. Any information provided, whether written or oral, shall be summarized and documented in a CDC Form 128-B. (Note: The Archives Unit does not maintain records on Interstate “I” numbers. A C-file for an “I” number does not exist. An “I” number is on parole here in California serving parole that was imposed by another state. An “I” number has never served any prison time in California. Therefore, when requesting records on “I” numbers, the out-of-state agency shall be contacted by the counselor.)

Each time a counselor makes contact with another agency (federal, state, county, etc.) requesting records or receiving information on an inmate’s prior incarceration behavior, it shall be documented in a CDC Form 128-B. This will ensure that staff reviewing the case are aware of the information and any efforts that have been made to obtain the information.

Upon receipt of the Archive File, Confidential Folder, or DJJ/CYA File, the counselor shall review the file for information that may affect the inmate’s Placement Score, housing, custody, program, medical/psychiatric needs, or any other pertinent factors.

The counselor shall summarize the information compiled from the archive file review in a CDC Form 128-B and secure it in the C-file. A pre-formatted Archive File Review, CDC Form 128-B may be used to document the archive file review.

Upon completion of the archive file review, confidential folder review, or DJJ/CYA File review and documentation in a CDC Form 128-B, the counselor shall update or correct the appropriate documentation in the current C-file including, but not limited to, the following:

- Documentation of enemies on the CDC Form 812 and/or CDC Form 812C, Notice of Critical Information-Confidential Enemies;
- Incorporation of confidential information into the current confidential folder;
- Correction of the CDC Form 839, CDC Classification Score Sheet, and CDC Form 840, CDC Reclassification Score Sheet, and CDC Form 841, Readmission Score Sheet.

If the archive review results in a need to change the inmate's housing, program, custody, or security level, the counselor shall schedule the case for review by the next available classification committee. If a safety/security issue is identified, the counselor shall immediately notify the CCII (Supervisor) and/or available supervisory custody staff and ensure the appropriate action is taken.

The Records Office shall maintain security of DJJ/CYA files until returned to the DJJ/CYA. Note: DJJ/CYA files are to be returned to DJJ/CYA within 30 days of receipt.

CDCR archive files and archive confidential folders are not to be returned to the Archives Unit or ID/Warrants Unit. They are to be permanently retained in the current C-file.

If an archive file is received for an inmate that has been transferred, Records Office staff shall forward it to the inmate's current institution immediately.

If the archive file is received at the RC prior to the case being reviewed by the CSR, the archive file review, documentation in a CDC Form 128-B, and necessary updates and corrections to the C-file shall be completed at the RC to ensure the recommendation to the CSR is appropriate. If it is discovered that an archive file was not requested at the RC, the receiving institution shall submit the request.

With the exception of RC cases, all cases presented to the CSR for transfer consideration that have a discharged CDCR term, Civil Addict commitment, or DJJ/CYA commitment require completion of the archive file review and documentation in the C-file. If the archive file review has not been completed prior to the CSR review, the effort to obtain it and the reason the case is being referred to the CSR prior to the archive file review shall be described in the CDC Form 128-G, Classification Chrono.

#### **61020.13 CDC Form 840**

Classification and reclassification of inmates will normally be made pursuant to the CDC Inmate Classification Scoring System except when in the exercise of the discretion and judgment of the departmental officials it is deemed necessary to depart there from in individual cases. Such departures from the system shall be made for the purpose of ensuring the safety of inmates, correctional personnel, and that of the general public as well as for special institutional and/or programming needs.

##### **61020.13.1 Procedures**

A CDC Form 840 shall be completed as part of the regular classification process and anytime the case is presented to a CSR or when staff act for a CSR. It is intended to provide a cumulative record of the inmate's progress and changes in major case factors. Changes are documented at six or 12-month intervals except that a major change, which can lead to special housing or transfer consideration, shall be documented as it occurs.

The CDC Form 840 contains two carbonless copies and shall be written on a hard surface with black ballpoint pen. Do not use felt tip markers or soft-point writing instruments. The computer copies shall be sent at least weekly to:

Distribution of the "tear-off" copies is made before the C-file is re-filed, except when the case is to be presented to a CSR for review.

Copies shall remain attached to the original until the CSR action is documented and then shall be distributed.

Department of Corrections and Rehabilitation  
Information Quality Support Section  
P.O. Box 942883  
Sacramento, CA 94283-0001

#### **Retain**

The CDC Form 839, CDC Form 840s, and CDC Form 841s shall remain in the C-file and are not to be purged.

#### **61020.14 Updating for Regular Reclassification Review**

The first CDC Form 840 shall be completed 12 months after the date the inmate was received in the CDCR and annually thereafter. The annual review committee hearing may be conducted thirty days prior to the inmate's Review Period Ending Date, during the month due, or thirty days after that date.

No matter when the committee hearing is held, the inmate's previously established review period dates shall remain the same.

If the inmate's annual review is conducted prior to the established Review Period Ending Date, it provides for the possibility that serious negative behavior or below-average performance could occur subsequent to the annual review committee hearing, but prior to the Review Period Ending Date. If that does occur, a reevaluation of the inmate's score as documented on the CDC Form 840 shall be necessary, and may require a correction to that score sheet.

When a CDC Form 840 is being prepared for a classification hearing for transfer consideration, the counselor shall determine the Favorable Behavior points to be awarded based on the number of six-month review periods to be considered. Unfavorable Behavior shall also be documented if not already recorded on a prior score sheet. These updates shall be done regardless of the inmate's housing. For example, an inmate's placement in a Security Housing Unit (SHU) shall not preclude adjustments to the inmate's score for Favorable or Unfavorable Behavior and shall not preclude the inmate's annual review committee hearing.

The inmate shall be given a copy of the CDC Form 840 after the review is completed.

The current Placement Score shall be recorded on the CDC Form 128-G documenting the committee's action.

#### **Out of Level Placements**

If the inmate's current Placement Score is within a different security level than that of the facility where he or she is housed, the counselor shall check the last CSR Action recorded on previous score sheets and/or CDC Form 128-G for any "Administrative or Irregular Placement" approval. If no approval is noted, the case shall be presented to the next CSR for evaluation. An out-of-level placement involving an override down for an inmate with a Level II Placement Score who is otherwise eligible for MSF or Secure Level I placement at that institution shall not require review and endorsement by a CSR. The institutional C&PR shall review and endorse the case. The C&PR is authorized to apply the administrative determinant or irregular placement code of WOR to justify an override of the inmate's Level II Placement Score to house that inmate in the MSF or Secure Level I at that institution when the C&PR finds the inmate to be otherwise eligible at that institution for MSF placement or Secure Level I placement.

Where an approval is noted, and the inmate's adjusted Placement Score moves him or her to another security level designation, the case shall be presented to the CSR for transfer evaluation. A CSR approval for "Administrative or Irregular Placement" is valid only as long as the inmate's Placement Score remains within the same security level as when the approval was given. An inmate shall not remain at a facility with a security level that does not match his or her placement score level unless approved by a CSR or other authorized endorsing authority.

#### **61020.15 CSR Review for Placement or Transfer Endorsement**

Cases submitted to a CSR for transfer consideration must have a new CDC Form 840. Each inmate transferred will have a current Placement Score, so the receiving institution does not need to do a review until the appropriate period of time has lapsed.

Whenever a case is presented to a CSR or authorized staff for placement or transfer endorsement, an updated CDC Form 840 shall be provided in the C-file with the CDC Form 128-G, which makes the referral.

An updated CDC Form 840 is not required for the CSR approval of the following temporary placements:

- Placement in an ASU Hub.
- Placement in a Mental Health Crisis Bed.
- Medical and Return Transfers.
- Approval of an ASU Extension.

After the CSR's review and completion of the Classification Staff Representative section, detach and distribute one copy each to the inmate and Information Quality Support Section before filing the original in the C-file.

#### **Resubmittal to CSR**

When a case is resubmitted to a CSR to appeal the endorsement decision of another, a new CDC Form 840 is required as each submittal is a separate transaction. Distribute the copies of the CDC Form 840, which contain the original CSR action, regardless of the second CSR's decision. This will close out the first transaction.

Do not reassess points for negative or positive behavior from the previous CDC Form 840. Indicate only new information since last review.

#### CSR Endorsement

A CSR endorsement shall remain effective for 120 days from the date of endorsement.

If an inmate is not transferred within 120 days from the date of CSR endorsement, the endorsed case awaiting transfer shall be again presented to a CSR prior to the 121st day for a 120-day extension of the endorsement if there is no change to case factors and the endorsement remains appropriate.

Each request for a 120-day extension of an endorsement shall be documented on a CDC Form 128-G and requires confirmation that the CCI and the CCII Supervisor audited the central file; updated the CDC Forms 840, 812, 812-C (if applicable); verified that case factors impacting the appropriateness of the CSR endorsement have not changed; and confirmed that the initial CSR endorsement remains appropriate. The CCI's review and CCII Supervisor's authorization for endorsement extension shall serve as a classification action. The CCI and CCII shall sign and date the CDC Form 128-G.

The request for a 120-day extension of a CSR endorsement shall not require review by a Unit Classification Committee (UCC) or Institutional Classification Committee (ICC) unless case factors change or other information is identified which renders the CSR endorsement to be no longer appropriate.

An endorsed case awaiting transfer may be extended no more than twice beyond the initial 120-day period.

Upon discovery of information that a CSR endorsement is no longer appropriate, the institution shall not allow the transfer to occur. The case shall be referred for UCC or ICC, as appropriate, to determine appropriate placement. The UCC or ICC shall substantiate placement recommendation and refer the case for transfer consideration or retention in current placement.

#### 61020.16 Processing Inmates Through a Different Facility Than CSR Approved

Inmates endorsed by a CSR to a subfacility of an institution complex may be received and processed through a higher security level unit. Such cases are to be transferred to the subfacility at the first opportunity or, when beds are not immediately available, placed on a waiting list. If a classification committee discovers special case factors, which prohibit movement to a lower security level, the case shall be presented to a CSR within 30 days for further evaluation. Any such case not presented to a CSR shall be on an approved waiting list.

#### 61020.17 Transferring Inmates Between Facilities in the Same Complex

Transfer of inmates for more than 30 days between different security level subfacilities of an institution complex requires the same procedure as transfers between institutions. However, the C&PR is delegated the authority to act as a CSR when the facility security level conforms to the inmate's Placement Score or when an inmate with a level II Placement Score is being placed in the level I facility (MSF or secure level I) at that institution. The C&PR shall endorse the case and record WOR as the code for the Reason for Administrative or Irregular Placement on the appropriate score sheet.

To exercise this authority, the C&PR shall complete the CSR section as a CSR. No CSR approval is required for movement between subfacilities at the same level.

#### 61020.17.1 Transferring Inmates to an Institutional Hearing Program (IHP)

The C&PR at each institution, CCF, or MCCF is responsible to review and endorse all appropriate inmates to the IHPs during the final 30 to 45 days of their incarceration to facilitate a deportation hearing by federal immigration judges. Inmates with active United States Immigration and Naturalization Service (USINS) detainees, who are housed in general population housing, are to be considered for transfer to IHP. Cases endorsed for transfer must be within 45 days of parole. RC cases may be transferred up to 15 days prior to parole.

The determination of which IHP site is selected should be based upon a combination of the inmate's case factors, Placement Score, Mental Health Services Delivery System (MHSDS) designation, as well as bed availability and transportation scheduling.

The C&PR shall complete a CDC Form 128-G and a CDC Form 840. The Institution Approved is to be designated as RJD-INS, CEN-INS, or CAL-INS and "HOL" is to be entered as the Reason for Administrative or Irregular Placement.

#### 61020.18 Presenting SHU Cases for CSR Placement

A new CDC Form 840 is required when cases are presented to a CSR for release or retention after expiration of a term of determinate confinement or a stay of one-year indeterminate status in a SHU.

#### 61020.19 Instructions for Completing the CDC Form 840

##### General

The CDC Form 840 shall be completed as part of the regular reclassification process. It is intended to provide a cumulative record of the inmate's institutional adjustment and changes in case factors. A CDC Form 840 shall also be completed upon the return of an escapee or receipt of a Community Correctional Reentry Center (CCRC) failure.

Begin the CDC Form 840 review process by locating the most recent score sheet. Note the Preliminary Score (on the CDC Form 839) or most current New Preliminary Score (on the CDC Form 840/841), any special case factors, and the dates of the last review period.

An inmate whose parole is revoked because he/she refused to sign conditions of parole shall be re-scored on a CDC Form 841, Readmission Score Sheet, not on a CDC Form 840. On the CDC Form 840, box numbers appear to the right, but refer to the first box on the left of each field.

##### 61020.19.1 Identifying Information

##### CDC Number (Boxes 1-6)

At the bottom of the CDC Form 840, first enter the inmate's CDC number as obtained from the Legal Status Summary.

Print the letter prefix (for example P or W) in the first box. Enter the numbers in the remaining five boxes, Boxes 2-6, always ending in Box 6. Do not enter a letter in a number box. Example:

P-45678

P	4	5	6	7	8
---	---	---	---	---	---

##### Inmate's Last Name (Boxes 7-11)

Print the first eight letters of the inmate's last name in CAPITAL BLOCK letters. Do not use lowercase or written script letters. Letterboxes are left-hand justified. Start printing the name in the box furthest to the left and end with any empty boxes on the right.

If the name consists of more than eight letters, print the first eight letters of the name and omit the remaining letters. Although eight boxes are provided on the score sheet, the database captures only the information in Boxes 7-11 or the first five letters entered. For names with less than eight letters, leave the remaining boxes to the right empty. If the last name is two words, run the words together. Do not leave an empty box in between letters. Example:

Mac Knight

M	A	C	K	N	I	G	H
---	---	---	---	---	---	---	---

##### Date Completed (Boxes 12-17)

Enter the date that the CDC Form 840 is being completed as a "New" document as the Date Completed. The database organizes data from the CDC Form 840 based on the Date Completed.

If the CDC Form 840 is being completed as a correction document or to delete a previously submitted CDC Form 840, enter the Date Completed as it appears on the original document. A zero need not be entered before the month or day, but if applicable, enter a zero as part of the year.

Example: January 8, 2002

1	8	0	2
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##### Date of Last Score Sheet (Boxes 18-23)

Enter the date of the most recent classification score sheet in the C-file. A zero need not be placed in front of the month or day, but if applicable, enter a zero as part of the year.

Use the date of the last score sheet to identify the most recent score sheet in the C-file and organize the score sheets in chronological order to prevent tracking errors and ensure continuity.

##### Form Identification (Boxes 24-32)

At the top of the score sheet, three blank boxes are labeled "New," "Correction," and "Delete." Print an "X" in the appropriate box.

- Print an X in the "New" box (Box 24) if a new CDC Form 840 is being prepared.
- Print an X in the "Correction" box (Box 25) to correct a previously submitted CDC Form 840.
- Enter the date that the correction is being prepared in the "Date Corrected" Boxes 26-31.

- Print an X in the “Delete” box (Box 32) to delete a previously submitted CDC Form 840.

Additional information regarding preparation of “correction” and “deletion” documents is noted in DOM § 61020.20.9 and DOM § 61020.20.10.

#### **61020.19.2 Annual/6 Month Review Period Dates (Boxes 33-45)**

An inmate’s case shall be reviewed at least annually to consider the accuracy of the inmate’s Placement Score, custody designation, program, work and privilege group, and facility placement, including recommendation for transfer.

Review Periods are to be recorded in precise six-month increments of time. The six-month intervals establish the period of time in custody for which, Placement Scores are adjusted based on favorable behavior. If a CDC Form 840 is being prepared within 30 days of a Review Period Ending Date for a six-month interval, then the complete six-month review period in custody shall be recorded. For an annual reclassification review, two six-month review periods may be counted.

If six months in custody has not elapsed since the inmate’s Review Period Beginning Date, leave this Section blank.

For an annual review, count two six-month review periods in custody. When updating an inmate’s score in custody for the purpose of an annual review, place an “X” in the Annual box (Box 39).

#### **Determining the Annual/6 Month Review Period Dates**

Review Period Beginning Date:

- If the inmate’s Review Period Dates have not already been established, then the inmate’s Review Period Beginning Date is either the date received at the reception center (RC) or the first day of the last month considered for favorable behavior points, whichever is the most recent.

Enter the Review Period Beginning Date in Boxes 33-38.

Review Period Ending Date:

- The Review Period Ending Date is determined by adding six months or 12 months to the Review Period Beginning Date and subtracting one day.

Enter the Review Period Ending Date in Boxes 40-45.

For subsequent reviews, the Review Period Beginning Date shall be the previous Review Period Ending Date plus one day.

Inmate Example’s Review Period Beginning Dates:

- Inmate Example was received in a CDCR RC on 10-12-02. This date is the Review Period Beginning Date for the first review period. The only acceptable Review Period Beginning Dates thereafter are 10-12 or 4-12. Only the year will change as time progresses until the inmate paroled.

Inmate Example’s Review Period Ending Dates:

- For inmate Example, the only acceptable Review Period Ending Dates are 10-11 or 4-11. Only the year changes until the inmate paroled.

When a six-month review period in custody ends in February and the date calculated is 29 or 30, use February 28 as the Review Period Ending Date. For leap year, use February 29.

Except for the instance noted above, once the Review Period Dates are established, the month and day remains the same. Only the year changes as time progresses until the inmate paroled. Whether a classification committee hearing is held earlier or later, an inmate escapes from custody, returns from out-to-court, or returns from release on appeal bond, the month and day of the Review Period Dates remain the same.

The Review Period Dates change when the inmate paroled and subsequently returns as an RTC or WNT. (See DOM § 61020.20.2 for Readmission Review Period Calculation.)

- An inmate who refuses to sign conditions of parole and whose parole is revoked by the BPH, shall be re-scored on a CDC Form 841, not a CDC Form 840.

Number of Full Review Periods:

- For item number B4, record the number of six-month review periods being considered for Favorable Behavior on the line provided.

#### **61020.19.3 Favorable Behavior Since Last Review**

This Section shall be used for recording and calculating in custody favorable behavior points.

- Favorable behavior points are to be considered for each six-month review period for the categories noted below. For an annual reclassification review, two six-month periods shall be considered.

- When a CDC Form 840 is prepared within 30 days of a six-month Review Period Ending Date, favorable points shall be applied if the inmate is within 30 days of successfully completing the six-month review period and is otherwise eligible to receive favorable points at the end of that six-month review period. However, in such cases, should the inmate be found guilty of a serious disciplinary violation or found to not meet the criteria for favorable behavior points for the review period, a correction to the favorable behavior points shall be required.

#### **Continuous Minimum Custody (Boxes 46-47)**

Consider the inmate’s eligibility for favorable behavior points for the Continuous Minimum Custody category when the inmate is in custody and the Minimum Custody status being evaluated occurred during, and includes, the review period dates recorded in the Annual/6 Month Review Period Dates section of the CDC Form 840 score sheet.

Apply favorable behavior points for the Continuous Minimum Custody category when the inmate is assigned Minimum Custody for every day of the six-month review period being evaluated. To evaluate this item, review CDC Form 128-Gs.

When the inmate’s Minimum Custody assignment is interrupted during the six-month review period being evaluated, through no fault of the inmate, apply favorable points for only that interrupted six-month review period.

Unless the inmate was reassigned Minimum Custody on the first day of or prior to a subsequent Review Period Beginning Date, do not apply favorable behavior points for a six-month review period beyond the interrupted period.

If the inmate is housed in another jurisdiction during a six-month review period being considered, the counselor shall review the documents provided by the agency to determine if favorable points are appropriate. Favorable points shall be applied if documentation of assignment to Minimum Custody is provided by the agency.

Apply four (4) favorable behavior points for each six-month review period in custody for which the inmate qualifies.

#### **No Serious Disciplinary (Boxes 48-49)**

Consider the inmate’s eligibility for favorable behavior points for the No Serious Disciplinary category when the behavior being evaluated occurs during, and includes, the review period dates recorded in the Annual/6 Month Review Period Dates section of the CDC Form 840 score sheet.

Apply favorable behavior points when the inmate has not committed a serious disciplinary violation in custody during any day of the six-month review period. In order to be held accountable for a serious disciplinary violation, the inmate must have been found guilty of behavior identified as serious per CCR § 3315.

Apply favorable behavior points for the No Serious Disciplinary category even though the inmate was incarcerated in another correctional agency (e.g., county jail, state or federal institution) during the review period evaluated and there is no evidence or documentation of serious disciplinary behavior.

Upon evidence of serious disciplinary behavior while the inmate was incarcerated in another correctional agency, the documentation shall establish that the inmate was determined to be guilty of conduct described as serious per CCR § 3315 in order to disqualify the inmate for consideration of favorable behavior points for the review period.

Apply two (2) favorable behavior points for each six-month review period in custody for which the inmate qualifies.

#### **Average or Above Performance in Work, School, or Vocational Program (Boxes 50-51)**

Consider the inmate’s eligibility for favorable behavior points for the Average or Above Performance in Work, School, or Vocational Program category when the Average or Above Performance status being evaluated occurred during, and includes, the review period dates recorded in the Annual/6 Month Review Period Dates section of the CDC Form 840 score sheet.

Consider favorable behavior points for the Average or Above Performance category only when the inmate is in custody, assigned to a work incentive assignment, and reported on the first day of or prior to the first day of the six-month review period being evaluated.

When the inmate’s work, school, or vocational program assignment is interrupted during the six-month review period being evaluated, through no fault of the inmate, consider favorable points for only that interrupted six-month review period. Do not apply favorable behavior points for six-month review periods beyond the interrupted six-month review period unless the inmate again reports to a work incentive assignment on the first day of, or prior to, the next review period beginning date.

An unassigned inmate who received an assignment from the inmate assignment office during a lockdown period, but has been unable to report to that assignment due to the lockdown, is not eligible for favorable behavior

points for the Average or Above Performance category for that six-month review period. The inmate shall continue to earn Work Incentive Credit, but is not eligible to be awarded favorable behavior points if not participating in a program.

Favorable points shall not be applied for Average or Above Performance in Work, School, or Vocational Program to an inmate not assigned to a program.

Note: An inmate earns Work Incentive Credit once assigned to a fulltime work, school, or vocational program. However, favorable behavior points are based on inmate performance in custody.

Consider favorable behavior points for an inmate in custody who is reassigned or continued in a work, school, or vocational program who reports to a work, school, or vocational program on or prior to a subsequent review period beginning date.

Combine part-time assignments within the same six-month review period which, when work/program hours are added together, are equivalent to a full-time assignment.

To determine eligibility for favorable points, review CDC Form 128-Gs, CDC Form 101, Work Supervisor's Report, or CDC Forms 128-D, E, and F, Chrono-Education/Vocational.

If the inmate was in custody, but housed in another jurisdiction during the six-month review period being evaluated, consider favorable behavior points only if documentation of an assignment is provided by the agency. Review the documents provided by the agency to determine if favorable behavior points are appropriate.

If staff in the CDCR or another agency did not document the inmate's performance and the inmate continued to be assigned, continued to report to the assignment and there is no disciplinary documentation, apply favorable behavior points for this review period. In the absence of staff documentation of the inmate's performance, apply favorable points liberally. In other words, an isolated record (e.g., a CDC Form 128-A, Custodial Counseling Chrono) and no other indication of less than average performance shall not preclude the application of favorable points for the review period.

Apply two (2) favorable behavior points for each six-month review period if the inmate's in custody performance is rated "average" or "above average."

#### **Annual/Six Month Review Periods**

Annual/Six Month Review Periods are established as a standard period of time to measure in custody behavior warranting favorable behavior points.

An inmate's six-month review period is identified by the six-month period of time in custody between and including the Review Period Beginning Date and the Review Period Ending Date.

#### **Interrupted Period**

An "interrupted period" is a six-month in custody review period that is interrupted on or after the Review Period Beginning Date by a change to the inmate's assignment to Minimum Custody and/or the inmate's performance in a Work, School or Vocational Program.

#### **"Through No Fault of the Inmate" as it pertains to an Interrupted Period**

"Through no fault of the inmate" as it pertains to an interrupted period is a situation, which disrupts the inmate's assignment, custody, or placement, based on a decision outside of the inmate's control and the circumstances of the interruption are not within the responsibility of the inmate.

- Examples of "through no fault of the inmate" are:
  - The inmate is transferred out to court.
  - The inmate is placed on 'S' time pending parole.
  - The inmate is placed in administrative segregation pending investigation and/or disciplinary action and later released with no finding of guilt.
  - The inmate is housed in a Minimum Support Facility (MSF) and learns of a death in the family. Staff re-houses the inmate in a more secure facility pending evaluation of the inmate's escape potential.
- Examples of interruptions that are the fault of the inmate:
  - The inmate comes to staff and asks to be "rolled up" to administrative segregation. The inmate explains that he has a drug debt that he can't pay and stated that he can't stay in the general population.
  - The inmate has become disruptive in school and is removed from his assignment by a classification committee.

#### **Total Favorable Points**

Add the points for C1 through C3 and enter the number. Note that it is a negative value.

#### **61020.19.4 Unfavorable Behavior Since Last Review**

Locate the disciplinary section of the C-file and note if the inmate was found guilty of misbehavior rated as "serious" rather than "administrative." In the space provided, write the date of the disciplinary report for all "serious" disciplinary reports that have not yet been included.

When recording Unfavorable Behavior Since Last Review, the documentation shall establish that the inmate was determined to be guilty of conduct described as "serious" per the CCR § 3315. Such behavior may be documented by means other than a CDC Form 115. For example, an assault on another inmate in jail or distribution of drugs in jail may be documented by a report from the sheriff. Unfavorable behavior points are to be recorded only when the unfavorable behavior being evaluated occurred between any of the inmate's current or previous Annual/6 Month Review Period dates and/or previous Readmission Review Period Calculation dates.

Therefore, when it is determined that the serious disciplinary behavior did occur between the inmate's current or previous Annual/6 Month Review Period Dates and/or previous Readmission Review Period Calculation dates and the disciplinary has not been recorded on a prior score sheet, the disciplinary can be recorded on a new CDC Form 840 or CDC Form 841 outside of the review period dates recorded on that score sheet.

Note: A correction to previously applied favorable points for No Serious Disciplinary is necessary if the inmate is later found to be guilty of a serious disciplinary violation committed during a review period for which favorable points for No Serious Disciplinary had been previously granted.

#### **Serious Disciplinaries (Boxes 52-69)**

The counselor shall apply eight (8) points for each guilty finding for a Division A-1 or A-2 offense in Boxes 52-53.

The counselor shall apply six (6) points for each guilty finding for a Division B, C, or D offense in Boxes 54-55.

The counselor shall apply four (4) points for each guilty finding for a Division E or F offense in Boxes 56-57.

Count the number of disciplinaries and multiply by the appropriate point value and enter the total in the appropriate boxes. The maximum number of points to be assessed for each individual category is 99.

A single disciplinary may result in the assessment of points under more than one different category. If the inmate was found guilty of the described behavior, enter the date of the disciplinary and assess the points associated with that behavior.

When the behavior in an incident falls under more than one category, assign the points for each appropriate category. For example, if the inmate is found guilty for battery on another inmate with a deadly weapon causing serious injury, that one act shall be noted on the CDC Form 840 in items:

- Item D1, Division A offense = 8 points
- Item D3, Battery on an inmate = 4 points
- Item D5, Possession of a deadly weapon = 16 points
- Item D7, Battery causing serious injury = 16 points

For this serious disciplinary, the inmate is assessed a total of 44 points.

Example: If a CDCR inmate, while in the county jail, is found guilty of distribution of drugs (trafficking narcotics), the inmate shall be assessed points as follows:

- Item D1, Division A-2 offense = 8 points
- Item D4, Distribution of Drugs = 4 points

For this serious in-custody offense, the inmate is assessed a total of 12 points.

#### **Battery or Attempted Battery on A Nonprisoner (Boxes 58-59)**

Include any battery on a nonprisoner or attempted battery on a nonprisoner.

Count the number, multiply by eight (8), and enter the total.

#### **Battery or Attempted Battery on an Inmate (Boxes 60-61)**

Include any battery on an inmate or attempted battery on an inmate.

Do not include mutual combat where both inmates were co-responsible.

Include situations where one or more inmates is clearly the victim. Usually results in some injury that may involve a group attack or some type of weapon.

Count the number, multiply by four (4), and enter the total.

#### **Distribution of Drugs (Boxes 62-63)**

This refers to inmates who are involved in an operation to smuggle any controlled substance into an institution, facility, or jail for distribution and sales.

Do not count a disciplinary determination in which the inmate was found guilty of possessing a small quantity of drugs or being under the influence.

Count the number, multiply by four (4), and enter the total.

**Possession of a Deadly Weapon (Boxes 64-65)**

Include only well-documented instances of manufacturing or possessing a deadly weapon where apparent use is intended.

Except as noted below, do not include possession of commonly available and unmodified objects, unless they are used as weapons and this fact is documented in the disciplinary hearing process. For example, hobby craft tools, common shop tools, and baseball bats are not considered deadly weapons unless their use, or intent for use, as such is clear.

- Include possession of a razor blade (whether modified or not) in a segregated program housing unit (e.g., Ad Seg Unit, SHU, Psychiatric Services Unit).

Count the number, multiply by sixteen (16), and enter the total.

**Inciting a Disturbance (Boxes 66-67)**

Typically this involves a leadership role in an institution/facility riot, racial disturbance, or work strike.

Include any willful and deliberate behavior, which may have led to violence or disorder, and any willful attempt to incite others either verbally or in writing, or by other deliberate action, to use force or violence upon another person, of the type described in the CCR § 3005.

Count the number, multiply by four (4), and enter the total.

**Battery Causing Serious Injury (Includes Conspiracy) (Boxes 68-69)**

Include any battery that caused serious injury.

Inmates who conspired in, or ordered such a battery shall receive the same points.

Serious injury is defined in CCR § 3000.

Count the number, multiply by sixteen (16), and enter the total.

**Total Unfavorable Points**

Add the points for items D1 through D7 and enter the value on the line provided.

A serious disciplinary, not previously recorded, can be entered on the CDC Form 840 even when the date of the disciplinary falls outside of the period of time recorded in the Annual/6 Month Review Period Dates section of the score sheet.

**61020.19.5 Correction to CDC Form 840 Score Sheet (Prior to Rev. 07/02) (Boxes 70-72)**

Form 840 score sheet with a form revision date prior to Rev. 07/02. This area is not to be used to record Changes in Term Points or Net Change in Score.

See DOM §§ 61020.20.9 and 61020.20.10 for further instructions in the Correction and Deletion Process.

**61020.19.6 Computation of Score****Prior Preliminary Score (Boxes 73-75)**

The Prior Preliminary Score will be found on the most recent classification score sheet:

- If the CDC Form 839 is the most recent score sheet, enter the Preliminary Score value as recorded in Boxes 65-67.
- If the CDC Form 840 is the most recent score sheet, enter the New Preliminary Score value as recorded in the most recent CDC Form 840, Boxes 82-84.
- If the CDC Form 841 is the most recent score sheet, enter the New Preliminary Score value as recorded in the most recent CDC Form 841, Boxes 84-86.

**Net Change in Score (Boxes 76-78)**

Combine the Total Favorable Points (C4) and the Total Unfavorable Points (D8). The Net Change in Score can be a plus or minus value. The maximum number of points that can be entered for Net Change in Score on each CDC Form 840 is 99.

Because the Inmate Classification Score System database organizes data by the Date Completed, to accurately capture points beyond 99 in the Net Change, prepare one or more additional CDC Form 840s. Each CDC Form 840 is able to capture up to 99 points Net Change in Score for purposes of recording disciplinary history. Enter a different "Date Completed" for each score sheet.

Enter the appropriate negative or positive sign in the first box. Enter the total numeric value in the remaining boxes.

**Preliminary Score Subtotal (Item F.3.)**

Enter the Preliminary Score Subtotal on the line provided. The Preliminary Score Subtotal is the Prior Preliminary Score plus or minus the Net Change in Score.

Computations that result in a negative value shall be entered as zero.

**Change in Term Points (Boxes 79-81)**

Whenever an inmate receives a change in his or her total term length, enter the change on the CDC Form 840. If an inmate's status changes from Parole Violator Returned To Custody (PVRTC) to Parole Violator With a New Term (PVWNT) after endorsement on the CDC Form 841, use a CDC Form 840 to record any change in term points. Do not correct the CDC Form 841.

Unless there is a change in the inmate's total length of term, do not recalculate Term Points.

To determine the Change in Term Points:

- Review the CDC Form 112 and the Legal Status Summary to determine if the new sentence has changed the total term length.
- If there has been a change to the length of the inmate's total term, review the original Term Point calculation on the CDC Form 839 and the Change in Term Points box on all subsequent score sheets before adjusting Term Points.
- Identify the current Term Points value and enter that value on the "- Old T/P" line on the score sheet. This is a negative value.
- Use the Term Point equation of base term plus enhancements multiplied by two (2) to calculate New Term Points. Enter that value on the "+ New T/P" line on the score sheet. This is a positive value.
  - This term point value cannot exceed 50.
- Determine the difference between the old term points and the new term points. Enter either a plus (+) or a minus (-) sign in Box 79 and the numeric difference in Boxes 80-81.

When an inmate receives a change in the total term length, do not correct the Term in Years section of the original CDC Form 839 or the Change in Term Points section of the CDC Form 841; use the new CDC Form 840.

When an inmate's total term length is modified, the new term points shall be based on FULL YEARS of the new total term. Months are not included in calculating the new term point total.

**EXAMPLES:**

An inmate returned to court and had a prior term stricken, reducing his total term to 3 years.

- Old Term Points: -8
- New Term Points: +6 (3 yrs X 2)
- Change in Term Points= -2

An inmate receives an additional term, increasing his total term by 8 months, to 6 years 4 months.

- Old Term Points: -10
- New Term Points: +12 (6 yrs X 2)
- Change in Term Point= +2

An inmate receives an additional term, increasing his total term to 5 years 10 months.

- Old Term Points: -10
- New Term Points: +10 (5 yrs X 2)
- Change in Term Points = 0 No change in Term Points

In this case, there is no Change in Term Points because the new total term length does not affect the term point value.

An inmate is given a 16-month sentence (1 year 4 months) consecutive to his controlling offense. His original term was 8 years, and the new term is 9 years 4 months.

- Old Term Points: -16
- New Term Points: +18 (9 yrs X 2)
- Change in Term Points = +2

An inmate had his Life sentence reduced to a total term of 4 years.

- Old Term Points: -50
- New Term Points: +8 (4yrs X 2)
- Change in Term Points = -42

**New Preliminary Score (Boxes 82-84)**

Add or subtract the Change in Term Points value entered in Boxes 79-81 from the Preliminary Score Subtotal and enter that value in Boxes 82-84. The maximum value for the New Preliminary Score is 999. Although the New Preliminary Score is at the maximum value of 999, record any serious disciplinary behavior on subsequent score sheets. Computations that result in a negative value shall be entered as zero. The New Preliminary Score cannot be less than zero nor greater than 999.

**61020.19.7 Placement****Mandatory Minimum Score Factor:**

A Mandatory Minimum Score Factor is a case factor that requires the application of a Mandatory Minimum Score.

**Mandatory Minimum Score Factor Code (Box 85)**

A Mandatory Minimum Score Factor Code is an alpha code associated with a Mandatory Minimum Score Factor.

- If an inmate has a case factor that requires the application of a Mandatory Minimum Score Factor Code, enter the applicable code in Box 85. If more than one Mandatory Minimum Score Factor Code applies, enter the code that appears first on the list.
- Document the RC justification for applying a Mandatory Minimum Score Factor Code in the CDC Form 816 or ISRS, as applicable. When the Mandatory Minimum Score Factor is applied other than in the RC, justify application in a CDC Form 128-G.
- If eligibility for a Mandatory Minimum Score Factor Code requires “case-by-case” consideration, the case shall first be reviewed and evaluated by a classification committee before the Mandatory Minimum Score Factor Code is applied.
  - If the classification committee approves application of a Mandatory Minimum Score Factor Code, the classification committee shall describe the justification for applying the Mandatory Minimum Score Factor Code in the CDC Form 128-G, and refer the case for CSR review for the application of the Mandatory Minimum Score Factor Code.
  - A CDC Form 840 score sheet shall be prepared to record the CSR's action to apply the Mandatory Minimum Score Factor Code and Mandatory Minimum Score.
- Absent overriding security or safety considerations, cases pending further consideration to determine eligibility for a Mandatory Minimum Score Factor Code shall not be transferred, except from the RC until the application of a Mandatory Minimum Score Factor Code is resolved.

Determine if one or more of the case factors listed below apply to the inmate. If no factors apply, proceed to the instructions for Placement Score.

Prepare a new CDC Form 840 score sheet to record a change in or removal of a Mandatory Minimum Score Factor Code.

Mandatory Minimum Score Factor Codes and Scores:

CODE	FACTOR	SCORE
[A]	Condemned	52
[B]	Life Without Possibility of Parole	52
[C]	CCR 3375.2(a) (7) Life Inmate	28
[D]	History of Escape	19
[E]	Warrants “R” Suffix	19
[F]	Violence Exclusion	19
[G]	Public Interest Case	19
[H]	Other Life Sentence	19

Specific Criteria for Applying Mandatory Minimum Factors:

- **A. Condemned.** Apply Mandatory Minimum Score Factor Code A to inmates sentenced to Death.
- **B. Life Without Possibility of Parole.** Apply Mandatory Minimum Score Factor Code B to inmates sentenced to Life Without the Possibility of Parole (LWOP).
- **C. CCSR 3375.2(a)(7) Life Inmate.** Apply Mandatory Minimum Score Factor Code C to life-term inmates who are excluded from placement in Levels I or II based on any of the following factors per CCR § 3375.2(a)(7):
  - The commitment offense involved multiple murders, unusual violence, or execution-type murders, or received high notoriety. Each of these factors is defined in CCR § 3000.
  - The inmate has a history of multiple walkaways, an escape from a secure perimeter, or an escape with force or threat of force.

A classification committee shall determine the application of Mandatory Minimum Score Factor Code C. The UCC shall refer more complex cases to the ICC as needed.

Justification in the CDC Form 128-G shall address the specific element(s) of the inmate's commitment offense that substantiates the application of

Mandatory Minimum Score Factor Code C, which precludes Level II placement, as opposed to Mandatory Minimum Score Factor Code F or Mandatory Minimum Score Factor Code H.

- **D. History of Escape.** Apply Mandatory Minimum Score Factor Code D for those case factors listed below. This code is not to be used to assess risk factors for escape involving any other offenses; (i.e., the sale or possession of large quantities of narcotics.)
  - Apply to an inmate with any history of escape from within a secure perimeter or attempted escape from within a secure perimeter, whether or not force was used. This inmate is permanently excluded from minimum custody placement.
  - Apply to an inmate who has a conviction for, or whose commitment offense includes, Escape with Force or Attempted Escape with Force from any correctional setting or armed escort. This inmate is permanently excluded from minimum custody placement.
  - Apply to an inmate who verbalizes that he or she is going to escape, and/or states he or she does not wish MSF placement because he or she will be tempted to escape/walkaway. The inmate is permanently excluded from minimum custody/MSF/camp placement.
  - When applying the ten-year exclusion criteria in reference to the following escapes or walkaways, use the date of conviction. If the escape did not result in a conviction, use the date of apprehension. In a case where there is no escape conviction and the date of apprehension is unknown, use the date of the escape, attempted escape, or walkaway.
  - Apply to an inmate who has a history of (one or more) walkaways without force from a nonsecure perimeter facility setting (such as camp, MSF, county road camp, etc.) The inmate is ineligible for minimum custody placement, camp, or MSF for ten years.
  - Apply to an inmate with a pattern of (two or more) walkaways from CCRC within the last 10 years. These inmates are excluded from minimum custody for 10 years.
  - Apply to an inmate who has a walkaway from a CCRC that resulted in a court conviction for Escape within the last ten years. The inmate is not eligible for minimum custody for 10 years.
- **E. Warrants “R” Suffix.** Apply Mandatory Minimum Score Factor Code E when the “R” suffix has been affixed to the inmate's custody. Criteria for the “R” suffix are provided in CCR § 3377.1(b)(1) and DOM § 62010.4.3.1. Do not apply Mandatory Minimum Score Factor Code E for a case pending an evaluation.
- **F. Violence Exclusion.** Apply Mandatory Minimum Score Factor Code F when an inmate has a current or prior conviction for a violent felony or a sustained juvenile adjudication including, but not limited to, those listed under PC § 667.5(c) that does not require “case-by-case” consideration.
  - A sustained juvenile adjudication is a guilty determination or ruling rendered in a juvenile judicial proceeding.
  - In addition, the following administrative determinations regarding an allegation of a violent act including, but not limited to, those effect as a current or prior conviction for a violent felony or a sustained juvenile adjudication:
    - Board of Parole Hearings good cause finding, or
    - California Youth Authority/Youthful Offender Parole Board sustained allegation, or
    - A probation violation finding in a court of law.
  - Do not apply the Mandatory Minimum Score Factor Code F pending case-by-case evaluation.
  - Case-by-case evaluation for application of the Mandatory Minimum Score Factor Code F by the receiving institution requires the review and decision prior to the inmate's first annual review or prior to transfer, whichever comes first.
  - If the UCC justifies exclusion of the inmate for violence based on a case-by-case evaluation, the case shall be referred to the CSR for approval.
    - If the CSR agrees with the UCC's evaluation that the case meets the violence exclusion, the CSR shall apply the administrative determinant pursuant to CCR § 3375.2(b)(25).

- If the CSR disagrees with the UCC's evaluation that the case meets the violence exclusion, the CSR shall refer the case to ICC for a final determination.
- Upon ICC determination that the case meets the violence exclusion, ICC shall refer the case for CSR review and application of the administrative determinant for violence pursuant to CCR § 3375.2(b)(25).
- The ICC shall refer the case to the CSR substantiating application of the violence administrative determinant via a CDC Form 128-G.
- A CDC Form 840 score sheet shall be prepared to record the CSR's action to apply the Mandatory Minimum Score Factor F.
- **G. Public Interest Case.** Apply Mandatory Minimum Score Factor Code G when a CSR determines that the inmate is a Public Interest Case as defined in CCR § 3000, CCR § 3375.2(b)(20) and DOM § 62010.4.3.3. Staff shall refer potential public interest cases to a CSR for determination and endorsement, if applicable, as a public interest case.
- **H. Other Life Sentence.** Apply Mandatory Minimum Score Factor Code H for an inmate serving a current life sentence commitment whose case factors are not already addressed by another Mandatory Minimum Score Factor. This inmate is excluded from placement in a minimum custody setting until a release date is granted by the BPH. The granting of a release date by the BPH does not result in the removal of Mandatory Minimum Score Factor Code H.

#### **Mandatory Minimum Score (Boxes 86-87)**

A Mandatory Minimum Score is a numerical value identifying the least restrictive security level for an inmate who has a case factor that requires that he/she be housed no lower than a specific security level.

When the Mandatory Minimum Score Factor Code is applied, enter the corresponding point value in the field labeled Mandatory Minimum Score, Boxes 86-87.

If more than one factor applies, enter the code in Box 85 that appears first on the list and enter the corresponding numeric value in Boxes 86-87.

#### **Placement Score (Boxes 88-90)**

If a Mandatory Minimum Score Factor Code has not been applied, enter the New Preliminary Score as the Placement Score.

If a Mandatory Minimum Score has been applied, enter either the Mandatory Minimum Score or the New Preliminary Score, whichever is greater, as the Placement Score.

The Placement Score is one of the factors used to determine the security level to which the inmate is assigned.

#### **61020.19.8 Special Case Factors**

This provides the opportunity to alert classification staff of special concerns, which should be considered in placement or program assignment. Begin by reviewing the CDC Form 839, prior CDC Form 840s, and CDC Form 841s for special case factors, identified by counselors or CSRs, which need to be evaluated for change or continuation. For example, does the hold still exist or does the "R" suffix still apply?

Next, review relevant chronos and other documentation for any recent concerns.

#### **Holds, Detainers, and Warrants (Boxes 91-92)**

Review all relevant documents and the "Detainers" section of the C-file for holds. This item requires careful evaluation regarding the seriousness of the hold and the likelihood that the jurisdiction will exercise the hold at the end of the sentence. The importance of the hold for classification is the extent to which the prospect of an additional term to serve may motivate the inmate to escape.

- Holds, detainers, and warrants for felony charges or USINS are coded "P" for potential or "A" for actual.
- Upon identification of a potential USINS hold, prepare and submit a new CDC Form 840 to the Offender Information Services Branch (OISB).
- Prepare a new CDC Form 840 identifying a potential or actual hold if, as a result of classification committee review, the inmate is referred to the CSR or C&PR for more restrictive placement.
- If the inmate's placement is not impacted by the identification of a potential (other than a potential USINS hold) or actual felony hold, prepare a new CDC Form 840 recording the potential or actual hold at the inmate's annual classification committee review or at the inmate's

next classification committee review requiring the completion of a score sheet, which ever comes first.

- Place an asterisk (\*) in the box if an actual felony or USINS hold has been dropped, or if the concern for a potential hold no longer exists. An asterisk shall be recorded only as part of the normal reclassification process that requires the completion of a score sheet.

#### **Restricted Custody Suffix (Box 93)**

Enter an "R" in the box if a restricted custody suffix has been applied pursuant to DOM § 62010.4.3.1.

Place an asterisk (\*) in the box if "R" custody has been removed.

#### **Eligible for Restitution Center (Box 94)**

The Restitution Center program allows inmates who meet program criteria to work in the community and repay their victims for monetary losses. Inmates are eligible for placement in the Restitution Center program pursuant to PC § 6228. Inmates are eligible for placement consideration if they meet the following criteria:

- Have agreed or been ordered by the court to make financial restitution to a crime victim.
- Have not served a prison term within the five years prior to the present conviction.
- Do not have a criminal history of a conviction for the sale of controlled substances.
- Do not have a criminal history of a conviction for a crime involving violence or sex.
- Received a sentence of 36 months or less.
- Present no unacceptable risk to the community.
- Are employable.

Inmates from any county are eligible for placement if they meet the criteria.

A court ordered restitution to the victim, whether payable to the court, directly to the victim, or in any other manner, qualifies an inmate to participate. Therefore, a restitution fine does meet the criteria for Restitution Center placement.

There are no medical staff assigned to the Restitution Center. However, an inmate who is otherwise eligible for placement in a restitution center who requires regular monitoring/intervention by medical personnel may be considered if medically cleared on a case-by-case basis.

In Box 94, enter a "Y" for "yes" if the inmate is eligible or enter "N" for "no" if the inmate is ineligible. This is a one-time entry for the duration of the inmate's CDC Number unless the inmate's eligibility changes from "Y" to "N." If this information has already been entered on a score sheet, it is not necessary to enter it again.

#### **Level IV Design (Item H4)**

**180 Status.** If a male inmate has a Level IV Placement Score, the counselor shall make a determination regarding the exclusion of the inmate from a Level IV 270-design institution. If an inmate meets the guidelines for exclusion from a Level IV 270-design prison, the counselor shall print the capital letter "Y" on the line provided.

If a male inmate has a Level IV Placement Score, but does not meet the guidelines for exclusion from a Level IV 270-design institution, the counselor shall print an "N" on the line provided.

**Reason Code.** When a "Y" is entered on the "180 Status" line, enter the "Reason" code that describes the reason for exclusion from a Level IV 270-design institution based on the established guidelines. (Refer to DOM 61010.11.6 for these guidelines.)

#### **US Armed Forces (Box 95)**

Print a "Y" if the inmate answers "Yes" to the following question: "Have you ever been a member of the US Armed Forces and were you honorably discharged?" If the inmate answers "No" enter "N." Once a response to this question is documented on a CDC Form 839, CDC Form 840, or CDC Form 841, it is not necessary to address the issue again.

#### **Current Institution and Facility (Boxes 96-102)**

Beginning with the first box, print the letters that abbreviate the name of the institution, Community Correctional Facility (CCF), Modified Community Correctional Facilities (MCCF), or RC where the reclassification process is being conducted. Use the approved abbreviation that has been assigned to each location.

Print the letters assigned to each location in the first four boxes. Print the appropriate security level, subfacility, program, or camp number in the remaining boxes.



**Institution codes are as follows:**

ASP	Avenal State Prison
CAL	Calipatria State Prison
CCC	California Correctional Center
CCI	California Correctional Institution
CCWF	Central California Women's Facility
CEN	Centinela State Prison
CIM	California Institution For Men
CIW	California Institution For Women
CMCE	California Men's Colony - East
CMCW	California Men's Colony - West
CMF	California Medical Facility
COR	California State Prison, Corcoran
CRC	California Rehabilitation Center (Male inmates)
CRCW	California Rehabilitation Center (Female inmates)
CTF	Correctional Training Facility
CVSP	Chuckawalla Valley State Prison
DVI	Deuel Vocational Institution
FSP	Folsom State Prison
HDSP	High Desert State Prison
ISP	Ironwood State Prison
KVSP	Kern Valley State Prison
LAC	California State Prison, Los Angeles County
MCSP	Mule Creek State Prison
NKSP	North Kern State Prison
PBSP	Pelican Bay State Prison
PVSP	Pleasant Valley State Prison
RJD	Richard J. Donovan Correctional Facility
SAC	California State Prison, Sacramento
SATF	California Substance Abuse Treatment Facility and State Prison at Corcoran
SCC	Sierra Conservation Center
SOL	California State Prison, Solano
SQ	California State Prison, San Quentin
SVSP	Salinas Valley State Prison
VSPW	Valley State Prison For Women
WSP	Wasco State Prison

When entering a CCF or MCCF abbreviation, print the first four letters assigned to each location in the first four boxes and print "CCF" in the remaining boxes.

**CCF and MCCF abbreviations are as follows:****CCFs are:**

ADEL	Adelanto
BAKE	Baker
COAL	Claremont Custody Center
DELA	Delano
LASS	Lassen
LIVE	Leo Chesney Center
MCFA	McFarland
MESA	Mesa Verde
SHAF	Shafter
TAFT	Taft

**MCCFs are:**

CENV	Central Valley
GOLD	Golden State
DESR	Desert View
VICV	Victor Valley

Print the following letters for inmates housed in Community Prisoner Mother Programs:

- CPMP Community Prisoner Mother Program

Examples:

Central Valley Modified Community Correctional Facility is coded as:

C	E	N	V	C	C	F
---	---	---	---	---	---	---

Pelican Bay State Prison SHU is coded as:

P	B	S	P	S	H	U
---	---	---	---	---	---	---

**County of Last Legal Residence (Boxes 103-105)**

Print the two or three letter OBIS code for the county name in the boxes available. This is a one-time entry for this incarceration. If the CLLR has already been recorded on the CDC Form 839 or CDC Form 841, leave these boxes blank. Refer to DOM § 61010.11.1 for application of the code for CLLR.

ALA	Alameda	ORA	Orange
ALP	Alpine	PLA	Placer
AMA	Amador	PLU	Plumas
BUT	Butte	RIV	Riverside
CAL	Calaveras	SAC	Sacramento
CC	Contra Costa	SB	Santa Barbara
COL	Colusa	SBD	San Bernardino
DN	Del Norte	SBT	San Benito
ED	El Dorado	SCL	Santa Clara
FRE	Fresno	SCR	Santa Cruz
GLE	Glenn	SD	San Diego
HUM	Humboldt	SF	San Francisco
IMP	Imperial	SHA	Shasta
INY	Inyo	SIE	Sierra
KER	Kern	SIS	Siskiyou
KIN	Kings	SJ	San Joaquin
LA	Los Angeles	SLO	San Luis Obispo
LAK	Lake	SM	San Mateo
LAS	Lassen	SOL	Solano
MAD	Madera	SON	Sonoma
MAR	Marin	STA	Stanislaus
MEN	Mendocino	SUT	Sutter
MER	Merced	TEH	Tehama
MNO	Mono	TRI	Trinity
MOD	Modoc	TUL	Tulare
MON	Monterey	TUO	Tuolumne
MPA	Mariposa	VEN	Ventura
NAP	Napa	YOL	Yolo
NEV	Nevada	YUB	Yuba

**Counselor Name (Boxes 106-114)**

The counselor shall print his or her last name and first initial in the boxes, in CAPITAL BLOCK letters, indicating that the CDC Form 840 is accurate and complete.

**61020.19.9 CSR Action**

This Section is to be completed only by a CSR or a staff member specifically authorized to act in that capacity.

**Last Name (Boxes 115-122)**

The CSR or authorized staff shall print the first eight letters of his or her last name in CAPITAL BLOCK letters in the space provided.

**Date of Action (Boxes 123-128)**

Enter the number of the month, the day, and the last two digits of the year in which the action is taken.

**Level IV Design (Boxes 129-131)**

**180 Status.** If a male inmate has a Level IV Placement Score, the CSR shall make a determination regarding the exclusion of this inmate from a Level IV 270-design institution. If an inmate meets the guidelines for exclusion from a Level IV 270-design prison, the CSR shall print the capital letter "Y" in Box 129.

Enter an asterisk (\*) in Box 129 if an inmate was designated on a previous CDC Form 839 or CDC Form 840 or CDC Form 841 as meeting the guidelines for exclusion from a Level IV 270-design institution, but no longer meets the exclusionary guidelines.

**Reason Code.** If a "Y" has been entered in Box 129, the CSR shall enter the Reason Code in Boxes 130-131 to describe the reason for exclusion from a Level IV 270-design institution based on the established guidelines. Refer to DOM § 61010.11.6, Special Case Factors, to determine the appropriate Reason Code.

The counselor's evaluation regarding a male inmate's exclusion from a Level IV 270-design institution shall be recorded in the Special Case Factors area of the score sheet.

#### Minimum Custody (Boxes 132-135)

**Eligibility.** The CSR shall print the letter "E," "L," or "P" in Box 132 consistent with the findings recorded on the Minimum Custody Screening Form. Print the letter "E" in Box 132 to document that the inmate is eligible for minimum custody. Print the letter "L" in Box 132 to document that the inmate is temporarily ineligible for minimum custody. Print the letter "P" in Box 132 to document that the inmate is permanently ineligible for minimum custody.

**Reason Code.** Print the code in Boxes 133-135 to identify the reason that the inmate is either temporarily or permanently ineligible for minimum custody, for example, VIO, ESC, HOL, etc. If the inmate is eligible for minimum custody, print an "E" in the Minimum Custody Eligibility, Box 132. Do not enter a "reason code."

If an inmate is permanently excluded from Camp due to Arson, but is otherwise eligible for minimum custody in an MSF, enter "P" in Box 132 and enter ARS for Arson in Boxes 133-135 to ensure that the inmate is not placed in a Camp.

#### CCRC Eligibility (Boxes 136-138)

The CSR shall enter the appropriate code for reentry eligibility in Boxes 136-138.

- Print the letters REN if the inmate is eligible and wants to participate in CCRC.
- Print the letters REX if the inmate is eligible for placement in CCRC, but the inmate does not want to participate in CCRC.

If the inmate is ineligible for CCRC placement, Boxes 136-138 shall remain blank.

#### Developmental Disability Program (DDP) Code (Boxes 139-141)

The Developmental Disability evaluation is recorded on a CDC Form 128-C-2. The CSR shall print the most recent DDP code in Boxes 139-141. The DDP code is the designation assigned by clinical staff.

The C&PR has the authority to enter the DDP code only when there is a change from one DDP designation to another and the change does not require transfer of the inmate.

For example: The C&PR has the authority to enter the DDP designation change from DDO to NDD or from DD1 to DD2 when the institution is designated to accommodate both DD1 and DD2.

#### Disability Placement Program (DPP) Codes (Boxes 142-157)

The CSR shall make every effort to endorse a case that is identified as DPP on the CDC Form 1845 (Section C), to an appropriate institution.

The first three boxes are to be used for the impacting DPP code that most affects the inmate's placement. The CSR shall print the appropriate DPP code in Boxes 143-145. If there are additional codes that affect placement, the CSR shall print codes in Boxes 147-157.

The CSR shall print the non-impacting DPP codes assigned to the inmate in Boxes 147-157.

When a DPP code is no longer appropriate, the CSR shall enter an asterisk in the corresponding box and enter the DPP code to be deleted in the three boxes following the asterisk.

The lack of an asterisk (\*) before a DPP code means the continuation or addition of a code.

To change the previously applied primary code that most affected placement, the CSR shall print a new primary DPP code in Boxes 143-145.

The C&PR or RC-CCIII has the authority to code the DPP designation of inmates who have only non-impacting physical disabilities as identified in Section D of the CDC Form 1845. The C&PR or ORC-CCIII shall enter a DPP code in Boxes 147-157.

#### Administrative Determinants (Boxes 158-177)

An inmate whose Placement Score falls within one of the following ranges shall be placed in an institution, which is designated at the security level indicated, unless a reason for administrative or irregular placement is specified:

Placement Score	Security Level
0-18	I
19-27	II
28-51	III
52+	IV

Appropriate inmate placement is determined by both Placement Score and consideration of unusual or special case factors. Some case factors affect placement because of administrative policy requirements. Policy determined factors are "administrative determinants," and placements based on these, in a facility, which does not correspond to the inmate's Placement Score, are "administrative placements."

Space is provided to record up to five administrative determinants. Enter applicable administrative determinants. An administrative determinant also identifies a temporary or permanent case factor and alerts staff to safety and security considerations, which may limit the inmate's eligibility for placement. If there are not enough boxes to identify all applicable administrative determinants, give priority to administrative determinants most related to custody and safety.

For example, if the inmate has noted an active "felony hold," mental health concerns, medical concerns, and a possible restricted "R" custody, enter the applicable administrative determinants. Unless the medical condition is driving placement, the mental health diagnosis is the primary concern. Enter HOL for the Hold if the hold is active, is either a felony hold or a USINS hold, and supporting documentation for the hold is in the file. The "R" suffix is not entered pending evaluation. The CSR would, therefore, enter:

a)	b)	c)
P S Y	M E D	H O L

Record those administrative determinants, which are supported by documentation using the Administrative Determinant codes provided. If an Administrative Determinant code has already been entered as a Minimum Custody Reason Code (Boxes 133-135), it is not necessary to repeat that code here.

**AGE.** Inmate's youthfulness, immaturity, or advanced age should be given strong consideration in placement or program decisions.

**ARSON.** Current or prior conviction or a sustained juvenile adjudication as defined in CCR § 3375.2(b)(25) or good cause finding ruling rendered in a BPH or Parole Hearing Division proceeding, a sustained allegation in DJJ/CYA or Youthful Offender Parole Board proceeding or a probation violation finding in a court of law for arson, which limits where the inmate may be housed.

**BEHAVIOR.** Inmate's behavior record indicates he or she is capable of successful placement at an institution security level lower than that indicated by inmate's Placement Score. Not to be used if the inmate is housed at a security level higher than the inmate's Placement Score.

**CAMP.** Placement due to a shortage of camp qualified inmates. Enter CAM to identify an inmate who is eligible or potentially eligible for camp placement.

**DEATH sentence.** Inmate was formerly on death row or currently is sentenced to death.

**DEPARTMENTAL review board.** Special placement ordered by the Departmental Review Board.

**DISCIPLINARY history.** Inmate's disciplinary record indicates a history of serious problems or threatens the security of the facility.

**ENEMIES.** One or more persons under jurisdiction of the CDC has been documented on a CDC Form 812 or CDC Form 812-C as an enemy. This should also be used when victimization is very probable due to case factors, such as where the nature of the offense will very likely create an enemy situation at certain institutions. Includes current Protective Housing Unit (PHU) cases and those who are natural victims because of their appearance or commitment offense.

**ESCAPE potential.** Unusual circumstances suggest the inmate is a much greater escape risk than indicated by his or her score. For example, the inmate verbalized intent to escape.

**FAMILY ties.** Inmate has strong family ties to a particular area where other placement would cause an unusual hardship.

**GANG involvement or affiliation.** Documentation establishes that the inmate's membership or association requires special attention or placement consideration.

**HOLD, warrant, or detainer likely to be exercised.** For purposes of justifying a need for irregular placement based on a Hold, the hold is to be active, be either a felony hold or USINS hold, and substantiating documentation must be located in the C-File.

**INACTIVE.** Documentation establishes that the inmate's inactive gang status requires special attention or placement consideration.

**LIFE sentence.** Apply LIF to identify an inmate serving a life sentence or life sentences.

**MEDical.** The inmate's medical condition requires treatment or continuing medical attention not generally available at all facilities.

**OUT-to-court.** Inmate needs to be housed in a particular facility in order to be close to a court jurisdiction where the inmate is required to testify in court or is being prosecuted. Includes situations where involvement in a court trial is anticipated because a disciplinary has been referred to the district attorney. Also use this designation when a board appearance is imminent.

**POPulation pressures.** Shall be used by a CSR only. No beds presently exist at an institution with a security level indicated by the inmate's Placement Score.

**PRElease.** The short time remaining to serve limits or otherwise influences placement or program options. This factor shall also be used when a release date is so close that transfer or starting a long-term program is not warranted and when a short release date warrants special placement or program consideration.

**PSYchiatric.** A psychological condition requires special treatment or may severely limit placement options. Includes Category B. Apply PSY to justify the administrative placement of an inmate who requires designated housing in accordance with an impacting DDP code.

**PUBLIC** interest case. High notoriety of an inmate has caused public interest in the case and requires exceptional placement.

**SCHool.** Inmate is involved in an academic program, which is not available at an institution security level consistent with the inmate's Placement Score. Apply SCH to identify an inmate currently participating in a Substance Abuse Program who is being retained out of level to complete the Substance Abuse Program.

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

**SOR.** Sexual orientation. Inmate's bisexual or homosexual orientation may require special placement.

**TIME** to serve. Inmate's time to serve is long, requiring placement at a facility with a security level higher than that indicated by the inmate's Placement Score.

**VIO**lence. Inmate has a current or prior conviction for a violent felony, or a sustained juvenile adjudication including, but not limited to, those listed under PC § 667.5(c), which, as determined by the CSR, requires placement in a facility with a higher security level than that indicated by the inmate's Placement Score.

- A sustained juvenile adjudication means a guilty determination or ruling rendered in a juvenile judicial proceeding.
- In addition, the following administrative determinations regarding allegations of violent acts including, but not limited to, those offenses described in PC § 667.5(c), shall have the same force and effect as a current or prior conviction for a violent felony or a sustained juvenile adjudication:
  - BPH good cause finding or
  - DJJ/CYA/Youthful Offender Parole Board sustained allegation or
  - A probation violation finding in a court of law.

**VOC**ational training. Inmate is involved in a vocational program, which is not available at a facility with a security level, which is consistent with the inmate's Placement Score.

**WORK** skills. Inmate has a work skill in a critical trade for which special placement consideration may be warranted. This should also be used to request or approve work crew placements.

The CSR shall delete factors no longer valid by placing an asterisk (\*) in the single box and entering the code for the factor to be deleted in the following three boxes. This process is used only to delete a previously documented administrative determinant. The lack of an asterisk (\*) means the continuation or addition of an administrative determinant.

#### Mental Health Level of Care (Box 178)

The CSR or C&PR shall enter either a "C" for CCCMS or an "E" for EOP in Box 178 to identify the inmate's Level of Care (LOC) only at the time of endorsement.

#### Institution Approved (Boxes 179-185)

Print the initials of the institution or facility name in Boxes 179-182. Print the security level, subfacility designation, or program in Boxes 183-185. Enter only one letter or number in each box. Empty boxes should be to the right.

For example:

Sierra Conservation Center, Level I is recorded as:

S	C	C		I		
---	---	---	--	---	--	--

CSP, Solano Level II is recorded as:

S	O	L		I	I	
---	---	---	--	---	---	--

California Institution for Men, Minimum is recorded as:

C	I	M				
---	---	---	--	--	--	--

California Correctional Center, Level III is recorded as:

C	C	C		I	I	I
---	---	---	--	---	---	---

Community Correctional Facility placement is recorded as:

C	C	F				
---	---	---	--	--	--	--

Endorsement to the Restitution Center is recorded as:

L	A			C	C	C
---	---	--	--	---	---	---

When the inmate's current endorsed location or program is not affected by any action being recorded in the Classification Staff Representative section (Section I), the endorsed location shall be reaffirmed and recorded in Boxes 179-185.

#### Reason for Administrative or Irregular Placement (Boxes 186-188)

The CSR or authorized staff completes this item only if the security level approved is not commensurate with the inmate's Placement Score. If the level does not correspond, the CSR or authorized staff shall enter the reason for the administrative or irregular placement using the appropriate administrative determinant code to justify placement.

Some case factors affect placement because of administrative policy requirements. Policy-determined factors are "administrative determinants" and placements in a facility based on these, which do not correspond to the inmate's Placement Score, are "administrative placements."

There are also special case factors that, while not governed by policy, influence placement by determining program priorities. For example, the inmate's score level is reduced, but he or she is retained in a higher security level to complete academic or vocational training or to fill a skilled worker position or the population is such that no suitable bed at the inmate's security level is immediately available. When placement occurs under such circumstances, it shall be recorded as an "irregular" placement.

#### 61020.20 Instructions for Completing the CDC Form 841

The counselor shall prepare a CDC Form 841 upon the return to CDCR custody from parole of a PVRTC or a PVWNT. Also prepare a CDC Form 816, Reception Center Readmission Summary, for the PVRTC or PVWNT with the following exceptions.

Prepare a CDC Form 841 and an ISRS for a PVWNT returning with a new Life term.

Prepare only a CDC Form 841 if parole is lawfully revoked by the BPH because an inmate refused to sign conditions of parole. Preparation of a CDC Form 816 is not required if the inmate is not physically paroled to the community, the inmate's status shows that he/she has been paroled, revoked, and returned the same day.

Once a PVRTC or PVWNT is scored on a CDC Form 841, each subsequent readmission period shall be captured on a separate CDC Form 841. The counselor prepares a CDC Form 841 each time a parole violator returns to the RC. For example, if a PVRTC paroled from the RC prior to the preparation of a CDC Form 841 for that revocation, prepare a CDC Form 841 to address that RTC period as well as a separate CDC Form 841 to address the current RTC.

A CDC Form 841 shall not be prepared for a parolee pending revocation proceedings. Do not prepare a CDC Form 841 if the parole violator is continued on parole (COP).

A CDC Form 841 shall not be prepared for a parolee who is returned to custody as a "non-revoked" parolee, for example a SATCU placement.

A CDC Form 841 shall not be prepared for a parolee who is returned to custody for "psych attention" only. A parolee revoked by the BPH for psych attention is in custody for psychiatric treatment, but continues his or her parole period uninterrupted.

A CDC Form 841 shall not be prepared if the inmate received an additional commitment while on parole (paper commitment), but is not returned to an RC. OBIS records this as a Legal Processing Unit action showing the parolee as returned to prison and paroled the same day.

On the CDC Form 841, box numbers appear to the right, but refer to the first box on the left of each field.

#### Detention Processing Unit

The purpose of the Detention Processing Unit (DPU) is to expedite the Reception Center processing of PVRTC cases. The RC-CCIII or designated

CCII screens PVRTCs primarily on information in the C-file and a CCI's interview of the PVRTC.

### Detention Processing Unit Criteria

#### Inmates Eligible for DPU Processing

The DPU process allows the RC-CCIII or designated CCII staff to approve initial placement of eligible PVRTC inmates who have either a Level I or Level II Placement Score and who are not further excluded as follows.

- The PVRTC does not require Level III or Level IV placement.
- The PVRTC does not require special or designated housing.
- The PVRTC has no complex housing considerations.
- The PVRTC has no complex enemy concerns.

The PVRTC shall be processed via DPU and endorsed on the CDC Form 841 under the following conditions:

- PVRTC Cases Eligible for Minimum Custody via DPU.
  - A PVRTC with a Level I Placement Score who meets MSF criteria shall be approved for DPU placement in a Level I MSF or a CCF. Do not DPU to a Secure Level I.
  - PVRTCs with Level I Placement Scores with an imminent release date of 30 days or less shall be approved for DPU placement in the Level I MSF adjacent to that RC.
  - A PVRTC with a Level II Placement Score who meets MSF criteria shall be approved for DPU placement in a Level I MSF institution using the Administrative Determinant Code of Work (WOR) or for a DPU placement in a CCF. Do not DPU a PVRTC eligible for MSF placement to a Secure Level I or to a Level II institution.
- Level I or Level II PVRTC Cases Not Eligible for Minimum Custody.
  - A DPU-eligible PVRTC with a Level I Placement Score who does not meet MSF criteria shall be approved for DPU placement in an MCCF or Level II institution using the appropriate Administrative Determinant Code as the Administrative or Irregular Placement Reason.
  - A DPU-eligible PVRTC with a Level II Placement Score who does not meet MSF criteria shall be approved for DPU placement in an MCCF or Level II institution.

#### Inmates not eligible for DPU Processing

A PVRTC requires regular reception center processing and CSR endorsement if he or she has any of the following factors:

- The PVRTC requires either a Level III or Level IV placement.
- The PVRTC requires designated housing; (i.e., DDP, DPP, SNY), or is a participant in the Mental Health Services Delivery System.
- The C&PR or RC-CCIII determines that the PVRTC inmate warrants referral to the CSR.

### 61020.20.1 Identifying Information

#### CDC Number (Boxes 1-6)

At the bottom of the CDC Form 841, enter the CDC number for the inmate in Boxes 1-6 as obtained from the Legal Status Summary.

Print the letter prefix (for example P or W) in the first box. Enter a number in each of the remaining five boxes, Boxes 2-6, always ending in Box 6. Be certain not to enter the letter in the number boxes. Example: P-45678

P	4	5	6	7	8
---	---	---	---	---	---

#### Inmate's Last Name (Boxes 7-11)

Print the first eight letters of the inmate's last name in CAPITAL BLOCK letters. Do not use lowercase or written script letters. Letterboxes are left-hand justified. Begin at the left and print only one letter of the name in each box. Any empty boxes shall be on the right.

If the name consists of more than eight letters, simply enter the first eight letters. Although eight boxes are provided on the score sheet, the database captures only the information in Boxes 7-11 or the first five letters entered. For names with less than eight letters, leave empty the remaining boxes to the right. If the last name is two words, run the words together. Do not leave an empty box in between letters. Example:

Mac Knight

M	A	C	K	N	I	G	H
---	---	---	---	---	---	---	---

#### Date Received This Incarceration (Boxes 12-17)

When it is determined that an inmate is to be scored on a CDC Form 841, the Date Received This Incarceration is the date that the inmate was received in the RC. Enter the date in the boxes. A zero need not be entered in

front of single digit months or days, but is entered as part of the two digits entered for the year, when applicable.

For an inmate who refuses to sign conditions of parole and whose parole is revoked by the BPH, the Date Received This Incarceration is the date that the BPH identifies as the date the inmate was returned to custody as posted on the CDC Form 112.

When a parole violator is returned from parole to an institution other than a reception center (e.g., to provide immediate medical care), the Date Received This Incarceration is the date that the inmate is received at that institution.

If a PVRTC later becomes a PVWNT, the Date Received This Incarceration does not change.

If the inmate was received in the RC as a PVWNT, use the date that the PVWNT is received in the RC.

The Date Received This Incarceration is the Review Period Beginning Date for the PVWNT or PVRTC's first six-month review period for this incarceration.

#### Date of Last Score Sheet (Boxes 18-23)

Enter the date of the most recent score sheet in the central file. Use the Date of the Last Score Sheet to identify the most recent score sheet and organize score sheets in chronological order to prevent tracking errors and ensure continuity.

#### County of Last Legal Residence (CLLR) (Boxes 24-26)

Print the most current CLLR, for a PVRTC or PVWNT as recorded in the parole violation report, BPH action, and/or court documents.

Print the two or three letter OBIS code for the county name in Boxes 24-26.

ALA	Alameda	ORA	Orange
ALP	Alpine	PLA	Placer
AMA	Amador	PLU	Plumas
BUT	Butte	RIV	Riverside
CAL	Calaveras	SAC	Sacramento
CC	Contra Costa	SB	Santa Barbara
COL	Colusa	SBD	San Bernardino
DN	Del Norte	SBT	San Benito
ED	El Dorado	SCL	Santa Clara
FRE	Fresno	SCR	Santa Cruz
GLE	Glenn	SD	San Diego
HUM	Humboldt	SF	San Francisco
IMP	Imperial	SHA	Shasta
INY	Inyo	SIE	Sierra
KER	Kern	SIS	Siskiyou
KIN	Kings	SJ	San Joaquin
LA	Los Angeles	SLO	San Luis Obispo
LAK	Lake	SM	San Mateo
LAS	Lassen	SOL	Solano
MAD	Madera	SON	Sonoma
MAR	Marin	STA	Stanislaus
MEN	Mendocino	SUT	Sutter
MER	Merced	TEH	Tehama
MNO	Mono	TRI	Trinity
MOD	Modoc	TUL	Tulare
MON	Monterey	TUO	Tuolumne
MPA	Mariposa	VEN	Ventura
NAP	Napa	YOL	Yolo
NEV	Nevada	YUB	Yuba

#### Form Identification (Boxes 27-35)

At the top of the CDC Form 841, three blank boxes are labeled "New," "Correction," and "Delete." Print an "X" in the appropriate box.

- Print an "X" in the "New" box (Box 27) if a new CDC Form 841 is being prepared.
- Print an "X" in the "Correction" box (Box 28) if the form is being completed as a correction to a previously submitted CDC Form 841. Enter the date of the correction in Boxes 29-34.
- Print an "X" in the "Delete" box (Box 35) when a previously submitted CDC Form 841 was completed for an inmate in error and is to be deleted.

Additional information regarding preparation of "correction" and "deletion" documents is provided in DOM §§ 61020.20.9 and 61020.20.10.

**61020.20.2 Readmission Review Period Calculation**

Within the Readmission Review Period Calculation section of the CDC Form 841, capture the inmate's most recent period of incarceration prior to his or her last parole.

The most recent period of incarceration is defined as that time period between the date that the inmate last paroled and the inmate's Review Period Beginning Date.

After an inmate has been scored on a CDC Form 841, each subsequent readmission period shall be captured on a separate CDC Form 841.

**Identification Of Review Period(s) Not Previously Addressed****Date Paroled (Boxes 36-41)**

Enter the date, month/day/year, that the inmate last paroled from the CDCR. A zero need not be entered in front of a single digit number for the month or day. Enter a zero as part of the two digits for the year when applicable.

**Review Period Beginning Date (Boxes 42-47)**

Enter the Review Period Beginning Date, month/day/year. A zero need not be placed in front of the month or day, but must be placed in front of the year when appropriate.

- The Review Period Beginning Date is the date that the inmate's review period would have begun had the inmate remained in custody. The Review Period Beginning Date is the most recent Review Period Ending Date plus one day.
- However, if Review Period Dates have not already been established, then the inmate's Review Period Beginning Date is either the date received at the reception center in the last incarceration or the first day of the last month considered for favorable behavior points, whichever is the most recent.
- An inmate's partial review period is a period of less than six months in custody as measured between and including the Review Period Beginning Date and the Date Paroled.
- For an inmate who was a SACCO case and has been returned from parole as a parole violator, the inmate's Date Paroled and Review Period Beginning Date is the same date. The total number of days not previously addressed is zero.

**Total Review Periods Not Previously Addressed (Item B3)**

Enter the total number of months, days, and years in custody between the Date Paroled and the Review Period Beginning Date.

- When calculating the review period(s) in custody not previously addressed, the time periods are calculated using 30-day months.

**Number of 6 Month Review Periods (Item B4)**

Enter the total number of six-month review periods in custody not previously addressed.

**Partial Review Period (Less Than 6 Months) (Item B5)**

Enter the number of months and days in custody remaining that total less than six months.

Inmate Example's classification hearing history and recorded review period dates:

- Received in CDC 10-12-02.
- Annual Review UCC committee held on 10-20-03:
  - Rev Per Beg Date 10-12-02
  - Rev Per End Date 10-11-03
- Inmate Example's UCC committee hearing for Transfer consideration was held on 6-15-04:
  - Rev Per Beg Date 10-12-03
  - Rev Per End Date 4-11-04
- Inmate Example's Annual Review was held early on 9-25-04:
  - Rev Per Beg Date 4-12-04
  - Rev Per End Date 10-11-04
- Inmate Example paroled on 12-22-04
- Returned to CDC as a PVWNT on 3-16-05

Inmate Example's CDC Form 841 Readmission Review Period Calculation is:

- Date Paroled: 12-22-04
- Rev Per Beg Date: 10-12-04 =

Partial Review Period in custody of 2 months 10 Days

**61020.20.3 Favorable Behavior Since Last Review**

This Section shall be used for recording and calculating in custody favorable behavior points.

- The inmate is eligible to be considered for the full value of Favorable Behavior points for each Six Month Review Period in custody.
- The inmate is eligible to be considered for one-half of the Favorable Behavior points for a partial review period that totals less than 6 months in custody.

Favorable points are to be considered for each six-month review period and/or partial review period in custody for the categories noted below.

- Favorable behavior points are to be considered only when the favorable behavior being evaluated occurred in custody during, and includes, the review period dates recorded in the Readmission Review Period Calculation section of the CDC Form 841 score sheet.
- There is no such thing as a "partial" Partial Review Period.

**Continuous Minimum Custody (Boxes 48-49)**

Consider the inmate's eligibility for favorable behavior points for the Continuous Minimum Custody category when the Minimum Custody status being evaluated occurred during, and includes, the review period dates recorded in the Readmission Review Period Calculation section of the CDC Form 841 score sheet.

Apply favorable behavior points for the Continuous Minimum Custody category when the inmate is assigned Minimum Custody for every day of the six-month review period or partial review period being evaluated. To evaluate this item, review CDC Form 128-Gs.

When the inmate's Minimum Custody assignment is interrupted during the six-month review period or partial review period being evaluated, through no fault of the inmate, apply favorable points only for that interrupted six-month review period or partial review period.

Unless the inmate was reassigned Minimum Custody on the first day of, or prior to, a subsequent Review Period Beginning Date, do not apply favorable behavior points for any six-month review period or partial review period beyond the interrupted period.

If the inmate was housed in another jurisdiction during a six-month review period or partial review period being considered, the counselor shall review the documents provided by the agency to determine if favorable points are appropriate. Favorable points shall be applied if documentation of assignment to Minimum Custody is provided by the agency.

Apply four (4) favorable behavior points for each six-month review period for which the inmate qualifies.

For less than a full six-month review period (partial review period), apply two (2) points for favorable behavior.

**No Serious Disciplinary (Boxes 50-51)**

Consider the inmate's eligibility for favorable behavior points for the No Serious Disciplinary category when the behavior being evaluated occurs during, and includes, the review period dates recorded in the Readmission Review Period Calculation section of the CDC Form 841 score sheet.

Apply favorable behavior points when the inmate is in custody and has not committed a serious disciplinary violation during any day of the six-month review period or partial review period being evaluated. In order to be held accountable for a serious disciplinary violation, the inmate must have been found guilty of behavior identified as serious per CCR § 3315.

Apply favorable behavior points for the No Serious Disciplinary category even though the inmate was incarcerated in another correctional agency (e.g., county jail, state or federal institution) during the review period or partial review period being evaluated and there is no evidence or documentation of serious disciplinary behavior.

Upon evidence of serious disciplinary behavior, the documentation shall establish that the inmate was determined to be guilty of conduct described as serious per CCR § 3315 in order to disqualify the inmate for consideration of favorable behavior points for the six-month review period or partial review period being evaluated.

Apply two (2) favorable behavior points for each six-month review period for which the inmate qualifies.

For less than a full six-month review period (partial review period), apply one (1) point for favorable behavior.

**Average or Above Performance in Work, School, or Vocational Program (Boxes 52-53)**

Consider the inmate's eligibility for favorable behavior points for the Average or Above Performance in Work, School, or Vocational Program category when the Average or Above Performance status being evaluated occurs during, and includes, the review period dates recorded in the Readmission Review Period Calculation section of the CDC Form 841 score sheet.

Consider favorable behavior points for the Average or Above Performance category only when the inmate was assigned to a work incentive assignment

and reporting on the first day of, or prior to, the first day of the six-month review period or partial review period being evaluated.

When the inmate's work, school, or vocational program assignment is interrupted during the six-month review period or partial review period being evaluated, through no fault of the inmate, consider favorable points if otherwise eligible only for that interrupted six-month review period or partial review period. Do not apply favorable behavior points beyond the interrupted six-month review periods unless the inmate again reports to a work incentive assignment on the first day of, or prior to, a subsequent Review Period Beginning Date.

An unassigned inmate who received an assignment from the inmate assignment office during a lockdown period, but has been unable to report to that assignment due to the lockdown, is not eligible for favorable behavior points for the Average or Above Performance category for the six-month review period or partial review period being considered.

Favorable points are not applied for an inmate not assigned to a program.

Once assigned, an inmate continues to earn Work Incentive Credit. Eligibility for favorable behavior points is based on performance and requires participation in a program.

Consider favorable behavior points for an inmate reassigned or continued in a work, school, or vocational program who reports to a work, school, or vocational program on the first day of, or prior to, a subsequent Review Period Beginning Date.

Combine part-time assignments during the same review period which, when work/program hours are added together, are equivalent to a full-time assignment.

To determine eligibility for favorable points, review CDC Form 128-Gs, CDC Form 101, Work Supervisor's Report, or CDC Forms 128-D, E, and F, Chrono-Education/Vocational.

If the inmate was housed in another jurisdiction during the six-month review period or partial review period being evaluated, consider favorable behavior points only if documentation of an assignment is provided by the agency. Review the documents provided by the agency to determine if favorable behavior points are appropriate.

If staff in the CDCR or another agency did not document the inmate's performance and the inmate continued to be assigned, continued to report to the assignment and there is no disciplinary documentation, apply favorable behavior points for the six-month review period or partial review period. In the absence of staff documentation of the inmate's performance, apply favorable behavior points liberally. In other words, an isolated record (e.g., a CDC Form 128-A, Custodial Counseling Chrono) and no other indication of less than average performance shall not preclude the application of favorable behavior points for the six-month review period or partial review period.

Apply two (2) favorable behavior points for each six-month review period if the inmate's performance was rated "average" or "above average."

For less than a full six-month review period (partial review period), apply one (1) point for favorable behavior.

#### Six-Month Review Periods

Six-month review periods are established as a standard period of time to measure behavior warranting favorable behavior points.

An inmate's six-month review period is identified by the six-month period of time between and including the Review Period Beginning Date and the Review Period Ending Date.

#### Partial Review Period

A partial review period is a period of time in custody that totals less than six months between and including the review period beginning date and the date paroled. Apply half the full value of favorable behavior points for a Partial Review Period when evaluating Favorable Behavior Since Last Review on the CDC Form 841.

#### Interrupted Period

An "interrupted period" is a six-month review period or partial review period that is interrupted on or after the Review Period Beginning Date by a change to the inmate's assignment to Minimum Custody and/or the inmate's performance in a Work, School, or Vocational Program.

#### "Through No Fault of the Inmate" as it pertains to an Interrupted Period

"Through no fault of the inmate" as it pertains to an interrupted period, is a situation which disrupts the inmate's assignment, custody, or placement, based on a decision outside of the inmate's control and the circumstances of the interruption are not within the responsibility of the inmate.

- Examples of "through no fault of the inmate" are:
  - The inmate is transferred out to court.
  - The inmate is placed on 'S' time pending parole.
  - The inmate is placed in administrative segregation pending investigation and/or disciplinary action and later released with no finding of guilt.
  - The inmate is housed in a MSF and learns of a death in the family. Staff re-houses the inmate in a more secure facility pending evaluation of the inmate's escape potential.
- Examples of interruptions that are the fault of the inmate:
  - The inmate comes to staff and asks to be "rolled up" to administrative segregation. The inmate explains that he has a drug debt that he can't pay and stated that he can't stay in the general population.
  - The inmate has become disruptive in school and is removed from his assignment by a classification committee.

#### Total Favorable Points (Item C4)

Total the points for C1 through C3 and enter the number. Note that it is a negative value.

#### 61020.20.4 Unfavorable Behavior Since Last Review

Unfavorable behavior points shall be assessed at full value.

Locate the disciplinary section of the C-file and note if the inmate was found guilty of misbehavior rated as "serious" rather than "administrative." In the space provided, write the date of the disciplinary report for all "serious" disciplinary reports that have not been included in or since the last review. This includes serious disciplinary reports received at the RC while undergoing RC processing.

When recording Unfavorable Behavior Since Last Review, the documentation shall establish that the inmate was determined to be guilty of conduct described as "serious" per the CCR § 3315. Such behavior may be documented by means other than a CDC Form 115. For example, an assault on another inmate in jail shall be documented by a report from the sheriff.

Unfavorable behavior points are to be recorded when the unfavorable behavior being evaluated occurred in custody on or between any of the inmate's previous six-month review period dates and/or current or previous Readmission Review Period Calculation dates.

Therefore, when it is determined that the serious disciplinary behavior did occur between established review period dates and the disciplinary has not been recorded on a prior score sheet, enter the disciplinary on a new CDC Form 840 or CDC Form 841 outside of the review period dates recorded on that score sheet.

#### Serious Disciplinary (Boxes 54-71)

The counselor shall apply eight (8) points for a guilty finding for a Division A-1 or A-2 offense in Boxes 54-55.

The counselor shall apply six (6) points for a guilty finding for a Division B, C, or D offense in Boxes 56-57.

The counselor shall apply four (4) points for a guilty finding for a Division E or F offense in Boxes 58-59.

Count the number of disciplinarys and multiply by the appropriate point value and enter the total in the appropriate boxes. The maximum number of points to be assessed for each individual category is 99.

A single disciplinary may result in the assessment of points under several different categories. If the inmate was found guilty of the described behavior, enter the date of the disciplinary and assess the points associated with that behavior.

When the behavior in an incident falls under more than one category, apply points for each appropriate category. For example, if the inmate is found guilty for battery on another inmate with a deadly weapon causing serious injury, that one act shall be noted on the CDC Form 841 as follows:

- |   |            |
|---|------------|
| • Item D1, Division A-1 offense           | =8 points  |
| • Item D3, Battery on an Inmate           | =4 points  |
| • Item D6, Possession of a Deadly Weapon  | =16 points |
| • Item D7, Battery Causing Serious Injury | =16 points |

For this serious disciplinary, the inmate is assessed a total of 44 points.

Example: If a CDCR inmate, while in the county jail, is found guilty of distribution of drugs (trafficking narcotics), he shall be assessed points as follows:

- |                                  |            |
|----------------------------------|------------|
| • Item D1, Division A-2 offense  | = 8 points |
| • Item D4, Distribution of Drugs | = 4 points |

For this serious in-custody offense, the inmate is assessed a total of 12 points.

#### **Battery or Attempted Battery on a Nonprisoner (Boxes 60-61)**

Include any battery on a nonprisoner or attempted battery on a nonprisoner.

Count the number, multiply by eight (8), and enter the total.

#### **Battery or Attempted Battery on an Inmate (Boxes 62-63)**

Include any battery on an inmate or attempted battery on an inmate.

Do not include mutual combat where both inmates were co-responsible.

Include situations where one or more inmates is clearly the victim. Usually results in some injury that may involve a group attack or some type of weapon.

Count the number, multiply by four (4), and enter the total.

#### **Distribution of Drugs (Boxes 64-65)**

This refers to inmates who are involved in an operation to smuggle any controlled substance into an institution, facility, or jail for distribution and sales.

Do not count a disciplinary determination in which the inmate was found or pled guilty to possessing a small quantity of drugs or being under the influence.

Count the number, multiply by four (4), and enter the total.

#### **Possession of a Deadly Weapon (Boxes 66-67)**

Include only well-documented instances of manufacturing or possessing a deadly weapon where apparent use is intended.

- Except as noted below, do not include possession of commonly available and unmodified objects unless they are used as weapons and this fact is documented in the disciplinary hearing process. For example, hobby craft tools, common shop tools, and baseball bats are not considered deadly weapons unless their use, or intent for use, as such is clear. Include possession of a razor blade in a special program housing unit (e.g., Ad Seg Unit, SHU, Psychiatric Services Unit).

Count the number, multiply by sixteen (16), and enter the total.

#### **Inciting a Disturbance (Boxes 68-69)**

Typically this involves a leadership role in an institution/facility riot, racial disturbance, or work strike.

Include any willful and deliberate behavior, which may have led to violence or disorder and any willful attempt to incite others, either verbally or in writing, or by other deliberate action to use force or violence upon another person of the type described in the CCR § 3005.

Count the number, multiply by four (4), and enter the total.

#### **Battery Causing Serious Injury (Includes Conspiracy) (Boxes 70-71)**

Include any battery that caused serious injury.

Inmates who conspired in, or ordered such an assault shall receive the same points.

Serious injury is defined in CCR § 3000.

Count the number, multiply by sixteen (16), and enter the total.

#### **Total Unfavorable Points (Item D8)**

Add the points for items D1 through D7 and enter here.

A serious disciplinary, not previously recorded, can be entered on the CDC Form 841 even when the date of disciplinary falls outside of the period of time recorded in the Readmission Review Period Calculation section of the CDC Form 841.

### **61020.20.5 Computation Of Score**

#### **Prior Preliminary Score (Boxes 75-77)**

The Prior Preliminary Score will be found on the most recent classification score sheet:

- If the CDC Form 839 is the most recent score sheet, enter the Preliminary Score value as recorded in Boxes 65-67.
- If the CDC Form 840 is the most recent score sheet, enter the New Preliminary Score value as recorded in Boxes 82-84.
- If the CDC Form 841 is the most recent score sheet, enter the New Preliminary Score value as recorded in Boxes 84-86.
- When an inmate's most recent classification score is recorded on a score sheet with a revision date prior to Rev. 07/02, enter that classification score as the Prior Preliminary Score.

#### **Net Change in Score (Boxes 78-80)**

Combine the Total Favorable Points (C4) and the Total Unfavorable Points (D8). The Net Change in Score can be a plus (+) or a minus (-) value. The maximum number of points that can be entered for the Net Change in Score on the CDC Form 841 is 99. If the Net Change in Score exceeds 99, prepare one or more CDC Form 840(s) to record remaining disciplinarys. If

preparing more than one CDC Form 840 on the same date, enter a different date for each CDC Form 840 because the Inmate Classification Score System Database organizes data by the "Date Completed." Enter the appropriate positive or negative sign in the first box and the total value in the remaining boxes.

#### **Preliminary Score Subtotal (Item F3)**

Enter the Preliminary Score subtotal on the line provided. The Preliminary Score subtotal is the prior Preliminary Score plus or minus the Net Change in Score.

This number can never be less than "0."

#### **Change in Term Points (Boxes 81-83)**

If the inmate has been designated as an RTC, do not enter a value. This area is left blank for an inmate who has returned as a parole violator returned to custody for a parole violation only.

If a PVRTC later becomes a PVWNT, a correction to the CDC Form 841 is not necessary. Complete a new CDC Form 840 recording the change in term points, if any, as a result of this new term. Also, do not correct the CDC Form 839.

To determine the change in term points for a PVWNT:

- Identify the original Term Point (T/P) from the CDC Form 839 and from subsequent score sheets with information entered in the Change in Term Points box.
- Enter the prior Term Points value on the "- Old T/P" line on the score sheet.
- Use the Term Point equation of base term plus enhancements multiplied by two (2) to calculate New Term Points. Enter that value on the "+ New T/P" line on the score sheet.
  - This term point value cannot exceed 50.
- Determine the difference between the old term points and the new term points. Enter either a plus (+) or a minus (-) sign in Box 81 and the numeric difference in Boxes 81-83.

#### **EXAMPLES:**

An inmate is returned from parole as an RTC. The inmate goes out to court before completing RC processing and is sentenced to 3 years. His original CDCR commitment had been 4 years. The adjustment to the Change in Term Points area of the CDC Form 841 is calculated as:

- Old Term Points: - 8
- New Term Points: (3 yrs X 2) + 6
- Change in Term Points = - 2

An inmate is returned from parole as a PVWNT. She is given an 18-month sentence (1 year 6 months). Her original term was 8 years.

- Old Term Points: - 16
- New Term Points: (1 yrs X 2) + 2
- Change in Term Point = - 14

#### **New Preliminary Score (Boxes 84-86)**

Add or subtract the Change in Term Points value from the Preliminary Score Subtotal and enter that value in Boxes 84-86. The maximum value for the New Preliminary Score is 999. The New Preliminary Score cannot be less than zero nor greater than 999.

### **61020.20.6 Placement**

#### **Mandatory Minimum Score Factor:**

A Mandatory Minimum Score Factor is a case factor that requires the application of a Mandatory Minimum Score.

#### **Mandatory Minimum Score Factor Code (Box 87)**

A Mandatory Minimum Score Factor Code is an alpha code associated with a Mandatory Minimum Score Factor.

- If an inmate has a case factor that requires the application of a Mandatory Minimum Score Factor Code, enter the code that applies in Box 87. If more than one case factor applies, enter the code that appears first on the list.
- Document the RC justification for applying a Mandatory Minimum Score Factor Code in the CDC Form 816 or ISRS, as applicable. When the Mandatory Minimum Score Factor is applied other than in the RC, justify application in a CDC Form 128-G.
- If eligibility for a Mandatory Minimum Score Factor Code requires further consideration, refer to DOM § 61020.19.7.

- Absent overriding security or safety considerations, inmates pending case-by-case evaluation to determine eligibility for a Mandatory Minimum Score Factor Code shall not be transferred, except from the RC, until the application of a Mandatory Minimum Score Factor Code is resolved.
- Determine if one or more of the case factors listed below apply to the inmate. If no factors apply, proceed to the instructions for Placement Score.
- Prepare a new CDC Form 840 score sheet to record a change in or removal of a Mandatory Minimum Score Factor Code.

#### Mandatory Minimum Score Factor Codes and Scores

CODE	FACTOR	SCORE
[A]	Condemned	52
[B]	Life Without Possibility of Parole	52
[C]	CCR 3375.2(a) (7) Life Inmate	28
[D]	History of Escape	19
[E]	Warrants "R" Suffix	19
[F]	Violence Exclusion	19
[G]	Public Interest Case	19
[H]	Other Life Sentence	19

#### Specific Criteria for Applying Mandatory Minimum Score Factor Codes:

- **A. Condemned.** Apply Mandatory Minimum Score Factor Code A to inmates sentenced to death.
- **B. Life Without Possibility of Parole.** Apply Mandatory Minimum Score Factor Code B to inmates sentenced to LWOP.
- **C. CCR 3375.2(a)(7) Life Inmate.** Apply Mandatory Minimum Score Factor Code C to life-term inmates who are excluded from placement in Levels I or II based on any of the following factors per CCR § 3375.2(a)(7):
  - The commitment offense involved multiple murders, unusual violence, or execution-type murders or received high notoriety. Each of these factors is defined in CCR § 3000.
  - The inmate has a history of multiple walkaways, an escape from a secure perimeter, or an escape with force or threat of force.

A classification committee shall determine the initial application of this Mandatory Minimum Score Factor Code C. The Unit Classification Committee shall refer more complex cases to the Institutional Classification Committee as needed.

Justification in the ISRS shall address the specific element(s) of the inmate's commitment offense that substantiates the application of Mandatory Minimum Score Factor Code C, which precludes Level II placement, as opposed to Mandatory Minimum Score Factor Code F or Mandatory Minimum Score Factor Code H.

- **D. History of Escape.** Apply Mandatory Minimum Score Factor Code D for those case factors listed below. This code is not to be used to assess risk factors for escape involving any other offenses; (i.e., the sale or possession of large quantities of narcotics).
  - Apply to an inmate with any history of escape from within a secure perimeter or attempted escape from within a secure perimeter, whether or not force was used. This inmate is permanently excluded from minimum custody placement.
  - Apply to an inmate who has a conviction for, or whose commitment offense includes, Escape with Force or Attempted Escape with Force from any correctional setting or armed escort. This inmate is permanently excluded from minimum custody placement.
  - Apply to an inmate who verbalizes that he or she is going to escape and/or states he or she does not wish MSF placement because he or she will be tempted to escape/walkaway, is permanently excluded from minimum custody/MSF/camp placement.
  - When applying the ten-year exclusion criteria in reference to the following escapes or walkaways, use the date of conviction. If the escape did not result in a conviction, use the date of apprehension. In a case where there is no escape conviction and the date of apprehension is unknown, use the date of the escape, attempted escape, or walkaway.

- Apply to an inmate who has a history of (one or more) walkaways without force from a nonsecure perimeter facility setting (such as camp, MSF, county road camp, etc.). The inmate is ineligible for minimum custody placement, camp, or MSF for ten years.
- Apply to an inmate with a pattern of (two or more) walkaways from CCRC within the last 10 years. These inmates are excluded from minimum custody for 10 years.
- Apply to an inmate who has a walkaway from CCRC that resulted in a court conviction for Escape within the last ten years. The inmate is ineligible for minimum custody for 10 years.
- **E. Warrants "R" Suffix.** Apply Mandatory Minimum Score Factor Code E when the "R" suffix has been affixed to the inmate's custody. Criteria for the "R" suffix are provided in CCR § 3377.1(b)(1) and DOM § 62010.4.3.1. Do not apply Mandatory Minimum Score Factor Code E for a case pending an evaluation.
- **F. Violence Exclusion.** Apply Mandatory Minimum Score Factor Code F when an inmate has a current or prior conviction for a violent felony or a sustained juvenile adjudication including, but not limited to, those listed under PC § 667.5(c) that does not require "case-by-case" consideration.
  - A sustained juvenile adjudication is a guilty determination or ruling rendered in a juvenile judicial proceeding.
  - An administrative determination regarding an allegation of a violent act including, but not limited to, those offenses described in PC § 667.5(c), has the same force and effect as a current or prior conviction for a violent felony or a sustained juvenile adjudication:
    - Board of Parole Hearings good cause finding, or
    - California Youth Authority/Youthful Offender Parole Board sustained allegation, or
    - A probation violation finding in a court of law.
  - Do not apply the Mandatory Minimum Score Factor Code F pending case-by-case evaluation.
- **G. Public Interest Case.** Apply Mandatory Minimum Score Factor Code G when the CSR has determined that the inmate is a public interest case pursuant to CCR §§ 3000, 3375.2(b)(20) and DOM § 62010.4.3.3. Staff shall refer any potential public interest cases to a CSR for determination and endorsement as a public interest case.
- **H. Other Life Sentence.** Apply Mandatory Minimum Score Factor Code H for an inmate serving any current life sentence commitment whose case factors are not already addressed by another mandatory minimum score factor code. This inmate is excluded from consideration for placement in a minimum custody setting until a release date is granted by the BPH. The granting of a release date by the BPH does not result in the automatic removal of Mandatory Minimum Score Factor Code H.

#### Mandatory Minimum Score (Boxes 88-89)

A Mandatory Minimum Score is a numerical value identifying the least restrictive security level for an inmate who has a case factor that requires that he/she be housed no lower than a specific security level.

When the Mandatory Minimum Score Factor Code is applied, enter the corresponding point value in the field labeled Mandatory Minimum Score, Boxes 88-89.

If more than one factor applies, enter the code that appears first on the list in Box 87 and enter the corresponding numeric value in Boxes 88-89.

#### Placement Score (Boxes 90-92)

If there are no case factors that require the application of a Mandatory Minimum Score Factor Code, enter the New Preliminary Score as the Placement Score.

If a Mandatory Minimum Score has been applied, enter the Mandatory Minimum Score or the New Preliminary Score, whichever is greater.

The Placement Score is one of the factors used to determine the security level to which the inmate is assigned.

#### 61020.20.7 Special Case Factors

This provides the opportunity to alert classification staff to special concerns, which should be considered in placement or program assignment.

Begin by reviewing the CDC Form 839, prior CDC Form 840s, and CDC Form 841s for special case factors identified by counselors or CSRs, which need to be evaluated. Next, review relevant chronos and other documentation for any recent concerns. Information entered in this Section is only current information.

#### Holds, Detainers and Warrants (Boxes 93-94)



Review all relevant documents and the “Detainers” section of the C-file for holds. This item requires careful evaluation regarding the seriousness of the hold and the likelihood that the jurisdiction will exercise the hold at the end of the sentence. The importance of the hold for classification is the extent to which the prospect of an additional term to serve may motivate the inmate to escape.

- Holds, Detainers, and Warrants for felony charges or USINS are coded “P” for potential or “A” for actual.
- Code only those holds which are likely to result in an additional prison sentence or deportation. Exclude simple holds for probation only or parole violation where the commitment offense is the basis for the violation.

After the CDC Form 841 has been submitted, record holds as follows:

- When a potential USINS hold is identified, prepare and submit a new CDC Form 840 to OISB.
- Prepare a new CDC Form 840 identifying a potential or actual hold if, as a result of classification committee review, the inmate is referred to the CSR or C&PR for more restrictive placement.
- If the inmate’s placement is not impacted by the identification of a potential (other than a potential USINS hold) or actual felony hold, prepare a new CDC Form 840 recording the potential or actual hold at the inmate’s annual classification committee review or at the inmate’s next classification committee review requiring the completion of a score sheet, which ever comes first.

#### **Restricted Custody Suffix (Box 95)**

Enter an “R” in the box if a restricted custody suffix is to be applied pursuant to DOM § 62010.4.3.1.

#### **Eligible for Restitution Center (Box 96)**

The Restitution Center program allows inmates who meet program criteria to work in the community and repay their victims for monetary losses. Inmates are eligible for placement in the Restitution Center program pursuant to PC § 6228. Inmates are eligible for placement consideration if they meet the following criteria:

- Have agreed or been ordered by the court to make financial restitution to a crime victim.
- Have not served a prison term within the five years prior to the present conviction.
- Do not have a criminal history of a conviction for the sale of controlled substances.
- Do not have a criminal history of a conviction for a crime involving violence or sex.
- Received a sentence of 36 months or less.
- Present no unacceptable risk to the community.
- Are employable.

Inmates from any county are eligible for placement if they meet the criteria.

A court ordered restitution to the victim, whether payable to the court, directly to the victim, or in any other manner, qualifies an inmate to participate. A restitution fine constitutes financial restitution to a crime victim; therefore a restitution fine meets the criteria for Restitution Center placement.

There are no medical staff assigned to the Restitution Center. However, an inmate who is otherwise eligible for placement in a restitution center who requires regular monitoring/intervention by medical personnel may be considered if medically cleared on a case-by-case basis.

In Box 96 enter a “Y” for “yes” if the inmate is eligible or enter “N” for “no” if the inmate is ineligible. This is a one-time entry for the duration of the inmate’s CDC Number unless the inmate’s eligibility changes from “Y” to “N.” If this information has already been entered on a score sheet, it is not necessary to enter it again.

#### **Level IV Design (Item H4)**

**180 Status.** If a male inmate has a Level IV Placement Score, the counselor shall make a determination regarding the exclusion of the inmate from a Level IV 270-design institution. If an inmate meets the guidelines for exclusion from a Level IV 270-design prison, the counselor shall print the capital letter “Y” on the line provided.

If the male inmate has a Level IV Placement Score, but does not meet the guidelines for exclusion from a 270-design institution, the counselor shall print an “N” on the line provided.

**Reason Code.** If a “Y” was entered on the “180 Status” line provided, the counselor shall then enter the “Reason” code on the line provided that

describes the reason for exclusion from a Level IV 270-design institution based on the established guidelines.

The counselor shall enter the code that describes the reason for exclusion from a Level IV 270-design institution based on the established guidelines per DOM § 61010.11.6.

#### **US Armed Forces (Box 97)**

Print a “Y” if the inmate answers “Yes” to the following question: “Have you ever been a member of the US Armed Forces and were you honorably discharged?” If the inmate answers “No” enter “N.” After a response has been documented on the CDC Form 839, CDC Form 840, or CDC Form 841, it is not necessary to address the issue again.

#### **Current Institution and Facility (Boxes 98-104)**

Print the two, three, or four-letter abbreviation of the RC in the Boxes 98-101. Print RC or the security level in Boxes 102-104 referring to the facility where the case is presented to a CSR for placement. Inmates may go through an RC, but actually be processed at an institution. Also, out-of-state inmates may be delivered directly to an institution. In such cases, enter the abbreviation for the institution where the processing takes place. Refer to DOM § 61020.19.8 for abbreviations.

#### **Return Status (Boxes 105-107)**

Print RTC for an inmate who is a Parole Violator Returned to Custody. Enter WNT for an inmate who is a Parole Violator With a New Term. If an inmate is received as an RTC and the inmate’s status changes to a WNT after the CDC Form 841 is endorsed, do not submit a correction to correct these boxes.

#### **Caseworker Name (Boxes 108-116)**

The counselor shall print his or her last name and first initial in the boxes in capital block letters, indicating that the CDC Form 841 is accurate and complete.

#### **61020.20.8 CSR Action**

This Section is to be completed only by a CSR or a staff member specifically authorized to act in that capacity.

The DPU process also allows the reception center CCIII or designated CCII staff to approve placement of a PVRTC inmate.

#### **Last Name (Boxes 117-124)**

The CSR or authorized staff shall print the first eight letters of his or her last name in CAPITAL BLOCK letters in the space provided.

#### **Date of Action (Boxes 125-130)**

Enter the number of the month, the day, and the last two digits of the year in which the action is taken. A zero need not be placed in front of a single digit month or day, but must be printed if part of the two digits identifying the year when applicable.

#### **Level IV Design (Boxes 131-133)**

**180 Status.** If a male inmate has a Level IV Placement Score, the CSR shall make a determination regarding the exclusion of this inmate from a Level IV 270-design institution. If the inmate meets the guidelines for exclusion from a Level IV 270-design prison, the CSR shall print the capital letter “Y” in the Box 131.

**Reason Code.** If a “Y” has been entered in Box 131, the CSR shall enter the reason code in Boxes 132-133 that describes the reason for exclusion from a Level IV 270-design institution based on the established guidelines. Refer to DOM § 61010.11.6, Special Case Factors, to determine the appropriate Reason Code.

The counselor’s evaluation regarding a male inmate’s exclusion from a Level IV 270-design institution shall be recorded in the Special Case Factors area of the score sheet.

#### **Minimum Custody (Boxes 134-137)**

**Eligibility.** The CSR shall print the letter “E,” “L,” or “P” in Box 134 consistent with the findings recorded on the Minimum Custody Screening Form. Print the letter “E” in Box 134 to document that the inmate is eligible for minimum custody. Print the letter “L” in Box 134 to document that the inmate is temporarily ineligible for minimum custody. Print the letter “P” in Box 134 to document that the inmate is permanently ineligible for minimum custody.

**Reason Code.** Print the code in Boxes 135-137 to identify the reason the inmate is either temporarily or permanently ineligible for minimum custody, for example, VIO, ESC, HOL, etc. If the inmate is eligible for minimum custody, print an “E” in Box 134. Do not enter a “reason code.”

If an inmate is permanently excluded from Camp due to Arson, but is otherwise eligible for minimum custody in an MSF, enter “P” in Box 134 and enter ARS for Arson in Boxes 135-137 to ensure that the inmate is not placed in a Camp.

**CCRC Eligibility (Boxes 138-140)**

The CSR shall enter the appropriate code for reentry eligibility in Boxes 138-140.

- Enter the letters REN in Boxes 138-140 if the inmate is eligible and wants to participate in CCRC.
- Enter the letters REX in Boxes 138-140 if the inmate is eligible for placement in CCRC, but does not want to participate in CCRC.

If the inmate is ineligible for CCRC placement, leave Boxes 138-140 blank.

**DDP Code (Boxes 141-143)**

The Developmental Disability evaluation is recorded on a CDC Form 128-C2. The CSR shall enter the most recent DDP code in the Boxes 141-143. The code is the designation assigned by clinical staff.

The C&PR has the authority to enter the DDP code only when there is a change from one DDP designation to another and the change does not require that the inmate be transferred to another institution.

For example: The C&PR has the authority to enter the DDP designation change from DDO to NDD or from DD1 to DD2 when the institution is designated to accommodate both DD1 and DD2 inmates.

**DPP Code(s) (Boxes 144-155)**

The CSR shall make every effort to endorse a case identified as DPP on the CDC Form 1845 (Section C) to an appropriate institution.

The first three boxes (Boxes 144-146) are to be used for the impacting DPP code that most affects the inmate's placement. The CSR shall enter the appropriate DPP code in Boxes 144-146. If there are additional codes that impact placement, the CSR shall enter those codes in priority order in Boxes 147-155.

The CSR shall enter the non-impacting DPP codes assigned to the inmate in Boxes 147-155.

The C&PR or RC-CCIII has the authority to code the DPP designation of only inmates who have only non-impacting physical disabilities as identified in Section D of the CDC Form 1845. The C&PR or RC-CCIII shall enter a DPP code in Boxes 147-155.

**Administrative Determinants (Boxes 156-170)**

An inmate whose Placement Score falls within one of the following ranges shall be placed in an institution, which is designated at the security level indicated, unless a reason for administrative or irregular placement is specified:

Placement Score	Security Level
0-18	I
19-27	II
28-51	III
52+	IV

Appropriate inmate placement is determined by both Placement Score and unusual or special case factors. Some case factors affect placement because of administrative policy requirements. Policy determined factors are "administrative determinants" and placements based on these, in a facility which does not correspond to the inmate's Placement Score, are "administrative placements."

Space is provided to record up to five administrative determinants. Enter applicable administrative determinants. An administrative determinant identifies temporary or permanent case factors and alerts staff to safety and security considerations which may limit the inmate's eligibility for placement.

If there are not enough boxes to identify all applicable administrative determinants, give priority to those most related to custody and safety.

Record those determinants that are supported by documentation using the administrative determinant codes provided. If an administrative determinant code has already been entered as a Minimum Custody Reason Code (Boxes 135-137), it is not necessary to repeat that code here.

For example, enter the following for an inmate with an active "felony hold," a diagnosis of EOP, a heart condition requiring medical treatment, and a possible restricted "R" custody. Unless the medical condition is driving placement, the PSY is the primary concern. The CSR enters HOL only if the hold is active, is for a felony or USINS hold, and supporting documentation for the hold is in the file. An "R" suffix cannot be affixed pending evaluation. The CSR or authorized staff would therefore enter:

a) 

P	S	Y
---	---	---

 b) 

M	E	D
---	---	---

 c) 

H	O	L
---	---	---

**AGE.** Inmate's youthfulness, immaturity, or advanced age should be given strong consideration in placement or program decisions.

**ARSON.** Current or prior conviction or a sustained juvenile adjudication, as defined in CCR § 3375.2(b)(25), or good cause finding ruling rendered in a BPH proceeding, a sustained allegation in DJJ/CYA or Youthful Offender Parole Board proceeding or a probation violation finding in a court of law for arson, which limits where the inmate may be housed.

**BEHAVIOR.** Inmate's behavior record indicates he or she is capable of successful placement at an institution level lower than that indicated by the inmate's Placement Score. Not to be used if the inmate is housed at a level higher than the inmate's Placement Score.

**CAMP.** Placement due to a shortage of camp qualified inmates. Enter CAM to identify an inmate who is eligible or potentially eligible for camp placement.

**DEATH** sentence. Inmate was formerly on death row or currently is sentenced to death.

**DEPARTMENTAL** review board. Special placement ordered by the Departmental Review Board.

**DISCIPLINARY** history. Inmate disciplinary record indicates a history of serious problems or threatens the security of the facility.

**ENEMIES.** One or more persons under jurisdiction of the CDC has been documented on a Critical Case Information form (CDC Form 812 or CDC Form 812C) as an enemy. This should also be used when victimization is very probable due to case factors, such as where the nature of the offense will very likely create an enemy situation at certain institutions. Includes current PHU cases and those who are natural victims because of their appearance or commitment offense.

**ESCAPE** potential. Unusual circumstances suggest the inmate is a much greater escape risk than indicated by his or her score. For example, the inmate verbalized intent to escape.

**FAMILY** ties. Inmate has strong family ties to a particular area where other placement would cause an unusual hardship.

**GANG** involvement or affiliation. Documentation establishes that the inmate's membership or association requires special attention or placement consideration.

**HOLD,** warrant, or detainer likely to be exercised. Hold is active, verified to be in response of a felony or USINS hold, and substantiating documentation is in the C-File.

**INACTIVE.** Documentation establishes that the inmate's inactive gang status requires special attention or placement consideration.

**LIFE** sentence. Apply LIF to identify an inmate serving a life sentence or life sentences.

**MEDICAL.** The inmate's medical condition requires treatment or continuing medical attention not generally available at all facilities.

**OUT-to-court.** Inmate needs to be housed in a particular facility in order to be close to a court jurisdiction where the inmate is required to testify in court or is being prosecuted. Includes situations where involvement in a court trial is anticipated because a disciplinary has been referred to the district attorney. Also, use this designation when a Board appearance is imminent.

**POPULATION** pressures. Shall be used by CSR only. No beds presently exist at an institution with a security level indicated by the inmate's Placement Score.

**PRE**release. The short time remaining to serve limits or otherwise influences placement or program options. This factor shall also be used when a release date is so close that transfer or starting a long-term program is not warranted and when a short release date warrants special placement or program consideration.

**PSYCHIATRIC.** A psychological condition requires special treatment or may severely limit placement options. Includes Category B. Apply PSY to identify an inmate who requires placement in designated housing in accordance with a Developmentally Disabled Placement Code.

**PUBLIC** interest case. High notoriety of an inmate has caused public interest in the case and requires exceptional placement.

**SCHOOL.** Inmate is involved in an academic program, which is not available at an institution security level consistent with the inmate's Placement Score. Apply SCH to identify an inmate currently participating in a Substance Abuse Program who is being retained out of level to complete the Substance Abuse Program.

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

**SOR.** Sexual orientation. Inmate's bisexual or homosexual orientation may require special placement.

**TIME** to serve. Inmate's time to serve is long, requiring placement at a facility with a security level higher than that indicated by the inmate's Placement Score.

**VIO**lence. Inmate has a current or prior conviction for a violent felony or a sustained juvenile adjudication including, but not limited to, those listed under PC § 667.5(c), which, as determined by the CSR, requires placement in a facility with a higher security level than that indicated by the inmate's Placement Score.

- A sustained juvenile adjudication means a guilty determination or ruling rendered in a juvenile judicial proceeding.
- In addition, the following administrative determinations regarding allegations of violent acts including, but not limited to, those offenses described in PC § 667.5(c), shall have the same force and effect as a current or prior conviction for a violent felony or a sustained juvenile adjudication:
  - BPH good cause finding, or
  - DJJ/CYA/Youthful Offender Parole Board sustained allegation, or
  - A probation violation finding in a court of law.

**VOC**ational training. Inmate is involved in a vocational program, which is not available at a facility with a security level, which is consistent with the inmate's Placement Score.

**WORK** skills. Inmate has a work skill in a critical trade for which special placement consideration may be warranted. This should also be used to request or approve work crew placements.

#### **Mental Health Level of Care (Box 171)**

The CSR shall enter either a "C" for CCCMS or an "E" for EOP in Box 171 to identify the inmate's mental health LOC at the time of endorsement.

#### **Institution Approved (Boxes 172-178)**

Print initials of the institution or facility name in Boxes 172-175. Print the security level, subfacility designation, or program in Boxes 176-178. Enter only one letter or number in each box. Empty boxes should be to the right.

For example,

Sierra Conservation Center, Level I is recorded as:

S	C	C		I		
---	---	---	--	---	--	--

CSP, Solano, Level II is recorded as:

S	O	L		I	I	
---	---	---	--	---	---	--

California Institution for Men, Minimum is recorded as:

C	I	M		I		
---	---	---	--	---	--	--

California Correctional Center, Level III is recorded as:

C	C	C		I	I	I
---	---	---	--	---	---	---

Community Correctional Facility is recorded as:

C	C	F				
---	---	---	--	--	--	--

Endorsement to the Restitution Center is recorded as:

L	A			C	C	C
---	---	--	--	---	---	---

#### **Reason For Administrative Or Irregular Placement (Boxes 179-181)**

The CSR or authorized staff completes this item only if the security level approved is not commensurate with the inmate's Placement Score. If the level does not correspond, the authorized staff shall enter the reason for the administrative or irregular placement using the appropriate administrative determinant code to justify placement.

Some case factors affect placement because of administrative policy requirements. Policy-determined factors are "administrative determinants" and placements in a facility based on these, that do not correspond to the inmate's Placement Score, are "administrative placements."

There are also special case factors that, while not governed by policy, influence placement by determining program priorities. For example, the inmate's score level is reduced, but he or she is retained in a higher security level to complete academic or vocational training or to fill a skilled worker position or the population is such that no suitable bed at the inmate's security level is immediately available. When placement occurs under such circumstances, it shall be recorded as an "irregular" placement and justified by the application of a corresponding administrative determinant.

#### **CSR Endorsement**

A CSR endorsement shall remain effective for 120 days from the date of endorsement.

If an inmate is not transferred within 120 days from the date of CSR endorsement, the endorsed case awaiting transfer shall be again presented to a CSR prior to the 121st day for a 120-day extension of the endorsement if there is no change to case factors and the endorsement remains appropriate.

Each request for a 120-day extension of an endorsement shall be documented on a CDC Form 128-G and requires confirmation that the CCI and the CCII Supervisor audited the central file; updated the CDC Forms 840, 812, 812-C (if applicable); verified that case factors impacting the appropriateness of the CSR endorsement have not changed; and confirmed that the initial CSR endorsement remains appropriate. The CCI's review and CCII Supervisor's authorization for endorsement extension shall serve as a classification action. The CCI and CCII shall sign and date the CDC Form 128-G.

The request for a 120-day extension of a CSR endorsement shall not require review by a UCC or ICC unless case factors change or other information is identified, which renders the CSR endorsement to be no longer appropriate.

An endorsed case awaiting transfer may be extended no more than twice beyond the initial 120-day period.

Upon discovery of information that a CSR endorsement is no longer appropriate, the institution shall not allow the transfer to occur. The case shall be referred for UCC or ICC, as appropriate, to determine appropriate placement. The UCC or ICC shall substantiate placement recommendation and refer the case for transfer consideration or retention in current placement.

#### **61020.20.9 Correcting a Previously Submitted Score Sheet**

##### **Rules for making corrections to a score sheet with a form Revision Date prior to Rev. 07/02.**

Any score errors that are detected after the canary copy of the score sheet has been submitted to OISB require the following correction process. These rules apply only to a score sheet with a form revision date prior to Rev. 07/02:

##### **Correct the Central File**

- Annotate the original score sheet in the C-File. Line through the item or items to be changed and write the new information beside the appropriate box or boxes. Initial and date those notations. This provides central file documentation of the original and new values and changes on the score sheet.
- Continue to carry forward the correct score on any subsequent score sheets in the central file to show the correct score. Ensure that the correct score is carried forward when a new score sheet is needed.

##### **Prepare a "Correction" score sheet:**

When the score sheet to be corrected in the central file has a form revision date prior to Rev. 07/02, reference to the classification score is equivalent to the Preliminary Score. Follow these steps to correct the database:

- Begin with a blank score sheet. The blank score sheet must be the same type of score sheet as the one being corrected. For example, when a CDC Form 839 needs to be corrected, the "Correction" score sheet shall also be a CDC Form 839.
- Complete the Identifying Information section of this blank score sheet by entering the inmate's CDC Number and Inmate's Last Name.
- Enter the same date that appears on the original score sheet being corrected. For the CDC Form 839 it is the Date Received CDC. For the CDC Form 840 it is the Date of Current Review. (exception: Neither the CDC Number nor the Date of Current Review can be corrected. See DOM § 61020.20.10 and contact OISB to correct these fields.)
- Enter an "X" in the Box Item 5b, Form Identification, at the top of the score sheet.
- Enter the date that the score sheet is being corrected in the "Date Corrected" boxes directly to the right.
- For changes to score values in boxes in the Background Factors section, Prior Incarceration Behavior section, Favorable Behavior section, and Unfavorable Behavior section, enter the Total Correction for that score sheet, either negative or positive, in the Correction area of the CDC Form 839 or CDC Form 840 score sheet. On the CDC Form 839, it is Item C1. On the CDC Form 840 it is Item E1.
- Enter the correct Total Classification Score in the Preliminary Score boxes when preparing a correction document for a CDC Form 839.
- Enter the correct Prior Classification Score in the Prior Preliminary Score box and enter the Current Classification Score in the New Preliminary Score box when preparing a correction document for a CDC Form 840. (Note: On score sheets revised prior to 07/02, the Prior Preliminary Score is identified as the Prior Classification Score and the New Preliminary Score is identified as the Current Classification Score).

- Leave the Mandatory Minimum Score and Placement Score boxes blank.
- The name of the Current Institution and Facility may be entered.
- The Counselor's Name may be entered.

Submit the canary copy of the "correction" score sheet to:

Department of Corrections and Rehabilitation  
Information Quality Support Section  
P.O. Box 942883  
Sacramento, CA 94283-0001

The green copy of the "Correction" score sheet is to be given to the inmate.

The original white copy of the "Correction" score sheet may be discarded.

**Rules for making Corrections to a CDC Form 839, CDC Form 840, or CDC Form 841 with a form revision date of Rev. 07/02 or later.**

Any errors that are detected after the canary copy of the score sheet has been submitted to OISB require the following correction process. These rules apply only to a score sheet with a form revision date of Rev. 07/02 or later:

**Correct the Central File**

- Annotate the original score sheet in the C-File. Line through the item or items to be changed and write the new information beside the box or boxes. Initial and date those notations. This provides central file documentation of the original and new values and changes on the score sheet.
- Continue to carry forward the correct Prior Preliminary Score and New Preliminary Score on any subsequent score sheets in the C-File to reflect the corrections made. Ensure that the correct score is carried forward if a new score sheet is completed.

**Prepare a "Correction" score sheet:**

When the score sheet to be corrected in the central file has a form revision date of Rev. 07/02 or later, follow these steps to correct the database:

- Begin with a blank score sheet. The blank score sheet must be the same type of score sheet as the one being corrected. For example, when a CDC Form 839 needs to be corrected, the "Correction" score sheet shall also be a CDC Form 839.
- Complete the Identifying Information section of this blank score sheet by entering the inmate's CDC Number and Inmate's Last Name.
- Enter the same date as the date that appears on the original score sheet that is being corrected. Exception: Neither the CDC Number nor the date field in the Identifying Information section of the score sheet can be corrected. See DOM § 61020.20.10 and contact OISB.
- Enter an "X" in the box Item 5.b, Form Identification, at the top of the score sheet.
- Enter the date that the score sheet is being corrected in the "Date Corrected" boxes directly to the right.

**Correction rules only for a score sheet with a revision date of Rev. 07/02 or later:**

- Enter only the values that need to be corrected in the box or boxes to be corrected. Leave the Correction area of the score sheet blank. Do not enter a value in this area.
- Record new values in boxes where information is new.
- Place an asterisk in a box where a letter is to be removed.
- Place a zero in a box where a numeric value is to be removed.
- Place zeros in all six date-field boxes for a date that needs to be removed. Exception, the date field in the Identifying Information section of the score sheets cannot be corrected. (see DOM § 61020.20.10.)
- To replace an incorrect date, other than the date of the original score sheet, enter the correct date in all of the date field boxes.
- Where there are several boxes for one field, an asterisk in the first box removes all.
- Always record the Preliminary Score when preparing a CDC Form 839 correction and record the Prior Preliminary Score and the New Preliminary Score when preparing a CDC Form 840 or 841 correction, even if there was no change in the score resulting from the correction.
- Leave the Mandatory Minimum Score boxes blank.
- Any changes to the Mandatory Minimum Score Factor Code and/or Mandatory Minimum Score shall be recorded on a "New" document as part of a regularly scheduled classification hearing. A "correction" document shall not be prepared.

- Leave the Placement Score boxes blank unless it is an item that is being corrected.
- The name of the Current Institution and Facility may be entered.
- The Counselor's name may be entered.
- A Change in Term Points is not recorded as a "Correction." Any Change in Term Points is recorded on a "New" CDC Form 840 or "New" CDC Form 841 as appropriate.

Submit the canary copy of the "correction" score sheet to:

Department of Corrections and Rehabilitation  
Information Quality Support Section  
P.O. Box 942883  
Sacramento, CA 94283-0001

The green copy of the "Correction" score sheet is to be given to the inmate.

The original white copy of the "Correction" score sheet may be discarded.

**61020.20.10 Deleting a Previously Submitted Score Sheet With a Revision Date of Rev. 07/02 or Later**

If a score sheet with a revision date of Rev. 07/02 or later has been submitted to the database that has an erroneous CDC Number and/or Date in the Identifying Information section, it is necessary to prepare a "Delete" score sheet to remove the erroneous information.

**Correct the Central File:**

Annotate the original score sheet in the C-File. Line through the CDC Number and/or Date and write the new information beside the appropriate box or boxes. Initial and date those notations. This provides central file documentation of the original and new values and changes on the score sheet.

**Prepare a "Deletion" score sheet:**

Begin with a blank score sheet. The blank score sheet must be the same type of score sheet as the one being deleted. For example, if the CDC Form 839 is to be deleted, then use a CDC Form 839.

Complete the Identifying Information section of this blank score sheet by entering the inmate's CDC Number and Date as shown on the original score sheet being deleted.

Enter an "X" in the box Item 5c, Form Identification, at the top of the score sheet.

This will delete the entire score sheet from the database. It is not necessary to recopy any additional information as recorded on the original score sheet.

Submit the canary copy of the "Delete" score sheet to the address noted above.

Provide the green copy of the "Delete" score sheet to the inmate.

The original white copy of the "Delete" score sheet may be discarded.

**Complete a "New" Score Sheet to Replace the Deleted Score Sheet**

Complete a "New" score sheet filling in all of the correct information. This may also include endorsement information should the score sheet that was deleted contain that type of information.

Important: Any situation not described within the DOM §§ 61020.20.9 and/or 61020.20.10, contact the Classification Quality Assurance Unit in the Offender Information Services Branch in Sacramento for instructions.

**61020.20.11 CDC Form 816, Reception Center Readmission Summary**

The CDC Form 816, Reception Center Readmission Summary, shall be prepared for each parole violator who has been returned to custody with or without a new term, unless the new term is a Life term. This requires an ISRS. The Reception Center Readmission Summary shall also be completed for cases designated as DPU cases per DOM § 61020.20.

The following guidelines have been established for completing the CDC Form 816:

**Identifying Information**

Enter the inmate's CDC Number, Inmate's Name, last name and first name, and the Reception Center or Institution where the case is being prepared.

**Parole Violator With New Term or Parole Violator Return to Custody**

Enter an "X" in the box designating the inmate's return status. If the inmate has been designated as both an RTC and WNT, place an "X" in the box designating the status that determines the controlling release date.

WNT – New Commitment Offense.

- Enter the new commitment offense(s), description(s), and the number of counts.

RTC – Parole Violation Charge(s) and Commitment Offense(s).

- Enter the parole violation(s) for which Good Cause was found. List the most serious offense first.
- Enter the original controlling commitment offense.

**Enemy Information/Confidential Information/Gang Information**

## CDC Form 812

- Enter an “X” in “Clear” if there is no enemy information or gang activity.
- Enter an “X” in “Noted” if there is gang activity, but no enemy information noted.
- Enter an “X” in “Updated” if there is enemy information and enemy location(s) have been updated.

## Confidential Information

- Enter an “X” in “Clear” if there is no confidential information in the central file.
- Enter an “X” in “Noted” if there is confidential information in the central file, but no enemy information.
- Enter an “X” in “Updated” if there is enemy information in the confidential file and the enemy location(s) have been updated.

## Gang Activity

- Document the name of the street gang/disruptive group/prison gang.

**Holds/Detainers**

Enter an “X” in “Clear” if there are no active holds, warrants, detainers, or timeservers in the central file.

## Felony

- Enter Felony Hold, Warrant, or Detainer information here. Enter crime, agency information, bail amount, etc.
- If there is an active timeserver, enter the date that the timeserver expires.
- If there is a potential hold, warrant, or detainer, enter that information in the space provided. Provide a description of the charge for which the inmate may be wanted and from which jurisdiction. Include the source document from which the potential hold was identified.

## Foreign Born

- Enter “No” or “Yes” to document whether or not the inmate is foreign born.

## USINS

- Enter “P” or “A” to document if the inmate has a Potential or Actual USINS hold. It is not necessary to document the A# on the CDC Form 816.

**Medical/Psychiatric**

## Medical

- Enter medical clearance (e.g., Full Duty/Camp). Abbreviations are appropriate.

## Dental

- Enter the dental code as recorded on the CDC Form 128-C-1.

## Tuberculosis Alert Code (TBAC)

- Enter the inmate’s current TB code.

## Developmental Disability Program (DDP)

- Enter the code that reflects the inmate’s current DDP status per the most recent CDC Form 128-C-2.

## Disability Placement Program (DPP)

- Enter No or the current DPP code(s), whether impacting or non-impacting, per the CDC Form 1845(s).

## Psychiatric

- Enter “Clear” or MHSDS Level of Care (e.g., CCCMS).

## Mentally Disordered Offender (MDO)

- Enter an “X” in “Clear” if there is no violence or threat of violence in the instant offense pursuant to PC § 2962.
- Enter an “X” in “Offense Only” if the inmate has a qualifying violent offense.
- Enter an “X” in “Referral” if the case is to be referred to the MDO Coordinator.

**Escape History**

Enter an “X” in “Clear” if there is no escape/walkaway history.

If escape/walkaway history exists:

- Enter the type of escape. Elements to be addressed include, but are not limited to:
  - With Force, Without Force, Walkaway.
  - From a Secure Facility or from a Non-secure Facility.
  - From Armed Escort or Fleeing an Officer.

- Enter whether it was an actual escape or attempted escape.
- Indicate whether or not the inmate was convicted.
- Enter the county where the escape/walkaway occurred.
- Enter the charge and disposition if available.
- Include the date of the escape/walkaway when available.
- Enter the source of the information.

**Arson History**

Enter an “X” in “Clear” if there is no arson history.

If arson history exists:

- Enter the type of arson and if injury occurred.
- Enter whether it was an actual arson or attempted arson.
- Indicate whether or not the inmate was convicted.
- Enter the county where the arson occurred.
- Enter the charge and disposition if available.
- Include the date of the arson when available.
- Enter the source of the information.

**Sex Related Offenses**

Enter an “X” in “Clear” if there is no history of sex related offenses.

If a sex-related offense history exists:

- Enter the type of offense.
- Enter whether or not the offense was attempted.
- Indicate whether or not the inmate was convicted.
- Enter the county where the offense occurred.
- Enter the charge and disposition, if available.
- Include the date of the offense when available.
- Enter the source of the information.

**“R” Suffix**

- Enter an “X” in “R Suffix” if an “R” suffix is warranted or has been imposed.
- Leave the “R Suffix” box blank if a review is needed. If review by UCC is recommended, explain in the “Hx” area of the form.

## Sexually Violent Predator (SVP) Screened

- If the inmate is required to register per PC 290:
  - Enter an “X” in “Yes” if the screening has been completed.
  - Enter an “X” in “No” if the screening has not been completed.

**Institutional Case Factors**

## Paroled From

- Enter the prison or facility from which the inmate last paroled.

## Last Custody Level

- Enter the inmate’s last designated custody level.

## Prior Administrative Determinant

- Enter administrative determinant(s) applied during the prior incarceration.

## Special Work Skills

- Record documented special work skills.

**“S” Suffix (single cell required)**

- Enter the word “None” if an “S” suffix is not required.
- Enter an “X” in “Affixed” if an “S” suffix has been affixed and enter the reason.

## Serious Rules Violation Report

- Enter the word “None” or record any serious disciplinary in the inmate’s current commitment. Identify any “Big 6 offenses” by date during any prior incarceration.
- The Big 6 Offenses include the following:
  - Battery or Attempted Battery on a Non Prisoner.
  - Battery or Attempted Battery on An Inmate.
  - Distribution of Drugs.
  - Possession of a Deadly Weapon.
  - Inciting a Disturbance.
  - Battery Causing Serious Injury.

## Other Case Factors

- List any other case factors that may be important to note. For example, registration/notification requirements, computer crimes, DNA required, etc. Also list institution placement recommendations for DPP inmates.

### Special Programs Screening

For MSF and Camp, enter an “X” to indicate “E,” “L,” or “P.”

Where an “X” is entered to indicate “L” or “P,” identify the reason for ineligibility on the line provided. Use abbreviations and/or administrative determinant codes.

For the other Special Programs listed, enter an “X” to indicate “E” for eligible or “I” for ineligible. Where ineligibility is noted, enter the reason.

Address CPMP eligibility for female inmates.

### Placement Recommendation

#### Primary

- Enter the institution name and security level for the primary placement recommendation.

#### Alternate

- Enter an alternate recommendation by institution name and security level.

#### Inmate Concur

- Check the box if the inmate concurs with the recommendations.

#### Inmate Request if Different

- Record the inmate’s requested placement if different from the primary and/or alternate recommendations.

#### CCI Printed Name/Signature and Date

- The Correctional Counselor shall print his or her first name or initial and last name and shall sign and date the form on the line provided.

#### CCII Printed Name/Signature and Date

- The Correctional Counselor II shall print his or her first name or initial and last name and shall sign and date the form on the line provided.

#### Concur With Recommendation/Disagree

- The Correctional Counselor II shall enter an “X” to indicate “Concur” or “Disagree” with the recommendations. If the CCII has indicated “Disagree,” he or she shall enter the recommended institutions, security level, and reason for the recommendations.

### 61020.21 Revisions

The Director, Division of Adult Institutions, or designee shall ensure that the content of this Article is current and accurate.

### 61020.22 References

PC §§ 5054, 5058, and 5068.

CCR (15) §§ 3375 and 3378.

## ARTICLE 3 — CUMULATIVE CASE SUMMARY

*Revised October 31, 1990*

### 61030.1 Policy

Inmates received by the Department shall be evaluated by staff upon reception and the cumulation of information and case material shall be formulated into the Cumulative Case Summary.

### 61030.2 Purpose

The cumulative case summary is a formal summation of information needed to make decisions about each inmate throughout their institution and parole period under the Department’s jurisdiction.

#### General

The cumulative case summary is the result of the study required by PC 5068 prepared at the reception center. It provides a format to summarize changes in legal or case factors, program needs, behavior or attitude, and provides other necessary information throughout an inmate’s incarceration. Information shall be limited to that which is necessary for case management decisions.

#### Cumulative Case Summary (Documents)

The cumulative case summary shall consist of the following documents:

- Legal Status Sheet (LSS), CDC Form 188.
- POR.
- CI&I SSCH Report.
- Psychiatric/psychological evaluation.
- Institutional Staff Recommendation Summary (ISRS).

- Reception Center Readmission Summary, CDC Form 816, (Readmission Summary).
- Social Factors Sheet.

### 61030.3 Distribution

When completed, the original cumulative case summary shall be retained in the inmate’s C-File.

The inmate shall be provided a copy of the cumulative case summary, excluding the CI&I SSCH report and CDC Form 112, prior to initial classification.

### 61030.4 Style and Content

The cumulative case summary shall be a concise objective report using simple language with any necessary professional/technical terms explained. The cumulative case summary is a permanent record that is reviewed by other agencies and the courts, and as such it shall be prepared in a professional manner regarding content, grammar, spelling, punctuation and typing. With the exception of the CDC Form 816, Reception Center Readmission Summary case summaries shall be typed with all headings included. The preprinted CDC Form 816 shall be prepared in a legible handwritten manner.

### 61030.5 Completeness and Accuracy

The cumulative case summary shall be complete, accurate and brief, and contain all information that is important to the management of the individual. Sound, objective judgment is required, and all reasonable efforts shall be made to obtain and verify all information. When other documentation is used or quoted, the source/reference material shall be identified such as, “work skill as diesel mechanic, page 9 of the POR.” Significant information that cannot be verified shall be noted as such.

#### Information Gathering

The inmate’s consent shall be sought when gathering information from outside sources, although the Department may gather such information without consent.

#### CYA and CDC Discharged Terms Files

When reception center staff determine that an inmate has a CYA history within the last five years or a CDC discharged term, a request shall be made, as soon as possible, to send the discharged file(s). The counselor shall incorporate the information into the new C-file. Copies of documents may be incorporated as necessary but the actual documents shall not be removed from the discharged C-file(s). Following endorsement by a CSR, the discharged file(s) shall be returned to the archives unit or otherwise disposed of by the records personnel.

#### Other State or Federal Records

The casework follow-up section shall request the receiving institution to obtain records for any other state or federal prison terms served.

#### Format

The cumulative case summary shall be prepared and assembled in the proper format and order as described in this section.

### 61030.5.1 Chronological History (CDC Form 112)

The CDC Form 112, Chronological History, contains dates and other information on the inmate’s arrival, transfer, release, BPT hearings, holds, and forfeiture and restoration of time credits.

### 61030.5.2 Legal Status (CDC Form 188)

CDC Form 188, Legal Status Sheet, contains the inmate’s legal status and other sentencing information and shall be prepared at the reception center. Those inmates sentenced to life, life without the possibility of parole, or to one year-and-one-day will have CDC Form 188 prepared by the LPU in Headquarters.

### 61030.5.3 POR

The POR is the main source document for information on inmates committed to the Department. All relevant information shall be neatly underlined in dark ink. The POR is obtained from the court and is part of the commitment package.

### 61030.5.4 CI&I Report

The inmate’s CI&I SSCH report shall be requested from State DOJ by the reception center. If not received before the inmate’s transfer, it shall be forwarded to the receiving institution for proper inclusion in the inmate’s C-file.

### 61030.5.5 Psychiatric/Psychological Evaluations

The Penal Code only requires psychiatric/psychological evaluations on cases convicted for child abuse or neglect (PC 3002). Other psychiatric/psychological evaluations shall be prepared when indicated by sound clinical judgment.

**PC 1203.03 Diagnostic Evaluations**

Reception center staff may prepare a psychiatric/psychological evaluation on cases received for diagnostic study under PC 1203.03. These evaluations shall be placed with the cumulative case summary in the C-file.

**Staff Referral**

Psychiatric/psychological evaluations shall be prepared for those inmates who, based on staff observation or information from other agencies, appear to have serious psychiatric/psychological problems likely to have a significant affect on institutional adjustment. Evaluations shall be recorded on a CDC Form 128-C, Medical/Psychological Chrono, and placed in the General Chrono section of the C-file.

**BPT Psychiatric/Psychological Evaluations**

Staff shall prepare psychiatric/psychological evaluations requested by the BPT. These evaluations shall be placed in the BPT section of the C-file.

**Willful Cruelty to a Child (PC 3002) Psychiatric/Psychological Evaluations**

Inmates convicted of PC 273a (Willful Cruelty Toward Child/Endangering Life, Limb or Health) and PC 273d (Inflicting Corporal Punishment Upon Child Resulting in Traumatic Injury) shall receive a psychiatric/psychological evaluation to determine the extent of counseling which may be mandated as a condition of parole as required by PC 3002. Referral to psychiatric/psychological staff shall be in sufficient time to allow the completed evaluation to be mailed with the CDC Form 611, Release Program Study. The evaluation shall be completed by reception center staff if the inmate is retained for work crew or pre-release.

Notice shall be made in the Psychiatric/Psychological and Casework Follow-up sections of the ISRS or Medical/Psychological section of the Readmission Summary when an evaluation is required under PC 3002.

**61030.6 Institutional Staff Recommendation Summary (ISRS) Format**

An ISRS shall be prepared about each newly committed inmate. In addition, an ISRS shall be prepared for parole violators returning with a new term of life imprisonment.

**61030.6.1 Exceptions to ISRS Format**

The ISRS for a pre-sentence diagnostic study case (PC 1203.03) shall be prepared in the same format except for the following:

- A criminal history section shall be included between the casework follow-up and the evaluation sections.
- The "EVALUATION" section shall include a recommendation to the court on PC 1203.03 cases. If the inmate is subsequently committed to the Department, the "TRANSFER" part of the ISRS shall be included along with a supplementary evaluation reflecting any significant changes since the diagnostic evaluation.

**61030.6.2 ISRS Section Contents**

*Revised September 25, 2007*

**Supplemental ISRS Report**

If the inmate is subsequently committed to the Department, a report entitled "Supplemental ISRS Report" shall be completed to show any significant changes since the diagnostic evaluation and to complete the transfer section.

**Source of Report**

The format of the ISRS and the content of each section shall be as follows:

- List the sources from which the report is prepared such as inmate interview, POR or old C-file.
- Include the date the inmate was interviewed and the date of each document.

**Confidential Information**

If there is no information requiring placement in the Confidential Materials Folder indicate "None." If there is confidential information specify the type by using one of the following designations:

- Enemy;
- Gang;
- Notification of interested party; or,
- Other.

**Holds/Detainers**

Identify each actual and potential hold by indicating the offense and Code Section, whether felony, misdemeanor, or probation violation and the County originating the hold. If the hold is for USINS, indicate the country of birth. If there is a potential hold, the counselor shall insure that a CDC Form 850,

Detainer Summary, is completed. If a "time server" or concurrent sentence is indicated, list the expiration date. If it is for a consecutive term, indicate the offense and term. Holds received by reception center staff after the inmate's transfer shall be telephonically communicated to the receiving institution and forwarded by mail.

**Medical/Dental**

Record the level of duty assignment and any significant medical problems indicated by medical staff. Indicate the reason(s) if the inmate is judged not medically qualified for camp assignment or has a medical infirmity that may limit the inmate's ability to work. Describe the type of medication or other medical treatment the inmate receives, if any. Indicate the inmate's self-reported medical problems.

**Psychiatric/Psychological**

When a psychiatric/psychological referral is required, indicate the reason for the referral, such as PC 3002 or staff observation. If an evaluation is prepared at the reception center, it shall be placed in the Cumulative Case Summary and the conclusions summarized in this section. State "No Referral" if the inmate is not referred for evaluation.

**Work Skills**

Describe the inmate's work experience and employable skills. Note the sources of and any supporting information, including the inmate's statement.

**Narcotics/Drugs/Alcohol**

Indicate the amount and frequency of narcotic/drug/alcohol use and whether the inmate was considered addicted. Note the source of the information.

**Escape History**

Indicate the date(s) and location and describe the type of facility(ies) and means of escape such as failure to return to a work furlough facility, climbed over double fence or armed perimeter, or ran from courtroom while under custody of the sheriff, or whether force was used. Note the source of the information. State the reason if no classification points were assessed.

**Arson History**

Indicate the date, code section and circumstances of the arson offense. Distinguish arrests and convictions and whether a juvenile or adult at the time. Note the source of information.

**Sex-Related Offenses**

Identify all sex-related convictions, detentions and arrests, and include the PC number. Indicate the date, location and type of offense, such as rape, unlawful sexual conduct, incest, sodomy or lewd and lascivious conduct. Indicate if the inmate is required to register as a sex offender pursuant to PC 290. Indicate if "R" suffix is appropriate or should be evaluated at the receiving institution. Note the source of the information.

**Academic/Vocational**

Indicate the last grade completed; whether high school graduate, GED recipient, college graduate, or vocational training certified. Enter the inmate's test scores and the recommendation for program involvement. Indicate if inmate is interested in additional instruction.

**Casework Follow-Up**

Indicate any pertinent information not available prior to transfer that the receiving institution should obtain. This could include academic, military, employment, medical, psychiatric or prison history documents which may be required by the receiving institution. Be sure to note any outstanding or pending criminal charges requiring follow-up and action taken. A copy of any letter(s) requesting documentation shall be placed in the inmate's C-file with appropriate notations on the CDC Form 850 in the Detainers Section of the C-file. Indicate if the inmate should be evaluated for "R" custody.

**Criminal History**

Describe the inmate's past criminal behavior, including the type of offenses, dispositions, degree of criminal sophistication and adjustment to incarcerations. Evaluate the circumstances and involvement in instant offense and relationship, if any, to pattern of offenses. Do not repeat the details of the offense as reported in the POR. The use or threat of excessive force or aggression involved in any criminal behavior, arrests, or incarcerations shall be fully discussed and evaluated. It is essential that all such information be incorporated into the ISRS.

**Evaluation**

The evaluation section shall be brief but reflect a complete picture of the social and personal dynamics of the inmate's behavior. This section shall also include an evaluation of the inmate's reaction to authority figures, adjustment to confinement, and attitude and behavior as observed by reception center staff. Facts included in other sections or reports should not be repeated except where needed for illustration. Predictive statements shall be clearly supported by the evaluation. The evaluation shall emphasize present functioning,

attitudes and behavior, with historical facts referenced only to provide insight to the inmate's present situation. Include a brief summary of the individual's overall strengths, weakness, and prospects for both the near and distant future. For PC 1203.03 cases, the evaluation shall be the last section and shall include a recommendation to the court.

#### **Reentry**

This section shall only be completed in the reception center if the inmate has six months or less to parole or is assigned to the center's permanent work crew. Describe the inmate's plans and resources for employment and residence and any special needs or concerns.

#### **Transfer Classification Score**

Enter the inmate's classification score from the CDC Form 839, Classification Score Sheet, or CDC Form 840, Reclassification Score Sheet. Designate any suffix, such as "R" (sex crime) or "S" (single cell housing) and indicate the reason.

#### **Community Correctional Facility Eligibility**

Indicate if the inmate's case factors are consistent with eligibility criteria for community correctional facilities. Specific focus will be on work furlough, if the inmate is within six months of the 1/3 EPRD and on RTC facilities, as defined in PC 2910.5, if the inmate is within eighteen months of the EPRD. In addition, female inmates will also be identified for eligibility for the Community Prisoner Mother Programs (CPMP). Conclude the section by indicating each type of program for which the inmate is eligible and interest in the programs, if eligible.

#### **Institution Recommendation**

The Penal Code requires that placement in an appropriate institution nearest to where the newly committed inmate's parents, spouse, registered domestic partner, or children lived at the time of commitment be considered unless factors, such as classification criteria, availability of beds or time to serve, make such placement unreasonable. Indicate the institution the inmate requests, if any, whether it qualifies as closest to the home address and any obstacles or benefit from granting the request. Indicate the institution or community correctional facility recommended and one alternate. Provide the reason for the recommendations, not just the score/level.

#### **Administrative Placement**

When a recommendation is made for placement in a security level different from the inmate's classification score level, indicate the reason.

#### **Correctional Counselor and Date of Report**

Indicate the name and the job title of the counselor who prepared the report and the date prepared.

#### **Supervisor's Comments and Recommendation**

The counselor's supervisor shall review all the material for completeness and accuracy, and indicate if they concur with the institutions recommended. If the supervisor's recommendation is different, give the reason(s). Indicate the supervisor's name and job title and the date reviewed.

#### **61030.7 Social Factors Sheet**

A social factors sheet shall be prepared at the reception center on all new commitment process cases and is a part of the summary.

#### **61030.8 CSR Review**

All aspects of the processing shall be completed prior to the CSR's review. The reception center staff shall provide the CSR with a blank CDC Form 128-G, Classification Chrono, upon which the inmate's name, number and the reception center have been typed. Any file from CYA or CDC discharged term used in the report preparation shall be available for the CSR's review.

#### **Documentation in C-File**

The following documents, with the pages in order, shall be clipped together in the sequence below and placed in the classification portion of the C-file for review by the CSR.

- CDC Form 128-G (for CSR transfer documentation).
- CDC Forms 839 or 840.
- ISRS or CDC Form 816.
- CDC Form 812.
- CDC Form 812-A, if required.
- Social Factors Sheet.
- POR.

All other documents in the C-file shall be filed in accordance with the DOM 72030.

Any C-Files from prior terms used in the case work-up shall be available for the CSR's review.

#### **61030.9 Reception Center Readmission Summary/CDC Form 816 (Readmission Summary)**

Parole violators RTC and with new terms (WNT) shall be processed using the Readmission Summary that is similar in format to the Cumulative Case Summary.

#### **61030.10 Case Summary/Readmission Summary/Inclusion of Late Information**

The Cumulative Case Summary's and Readmission Summary's usefulness depends upon their accuracy and completeness. In some cases, documentation may be received after the preparation of the ISRS or the CDC Form 816. When this occurs, the following procedures shall be followed:

##### **Reception Center Late Information Processing**

The CCRM is responsible for incorporating all available late legal documents into the C-file prior to the inmate's transfer. Clinical material and non-legal documentation arriving after completion of the Cumulative Case Summary shall be reviewed by the counselor who completed the original report or a supervising counselor.

If the material warrants modification of the case factors, the counselor shall up-date the C-file. This shall be accomplished by having the ISRS retyped, rewriting the CDC Form 816 or by including an addendum following the supervisor's comments. The counselor shall also correct CDC Forms 839, 840, 812, and 812-A and other documents as needed.

If information is received after CSR endorsement that could contraindicate transfer to the facility endorsed, the information shall be immediately evaluated and the case resubmitted to a CSR with a new recommendation, and the reasons.

##### **Information Arriving After Transfer**

When the inmate has transferred, legal documents shall be forwarded to the attention of the CCRM at the receiving institution. Non-legal documents received after the inmate has been transferred shall be forwarded to the CC-III or C&PR at the receiving institution with a notation that the "material has not been included in the Cumulative Case Summary." Non-legal documents include C-file material from discharged terms, statements pursuant to PC 1203.01, letters from victims or next of kin and letters from law enforcement agencies or defense attorneys.

##### **Institutions' Late Information Processing**

The counselor at the receiving institution shall review the supplemental information and update the new C-file as necessary. This may require a change in the classification score, institution placement, enemy information (CDC Form 812) or confidential information. If the inmate's classification score level or the placement appears inappropriate for some other reason, the case shall be referred to a CSR by the classification process for transfer review.

#### **61030.10 Revisions**

The Deputy Director, Institutions or designee, shall ensure that the content of this section is current and accurate.

#### **61030.11 References**

PC §§ 273(a) and (d), 1203.01, 1203.03, 3002, 5068 CCR (15) § 3377.1.

### **ARTICLE 4 — PRESENTENCE DIAGNOSTIC STUDY**

*Effective October 25, 1989*

#### **61040.1 Policy**

Pursuant to PC 1203.03, persons placed with the Department shall be evaluated by staff for a pre-sentence diagnostic study.

#### **61040.2 Purpose**

This section establishes standard procedures for the acceptance and processing of PC 1203.03 cases requiring a pre-sentence diagnostic study.

#### **61040.3 Pre-sentence Diagnostic Study**

##### **Authority**

P C. 1203.03 permits courts to temporarily place defendants convicted of an offense, punishable by imprisonment in state prison, in facilities of the Department for purposes of diagnosis and treatment.

#### **61040.4 Reception Center Delivery**

Persons committed for diagnosis shall be delivered by the county sheriff to the reception centers at the CIW, CIM, and CMF for PC 1203.03 processing.

A copy of the court order committing the individual to the Department is required before the person may be accepted. The copy must meet two of the following three requirements:

- Signed by a judge.
- Bear the seal of the court.



- Certified by the county clerk.

A CDC Form 123, Body Receipt, shall plainly indicate that the person was “received for diagnosis” and not “received from court.”

The reception center’s CCRM shall maintain a record of PC 1203.03 workload and maintain a log of referrals by name, commitment offense, county of commitment and the date received.

#### **61040.5 Rejection of Cases**

Cases may be rejected when The Director determines that the Department’s staff or facilities cannot adequately provide services. Any proposed rejection of cases shall be referred to the Director. However, the authority to reject the following specific cases is delegated to reception center AW.

Chronic or acute medical/psychiatric cases which necessitate intensive care, such as those who are in need of specialized treatment like dialysis or who have a mental illness of such magnitude that psychiatric hospitalization is required.

Cases where the background information necessary to conduct an appropriate evaluation is inadequate. These include cases referred without a POR or minus other documentation such as an arresting officer’s report.

#### **61040.6 Length of Observation**

PC 1203.03 provides for a maximum 90-day observation period; however, the diagnostic report shall be completed and transmitted to the court within 23 working days of reception except in unusual circumstances.

#### **Medical Extensions**

When it is determined that a person is suffering from a treatable condition and more than the 90 day period is necessary to treat the condition, the reception center administrator may petition the court, with the person’s signed consent attached, to extend the period. If the court finds the petition appropriate, it can order the extension and transmit a copy of the order to the Director.

#### **61040.7 Reporting to OBIS**

All PC 1203.03 cases received shall be entered into the OBIS Institution Movement Subsystem as a new admission.

When the individual is returned to the court, the case shall be entered into the OBIS Institution Movement Subsystem as a discharge and shall include the Department’s recommendation to the court.

#### **61040.8 Diagnostic Study Format**

The diagnostic summary in these cases shall consist of a case summary preceded by a short summary report that will be prepared by the Correctional Counselor, and staff psychiatrist/psychologist in accordance with the approved format in the DOM 61030.

##### **61040.8.1 Identifying Information**

This section shall begin with the following paragraph.

“A diagnostic study and recommendation under the provisions of PC 1203.03 has been requested in the case of (Name), (County Court Number), (CDC Number).”

“This evaluation was prepared with the objective of assessing the defendant’s potential for functioning successfully on probation or under other supervision and the level of threat to the community if he/she should fail to live up to that potential. It has not focused on the issue of deterrence, nor of punishment; those are factors which are not responsive to the interview and evaluation format of the PC 1203.03 process.”

The remainder of this section shall include the age of the defendant, date received in the Department, name of court, county and on what charge.

Any specific questions or requests by the court shall be identified and listed in this section.

##### **61040.8.2 Recommendation to the Court**

Short summary of instant offense and brief recap of criminal history.

This section shall be confined to specific recommendations of the Department staff. All recommendations shall begin with the words, “It is respectfully recommended to the honorable court that . . .” In those cases recommending probation, the specific recommendation shall begin with the phrase, “If eligible for probation...” Conditions of probation may be recommended. Where possible, they will be based on knowledge of the county’s resources and contain alternate suggestions for the court’s consideration.

##### **61040.8.3 Reasons for Recommendation**

Provide in sufficient manner the salient factors contributing to the recommendation. Avoid listing information in the case summary, except when it contributes significantly to the recommendation. Make certain that any specific questions or requests from the referring court are fully answered. If the study suggests solutions beyond the scope of the court’s expressed concern, the judge should be contacted and the matter discussed with them for clarification prior to the preparation of the written report. These summary

reports shall be dated and signed by the reception center AW. Should the recommendation involve a difference of opinion among the staff, this shall be indicated in the letter as well as the procedure by which the difference of opinion was resolved.

#### **61040.9 PC 1203.03 Cases, Case Summary Preparation**

The case summaries prepared for PC 1203.03 cases shall be identical to the regular felony case summaries. See DOM 61030.

All procedures that apply to regular felony commitment cases apply to pre-sentence diagnostic cases. For example, if a person received a rules violation report while undergoing the 90-day study, this shall be recorded in the C-File and, if the person is returned under a felony commitment, reflected in subsequent reports in the same manner as for all commitments.

#### **Psychological Report**

A psychological evaluation may be prepared on PC 1203.03 cases.

##### **61040.10 Transmittal to the Court**

The study shall be reviewed by the reception center administrator before transmittal to the court. Cases that present unusual problems or raise new questions shall be referred to the Chief, Classification Services, before submitting them to the court. The AW shall also ensure that the report calls attention to the following sections, if applicable.

##### **61040.10.1 CYA/Mental Health Reports**

The individual is currently under commitment to the Department, CYA or the California DMH, and a progress report of the last six months is available.

##### **61040.10.2 Pending Charges**

The individual has felony charges pending in another court, or is currently on probation or parole from another jurisdiction and is subject to revocation as a result of the current offense.

##### **61040.10.3 Master Report**

Reception center staff shall prepare the original of the study and send four copies to the court by first class mail to arrive before the individual is returned. The original shall be retained at the reception center for six months after submission to the court at which time it shall be forwarded to the Archives Unit at CMF, where it shall be retained for two and one half years.

##### **61040.10.4 Transmittal Letter**

A standard transmittal letter shall be used to transmit the study to the court (refer to DOM 61030).

##### **61040.10.5 Information Disclosure**

Copies of the study issued to the court will be served upon the defendant or their attorney, the probation officer and the prosecuting attorney by the court and shall not be disclosed to anyone other than departmental employees without the consent of the defendant.

Diagnostic cases remain under the jurisdiction of the court therefore the requirements of “In re Olson” are accomplished by the court.

##### **61040.11 Former Diagnostic Cases (“Z” Cases)**

When a former PC 1203.03 case is returned to court, discharged and then recommitted to the Department to serve a sentence for the original felony conviction, reception center staff shall:

- Insert the new prison number wherever the PC 1203.03 “Z” case number is found.
- Prepare a case summary update in accordance with DOM 61030.

##### **61040.12 Revisions**

The Deputy Director, Institutions, shall ensure that the content of this section is current and accurate.

##### **61040.13 References**

PC § 1203.03.

## **ARTICLE 5 — CLASSIFICATION PROCESS**

*Effective October 25, 1989*

### **62010.1 Policy**

Statute authorizes the Director to maintain a continual diagnostic and prescription process involving a systematic study of each inmate’s case considerations while confined to the Department.

The goals of the inmate classification system are:

- Placement of inmates in the lowest custody level consistent with case factors and public safety.
- Place inmates according to their classification score based on objective information and criteria unless case factors or departmental requirements indicate otherwise.

- Application of the classification process uniformly for all inmates in similar situations.
- Provision for centralized control over the classification process.
- Maintenance of an ongoing classification system information data base for departmental research and evaluation.

All decisions affecting an inmate's institutional placement, participation in programs and degree of custody shall be through the classification process.

#### **62010.2 Purpose**

The purpose of this procedure is to provide a systematic process for the programming, housing and custody decisions used in the management of inmates.

#### **62010.3 Responsibilities**

All classification actions are based on the authority of the Director who delegates functions to specific officials. A listing of these officials and functions are as follows:

##### **62010.3.1 Headquarters Staff**

Functions of headquarters staff include, but are not limited to, the following:

##### **Chief Deputy Director**

##### **Deputy and Assistant Deputy Director, Institutions**

- Acts in all classification matters on behalf of the Director.
- Responsible for the general supervision of the classification process.
- Supervise the Chief, Classification Services.
- Members of the Departmental Review Board (DRB).
- Review cases referred by the Chief, Classification Services.
- Authorize special transfer orders.
- Approve exceptional temporary community releases.

##### **Chief and Assistant Chief, Classification Services**

- Responsible for operational supervision of the classification process.
- Supervise the CSRs.
- Members of the DRB; present recommendations, record and implement DRB decisions.
- Review CSR decisions upon request of a Warden.
- Arrange special research and surveys of classification matters.
- Review cases referred by CSRs.

##### **CSR's**

- Represent the Classification Services Section carrying out the Director's classification policies and procedures.
- Review, approve, modify or disapprove inmate special housing programs and treatment category designations as recommended by institution staff.
- Act as liaison between central office and institutions in classification matters.
- Coordinate and maintain waiting lists for specific special housing and treatment categories.
- Approve receipt of CYA and California DMH cases, and coordinate and endorse the transfer of department inmates to those departments.
- Conduct special audits and reviews of classification committee actions to determine that departmental policy is being followed.
- Review and prepare letters for the Director to courts on PC 1170(d) cases.
- Designate on CDC Form 128-G, Classification Chronos "Special/Public Interest" cases.

##### **62010.3.2 Institution Staff**

The functions of institutional staff include, but are not limited to, the following:

##### **Wardens, Chief Deputy Wardens**

- Responsible for institutional classification process.
- Approve off-site work assignments, community betterment, and disaster relief crews. Authorized to sign orders for removal of inmates in time of specified disasters and/or temporary community release.
- Submit DRB and PC 1170(d) reports.

##### **RPAs**

- Responsible for operational supervision of reentry classification process.
- Designates the chairperson of classification committees.
- Reviews complex cases and resolves difference of opinion cases.

##### **AW**

- Approve camp eligible lists, as well as housing and assignments outside of the security area.
- Member of the institution classification committee (ICC).
- Responsible for the classification of inmates assigned to their division.

##### **Reception Center Administrators**

- Responsible for the reception center classification process.
- Make recommendations to the sentencing court pursuant to PC 1170(d) and 1203.03.

##### **C&PR**

C&PRs duties include, but are not limited to:

- Planning, organizing, and directing the total institutional classification process on behalf of the Warden.
- Ensures the quality of classification chronos, BPT reports, release program studies, and DRB reports.
- Effects staff adherence to classification policies, procedures, and goals.
- Establishes a system to ensure that post-board classification is conducted.
- Provides ongoing training for counseling staff.
- Serves on classification committees.
- Provides liaison between the institutions, P&CSD, BPT, and Classification Services.
- Coordinates and manages the records office operation.
- Signs CDC Form 161s, Checkout Orders.
- Exercises the duties of a CSR for intra-facility transfers.
- Reviews, approves, and signs CDC Form 611s, Release Program Studies (RPS).
- Approves/declassifies confidential information.

##### **Captains**

Captains in an institution are responsible for planning, organizing and directing a program for the unit's classification of inmates. This includes, but is not limited to, the following:

- Ensure the classification of all inmates assigned to their unit.
- Sign all transfer chronos, CDC Form 128-G.
- Act as classification hearing officers on cases placed in AD-SEG.
- Serve as members of the ICC and appropriate subcommittees.

##### **Supervising Counselors (CC-II, CC-III)**

Supervising counselors' duties include, but are not limited to, the following:

- Instruct and assist in training CC-Is and case work trainees.
- Assign, review, and control the quality of work prepared by CC-Is and trainees.
- Assist counselors on difficult cases by utilizing case conferences.
- Participate as a member in the classification process.
- Audit CDC Forms 839 and 840, Classification Score Sheets.
- Schedule and coordinate all unit classification committees (UCCs).
- Prepare and/or review institutional staff recommendation and readmission summaries (reception center).

##### **CC-I**

CC-I's shall:

- Collect and evaluate social, behavioral and educational data on inmates as well as evaluating the inmate's adjustment to an assigned program.
- Prepare the following:
  - CDC Forms 839 and 840.
  - CDC Form 812, Notice of Critical Case Information – Safety of Persons.
  - DC Form 812-A, Notice of Critical Information – Prison Gang Information.
  - Classification chronos.
  - BPT reports.
  - Narcotic evaluation reports.
  - RPS.
- Prepare institutional staff recommendation and readmission summaries (reception center).
- Prepare DRB, PC 1170(d), and 1203.03 reports.

- Prepare the C-File for attorney and other legal reviews.
- Attend classification committees.
- Provide individual and group counseling as needed.

#### **62010.4 Considerations**

The following considerations shall be utilized in classification committee hearings:

##### **General**

- Inmates shall be present at initial classification hearings and at other classification committee hearings which may result in an adverse effect upon their conditions of confinement, except for declared emergencies which temporarily prevent the application of classification rules.
- Security requirements, departmental needs, the inmate's program needs and classification score are primary factors which affect institution and program placement.
- Reclassification shall be an ongoing process of evaluating the inmate's needs, interests and desires, keeping in mind individual, security, and public safety.
- When a recommended transfer/program is deferred, the alternative shall provide for maximum program opportunities where possible.
- Classification scores shall be recalculated at least every 12 months.

#### **62010.4.1 In Absentia Hearings**

In absentia hearings are authorized under the following circumstances:

- The inmate refuses to appear before the committee.
- The inmate is physically incapable of appearing before the committee or is determined by a psychiatrist to be mentally incompetent to participate and understand the purpose of a hearing.
- The hearing is scheduled to improve the inmate's conditions of confinement by reduction or removal of a restriction previously imposed on the inmate.
- The hearing is to approve an action requested in writing by the inmate.
- The purpose of the hearing is for routine progress review to determine if future classification committee hearing should be scheduled.

When an in absentia hearing is held for any reason, that fact and reason shall be documented on a CDC Form 128-G.

#### **62010.4.2 Inmate Notices**

*Revised November 1, 2004*

Whenever possible, the inmate shall be given written notice of the date and purpose of the hearing. The notice should allow a reasonable period of preparation to discuss the issues to be considered.

Temporary emergency actions may be taken without prior notifications. Emergency lockups and transfers shall not require advance notice, but the inmate shall have the opportunity to present information at the next classification hearing following the action. The reasons for the action shall be given to the inmate in writing as soon as possible after the action was taken and before the appearance (Refer to the DOM 62050.10, Special Housing Assignments).

##### **Actions Due to Overcrowding**

When the sole basis for moving inmates under the provisions of CCR 3383 is due to overcrowding, the Director, DAI, or designee shall notify the Senate Select Committee on the California Correctional System.

#### **62010.4.2.1 Adverse Effect**

Substantially, adverse effects are:

- Involuntary transfer to a higher level institution not commensurate with the inmate's classification score.
- Increased custody level.
- Involuntary placement in segregated housing.
- Involuntary removal from an assigned program.
- Placement in a reduced work credit group.

##### **Classification Actions**

Classification actions that may result in adverse effect require:

- Written notice to inmate of proposed action and reasons for the action at least 72 hours prior to the hearing.
- Delay of the hearing at least 72 hours at the inmate's request when an adverse action is proposed at a classification hearing. If the action cannot be postponed, a CDC Form 128-G will document the reasons. If the inmate waives the 72-hour period, the waiver shall be documented on the CDC Form 128-G.

- A counselor/staff assistant may be requested by the inmate to prepare a defense or understand the issues involved in cases not requiring immediate action.

##### **Notice**

When a classification hearing includes the consideration of a newly calculated or recalculated classification score, the inmate shall be provided with a copy of the completed form at least 72 hours in advance of the hearing. The inmate may contest the classification score in the hearing and may appeal the score and hearing results.

Form of notice:

- The person referring the inmate to classification shall prepare the CDC Form 128-B-1, Notice of Classification Hearing.
- A copy of the CDC Form 128-B-1 will act as notification when presented to the inmate.
- If the inmate has been served with a CDC Form 114D, Order and Hearing for Placement in Segregated Housing, it is not necessary to complete a CDC Form 128-B-1.

#### **62010.4.3 Suffixes**

Suffixes shall be applied to degrees of custody to identify inmates with special restrictions or designations.

##### **62010.4.3.1 "R" Suffix**

*Revised November 3, 2006*

The purpose of applying an "R" suffix is to ensure the safety of inmates, correctional personnel, and the general public by identifying inmates with a history of specific sex offenses.

##### **62010.4.3.1.1 Reception Center**

The "R" suffix designation shall be affixed during reception center processing if one of the following four criteria applies:

- The inmate is required to register per Penal Code (PC) Section 290.
- The inmate's parole was revoked by Board of Prison Hearings (BPH) formerly known as Board of Prison Terms (BPT)/Parole Hearing Division (PHD) Good Cause Finding of an offense that is equivalent to an offense listed in PC Section 290.
- The inmate had a BPH formerly known as California Youth Authority (CYA)/Youth Offender Parole Board (YOPB)/Youth Authority Board sustained adjudication of an offense that is equivalent to an offense listed in PC Section 290.
- The inmate had a valid "R" suffix evaluation, as defined in this Section, resulting in the "R" suffix being affixed.

The assigned Correctional Counselor shall document the "R" suffix designation on the following applicable documents:

- Institutional Staff Recommendation Summary (ISRS)
- CDC Form 816, Reception Center Readmission Summary
- CDC Form 839, Classification Score Sheet
- CDC Form 840, Reclassification Score Sheet
- CDC Form 841, Readmission Score Sheet

Inmates with a prior "R" suffix evaluation inconsistent with the policy defined in DOM Section 62010.4.3.1.3 shall not have an "R" suffix applied. An "R" suffix evaluation must be completed at a receiving institution.

##### **62010.4.3.1.2 Receiving Institution**

The "R" suffix designation shall be affixed to an inmate's degree of custody during initial classification when the "R" suffix was not applied during reception center processing and the inmate meets one of the four criteria above.

The assigned Correctional Counselor shall initiate an "R" suffix evaluation when:

- An inmate was arrested, detained, or charged with an offense that would warrant the inmate to register per PC Section 290.
- An inmate's charges were dismissed or no disposition of the charges per the criminal history, CI&I, FBI rap sheet and POR, for an offense that would warrant the inmate to register per PC Section 290.
- An inmate's probation was revoked/denied because he or she committed an offense, whether or not prosecuted, that would warrant the inmate to register per PC Section 290, and the inmate was sentenced and ordered by the court to serve his or her sentence in CDCR.
- An inmate was arrested, detained, or charged with an out-of-state/country, federal or military offense deemed equivalent to a California law that would warrant the inmate to register per PC Section 290.

- An inmate's charges were dismissed or no disposition of the charges per the criminal history, FBI rap sheet and POR, for an out-of-state/country, federal or military offense deemed equivalent to a California law that would warrant the inmate to register per PC Section 290.
- An inmate was found guilty in a disciplinary hearing of a division A-1, A-2, or B offense that would warrant the inmate to register per PC Section 290.

An inmate shall not have an "R" suffix affixed during an "R" suffix evaluation when the required documentation is not available for review. A classification committee may complete a valid evaluation when the arrest report is available and the DA's comments are unavailable. The classification committee will document in the CDC Form 128-G the attempts/steps taken to obtain the required documentation.

If the relevant documents required to complete an "R" suffix evaluation are not available, i.e., destroyed, purged, lost, etc., the "R" suffix shall not be applied by a classification committee. The classification committee will document in the CDC Form 128-G the steps attempted in order to try and obtain the required documentation and why the documents are unavailable. Departmental Review Board (DRB) approval is required to affix an "R" suffix designation to an inmate's degree of custody if he/she meets the criteria in this paragraph.

An "R" suffix shall not be applied if the inmate was acquitted/found not guilty of the sex related charges in a court of law even if BPH Good Cause finding revoked his/her parole for those sex related charges.

#### **62010.4.3.1.3 "R" Suffix Evaluations**

Inmates requiring an "R" suffix evaluation shall be carefully evaluated at the receiving institution and presented to a classification committee within six months after reception center processing. This review may be completed at an institution any time during the inmate's incarceration if not completed within the first six months.

"R" suffix evaluations shall be completed as follows:

- The assigned Correctional Counselor shall order the arrest report(s) and DA comments for the offense.
- The assigned Correctional Counselor may also obtain court documents or any other official documents necessary to complete the evaluation.
- Unit Classification Committee (UCC) shall consider the arrest report, DA comments, or any other official documents related to the case. The committee shall document the decision and the specific reasons for the action including the information upon which the decision was based on the CDC Form 128-G.
- UCC may affix the "R" suffix, elect not to affix the "R" suffix or refer the case to Institution Classification Committee (ICC) for evaluation.
- ICC shall consider the arrest report, DA comments, or any other official documents related to the case. The committee shall document the decision and the specific reasons for the action including the information upon which the decision was based on the CDC Form 128-G.
- ICC may affix the "R" suffix, elect not to affix the "R" suffix or refer the case to DRB for evaluation.

#### **62010.4.3.1.4 Classification Committees**

For the purpose of this Section the following terms are defined:

- Institution means a large facility or complex of subfacilities with a secure (fenced or walled) perimeter headed by a warden.
- Facility means a subfacility of an institution headed by a facility captain.

A facility UCC may complete an "R" suffix evaluation of an inmate. Should a different facility UCC at the same institution disagree with the first UCC's decision to affix or not to affix the "R" suffix, the committee must refer the case to the ICC for re-evaluation.

Should a facility UCC at a receiving institution disagree with a previous institution's UCC or ICC "R" suffix evaluation, the committee shall refer the case to their ICC for evaluation.

The receiving institution's ICC can reverse an "R" suffix evaluation completed by a previous institution's UCC as long as the case was not evaluated by the previous institution's ICC.

The receiving institution's ICC can reverse an "R" suffix evaluation completed by a previous institution's ICC only if new and compelling information is obtained; otherwise, the case must be referred to DRB.

#### **62010.4.3.1.5 Restrictions**

When an inmate is housed in a Camp, MSF, or Community Correctional Center and it is determined that he/she warrants an "R" suffix, the inmate shall be removed and housed in at least a Level II facility.

When an inmate is housed in a Camp, MSF, or Community Correctional Center and it is determined that he/she warrants an "R" suffix evaluation, the inmate shall be removed and housed in at least a secure Level I facility pending completion of the evaluation.

Inmates with "R" suffixes shall not be assigned outside the security perimeter.

An inmate whose "R" suffix has been removed shall be eligible for any housing or assignment, consistent with their custody and placement score, for which they otherwise would qualify had the "R" suffix never been designated.

#### **62010.4.3.1.6 Former PC Section 290 Registrants**

Inmates who have a valid Certificate of Rehabilitation pursuant to PC Section 4852.01 shall not have the "R" suffix affixed.

If the assigned Correctional Counselor notes the inmate, per the Criminal Identification and Information (CI&I), was convicted of a PC Section 290 Offense, but per the Legal Status Summary (LSS) he/she is not required to register, the assigned Correctional Counselor shall check the Detainers Section of the central file for a CDC Form 3017, "Relevant Central File Information."

If there is no CDC Form 3017 completed on the PC Section 290 registration, the assigned Correctional Counselor shall refer the case to Case Records for resolution.

#### **62010.4.3.1.7 PC Section 290 Offenses**

PC Section 290 offenses include, but are not limited to, the following:

- PC 207 Kidnapping.
- Committed with intent to violate PC 261, 286, 288, 288a, or 289.
- PC 209 Kidnapping for Ransom.
- Committed with intent to violate PC 261, 286, 288, 288a, or 289.
- PC 220 Assault to Commit Rape, Sodomy, or Oral Copulation.
- Except Assault to Commit Mayhem.
- PC 243.4 Sexual Battery.
- PC 261(a)(1) Rape: Victim incapable of giving consent.
- PC 261(a)(2) Rape by Force.
- PC 261(a)(3) Rape of Drugged Victim.
- PC 261(a)(4) Rape: Victim unconscious of the nature of the act.
- PC 261(a)(6) Rape by Threat of Retaliation.
- PC 262(a)(1) Rape Spouse by Force/Fear/Etc.
- Involving the use of force or violence for which the person is sentenced to the state prison.
- PC 264.1 Rape/Etc in concert with Force/Violence.
- PC 266 Entice Minor Female for Prostitution/Etc.
- PC 266c Induce Intercourse/Sex Acts by False Representation: Int: Fear.
- PC 266h(b) Pimping/where Prostitute is under 16 (convicted after 1/1/98).
- PC 266i(b) Pandering/where Prostitute is under 16 (convicted after 1/1/98).
- PC 266j Procurement of Under 16 for Lewd and Lascivious Acts.
- PC 267 Abduct Minor for Prostitution.
- PC 269 Agg Sex Assault/Child under 14 or 10 Years Younger.
- PC 285 Incest.
- PC 286 Sodomy.
- PC 288 Crimes Against Children/Lewd or Lascivious.
- PC 288a Oral Copulation.
- PC 288.5 Continuous Sexual Abuse of Child.
- PC 289 Sexual Penetration with Foreign Object.
- PC 311.1 Bring Into State Matter Depicting Child in Sexual Conduct.
- PC 311.2(b) Possess/Distribute Obscene Matter Depict Minor: Commercial Consideration.
- PC 311.2(c) Distribute/Etc Obscene Matter Depicting person Under 18 (Misd).
- PC 311.2(d) Distribute/Etc Obscene Matter of Minor to Minor.
- PC 311.3 Developing/Duplicating/ Printing/Exchanging Obscene Matter Depicting Sexual Conduct of Person Under 18.
- PC 311.4 Use Minor to Assist in Distribution of Obscene Matter.
- PC 311.10 Advertise Obscene Matter/Depicting Minor.

- PC 311.11 Possess/Etc Obscene Matter of Minor in Sexual Act.
- PC 647.6 Annoy/Molest Children.
- Formerly PC 647a.
- PC 653f(c) Soliciting Commission of 261, 286 or 288a by Force or Violence.
- PC 314.1 Indecent Exposure.
- PC 314.2 Assist Act of Indecent Exposure.
- PC 272 Contribute to the Delinquency of a minor.
- Offense must involve lewd or lascivious conduct.
- PC 288.2 Harmful Matter: Special Circumstance.
- Felony violation.
- Attempt of above listed offenses.
- MDSO conviction.
- Judicial Imposition.

#### 62010.4.3.2 Other Suffixes

Institutions may apply:

- “S” suffix to identify inmates requiring single cell status.
- “X” suffix to identify inmates approved and assigned to designated disaster relief teams.
- “OSWD” suffix to identify inmates approved for off-site work detail/community betterment assignments.
- Miscellaneous suffixes for special internal designations outside the formal classification process for management purposes.

#### 62010.4.3.3 Special Public Interest Cases

Inmates shall be identified as public interest cases when the crime, circumstances of the offense, or subsequent conduct results in unusual public concern as evidenced by extensive media coverage beyond the local community.

##### Criteria

Cases may include execution type murders, multiple murders or the mutilation of victims. Consideration should also be given to inmates who were originally sentenced to death or life without the possibility of parole.

##### Identification

Reception center counselors shall indicate in the institution staff recommendation summary (ISRS) of new process cases that the case meets criteria for public interest case designation. The reviewing counselor shall recommend this designation in the supervisor’s recommendation section of the ISRS.

UCC/ICC’s shall identify cases at the time of initial or at any subsequent classification actions when it is determined that cases warrant this designation. The CDC Form 128-G recording the committee action shall reflect the inmate’s public interest case status.

All cases identified by reception center or institution staff shall be referred to a CSR for endorsement as a public interest case.

CSR’s endorsing cases as public interest cases shall record this designation on the CDC Form 128-G. All subsequent classification actions shall reflect this status on the documenting CDC Form 128-G in the space directly below the inmate’s custody designation.

##### Recording

Cases endorsed by a CSR as public interest case shall be referred to the CCRM by the reception center CC-III or the institution C&PR upon endorsement.

The CCRM shall ensure that the designation “Public Interest Case” is entered in red ink on the CDC Form 112, Chronological History and CDC Form 144, Control Card. This entry will reflect that notification of the Assistant Director, Communications is required.

##### Notification

The C&PR shall ensure that the CDC Form 611 reflects the inmate’s public interest status at the time it is forwarded to the P&CSD. At this time, a copy of the CDC Form 611 and any appropriate supporting documentation, i.e., POR, shall be forwarded by the C&PR to the DPIO.

Following a review of case factors by the DPIO, information related to the release of an inmate designated a public interest case shall be forwarded by the DPIO to the Director and the California YACA, if appropriate. The DPIO may be contacted for information related to media interest in public interest cases.

#### 62010.5 Classification Scoring System

The classification scoring system provides a standard evaluation for placement of inmates at the least restrictive institution, commensurate with their custodial

requirements. Inmates are placed in institutions which are designated by custody levels IV (highest) to I (lowest), and they are encouraged with positive incentives to reduce their scores to permit transfer from higher custody facilities to those which have increased privileges, movement and programming. The classification scoring system determines each inmate’s custody level in relation to others for optimum use of departmental facilities. An inmate’s score may change based on individual behavior and specific case factors.

The Department may classify, transfer and house inmates apart from the classification scoring system when necessary to ensure staff, inmate and public safety. Exceptions shall be clearly documented on a CDC Form 128-G.

#### 62010.6 Institution Classification Levels

Each camp, institution, facility or area of an institution complex is designated at a classification level based on its security and housing capability. Reception centers are exempted from level designations except for assigned work crews.

- Level I institutions and camps consist primarily of open dormitories with relatively low security perimeter.
- Level II institutions consist primarily of open dormitories with a secure perimeter and armed coverage.
- Level III institutions primarily have outside cell construction with a secure perimeter and armed external coverage.
- Level IV institutions have inside or outside cell construction with a secure perimeter, and both internal and perimeter armed coverage.

#### Institution Designations:

Institution	Level
<b>CCC</b>	
Lassen Unit	III
Sierra Unit	II
Cascade Unit	I
Outside Modules	I
Camps	I
<b>SCC</b>	
Tuolumne Unit	III
Mariposa Unit	II
Calaveras Unit	I
Camps	I
<b>CCI</b>	
Unit IV-A	IV
Unit IV-B	IV
Unit III-Reception Center (for work crew only)	III
Unit II	II
Unit I	I
Camp (Cummings Valley)	I
<b>CTF</b>	
Central	III
North	III
South	I
<b>DVI</b>	
Level	III
Minimum (Satellite)	I
<b>FSP</b>	
Minimum	I
Minimum Unit	I
<b>SAC</b>	
Facility A	IV
Facility B	IV
Facility C	IV
<b>CIM</b>	
Main	I
Reception Center-Central (For Work Crew Only)	III
Reception Center-West (For Work Crew Only)	II
East	III
<b>CMC</b>	
East	III
West I/II/IV	I/II
III Camp (Cuesta)	I
<b>CIW</b>	
Levels	III/IV
<b>NCWF</b>	
Levels	II/III
<b>SQ</b>	
Main	II

<b>Institution</b>	<b>Level</b>
Modulars	II
Minimum	I
<b>CMF</b>	
Main	II/III
Northern Reception Center (For Work Crew Only)	I
Minimum (Satellite Dorm)	I
<b>SOL</b>	
Level III Complex	III
Facility I	III
Facility II	III
Level II Complex	II
Facility III	II
Facility IV	II
<b>CRC</b>	
Level	II
Camp (Norco)	I
<b>ASP</b>	
Facility 1	II
Facility 2	II
Facility 3	II
Facility 4	II
Facility 5	II
Facility 6	II
<b>RJD</b>	
Facility 1	III
Facility 2	III
Facility 3	III
Facility 4	III
Minimum Unit	I
<b>MCSP</b>	
Facility A	III
Facility B	III
Facility C	III
Minimum Unit	I
<b>CVSP</b>	
Facility A	II
Facility B	II
Facility C	II
Facility D	II
<b>PBSP</b>	
Facility A	IV
Facility B	IV
Facility C	IV
Facility D	IV
Minimum Unit	I
<b>COR</b>	
Facility III A	III
Facility III B	III
Facility IV A	IV
Facility IV B	IV
Minimum Unit	I

#### 62010.6.1 Classification Score

The inmate's classification score shall be used as a primary factor to determine the level of institutional placement. The establishment of the inmate's actual custody shall be the responsibility of the classification committee.

#### 62010.6.2 Classification Score Ranges

Inmates within the following range of classification scores shall be placed in an institution that is designated at the level indicated.

<b>Score</b>	<b>Level</b>
0-18	I
19-27	II
28-51	III
52+	IV

#### 62010.7 Administrative Determinants

Administrative necessity such as institutional security, public safety issues and availability of housing may occasionally require placement at a facility that does not correspond with the inmate's classification score. In these cases the alternative placement/program will provide the maximum benefits permitted under the circumstances.

#### 62010.7.1 Degrees of Custody

##### General

Classification committees at each institution shall assign a degree of custody to each inmate.

Wardens are responsible for determining degrees of custody most appropriate for use at their institution.

##### 62010.7.2 Implementation

Each inmate shall be assigned the degree of custody that provides for their housing, assignment/activity and supervision needs.

Institution requirements may necessitate additional local designations, but shall conform to the Department's requirements for each degree of custody used.

The senior custodial officer on duty may designate the initial custody for new arrivals and may temporarily increase an inmate's custody at any time it becomes necessary to protect the security and good order of the institution. Such actions shall be reviewed and custody assigned by a classification committee at the next regular meeting.

Any reduction of an inmate's custody shall be by classification committee action.

##### 62010.7.3 Custody Designations

The following are the degrees of custody approved for use in the Department.

##### Maximum A

Housing. Single cells (when possible) or other areas designated as security or approved specialized housing units.

Assignments/Activities. Confined to the security or approved specialized housing unit.

Supervision. Direct and constant.

##### Maximum B

Housing. Single cells (where possible) or other areas designated as security or approved specialized housing units.

Assignments/Activities. Confined to the security or approved specialized housing unit except for movement to and from external activities authorized for the unit.

Supervision. Direct and constant.

Every inmate confined in a SHU shall be assigned Maximum A or B custody. Inmates who are not housed in a specialized unit shall not be assigned maximum custody.

##### Close A

Housing. Celled housing in areas designated and maintained for higher security needs within the general population. This custody designation shall be used only at institutions with a secure perimeter.

Assignments/Activities. Permitted during daylight hours only and limited to designated close security areas at non-walled institutions and to the main security areas in walled institutions.

Supervision. Direct and constant.

##### Close B

Housing. Celled housing in secure areas designated for Close B custody.

Assignments/Activities. Within the security perimeter during daylight hours only, except for limited evening activities such as bathing and haircuts within the assigned housing unit.

Supervision. Constant and direct.

##### Medium A

Housing. Cells or dormitories within the security perimeter.

Assignments/Activities. Within the security perimeter.

Supervision. Frequent and direct.

##### Medium B

Housing. Cells or dormitories within the security perimeter.

Assignments/Activities. Within the security perimeter. Eligible for daytime assignments outside the security perimeter, but on prison grounds.

Supervision. Frequent and direct inside the security perimeter. Direct and constant outside the security perimeter.

##### Minimum A

Housing. Cells or dormitories within the security perimeter.

Assignments/Activities. Eligible for designated assignments inside or outside the security perimeter.

Supervision. Must be observed no less than hourly if assigned outside the security perimeter. Adequate supervision of the inmate's location to ensure their presence if assigned inside the security area.

**Minimum B**

**Housing.** Cells or dormitories on prison grounds and/or in a camp setting.

**Assignments/Activities.** Eligible for off-site work detail/community betterment and camp assignments.

**Supervision.** Adequate supervision of the inmate's location to ensure their presence. Shall be counted no less than four times each 24 hours.

**62010.8 Institutional Classification Committees**

All decisions affecting transfer, program participation, supervision, security, housing, and safety of persons, shall be made by a classification committee composed of staff knowledgeable in the classification process. A chairperson and any two members of any committee shall comprise a quorum except for reentry classification actions.

Decisions of classification committees shall be documented on a CDC Form 128-G and a copy given to the inmate.

**62010.8.1 Institution Classification Committee (ICC) Functions**

ICC's shall:

- Review inter-institutional transfer recommendations in problem cases where departmental or public welfare is at stake.
- Review all cases referred by subcommittee.
- Refer cases to the Chief, Classification Services, or the DRB for resolution/action including recommendations to grant an inmate additional reduction of sentence pursuant to PC 2935.
- Review the altered status of each inmate placed in segregated housing at the time of initial placement and at regular intervals thereafter in accordance with the CCR 3335.
- Approve or deny disciplinary credit losses and inmate requests for credit restoration of Division A-1, A-2, and B offenses in accordance with CCR 3327. This action shall serve as the first level of appeal review.

**62010.8.2 ICC Authority**

The ICC is delegated the primary authority for all classification actions within the institution.

**Composition**

ICC's shall consist of:

- Warden or Chief Deputy Warden (chairperson).
- AW (alternate chairperson).
- Psychiatrist or physician.
- Captain.
- CC-III or CC-II (committee recorder).
- Captain.
- Assignment lieutenant.
- Educational or vocational program representative.
- Other staff as required.

**62010.8.3 Initial Classification Committee**

Each institution shall establish an initial classification committee to review and initiate a suitable program for each inmate within 14 days after arrival at the institution.

**Composition**

Initial classification committees shall consist of:

- Captain (chairperson).
- CC-III or captain (alternate chairperson).
- CC-II or CC-I (committee recorder).
- Assignment lieutenant.
- Educational or vocational program representative.
- Other staff as required.

**Functions**

Initial classification committees shall:

- Initiate an educational, vocational training, or work program and privilege group designation.
- Evaluate case factors and assist the inmate to understand institution expectations, available programs, and resources.
- Designate the degree of custody necessary to control the inmate.
- Refer complex cases to the ICC.
- Recommend transfer of a new arrival determined to be inappropriately placed.
- Grant worktime credits to which the inmate is entitled while in transit.

**62010.8.4 Unit Classification Committee (UCC)**

Each program unit shall establish a UCC to provide routine classification of inmates. Those institutions without organized program units shall establish equivalent committees.

**Composition**

UCC's shall consist of:

- Captain (chairperson).
- CC-III or captain (alternative chairperson).
- CC-II or I (committee recorder).
- Program lieutenant.
- Educational/vocational representative.
- Other staff as required.

**Functions**

UCC's shall:

- Review each inmate's case at least annually to consider the accuracy of the inmate's classification score, custody designation, program and institution placement which includes recommendation for transfer.
- Conduct post board classification on an inmate within 15 days of receipt of official notice of a BPT decision regarding the inmate.
- Act on disciplinary credit losses on cases for Divisions C, D, E, and F which will serve as the first level of appeal review.
- Approve or deny an inmate's request for restoration of forfeited credits for Divisions C, D, E, and F offenses in compliance with CCR 3327.
- Change an inmate's privilege group.

**62010.8.5 Camp Classification Committee**

Each conservation camp shall establish a camp classification committee to provide routine classification for inmates assigned to the camp program.

**Composition**

Due to the isolation of most conservation camps, the presence of a captain, to act as chairperson is not required. A chairperson and two members shall comprise a quorum for camp classification hearings.

- Lieutenant (chairperson).
- CC-I (chairperson or alternate chairperson).
- Sergeant.
- Staff representative of camp contracting agency.

**Functions**

Camp classification shall:

- Perform routine classification of inmates assigned to the camp programs including all functions designated for UCCs.

**62010.8.13 Reentry Classification Committee**

Each reentry/work furlough facility shall establish a reentry classification committee to provide for routine classification for inmates assigned to a reentry work furlough program.

**Composition**

- PA (chairperson).
- PA-III (unit supervisor/center manager reentry coordinator) (alternate chairperson).
- PA-II (reentry specialist).

**Functions**

Two members constitute a quorum. Due to distance considerations, the committee will not usually sit en banc. The reentry specialist will complete necessary CDC Form 128-G and forward to committee members for appropriate signatures/approval.

- Document inmate misconduct and affirm, modify, or reject any action taken.
- Review disciplinary actions where worktime credits were lost/denied and to act as inmate's first level of appeal review.
- Restore lost credits, where appropriate, for disciplinary violations.

**62010.9 Classification Committee Responsibility Due Process**

Each classification committee shall:

- Inform the inmate of the purpose of the hearing and introduce committee members.
- Encourage the inmate to participate in the hearing discussion.
- Make decisions based on evaluation of available information and mutual agreement of the committee members.

- Inform the inmate of the decision.

#### **62010.9.1 CDC Form 128-G, Classification Committee Documentation Requirements**

Each classification committee shall:

- Prepare a recording of the hearing on a CDC Form 128-G.
- Issue a copy of the CDC Form 128-G to the inmate.

The documentation of each classification shall include:

- The action taken.
- The date of the action.
- The specific reason(s) for the action(s) including the information upon which the decision was based.
- The names of staff who participated in the decision.
- The name of the chairperson of the committee taking the action.
- The name and signature of the person recording the action.

#### **62010.10 Departmental Review Board**

The DRB serves as the final reviewing authority for classification issues when placement decisions are appealed to headquarters or when policy clarification is needed.

##### **62010.10.1 Purpose**

This Section establishes standard procedures for the resolving of all staff classification action appeals at the headquarters level by the DRB.

##### **62010.10.2 Composition**

The DRB shall consist of the:

- Deputy Director or an Assistant Deputy Director, Institutions (chairperson).
- Deputy Director, P&CSD.
- Chief, Classification Services. (Shall abstain on classification actions appealed by Wardens/Regional Administrators.)
- Chief, Medical Services when required.

##### **62010.10.3 Quorum**

The DRB meets at the call of the chairperson. Two voting members constitute a quorum. 870

##### **62010.10.4 Referral Criteria**

Cases shall be referred for DRB decision when:

- The Warden/RPA appeals an action of the Chief, Classification Services.
- A test case is needed to clarify the application of policy.
- Differences between BPT program placement order and departmental policies or procedures cannot be resolved.
- An out-of-state or federal prison placement is recommended.
- Meritorious credit is recommended to reduce an inmate's period of confinement pursuant to PC 2935.
- Current placement is by prior DRB action and continuing DRB responsibility for the case has not been waived.
- A headquarters level decision for placement is required because of an unusual threat to safety or public interest, i.e., commuted death row cases.

##### **62010.10.5 Process**

Cases for DRB review shall be submitted by the Warden or Regional Administrator to the Chief, Classification Services.

Because the inmate's C-file is not available to the DRB, referrals shall contain all pertinent information.

When the referral is an appeal of a CSR action, the Chief, Classification Services shall attempt to resolve the issues before presenting it to the DRB.

The Chief, Classification Services, shall evaluate, add relevant factors to be considered and provide a recommendation for cases presented to the DRB. This shall be provided on a CDC Form 128-G, which shall also provide for documentation of the DRB action.

##### **62010.10.6 Implementation**

DRB actions shall be implemented within 30 days.

##### **62010.11 Revisions**

*Revised November 1, 2004*

The Director, DAI, or designee shall ensure that the content of this Article is current and accurate.

##### **62010.12 References**

PC §§ 5068, 1170(d), 2935, 5054, and 5058.  
CCR.

## **ARTICLE 6 — RECALL OF COMMITMENT**

*Effective October 27, 1989*

### **62020.1 Policy**

Inmates received by the Department may, under certain circumstances, be recalled by the sentencing court. A recall may also be initiated by the Director or the BPT.

### **62020.2 Purpose**

This section establishes standard procedures for the processing and evaluation of those inmate cases whose sentences and commitments may be reconsidered by the court under the provisions of PC 1170(d).

### **62020.3 Authority**

PC 1170(d) permits the sentencing court to recall a previously ordered sentence and commitment within 120 days of the date of sentencing and re-sentence the inmate. The court may consider a recall of sentence and commitment upon the recommendation of the Director or the BPT at any time during an inmate's incarceration.

The sentencing court has absolute discretion in recalling a sentence and commitment within 120 days of sentencing. The court is not required to request or accept the Department's diagnostic study and/or recommendation, however, departmental staff shall provide the sentencing judge a study and recommendation when requested.

### **62020.4 Recommendation of Alternate Placement**

Departmental staff shall recommend to the Director and request that recall consideration be considered for those inmates who, in the interest of justice, could be properly managed outside the Department and where alternate placement had not been explored by the sentencing court. Examples include but are not limited to:

- Naive, youthful offenders who could be sentenced to the CYA.
- Narcotic addicts who meet the criteria for commitment to the civil addict program.
- Inmates whose sentence would be better served in another jurisdiction.

Departmental staff's recommendations shall focus on the proper placement rather than the severity or length of sentence.

When an institutional recommendation for recall is determined to be inappropriate after review at the Director's level, the Deputy Director, Institutions Division shall notify the Warden of the referring institution of this decision.

### **62020.5 BPT Disparate Review**

The BPT, under PC 1170(f), shall review all cases for sentence disparity and recommend recall, if appropriate, within the first 12 months of commitment. As a matter of policy, the BPT will assume responsibility under PC 1170(d), for recommending recall of sentences that subsequently become disparate due to non-retroactive legislative changes that reduce or eliminate the criminal penalty for an offense.

### **62020.6 Director's Recall of Commitment**

The Director may recommend to the court a recall of sentence prior to the BPT's disparate sentence review when:

- The inmate is found to be suffering from a critical medical condition which is not likely to improve.
- The inmate has so changed as a person through their own efforts since being sentenced, that they would be a positive asset to the community.
- Based on changes in the inmate's situation or significant new information that was not considered by the court in pronouncing sentence.
- The commitment is definitely not typical of similarly situated offenders and presents an undue hardship on the inmate.

After the BPT's disparate sentence review, the Director may recommend a recall to the court if conditions have changed to the extent that the inmate's continued incarceration is not in the interest of justice. Diagnostic studies and/or recommendations shall take into consideration the results of the BPT's disparate sentence review.

### **62020.7 Recall Request by Private Citizen**

*Revised September 25, 2007*

Requests for PC 1170(d) studies or consideration for recall by private citizens, defense attorneys or family members including registered domestic partners shall not be initiated by departmental staff.



All such requests shall be responded to promptly with a letter stating the Director's policy and directing the requesting party to the sentencing court.

#### **62020.8 Court Ordered Diagnostic Study**

The court may recall a sentence within the first 120 days of commitment with or without obtaining a diagnostic study and recommendation from the Department. When an evaluation is requested, it shall assess the inmate's potential for completing probation or other alternate sentencing, and the threat posed to the community if the inmate fails to realize that potential.

When the court orders a post sentence diagnostic study [PC 1170(d)], and a pre-sentence diagnostic study (PC 1203.03) has previously been prepared, a reevaluation of the prior study's recommendation is required.

Staff assigned to prepare the PC 1170(d) report shall reevaluate all available information and recommend accordingly, rather than repeat or paraphrase the pre-sentence diagnostic study. The PC 1170(d) report shall indicate that a pre-sentence diagnostic report was prepared.

A current psychological evaluation shall be prepared if indicated. If any recommendations are in conflict, the method for resolving the conflict shall be addressed.

When the court requests a post-sentence diagnostic study within 120 days of sentencing, the Warden or reception center administrator shall communicate directly with the court.

Requests received by the institution after 120 days of sentencing shall be forwarded to the Chief, Classification Services and processed through headquarters as a Director initiated recall. The court cannot recall a sentence after 120 days of sentencing without the recommendation of the Director or the BPT.

#### **Late Return of Report**

When a post-sentence diagnostic study is requested by the court to be prepared within the 120-day time limit and is late due to departmental error, the institution shall notify the court directly. A letter signed by the Warden attached to the recommendations shall indicate the reasons for the delay and because of the delay, the court may take whatever action it deems appropriate.

#### **62020.9 Director's Recall (Reports)**

When an inmate meets the Director's criteria for recall to court, staff shall prepare a diagnostic study and recommendation. This report and a current psychological evaluation (if indicated) shall be reviewed by the AW and Warden. If any recommendations are in conflict, the method by which the conflict was resolved shall be described in the transmittal letter.

The completed report and institutional approval shall be attached to a transmittal letter and forwarded to the Chief of Classification Services.

Inmates shall not be transferred—except in emergencies—until the PC 1170(d) report has been completed.

#### **62020.10 Recall Report Format**

Identifying Information: This section shall begin with the following two paragraphs:

"This is a diagnostic study and recommendation under the provisions of PC 1170(d) in the case of (Inmate's name), (County's Court Number), (CDC Number)."

"This study evaluates the defendant's potential for success under sentence alternatives to state prison and the threat posed to the community should the defendant not fulfill that potential. The clinical case study method does not lend itself to an adequate consideration of other issues involved in uniform sentencing."

The third paragraph of this section shall indicate the age of the inmate, date they were received by the Department, name of the committing court, county of commitment and on what charge the inmate was convicted.

Offense: This section shall include a short summary of the inmate's instant offense and criminal history.

Institutional Adjustment: Include job or assignment performance, behavior, relationships with staff and peers.

#### **Recommendations**

Recommendations: This section shall address only the specific finding of department staff:

- Evaluation indicates that this case should be considered for disposition as authorized by PC 1170(d).
- or —
- Evaluation indicates that this case should not be considered for disposition as authorized by PC 1170(d).

All recommendations for probation shall contain the qualifying statement; "to the extent probation is allowed by law."

When appropriate, conditions of probation suggested by the case evaluation may be listed in numerical order. This must be realistic in relation to the services available in the county concerned.

Reasons for Recommendations: List in order of priority the factors contributing to the particular recommendation. These may include the lack of criminal record or extensive criminal record, situational nature of offense, clinical manifestation of assaultive or hostile behavior, family or other resources awaiting the inmate in the community.

It shall also include the findings of the disparate sentence review, if completed, and, if a Director initiated recall, shall focus on the new information that justifies recall.

Release Plans: This section shall include the inmate's living arrangements, means of support and care as appropriate.

The study shall be dated and signed by the reception center's AW if it is completed during the inmate's reception processing. If the study is completed at an institution other than a reception center, the Warden or delegated AW shall sign the report. The Warden shall sign all Director initiated recall recommendations, including those that are a result of a request by the court after the 120-day period.

#### **62020.11 Transmittal Letter**

The Chief, Classification Services, shall review and evaluate all transmitted material, and shall prepare the Director's transmittal letter to the sentencing court. The Chief, Classification Services, shall notify the BPT of all cases where the Director recommends a recall of commitment.

#### **62020.12 Court Ordered Recall/Multiple County Commitments**

When a court requests a PC 1170(d) on an inmate also committed by another court, copies of the study shall be sent to all committing courts. The transmittal letter to the court ordering the recall shall clearly indicate in the first paragraph the additional commitments, identified by case number. It shall also indicate that copies are being sent to the other committing court(s). Similarly, the transmittal letter to the other committing court(s) shall explain that a PC 1170(d) report was completed regarding a commitment by a different court.

#### **62020.13 Inmate Notification of Recommendation**

Staff who prepare the study shall inform the inmate of their recommendations. When correspondence and reports do not contain confidential information, copies shall be given to the inmate. If such reports do contain confidential information, staff shall share the general content of such reports with the inmate, omitting only the confidential information. Confidential correspondence and reports shall be so labeled, placed in the confidential folder and cross referenced to a CDC Form 128-B, General Chrono; explaining the need for confidentiality.

#### **62020.14 C-File/OBIS Recording**

To provide information for subsequent evaluation of this program, PC 1170(d) transactions shall be recorded in OBIS Daily Report of Arrivals and Departures and on the CDC Form 112, Summary of Sentence Data, as follows:

- Requests for PC 1170(d) studies from a judge or the Director. Date 1170(d) PC report requested by \_\_\_\_\_ County (or) by the Director.

Transmittal of PC 1170(d) studies to the court for the Director: "Date, PC 1170(d) studies submitted to \_\_\_\_\_ County (or) to the Director recommending no change in commitment (or) recall of commitment recommended (and/or) other recommended action."

#### **62020.15 C-File Report Placement**

Copies of all additional material transmitted to the court shall be inserted in the case summary section of the C-File. Copies of all material sent to the Director on staff-initiated cases shall also be inserted in the same location.

#### **62020.16 Mailing of Material**

The above material shall be expedited to the court by first class mail.

#### **62020.17 Revisions**

The Deputy Director, Institutions, or designee shall ensure that the content of this section is current and accurate.

#### **62020.18 References**

PC §§ 1170(d), 1170(f) and 1203.03.

### **ARTICLE 7 — TRANSFERS — DMH**

*Effective October 30, 1989*

#### **62030.1 Policy**

Mentally ill inmates received by the Department may be transferred to a California DMH facility for stabilizing psychiatric treatment.

**62030.2 Purpose**

This section establishes procedures for the transfer and return of mentally ill inmates and parolees between the Department and DMH. It provides for the due process and orderly acceptance and processing in a controlled and expedient manner of those mentally ill inmates who can receive optimum benefit from treatment in a DMH facility.

**62030.3 Transfers To DMH****Authorization**

PC 2684, 2690 and 2974 provide for transferring mentally ill inmates and parolees to DMH facilities. PC 2685 provides for returning those inmates to the Department who are no longer benefiting from a DMH placement. Parolees placed in DMH facilities for psychiatric treatment shall be released to parole after they have stabilized.

**62030.4 PC 2684 Referrals****Criteria**

The inmate/parolee shall have 90 days or more to serve from the date of actual admission to a state hospital. Exceptions to the above may be arranged on a case-by-case basis.

Referrals shall be accepted for inmates in the following diagnostic categories only:

- A diagnosed severe psychosis or severe effective disorder, acute or chronic, requiring intensive treatment in a psychiatric hospital.
- A long-standing psychosis or effective disorder, with a history of repeated psychiatric hospitalizations prior to their current commitment to the Department, requiring long-term sub-acute treatment in a psychiatric hospital in order to facilitate their rehabilitation and eventual placement in a community treatment program.
- Requires specialized diagnosis and treatment which is available in a DMH facility but is not available in the Department.
- Request for intensive psychological/diagnostic evaluation.

Exceptions to the above criteria shall be evaluated on a case-by-case basis if there is a compelling reason for referral.

**62030.4.1 Procedure**

A referral packet shall be prepared and sent directly to the state hospital where placement is intended. For male inmates, the packet is sent to Atascadero State Hospital (ASH); females to Metropolitan State Hospital (MSH); and parolees to the state hospital designated by DMH.

Following acceptance by the state hospital, the inmate's C-File and the original documents from the referral packet shall be presented to a CSR for transfer endorsement with the original documents listed below included.

**62030.4.2 Referral Packet**

The referral packet shall consist of the following documents:

**Vitek Hearing**

- A signed waiver of a due process (Vitek) hearing for voluntary cases or certification of a due process hearing for involuntary cases. Inmates who are considered for DMH transfer shall be advised of their rights to a hearing regarding the transfer. If the inmate does not waive their right to the hearing the following requirements shall be met:
  - The inmate shall be provided written notice of a hearing to determine their involuntary placement in a mental hospital at least 72 hours before the hearing is held.
  - The hearing officer shall be the Warden or designee (AW, physician, or a member of the psychiatric staff).
  - A staff assistant, usually the inmate's counselor, shall be appointed by the hearing officer to assist the inmate in collecting, presenting and confronting evidence at the hearing. Attorney representation of the inmate shall not be permitted.
  - The findings and decision of the hearing shall include references to the evidence relied upon and the reason for the decision.

A copy of the decision shall be given to the inmate within 72 hours after the hearing and a copy shall be placed in the inmate's C-file. A copy of the decision with the following documents shall be sent to the state hospital:

- A psychiatric evaluation completed within the last three months to include whether the crime involved force and/or violence and/or great bodily injury; and whether the mental disorder was a cause or aggravating factor in the crime.
- A completed Mental Health (MH) Form 2546, Transfer Information Form, indicating the type of service requested, such as psychiatric evaluation and treatment or conservatorship investigation, preparole or discharge planning or other services.

- An institutional and/or adjustment history, including misconduct reports and security concerns.
- An Abstract of Judgment and, if available, POR.
- Supporting documents such as holds and detainers.
- Classification committee's recommendation (CDC Form 128-G, Classification Chrono) for transfer to DMH.

**62030.5 PC 2690 Packet**

Utilization of PC 2690 is for emergency psychiatric transfers from the Department to DMH. The criteria for PC 2690 and 2684 are the same.

**62030.5.1 PC 2690 Procedure**

The Department's Chief, Medical Services, shall contact DMH and arrange for the PC 2690 transfer. Upon acceptance by DMH, a CDC Form 7252, Request For Authorization of Temporary Removal For Medical Treatment shall be completed and processed. The inmate shall then be transferred, and a PC 2690 referral shall be initiated, utilizing the procedure outlined in this chapter. An inmate can be placed in DMH for a period not to exceed three days under PC 2690, and for this reason PC 2684 procedure shall be expedited.

**62030.6 PC 2684 Procedure**

Referrals for emergency psychiatric hospitalization may be expedited using PC 2684 referral packet.

- In place of a Vitek hearing, the inmate/parolee is entitled to a certification review hearing or writ of habeas corpus in DMH facilities.
- The psychiatric report/evaluation must be no more than 30 days old.

For some parolees, PC 2684 and/or 2690 process shall be followed. Once the Vitek Hearing is held, or the waiver is signed, the case will be screened by DMH state hospital within seven working days. If accepted by a DMH state hospital, the individual shall be transferred directly to that DMH state hospital under order of the BPT from the county jail. Formal parole revocation by the BPT shall be done at the DMH facility.

**62030.7 Hub Institutions**

The following are designated as the hub institutions for inmates housed in the DMH facilities:

- CMF for inmates placed in Northern California DMH facilities.
- The CMC for inmates placed in Southern California DMH facilities.
- The CIW for female inmates placed in state hospitals.

The records for each inmate housed by DMH shall be maintained by the respective hub institution. The institution shall also be responsible for all contacts with the designated DMH facility to secure reports, schedule BPT hearings, and to process an inmate's parole or discharge.

**62030.8 Transportation**

Transportation of inmates to and from state hospitals is the responsibility of the Department. Specific arrangements shall be made by the Warden of the hub institution and the administrator of the state hospital.

**62030.9 Inter-Hospital Transfers**

DMH may transfer inmates between the state hospitals when it is deemed necessary. However, the administrator of the transferring hospital shall notify the Warden of the hub institution prior to any such transfer.

**62030.10 Escapes**

If an inmate escapes from a state hospital, the hospital director or designee shall immediately notify the Department headquarters Identification Unit of the escape. The Identification Unit shall notify appropriate institution staff who shall institute escape procedures. DMH staff may also contact institution staff directly.

Within ten working days following the escape, the Warden of the hub facility shall advise the hospital's administrator whether the inmate should be discharged from the hospital or continued on the hospital's roster.

**62030.11 Ground Privileges and Limitations**

Inmates at State hospitals are "in custody" and shall not leave the hospital grounds without the authorization of The Director. Any temporary community release request shall be processed in accordance with DOM 62070. At the discretion of the hospital's administrator, an inmate may be granted privileges and participate in all aspects of the treatment program within the hospital confines.

**62030.12 Rules and Regulations**

Inmates housed at State hospitals are subject to the CCR the same as inmates housed in correctional facilities, in addition to the receiving hospital's rules.

**62030.13 Returning Inmates to the Department Per PC 2685**

When it is the opinion of the hospital's administrator that an inmate has been treated to the extent that the inmate will not benefit by further care and treatment in the State hospital, the administrator shall:

- Initiate a request to the hub facility for return of the prisoner to the Department.
- The inmates shall be transported within seven working days by hub facility staff. If the inmate becomes a significant security risk or management case, the inmate shall be transported immediately by hub facility staff.

**62030.14 Appeal**

The Department may appeal any case that it feels was inappropriately rejected or returned by the State hospital staff. The appeal shall be referred to the Deputy Director, HCSD, who shall resolve it with the Division of State Hospitals Programs.

**62030.15 Sex Offender Project PC 1364**

*Revised August 30, 1993*

PC 1364 provides for a voluntary experimental sex offender treatment program wherein a selected number of male inmates may participate under the jurisdiction of DMH at ASH. PC 1364 also provides that if, after placement in the program, the inmate refuses to cooperate, is found unamenable to treatment, or requests return to the Department, he shall be returned to the Department. This program will terminate on June 30, 1995.

Criteria and selection for PC 1364 Sex Offender Program is determined through OBIS by a DMH screening team. If selected for review, an inmate shall be interviewed by the DMH screening team after a complete review of the inmate's C-File. The DMH review staff shall submit an approval letter, requesting transfer to DMH to the C&PR. The inmate is then referred to the Institution Classification Committee (ICC) for a transfer recommendation to CMC-E, which is the hub facility for PC 1364 Sex Offender Program. If recommended by ICC, the case is then submitted to the CSR for transfer approval to CMC-E. Transfer to DMH from CMC-E will be effected upon bed space availability.

**62030.16 PC 2970**

PC 2970 provides for the continued involuntary treatment of inmates/parolees prior to termination of parole or release if the inmate's/parolee's severe mental disorder is not in remission or cannot be kept in remission without treatment and if the inmate/parolee refused to agree to treatment as a condition of parole.

**62030.17 Patient Transfers From DMH – Criteria**

- The W&I 7301 provides for the transfer of persons committed to a State hospital who require custodial security which can best be provided by the Department. Cases that may be considered are those committed to DMH under:
- PC 1026, where the defendant was found to have been insane at the time an offense was committed.
- PC 1368, where the question of sanity arises prior to judgment.

**62030.17.1 Reception**

The transfer request shall be initiated by DMH and sent to the Department's, CSU.

The case shall be forwarded to the Deputy Director, HCSD, or designee who shall determine whether or not to accept the case for treatment. If accepted, the Deputy Director, HCSD, or designee shall return the case to the Classification Services Section with a recommendation for placement.

If rejected, the case shall be returned to DMH with reasons for rejection noted. Patients received under PC 1026, 1368, and 3700 shall be designated "health" patients. Material to be submitted by DMH to the Director for transfer consideration shall consist of the commitment information and reasons for transfer and shall also include the following information:

- Offense pattern.
- Major psychiatric diagnosis.
- Social and case histories.
- Treatment modalities.
- Response to treatment in DMH facilities.
- Reason for referral.
- Inmate's attitude toward referral, including results of the due process hearing (Vitek) or a signed waiver of the hearing.
- Current medication at the time the summary was dictated.
- Relevant medical problems.
- Relevant security or institutional problems.

Whenever a person is transferred to a Department institution pursuant to these sections; any report, opinion or certificate required/authorized to be filed with the court which committed such person to a state hospital or ordered such person placed therein, shall be prepared and filed with the court by the administrator of the institution in which the person is actually confined or by the designee of such administrator.

**62030.17.2 Admission Summary**

Institution staff shall prepare a case summary for each person from DMH. When processing is complete, the case shall be presented to a CSR for transfer consideration. When the case summary is completed, the receiving institution shall forward a copy to DMH.

Six months from the date of the patient's arrival at the receiving institution and each year thereafter, the Warden shall forward to DMH a case summary update, which shall contain the following information:

- The patient's present institutional program.
- A current psychiatric diagnosis and recommendation(s).
- The Warden's recommendation for future programming.

CMF and CMC are designated to receive male mental health patients. CIW is designated to receive female mental health patients. Under normal conditions, patients shall be received directly at the main institution and need not be processed through a reception center unless otherwise determined by the Warden. Such patients may be transferred to other institutions as appropriate.

**62030.18 Inter-Institution Transfer****DMH Patients**

If a classification committee recommends the transfer of a DMH patient between the Departments institutions, the recommendation shall be prepared on a CDC Form 128-G and referred to a CSR for transfer consideration. If transfer is approved, the C&PR of the sending institution shall, by memorandum, notify DMH of the transfer and the reason therefore.

**62030.19 Jurisdiction of Patients**

During the time DMH patients are confined at the Departments institutions, they shall retain their status as patients of DMH.

Such patients are not subject to the provisions of PC 4500, 4501, 4501.5, 4502 or 4530. They are, however, subject to the rules and regulations of the Director. In the event of an escape, attempted escape, fight or riot, employees shall deal with such persons the same as an inmate committed to the Department.

**62030.20 PC 2974 Criteria/Referrals**

PC 2974 provides for the treatment of inmates or parole violators nearing release who are a danger to self or others or are gravely disabled as a result of a mental disorder.

**Placement Process**

The placement packet shall be prepared by the C&PR (or designee) at CMC, CMF, CIM, or CIW for inmates or parole violators or by the chief psychiatrist (or designee) of the POC for parolees.

Placement of male inmates or parole violators shall be made in ASH, female inmates or parole violators in MSH, and parolees to the facilities designated by DMH.

**Placement Package**

The placement packet should be sent to the DMH facility at least seven days prior to expiration of prison term for inmates so that it can be reviewed and the admission approved. The placement packet for parolees must be received and approved prior to admission unless information and approval is given over the telephone with the packet then sent with the parolee.

The placement package shall include at least the following:

- A medical/psychiatric record with the psychiatric evaluation done within the last (30) days and a progress note, if appropriate.
- Substantiation of how the patient meets the Lanterman-Petris-Short (LPS) Act, criteria must be included, with specific behaviors of the patient documented.
- An indication of the type of services requested; i.e., psychiatric evaluation and treatment, conservatorship investigation, preparole or discharge planning, or other services agreed upon by DMH and the Department.
- An institution or parole adjustment history, including a description of any serious misconduct and/or security concerns.
- Relevant parole documents describing conditions of parole and parole discharge date, and the POR, if available.

The DMH state hospital will receive, evaluate and treat the placed patient according to the LPS Act. PC 2974 patients will be eligible for the same

privileges as LPS patients, including passes for placement interviews, ground privileges, etc., at the discretion of DMH staff, on a case-by-case basis.

#### **Certification Recommendation**

If certification is recommended, the DMH hospital shall notify the P&CSD designated hearing officer of the need for a certification review hearing under W&I 5250. The hearing shall be held at the DMH hospital within seven days of admission to the hospital. In the event parole has expired, the Departments' P&CSD has no statutory authority.

If certification is not recommended, or if it is determined at a certification review hearing or a judicial hearing that there is not probable cause to further involuntarily detain the patient, or at a subsequent time it is determined that the patient no longer requires hospitalization, the DMH hospital shall notify the designated parole office which shall arrange for the immediate removal of the inmate or parolee from the hospital. In the event parole has expired, the Departments' P&CSD has no statutory authority.

#### **Continued Hospitalization (PC 2974)**

If a patient is hospitalized until expiration of the patient's prison term under PC 2684, and if continued hospitalization under PC 2974 is recommended by DMH staff, the Department agrees to delegate placement authority under PC 2974 to DMH. This includes authority, as long as the patient remains on parole status, to include the patient days utilized by this patient in the state hospital services funded by the Department. DMH will notify the Department that a decision has been made to seek appropriate LPS legal status to continue to hospitalize the patient under PC 2974.

#### **62030.21 Parole of Mentally Ill Inmates**

When an inmate about to be paroled is diagnosed by a psychiatrist/psychologist as mentally disturbed and cannot be transferred to DMH pursuant to PC 2684, 2690, or 2974, the C&PR shall:

- Immediately contact the RPA and advise them of the specific facts, including the inmate's name, number, psychiatric status, release date, county of commitment and all other pertinent facts.
- Coordinate the inmate's release to permit the Parole Agent to take custody of the inmate at the institution.
- Document all pertinent facts on a CDC Form 128-B, Informative Chrono, and give a copy to the Parole Agent when the Parole Agent takes custody of the inmate. Provide a copy of the most recent clinical evaluation and a list of all prescribed medications to the Parole Agent.

The RPA shall coordinate the P&CSD's role in taking the inmate into custody at the institution as well as determining the most appropriate follow-up, which may include:

- Placing the inmate in a county mental health facility.
- Placing the inmate in custody at the nearest city or county jail pending revocation proceedings for psychiatric evaluation.
- Referring the inmate to the POC.

#### **62030.22 Discharge of Mentally Ill Inmates**

Before discharging any inmate who, because of mental illness, is deemed a danger to themselves or others, the Warden shall act to place the inmate in a facility designated by a county (and approved by DMH for 72-hour treatment and evaluation) or in a 14-day intensive treatment facility pursuant to the provisions of PC 2974.

The Warden of the releasing institution shall:

- Document the psychiatric justification for the decision that the inmate is dangerous to themselves or others or gravely disabled and should not be released to the community. Provide written notice to local law enforcement agency of these conditions.

The law enforcement agency will usually transport the inmate to the county facility and effect the commitment pursuant to the W&I 5150 or PC 2974.

The Deputy Director, Institutions, shall be notified prior to the inmate's release if local authorities are not responsive.

#### **62030.23 Inflammatory/Threatening Inmate Remarks – Pending Parole**

When an inmate makes written or verbal statements of a threatening nature and the inmate is not considered mentally disturbed following an evaluation by clinical staff (psychiatrist/psychologist), the following procedures shall be initiated:

- Institution staff shall document all inflammatory/threatening comments on CDC Form 128-B if, in their opinion, there appears to be any substance to the inmate's threats.
- A copy of all documentation pertaining to the remarks shall be forwarded to the C&PR who will evaluate the material and determine if further clinical assessment will be necessary prior to the inmate's release date.

If a clinical evaluation is requested prior to parole, the results shall be documented on CDC Form 128-C, Medical Chrono.

- The clinical assessment shall be returned to the C&PR who shall notify the RPA and forward copies of all applicable documents to the RPA for appropriate action.

#### **62030.24 Inflammatory/Threatening Inmate Remarks – Pending Discharge**

The same procedures as indicated above are applicable to inmates pending discharge, except the RPA is not notified. In the case of a discharge, the C&PR shall send written notification to the respective law enforcement agency, advising it of the situation and the Department's concern.

#### **62030.25 Revisions**

The Deputy Director, Institutions or designee, shall ensure that the content of this section is current and accurate.

#### **62030.26 References**

PC §§: 1026, 1364, 1368, 2670, 2684, 2685, 2960-81 (except 2962 and 2974), 3060.5, 3700 4500 4501, 4501.5, 4502, 4580.

W&I §§ 5150 and 7301.

### **ARTICLE 8 — INTERSTATE, FEDERAL, AND INTERNATIONAL**

#### **PLACEMENTS\***

*Effective October 25, 1989*

#### **Not Cleared For Statewide Use**

#### **62040.1 Policy**

The Western Interstate Corrections Compact (WICC), PC 11190, and the Interstate Corrections Compact PC 11189, enable states to establish mutual contracts for the exchange of prisoners.

California has current contracts with Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming and the Federal Bureau of Prisons.

#### **62040.2 Purpose**

The WICC and Interstate Corrections Compact expand the inmate placement resources of participating states to more appropriately meet the special or unusual needs of individual inmates than could be met within a state's own system.

The sending state shall retain legal jurisdiction of the inmate and may at any time require the return of the inmate to its custody.

The receiving state shall provide for the custody, care and treatment of the inmate in the same manner as for its own inmates.

No special privileges, restrictions, legal exceptions or immunities are authorized.

The compacts deal with a number of these and other jurisdictional matters in more detail.

The Interstate Compact Unit, P&CSD, administers and implements prisoner exchanges with other states and the Federal Bureau of Prisons.

#### **62040.3 Criteria**

Compact resources shall not be used when the inmate's needs can be met within departmental facilities just as well as in out-of-state facilities.

Inmates whose special or unusual needs can be better met in the facilities of another state may include, but are not limited to, the following:

- Protective custody. When an out-of-state placement will resolve the specific cause or reason for the inmate's protective custody within the Department; i.e., protection of an inmate witness or informant.
- When an inmate's permanent residence, resources and plan for release are outside California, placement in another state may be considered.
- Departmental policy precludes out-of-state placement criteria for inmates who are likely to present management problems. Examples of such cases may include homosexual behavior, chronic gambling, exploitation of other inmates and gang involvement.

#### **62040.4 Written Consent**

No California inmate shall be transferred to an out-of-state institution unless they have executed, in the presence of the Warden or designee, written consent to the transfer.

The transporting officer shall verify that the written consent form is properly documented prior to taking custody of the inmate.

#### **62040.5 Referrals**

The referral for out-of-state placement shall be prepared by institution staff per Departmental Review Board (DRB) format and submitted to the DRB.

Upon DRB approval, the institution shall submit the following items to the Interstate Compact Unit:

- Abstract of Judgment.
- Two current ID photographs.
- Case summary.
- Copy of DRB action [CDC Form 128-G].
- Written consent form signed by inmate.

Upon receipt of a special circumstance referral by a court, DA or law enforcement agency, the Chief, Classification Services, or the Interstate Unit, with consent of the institution involved, shall prepare and submit an out-of-state transfer recommendation to the DRB.

The DRB's action shall constitute the authority for the Interstate Unit to negotiate with out-of-state officials for the inmate's placement and, if accepted, shall arrange for transfer of the inmate.

#### **62040.6 Confidentiality**

When an inmate is placed out-of-state for protective needs, or custodial needs, all aspects of the inmate's transfer and location shall be confidential, with information limited to those employees who need-to-know in order to complete the transfer process and to protect the inmate in transit.

References to the proposed out-of-state transfer shall not appear in the sending institution's records other than the inmate's C-File.

#### **62040.7 Mail and Property**

All mail and property of those inmates transferred to out-of-state institutions shall be forwarded to the Interstate Unit by the institution's staff.

#### **62040.8 Records and Tracking**

The Chief Transportation Officer shall notify the Interstate Unit of the date the inmate is removed from the Department's institution for a transfer out-of-state.

The sending institution shall prepare and package the following material for delivery to the receiving state's institution by the transportation officer:

- An up-to-date case summary.
- A copy of the inmate's Abstract of Judgment.
- A copy of the inmate's fingerprint card.
- A minimum of one front and side view photo of the inmate.

The sending institution shall record the movement as a WICC/Interstate Corrections Compact transfer to the Interstate Unit and forward all records and files to the Interstate Unit for retention.

Inmates transferred to out-of-state placement shall be carried on the BPT's calendar in central office and shall be afforded all rights as described in the BPT's Rules 2367 through 2373.

No later than six months prior to an inmate's parole or discharge, the Interstate Unit shall request prerelease information from the receiving state and prepare the inmate's release and clothing budget and transmit the funds and/or clothing to the other state.

When the inmate is to be released in the other state, the Interstate Parole Compact requirements shall be completed.

#### **62040.9 Inspection of Out-of-State Prisons**

PC 11194 requires the Director to determine the suitability of out-of-state prisons considered for placement of California prisoners under the WICC/Interstate Corrections Compact.

The Interstate Unit shall provide for initial inspection of such facilities. Ongoing determinations shall be made annually by the Interstate Unit, utilizing ACA accreditation and Federal Bureau of Prisons' reports and inspections.

The CDC Form 808, Western Interstate Correctional Compact Inspection Report, shall be completed at the time of inspection.

The original report shall be submitted to the Director through the Deputy Director, Institutions Division, and one copy each shall be sent to the Board of Corrections; P&CSD; Interstate Unit; and LAD-PMU.

#### **62040.10 Reception – Prisoners From Other States**

Approval and placement of prisoners from other states shall be arranged on behalf of the Director by the Interstate Unit.

Where feasible, the prisoner's initial reception and processing shall be accomplished at a reception center.

If a case involves medical or psychiatric problems, the case shall be reviewed by the Chief, Medical Services, to determine if the Department has facilities for proper care and, if so, which institution is best suited to provide the care.

#### **62040.11 Progress Report**

Within 90 days following the receipt of a prisoner from another state, the receiving institution shall furnish the sending state an institutional staff recommendation summary.

Thereafter at six-month intervals the institution shall furnish the sending state a report giving a summary of the inmate's progress and adjustment since the last report, including a recommendation for retention or return.

Five copies of the progress report shall be prepared and signed by the counselor and distributed to the BPT, legal counsel; inmate's C-File; and the inmate.

A transmittal letter signed by the Warden shall be prepared to forward the report directly to the sending state.

The copy of the report sent to the Interstate Unit, Attention: Corrections Compact Coordinator shall be reviewed and retained in the inmate's C-File.

#### **62040.12 Transfer**

Transfers from the reception centers to other institutions shall be handled as other reception cases, unless unusual aspects of the case require special review by the Chief, Classification Services, or the DRB for placement determination. The Interstate Unit shall be notified any time the inmate is transferred and prior to the inmate's release.

#### **62040.13 Records**

Whenever practical, the record files of cases from other states shall approximate the form/format of records for the Department's inmates.

The Warden of institutions where inmates from sending states are confined shall keep all necessary records concerning such inmates in a manner agreed upon between the sending and receiving states.

While the inmate remains in the institution, the sending state shall, upon request, be furnished with copies of any records.

Upon termination of the inmate's confinement, the institution shall forward the complete file of the inmate to the sending state.

Nothing contained herein shall be construed to prevent the receiving state or any institution thereof, from keeping copies of any such records upon and after termination of confinement.

#### **62040.14 Federal Prisoners**

PC 2090 and 2902 and a contract with the Federal Bureau of Prisons permits the acceptance of federal prisoners to institutions of the Department.

#### **62040.15 California Prisoners**

PC 2911 and a separate contract with the Federal Bureau of Prisons permits the placement of California prisoners in the Federal Bureau of Prisons' institutions.

#### **62040.16 Consent**

No inmate shall be transferred to a federal facility unless they have executed, in the presence of the Warden or designee, a written consent to transfer CDC Form 802, Federal Prison System Placement Agreement.

Inmates shall be informed of their right to private consultation with an attorney of their choice concerning one's rights and obligations under PC 2911.

An inmate may revoke such consent prior to transfer.

The transporting officer(s) shall verify that the consent was obtained prior to taking custody of the inmate.

#### **62040.16.1 Progress Reports**

Progress reports for federal prisoners in state custody shall be submitted to the Director, Federal Bureau of Prisons, annually starting from the prisoner's reception.

#### **62040.16.2 Release**

Release of federal prisoners in state custody may be accomplished only by order of the federal court or Director, Federal Bureau of Prisons.

Upon release, the inmate's C-File shall be updated, a closing summary added to the case summary and then forwarded to the Department's Archives Unit.

Release shall be within this state unless the prisoner, the state and the federal government agree upon release to some other state.

#### **62040.17 Prisoners to Other Countries**

GC 12012.1 permits the Department to make provisions for inmates who request transfer to their country to complete a prison sentence. The Transfer Treaty is administered by the BPT.

At the present time, transfers may be considered with Canada, Bolivia, Mexico, Peru, Panama, Turkey, France, United Kingdom, Sweden, and Spain.

#### **62040.17.1 Criteria, France**

The inmate is a citizen of France.

The inmate has at least one year left to serve at the time of the transfer request.

The sentence is final.

The inmate's controlling offense is punishable as a crime under the laws of both countries.

The inmate was not convicted of a military offense.

The inmate gives their consent.

#### **62040.17.2 Criteria, Other Countries**

The inmate is a citizen of the country to which they request transfer.

The inmate has at least six or more months remaining on their sentence at the time of the request.

The inmate has no pending appeal or collateral attack on the judgment or sentence.

The inmate had not lived in the U.S. more than five years prior to the present sentence.

The inmate was not convicted for a political, military or immigration offense.

#### **62040.18 Screening**

When an inmate indicates an interest in the transfer treaty program, their counselor shall screen the inmate's records to determine if the inmate meets the above criteria.

If the inmate does not qualify, the inmate shall be provided, in writing, the reasons why and a copy shall be sent to the BPT, legal counsel.

#### **62040.19 Processing**

Male inmates may be referred to the appropriate local classification committee for transfer consideration to RJD, where the process will be completed.

- If recommended, the case shall be referred to the CSR for endorsement to RJD.
- Those male inmates who cannot be placed in RJD general population, shall be processed at their institution of residence as indicated below, and not transferred to RJD.
- If the inmate is found not to be eligible for the program after his arrival at RJD, he shall be presented to a CSR for appropriate return or placement.
- Female inmates shall be processed at their institution of residence by their respective Correctional Counselor, as indicated below.

The inmate's counselor shall have the inmate complete CDC Form 830, Transfer Treaty Program Application and Certification.

The inmate's counselor shall complete the Prisoner's Transfer Progress Report.

A copy of each shall be provided to the inmate and a copy placed in the inmate's C-File.

A copy of the inmate's case summary and copies of the following completed forms and report shall be forwarded (as appropriate to the case) to the BPT legal counsel:

- BPT Form 1001, Life Prisoner – Decision Face Sheet.
- BPT Form 1010, Parole Decision ISL Prisoner.
- BPT Form 1094, Serious Offender Decision – Face Sheet.
- BPT Form 1095, Serious Offender Hearing – Decision (1170.2 (B)).
- CDC Form 830, Transfer Questionnaire (original).
- CDC Form 678, Cumulative Case Summary Confinement Computation.
- Prisoner transfer program report.

The BPT shall process the case and notify the institution of acceptance or rejection.

#### **62040.20 Revisions**

The Deputy Director, Institutions, or designee shall ensure that the content of this section is current and accurate.

#### **62040.21 References**

PC §§ 2090, 2902, 2911, 11189, 11190, and 11194.

GC § 12012.1.

ACA Standards 2-3013, 2-4164, 2-4170, 2-4171, 2-4163, 2-4248, 2-4239, 2-4416, 2-4202, 2-4204, 2-4019, 2-4255, 2-4203, and 2-4186.

### **ARTICLE 9 — SPECIAL PLACEMENTS**

*Effective October 30, 1989*

#### **62050.1 Policy**

Inmates committed to the Department who require specialized housing placements, shall be identified and evaluated for transfer to a special placement facility to ensure the safety of the inmate, security of the institution, and the safety of others.

#### **62050.2 Purpose**

This section establishes standard procedures for the identification, evaluation and transfer of inmates requiring specialized housing placement.

#### **62050.3 Out-to-Confidential Placements (OTCP)**

##### **Purpose**

OTCPs are out-of-Department, in-state transfers of inmates from a facility of the Department to a city or county confinement facility within the State. Such placements are normally used for temporary housing pending arrangements for more permanent placement. The inmate's transfer shall be a confidential matter, and all transfer documents shall only be noted as "Out-to-Confidential Placement."

##### **62050.3.1 Referrals**

Requests for OTCP shall be referred to the Departmental Review Board (DRB) through the Chief Deputy Director. In emergency situations the Chief Deputy Director may authorize such placement before the DRB action; however, the referral shall still be made to the DRB in all cases to document the reason and approval.

##### **62050.3.2 Arrangements**

Upon the Chief Deputy Director's or DRB's authorization, the case shall be referred to the Assistant Director, LEIU who shall coordinate arrangements between the LEIU Office and city or county officials for the inmate's placement and transportation.

##### **62050.3.3 Reimbursements**

The Department shall reimburse the city or county for the costs of such service. Billings must be addressed to the Assistant Director, LEIU, who shall verify the period of the billing, and forward the billing to the accounting office for payment.

City and county officials shall be instructed not to send billings to the institution because the danger exists that persons who should not know the inmate's location may become aware of it through the billing.

##### **62050.3.4 Confidentiality of Location**

An inmate's OTCP movement and the location are confidential. Only those persons who have a legitimate need-to-know may be informed of movement schedules and the inmate's new location. Any persons inquiring as to the inmate's location shall be referred to the Assistant Director, LEIU.

##### **62050.3.5 Records**

The inmate's records and files shall be retained by the sending institution until the inmate is returned to a departmental facility. The Assistant Director, LEIU, shall notify the institution's CCRM and C&PR when the inmate is returned to a Department institution or has been transferred to another jurisdiction.

##### **C-File**

In the inmate's C-File, the CDC Form 112, Chronological History, the institution locator files and data entry to OBIS shall be posted with "OTCP" (in the same way that out-to-court cases are posted) and the date of transfer to OTCP status. The inmate's specific location shall not be shown on any record maintained by the institution, except as may be specifically authorized by the Assistant Director, LEIU.

##### **BPT (BPT, Board) Calendar**

The inmate remains in the technical custody of The Director and the sending institution while on OTCP status and shall be carried on the institution's BPT calendar. The CCRM shall notify the Assistant Director, LEIU, of any scheduled Board hearings and release dates of inmates on OTCP status at least 60 days before the scheduled event.

##### **Mail**

Any mail and other material received or prepared by an institution for an inmate on OTCP status shall be forwarded to the Assistant Director, LEIU.

##### **62050.3.6 Return to Department Custody**

When the OTCP is no longer required and the inmate is returned to the Department's facilities, the Assistant Director, LEIU shall refer the case to the Chief, Classification Services, with a recommendation for housing.

If the inmate is returned to the sending institution, the movement shall not be reported on the institution's Daily Movement Sheet. The inmate's C-file, CDC Form 112, institutional location cards, and data entry to OBIS shall be posted "returned from OTCP" and date of arrival.

##### **Record Keeping**

If the inmate is returned to another institution, both institutions shall report the movement as a routine transfer between institutions. The receiving institution shall post the CDC Form 112 in the inmate's C-file as being received from the sending institution by OTCP.

When an inmate on OTC is transferred to another state or to a federal institution, the movement shall be reported as an administrative transfer to FSP.

#### **62050.4 Restricted Housing Unit (RHU)**

##### **Location**

A section of CCI's AD-SEG has been set aside as a high security unit for the housing of departmental protective custody, special interest, cases. The unit is referred to as a RHU to emphasize its highly restricted nature.

##### **62050.4.1 Approval for Placement**

The unit shall not be utilized for the AD-SEG, DD or temporary holding of any inmate without the prior approval of the Assistant Director, LEIU. The unit shall not be an option for consideration by classification committees or CSRs in recommending or approving inmate transfers.

Inmate transfers to and from the RHU require the approval of the Assistant Director, LEIU.

#### **62050.5 County Safekeepers**

##### **Authorization**

Pursuant to PC 4007, the Department may confine certain prisoners in its facilities, for any county in California.

##### **62050.5.1 Threat of Forced Removal**

When there is belief that a prisoner might be forcibly removed from a county jail, the sheriff may transport the prisoner to any departmental institution for safekeeping.

##### **Warden Acceptance**

The Warden shall accept and detain such cases until removal is ordered by the superior court of the county from which the person was delivered. Immediately upon receiving such a prisoner, the Warden shall notify the Director in writing. There is no PC provision for reimbursement for such cases.

##### **62050.5.2 Threat to Persons, Jail Property or Health**

When there is belief that a group of prisoners in a county jail are acting in concert and are a threat to others in the jail or are likely to cause substantial damage, with the consent of the Director, the court may, upon request of the county sheriff, designate the confinement of such prisoners in a departmental institution.

The court shall calendar the matter for a hearing within 48 hours of the order or the next judicial day to determine if it shall continue or rescind the order. The prisoner is entitled to be present and to be represented by counsel at the hearing. The court may modify or vacate such order at any time.

The rate of compensation for that confinement within a California State prison or facility shall be established by the Department and shall be a charge against the county making the request for confinement.

##### **Prisoner Placement Consent**

The Warden is delegated to act for the Director in consenting to the prisoner's placement in the institution.

##### **62050.5.3 Medical and Psychiatric Records**

The medical records of county prisoners accepted for safekeeping shall, when possible, be forwarded to the institution designated to receive the prisoner prior to the transfer. In emergency transfers, the records may be delivered with the prisoner.

Any psychiatric/psychological reports or case information that will aid the institution in handling the safekeeper shall be sent with the medical reports. This shall be agreed upon as a condition of acceptance.

#### **62050.6 Inmates With Death Sentences**

##### **Reception, Condemned Males**

SQ is the reception center for all male inmates with a death sentence unless the Director has designated another institution as the place of reception. Death sentence inmates shall not be transferred to any other institution without the prior approval of the DRB and the Director. Exceptions may be made for temporary transfer to CMF for urgent or emergency medical treatment with prior approval of the Director, Chief Deputy Director or Deputy Director, Institutions.

##### **Reception, Condemned Females**

The CIW is the reception center for all female inmates with a death sentence. Upon exhaustion of her appeal and by order of the Deputy Director, Institutions, a female inmate sentenced to death shall be transferred to SQ within three days of her execution date.

##### **62050.6.1 Processing**

The Warden shall ensure that an Institutional Staff Recommendation Summary is prepared within 90 days of the inmate's arrival. A copy of each summary shall be forwarded to the Chief, Correctional Case Records Services.

#### **62050.6.2 Informing The Director/Governor**

The Warden shall keep the Deputy Director, Institutions Division, the Director and Governor informed of any developments pertinent to condemned cases.

##### **Records Processing**

Summaries, reports and notice of any judicial, administrative or executive action taken in death sentence cases shall be forwarded to the Director, by the Deputy Director, Institutions Division. Information concerning appeals filed by the inmate shall include, if possible, the names of the attorneys of record and any other information available from documents filed with the institution and shall also be transmitted to the Director, by the Deputy Director, Institutions Division. The Director shall forward one copy of the above material to the Governor, by the Legal Affairs Secretary, and to the BPT. One copy of the above material shall also be forwarded to the AG's Office in San Francisco by the Warden.

#### **62050.6.3 Commutation**

An inmate whose death sentence is commuted shall be transferred to a Reception Center to complete case processing.

The DRB shall determine the inmate's institution placement.

#### **62050.7 Inmates Serving Life Terms**

##### **Murder 1st, Life W/O Possibility of Parole (LWO) Cases**

Inmates serving an LWO sentence shall be housed in a Level IV institution. Any exceptions to this placement shall be by DRB action.

Institutions with other than a Level IV designation housing LWO inmates shall review these cases annually to determine if case factors continue to support their current placement.

##### **62050.7.1 25-to-Life and Long-Term Determinate Cases**

Inmates serving a 25-to-life or long-term determinate sentence may be placed in a Level III institution unless any of the following factors are present:

- High notoriety or special interest cases involving extreme violence or extensive sexual assault. A special interest case is defined as one which received extensive media coverage, beyond the locale of the offense or trial.
- A history of multiple walkaways or an escape or attempted escape with force or the threat of force from an armed perimeter.
- A history of serious behavioral problems during the current term or prior term.
- A commitment offense which involves multiple murders, a 25-to-life sentence with enhancements which exceed three years or a maximum Determinate Sentencing Law term for more than 39 years, unless three years with good behavior have been served.
- Any outstanding felony holds/detainers, unless three years with good conduct have been served on the term.

##### **62050.7.2 7 or 15-to-Life and Long-Term Cases**

New arrivals serving a sentence of seven to life or 15 to life are endorsed by a CSR at the reception center for appropriate level placement.

##### **Medical/Psychiatric**

Inmates requiring medical or psychiatric treatment who are completing a life term, shall be placed at an institution specifically staffed for this treatment.

##### **62050.7.3 Exclusion of Life Inmates From Level I or II Placement**

An inmate serving any life term whose classification score has reached either level I or level II designation shall not be approved for placement in a Level I or II institution if one or more of the following factors exist.

- The commitment offense is for multiple murders, crimes of unusual violence or execution-type murders and received high notoriety.
- They have other sentences, enhancements or holds which constitute a term of 5 years or more.
- The inmate's case history includes multiple walkaways or escape from a secure perimeter or escape with force or threat of force.
- An inmate serving a life term without an established parole date of three years or less shall not be housed in a Level I institution or assigned to a program outside a security perimeter.
- An inmate serving a life term whose classification score has not reached level I or level II classification level shall not be placed in a level I or II facility except by DRB action.

#### **62050.8 Parole Violators (PV)**

##### **Surrendering at Institution**

When a parolee reports to an institution and requests admittance, they shall be interviewed by staff, preferably a Correctional Counselor prior to classification. Facts concerning their original offense, length of time on parole,

criminal or technical violations while on parole and reason for the surrender shall be determined. Institutional staff shall ascertain that the person is a parolee by referring to institutional records or contacting:

- The Identification & Warrants Unit at (916) 445-6713 or ATSS 485-6713.
- The P&CSD's unit office under which the person was supervised.
- The regional parole office having jurisdiction over the office where the person was on parole.

The sheriff or chief of police of the nearest city shall be requested to take the parolee into custody pending disposition by the P&CSD.

#### **62050.8.1 Departmental Bus**

Arrangements for the departmental bus to pick up technical PVs at county jails located along the normal routes may be made by the Deputy Director, P&CSD, with the Chief Transportation Officer. These PVs shall be immediately transferred to the designated reception center, depending upon the parole region of assignment.

#### **62050.8.2 Voluntary and Emergency Medical/Psychiatric Care**

*Revised April 5, 2015*

Whenever a parolee requires medical care, it shall ordinarily be provided by private physicians and facilities in the community. Costs for such care shall be provided by the parolee's own resources or community welfare funds.

If the parolee is without sufficient funds, every effort shall be made to establish their eligibility for financial assistance (such as Medi-Cal) to enable utilization of local resources. Return to prison for health care services that are normally available in the community shall be utilized only if all other efforts to obtain health care fail.

#### **Medical/Surgical/Dental Cases**

When a parolee requires medical, surgical, psychiatric or dental care of an emergency nature, and all efforts to obtain community services have failed, the parolee may consent to be returned to a correctional institution. The parole unit supervisor or designee shall contact the CMO, Medical Officer-of-the-Day (MOD) or Chief Psychiatrist of the institutions designated:

- Males to CIM, California Mens Colony – East (CMC-E), CMF or females to CIW.

If the patient's condition does not permit transfer to one of the above facilities, any institution may be utilized. On the next business day, the appropriate parole authority shall be notified of the return.

#### **Psychiatric Cases**

Males from Parole Northern Region are placed at CMF.

Males from Parole Southern Region are placed at CIM-RCC for initial custody/treatment screening prior to transfer to CMF or CMC-E or CIM. Females from Parole Northern and Southern Region are placed at CIW.

#### **Transfer Requests**

Transfers shall be made during regular work hours. When necessary to effect a move during other than normal hours (nights, weekends or holidays), approval for the acceptance of a parolee shall rest with the institution's Administrative Officer-of-the-Day and/or the MOD.

The administrator who approves an emergency transfer shall follow up by notifying the institution's C&PR on the next workday for purposes of attaining necessary records and to ensure the case is brought to the attention of the appropriate parole authority.

When the parolee is medically cleared the C&PR of the holding institution shall notify the parolee's district administrator to effect removal from the institution by reinstatement on parole or other appropriate action. Such notification shall be made a matter of written record.

#### **62050.8.3 Escapees**

Escapees returned to the Department shall be processed as follows:

- Escapees from CRC and CIM shall be housed in the Reception Center, Central at CIM. However, the case shall be processed by staff of the institution from which the inmate escaped.
- All other escapees shall be returned to and processed at the institution from which they escaped.

#### **62050.9 BPT Transfer Requests**

##### **Inmate Diagnosis and Treatment**

The BPT may request that the Director transfer an inmate when its review of a case determines the transfer is advisable for further diagnosis or treatment. The Department shall comply with the request where diagnostic facilities are, or become, available unless such a transfer violates the Department's policy or would threaten institutional security.

The BPT shall be advised of any determination that precludes such a transfer at the earliest reasonable time. It is the responsibility of the C&PR to advise the BPT if the request cannot be fulfilled.

#### **CSR/DRB Review**

If a CSR determines that the BPT request would violate departmental policy or present a security risk, they shall indicate this determination on the CDC Form 128-G, General Chrono, and request that the institution refer the case to the DRB. The C&PR shall advise the BPT if the request would violate departmental policy or present a security risk. If the BPT reaffirms its decision, a DRB referral shall be processed.

If the DRB determines the request is appropriate, a copy of its decision shall be sent to the referring institution. If the request is determined to be inappropriate, then that decision, including rationale, shall be noted on a CDC Form 128-G, and a copy shall be sent to the referring institution and BPT Chairman.

#### **62050.9.1 BPT Placement Requests**

##### **Processing**

A BPT recommendation for placement of an inmate in a departmental program for diagnosis or treatment shall be entered on BPT Forms 1010 and 1001.

The counselor shall schedule the inmate for post-board classification and discuss the BPT request with the inmate.

If the inmate agrees with the request and there is no problem in satisfying the request, the case shall be referred to a CSR.

If the inmate refuses to participate, the committee shall note their refusal on the CDC Form 128G and bring the refusal to the BPT's attention at the inmate's next regularly scheduled Board hearing.

#### **62050.10 Special Housing Assignments**

##### **Policy**

The Department shall provide secure housing apart from its general inmate population for the supervision and control of those inmates who endanger institutional security or the safety of themselves or others. Such housing is defined as AD-SEG and specifically the units shall be designated per the following sections:

##### **62050.10.1 Special Housing – Temporary**

AD-SEG – Temporary: Provides housing during the period of initial segregation pending the outcome of an investigation and placement by classification action.

AD-SEG provides secure housing upon the initial period of separation from the general population for any reason until a classification committee has determined whether the inmate's placement should be in a specialized housing unit or in the general population.

##### **62050.10.2 AD-SEG Housing**

Each institution shall designate and have approved by the Deputy Director of Institutions, a maximum number of beds for AD-SEG in a secure facility section as follows:

- Housing shall be in a secure designated unit with custody established at no lower than Close B.

**Note:** The reception center at CIM shall provide such housing for CRC.

##### **62050.10.3 AD-SEG Criteria**

Placement in AD-SEG shall be limited to those cases where reasons exist that the inmate's continued presence in the general population would do any of the following:

- Endanger the security of the institution.
- Jeopardize the integrity of a serious misconduct or criminal investigation.
- Endanger the safety of the inmate or others.

##### **62050.10.4 Confidential Information Verification/Disclosure**

An inmate shall not be placed or retained in segregation on the basis of undisclosed information unless staff verifies that to identify the source of information would endanger the safety of the source or institutional security.

When confidential information is used to place or retain an inmate in AD-SEG or to support charges on a CDC Form 115, Rules Violation Report; a Confidential Information Disclosure (CDC Form 1030) shall be prepared [refer to DOM 61020]. A copy of the confidential information disclosure form will be given to the inmate at least 24 hours prior to the initial AD-SEG classification review or the disciplinary hearing. The document shall reveal as much information as possible without identifying the source. The document shall evaluate the reliability of the source and a statement of the reasons why the identity of the source is not disclosed.

##### **62050.10.5 AD-SEG Procedure**



**Reason for Placement**

All determinations affecting an inmate's placement, degree of custody, or program while in AD-SEG shall be through the classification process.

Authority to order an inmate's placement shall not be delegated below the level of lieutenant except when lower level staff is the highest-ranking official on duty.

Within 48 hours of AD-SEG placement, a staff member not less than a lieutenant or CC-II shall provide the inmate with a CDC Form 114 D, Order and Hearing for Placement in Segregated Housing; or CDC Form 115 which documents a clear and specific reason for their removal from the general population.

Within two work days following an inmate's placement in Ad.-Seg, staff designated at not less than the level of captain shall review the order portion of the CDC Form 114-D to make a determination regarding retention in AD-SEG.

**62050.10.6 Institutional Classification Committee (ICC) Review**

An inmate's placement in temporary AD-SEG shall be reviewed by the ICC within ten days of receipt in the unit. ICC shall determine whether to retain in temporary segregation or release to the general population. ICC shall review the inmate at least every 30 days thereafter until the inmate is released from temporary segregation.

**62050.10.7 CSR Review**

ICC shall refer for CSR review and approval, any case retained in temporary AD-SEG for more than 30 days. ICC shall make a recommendation concerning continuance in temporary segregation pending completion of an investigation, resolution of court proceedings or transfer to another facility. ICC shall designate an anticipated length of time needed to complete the investigation or court process.

**62050.11 PHU**

PHUs provide secure housing for inmates whose safety would be endangered by general population placement.

**62050.11.1 PHU/Custody Designation**

PHUs shall be designated housing for inmates which custody requirements have been established at no lower than Maximum B custody.

**62050.11.2 PHU/Criteria**

An inmate whose safety would be endangered by general population placement may be placed in the PHU providing the following criteria are met.

- The inmate does not require specialized housing for reasons other than protection.
- The inmate does not have a serious psychiatric or medical condition requiring prompt access to hospital care.
- The inmate is not documented as a member or an affiliate of a prison gang.
- The inmate does not pose a threat to the safety or security of other inmates in the PHU.
- The inmate has specific, verified enemies as identified on CDC Form 812 (Notice of Critical Case Information – Safety of Persons) likely to and capable of causing the inmate great bodily harm if placed in general population.
- The inmate has notoriety likely to result in great bodily harm if placed in the general population.
- There is no alternative placement which will ensure the inmate's safety and provide the degree of control required for the inmate.
- It has been verified that the inmate is in present danger of great bodily harm.

The inmate's uncorroborated personal report, the nature of the commitment offense, or record of prior protective custody housing shall not be the sole basis for PHU placement.

**62050.11.3 CSR Review**

Each classification committee recommendation for PHU placement shall be presented to the next available CSR. Alternative placement shall be approved or the case deferred for presentation to the designated PHU CSR.

**62050.11.4 Emergency PHU Placement by CSR**

Approval by the designated PHU CSR is required for all PHU placements. Emergency transfer approval may be granted by the Classification Services duty officer by FAX to avoid unusual delays. A copy of the emergency FAX approval shall be routed to the designated PHU CSR by the Classification Services duty officer.

Inmates in PHU who are recommended by a committee for alternative placement shall be processed in the same manner as a routine transfer and do not require endorsement by the designated PHU CSR.

**62050.12 Psychiatric Services Unit (PSU)**

*Revised February 16, 2007*

A PSU provides secure housing and care for inmates with diagnosed psychiatric disorders not requiring in-patient hospital care, whose conduct threatens the safety of themselves or others.

**62050.12.1 PSU Criteria**

*Revised February 16, 2007*

Criteria for placement in PSU is as follows:

- The inmate shall be diagnosed as suffering from a major psychiatric disorder but not disabled to the extent requiring hospitalization.
- The inmate's conduct poses a serious threat to the safety of themselves or others if housed in the general population.
- The inmate is capable of participating in unit or group activity without undue risk to the safety of themselves or others.

**62050.12.2 CSR Approval**

*Revised February 16, 2007*

Inmates who require PSU housing and meet the established criteria, shall be referred by a classification committee to a CSR for PSU placement. The referral shall include a CDC Form 128-C, Medical Chrono; indicating the psychiatric disorder diagnosis and recommended placement.

Approval by the designated CSR is required for PSU placement.

**62050.12.3 Alternative Placement**

*Revised February 16, 2007*

Inmates in the PSU who are recommended by a committee for alternate placement shall be processed in the same manner as a routine transfer request, except that a current CDC Form 128-C is required for the CSR's review.

**62050.13 SHU**

SHUs provide secure housing for inmates whose conduct endangers the safety of others or the security of the institution.

Inmates assigned to SHU shall be designated Maximum A or Maximum B custody.

**62050.13.1 Release From SHU**

An inmate shall be released from SHU upon expiration of their Minimum Eligible Release Date (MERD), if any, or after twelve (12) months of consecutive confinement, whichever is shorter, unless before the MERD or period expires they are afforded all the hearing rights that attend initial placement in segregation.

**62050.13.2 SHU Criteria**

An inmate shall be placed in SHU if:

- The inmate has requested segregation for their own protection and the need can be substantiated by appropriate staff.
- The inmate is newly arrived at the institution and more information is needed to determine whether the inmate may be incompatible with any element of the general population. No inmate shall be involuntarily segregated for this reason for more than ten (10) days.
- The inmate has been found guilty of a disciplinary offense sufficiently serious to warrant confinement for a fixed term in segregation, and the term is fixed in conformance with the SHU Term Assessment Chart.
- The inmate's continued presence in general population would severely endanger lives of inmates or staff, the security of the institution or the integrity of an investigation into suspected criminal activity.

**62050.13.3 SHU Placement/Undisclosed Confidential Information**

An inmate shall not be placed or retained in a SHU on the basis of undisclosed information.

**62050.13.4 Withholding Confidential Information at Placement Hearing**

The identity of any person providing information cited in support of placement or retention of an inmate in a SHU may be withheld at the hearing only if disclosure would endanger the safety of the source or institutional security.

**62050.13.4.1 Statement of Reliability**

In any instance where the identity of the source is withheld, the inmate shall not be placed or retained in a SHU in absence of a CDC Form 1030, available to the inmate, setting forth an evaluation of the reliability of the source and a statement of the reasons why the identity of the source is not disclosed.

**62050.13.5 Procedures/Institutions Without SHU**

The ICC shall recommend appropriate cases for an indeterminate period of confinement or shall establish a determinate term and present the case to a CSR within 30 days of AD-SEG placement, but in no case later than 45 days. Inmates in AD-SEG endorsed for and awaiting transfer to a SHU shall be deemed a SHU inmate.

Each institution shall establish a determinate period of confinement in SHU for serious offenses that occurred at that facility.

#### **62050.13.6 Procedures/Institutions With SHU**

The Unit Classification Committee (UCC) shall assign the appropriate custody for inmates endorsed for SHU from other institutions.

The UCC shall assign the appropriate custody and recommend a determinate term or indeterminate status when the conduct causing the inmate's placement occurred at that institution.

#### **62050.13.7 SHU Placement Review by UCC**

The UCC shall also recommend the commutation, suspension or release from a determinate term and the imposition, retention or release from indeterminate status and the assessment of a subsequent SHU term if it is viewed as appropriate.

#### **62050.13.8 ICC Review of SHU Placement**

The ICC shall place the inmate on indeterminate SHU status or establish a determinate term when the conduct causing the inmate's placement occurred at the institution.

#### **62050.13.9 Release From SHU After 12 Months**

The ICC shall also act to retain or release SHU inmates who complete a determinate term or 12 months of SHU confinement.

#### **62050.13.10 CSR – SHU Review**

Such cases shall be referred by ICC to a CSR within 30 days, but no later than 45 days from initial placement or the recommendation to release or retain the inmate in SHU. The CSR referral shall include a placement recommendation.

#### **62050.13.11 Resolving CSR Disagreements With ICC**

The CSR shall refer the case to the Chief Deputy Warden for review if there is a difference of opinion with the ICC action.

#### **62050.13.12 SHU – DRB Actions**

Differences of opinion not resolved by the Chief Deputy Warden shall be submitted to the Chief, Classification Services, in Departmental Review Board format for resolution.

#### **62050.13.13 SHU Terms**

##### **Establishing Terms**

SHU terms shall be established by ICC using the SHU Term Assessment Chart and the following forms: CDC Form 629C, Factors in Mitigation or Aggravation, CDC Form 629A, SHU Term Assessment Worksheet, CDC Form 629B, Assessment of Subsequent SHU Term Worksheet, and the CDC Form 629D, SHU Time Computation Table.

##### **62050.13.13.1 Establishing SHU Term at Expected Range**

The term shall be set at the expected term for the offense in the absence of mitigating or aggravating factors. Deviation from the expected term shall be supported by documentation of circumstances in aggravation or mitigation on the CDC Form 128-G.

##### **62050.13.14 SHU Computation on CDC Form 629-A**

The terms shall be recorded on CDC Form 629-A using the SHU Time Computation Table which incorporates one quarter Good Time Credit in the term. The computation establishes a maximum release date and a MERD. A copy of the CDC Form 629-A shall be given to the inmate.

##### **62050.13.15 Documenting SHU Terms on CDC Form 629-B**

Serious misconduct while in SHU may result in a determinate term for inmates on indeterminate status, or loss of clean conduct credits or an additional SHU term for those serving determinate terms. An additional term may be concurrent or consecutive and shall be recorded on CDC Form 629-B with a copy to the inmate. Such cases do not require CSR review.

##### **62050.13.16 Establishing Consecutive SHU Terms**

Consecutive SHU terms shall only be assessed for offenses that occur after establishing the initial SHU term. Any offense(s) that occur(s) in AD-SEG awaiting computation of the initial determinate term shall be assessed on the CDC Form 629-A.

##### **62050.13.17 Commuting MERDS by ICC and CSR Referral**

The ICC may commute or suspend any portion of a determinate term. Once commuted, the term shall not be re-imposed. If suspended, the period of suspension shall not exceed the length of the original term imposed. When either action occurs, the case shall be referred to a CSR with a placement recommendation.

#### **62050.13.18 SHU Classification Review**

The UCC shall conduct classification hearings on all indeterminate cases to determine the need for SHU retention in 120-day intervals.

#### **62050.13.19 CSR Annual Review of SHU Indeterminate Cases**

When alternate placement is possible, the UCC shall refer the case to a CSR with a recommendation. The ICC shall review all indeterminate cases and refer them to the CSR at least annually for alternate placement consideration.

#### **62050.13.20 UCC 30-Day Review of Determinate SHU Cases**

The UCC shall conduct hearings on all determinate cases at least 30 days prior to their MERD expiration or during the eleventh month from the date of placement, whichever comes first.

#### **62050.13.21 SHU Retention/Due Process**

Inmates who are being considered by a UCC for SHU retention beyond 12 months shall be afforded all the hearing rights that attend initial AD-SEG or SHU placement.

#### **62050.13.22 Serving SHU Terms in Approved SHU Facilities**

Determinate SHU terms shall only be served in a departmentally approved SHU or a facility specifically designed for that purpose.

#### **62050.13.23 ICC/Suspension of SHU Terms**

When an inmate is found guilty of an offense listed in the SHU Term Assessment Chart and the ICC does not believe placement in SHU is warranted based on the circumstances of the offense, or other factors, it shall establish a term of confinement and commute or suspend the term.

#### **62050.13.24 ICC Review of Incomplete SHU Terms**

##### **Parolees Returned to Prison**

When an inmate parolees while serving a determinate term, the remaining time on the term is automatically suspended. When an inmate returns, either as a PV or with a new prison commitment, ICC shall evaluate the case for re-imposition of the suspended determinate term. If re-imposed, the term shall not exceed the time remaining on the term at the time of parole.

#### **62050.14 Illegal Aliens (Transfer/Release)**

Male inmates who are illegal aliens shall be transferred to SQ or RJD 30 to 45 days prior to their scheduled release date. Transfers shall be accomplished to facilitate deportation hearings by Federal Immigration Judges in compliance with the Immigration Control and Reform Act of 1986.

##### **Transfer Endorsements**

The institution C&PR shall review and endorse the transfer of identified illegal alien inmates to SQ or RJD for the purpose of Federal Immigration Hearings. These inmates will not require C&PR review and endorsement.

##### **Placement**

Inmates initially processed into Department from reception centers at CIM or CCI shall be transferred to RJD. Inmates initially processed into the Department from all other Department reception centers shall be transferred to SQ.

##### **Female Aliens**

Female inmates who are illegal aliens will be processed into the Department, receive deportation hearings, and released from either the CIW, NCWF or CRC.

#### **62050.14.1 Illegal Aliens (Excluded)**

Illegal aliens who are civil commitments or are housed in a SHU, PHU, pending a serious CDC 115 or have a felony hold, shall not be subject to transfer for deportation proceedings.

#### **62050.14.2 Illegal Aliens (Records)**

The C-files of illegal alien inmates transferring shall be audited by the sending institution and contain all completed documents required to process the inmate's parole.

#### **62050.15 CIW Support Care Unit (SCU)**

The SCU is an unlicensed facility intended to provide housing for inmates who are in remission from mental illness and those who are incapable of participating in the regular institution program. Inmates housed in the SCU will be provided a program that includes occupational therapy and group counseling.

Inmates with acute mental illness shall be referred for treatment to Metropolitan State Hospital.

#### **62050.16 Revisions**

*Revised April 4, 2015*

The Director, Division of Adult Institutions, or designee shall ensure that the contents of this article are accurate and current.

#### **62050.17 References**

PC §§ 1202(a), 3200, 3404, 3700.5, 4007,

## CCR Article 7.

**ARTICLE 10 — BEHAVIOR MANAGEMENT UNIT***Effective April 2, 2009***62060.1 Policy**

It is the policy of the Department to provide alternate General Population (GP) housing and programming for those inmates who are deemed program failures, who participate in organized criminal activity (gang activity), who refuse to participate in racial integration when otherwise eligible for such housing, who refuse to double cell, and those released from the Administrative Segregation Unit/Security Housing Unit (ASU/SHU).

**62060.2 Purpose**

The purpose of the Behavior Management Unit (BMU) program is to modify recalcitrant inmate behavior, eliminate and reduce the opportunity to repeat the behavior, and provide non-disruptive inmates the ability to program without continual interruption, due to the behavior of a smaller, more disruptive segment of the inmate population.

**62060.3 Implementation**

Inmates must be referred to a Classification Committee for placement into the BMU. The Classification Committee acts to review those inmates who are currently or may become participants in the BMU. An inmate may be placed in the BMU for one or more of the following reasons:

- **Program Failure**

Program failure, as defined by the California Code of Regulations (CCR), Title 15, Section 3000.

- **Security Housing Unit (SHU) Offense as defined in CCR, Section 3341.5**

If an inmate has been found guilty of an offense for which a determinate term of confinement has been assessed, whether imposed or suspended, or whose in-custody behavior reflects a propensity towards disruptive behavior, the inmate may be referred to a classification committee for placement in the BMU.

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

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

- **Gang Related Activity**

Any pattern, which consists of two or more documented behaviors which indicates an individual's participation in gang related activity, may be grounds for placement in the BMU. Gang related activity is defined as behavior which indicates an inmate's participation in a gang, prison gang, street gang or disruptive group as defined in CCR, Section 3000. Examples of this type of behavior include, but are not limited to:

- Participating in gang related riots.
- Participating in gang related batteries or physical assaults.
- Distribution of property, material, or items in an effort to generate revenue for the purpose of financing/furthering the prison gang or street gang's illegal activity (e.g. drug trafficking, extortion, etc).
- Evidence of attempts to recruit others to participate in prison gang or street gang activities.
- Participating, directly or indirectly, in any misconduct that could be related to a specific type of gang behavior (e.g. cadence, flagging, sagging, possession of gang graffiti, etc).
- A history of participating in disruptive behavior or inciting violence and unrest.
- Management Concern, as defined in CCR, Section 3000.

**62060.4 Classification Committee Hearing**

Inmates who meet the criteria for placement in the BMU program per Section 3334 shall be reviewed by a Classification Committee after initial placement in the BMU program. The Classification Committee shall review and approve the step change for each BMU inmate as recommended by BMU staff not less than every 30 days.

The Classification Committee shall be responsible for providing the inmate with notification of the rules and intent of the BMU program. The CDC 128-G, Classification Chrono, shall clearly state that the inmate was

informed of the reason for placement, the length of placement, and any additional action the inmate must take to successfully complete the BMU program.

**62060.4.1****Initial BMU Placement**

Initial BMU placements shall be for a minimum of 90 days beginning on the date of reception into the BMU.

**62060.4.2****Subsequent BMU Placements**

Minimum of 180 day BMU placement beginning on the date of reception into the BMU.

Inmates who require subsequent placement will be monitored by BMU staff to ensure program compliance. If an inmate refuses to participate as required, the Classification Committee will review for possible program rejection.

**62060.5****Individualized Training Plan**

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

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

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

In each case of the BMU placement, release from the BMU is based upon completion of the ITP established by the Classification Committee.

Inmates retained in the BMU for failure to meet ITP requirements may have their BMU retention period extended. Inmates who have been retained beyond their initial placement period shall have their status reviewed every 30-days by a Classification Committee.

**62060.6****Work Group/ Privilege Group Designations**

All inmates placed into the BMU will be designated a Work Group (WG), consistent with CCR, Section 3044, and as determined by the Classification Committee effective the date of placement.

Regardless of the WG, the designated Privilege Group (PG) for Step 1 and Step 2 shall be C. The designated PG for Step 3 shall be B.

All Work/Program assignments for BMU inmates shall be restricted to and located in the BMU.

**62060.6.1****Privileges and Expectations Step Process**

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

**Step 1: Initial Placement** – WG A1, A2, B or C and PG C status: Authorized emergency phone calls only, one-fourth the maximum monthly canteen draw allowance, a minimum of ten (10) hours out-of-cell time per week, which includes yard, dayroom, workshops, self-help group activities as limited by physical design, local institution security and facility needs, and non-contact visits. Inmates must be afforded at least five hours per week of access to recreation on an outdoor exercise yard. If the inmate meets the goals of the ITP, he will advance to Step 2.

**Step 2: WG A1, A2, B or C and PG C status:** One (1) phone call per month, one-fourth the maximum monthly canteen draw allowance, a minimum of ten (10) hours out-of-cell time per week, which includes yard, dayroom, workshops, self-help group activities as limited by physical design, local institution security and facility needs, and non-contact visits. Inmates must be afforded at least five hours per week of access to recreation on an outdoor exercise yard. If the inmate meets the goals of the ITP, he will advance to Step 3.

**Step 3: WG A1, A2, B and PG B status:** One (1) phone call per month, one-half the maximum monthly canteen draw allowance, a minimum of ten (10) hours out-of-cell time per week, which includes yard, dayroom, workshops, self-help group activities as limited by physical design, local institution security and facility needs, and contact visits. Inmates must be afforded at least five hours per week of access to recreation on an outdoor exercise yard. If the inmate meets the goals of the ITP, he will advance to Step 4.

**Step 4:** Upon completion of the ITP, inmates will be returned to traditional GP housing.

Failure to progress in the stepped process shall be grounds for rejection from the BMU Program and a review by the Classification Committee for placement on WG C PG C status. Inmates may not remain in the BMU for more than 180 days without participation. Once the inmate is rejected from

BMU by the Classification Committee, he shall be retained on C status and rehoused commensurate with his custody level. Inmates who have been rejected from the program shall not be placed in any other General Population work or program assignment until they have successfully completed their ITP in the BMU.

Inmates who have been rejected from the BMU program must submit a written request to their Correctional Counselor I for readmission to the program and shall be reviewed by a Classification Committee.

#### **62060.7 Authorized BMU Property**

Inmates shall possess only the listed items of personal property while assigned to the BMU:

- Ring (Wedding band, yellow or white metal only. Not to exceed \$100 maximum declared value, and may not contain a set or stone), one.
- Religious Medal and Chain (not to exceed \$100 maximum declared value, chain not to exceed 18" in length, obtainable as a set only. Chains may not be purchased separately from medal), one.
- Religious Items (as approved by the local religious review committees, e.g. kufi caps, yarmulkes, prayer rugs, etc.).
- Books, Magazines, and Newspapers (paperback or hardback with cover removed only. Limit does not apply to legal materials), ten.
- Prescription eyeglasses, clear lens only, one (as prescribed by a physician) pair.
- Tennis Shoes (no shades of red or blue, low, mid, or high tops are permitted. Must be predominantly white in color. Shoe laces white only. Not to exceed \$75.00. No hidden compartments, zippers, or laces that are covered or concealed. No metal components including eyelets), one pair.
- Shower shoes (foam or soft rubber, single layer construction, not exceeding 1" in thickness), one pair.
- Briefs (white only), ten pairs.
- Gloves (cold weather gloves upon approval of Warden, no zippers, pockets, or metal), one pair.
- Watch Cap (white or grey only), one.
- Rain Coat/Poncho (transparent only), one.
- Socks (white only, any combination of short to knee-high), seven pairs.
- Under Shirts (white only, any combination of crew neck, v-neck, long sleeve or sleeveless athletic tank-top. Turtle neck and mock turtle neck are not permitted), five.
- Dental Adhesive (for approved denture wearers only), two.
- Dental Flossers/Gliders (no more than 3" in length, amount allowed in possession to be determined by local institutional procedure).
- Dental Cleanser, one box.
- Deodorant/Antiperspirant (stick or roll-on, must be clear and in clear container only), four.
- Medications, Over-The-Counter (OTC) (only those OTC medications permitted by the Division of Correctional Health Care Services shall be stocked by institution canteens, OTC medications are not approved for inmate packages).
- Mouthwash (non-alcoholic only), one.
- Palm Brush/Comb (no handle, plastic only), one.
- Razor, Disposable (not permitted in Level IV 180 design housing), five.
- Shampoo, one.
- Shaving Cream (non-aerosol), one.
- Soap Bar, six.
- Soap Dish (non-metal), one.
- Toothbrush (subject to local determination of maximum length, local facility is required to shorten if necessary, to meet local requirements), one.
- Toothbrush Holder (plastic only, may only cover head of toothbrush), one.
- Toothpaste/Powder (toothpaste must be clear and in clear container), one.
- Washcloths (white only), two.
- Address Book (paperback only, 3" x 5" maximum), one.
- Ballpoint Pens (non-metal, clear plastic only), one.
- Bowl (construction material to be approved by Division of Adult Institution (DAI), maximum of 8" in diameter), one.

- Can Opener (restricted from Level IV housing), one.
- Legal Pads/Tablets and Notebooks (no spiral bound), one.
- Envelopes, Blank and/or Pre-Stamped, forty.
- Envelopes, Metered (indigent inmates only), five.
- Legal material, as authorized per Section 3161.
- Photos/Portraits (maximum of 8" x 10"), fifteen.
- Reading Glasses-Non Prescription (magnifying glasses), one pair.
- Stamps (U.S. Postal only), forty.
- Stationery (for written correspondence, may be decorated and have matching envelopes), fifteen sheets.
- Tumbler (construction material to be approved by DAI, 16 ounce or less), one.
- Health Care Appliance (Dr. Rx. Only. Not subject to the six-cubic foot limit).
- Canteen items, not to exceed one month's draw of assigned privilege group.

Inmates in the BMU shall possess personal property as authorized in CCR, Section 3190(c) and 3334(g)(1).

All personal property shall be disposed of as provided in CCR, Section 3191(c), except as provided for in DOM, Section 62060.7.1 below.

#### **62060.7.1 Unauthorized BMU Property**

Inmates assigned to the BMU upon the initial placement will have their personal property, not identified as authorized BMU property outlined in DOM, Section 62060.7 stored, provided:

- Initial BMU placement is for no more than 90 days.
- The inmate participates in the BMU program and progresses to the next step at each 30 day review as outlined in 62060.6.1 above.
- The inmate does not receive any property related disciplinary violations while in the BMU program.

Should the inmate fail to comply with the provisions above, all unallowed personal property not identified as authorized BMU property outlined in DOM, Section 62060.7 shall be disposed of as provided in CCR, Section 3191(c).

Inmate's assigned to the BMU upon the second or subsequent placements shall have all personal property, not outlined in DOM, Section 62060.7, disposed of as provided in CCR, Section 3191(c).

#### **62060.8 Religious Services**

All religious services will be conducted in-cell or in the designated BMU as limited by physical design, local institution security and facility needs.

#### **62060.9 Canteen**

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

Step 1 – One-fourth the maximum monthly canteen draw per CCR, Section 3044(f).

Step 2 – One-fourth the maximum monthly canteen draw per CCR, Section 3044(f).

Step 3 – One-half the maximum monthly canteen draw per CCR, Section 3044(e).

#### **62060.10 Meals**

Inmates assigned to the BMU will receive the same meals as all inmates assigned to the general population.

#### **62060.11 Mail**

All inmate mail will be processed per departmental and institutional procedures.

#### **62060.12 Packages**

Vendor packages are authorized for receipt by inmates housed within the BMU in accordance with their privilege group status.

#### **62060.13 Law Library**

Any inmate housed in the BMU may utilize the law library as determined by local operational procedures.

#### **62060.14 Health Care Services**

All health care, mental health and dental services shall be conducted as per local operational procedures.

#### **62060.15 Mental Health Services**

BMU inmates will be seen by the Mental Health Department in accordance with normal general population treatment expectations as outlined within the Mental Health Services Delivery System (MHSDS). A Mental Health

clinician shall attend the Classification Committee for all initial reviews in order to assess the appropriateness of BMU placement for an inmate included in the MHSDS. Inmate's currently at the Enhanced Out Patient (EOP) level of care are not eligible for BMU placement.

#### **62060.16 Showers**

Inmates housed within the BMU will be afforded the opportunity to shower during authorized dayroom periods.

#### **62060.17 Visits**

BMU inmates are permitted visits with their approved visitors. All visits for Step 1 and 2 inmates will be non-contact, including attorney visits. Inmates at Step 3 will be afforded contact visits.

#### **62060.18 Out- Of-Cell Time**

Inmates will be allowed a minimum of ten (10) hours of out-of-cell time per week. This includes yard, dayroom, workshops, self-help group activities, and visits as limited by physical design, local institution security and facility needs.

#### **62060.19 Revisions**

The Deputy Director, Division of Adult Institutions, or designee shall ensure that the contents of this Article are kept current and accurate.

#### **62060.20 References**

PC Section 5058

CCR (15) (3) Section 3000, 3004 - 3005, 3023, 3044, 3161, 3190 - 3191, 3334, and 3341.5.

In re Kevin Hunt, Case No.: HC 6157 Superior Court, Co. of Monterey. (Feb. 2009).

### **ARTICLE 11 — TEMPORARY REMOVALS**

*Effective November 14, 1989*

#### **Not Cleared For Statewide Use**

#### **62070.1 Policy**

California statute permits the Director to authorize temporary release and removal of inmates from prison. The Director requires careful screening and control of such releases to avoid risk to the community. Institution, parole, and community correctional center personnel shall approve temporary releases/removals only as permitted by these standards and procedures.

#### **62070.2 Purpose**

This procedure defines staff responsibilities and provides criteria for granting, denying, and administering temporary removals of inmates from the Department facilities.

#### **62070.3 Authorized Removals**

Inmates may be approved for temporary community leaves (TCLs) for:

##### **Inmate Requested**

- Family emergencies.
- Prerelease planning.
- College courses.
- Reentry furlough.

##### **Removal for Departmental Reasons**

- Medical/psychiatric.
- Release to Hold.
- Off-site work assignments.
- Community betterment.
- Disaster relief teams.
- Court ordered.

#### **62070.4 General Criteria TCLs**

Approved leaves shall be for no longer than necessary to accomplish the stated purpose but shall not exceed 72 hours in length. Medical/psychiatric and court order removals are not statutorily restricted to the 72-hour limitation.

TCLs may include the following conditions:

- Inmates may be required to be under custodial escort.
- Personal funds shall be provided by the inmate to cover requested leave expenses prior to approval.
- Temporary removals initiated by the Department shall be made at no cost to the inmate.
- Volunteer staff escort for family emergency and prerelease leaves may be provided only under strict conditions as outlined in the DOM 62070.4.2 Custodial Escort.

- All TCLs from a prison facility shall require Warden or designated AW approval.
- Leaves from contracted community correctional center facilities shall require approval of the reentry specialist.
- Leaves from noncontracted community correctional centers shall be approved by the facility manager.
- Temporary leave for parolees in custody pending revocation proceedings requires approval of the assistant Regional Administrator.

#### **Out-of-State Travel (Prohibited)**

Temporary leaves for out-of-state travel shall not be approved for any reason.

#### **62070.4.1 Exclusion Criteria**

*Revised September 25, 2007*

Inmates shall not be permitted a TCL when the following conditions prevail:

- Inmate is serving life without possibility of parole.
- When weapons or restraint equipment must be utilized to escort.
- When inmates are out-of-state cases and safekeepers, unless approved by agency retaining jurisdiction.
- When inmates are CYA /DMH [concurrent (CC) jurisdiction] cases, unless approved by those agencies.
- When inmates are determined to be security/custody risks.

Examples are:

- Escape risk.
- Has made verified threats toward victims, witnesses, family members as defined in Section 3000 of the Title 15, departmental staff or public officials.
- Inmate exhibits a pattern of serious aggressive behavior that is supported by disciplinary documentation.

#### **62070.4.2 Criteria For Custodial Escort**

*Revised September 25, 2007*

Custodial escort for a TCL is defined as a Department peace officer properly trained and certified in escort of inmates. Certification requires completion of annual IST classes mandated for peace officer staff on transportation and escort of inmates. Custodial supervision shall be required for inmates who possess any of the following case factors:

- Designated other than Minimum-B custody.
- Psychiatric cases documented by the chief psychiatrist as not being a danger to self or others.
- Housed in AD-SEG for protection only.
- Has a felony detainer or is serving a concurrent or consecutive county jail sentence, a portion of which must be served upon release from Department custody.
- Identified with organized crime.
- Convicted of high notoriety crimes or where presence in a community would likely cause adverse reaction.
- Designated "R" suffix (restricted custody).

#### **Restricted to funeral visit only**

- No parole date or has seven or more years remaining to parole.
  - Inmates in this category shall only be considered for a TCL to attend a funeral of an immediate family member as defined in Section 3000 of the CCR.

#### **Unavailability of Escort Staff**

- Unavailability of qualified escort personnel shall be cause to deny a TCL request.

#### **62070.4.2.1 Escort Employee Compensation**

The escorting employee(s) shall be paid in accordance with current payroll requirements. All meals and other escorting expenses including wages of escort shall be reimbursed through inmate trust account funds in accordance with DPA regulations and departmental policy.

#### **62070.4.2.2 Employee Criteria/Custodial Escort**

Peace officer staff properly trained and certified in the escort of inmates, and exempt from provisions of the FLSA may volunteer their time for the purpose of escorting indigent inmates.

#### **Volunteer Escorts**

Employees who voluntarily escort without monetary compensation shall be considered "on-duty" during the period of such assignment.

#### **Transportation**

Transportation for escorted TCLs shall be by state vehicle or public transportation. Transportation for indigent inmates with volunteer escort shall be by state vehicle only. The most direct route of travel shall be used by escorting staff. Escorting staff shall maintain strict adherence to the TCL itinerary. Deviation from established itinerary shall be permitted for genuine emergencies only.

### **Overnight Lodging**

Escorted leaves for a period longer than 16 hours shall require prior confirmed arrangements for overnight housing in a departmental institution or county jail facility within the TCL area.

### **62070.5 Family Emergency**

*Revised September 25, 2007*

Emergency leaves may be granted for attendance at a funeral service or hospital bedside visit of a critically ill immediate family member as defined in Section 3000 of the Title 15 except as provided in DOM 62070.4.2 (no parole date or has seven or more years remaining to parole.)

#### **Immediate Family defined**

Immediate family member as defined in Section 3000 of the Title 15 includes any of the following:

- Legal spouse.
- Registered domestic partner.
- Natural parents.
- Adoptive parents (if adoption occurred and a family relationship existed prior to incarceration).
- Step-parents.
- Foster parents.
- Grandparents.
- Brothers and sisters.
- Children.
  - Natural.
  - Adoptive.
  - Step.
- Grandchildren.

**Note:** Aunts, uncles, and cousins are not considered immediate family unless a genuine and verifiable foster relationship existed prior to incarceration.

### **62070.5.1 Screening Responsibilities**

*Revised September 25, 2007*

The inmate's caseworker:

- Receives request from the inmate, family members as defined in Section 3000 of the Title 15, or other persons identifying the reason for an emergency leave request (death/hospital/visit).

#### **Caseworker Review and Verification**

- Thoroughly verifies that request and circumstances are valid. This verification process shall include, but is not limited to:
  - Verify immediate family relationship.
  - Contact hospital/attending physician, county coroner, and funeral director for complete details surrounding death and funeral arrangements.
  - If death was by other than natural causes, or the death is under investigation, contact necessary law enforcement agencies to determine causes and circumstances of death.
  - Attending physician shall be personally contacted. Attending physician shall verify that the immediate family member's condition is classified as critical and the physician's prognosis for recovery determined.

#### **Hospital Visit Critically ill**

A statement from the attending physician shall be solicited regarding a recommendation that the inmate's visit will/will not be beneficial to the patient's treatment, or that the patient is in imminent danger of death.

#### **Review and verification**

The nature and circumstances of the illness/injury shall also be determined and evaluated with respect to safety/security decisions.

- Verify that inmate wants to pursue the TCL.
- Obtain inmate C-File and thoroughly review all case factors, confidential information, if any, and determine if inmate meets initial approval criteria.

#### **Preliminary Determination**

If preliminary review of case factors reveals ineligibility for a TCL, or other specific information reflects a strong probability of denial, further TCL processing shall be suspended. A CDC Form 128-B, Information Chrono shall be prepared by the caseworker outlining the ineligible/negative facts with a recommendation to deny the TCL request. The chrono shall be referred to the designated approving authority for review and signature, or a decision to proceed with TCL processing.

#### **Review and Verification**

- If decision is to continue TCL processing, review all other case factors including disciplinary history, prison/street gang affiliations, commitment circumstances and custody level to determine recommendations for escorted versus nonescorted leave.

#### **Parole/Community Correctional Center (Inmates under Escort)**

In community correctional center settings, classified inmates will not normally require staff escort. However, escort may be considered necessary for assigned inmates with serious disciplinary actions pending. Inmates who have been placed in a county jail pursuant to PC 6253(b), or who have a hold pending, shall require custodial escort.

In cases of parolees in custody pending revocation proceedings, the Parole Agent shall be required to follow all TCL review and verification procedures to determine escort recommendations. Reasons and circumstances surrounding in-custody status shall be carefully evaluated. All in-custody parolee cases with a hold shall require staff escort.

#### **Caseworker Preparation of CDC Form 601 (TCL) Information**

- A CDC Form 601, Request for Temporary Community Leave, shall be completed and all required signatures obtained for all TCLs.

The caseworker shall establish and recommend the required length of leave, (exact departure and return times), determine reasonable cost estimate to cover leave expenses, and ensure that the funds are in the inmate's trust account prior to final approval. If funds are not available and no volunteer escort is obtained, the TCL request shall be denied and properly documented on a CDC Form 128-B, Information Chrono.

All family emergency/prerelease leaves from an institution shall require caseworker contact with Parole authorities and the leave purpose and itinerary outlined. This contact shall be reflected in the verification section of the CDC Form 601.

#### **TCL Clothing**

Arrangements for civilian clothing for the inmate during the TCL shall be made by the assigned caseworker based upon local facility supplements.

### **62070.5.2 Processing Responsibilities**

It is the assigned caseworker's responsibility to ensure, either directly or indirectly, that all required documentation for an emergency TCL is properly processed, signed, and presented to the designated centralized location of the inmate's release. Specified records office staff shall assist in providing these services.

- Family emergency/prerelease leaves from the institutions shall require preparation of a CDC Form 161, Checkout Order. A CDC Form 193, Inmate Trust Account Withdrawal, shall be prepared to cover TCL expenses.

#### **Community Correctional Center inmates**

In cases of community correctional center inmates approved for ongoing release to attend work, training, or educational programs, a CDC Form 601 shall be required for initial approval only. This approved form shall authorize ongoing releases thereafter and shall be maintained on file at the local facilities.

#### **Escape Notification**

Leaves under escort shall require the preparation of an inmate identification card with two recent photographs (front view/profile view) which contains all necessary all points bulletin (APB) information. In the event of escape, this information shall immediately be presented to the nearest law enforcement agency by escorting personnel. The escort(s) shall then notify their institution/parole region and report the incident.

#### **Funds/Medication**

The caseworker shall ensure that all documents, including advance funds for the TCL and authorized medications for the inmate are included in the TCL package. For prerelease TCLs up to \$100 of the inmate's \$200 release funds may be advanced upon approval by Parole Agent, to cover specific personal expenses, i.e., clothing, food, and carfare. (This advance allowance shall not be permitted for reimbursement of community correctional center fee charges.)

#### **Escort Staff Briefing**

When possible, the caseworker shall personally discuss the TCL plan and inmate case factors with escorting personnel prior to TCL departure. If personal contact cannot occur, any special instructions or extraordinary information pertinent to the TCL shall be documented on a CDC Form 128-B or memorandum to the escorting staff and included in the escort package for the TCL. Additional briefing of escort personnel by custodial supervisors prior to departure may be required.

#### **TCL Log**

A temporary community release log shall be maintained in a designated location at all facilities. The following staff shall be responsible for maintaining this log:

- Institutions: Watch Commanders.
- Community correctional centers: Reentry Specialist.
- Paroles: Unit Supervisors.

The chronological log (see attached exhibits A&B), shall require a listing of the inmate's name, prison number, date and time of departure, scheduled return time, and actual return time. All log entries shall reflect the date and signature of the employee making the entry.

#### **Failure to Return**

Inmates who fail to return from a leave within the designated time period shall be charged with escape. If staff is notified that the inmate's return has been unavoidably delayed, arrangements shall immediately be made to place the inmate in custody at the nearest Department facility.

#### **Searches Upon Return**

Upon return from a TCL, a search of the inmate shall be conducted by institution/facility staff to prevent the introduction of contraband. The degree and extent of the searches (clothed, unclothed, electronic, etc.) shall be determined by institution/facility security requirements.

#### **Interviewing the Inmate**

A post leave interview shall be conducted with all inmates returning from family emergency/prerelease leaves. The caseworker shall conduct the interview if on duty when the inmate returns. The institution watch commander, watch sergeant, or reentry staff on duty shall conduct the interview if the inmate returns after normal work hours or on weekends and holidays.

The interview shall be documented on the post leave review section of the CDC Form 601. In cases of a return from a funeral or critically ill bedside visit, a close evaluation of the inmate's escape potential or other signs of unusual behavior shall be made. If post leave interview is conducted by custody staff, a follow-up interview shall be held by the caseworker upon their return to duty. All original and post leave TCL documents shall be placed and maintained in the inmate's C-File or the reentry facility file if applicable.

#### **62070.6 Prerelease Planning Leave**

Prerelease planning leaves may be granted for the following reasons:

- Employment interviews.
- Making residential arrangements.
- Taking employment examinations.
- Obtaining business/profession licenses related to employment plans.
- Testing/registering for academic or vocational programs to begin after release date.
- Handling other specific business/personal matters related to reentry, as determined necessary by departmental staff.

##### **62070.6.1 General Criteria**

All general criteria outlined in DOM 62070.4 shall be applicable to prerelease planning leaves.

##### **62070.6.1.1 Release Date Criteria**

The following release date criteria shall be established on inmates prior to considering a prerelease planning TCL request:

- Parole date is within 90 days or less (institutions).
- Discharge date is within 90 days or less and inmate has been approved for community correctional center placement.
- Inmate is housed in a community correctional center and is within 180 days or less to parole.

#### **Exclusion**

- See DOM 62070.4.1.

##### **62070.6.1.2 Criteria for Custodial Escort**

Criteria outlined in DOM 62070.4.2 (Custodial Escort) shall apply for all prerelease leaves.

#### **62070.6.2 Sentencing Law Considerations**

- Determinate Sentence Law (DSL) PC 1170. Inmates sentenced under PC 1170 may be granted a normal prerelease TCL up to 60 days prior to their parole date.
- Indeterminate Sentence Law (ISL) PC 1168. Inmates sentenced under PC 1168 may be granted a prerelease TCL up to 63 days prior to their parole date.

This differs from the 60-day limit for DSL cases to allow for an advancement of up to 60 days on parole dates by parole authorities for inmates sentenced under this law.

#### **Normal TCL Defined**

A normal prerelease TCL is one that may be approved on inmates for the reasons outlined in DOM 62070.6 (Prerelease Planning Leave) and who have 60/63 days or less remaining to parole (or discharge if approved for community correctional center placement).

#### **Exceptional TCL defined**

An exceptional prerelease TCL is one which may be approved on inmates who are within 90 days or less to parole (or discharge if approved for community correctional center placement) for purposes of taking civil service examinations, attending special employment interviews, college enrollment or entrance examinations, etc., when it has been verified that the event will not be scheduled within the 60-day period prior to release.

Exceptional prerelease planning leaves require personal approval by the Warden and RPA.

**Note:** A written report by the Warden to the Assistant Deputy Director, Institutions Division, shall be prepared, outlining the reasons for approving the exceptional leave.

#### **62070.6.3 Initiating Prerelease Leave**

##### **Parole Agent**

A prerelease TCL may be initiated by either parole or institution staff upon request of the inmate.

When TCL is initiated by paroles and the inmate is in an institution, the Parole Agent shall be responsible for verifying that the request is valid through field contacts and other necessary methods. The Parole Agent shall supply institution staff with all available information; i.e., names and addresses of all contacts to be made by the inmate, reasons for TCL, itinerary to be followed, and recommended length of leave to accomplish the purposes outlined.

##### **Caseworker**

When the TCL is initiated from an institution, the caseworker shall contact the assigned Parole Agent, outline the reasons and information concerning the prerelease leave request and obtain the agent's agreement on the necessity for the leave. Whether institution or parole initiated, approval for the leave shall be required by both the Warden and the parole unit supervisor.

#### **62070.6.4 Screening Responsibilities Parole Agent/Caseworker**

The screening and review requirements and responsibilities outlined in DOM 62070.5.1 shall apply for prerelease planning leaves.

The verification processes for prerelease planning leaves shall only differ from an emergency leave by who shall be contacted to verify the leave plan of the inmate.

#### **62070.6.5 Processing**

Prerelease TCLs shall be processed as outlined in DOM 62070.5.2.

#### **62070.6.6 Parole From a TCL**

Inmates may be released on parole from a TCL under the following conditions:

##### **Indeterminate sentence law cases (ISL)**

- An advancement of up to 60 days on a parole date may be approved by a Parole Agent for inmates sentenced under ISL. This advancement may occur while an inmate is on a prerelease planning leave and is contingent on parole staff's approval of the inmate's confirmed employment/residential plans and following criteria:
  - No advancement shall be approved to release inmates prior to their minimum eligible parole date.
  - The releasing authority has not specifically directed that the parole date is not to be advanced.
  - There are no administrative reasons prohibiting the parole advancement; i.e., pending serious disciplinarys, rescission proceedings, etc.
  - Any and all specified parole conditions have been fully met.
  - The PA has authorized, in writing (CDC Form 1504, Parole Release Authorization), the parole advancement in accordance with BPT rules. The CDC Form 1504 shall be forwarded to the institution.

**Determinate Sentence Law Cases (DSL)**

- Advancement of a parole date cannot be granted for an inmate sentenced under DSL. However, an inmate under DSL shall be released to parole while on a TCL when the leave extends to the inmate's established release date. This may occur in rare instances where a leave is approved within the three day period prior to the inmate's established parole date.

**62070.6.6.1 Methods/Responsibilities for Parole From TCL**

The parole unit supervisor shall be responsible for notifying the institution when an inmate is paroled from a TCL. The following actions shall be taken:

**Parole Staff**

- The unit supervisor shall notify the institution by FAX (Attention): C&PR, of the inmate's parole advancement and release to parole from a TCL.
- The unit supervisor shall sign and process the CDC Form 611, Release Program Study, outlining the factors for authorizing the release.

**Institution Staff**

- Upon receipt of FAX authorizing the inmate's release to parole from a TCL, the C&PR shall notify the inmate's captain, caseworker, and facility watch commander that the inmate has paroled from the TCL.
- The C&PR shall direct the CCRM to process and complete all parole records on the inmate.

**Personal Property**

- The captain shall be responsible to coordinate the disposition of the inmate's personal property with receiving and release (R&R) and parole unit staff.
- If parole from the TCL is anticipated prior to the inmate leaving the institution, the inmate shall be required to sign a CDC Form 193, Inmate Trust Account Withdrawal, to cover the cost of shipping the inmate's personal property, including any personal handicraft materials. The inmate shall be required to supply staff with the name and complete address to where the property shall be shipped.
- If parole while on TCL was not anticipated, the Parole Agent shall be contacted for instructions regarding the disposition of the inmate's personal property. Under this condition, the costs for shipping the property to the designated location shall be deducted from the inmate's release fund.

**62070.6.6.2 Special Cases/Parole From TCL**

Inmates determined to require immediate contact with a Parole Agent upon release may be granted a TCL up to three days prior to their parole date under the following conditions:

The inmate's established parole date falls on a weekend or holiday.

Special medication needs or other case factors have been documented by the Parole Agent on the release program study form specifying the need for immediate contact and requesting the early release.

- The inmate is eligible for an unescorted TCL.

**Responsibilities PAROLE AGENT/C&PR**

The Parole Agent shall initiate the TCL and make all itinerary, travel, and reporting arrangements surrounding the leave.

The institution C&PR, upon receipt of the request and information, shall process the TCL for this purpose.

Inmates not eligible for an unescorted TCL, but requiring immediate contact upon release, shall be picked up by the Parole Agent on their established release date.

**62070.7 College Leave**

Temporary leaves may be granted to inmates for the purpose of attending college classes. College leaves shall require approval of the Warden and the Director.

**62070.7.1 Exclusion Criteria**

Inmates with case factors as outlined in DOM 62070.4.1 (Exclusion Criteria) and DOM 62070.4.2 (Criteria for Custodial Escort) shall not be approved for a college leave.

College leaves shall be considered only when the college courses or fields of study are not offered at the institution or facility where the inmate is being housed.

Approval/denial shall be contingent on college staff's agreement to accept the inmate for enrollment.

**Funding and Transportation**

All expenses involved in an approved off-site college education program shall be borne by the inmate. A lack of funds to cover such expenses shall be cause for denial. Arrangements for transportation to and from the college program

shall be the responsibility of the inmate and shall be approved by institution/facility staff.

**62070.7.2 Review and Processing Responsibilities**

The initial request by an inmate for a college leave shall be by the institution supervisor of education who shall perform the following functions:

**Supervisor of Education**

- Consult with the inmate and develop a program objective and attendance plan.
- Contact college staff and mutually review the program objectives, attendance plan, and the inmate's educational qualifications to pursue the program outlined.
- Obtain written approval from college officials to accept the inmate for enrollment.

**Caseworker**

The caseworker shall thoroughly review the submitted plan and take the following actions:

- Review and verify the request for the leave utilizing the basic criteria as outlined in DOM 62070.5.1.
- Process the request as outlined in DOM 62070.5.
- Prepare a memorandum for the Warden, to the Director, citing the request. This document shall outline the inmate's commitment offense, criminal history, institution adjustment, custody classification, parole/discharge date, and educational achievements. The memorandum shall also include the personal

**62070.8 Reentry Leaves/Furloughs**

Temporary community leaves from community correctional centers are subject to all criteria, screening, review/verification, and approval methods previously outlined in this section.

**CDC Form 601 [Temporary Community Release (TCR)]**

A CDC Form 601 shall be processed for all approved leaves. Leaves (furloughs) for the purpose of routine time and travel to and from established work/educational programs requires a one-time processing of a CDC Form 601 as outlined in DOM 62070.5.2 (Community Correctional Center Inmates).

**62070.8.1 Authorized Reentry Leaves and Conditions**

Leaves may be approved for reentry inmates for the purposes outlined in DOM 62070.3 (Inmate Requested Temporary Removals). Additionally, short-term facility leaves of not more than six (6) hours, between 0700 and 2100 hours, may be approved for personal business/convenience purposes as described below:

- Purchases of personal items, i.e., clothing, hygienic supplies, food, tools, etc.
- Medical/dental appointments.
- Developing release plans with Parole Agent or social services agencies.
- Attending religious services.
- Making employment arrangement.
- Participating in approved social/recreational activities.

**Note:** Leaves granted for the above purposes shall not be deducted from the allotted hours for regular TCLs described in subsequent DOM 62070.8.3 (Leave Hour Allotments).

**62070.8.2 Additional Criteria (Reentry Leaves)**

All reentry leaves requested by inmates (except family emergency TCLs) shall in addition to other criteria outlined, require the following:

- Housed at the facility a minimum of seven (7) days.
- Completed orientation, facility classification, and have an established action plan approved by facility staff.
- Be current on payment of facility fees.
- Have no disciplinary pending.
- A minimum of twelve (12) hours has elapsed since last approved TCL.

**Emergencies During orientation period**

A request for a family emergency TCL during the period of reentry orientation shall require a classification committee action to review case factors and confirm the inmate's custody level. This classification action shall be used (with other criteria outlined for approval/denial of emergency TCLs) to determine escort/non-escort requirements. This action may be done in absentia, providing no adverse actions are taken.

**62070.8.3 Leave Hour Allotments**



The maximum number of hours permitted for prerelease planning leaves in a community correctional center are:

- Sixty hours during the first month.
- Ninety-six hours during the second month.
- One hundred forty-four hours during the third and subsequent months.

**Note:** These leave hour allotments are a privilege and are subject to loss or reduction through formal disciplinary actions.

#### **62070.8.3.1 Time and Travel Limits (Reentry Leaves)**

Although no leaves will be approved for periods longer than necessary to accomplish the stated purposes, the following maximum limits shall apply:

- Furloughs.
  - Furlough leaves for attending established work, academic or vocational training programs shall be limited to twelve hours per day.
- Short Term Facility Leaves (passes).
  - Limited to six hours per day.
- Family Leaves/Prerelease Planning.
  - Leaves for purposes of re-establishing family ties and special preplanning leaves requiring an extended absence to accomplish shall be limited to thirty-six hours.
- Family emergency.
  - Family emergency TCLs shall be limited to the time necessary to complete the purpose however not more than seventy-two hours.

#### **Travel Limits**

All temporary leaves from a reentry facility (excluding emergency leaves) shall be limited to a thirty-mile radius unless a longer distance is specifically approved in writing by the supervisor/facility manager.

#### **Advance Notice Requirements (Inmate)**

It shall be the inmate's responsibility to make advance requests for specific types of leaves within the following minimum time periods:

- Less than twelve hours; twelve hours in advance.
- Overnight; forty-eight hours in advance.

#### **62070.8.4 Employment/Training Leave Verification/Processing (Responsibilities)**

The reentry specialist, upon notification by the inmate of a proposed employment/training program, shall take the following actions:

- Evaluate the proposed employment/training program.
- Contact and inform the proposed employer of:
  - Inmate's status.
  - Limits placed on inmate.
  - Need for cooperation between employer and agent.
  - Frequency of contacts required.
- Ensure that employer is reputable, possesses a business license, pays by check, withholds State/Federal Income Tax, and State Disability Insurance.
- Assess distance of job/training program from facility.
- Evaluate means of transportation to be used.
- Ensures that inmate's criminal background/case factors does not preclude job assignment.
- Verify that job/training hours do not violate the 12-hour daily time limit.
- If proposed program is for education/vocational training:
  - Determine a well defined need exists for inmate to participate in the program.
  - Determine that program will lead to employment before or shortly following parole.

#### **62070.8.4.1 Reclassification (Employment/Training Approval)**

Upon verification and approval of an inmate's job or training program, an in absentia CDC Form 128-G, Classification Chrono shall be prepared by the reentry specialist with a signature block for the facility manager, which shall be signed. The chrono shall include the following:

- Description of program/job.
- Rate of pay.
- Hours that inmate will leave and return to facility.
- Type/means of transportation.
- Any specific instructions to be given to the inmate.

#### **62070.8.4.2 Facility Controls (Approval Furloughs)**

Reentry facility managers shall be responsible for establishing and maintaining the following controls on inmate's approval for job/training furloughs:

- Maintain a daily roster on all approved inmate furloughs which contains:
  - Complete daily itineraries.
  - Scheduled departure and return times.
  - Name of contact person at program site.
  - Address and phone number of program location.
  - Daily contact/verification section.
- Require that a facility staff member makes daily telephone contacts with designated contact person, confirms the inmate's compliance with the program/itinerary and records this contact in facility roster.

#### **62070.9 Medical/Psychiatric Removals**

Inmates may be temporarily removed from an institution to a community medical facility for medical, psychiatric, or dental purposes under conditions outlined in this section.

#### **62070.9.1 Conditions for Removal**

Medical removals shall be authorized for the following:

- Medical, dental, or psychiatric examination, diagnosis or treatment that is not available at the institution or within other medical facilities of the Department.
- Emergencies, wherein immediate care and treatment cannot be provided at the institution and transfer to another institution that may provide the service is not reasonable.

#### **62070.9.2 Approval**

Temporary removals for medical reasons shall be approved by the CMO, the AW responsible for the inmate, and the Warden or chief deputy Warden.

#### **Weekends, Holidays, and After Normal Work hours**

Medical emergencies requiring removal of inmates to a community medical facility occurring after normal work hours, or on weekends and holidays, may be authorized by the institution watch commander, and/or the administrative officer-of-the-day (AOD). When time permits, the facility watch commander shall seek prior approval from the AOD for the emergency removal. When immediate contact is not possible, the AOD shall be notified as soon as possible and all details of the removal reported.

#### **62070.9.3 Procedures/Responsibilities (Medical Removals)**

During normal work hours, the CMO shall direct medical staff to complete a CDC Form 7252, Request for Authorization of Temporary Removal for Medical Treatment. A separate CDC Form 7252 shall be required for every removal.

#### **AW**

The CDC Form 7252 shall be forwarded to the AW in charge of the inmate for a custody/security review. The AW level review shall require the following:

- A review of the inmate C-file to determine escape/violence potential, commitment offense, sentencing status, custody level, etc.
- Determine in writing, the type and degree of security/custody escort required. This order shall include:
  - Type and amount of restraint equipment.
  - Number of escort personnel.
  - Type of transportation.
  - Type and number of weapons to be used.
  - Any special security instructions, i.e., additional escort vehicles, specific travel routes, etc.

**Note:** All removals for medical/psychiatric purposes shall require custodial escort. The type and degree of escort shall be determined by the above procedure and as outlined in DOM 55060, Transportation of Inmates. Hospital coverage shall also be determined by this section.

#### **Warden**

The CDC Form 7252 shall be forwarded to the Warden or chief deputy Warden for final approval.

#### **Records Office staff**

Records office staff shall process the requirements to effect the removal as outlined in DOM 62070.5.2, Temporary Community Leave. The original CDC Form 7252 shall be placed in the inmate's C-file and a copy in the inmate's medical file.

#### **62070.9.4 Emergency Removal Procedures/Responsibilities Medical Staff (Emergencies After Normal Hours, Holidays/Weekends)**

When medical emergencies occur during other than normal work hours requiring an inmate(s) removal to a community medical facility, the senior medical staff person on duty shall:

- Contact the assigned medical officer-of-the-day (MOD) and describe the medical circumstances.
- Receive emergency medical/treatment instructions from the MOD.
- Obtain verbal approval from the MOD to remove the inmate(s) to an appropriate community medical facility based on circumstances of the injury/illness.
- Notify the watch commander and report all details and instructions.

#### **Watch Commander/AOD**

The institution/facility watch commander shall be responsible to coordinate and effect emergency medical removals during non business hours.

The watch commander shall assume the responsibilities outlined for the AW in DOM 62070.9.2 for medical removals under these described conditions. The AOD, if present or in contact during the emergency, shall assume responsibility for authorizing the removal.

#### **Custodial Coverage Community Hospital**

The AOD and watch commander shall ensure that appropriate custodial coverage is provided at the community hospital as outlined in DOM 55060, Transportation of Inmates.

#### **62070.10 Release to Hold**

California statute authorizes the Department to release inmates whenever official detainers are on file from other law enforcement jurisdictions within the state.

##### **62070.10.1 Conditions for Release/Retention in Custody**

Inmates that have scheduled release dates and are to be released to a "Hold" lodged by a law enforcement or other agency may be:

- Released to the agency lodging the detainer within five days, or five court days, if the law enforcement agency lodging the detainer is more than 400 miles from the county in which the institution is located, prior to the scheduled release date, provided the inmate remains in custody until the scheduled release date.
- Retained in custody of the Department up to five days, or five court days, if the law enforcement agency lodging the detainer is more than 400 miles from the county in which the institution is located, after the scheduled release date to facilitate pickup by the agency lodging the detainer.

##### **62070.10.2 USINS Holds**

Inmates/parolees scheduled to be released to an active USINS detainer shall be released as follows:

- Release the inmate/parolee to the USINS officials within five days prior to the scheduled release date if the agency is within 400 miles of the releasing institution, or five court days prior to the scheduled release date if the agency is more than 400 miles from the releasing institution, provided the inmate/parolee is kept in custody until the scheduled release date.
- Retain the inmate/parolee in custody no more than 48 hours beyond the scheduled release date to facilitate pick up by USINS officials.
- If the USINS officials cannot pick up an inmate/parolee within the required time limitations, notations are to be made on the CDC Form 850, Detainer Summary, that USINS cannot pick up the inmate/parolee. The notations will include date, time, name of USINS official spoken to, and name of the Department staff person making the notation. The inmate/parolee is to be given reporting instructions and released to parole (or discharged if applicable) providing there is no other detainer/reason that would preclude release. PC 2713.1 does not prohibit the granting of pre-release funds to these individuals.

##### **62070.10.3 Procedures/Responsibilities C&PR/CCRM**

The C&PR and CCRM shall be responsible to coordinate the release of inmates under detainer status and contact the agency lodging the detainer.

#### **Records Staff (Early Release)**

When it is determined that an agency with a hold will assume custody of an inmate prior to the scheduled release date, the following actions shall be taken:

- A CDC Form 161, Checkout Order, shall be prepared reflecting the date of release to the agency and the actual parole date of the inmate. This information shall facilitate accurate OBIS entries.
- A CDC Form 801, Department Detainer, shall be prepared on the inmate with a notation not to release prior to scheduled parole date.

- Follow all other established parole release procedures as outlined in DOM 75010, Case Records.

#### **C&PR (Notification to Inmate)**

Inmates retained in Department custody beyond their scheduled release date to facilitate pickup, shall be notified in writing (CDC Form 128-B) by the C&PR. The CDC Form 128-B, shall specify the following:

- Information regarding the detainer.
- Agency requesting the extension.
- Date of scheduled release to the agency assuming custody.

#### **62070.11 Off-Site Work Assignment (OSWA)**

Inmates may be temporarily removed from an institution/facility for the purpose of performing work related to the institution/facility or other state/federal agencies and subdivisions as authorized by California statute.

##### **62070.11.1 Exclusionary Criteria**

Inmates with case factors outlined in DOM 62070.4.1 and 62070.4.2 shall not be considered for off-site work assignment (OSWA). Inmates convicted for, or with a history of arson, or inmates with five or more years remaining to their established release date, shall also be excluded from OSWA.

##### **62070.11.2 Escort Requirements**

All removals for OSWA purposes shall be under custodial escort. Photographs and escape information shall be in possession of escort personnel as described in DOM 62070.5.2. Inmates shall be attired in prison clothing. Travel routes, emergencies, and all other escort procedures outlined in DOM 62070.5.2 shall be adhered to.

#### **Searches**

Inmates removed from a facility for OSWA purposes shall be searched prior to removal and upon return from their assignment. The degree of the searches shall be determined as outlined in DOM 62070.5.2(7).

##### **62070.11.3 Review/Approval (Methods and Responsibilities)**

Consideration for OSWA classification shall include the following actions:

#### **Correctional Counselor**

- The CC-I shall initiate a preliminary review of inmate case factors for OSWA consideration.
- Eligible inmates identified by the caseworker shall be referred to a unit/institution classification committee (UCC/ICC) for review.

#### **Classification Committee**

- Review case factors for OSWA clearance.
- Cases approved at classification shall be recorded on a CDC Form 255, Off-Site Work Assignment Eligible List, and forwarded to the Warden or chief deputy Warden for final approval.

#### **Warden/Chief Deputy Warden**

- Review case factors of inmates submitted on CDC Form 255 for final OSWA approval.
- Delete from the list any inmates determined unacceptable.
- Sign and forward approved list to designated staff responsible for effecting OSWA releases.

##### **62070.12 Community Betterment/Delinquency Prevention**

Wardens may establish community betterment and delinquency prevention programs within the institutions and approve the temporary removal of inmates for participation. The intent and purpose of these programs shall be to orient communities to the consequences of crime and delinquency. Controls shall be established by the program coordinators to prevent glorification of crime and/or the criminal, or criticisms of statutes and law enforcement agencies.

##### **62070.12.1 Program Coordinator**

The institution community resources manager shall be responsible for overall coordination of the program.

A list of all approved inmates for community betterment/delinquency prevention participation shall be maintained by the community resources manager (CRM).

Community groups selected for speaking engagements shall be approved by the coordinator prior to scheduling.

##### **62070.12.2 Criteria/Approval Methods**

Off-site work assignment clearance shall be required for inmates assigned to community betterment programs. All criteria, review and approval methods outlined in DOM 62070.11.1, 11.2, and 11.3 (OSWA) shall apply to community betterment assignments. Participation shall be voluntary.

#### **Escort Limitations**

A maximum limit of four inmates per speaking engagement shall be permitted unless otherwise approved in writing by the Warden or designee. Overnight engagements shall be prohibited. Travel distance from the institution for speaking engagements may be limited by the Warden.

#### **62070.13 Disaster Relief Teams**

Inmates may be temporarily removed from an institution/facility for the purpose of providing assistance to communities during a major disaster or enemy attack.

##### **62070.13.1 Assigned Duties**

Disaster teams (emergency crews) may be utilized to assist communities surrounding the institution in providing the following types of services:

- Firefighting.
- Salvage operations.
- Rescue operations.
- Identification/burial of dead.
- Registration of homeless.
- Other services approved by the Warden.

##### **62070.13.2 Approval Criteria Escort**

Disaster crews shall be selected from the institution list of inmates approved for OSWA. Inmates approved for this purpose shall have an X suffix added to their custody, i.e., OSWAX. Disaster crews shall be under custodial escort and supervision during the period of removal and subject to all procedures outlined in DOM 62070.11.2, Escort/Search Requirements.

#### **62070.14 Court-Ordered Removals**

Inmates may be temporarily removed from an institution/facility for specific court-ordered appearances. Court-ordered removals shall be authorized and effected under the criteria and procedures outlined in DOM 73040, Case Records.

#### **62070.15 Revisions**

The Deputy Director, Institutions or designee, shall ensure that the content of this section is current and accurate.

#### **62070.16 References**

PC §§ 1168, 1170, 2600, 2620-2625, 2690-2692, 2700-2710, 2716, 2760, 2761, 2780, 2781, 2790, 2931, 3056, 3057, 3410 - 3425, 4530, 4755, 5054, 5055, 5068, 5080, 6202, 6250-6256, 6260-6266.

CCR (15) (3) §§ 3040, 3044, 3072, 3080-3083, 3273, 3275-3280, 3304, 3325, 3350, 3375.

CCR (15) (2) §§ 2355 - 2359.

W&I § 300.

CC § 232.

18 USC 1961.

ACA Standards 2-4015, 2-4411 - 2-4414, 2-4416 - 2-4419, 2-4434, 2-4480 - 2-4486.

## **ARTICLE 12 — TREATMENT CATEGORIES**

*Revised October 31, 1990*

#### **62080.1 Policy**

Inmates committed to the Department who are identified as in need of special medical/psychiatric treatment shall be evaluated and placed into specialized medical/psychiatric treatment category programs.

#### **62080.2 Purpose**

This section establishes standard procedures for the orderly identification, evaluation, and acceptance of those inmates in need of special medical/psychiatric treatment programs.

#### **62080.3 Treatment Categories**

*Revised November 20, 2012*

##### **Medical**

Assignment into and out of all medical treatment categories shall be through the classification process and endorsement by a CSR. Classification committee referrals to a CSR shall also include the appropriate medical recommendation on a CDCR Form 128-C3, Medical –Classification Chrono, signed by a physician and/or psychiatrist dated within 90 days of the CSR's review. The CDCR Form 128-C3 shall indicate that an agreement has been reached between sending and receiving physicians. Inmates endorsed for specific medical treatment categories shall receive at a minimum an annual medical evaluation to determine if continued medical placement is appropriate. The case shall be submitted to a CSR for review and endorsement at least on an annual basis.

#### **62080.4 Acute Medical Inpatient**

##### **Category "H"**

Inmates who require medical services and/or surgical care in a general acute care hospital are designated Category "H."

"Category "H" care is provided at CMF, CIM, and California Men's Colony - East (CMC-E). Female inmates and male inmates with medical needs that cannot be met in CDCR hospitals may be transferred to a community hospital.

#### **62080.5 Medical Inpatient**

##### **Category "N"**

Inmates with chronic medical illness requiring skilled nursing or intermediate level medical care are designated Category "N". This program has licensed nursing staff on duty at all times and is provided at CMF, CIM, and CMC-E. Female inmates requiring this level of service shall be transferred to a community hospital unless special arrangements can be made at the CIW infirmary. This category is not for inmates in infirmaries undergoing short-term treatment of minor illness.

#### **62080.6 Medical Outpatient**

##### **Category "O"**

Inmates who have recurrent, contagious, chronic, or other medical problems that do not require inpatient care but do require frequent outpatient diagnostic, treatment and/or rehabilitation services shall be designated Category "O". This category includes those inmates on dialysis or unusual diets and those requiring treatment and who are wheelchair-bound or blind.

This category is provided at the acute general hospitals at CMF, CIM, CMC-E, and the CIW infirmary. Inmates unable to climb stairs shall not be transferred to CMC-E.

#### **62080.7 Treatment Categories Psychiatric**

##### **General**

Inmates who suffer impaired functioning sufficient to require a mental health treatment program due to symptoms of a major mental illness shall be transferred to CMF, CMC-E or CIW for psychiatric evaluation. The psychiatric referral and diagnosis shall be consistent with the standards of the American Psychiatric Association, DSM-IV-R, Classification Axis I, II and V.

Reception Center psychiatric referrals shall be documented on a CDC Form 128-C and referred to a CSR. The CSR shall endorse reception center process cases to CMF, CMC, or CIW for psychiatric evaluation.

Upon completion of the psychiatric evaluation, the case shall be returned to a CSR for confirmation of the recommended psychiatric program and placement at CMF, CMC-E or CIW or DMH. Inmates not requiring a psychiatric program shall be placed at an institution in accordance with the classification score and other program needs.

##### **62080.7.1 Reception Centers**

Reception Center inmates designated psychiatric category on a prior term shall be evaluated by psychiatric staff for reestablishment of the category based on the current need for psychiatric intervention.

This evaluation shall be documented on a CDC Form 128-C and shall include a recommendation for housing at CMF, CMC-E or CIW if intervention is indicated.

If psychiatric intervention is not indicated, staff shall recommend general population placement. The Category "U" shall not be used at reception centers.

##### **62080.7.2 Institution Referrals**

Institution requests for psychiatric evaluation shall be documented on a CDC Form 128-C and referred to a CSR for endorsement to CMF, CMC-E or CIW as "psychiatric evaluation and return" cases.

Inmates determined not to be in need of psychiatric intervention shall be returned by the C&PR to the sending institution, providing the CDC Form 128-C documenting the psychiatric evaluation is available and dated within 90 days of C&PR review.

Inmates endorsed for specific psychiatric treatment categories shall receive at least annually, a psychiatric evaluation to determine if continued psychiatric treatment is necessary. This annual evaluation shall result in a classification review and referral to a CSR for confirmation of the inmate's category designation.

##### **62080.7.3 C&PR Designation**

C&PRs at CMF, CMC-E and CIW may re-designate between Category "I" and "J" inmates based on current program status by using a CDCR Form 840, CDCR Reclassification Score Sheet.

**62080.8 Inpatient Psychiatric Care**

Inmates housed at CMF, Atascadero State Hospital (ASH) or Metropolitan State Hospital (MSH) who demonstrate impaired functioning due to symptoms of a major mental disorder shall be designated Category "I".

**Category "I"**

This category shall include inmates determined to be:

- Unable to perform normal institution routines.
- Unable to provide for their basic needs or utilize available treatment resources.
- Suicidal or self-abusive.
- Inmates who demonstrate impaired functioning or other abnormal behavior of unknown etiology may be admitted for observation and diagnostic study.

Cases shall be designated Category "I" only by CMF/DMH, CMC (ASH cases) or CIW (MSH cases) staff.

**62080.8.1 Inpatient Observation, Unclassified**

Other institutions with inmates appearing to meet Category "I" criteria shall provide this information to the designated contact person at CMF/DMH or CIW. This may be accomplished by telephone interview.

Upon verbal acceptance the DMH evaluation team will notify CMF C&PR who will request FAX approval for transfer as "inpatient observation, unclassified." (Refer to 62080.16.1).

Female inmates needing inpatient psychiatric services shall be referred to a state hospital by CIW staff. Male inmates at CMC needing inpatient psychiatric services shall be referred to ASH or CMF/DMH.

**62080.8.2 PC 2684**

DMH provides inpatient services for inmates transferred from psychiatric programs at CMF, CMC, and CIW to a state hospital pursuant to PC 2684. These inmates shall be designated Category "I" during their state hospital placement.

**62080.9 Outpatient Psychiatric Care**

Outpatient care shall provide a supportive milieu in a program designed to maintain or improve social and psychiatric functioning.

**Category "J"**

Inmates in an outpatient psychiatric treatment program shall be designated Category "J". They may be received from reception centers or other institutions diagnosed as suffering from a major mental illness sufficiently disabling to prevent adjustment to the general population without psychiatric intervention.

**62080.9.1 Criteria**

These individuals shall have a DSM-III-R Axis I diagnosis of:

- Schizophrenia.
- Delusional Disorder.
- Brief Reactive Psychosis.
- Schizophreniform Disorder.
- Schizoaffective Disorder.
- Induced Psychotic Disorder.
- Atypical Psychosis.
- Bipolar Disorder - sufficiently disabling to preclude general population placement.
- Major Depression - Depressive disorder not otherwise specified.
- Other Axis I diagnosis concomitant with an Axis V Global Assessment Function Score of 50 or less.

Category "J" designation shall not include inmates in need of acute psychiatric hospitalization as provided for by Category "I" criteria.

**62080.9.2 General**

This category shall be provided at CMF, CMC-E and CIW and shall only be designated by staff at these institutions.

CMF shall house Category "J" inmates who are assaultive or otherwise present management problems. CMC-E shall house inmates chronically disabled by mental illness who are not a danger to others and require little therapeutic programming beyond medication maintenance.

**62080.9.3 Category "J" SHU Placement**

*Revised February 16, 2007*

When a Category "J" or "K" inmate is found guilty of a rule infraction requiring a SHU term be established, the Institution Classification Committee shall determine whether the act was likely a result of a developmental

disability or a mental condition or if continued supportive milieu housing is necessary.

If it is determined that the inmate's disability or mental condition makes SHU programming impractical, the term shall be suspended or commuted and the inmate retained or transferred to the appropriate institution.

If it is determined that a male inmate continues to need supportive care, an evaluation for the Psychiatric Services Unit housing shall be recommended and/or completed by CMF staff. (Refer to DOM 62050.1.2.)

If it is determined that supportive housing is no longer required, the inmate shall be recommended for Category "U", the SHU term assessed, and an appropriate SHU program recommended or the term suspended or commuted and an institution and alternate recommended to the CSR.

**62080.10 Supportive Care****Category "K"**

Inmates with pronounced social inadequacies due to mental retardation and/or developmental disabilities that preclude general population placement shall be designated Category "K". These inmates shall have a DSM III-R Axis V diagnosis concomitant with a Global Assessment Function Score of 50 or less.

This category shall be provided at CMC-E, CMF and CIW. Male inmates with this designation who are assaultive or otherwise a management problem shall be housed at CMF.

**62080.11 Psychiatric Diagnostic Program****Category "X"**

Category X is a 90-day evaluation program ordered by the BPH for specific psychiatric or psychological assessment. Inmates shall be endorsed for Category X and return to the sending institution. FAX approval is required prior to transfer.

**62080.12 Psychiatric Milieu Outpatient****Category "T"**

Male inmates with identified psychiatric problems requiring outpatient group therapy or individual psychotherapy in a structured environment shall be designated Category "T." Normal participation in this program shall not exceed 12 months, and upon completion of the program, inmates are expected to return to the sending institution or transfer to another institution, if the sending institution is no longer appropriate. Category "T" is provided only at CMC and is normally limited to those cases recommended by the BPH. FAX approval by Classification Services is required prior to transfer. In addition, Category "T" cases shall be presented to a CSR with a placement recommendation at the completion of or after 12 months in the program, whichever comes first.

**62080.13 Psychiatric Recovered****Category "U"**

Inmates who have recovered from a major illness requiring inpatient or outpatient psychiatric services shall be designated Category "U". A significant period (normally 180 days) of no serious psychiatric symptoms shall be considered evidence of recovery.

Category "U" shall include inmates no longer in need of psychotropic medication and those who are asymptomatic as a result of compliance with psychotropic medication. These inmates may be expected to function within a general population setting.

All inmates classified as Category "U" for a period of two years shall be reviewed for possible reclassification and deletion of the category designation.

**62080.13.1 Inappropriate Category Designation**

Professional differences of opinion regarding an inmate's placement in a psychiatric category may occur amongst clinical staff at an institution. If these differences cannot be resolved informally, the case shall be referred to the institution's Chief Psychiatrist for resolution.

If the differences of opinion occur between clinical staff at separate institutions and agreement cannot be reached, the case shall be referred to the Chief Psychiatrist, Mental Health Services Branch, for resolution.

**62080.14 Transgender or Intersex Inmates**

*Revised May 15, 2018*

Inmates who have been diagnosed as transgender or intersex, as documented on the Medical Classification Chrono, shall be referred to a classification committee for review of all case factors and determination of appropriate institutional placement and housing assignment. In order to ensure inmate-patients receive the necessary medical care/mental health treatment, transgender or intersex inmate-patients, to the maximum extent practical, shall be housed at the following institutions:

- California Medical Facility (CMF)

- Richard J. Donovan (RJD)
- San Quentin State Prison (SQ)
- Mule Creek State Prison (MCSP)
- California Substance Abuse Treatment Facility (SATF)
- California State Prison – Sacramento (SAC)
- Salinas Valley State Prison (SVSP)
- Correctional Institution for Men (CIM)
- Kern Valley State Prison (KVSP)
- California Men's Colony
- California Health Care Facility
- Central California Women's Facility (CCWF)
- California Institution for Women (CIW)
- Folsom Women's Facility

In cases where an inmate-patient has multiple case factors which make it difficult to house them in one of the above listed institutions, a case conference consisting of Health Care Placement Oversight Program, Classification Services Unit, California Correctional Health Care Services, and Population Management Unit staff, shall be conducted to determine the most appropriate level of care/institution suitable for housing consistent with the inmate-patient's case factors.

Inmates identified as transgender or intersex on the Medical Classification Chrono shall, upon request, be provided with state issued brassieres or boxer shorts via the institution clothing room and permitted to purchase such items as needed.

#### **62080.15 Medical and Psychiatric Transfers/ Non-Emergency**

Routine medical/psychiatric transfer requests shall be referred to a CSR with a recommendation from an appropriate classification committee.

Routine transfers for medical/psychiatric reasons generally are to resolve a specific short-term medical problem, psychiatric problem, or evaluation as a "medical/psychiatric return" placement or for special prolonged placement needs.

#### **62080.15.1 Medical/ Psychiatric and Return**

No medical transfer for evaluation and/or short-term treatment shall be approved until a statement of acceptance has been obtained from the receiving institution's Chief Medical Executive (CME) or Chief Psychiatrist as appropriate. If the transfer request is within CDCR policy, the CSR shall indicate endorsement in the usual manner. If the inmate is to be returned to the sending institution upon completion of evaluation or treatment, it shall be indicated on the CDC Form 128-G, Classification Chrono, by "Medical (Psychiatric) and Return." Male inmates serving life without possibility of parole in need of emergency medical/psychiatric care shall be exempted from Departmental Review Board review requirements and shall be presented to a CSR for transfer approval.

#### **62080.15.2 Department Form 128-C3 Documentation**

A medical officer's report on a CDCR Form 128-C3 shall be attached defining, in lay language, the medical/psychiatric problem or reason for the evaluation; the relative seriousness of the case; the period of time within which the transfer should be effected; the type of transportation necessary; whether an attendant is required; if any medication or care is necessary while en route; and a statement that acceptance by the receiving CME/Chief Psychiatrist has been obtained.

#### **62080.15.3 CSR Review**

The responsibility for locating treatment or specialist resources shall rest with the medical/psychiatric department and not with the CSR. Such transfers shall usually be approved unless there is an extremely serious overriding reason, in which case the CSR shall consult with the referring CME or psychiatrist. If after the consultation the CSR determines the endorsement inappropriate, the case shall be discussed with the Chief, CSU, who shall consult with the Assistant Deputy Director, Health Services, to develop a transfer plan. Inmates transferred for medical/psychiatric reasons may be admitted directly to the hospital, if necessary, pending an evaluation by a physician/psychiatrist.

#### **62080.15.4 C&PR Review**

When the medical procedures are completed for "medical and return" cases, the C&PR shall be notified. The C&PR shall review the case to ascertain if any medical, custodial or program considerations contraindicate the inmate's return to the sending institution. If there are contraindications, or an alternate program/institution is deemed preferable, the C&PR shall refer the case to a classification committee. If no contraindications exist, the C&PR shall refer the case to the institution's CCRM for return to the sending institution.

#### **62080.16 Medical and Psychiatric Placement**

For placements in a medical or psychiatric program, the following additional procedure is required:

- The CDC Form 128-C shall indicate that the inmate meets the criteria established for the program, as indicated above, and note the name of the accepting physician.

##### **62080.16.1 Criteria**

There are no referrals or waiting lists for transfers to the Inpatient Psychiatric Observation, Unclassified, Category "I," as transfers are to be accomplished within 72 hours.

The medical/psychiatric category designation shall be assigned at the time the inmate is approved for the program.

Clinical progress reports on a CDC Form 128-C shall be made quarterly, but may be completed more frequently if conditions warrant. A summary CDC Form 128-C report, a classification action, and CSR endorsement are required whenever an inmate is changed from a program category.

The C&PR is delegated the authority to act as a CSR for program changes between Categories "I" and "J", "J" and "H", and "N" and "O".

##### **62080.16.2 Enemy Identification Prior to Transfer**

Prior to all medical/psychiatric transfers, the C&PR of the sending institution shall notify the receiving institution's C&PR by telephone if the inmate has enemies at the receiving institution, so proper precautions may be taken. If the enemy situation precludes the transfer, the sending institution shall make an alternate institutional transfer arrangement to facilitate the inmate's needs.

##### **62080.17 Emergency Medical Transfers**

Upon acceptance of an emergency case by the CME of the receiving institution and completion of transportation arrangements, the C&PR at the receiving institution shall contact the CSU for FAX transfer approval

##### **62080.17.1 Ambulance Service**

The CDCR air and land ambulance service shall be administered by CMF. Personnel assigned to the ambulance operation shall be familiar with the policies and procedures governing the transportation of inmates and the necessary procedures governing medical and psychiatric patients.

##### **62080.17.2 Ambulance Use**

The land or air ambulance shall be used only for cases in which the CME/Psychiatrist of the sending institution has determined that such transportation is required. An MTA from CMF or the sending institution shall arrange to accompany the land or air ambulance. Requests for land or air ambulance use shall include information regarding custodial classification, degree of violence and any other useful information.

##### **62080.17.3 Medical Transporting of Parolees**

The land or air ambulance may also be used for transporting inmates to a parole placement or to return parolees to an institution when a medical/psychiatric statement is obtained indicating that this type of emergency transportation is medically/psychiatrically necessary. The CMOE at CMF shall schedule and route the air and land ambulance. Requests for ambulance use shall be directed to that office.

##### **62080.17.4 Emergency FAX Approval**

Upon approval and completion of transportation arrangements, the Associate Warden, Health Care Access Unit, at CMF shall contact the CSU to request FAX transfer approval.

#### **62080.18 Involuntary Psychiatric Transfers**

Inmates involuntarily transferred to CMF for psychiatric treatment are entitled to a hearing regarding the transfer (Whitaker v. Rushen, No. C-81-3284 SAW). Upon arrival at CMF, such inmates shall be served with a Notice of Transfer to CMF. The notice explains the inmate's rights. The inmate may sign the notice waiving the rights or may request a hearing if opposed to the transfer. Inmates shall have this hearing at CMF.

##### **62080.18.1 Whitaker V. Rushen No. C-81-32-84 SAW**

The hearing shall be held within seven calendar days after arrival at CMF. If the hearing cannot be held within seven days, the inmate shall be informed in writing of that fact, the reason for the delay, and an estimated date by which he may expect the hearing. The inmate's counselor shall be assigned to assist the inmate in gathering evidence and interviewing witnesses and shall be present at the hearing. The hearing shall consist of a classification committee review of the case and shall include the following:

##### **Inmate Due Process**

- Determination that the inmate received written notice of the transfer to CMF stating that the inmate has a right to a hearing and that such hearings are normally held within seven days after arrival at CMF.

- The information relied upon in ordering the transfer to CMF shall be disclosed to the inmate. The inmate shall be heard in person and be permitted to present evidence, including witnesses, on his behalf. One of the members of the classification committee shall be a psychiatrist employed by CDCR. This person shall be an "independent decision maker" and shall not be the inmate's treating psychiatrist at either the sending or receiving institution. Following the hearing, the independent decision-maker shall inform the inmate in writing of the committee's decision and the information relied upon in arriving at the decision (*Whitaker v. Rushen*). The inmate may appeal the decision, using a CDCR Form 602, Inmate/Parolee Appeal; within 30 days of receipt of the hearing documentation. A ruling on the appeal shall be returned within 20 working days.

#### **62080.19 Revisions**

*Revised November 20, 2012*

The Deputy Director, Facility Operations, DAI or designee shall ensure that the content of this Article is current.

#### **62080.20 References**

CCR § 3379.

PC §§ 2684, 2690, 2962, 2911, 5058, 5054, 5068, 5080, 1170, and 1191.

*Whitaker v. Rushen*, No. C-81-32-84 SAW.

### **ARTICLE 13 — BOARD OF PAROLE HEARINGS**

*Revised March 29, 2006*

#### **62090.1 Policy**

PC 3040 provides that the Board of Parole Hearings (BPH) shall have the power to allow prisoners imprisoned in the state prisons, to go upon parole, outside the prison walls and enclosures, pursuant to PC 1168(b).

#### **62090.2 Purpose**

This Section establishes standard procedure for conducting required BPH hearings and preparation of the institutional BPH evaluation reports.

#### **62090.3 Importance of Board Hearings**

One of the most important times during incarceration for certain inmates and parole violators is their appearance before the BPH. All life sentence prisoners must appear before the BPH to be considered for parole. Those inmates sentenced under the Indeterminate Sentence Law (ISL) or sentenced prior to 1985 to a term of one year and one day appear before the Board that provides them an opportunity for parole consideration. Inmates sentenced to one year and one day for offenses occurring after January 1, 1985, do not appear before the BPH.

The BPH rules are set forth in CCR (15) (2) and in Administrative Directives issued by the BPH.

#### **62090.4 Board Personnel**

The BPH is a policy making body of nine commissioners appointed by the Governor for a term of four years. Deputy Commissioners are civil service employees who assist the BPH in conducting hearings.

#### **62090.5 Types of Board Hearings**

Life prisoner hearings:

- Documentation Hearing.
- Initial Parole Consideration Hearing.
- Subsequent Parole Consideration Hearing.
- Progress Hearing.
- Rescission Hearing.

Non-life Prisoner hearings [PC 1168(b)]:

- Parole Consideration Hearing.
- Rescission Hearing.
- Extended Term Hearing, [PC 1170.2(b)].
- Mentally Disordered Offender Hearing, (PC 2960-2962).

Parole violator Hearings:

- Revocation Hearing.
- Parole Revocation Extension Hearing.

#### **62090.5.1 Life Prisoner Hearings**

The following are the different types of hearings for life prisoners.

##### **62090.5.1.1 Documentation Hearing**

Inmates committed for first or second degree murders that occurred on or after November 8, 1978, and inmates committed pursuant to PC 667.51, 667.7, and 217.1 shall have a hearing prior to their minimum eligible parole date.

The Documentation Hearing is conducted by one Deputy Commissioner. The purpose of this hearing shall be to monitor and document the institutional adjustment of each life prisoner. The inmate's counselor shall complete a Life Prisoner Post-conviction Progress Report which covers the period of time from the inmate's reception into CDCR, or from the date the life term began, whichever is latter, to the hearing, if it is the first documentation hearing, or for the period from the last documentation hearing for which a Post-conviction Progress Report was prepared to the present hearing.

The first documentation hearing shall be scheduled during the 36th month after the life term starts. Subsequent documentation hearings shall be held at three-year intervals until the Initial Parole Consideration Hearing.

##### **62090.5.1.2 Initial Parole Consideration Hearing**

An Initial Parole Consideration Hearing is conducted by a panel of three, of which at least two are BPH Commissioners. This hearing may include an attorney representing the inmate, a DA representing the county in which the crime occurred, and the victim or next of kin representing a victim. The purpose is to consider the inmate's suitability for parole and, if suitable, establish a term. The hearing is scheduled 13 months before the inmate's Minimum Eligible Parole Date (MEPD). A Post-conviction Progress Report and a Life Prisoner Evaluation Report shall be completed by the inmate's counselor for use in the hearing.

##### **62090.5.1.3 Subsequent Parole Consideration Hearing(s)**

A Subsequent Parole Consideration Hearing is held for those inmates previously found unsuitable for parole and conducted for the same purpose and in the same manner as an Initial Hearing. As with the Initial Parole Consideration Hearing, the Subsequent Hearing is conducted by a panel of three, at least two of which are BPH Commissioners. It is scheduled one to three years after the hearing in which an inmate was found unsuitable for parole. An abbreviated Life Prisoner Evaluation Report shall be prepared for this hearing if the most recent previous hearing was conducted with the use of a complete Life Prisoner Evaluation Report. Abbreviated Evaluation Reports are not to be used in consecutive hearings. An updated Post-conviction Progress Report covering factors since the last Board appearance shall also be prepared.

##### **62090.5.1.4 Progress Hearing**

A Progress Hearing is held for life prisoners with parole dates to consider their institutional adjustment since the previous hearing. This hearing is conducted by a panel of three, at least two of which are BPH Commissioners. The purpose is to grant post-conviction credit. A Post-conviction Progress Report covering factors since the last Board appearance shall be prepared. Psychiatric evaluations are not prepared for Progress Hearings unless requested by the BPH.

##### **62090.5.1.5 Rescission Hearing**

A Rescission Hearing is held to consider if there is good cause to rescind or postpone a life prisoner's parole date for disciplinary, psychiatric or other specific reasons. No Board report is required.

##### **62090.5.2 Non-Life Prisoner Hearing**

The following are the different types of Non-Life Prisoner Hearings.

###### **ISL Parole Consideration Hearing**

An Indeterminate Sentence Law (ISL) Parole Consideration Hearing is held for certain inmates who committed crimes prior to July 1977 and had Determinate Sentence Law (DSL) dates retro calculated. The purpose of this hearing is to provide these inmates with an opportunity to be considered for release under the ISL that may result in a lesser term than the DSL provides. It is scheduled a month before the inmate's MEPD and annually thereafter for inmates denied a parole date in the previous hearing.

###### **PC 1168(b) Hearing**

A PC 1168(b) Hearing is scheduled within 60 days after reception of inmates sentenced to a term not exceeding one year and one day under the ISL or under the same provision in the DSL. The purpose of this hearing is to set a term within the one year and one day range. No Board report is required if the inmate's hearing is within four months of reception.

###### **ISL Rescission Hearing**

A Rescission Hearing is held to consider if good cause exists to rescind an ISL parole date for disciplinary, psychiatric, or other reasons. No Board report is required.

###### **Extended Term Hearing**

An Extended Term Hearing is held to consider an extension of the DSL retro calculated term in selected ISL cases. This hearing is scheduled within 120 days after the inmate's reception by the Department or after receipt of an amended Abstract of Judgment. The decision to schedule a hearing is made

by the BPH. Such hearing is conducted by a panel of three; at least two of which are commissioners. No Board report is required.

#### **Mentally Disordered Offender Hearings**

A Mentally Disordered Offender Hearing is held to determine if good cause exists to require that an inmate be subject to mandatory in-patient treatment while on parole. PC 2962 and BPH 2570 et seq. identify the criteria leading to such consideration and the process governing such placement. This hearing is conducted by a panel of two Deputy Commissioners. No counselor generated Board reports are required.

#### **62090.5.3 Parole Violator Hearing**

A Parole Violator Hearing is held to consider if good cause exists to revoke a parolee's parole and return them to custody. These hearings are held at the local jail or at a parole violator processing facility within 45 days of arrest. Some parolees may be returned to prison before the hearing, as in the case of parolees with a severe mental illness, persons in overcrowded local facilities, or out-of-state absconders. Only the parole violation report and supporting documents are necessary.

#### **62090.5.3.1 Parole Revocation Extension Hearing**

A Parole Revocation Extension Hearing may be held to consider if good cause exists to extend the parole revocation period of a prisoner for in-custody misconduct. No counselor generated Board report is required. Charging document and supporting reports must be presented.

#### **62090.6.1 Hearing Room**

Hearing rooms shall give the appearance of dignity and decorum. When not scheduled for Board hearings, the rooms shall only be used for purposes that will maintain their hearing room value, such as, conferences, oral interviews, or classification committee meetings.

At hearings, necessary supplies such as paper tablets, sharpened pencils, proper forms, a copy of the current Penal Code and BPH Rules, a listing of the institution's available programs and cold drinking water shall be provided. All tape recording equipment shall be checked to ensure good working condition during the hearing.

#### **62090.6.2 Scheduling**

Inmates shall be scheduled in a timely manner. The Board shall be informed in advance of any changes in the schedule.

#### **62090.6.3 Case Files**

All case files shall be complete and consistent, including hearing packets for panel members and attorneys. All case files of life prisoners to appear during the week shall be available.

#### **62090.6.4 Board of Parole Hearings**

Scheduled attendees, observers, and victims and victims' next of kin may attend individual case hearings if prior permission has been obtained from any person assigned to the subject hearing panel, the chairman, or the executive officer, BPH. Visitors and observers may not participate in the hearing except as permitted by law.

#### **BPH Notification to Facility**

BPH staff shall advise the Classification and Parole Representative (C&PR) of the institution to be visited of any BPH authorized attendees for any specific date. The C&PR shall provide a written notice to the visitor entrance gate of any anticipated victims, next of kin, victim representatives, and authorized visitors to the BPH hearings.

#### **62090.6.4.1 Victim, Next of Kin, or Victim Representative**

CDCR staff shall treat victims, next of kin, and their representatives attending BPH hearings with dignity and respect, and ensure their experience entering an institution is as accommodating as possible while maintaining the safety and security of persons and the institution. Victims, next of kin, and their representatives shall be notified of the BPH at least 30 days prior to the hearing.

Once the appearance of a victim, next of kin and their representative has been arranged, the Office of Victim and Survivor Services (OVSS) will provide attendees' names, addresses, and telephone numbers to the C&PR at the institution or facility where the hearing is to be held. The OVSS also will provide attendees with a BPH handbook.

No recording device or camera equipment is allowed. The institution/facility shall provide an escort for victims, next of kin, and/or victim representatives at all times while they are in the facility's security area.

#### **62090.6.4.2 Victim Service Representative**

Each Warden of an institution where BPH parole eligibility hearings are held will ensure that the institution's C&PR is specifically assigned as the Victim Service Representative (VSR). The VSR shall be responsible for ensuring the duties and functions described below are completed by designated staff. The Assistant C&PR shall be assigned as the back-up VSR to ensure sufficient

continuity of services. Procedures established within DOM Sections 62090.6.4.1 through 62090.6.4.7 shall pertain only to Victims, a Victims Next of Kin, or a Victim Representative, for the purpose of attendance at Lifer Parole Eligibility Hearings only.

The Warden shall ensure there is an operational procedure for the VSR position. The VSR or designee shall be responsible for the following:

- Making contact with attendees and answering any questions they may have.
- Explaining the BPH process, security screening procedures, required identification documents, and ensuring they received a copy of the BPH Hearing Handbook.
- Provide information to the attendee regarding appropriate attire to be worn into the facility. Appropriate attire shall conform to Title 15, CCR Section 3174 (a)(2) and (b)(1)(2)(3)(4).
- Asking attendees if they have any special needs such as medications, assistive devices or special foods or juice they will need to keep with them in the institution.
- Suggesting that attendees with medical implants containing metal bring available medical documentation/certification from a clinician identifying the location and type of any medical implant in order to expedite the screening process.
- Providing attendees with directions to the institution if necessary.
- Informing attendees that the VSR or designee will be awaiting their arrival.
- Ensuring all necessary paperwork to process the attendees into the institution has been completed and received.
- Asking attendees if they have documents or information they will be bringing to the hearing.
- Escort attendees to a waiting room near the BPH hearing area that is separate and apart from the inmate, his or her attorney, and any other attendees whose presence may be upsetting to the victim, next of kin, or their representatives.
- Ensuring the waiting room is supplied with at least tissue, water, note pads, and ink pens or pencils.
- Be present at the gate at least 10 minutes prior to the arrival time of the attendees in order to greet them and to assist with processing them into the institution.
- Ensuring the hearing room has appropriate accommodations.
- Remain with the attendees until the hearing begins and throughout the hearing. Attendees may, if desired, be escorted to a private area after the hearing and be given an opportunity to express their views about the hearing.
- Escorts attendees back to the entrance building after the hearing and processes them out of the facility.

#### **62090.6.4.3**

#### **BPH Hearing Attendee Screening**

*Revised September 25, 2007*

The following BPH attendee screening process is intended to ensure the safety of all persons entering CDCR institutions. The policy is based on standards and protocols employed by the United States Transportation Safety Administration.

Except as provided in this Article, victims, next of kin, and their representatives attending BPH hearings are required to successfully pass through a metal detector or alternate screening process as described below as a condition of entering an institution where a hearing is to be held. Attendees should avoid wearing clothing items that contain metal as these items will set off the metal detectors. Attendees are to remove coats, jackets, and items that may set off the metal detector before attempting to pass through the metal detector. Attendees who do not successfully pass through the metal detector will be subject to additional screening and may be denied entrance into the facility.

In the event an attendee is unable to successfully pass through the metal detector, CDCR custody staff shall use a hand held metal detection wand for a more localized search to identify the area(s) causing the alert.

If through the use of the hand held wand, custody staff can localize/isolate the area(s) which is causing the alert, a pat down of the area(s) will be conducted to determine the cause of the alert before being permitted into the institution.

Attendees who do not want to go through the metal detector or hand held wand screening may request a pat down search as an alternative.

Pat-down searches may also be required of attendees based on visual observations by custody staff, even if an audible alarm has not gone off.

Custody staff are required to communicate their actions to attendees prior to using hand-wands or conducting pat-down searches.

Custody staff are to use the back of the hand when patting-down sensitive body areas, which include the breasts (females only), genitals, and buttocks. For non-sensitive areas, including other parts of the torso, custody staff are required to use the front of the hand. An attendee has the option to request a private screening location.

Custody staff of the same gender as the attendee will conduct pat-down searches. An additional custody staff of the same gender as the attendee shall be present whenever a pat-down search is conducted.

A companion, assistant, or family member as defined in Section 3000 of the Title 15 may accompany attendees with disabilities or medical conditions and assist them during a private or public screening. After providing this assistance, the companion, assistant, or family member will need to be re-screened. An attendee may ask for a chair if he or she needs to sit down during the screening process. Attendees should be required to raise their arms out during an inspection only as far as they indicate they can. Attendees who refuse appropriate screening will not be permitted into the institution and will be unable to attend the BPH hearing.

Whenever there is an alarm in the area of a dressing or bandage, custody staff will conduct a gentle limited pat-down of the dressing or bandage area over top of the attendee's clothing. In the event custody staff is not able to determine that a dressing or bandage is free of prohibited items via a pat-down, the attendee may be asked to lift the specific clothing item covering the bandage to effect a visual search, i.e., lift pant leg or sleeve to expose the bandaged area prior to being permitted into the institution.

Custody staff will not ask to, nor will they remove a dressing or bandage during the screening process. However, if custody staff is still unable to determine that the bandage is free of prohibited items after the pat down and visual inspection, the attendee will be denied access to the institution and will be unable to attend the BPH hearing.

#### **62090.6.4.4 BPH Attendees with Disabilities and Medical Conditions**

Attendees with disabilities and medical conditions may present medical documentation regarding their medical condition or disability to custody staff to help inform him or her of their situation and facilitate the screening process. This documentation is not required and will not exempt the attendee from the security screening process.

Attendees should advise custody staff of an implanted pacemaker, other implanted medical device, or metal implant and where that implant is located. Attendees who have a pacemaker should (but are not required to) carry a Pacemaker Identification Card when going through security screening and shall be screened with a full body pat-down search instead of walking through the metal detector or being screened with a hand-wand.

If an attendee states that he or she should not go through the metal detector or be screened with a hand-wand because it could affect the functionality of their implanted medical device or the magnetic calibration of their implanted medical device, custody staff shall conduct a full body pat-down search prior to the attendee being permitted to enter the institution.

#### **Prostheses, Assistive Devices, and Mobility Aids**

Custody staff are to visually and physically inspect prosthetic devices, assistive devices, mobility aids, casts or support braces as part of the screening process. Custody staff will not ask nor require removal of prosthetic device(s), casts, orthopedic shoes or support braces. Attendees may be asked to lift specific clothing to effect a visual inspection of the prosthesis or support brace, i.e., lift pant leg or sleeve to expose the prosthetic device.

Attendees will not be required to remove medical devices, such as an insulin pump, feeding tube, ostomy or urine bag at any time during the screening process. Attendees are to advise screeners if they have an ostomy or urine bag. Attendees are not required to expose these devices for inspection unless the hand held metal detection device is set off, at which point a visual and physical inspection (pat-down of the area, over top of clothing) will be conducted to ensure there are no prohibited items being concealed in the area.

Attendees who require use of a wheelchair shall not be required to pass through the metal detector nor be asked to transfer to another wheelchair for screening purposes. Custody staff shall affect a visual and physical inspection of their wheelchair. Custody staff shall then use a hand held wand to search the attendee.

Augmentation devices attached to wheelchairs are permitted through the screening process once they have undergone visual and physical inspection.

The following medical and disability-related assistive devices needed by attendees during the BPH process are permitted into the institution; however, they are subject to inspection and search. The assistive devices will be itemized on CDC Form 1000. Smaller items, such as necessary medications,

scissors, and syringes shall be placed in a container provided by the institution and carried into the institution/hearing. The contents of the container will be accounted for via the CDC Form 1000 upon exiting the facility. All other items that are not needed during the hearing will be either left in the entrance building in a locker or returned to the attendees' vehicle:

- Wheelchairs, scooters, crutches, casts, canes, walkers, prosthetic devices, support braces, exterior medical devices.
- Orthopedic shoes and appliances, augmentation devices, Braille note takers, slate and stylus.
- Ostomy-related supplies such as positioning plates (wafers), collection pouches and scissors (blunt tipped.)
- Service animals such as dog guides, assistance, hearing and seizure alert dogs, monkey helpers.
- Supplemental personal medical oxygen containers/systems and other respiratory-related equipment and devices.
- All diabetes related equipment and supplies, including:
  - Insulin and insulin loaded dispensing products (vials, jet injectors, pens, infusers, and preloaded syringes).
  - Unused syringes when accompanied by insulin or other injectable medication.
  - Lancets, blood glucose meters, blood glucose meter test strips, alcohol swabs, meter-testing solutions.
  - Insulin pump and insulin pump supplies (cleaning agents, batteries, plastic tubing, infusion kit, catheter, and needle).
  - Glucagon emergency kit.
  - Urine ketone test strips.
  - Sharps disposal containers or similar hard-surface disposal container for storing used syringes and test strips.
- All types and forms of medication, dispensers, and related supplies necessary for the attendee during the BPH process.

All medications, including insulin, in any form or dispenser must be clearly identified. Attendees who are concerned about going through the walk-through metal detector with their insulin pump may request a full-body pat-down search and a physical inspection of their pump instead. Insulin pumps and supplies must be accompanied by insulin.

#### **Hearing and Visual Disabilities**

Attendees are not required to remove hearing aids or the exterior component of a cochlear implant during the screening process. Exterior components of a cochlear implant are to be visually and physically inspected while it remains on the attendee's body.

Custody staff are to explain the security process to persons with visual disabilities and verbally communicate with them throughout each step of the screening process. Screeners are to provide persons with visual disabilities with assistance by providing them with an arm, hand, or shoulder as they move through the process. White collapsible canes are to be physically inspected after attendees have passed through the walk-through metal detector so that attendees can guide themselves through the walk-through metal detector. Equipment such as Braille note-takers are to be physically inspected.

#### **Medical Oxygen and Respiratory-Related Equipment**

Supplemental personal medical oxygen and other respiratory-related equipment and devices (e.g. nebulizer, respirator) are permitted through the screening process once they have undergone screening. All respiratory equipment and oxygen will be visually and physically inspected. Attendees are not required to disconnect from their oxygen or respiratory device.

#### **Service Animals**

Attendees using an animal for assistance should carry appropriate identification. Identification may include: cards or documentation, presence of a harness or markings on the harness, or other credible assurance of the attendee using the animal for their disability. At no time during the screening process will attendees be required to be separated from their service animal. Custody staff will not touch service animals. Attendees are required to maintain control of the animal in a manner that ensures the animal cannot harm the screener. Attendees are to advise the screener how they and their animal can best achieve screening when going through the metal detector as a team (i.e., walking together or with the service animal walking in front of or behind the attendee). If the walk-through metal detector alarms in the situation where the attendee and the animal have walked together, both the attendee and the animal must undergo additional screening. If the walk-through metal detector alarms on either the attendee or the animal individually (because they walked through separately), additional screening must be conducted on whoever alarmed the walk-through metal detector. If the animal alarms the walk-



through metal detector, custody staff will ask the attendee or companion to remove the animal's collar, harness, leash, backpack, vest, etc., for staff inspection prior to being permitted into the institution.

#### **62090.6.4.6 Religious or Cultural Items**

Attendees are permitted to wear their head covering including those who wish to keep their faces covered during the screening process. If the attendee cannot successfully pass through the metal detector, the attendee will be re-screened using hand-wands and a pat-down search as described above. The only exception to this policy is if the alarm is still unresolved, the attendee may request the opportunity to remove the head covering in a private screening area before custody staff of the same gender to clear security.

Religious, cultural, or ceremonial items that pose a risk to the safety of staff or the security of institutions, such as religious knives, swords, etc., are not permitted inside the institution.

#### **62090.6.4.7 Identification and Additional Materials**

In accordance with Title 15, CCR Section 3173, and Department Operational Manual (DOM) Proof of Identity, all adults attending BPH hearings shall present acceptable government-issued identification.

Victims, next of kin, and/or their representatives attending a BPH hearing are permitted to bring the following personal items with them to the hearing, in addition to the items allowed pursuant to this Article and for visitors in general pursuant to DOM Section 54020.15:

- Food items such as whole fruit, a sealed candy bar or sealed granola bar, upon inspection and approval;
- Writing materials, documents, and a book, upon inspection and approval.

#### **62090.6.5 Media/Television Coverage of BPH Hearings**

CCR (15) (2) 2031 covers media representation at hearings, and CCR (15) (2) 2032 covers television and radio coverage of BPH hearings. No television coverage shall occur without approval of the Warden.

BPH staff shall coordinate these activities with the affected institution's Warden. The PIO shall provide written notice to the entrance building of authorized media, TV and radio personnel as well as any approved equipment. Media personnel shall be escorted to and from the BPH hearings by custodial staff.

#### **62090.6.6 Custodial Coverage of BPH Hearings**

BPH hearings shall be provided custodial coverage. One officer shall be assigned to BPH coverage for the duration of the scheduled hearings. When security needs require additional staff, determined by the Warden or their designate, they shall be assigned.

- Custodial staff assigned to BPH coverage shall wear Class A uniforms.
- Custodial staff providing BPH coverage shall carry handcuffs, handcuff key, and a personal alarm device and have immediate access to a set of waist chains. Other necessary equipment may be utilized if approved by the Warden.

#### **Duties of Coverage Officer**

The assigned officer shall secure safety equipment and report to the BPH hearing area in sufficient time to:

- Perform a security inspection of the board room(s) and adjacent areas.
- Process the first scheduled inmate into the board waiting area at least 15 minutes prior to the starting time of the hearing.

Only inmates scheduled for BPH hearings shall be allowed in the boardrooms or affected areas.

- Each inmate shall remain under the direct supervision of custodial staff. The BPH coverage officer shall be physically present in the hearing room unless specifically directed otherwise by BPH commissioners.
- Each inmate shall be given a clothed body search each time the inmate enters or departs the BPH hearing room.
- Inmates may bring into the BPH area or hearing room only material absolutely essential to their hearing. This material shall be inspected (not read) each time the inmate enters or departs the hearing room.

When security requirements dictate special security precautions, the BPH commissioners shall be advised prior to the hearing.

#### **62090.6.7 BPH Parking Areas**

BPH staff shall be provided designated parking spaces in the employee parking lot. On scheduled BPH hearing days, institution staff shall ensure that the designated spaces are available to BPH staff.

#### **62090.6.8 BPH Staff Processing Into Facility**

BPH staff shall be processed through the facility staff entrance building in the same procedure used for institution staff.

- Personal effects shall not be searched, however, briefcases, etc., shall be inspected.
- Positive identification is required.
- BPH staff shall sign the visitor register upon entering and leaving the institution.
- Escorts for BPH staff are not required.

#### **62090.7 C&PR**

Each institution's C&PR office is responsible for the preparation, coordination and follow-up for all Board hearings and related matters.

The C&PRs shall schedule their time during Board hearings to ensure full availability to meet Board needs.

When the Board recommends that an inmate be involved in vocational, educational, other upgrading programs, or that an inmate be transferred to another institution for diagnosis and/or evaluation for treatment, the C&PR shall follow-up as required.

#### **62090.8 Institutional Board Reports and Preparations**

Institutional Board reports are the responsibility of Correctional Counselors utilizing the formats described in this section. Board reports shall be completed in a thorough, concise and timely manner. Counselors may attend Board hearings as a learning process or if requested by an inmate, but are not expected to attend all hearings.

Non-Correctional Counselor staff may prepare reports under the close guidance of a supervising counselor. The completed Board report shall be signed by the non-Correctional Counselor employee and countersigned by the counselor or captain overseeing the work after the administrator has reviewed the report to ensure its validity and completeness.

Before preparing a summary evaluation for the Board, the entire C-File and other pertinent files, such as the medical or psychiatric file, shall be reviewed. Any erroneous data shall be corrected. Source documents required by the Board or considered important for the Board's attention shall be removed, reviewed, have important content underlined, and be routed with the Board report to the C&PR.

#### **62090.9 Inmate Copy of Board Reports**

Prior to a scheduled appearance, the inmate shall be given a copy of all non-confidential portions of any report prepared for the Board.

Inmates shall be afforded an opportunity to discuss any aspect of the report they question with the counselor. If an issue is not resolved, it shall be clearly identified and efforts made to resolve it shall be noted. Such differences shall be documented in an addendum report to the Board, a copy of which shall also be sent to the inmate. The inmate may also prepare a statement regarding their disagreement with the report that shall become part of the material presented to the Board.

#### **62090.10 Use of Reports**

A Post-conviction Progress Report shall be utilized for Documentation, Initial, Subsequent, and Progress Hearings.

A Life Prisoner Evaluation Report shall be utilized for Initial and alternate Subsequent Hearings. Abbreviated Life Prisoner Evaluation Reports will be used for alternate Subsequent Parole Consideration Hearings.

For non-life ISL prisoner hearings, the old format BPH Hearing Report shall be used.

#### **62090.11 Life Prisoners Two-Part Format**

For all Life Parole Consideration hearings, a two-part format shall be used.

#### **62090.11.1 Post-Conviction Progress Report**

A simple year-by-year outline of the inmate's adjustment shall be prepared to reflect 12-month increments (i.e., 6/79 to 6/80 or 5/80 to 5/81) covering the period from the date term began or from the date of reception, whichever is latter to the present. Post-conviction Progress reports prepared for Subsequent Hearings will reflect behavior in 12-month increments covering the period of time since the most recent post-convictions progress report was prepared. It shall include prison placement, custody level (explain reason for any increased custody or specialized housing such as MAX, PHU, and SHU), work/training/program assignments, grades achieved, disciplinary violations, adverse or laudatory chronos, and any other significant events. Ensure that dates are noted, including the beginning and ending dates of programs.

Telegraphic writing style shall be used, as the emphasis is upon brevity, accuracy and clarity. Any previous hearing reports shall be retained, compiled and reused so that only a brief report to update the inmate's adjustment since the last report is necessary.

#### **62090.11.2 Life Prisoner Evaluation Report**

A comprehensive evaluation of the life prisoner's past pattern of criminal behavior and changes while in prison shall be prepared for Parole

Consideration Hearings. The report is divided into commitment factors, pre-conviction factors, post-conviction factors, and parole plans.

A thorough study of the C-file, staff observations and an interview with the inmate shall be accomplished to complete the report.

The report's format provides a comprehensive evaluation for the Initial Parole Consideration Hearing and shall be retained for use at all Subsequent Parole Consideration Hearings.

#### **62090.11.2.1 Extenuating Factors**

The following shall be judiciously considered and incorporated within the report when completing life prisoner evaluation reports.

##### **62090.11.2.1.1 Aggravating Circumstances**

- The crime involved some factors described in BPH Rule 2403(b) or (c), as appropriate, in a category higher on either axis than the categories chosen as most closely related to the crime.
- The victim was particularly vulnerable due to age, physical or mental condition.
- The inmate occupied a position of leadership or dominance over other participants in commission of the crime, or they induced others to participate.
- The inmate had a history of criminal behavior for which the term is not being enhanced under BPH Rule 2286.
- During the commission of the crime the inmate had a clear opportunity to cease but instead continued.
- The inmate has engaged in other reliably documented criminal conduct which was an integral part of the crime for which they are currently committed.
- The inmate had a special relationship of trust with the victim, such as that of employee-employer.
- The manner in which the crime was committed created a potential for serious injury to persons other than the victim of the crime.
- The inmate was on probation, parole, in custody or had escaped from custody at the time the crime was committed.
- Specific circumstances in aggravation of first degree murder (PC 187):
  - The murder was wanton and apparently senseless in that it was committed after another crime occurred and served no purpose in completing that crime.
  - The corpse was abused, mutilated or defiled.
  - The inmate went to great length to hide the body or avoid detection.
  - The murder was committed to prevent the testimony of potential or actual witnesses at a trial or investigation.
  - The murder was committed to prevent discovery of another crime.
  - The murder was committed by a destructive device or explosive.
  - There were multiple victims for which the term is not being enhanced under BPH Rule 2286.
- Specific circumstances in aggravation of kidnapping for robbery or ransom (PC 209).
  - The incident involved multiple victims.
  - The property/ransom which the inmate had taken or attempted to take was valued at \$25,000 or more.
  - The kidnapping posed a threat to the public order, such as where the victim was a public official.

##### **62090.11.2.1.2 Mitigating Circumstances**

The crime involved some factors described in the approximate matrix in a category lower on either axis than the categories chosen as most closely related to the crime.

- The inmate participated in the crime under partially excusable circumstances which do not amount to a legal defense.
- The inmate had no apparent predisposition to commit the crime but was induced by others to participate in its commission.
- The inmate tried to help the victim, sought aid after the commission of the crime or tried to dissuade a crime partner from committing other offenses.
- The inmate has a minimal or no history of criminal behavior.
- The inmate was a passive participant or played a minor role in the commission of the crime.
- The crime was committed during or due to an unusual situation unlikely to recur.

- The crime was committed during a brief period of extreme mental or emotional trauma.

#### **62090.11.3 Non-Life Prisoner Evaluation Format**

*Revised September 25, 2007*

The format described below shall be used for non-life prisoner hearings.

Purpose of hearing. Specify in capital letters the type of hearing:

- ISL INITIAL PAROLE HEARING.
- ISL SUBSEQUENT PAROLE HEARING.

##### **Custody**

Institutional history. Reflect past and present custodies, and their duration in months. Explain the reason for any increased custody specialized housing such as SHUs or PHUs.

##### **Transfers**

Summarize any transfers during the reported period or since the inmate's reception, recording the most recent transfers first and indicating the reason for the transfers.

##### **Program Record**

Program record. (Omit sections that are not applicable.)

- Academic education. State the education level at reception. Evaluate ability to learn (IQ), and chronologically summarize academic achievements and motivation, as reported by the Education Department, since the inmate's reception.
- Vocational instruction. Chronologically summarize all past and current training being received and achievements. Note past and anticipated dates of completion. If terminated without completing a course, summarize the reasons.
- Work. Chronologically list all past and current work assignments, noting duration and work habits. Evaluate their total work pattern.
- Self-help programs. Chronologically list participation in group activities for the period of time addressed in the report, such as group counseling, Alcoholics Anonymous and/or Narcotics Anonymous. This section should also include athletic participation, hobby, Inmate Advisory Council or any inmate documentable activity.
- Programs recommended by BPH. Chronologically list the program categories recommended and the degree of participation or reasons for noncompliance. List the current participation first.

##### **Inmate Resources**

Inmate resources and plans for release.

- Marital status/child support. Summarize present family situation such as married, a registered domestic partner, single, common-law, or divorced. Report status of any marriage intent or returning to a marriage upon release. List obligations to pay family support in dollar amount, name of county and address of agency to receive payments.
- Employment. List job offers if the inmate has job commitments. Include employment address, phone number, type of work and proposed salary. If there are no job offers, the inmate's desires shall be noted. Indicate the relationship between the inmate's intent for employment and institutional work and vocational training.
- Other community resources. Indicate prior union membership, status of driving privileges, if driver's license is valid, and special employment needs, such as tools or clothes.
- Residence. List current county of commitment resources. Indicate name, address, and location of prospective residence upon release. If placement is to be with relatives or friends, review significant attitudes and reasons for this placement. List all phone numbers, directions to the address if in a rural area or a P.O. Box number. Indicate if the inmate will need assistance from the Parole Agent and note any financial resources the inmate may have to aid this placement.
- Alternative County of Parole. If inmate has alternative to county of commitment plans, list them in order of residence, with whom and relationship, any job offers, special needs to complete parole.

##### **Counselor Evaluation**

Counselor evaluation. (Analysis and professional judgment.)

- Attitude toward offense. Outline the commitment offense and the inmate's present attitude towards it. Note if the inmate's attitude is the same as when received or if it has changed. The inmate shall not be required to admit guilt or discuss factors if they choose not to.
- Institutional adjustment. Describe the inmate's overall behavior pattern in prison, effects of prison on their personality, and their rapport with

staff and peers. Describe significant medical or emotional problems and treatment.

- Prognosis. Indicate if the inmate understands or foresees any problems they will face and if the inmate's release plans are realistic. Note if the inmate has developed social skills to cope with the stresses of society. Advise the Parole Agent of problem areas and positive traits. Provide a balanced opinion of readiness for release, being careful not to make a recommendation.
- Technical data. Indicate any holds or notices (agency and reasons). Current status of crime partner, including last Board action on crime partner if presently incarcerated. If enemy or gang affiliation exists, refer to the confidential folder if appropriate. Include any other significant information not covered above.
- Addenda. A chronological list of disciplinary reports shall be compiled and attached to the report. If a disciplinary violation occurs a day to two before the Board hearing, custodial staff shall provide the records office with a brief statement of the incident and an estimate of when the disciplinary process shall be completed.

#### **62090.12 ISL Prisoner Progress Hearing**

Progress Hearings are held to determine if a previously set parole date should be advanced because of the inmate's conduct. Parole dates may be advanced, but cannot be extended without a separate rescission hearing.

The Post-conviction Progress Hearing Report shall cover institutional history only from the date of the last Board hearing. Each progress report shall be a supplement to the report for the hearing in which parole was granted.

The Parole Consideration Hearing Report that was prepared for the hearing at which parole was granted and all progress reports shall become part of the permanent case summary.

#### **62090.13 Psychiatric Evaluations Life Prisoners**

The BPH requires a full psychiatric evaluation of life prisoners for all first Documentation, Initial and Subsequent Parole Consideration Hearings. An evaluation is also required for any Rescission Hearing based on psychiatric problems or assaulting/sexual behavior. Inmates shall be retained on psychiatric referral status unless specifically removed by a BPH panel.

Cases recommended to category X [explained in DOM 62080] shall be calendared to appear no sooner than in one year unless the panel specifically instructs that the inmate be calendared upon completion of the evaluation. Those inmates who refuse to participate in a BPH ordered evaluation shall be retained on psychiatric referral status and calendared on the scheduled calendar.

Psychiatric Evaluation Reports shall be completed and distributed to the inmate, the inmate's attorney and the DA at least 15 days before the hearing.

#### **62090.13.1 Psychiatric Report Preparation**

Brevity with accuracy and clarity is the standard for this report. A more detailed evaluation may be written and attached as an addendum to the report if the psychiatrist/psychologist determines it necessary.

Lay terminology and explanations of technical terms and diagnoses shall be used where possible. These reports become part of a legal record that may be used by many laymen, including the inmate. Accordingly, the report should not contain psychodynamic speculations or other material that may be easily misinterpreted. Information of value to the psychiatrist shall be explained in laymen's terms to avoid misunderstandings.

Detailed repetition of information that is available elsewhere in the inmate's C-File shall be avoided.

Previous psychiatric reports shall be retained in the case summary for reference. If the previous report is virtually the same as the current one, do not rewrite the entire report. Indicate that the case has been reviewed, there is no significant psychiatric change, and the previous report is still accurate.

After the report has been written, any new developments in the case shall be reported on CDC Form 128-C, Medical - Psychiatric - Dental chrono, and sent to the C&PR for inclusion with the psychiatric evaluation.

#### **62090.13.2 Psychiatric Report Format**

Indicate in the first paragraph if this is the first, second, etc., report to the Board on this inmate, or if it is an addendum (less than nine months since the last evaluation).

Indicate in the second paragraph the frequency of contact with the inmate, such as if they are under treatment and how long, or if it is a single contact for this report only. For the first report only, note any pertinent previous psychiatric history with a short digest of essential conclusions and treatment. Briefly summarize the inmate's current development and progress, avoiding repetition of information available elsewhere in the inmate's C-File or in previous evaluations.

Briefly delineate, in the third paragraph, the present psychopathology supporting the diagnosis and prognosis which follow. Any previously reported psychiatric conclusion(s) shall be re-evaluated. Causative factors, self-understanding, attitudes, motivation for change, emotional stability, social identification, sincerity, and rehabilitation shall be commented on. A neurophysiological appraisal must be included if organicity is present. If drugs are being used for treatment, include the observed impact on the inmate's current condition.

The fourth paragraph shall indicate the psychiatric diagnosis(es) using standard nomenclature followed by lay term explanation, as necessary.

#### **Psychiatric Conclusions**

The fifth paragraph shall include the evaluator's best estimate of the inmate, based on psychiatric reasoning (not legal or administrative) in the following manner:

- Be sure to note the reasons wherever possible.
- Note the relationship of the diagnosed psychopathology to the criminal behavior.

#### **General Conclusions**

During observation in the institution, the inmate has:

- Psychiatrically improved slightly, moderately, or greatly.
- Psychiatrically deteriorated slightly, moderately, or greatly.
- Psychiatrically has shown no significant change.

No conclusions can be drawn because of insufficient time and observation by the reporter.

In a less controlled setting, such as return to the community, the inmate is:

- Considered likely to continue improvement.
- Considered likely to hold present gains.
- Considered in all probability to deteriorate because of (list reasons).

In all cases of pedophilia and some other cases of unusually specific or direct relationship between psychopathology and crime, add the following:

- Considered mentally (un)able to refrain from repetition of their offensive behavior.

#### **Suggested Actions**

(Include only if applicable.) From a psychiatric standpoint, the inmate should:

- Be continued in present rehabilitation program as continued benefit is likely. Note the recommended specific treatment prescription.
- Be removed from special calendar because psychopathology is not significantly related to future criminal behavior and psychiatric opinion will not contribute to release decision.

When two or more favorable psychiatric reports with similar conclusions for release have been written, in the case of more difficult judgments, these reports must have been written by more than one examiner or reviewed by a psychiatric council.

When there have been repeated unfavorable psychiatric reports describing a stable mental condition which cannot be expected to change, the conditions under which parole would be possible or become possible must be spelled out. For example, in some cases, parole might be possible only to a supervised domicile program including psychiatric care. In recommending removal from psychiatric calendar because of repeated unfavorable reports, it must be recognized that release is prohibited and therefore, those changes that would make release possible should be indicated so that the Board will request re-evaluation when such changes do occur.

When the inmate should be considered for transfer to DMH under PC 2684 or DMH inpatient/day treatment at CMF, and it is anticipated that such treatment may result in the inmate being able to return to society; DMH, (if it accepts the transfer) will retain such inmates only as long as it is of benefit to the inmate.

#### **Parole and Release**

If the inmate is to be paroled or released, consideration should be given to the following:

- Violence potential outside a controlled setting in the past is considered to have been less than average, average, or greater than average and at present, is estimated to be decreased, increased, or the same. In this context, violence potential is equated with inflicting physical harm on others or great emotional harm, as by creating fear. Average violence potential is interpreted to mean the violence potential possessed by the average inmate.
- Conditions of parole should include inpatient treatment, outpatient clinic, halfway house, no alcohol or other special attention/supervision needs as indicated.

- If outpatient clinic is recommended, indicate if:
- Mandatory for parole from institution.
- Necessary as soon as possible after parole.
- Merely desirable if available.

Inmates convicted of PC 273A, Willful Cruelty Toward Child/Endangering Life, Limb or Health and PC 273D, Inflicting Corporal Punishment Upon Child Resulting in Traumatic Injury, shall have a psychiatric evaluation to determine the extent of counseling which may be mandated as a condition of parole per PC 3002.

Applicable cases shall be referred for an evaluation in sufficient time to enable the report to be completed and included with the Release Program Study (CDC Form 611), which is referred to the Division of Adult Parole Operations.

Drug therapy should be continued while the inmate is on parole. They should receive (name drug), in a dosage (amount), (number) times a day.

Recommendations to the classification committee (prior to release):

- Indicate what the Post Board Classification Committee should do with the inmate if the inmate is denied parole.
- If a parole date is set, indicate any recommendation(s) pertinent to the period remaining in the institution before parole such as:
  - A further psychiatric evaluation should be completed just prior to release.
  - Indicate the reasoning for all recommendations.

#### **62090.14 Preparation of Clinical Reports by Counselors**

There may be occasions when large numbers of psychiatric referrals and limited psychiatric staff may require that qualified CC-IIs prepare clinical reports, in lieu of psychiatric evaluations, for selected cases and under supervision of a Board certified psychiatrist or licensed psychologist.

The format for psychiatric evaluations shall be used by the counselor except the title of these reports shall be changed to "clinical evaluation." Those areas of the format that call for psychiatric diagnosis and psychiatric conclusions shall be changed to indicate personality description and conclusion(s).

Counselors shall not prepare nor sign as its originator any report/evaluation that implies by its title or description that it was prepared by a psychiatrist or psychologist.

A psychiatrist/psychologist shall not sign as their own report, a report bearing a psychiatric title or description which was prepared by a counselor, without having personally interviewed the inmate.

#### **62090.14.1 Procedures**

PC 5068 sets forth the basis for the above directives. To this end, the following procedures are established:

- When existing staff or consulting psychologists or psychiatrists can adequately handle the evaluation workload, counselors shall not prepare clinical evaluations in lieu of the psychiatric evaluations.
- Counselors who are to prepare clinical evaluations shall be selected on the basis of their:
- Special interest in this type of work.
- Having two years of graduate training and experience in the treatment or evaluation of emotionally disturbed individuals. If the two years of training is primarily academic, supervised field work is highly desired.
- Where appropriate, a psychiatric council shall be established to review such evaluations prepared by counselors.
- The council shall be composed of the institution's chief or program psychiatrist/consulting psychiatrist (chairperson), a clinical psychologist, a captain or CC-III and the counselor who prepared the evaluation.
- Custodial personnel who are familiar with the inmate's behavior and attitude may also be included on the council.
- The psychiatric council has final responsibility for the accuracy and quality of the report.
- If the report is accepted, it shall list the names of the council and be signed by the council's psychiatrist.

#### **Supplemental Findings**

- If the council determines there are supplemental findings or recommendations, they shall be added below the counselor's signature and endorsed by the council, as above.
- If there is a difference in the findings of the counselor and the council, the council shall set forth the reasons for their difference of opinion before endorsing the counselor's report.

- The report shall retain the clinical evaluation title unless the psychiatrist personally interviews the inmate.
- After the inmate has been interviewed, the report may be retitled a psychiatric evaluation and signed by the psychiatrist or psychologist.
- The council shall make every effort to interview the inmate when the report is reviewed. Every effort shall be made to maximize the number of inmate interviews to ensure these evaluations reflect the observations of our most highly trained professional personnel.
- Graduate students working towards a doctorate degree in psychology and CC-IIs who are working towards becoming qualified to prepare clinical evaluations for the Board, may prepare such reports under the direct supervision of a licensed staff psychologist or a Board certified psychiatrist.
- Evaluations prepared by students and trainees shall be signed by the student/trainee.
- The evaluation shall be approved and endorsed by a staff psychologist, psychiatrist, or the psychiatric council.

#### **62090.15 Revisions**

The Deputy Director, Division of Adult Institutions, or designee shall ensure that the content of this Article is current.

#### **62090.16 References**

PC §§ 3040, 3041, 5058, 5068, and 1168(b).  
CCR (15) (2).

#### **ARTICLE 14 — UNASSIGNED**

#### **ARTICLE 15 — UNASSIGNED**

#### **ARTICLE 16 — UNASSIGNED**

### **ARTICLE 17 — SEXUALLY VIOLENT PREDATORS**

*Revised June 7, 2012*

#### **62130.1 Policy**

In accordance with the Welfare and Institutions Code (W&IC) Section 6600 et seq., the California Department of Corrections and Rehabilitation (CDCR) provides a systematic method in the identification, screening, referral, and tracking of potential Sexually Violent Predators (SVP).

#### **62130.2 Purpose**

The purpose of the SVP law is to provide an additional level of protection to the community from individuals who, based on their social, criminal, and institutional history, are deemed dangerous and predisposed to engage in sexually violent predatory behavior, if released from prison without treatment.

#### **62130.3 Sexually Violent Predator**

To meet the criteria requiring a SVP evaluation, the inmate's case factors must include the following elements:

- Is in custody under the jurisdiction of the CDCR when the district attorney files the petition for commitment with the court.
- Received a determinate sentence.
- Convicted of a sexually violent offense against one or more victims.
- Has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

The SVP qualifying offenses are identified in the W&IC Section 6600, and Department Operations Manual Section 62130.8.

#### **62130.4 Classification Services Unit Role**

The Classification Services Unit (CSU) shall ensure departmental coordination, compliance, and standardization of SVP processes. CSU performs the following tasks:

- Resolves conflicts.
- Raises concerns for resolution.
- Prepares legislative reviews.
- Provides a computer listing of inmates and parolees in revoked status to each Warden and Classification and Parole Representative (C&PR)/Reception Center (RC) Correctional Counselor (CC) III at least nine months prior to the scheduled release dates. This list is generated from the Offender Based Information System for inmates subject to

registration as sex offenders pursuant to the Penal Code (PC) Section 290 list.

- Maintains a database, which includes records and statistics of all potential SVP cases screened by the Division of Adult Institutions (DAI) and Division of Adult Parole Operations (DAPO).
- Forwards cases meeting SVP criteria to the Board of Parole Hearings (BPH) for an independent review and further processing. For cases where a conclusive determination cannot be made based upon a review of the current central/electronic file and archive file documents, see the BPH section below.
- Forwards a copy of all Department of Mental Health (DMH) and/or BPH results upon receipt, for placement in the inmate's central/electronic file.
- Generates teletypes for SVP transfers to Atascadero State Hospital (ASH), Coalinga State Hospital (CSH), or Patton State Hospital (PSH) upon request from the SVP Coordinator at either California Men's Colony-East (CMC-E) or California Institution for Women (CIW).
- Provides formal training to CDCR staff.
- Serves as the CDCR liaison to the following:
  - BPH
    - CSU refers cases to BPH in which a final determination cannot be made based upon available information. These are commonly referred to as "MAYBE" cases and consist of any SVP package that does not contain complete and sufficient documentation necessary to address the SVP statutory commitment criteria. Typically, "MAYBE" cases will involve out-of-state and out-of-country sex offense convictions; California convictions of SVP offenses for which supporting documentation is missing or incomplete; juvenile adjudications for SVP under certain circumstances; mentally disordered sex offender commitments to DMH; military and federal convictions for any sex offenses, etc. BPH will attempt to obtain the necessary documentation related to the conviction. BPH will then provide the documentation to the California Department of Justice (DOJ), who will complete a legal analysis of the case, and make the determination whether the sex offense convictions outside of California contain the same elements as the qualifying SVP offenses listed in the W&IC. BPH shall advise CSU of the determination results.
    - If after completing their independent review, BPH determines the case meets the criteria for SVP, BPH will forward the case to DMH and provide CSU with documentation of their determination.
    - If after completing their independent review, BPH determines the case does not meet the criteria for SVP, BPH will notify CSU of the determination and provide documentation of the results.
    - The BPH may order that an inmate remain in custody for no more than 45 days beyond the inmate's release date for completion of the DMH process.
    - After release from CDCR, BPH may conduct Revocation Hearing proceedings for SVP pre commitments/commitments who are involved in serious revocable misconduct.
  - DMH
    - DMH conducts clinical evaluations of potential SVPs to determine if the inmate has a diagnosed mental disorder which makes the inmate a danger to the health and safety of others, in that it is likely that he or she will engage in sexually violent criminal behavior.
    - DMH refers individuals meeting SVP criteria to the inmate's county of commitment with a request for petition for a civil commitment.
    - DMH clinicians shall provide SVP treatment at CDCR to individuals who had been placed at ASH, CSH, or PSH for SVP processes and who subsequently return to CDCR as a result of serious misconduct.
    - DMH shall notify CDCR of the evaluation determination and provide documentation of the results.
  - C&PRs.
    - See Section 62130.5

#### **62130.5 Classification and Parole Representative or Correctional Counselor III at Reception Centers**

The C&PR or CC III at a RC is responsible for establishing a tracking system to ensure inmates who have been convicted of a PC Section 290 offense are

screened at least nine months prior to release pursuant to the W&IC Section 6600 et seq. The C&PR/RC CC III is also responsible for:

- Ensuring CCs and designated Correctional Case Records staff have received training in the SVP screening processes.
- Ensuring the Automated Release Date Tracking System is used at least bimonthly to identify PC 290 cases that require screening.
- Reviewing and signing the completed CDCR Form 7377, Sexually Violent Predator Screening, ensuring the veracity of the information provided and that all supporting documentation is attached.
- Ensuring "sex related" reports and documents are requested from appropriate agencies and departments upon receipt of an inmate from the RC for purposes of determining "R" suffix designation.
- Ensuring additional information is obtained from the Strategic Offender Management System (SOMS)/Electronic Records Management System (ERMS) for "MAYBE" cases.
- Ensuring inmates with less than 120 days to release shall be processed within 24 hours of discovery to the CSU prior to review of archive documents unless the documents are in the central/electronic file.
- Ensuring attachments of supporting documents are pertinent to the SVP qualifying offense.
- Ensuring CSU is advised of release date changes for "YES" and "MAYBE" cases within 24 hours of the date change via facsimile of the CDC Form 112, Chronological History.
- Ensuring CSU is advised via facsimile of transfers of "YES" or "MAYBE" cases within 24 hours of completed transfer.
- Ensuring CSU is advised via facsimile of inmates who are out to court (OTC) for SVP proceedings within 24 hours of departure.
- Notifying CSU and the receiving institution of the need for an SVP screening when an inmate who appears on the monthly download has transferred prior to the receipt of the monthly list from CSU.
- Completing and attaching a CDCR Form 1884, Justification Referral Sheet, to the CDCR Form 7377, if less than six months are remaining to the scheduled release date.
- Ensuring the completed CDCR Form 7377 SVP supporting documentation subsequently received are filed on a drop board under the fingerprint card in the legal section of the central file or scanned into the legal section of the electronic file using SOMS/ERMS.
- Notifying CSU upon the placement of a BPH Temporary Hold and again upon placement of a 45-day Hold.
- Coordinating with the Institution Personnel Officer for State identification cards/gate clearance issuance for DMH Evaluators conducting SVP clinical evaluations.
- Arranging for DMH evaluators to have access to specified central/electronic and medical files. Identify an appropriate location to conduct the file review and the clinical evaluation of an inmate.
- Approving review of an inmate's confidential information by a DMH clinician, if that information is germane to the SVP evaluation. Direct DMH evaluators to limit the use of the information so as not to disclose in any later written report, information that is specifically derived from a confidential document. Require a court order to provide a copy of a confidential document.
- Coordinating with the Transportation Unit and CMC-E, the transfer of male inmates to ASH or CSH, via CMC, and with CIW the transfer of female inmates to PSH, via CIW, based on the following determinations:
  - Court order for housing at ASH, CSH, or PSH.

Note: Transportation of inmates to ASH, CSH, or PSH shall be expedited in compliance with a court order.

- Providing CMC-E information necessary for receipt of a male inmate transferring to ASH or CSH, via CMC-E.
- Providing CIW information necessary for receipt of a female inmate transferring to PSH, via CIW.
- Providing updated PC 3058.6 and 3058.8 notifications to law enforcement agencies and requesting individuals, respectively, and ensuring the following has been completed:
  - Contact the individual requesting notification pursuant to PC 3058.8 by telephone or other communication the next working day upon release of the inmate if a county, district attorney, court, DMH, or other agency assumes custody of the inmate, if other than originally noticed. The information should include:
    - The receiving agency's name.
    - The agency contact person's name and telephone number, if known, to assist the victim/witness, etc. further.
    - Document the date, time, and staff name of the person providing updated information to the PC 3058.8 requesting

individual on the CDCR Form 863-A, Confidential Notice of Release. Recommended statement to be included on the CDCR Form 863-A, "Requestor notified on \_\_\_\_\_ (date) of release to the agency."

- Forwarding the central file to CMC-E, regarding an inmate who has reached his scheduled release date and is released to another's custody pursuant to W&IC 6600 et seq.

CMC-E's C&PR shall arrange transportation of parolees from ASH to the designated location for Revocation Hearing proceedings.

CIW's C&PR shall arrange transportation of parolees from PSH to the designated location for Revocation Hearing Proceedings.

#### **62130.6 Time Constraints**

In the interest of public safety, staff shall adhere to the following time frames:

- Cases shall be screened nine months prior to the scheduled release date, unless inmate is received with less than nine months to release.

If the case is identified with less than nine months remaining to release, the following action shall be taken:

- Cases identified within 45 days of release must be faxed to the CSU with a follow-up telephone call within 24 hours of discovery.
- Cases identified between 46 and 120 days of release must be prepared immediately and sent via overnight mail to CSU within 24 hours of discovery.
- Cases identified between 121 days and 8 months of release must be prepared immediately and sent via overnight mail to CSU within 5 working days of discovery.
- Cases identified with release dates between 8 to 9 months must be mailed to CSU within 30 days.

A CDCR Form 7377, SVP screening, submitted with less than six months remaining to release shall require the following additional attachments:

- A CDCR Form 1884, Justification Referral Sheet, containing a concise written explanation describing why the potential SVP case was not submitted according to the above noted time frames. There are two authorized exceptions to referring a case for evaluation with less than six months remaining to serve. They are as follows:
  - The inmate was received into CDCR with less than six months to serve.
  - The inmate's release date is modified by a judicial or administrative action.
- A copy of the inmate's CDC Form 112, Chronological History.
- A copy of the judicial action or administrative action that modified the inmate's release date, if applicable.

#### **62130.7 California Department of Corrections and Rehabilitation Form 7377, Sexually Violent Predator Screening**

The completion of the CDCR Form 7377, SVP screening, shall not be delegated to a staff member below the level of CC I. The CDCR Form 7377 must be prepared neatly, legibly, and accurately. Detailed instructions for completing the CDCR Form 7377 are located on the reverse of the document. Designated staff shall be accountable for accuracy and completed staff work. The CDCR Form 7377 reflects the case review and completion of the form includes, but is not limited to, the following:

- Inmate's name and CDC number.
- Criminal Identification and Information (CI&I) number.
- County of controlling case (listed on the Legal Status Summary (LSS)).
- Type of release/release date.
- Controlling discharge date.
- Selection of one SVP determination.
- Reference documents include: the Abstract of Judgment (AOJ)/Minute Order, Felony Information/Complaint, etc.
- Comments on the CDCR Form 7377 if any potential reference documents are not available for review.
- The screener's name and date printed legibly.
- "YES" and "MAYBE" determinations require the submission of the CDCR Form 7377 and copies of all SVP qualifying supportive documentation, to include:
  - LSS.
  - Institutional Staff Recommendation Summary.
  - Probation Officer's Report.
  - AOJ/Minute Order.
  - Felony Information/Complaint.
  - CI&I.
  - Federal Bureau of Investigation printout.
  - Archive files (sex related).

- Sex related CDC Form 115s, Rule Violation Reports (including disciplinary violations from prior terms).
- Parole violation charge(s), if charge includes an element of illegal sexual conduct (including prior sex related parole violations).
- Parole violation(s) and conviction(s) for failure to register pursuant to PC 290.
- Previously processed "YES" cases, also known as "RECYCLED," require a new CDCR Form 7377 and a copy of the inmate's parole violation charge(s) or new commitment information to be submitted to the CSU.
- "NO" determinations require only a current completed CDCR Form 7377 be submitted to CSU.
- CDCR Form 7377 distribution:
  - Original to CSU SVP Coordinator.
  - Copy placed in central file or scanned into the legal section of the electronic file using SOMS/ERMS.
  - Copy to inmate upon request.

#### **62130.8 Sexually Violent Predator Penal Code and Statutory Law Qualifying Offenses**

The following statutory criteria are SVP qualifying offenses. Qualifying offenses include, but are not limited to, the following:

- PC 261, Rape-Acts Constituting (all subdivisions).
- Note: A defined "Rape by Threat" conviction regardless of the PC Section is an SVP qualifying offense.
- PC 262, Rape of Person Who Is Spouse of Perpetrator (all Subdivisions).
- PC 264.1, Rape or Penetration of Genital or Anal Openings by Foreign Object in Concert by Force or Violence.
- PC 269, Aggravated Sexual Assault of a Child (all Subdivisions).
- PC 286, Sodomy (all subdivisions).
- PC 288, Lewd Act on Child or Dependent Person (all Subdivisions).
- PC 288a, Oral Copulation (all Subdivisions).
- PC 288.5 Engaging in Three or More Acts of Substantial Sexual Conduct With a Child Under Age 14 (Continuous Sexual Abuse of a Child Under 14).
- PC 289, Anal or Genital Penetration by Foreign Object (all Subdivisions).
- Felony convictions for any of the following acts with the intent to commit PC 261, 262, 264.1, 269, 286, 288, 288a, 288.5 or 289 are also qualifying offenses under Proposition 83, the Sexual Predator Punishment and Control Act, better known as Jessica's Law:
  - PC 207, Kidnapping Defined.
  - PC 208(d), Kidnapping; Punishment (old law).
  - PC 209, Kidnapping for Ransom or Extortion.
  - PC 220, Assault.
- Convictions prior to July 1, 1977, for an offense described in any of the previously delineated PC sections (even if the PC section is different, i.e., Rape by Threat).
- Conviction(s) (sex related or not) (misdemeanor or felony) resulting in a Mentally Disordered Sex Offender (MDSO) designation, including dispositions resulting in State hospital placement, mental health treatment, credit for time served, county jail, probation, unknown disposition, etc.
- Not Guilty by Reason of Insanity findings that involved a qualifying offense.
- Qualifying convictions dismissed, expunged or voided due to receipt of a Certificate of Rehabilitation pursuant to PC 1203.4.
- Out-of-state and out-of-country conviction(s) of any sex offense that after a thorough review by the DOJ are determined to be equivalent to the above noted offenses.
- Conviction(s) by a military or federal court of any sex offense that after a thorough review by DOJ are determined to be equivalent to the above noted offenses.
- PC qualifying offenses regardless of the degree of force, violence, duress, menace, or fear of injury indicated within the Probation Officer's Report or court documents.
- Felony Convictions for "Attempts" or "Accessory" to the above listed offenses are not qualifying offenses.
- Misdemeanor convictions for the above listed offenses are not qualifying offenses (exception: MDSO criteria explained above).
- Juvenile Court Adjudication. A prior juvenile adjudication of a sexually violent offense may constitute a prior conviction for which the person received a determinate terms if all of the following applies:
  - The juvenile was 16 years of age or older at the time he/she committed the prior offense.

- The prior offense is a SVP offense as specified in W&IC 6600, subdivision (b).
- The juvenile was adjudged a ward of the juvenile court within the meaning of PC Section 602.
- And the juvenile was committed to the California Youth Authority now known as the Division of Juvenile Justice (DJJ) for the sexually violent offense.

**62130.9 California Men's Colony-East/California Institution for Women Sexually Violent Predator Coordinator**

Upon the arrival of transferring inmate(s) enroute to ASH, CSH, PSH, the California Men's Colony-East (CMC-E)/California Institution for Women (CIW) Sexually Violent Predator (SVP) Coordinator shall be responsible for:

- Reviewing the confidential section of the central/electronic file to ensure that the sending institution documented a subsequent contact with the PC Section 3058.6 and/or 3058.8 law enforcement agency and/or requesting individual(s), respectively, when the inmate/parolee was released to another custody than originally noticed.
- Contacting the CSU SVP Officer of the Day, to request a teletype to receive an SVP enroute to ASH, CSH, or PSH.
- Arranging transport from CMC-E to ASH or CSH for male inmates or from CIW to PSH for female inmates.

**62130.10 Central File Custody During SVP Processes**

The central file of a male inmate who is OTC for SVP processes is subject to standard OTC procedures. Upon the inmate reaching his release date, the C&PR shall ensure the central file is forwarded to CMC-E for custodial care.

**62130.11 Sexually Violent Predator Release Allowances and Personal Funds**

The paroling institution is responsible for preparing the CDC Form 102, Release Statement, upon the release of an inmate, who has been ordered by a court to be committed as a SVP pursuant to the W&IC Section 6604, to ASH or CSH, via CMC-E for male inmates, or to PSH, via CIW for female inmates. The paroling institution shall prepare a check for the amount of personal funds reflected on the CDC Form 102 and forward the check and original CDC Form 102 to ASH, CSH, or PSH. The CDC Form 102 shall record the following information:

- The individual was not given the release allowance at the time of parole due to transfer to ASH, CSH, or PSH pursuant to W&IC Section 6604. Upon release from ASH, CSH or PSH, the parolee shall be issued the release allowance.
- No deduction for clothing. (Clothing will be provided by the DMH.)
- No deduction for transportation costs. (Upon release, the parolee will pay for transportation costs from issued release allowance.)
- The amount of personal funds due and state that the personal funds were forwarded to the appropriate parole unit.
- The date the individual will leave the paroling institution and the scheduled arrival date at ASH, CSH, or PSH.

If an inmate paroled to ASH, CSH, or PSH as an SVP, Case Records staff will note on the CDC Form 102 that the inmate is paroling to ASH, CSH, or PSH as an SVP and send CDC Form 102, personal and release funds, in check form to the designated Parole Agent II at the appropriate parole unit.

In the event an inmate is released to hold at a county jail, and reaches his/her parole date while in custody, the designated Parole Agent or Probation Officer will be contacted and shall coordinate the issuance of funds upon the parolee's release. If the inmate's controlling discharge date has expired, upon release, he/she may report to the previously designated Parole or Probation Office to request release funds pursuant to the Department Operations\_Manual Section 81010 in accordance with PC Sections 2713 and 2713.1.

**62130.12 Personal Property**

Each institution will process and store the personal property of inmates who are OTC for SVP proceedings in accordance with current procedures. The personal property of inmate's who reach their scheduled release date while OTC for SVP proceedings shall be sent directly to ASH, CSH, or PSH by the inmate's previous institution.

Personal property should be transferred with the inmate when the transfer is within CDCR institutions, in accordance with current procedures.

Prior to transfer, the sending institution will ensure the inmate disposes of any unauthorized property in accordance with California Code of Regulations, Sections 3190(c) and 3191(c)(1), (2), and (3). The following property is not allowed at ASH, CSH, or PSH and shall be disposed of prior to the inmate's transfer to ASH, CSH or PSH:

- Razor blades or disposable razors.
- Any item which is corrosive, flammable or explosive.

- All cigarette lighters.
- All products in aerosol containers.
- Radios and/or cassette players equipped with an external telescopic antenna, or that operate by an external electrical power cord, or require a D cell battery or larger.
- Headphones with a metal headband and/or a cord greater than four feet in length.
- Television sets other than solid state LCD three-inch diagonal screen televisions with mirror attached.
- Any electrical appliance which requires a cord to operate.
- Chewing gum, fruits or perishable foods of any type.
- Personal mirrors, including hand mirrors.
- All food products in glass containers, unless factory sealed.
- All caffeinated beverages.

**62130.13 Revisions**

The Director, DAI, or designee shall ensure that the contents of this Article are accurate and current.

**62130.14 References**

CCR (15)(3) §§ 3190 and 3191.

PC §§ 207, 208, 209, 220, 261, 262, 264.1, 269, 286, 288, 288a, 288.5, 288.7, 289, 290, 1203.4, 3058.6, and 3058.8.

W&IC § 6600 et seq.

## CHAPTER 7 — ADULT CASE RECORDS INFORMATION

### ARTICLE 1 — UNIFORM CASE RECORDS SYSTEMS

*Revised January 7, 1993*

#### 71010.1 Policy

PC 2081.5 requires that the Director shall keep complete case records of all prisoners under custody of the Department, which records shall be made available to the BPT at such times and in such form as the BPT may prescribe.

Case records shall include all information received from the courts, probation officers, sheriffs, police departments, DAs, State DOJ, FBI, and any other interested agencies and persons.

Case records shall also include a record of diagnostic findings, considerations, actions, and dispositions with respect to classification, treatment, employment, training, and discipline as related to the facility correctional program of each prisoner.

#### 71010.2 Purpose

This Section defines the authority for and the implementation of the Department's Uniform Case Records System.

#### 71010.3 Administration of Case Records System

The Chief, Correctional Case Records Services, plans, develops, and administers the Department's Uniform Case Records System.

##### 71010.3.1 Case Records Administrator Duties

Correctional Case Records Administrators (CCRA) provide direct technical support to the CCRM within the administrator's assigned facilities and parole regions.

##### 71010.3.2 Case Records Staff Duties

CCRMs, supervisors, and specialists perform a variety of activities in the receiving, maintaining, interpretation, and disposition of inmate, resident, parolee, and releasee records in a records unit of a facility, parole region, or headquarters.

#### 71010.4 Responsibility of Case Records Staff

Interpret court commitment orders; initiate criminal identification process; analyze inmate legal status to determine crime and sentence with applicable enhancements, aggravations, limitations, and good behavior credits; compute parole and discharge dates; direct preparation of legal forms for transfer, extradition, parole, and discharge of persons under the jurisdiction of the Department.

Analyze and act for the Department on subpoenas and collateral court orders, certify departmental records required by law, review individual case actions of various term-fixing and release-granting authorities to assure legal and policy compliance.

Direct the preparation of paroling authority calendar schedules, minutes, and implementation of their decisions.

Act as consultant to departmental staff, court officers, inmates, and other governmental agencies or authorized persons regarding:

- Departmental responsibility under pertinent laws and administrative standards.
- Interpretation and application of laws and standards related to inmate receipt, sentencing, paroling, and release.

#### 71010.5 Signing of Documents

Pursuant to the provisions of PC 5055, persons in the below-listed positions are authorized to sign, on behalf of the Director, the documents as indicated:

Certification of criminal records pursuant to PC 969(b).

Letters authorizing transfer to another jurisdiction under court decision In re Stoliker (49 Cal. 2d 75,78) and In re Riddle (3 Crim 4056,66).

- Chief, Correctional Case Records Services.
- CCRAs.
- CCRMs.
- Correctional Case Records Supervisors (CCRS).
- Correctional Case Records Specialists (CRS).

Certification of criminal records pursuant to PC 969(b).

Letters authorizing transfer to another jurisdiction under court decision In re Stoliker (49 Cal. 2d 75,78) and In re Riddle (3 Crim 4056, 66).

- Wardens.
- RPAs.

Letters designating other states or federal facilities as the place of confinement for California prisoners in accordance with PC 2900(2)(3).

- Chief, Correctional Case Records Services.
- CCRA.
- Region I Interstate Unit:
  - CCRM.
  - CCRS.
  - CRS.

#### 71010.6 Written Communications to CCRMs

Written communication shall be directed to the Warden or RPA from the respective Deputy Director for action. Copies shall be distributed simultaneously to the affected CCRM in order to expedite dissemination of information.

##### 71010.6.1 Telephonic Communications

Direct telephone communication shall be maintained between the Chief, Correctional Case Records Services, and the CCRM on technical matters related to case records functions.

##### 71010.6.2 Follow-Up Procedures

Any telephonic instructions that deviate from established procedures shall be followed up by written communications.

#### 71010.7 Uniformity

Variations in the methods of recording vital information regarding inmates/parolees shall not occur.

Differences of opinions between facilities or parole regions concerning methods of recording shall be brought to the attention of the CCRA for resolution.

Facility and PAs shall suggest methods for resolution of problems.

The final decision on all such issues shall be made by the Chief, Correctional Case Records Services.

CCRAs and CSRs shall check all files reviewed to ensure that the material in such files is in the order specified and that a reasonable effort is being made to bring about uniformity.

Employees reviewing the records shall consult with the proper facility/PA concerning the contents of the case file, attempt to assist the local facility/parole region in solving any problems relating to these files with a view to their proper organization, and to report uncorrected variations to the Director by the Chief, Correctional Case Records Services.

#### 71010.8 File Definitions

The following sections shall define and describe some of the different files used by case records:

##### 71010.8.1 C-File

The master file maintained by the Department containing reports, evaluations, and correspondence regarding each person committed to its jurisdiction is commonly referred to as the C-File.

##### 71010.8.2 Auxiliary File

Auxiliary files maintained by the indicated sections of the facility for the specific function of those sections:

- Education File.
- Health Record.
  - Medical File.
  - Psychiatric File.
  - Dental Record.
- Visiting File.

##### 71010.8.3 Field File

The file maintained by the assigned Parole Agent in the unit parole office.

##### 71010.8.4 Discharge Files

Files maintained after a person has been discharged from supervision and jurisdiction of the Department.

#### 71010.9 Accuracy

The CCRM of a CRU is responsible for the accuracy and content of the legal portion of the C-File as it relates to the sentence, parole, and release date calculations.

Assigned counselors, Parole Agents, and supervisory staff responsible for generating evaluations and reports, including work time cards and chronos, are responsible for the validity and accuracy of information contained in such reports.

If an error causes an inmate, resident, parolee, or releasee to be released from a facility or the jurisdiction of the Department prior to or later than the correct release date, a complete report with appropriate recommendation to eliminate



such incidents shall be submitted through the local chain of command to the Warden. The Warden or RPA shall submit the report to the Chief, Correctional Case Records Services.

#### **71010.10 Priorities**

Establishment of priorities for case records is a departmental function.

The Chief, Correctional Case Records Services, shall determine the needs of the departmental case records system and assign the appropriate priorities.

When local available resources are inadequate to accomplish all assigned case records functions and any omission of certain duties may have an impact upon other facility or parole region functions or programs, the Chief, Correctional Case Records Services, shall determine the needs of the departmental case records system and assign appropriate priorities.

Local variations shall occur only with the knowledge and approval of the local Warden, RPA, and the Chief, Correctional Case Records Services, and may be permitted only on a temporary basis.

#### **71010.11 File Security**

Only personnel as outlined in the DOM 13030.3.1 shall read, handle, transport, or have access to an inmate/resident/parolee's C-File or copies of its contents. Except in an emergency, all C-Files are to be housed in or returned to the case records office at the close of business each work day and as soon as possible after an emergency.

Under no circumstance will files be taken off State property without the express permission of the Warden, RPA, their designee, and/or the Chief, Correctional Case Records Services.

All C-Files removed from the case records office shall be kept in a secure environment under supervision of personnel authorized to handle such materials.

Inmate/residents are not to have access to any file or file material other than copies of file material in their own file.

Inmates shall not have access to any file or documents classified as confidential.

##### **71010.11.1 Inmate Access to Files**

Inmates, parolees, residents, or releasees shall not be assigned to handle or transport C-Files, except under direct supervision and escort.

Files are to be contained in a secure container, and control procedures shall guarantee the safe transportation of files.

Inmates/residents shall not be assigned in case records offices or in any area where there is ready access to case files or material except that when they are under constant and direct supervision.

Appropriately classified and assigned inmates may be permitted in case records offices to perform such duties as building maintenance or janitorial services.

##### **71010.11.2 Release of Files to Other Agencies**

Inmate records shall not be released to any agency, except the office of the Attorney General, or person outside the Department without a court order.

In response to a court order, the inmate record(s) shall be transported by and remain under the control of a delegated departmental employee as designated by the Warden or RPA.

C-Files may be transferred with the approval of the local administrator between offices of the Department to facilitate response to a court order or to an office of the Attorney General for their review. In these instances, the file(s) shall be returned to the sending office at the earliest possible time.

Any requests not covered above shall be referred by the local CCRM to the Chief, Correctional Case Records Services, for approval.

#### **71010.12 Location of Records—Inmates/Residents**

All files of inmate/residents are maintained at the facility of confinement except:

- Felons sentenced pursuant to the W&I 1731.5(c) and housed in a CYA facility are maintained in the LPU.
- The files of felons serving a California term and housed in another state or federal prison are maintained in the Sacramento Control Office Unit, Region I (also known as SACCO).

#### **71010.12.1 Location of Records—Parolees/Releasees/Community Correctional Facilities**

All files of parolees and Community Correctional Facilities (CCF) inmates are maintained in the regional parole office.

All files of releasees are maintained at the California Rehabilitation Center.

#### **71010.13 Case Record Audits**

The Department's policy regarding accuracy and content of the legal portion of the C-File prompts thorough audits at various times during a person's incarceration and parole. CCRMs shall ensure that audits are completed:

- Upon arrival after transfer to a facility, CCF, or parole unit.
- Prior to transfer to another facility or CCF. (Time Collection, Hold/Want/Detainer records only.)
- 60 days prior to a scheduled release date.
- 10 days prior to a scheduled release date.
- At other times as determined by the CCRM.

##### **71010.13.1 Audit Special Interest Cases**

In addition to the audits listed above, the records of high notoriety or other special cases shall be audited every 30 days during the last nine months of incarceration.

##### **71010.13.2 Criteria**

Audits shall include, but are not limited to, the following:

- Receipt of all appropriate legal documents from the court.
  - Abstract of Judgment or Minute Order as the commitment document.
  - Transcript of Proceedings at Time of Sentencing.
  - PORs and Notices.
- Proper recording of goodtime/worktime credit documentation including computer entries of time cards/chronos, credit gains, losses, restorations, and dead time. (Computer entry of time cards/chronos is sufficient documentation.)
- Audit of time cards shall only be from the date of last worktime credit gain.
- Postings on CDC Form 112, Chronological Inmate History, to ensure that they are correct and accurately reflect the status of the inmate/parolee.

##### **71010.13.3 Audit Check Sheet**

The Audit Check Sheet shall be used by case records staff whenever an audit is being performed. It is a checklist of various factors that must be reviewed while completing case records audits.

The checklist indicates that the auditor has reviewed, calculated, and posted the records and the records properly reflect the correct status of the inmate/parolee at the time of the audit.

- The checklists shall be filed on top of the legal section of the C-File and retained until the parole region has completed its intake audit or the subject has been discharged from the facility.
- In some instances, more than one staff person may be involved in the total audit; e.g., pulling, posting, and refiling the CDC Form 144, Control Card, after a credit loss. If a clerical employee does this function, they shall initial the checklist at the applicable lines.
- Use of the checklist will enhance the credibility of prior audits by other case records offices and thereby eliminate the redundancy of auditing the complete records when completing the various audits.
- When a file has been previously audited by case records staff and a checklist completed and initialed as required, only new case-factor material needs to be reviewed at subsequent audits.
- At the time of the 60-day prerelease and final audits, all case factors shall be reviewed.
- The CCRM shall ensure that the C-Files are cross-audited by a CRS, other than the person having primary responsibility for the case.
- The CDC Form 112 shall be posted following each audit as follows: (date) file audited, (initials of auditor).

##### **71010.14 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

##### **71010.15 References**

PC §§ 969(b), 2081.5, 2900(2)(3), 5055.

W&I § 1731.5(c).

*In re Stölker* (49 Cal. 2d 75, 78).

*In re Riddle* (3 Crim 4056, 66).

DOM § 13030.

CCR (15) (2) (3) (5).

**ARTICLE 2 — CASE RECORDS SERVICE UNIT***Revised August 21, 1992***71020.1 Policy**

Uniform CRUs are established which have statewide operational responsibility.

**71020.2 Purpose**

This section sets forth the procedures of the CRUs which have statewide functions and application.

**71020.3 Case Records Service Units**

The Identification/Warrants (ID) Unit, Archives Unit, Sacramento Control Office (SACCO), and the LPU are departmental records units. These units provide centralized services to departmental staff, other law enforcement agencies, and interested persons on the status of persons committed to the Department.

**71020.4. Identification/Warrants Unit Hours of Operation**

The unit operates 24 hours a day, seven days a week.

**71020.4.1 Identification/Warrants Unit Supervision**

Indirectly supervised by a correctional case records administrator.

Directly supervised by an Office Services Supervisor II.

**71020.4.2 Functions of Identification/Warrants Unit**

The functions of the ID/Warrants Unit include:

- Locator.
- Identification number/research.
- Warrant dispatch.

**71020.4.3 Duties of Identification/Warrants Unit Staff**

Staff assigned to the unit:

- Locate the region of a parolee's supervision.
- Identify inmate's assigned facility housing.
- Provide commitment data to law enforcement and other authorized agencies with a need to know.
- Provide information on persons discharged from the Department since 1957.
- Place holds pursuant to PC 3056 and/or W&I 3151 for the P&CSD.
- Conduct file searches and issue new identification numbers for newly received felons and civil addicts committed to the Department.
- Respond to telephone inquiries that require nonconfidential information concerning felons/civil addicts.
- Aid facilities and parole regions in identifying and locating inmates/parolees when the identification number is unknown.
- Maintain the Department's warrants register.
- Maintain the FAX services for the Department and the BPT.
- Act as headquarters' duty officer. Receive facility duty officer reports by telefax service.
- Dispatch BPT and NAEA warrants issued on parolees-at-large, releases-at-large, and facility escapes. Warrants shall be abstracted by FAX upon request.
- Microfilm and maintain the file of confidential material on discharge cases.

**71020.4.4 Resources Available to Determine Status of Individuals**

The below-listed resources are available to unit staff to identify, locate, and determine the status of individuals:

- OBIS.
- DDPS.
- Microfiche commitments 1976 to current.
- Microfilm commitments prior to 1976.
- Warrants register.
- CLETS.

**71020.4.5 Procedures for Issuing Departmental Numbers**

All departmental identification numbers shall be issued by the ID Unit.

- All identification numbers shall be issued in numerical order.
- Receiving facilities shall telephone the unit for assignment of a CDC identification number.
- To facilitate processing the volume of persons received at reception centers, the ID/Warrants Unit shall issue blocks of numbers.

- In exceptional cases, inmates may be received at a facility other than a reception center. In those instances in which an inmate is received after normal working hours, the facility shall hold the person without a CDC number until the morning of the first workday. On the first workday, a CDC number shall be obtained.

**71020.4.6 Confirmation of Numbers Issued**

OBIS shall forward a printout of all facility admits at the close of "moves" each day.

The printout shall include:

- CDC number.
- Full name.
- Date of birth.
- Old CDC numbers (if known).
- CI&I number (if known).

Upon receipt of this printout, ID Warrants Unit staff shall research all the available resources to determine whether or not the person has previously been committed to the Department.

Due to the possible effect on the classification and housing of the new inmate, this research shall be given a high priority.

ID Warrants Unit staff shall promptly advise facility case records staff of the results of the research for old CDC numbers.

**71020.4.7 Types of Departmental Numbers**

An "H" shall prefix all numbers issued to male felons. When all "H" numbers have been issued, a "J" shall prefix all numbers issued to male felons.

A "W" shall prefix all numbers for female felons.

An "N" shall prefix all numbers issued to civil addicts.

- Numbers 1 to 19999 shall be reserved for female civil addicts.
- Numbers 20000 to 99999 shall be reserved for male civil addicts.

**71020.5 Archives Unit Location**

The Archives Unit is a departmental function located at CMF.

**71020.5.1 Archives Unit Supervision**

Directly supervised by a Correctional Case Records Supervisor.

Indirectly supervised by the CCRM at CMF.

Functionally supervised by a Correctional Case Records Administrator.

**71020.5.2 Functions of Archives Unit**

Discharge file section:

- Receive and account for case records of discharged inmates delivered to the unit.
- Audit incoming files for completeness and documentation of administrative and release board actions on the CDC Form 112, Chronological Inmate History.

Document request and certification section:

- Process requests for documents authorized pursuant to the IPA. See CC 1798 for further details.
- Process requests for proof of prior convictions for inmates/residents discharged from the Department. See PC 969(b).

**71020.5.3 Requests for Information From Archives Unit**

Requests for information, documents, or certifications shall indicate:

- Name.
- CDC number.
- Date of discharge as records are filed in date order.

**71020.5.4 Microfiche of Records Going to Archives Unit**

The complete case record of all persons discharged shall be microfiched at the assigned parole region prior to transfer to the Archives Unit. See DOM 71020.5.6 and 71020.5.7 for exceptions.

**71020.5.5 Transferring Records to Archives Unit**

All records and documents forwarded to the unit shall be identified by name, number, and discharge date on the CDC Form 134, Records Transfer Checksheet.

**71020.5.6 Archives File Retention**

Health records. Retain in hard copy for seven years after discharge, then destroy (CCR (22) 70751[c]).

Fingerprint cards and photographs. Retain in hard copy for 30 years, then destroy.

All other remaining case records retain in microfiche 30 years, then destroy.

**71020.5.7 Records Transfer Exceptions**

Discharge cases that need to be retained in hard copy one year and then processed as in DOM 71020.5.6, include:

- Out-to-court discharges.
- Prisoners from other agencies.
- Prisoners from the federal prison system or a federal agency.
- DMH patients received pursuant to W&I 7301.
- Prisoners from other states received pursuant to PC 2902 or 11190.
- Safekeeping cases pursuant to PC 4007.

Hard-copy files of "N" number residents not amenable for treatment shall be retained at the facility/region for six months after discharge and then processed as above.

Hard-copy files of discharged diagnostic study "Z" cases shall be retained in reception centers six months and then forwarded to the Archives Unit where they shall be retained an additional two and one-half years.

Hard-copy files of discharged public interest cases shall be transferred to the Archives Unit and retained for 30 years prior to referral to the State Archives.

**71020.5.8 Procedures for Disposing of the Records of a Deceased/Discharged Individual**

Records of the deceased shall be handled according to the following:

- Retain in the facility or parole region for six months or until conclusion of any litigation.
- Forward files to the Archives Unit where they shall be retained intact for three years from the date of death or conclusion of any litigation, whichever is later.
- The CCRM shall determine the status of the litigation prior to transfer.

**71020.5.9 Procedures for Reviewing a Discharged Individual's Records**

Requests for review of discharge records originating outside the Department shall be submitted to the supervisor of the Archives Unit for processing.

Discharge records shall be forwarded to the CCRM of the facility or parole region nearest the requester's office for subsequent review.

Case records requested by the AG's Office shall be forwarded directly to the requesting deputy.

Case records shall be returned to the Archives Unit as soon as possible after the records have been reviewed.

The supervisor of the Archives Unit shall maintain a listing indicating:

- Name.
- CDC number.
- Discharge date.
- Name of requester.
- Location where file forwarded.
- Date file forwarded.
- Date file returned.

The supervisor of the Archives Unit shall follow up every 30 days to ensure that all records are returned to the unit.

**71020.6 Sacramento Control Office**

The SACCO Unit is located at Region I headquarters.

**71020.6.1 Supervision of Sacramento Control Office**

The SACCO Unit is directly supervised by a Correctional Case Records Supervisor.

Indirectly supervised by a Case Records Manager.

Functionally supervised by a Correctional Case Records Administrator.

**71020.6.2 Sacramento Control Office Functions**

Functions of the SACCO Unit include:

- Recording commitments and tracking inmates serving terms in other jurisdictions, including:
  - Escapees from the Department who have been convicted and received by another jurisdiction.
  - Consecutive cases.
  - Concurrent cases.
  - In Re Stoliker cases.
  - Western Interstate Corrections' Compact cases.
- Verify and document work history on inmates eligible for the work incentive program.

- Make arrangements to have inmates returned to the Department to complete their term when the other jurisdiction makes them available.

**71020.7 Supervision of LPU**

Directly supervised by a CCRM.

Indirectly supervised by the Chief, Correctional Case Records Services.

**71020.7.1 LPU Functions**

Manually process inmate legal status for all cases with life commitments, zero to one-year and one-day commitments, and other indeterminate terms.

Process commitment and legal status for persons committed pursuant to PC 1170 (a)(2) (excessive credit).

Review legal documents and computerized legal status of cases with sentence discrepancies and communicate with the court for resolution.

**71020.7.2 Responsibility of LPU for Cases Housed in CYA**

The LPU functions as a reception center and facility case records office for those cases sentenced to State prison pursuant to W&I 1731.5(c), but housed in a CYA facility.

LPU staff shall communicate with CYA staff and coordinate the maintenance of the records and computation of the correct release date.

**71020.7.3 LPU Discrepant Commitments Responsibility**

Discrepant cases are those cases in which errors in sentencing are detected from the data entered into the OBIS or detected by case records staff.

LPU staff shall review legal documents and case material when received from a reception center or facility and communicate with the court to resolve the discrepancy.

- When no response is received from the court within 45 days, a second letter shall be sent to the trial court.
- When no response is received from the court within 30 days after the second letter, the case shall be referred to the DA's Office.
- After a case has been referred to the DA's Office, no further action shall be taken by LPU staff.
- When a court responds and states that the previous order shall stand, no further action shall be taken by LPU staff.

**71020.7.4 LPU's Responsibility for Forwarding Material**

Upon resolution of any discrepancies or completion of the legal status, the below-listed material shall be forwarded to the appropriate facility/region for inclusion in the C-File:

- CDC Form 188, Legal Status Summary.
- Original case summary and confinement calculation.
- Original, amended, or modified Abstracts of Judgments or Minute Orders received in LPU.
- Copies of all correspondence to or from LPU regarding the case.

**71020.8 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

**71020.9 References**

PC §§ 969(b), 1170(a), 1203.03, 1731.5(c), 2902, 3056, 4007, and 11190.

W&I §§ 1798, 3151, and 7301.

CCR (15) § 70751(c).

CC § 1798.

DOM § 71020.

**ARTICLE 3 — TYPES OF RECORDS**

*Revised August 21, 1992*

**72010.1 Policy**

The Department has developed and authorized the use of standardized forms and records. These forms and records prepared and used in various offices throughout the Department enable a uniform records system to be maintained.

**72010.2 Purpose**

This section defines the various forms and records and how they are to be prepared and maintained.

**72010.3 CDC Form 131, Inmate Identification Card**

*Revised December 14, 2012*

A CDC Form 131, Inmate Identification Card, shall be prepared for each inmate received by the Department.

### 72010.3.1 Disposition of Inmate Identification Card When Transferring

Identification cards shall accompany inmates on transfer between facilities. Inmates may carry their identification cards or, at the discretion of the transporting officer, identification cards may be picked up and retained by the transporting officer while the inmate is in transit. If carried by the transporting officer, identification cards shall be immediately available to staff of any facility layover and to the receiving facility for reissue to the inmates upon arrival at their facility.

### 72010.3.2 Replacement of Lost Identification/Privilege Cards

*Revised December 14, 2012*

Any inmate who loses, mutilates, or destroys an identification card shall be charged for making a new one.

### 72010.4 CDC Form 115, Rule Violation Report

CDC Form 115, Rule Violation Report, shall be prepared and distributed in accordance with the CCR Article 5, and DOM 52080.

A copy of the CDC Form 115 shall be numbered and filed in chronological order to constitute a register of facility violations in compliance with PC 2081.

One copy of the CDC Form 115, with the subsequent investigation reports, shall be given to the inmate and one copy shall be filed in the inmate's C-File.

Procedures for referring disciplinary reports to the BPT are outlined in this manual, CCR, and the BPT Rules.

State DOJ JUS Form 8715 shall be prepared when a violation is to be referred to the local authorities for possible prosecution. Upon return of the completed form from the local authorities, one copy shall be filed in the inmate's C-File, disciplinary section. The CCRM shall secure a copy of the commitment in any case where the authorities have indicated on JUS Form 8715 that the final disposition was a commitment to State prison.

### 72010.5 CDCR Form 106, Visiting Questionnaire

The CDCR Form 106, Visiting Questionnaire, shall be retained in a folder and maintained by visiting room staff.

- The Visiting Questionnaire folder together with the CDC Form 120, Visiting Card, shall be transferred with the inmate.

### 72010.6 CDC Form 128s, Progress Reports

The CDC Form 128 series (chronos) are used by staff to provide progress reports on inmates.

The original of all reports, except the CDC Form 128-G, Classification Chrono, and the CDC Form 128-E, Vocational Chrono, shall be mounted on CDC Form 108, C-File Chrono Sheet—General.

The chrono need not be typed. When handwritten, chronos shall be in black ink and legible.

Staff who have contacts of interest with inmates, relatives of inmates, or other persons interested in an inmate are encouraged to document these contacts on the appropriate CDC Form 128.

A route slip or similar device may be used when the chrono is directed to staff members before being placed into the C-File.

The last name of the person writing the report shall be placed on the bottom line on the far right-hand corner.

In addition to the date the report was written, the bottom line shall contain a descriptive title line indicating the subject matter contained in the report.

### 72010.7 CDC Form 128-A, Custodial Counseling Chrono

The CDC Form 128-A (white in color) shall be used only for the purpose of recording minor acts of nonconformance. The CDC Form 128-A shall be affixed to the CDC Form 108 in the disciplinary section of the C-File.

### 72010.7.1 CDC Form 128-B, General Chrono

The CDC Form 128-B (canary yellow in color) shall be used by staff when the subject matter to be reported involves matters of classification, parole, or social service.

- This form shall be used by counselors and chaplains when making reports on the religious activity or outside contacts of inmates.
- The number of contacts shall be indicated and any evidence of insight or change of attitude shall be noted.
- Staff shall use this form if none of the other forms in the CDC Form 128 series are applicable to record information regarding contacts with inmates or persons interested in inmates.

- Housing officers shall use the CDC Form 128-B to report such information as the inmate's relationships with fellow inmates, behavior, personal cleanliness, general attitude, and personality.
- The CDC Form 128-B-1 is initiated when an adverse classification action may occur or a major program change is anticipated.
- CDC Form 128-B shall be affixed to the CDC Form 108 in the general chrono section.
- CDC Form 128-B-1 shall be affixed to the CDC Form 108 in the classification section.
- The CDC Form 128-P, Credit Action, is prepared by the correctional case records staff when manually processing a change in release date.

### 72010.7.2 CDC Form 128-C, Medical/Psychiatric/Dental/Chrono

The CDC Form 128-C (pink in color) is used by the medical, psychiatric, and dental departments in place of a "memo." An exception is the psychiatric report prepared for the BPT.

- The CDC Form 128-C shall be affixed to the CDC Form 108.

### 72010.7.3 CDC Forms 128-D, E & F, Education Chronos

The CDC Form 128-D (white with blue ink) is used for reporting progress (not registration) in day or evening high school courses.

The CDC Form 128-E (blue) is used for reporting progress in day or evening vocational training courses.

CDC Form 128-F (green) is used for reporting progress in day or evening elementary school courses.

The appropriate forms are used for each course in which the student enrolls and shall be completed:

- At the end of each quarter.
- As a progress report prior to a parole board appearance.
- When the inmate drops out of class or for some other reason does not finish the course.
- With the bottom line containing the date and name of the course. The word "Day" or "Evening" (whichever does not apply) shall be crossed out.
- The CDC Forms 128-D and F shall be affixed to the CDC Form 108. The CDC Form 128-E shall be affixed to the CDC Form 109.

### 72010.7.4 CDC Form 128-G, Classification Chronos

The CDC Form 128-G (goldenrod in color) is used to record all classification committee decisions.

The CSR shall use CDC Form 128-G to record the approval or disapproval of transfers. This CDC Form 128-G shall become the official transfer authorization document.

The CDC Form 128-G shall be affixed to CDC Form 108-A.

### 72010.7.5 Classification Records

A "call sheet" serves as a notice of a committee meeting and is issued to all members of the classification committee by one member who is designated as committee secretary. This notice shall list the names of the inmates to be considered and the date and time of the meeting.

A "result sheet" noting committee decisions shall be prepared by the committee secretary and distributed to the CCRM and other facility staff on a need-to-know basis.

The committee recorder shall send notification of committee actions by memo or use of the "Result Sheet" to the Department heads responsible for carrying out the decisions of the committee.

### 72010.8 CDC Form 192, Custody Summary Folder

The CDC Form 192, Custody Summary Folder, is no longer prepared at reception centers. Wardens, however, have the option of preparing, using, and maintaining a custody summary folder during the inmate's stay at the facility.

Upon transfer, parole, or discharge, the custody summary folder shall be destroyed and not forwarded with the remaining departmental records.

Custody summary folders shall not be used for filing confidential information apart from information contained in the confidential folder of the inmate's C-File.

Nonconfidential documents in the custody summary folder shall be made available for disclosure at the time the inmate or the inmate's attorney is authorized to examine the nonconfidential portion of the inmate's C-File.

When screening the custody summary folder for confidential information, it shall be given the same care as a preview screening of the C-File.

**72010.9 CDC Form 114-A, Detention/Segregation Records**

The CDC Form 114-A, Detention/Segregation Record, shall be prepared for each inmate housed in lockup status. The record shall be prepared in the lockup housing unit and maintained inside the cell inspection log folder where the inmate is housed.

- Prior to forwarding the records to the case records office, documents shall be placed in an 8 1/2" x 11" manila folder. The inmate's identification number and name shall be affixed in ink to the folder.
- If the inmate is released to the general population, the records shall be forwarded to the case records office for retention with the C-File.
- If an inmate remains in lockup at the same facility for an extended period of time, the records shall be forwarded to the case records office every six months for filing and a new record created by the lockup housing unit staff.
- The case records office shall maintain this "satellite file" in close proximity to the C-File (similar to the manner in which "slough" files were maintained). If the inmate is transferred to another facility, the segregation record file shall be sent with all other records.

**72010.10 CDC Form 101, Work Supervisor's Report**

The CDC Form 101, Work Supervisor's Report, shall be routed to the records office for inclusion in the inmate's C-File on CDC Form 109, Work Report Chrono Sheet.

**72010.11 CDC Form 144, Control Card**

The CDC Form 144, Control Card, is prepared initially in the reception center and maintained by the case records staff in the facility and parole region.

When an inmate is transferred, paroled, or returned to custody, the card shall be forwarded with the C-File.

Definitions and instructions for completing the control card are discussed below:

**Control Date**

The control date is that date which next requires action or disposition regarding an inmate or parolee. The cards shall be filed in chronological order by the date in the control date section.

**Number**

The inmate's/parolee's departmental identification number (CDC number).

**Name**

The inmate's/parolee's commitment name.

**Parole Unit**

This section is for region case records staff to record the parole unit to which the parolee is assigned.

**Lifer Court Notices Required**

This section is marked to indicate that a notice to the court shall be sent prior to a BPT hearing on lifer cases or other indeterminate sentence law (ISL) cases as requested.

**Parolee-at-Large/Releasee-at-Large (PAL/RAL)**

This section is for region case records staff to record a parolee's/releasee's status and the date the parolee/releasee was declared PAL/RAL.

**72010.11.1 Indeterminate Sentence Law (ISL) Data**

The following information shall be entered on ISL cases:

**Parole Date**

An ISL parole date is entered in this block if the inmate has been granted an ISL parole date by the BPT.

**Primary Term**

The primary term discharge date is entered in this block if a primary term has been granted by the BPT.

**Board Date/Civil Addict Program (CAP) Annual Review Date**

The month and year in which an inmate is scheduled for their next ISL board hearing or, for a civil addict, their next annual review date or date specified by the NAEA.

**72010.11.2 Determinate Sentence Law (DSL) Data**

The following information shall be entered in DSL cases:

**Maximum (Max) DSL Date/CAP Maximum Time in Program**

The maximum (Max) date an inmate may remain in a facility on a DSL term or DSL recalculation or, in the case of a parolee, the Max date a parolee can remain under parole supervision. For civil addicts, this date is the Max date a person can remain in the civil addict program.

**DSL Release Date/CAP Max Time in Custody**

The date an inmate is scheduled for release on a DSL recalculation or, in the case of a parolee returned to custody, the scheduled date for release from custody. For civil addicts, this date is the Max date a person can remain in custody.

**Discharge Review Date/CAP Clean Consecutive Months on Outpatient Status (OPS)**

The date one year after release to (or returned to) active parole status. For civil addicts, this is the date that shall indicate the conclusion of the clean consecutive months in outpatient status (OPS) for discharge consideration or the date the civil addict rolls over to civil addict parole.

**72010.11.3 Miscellaneous Information**

This section shall be used to record status of extended term screening. Case records staff may record other information in this section as needed.

**72010.12 CDC Form 112, Chronological Inmate History**

The CDC Form 112, Chronological Inmate History, shall be filed as the second sheet in the case summary section of the C-File.

If additional pages are needed, the inmate's name, CDC number, and chronological page number shall be entered at the bottom of each page.

**72010.12.1 Corrections to CDC Form 112**

Use of white-out or correction tape is prohibited.

When an entry is no longer valid (e.g., detainer dropped, release date changed, or posting error), a single line shall be drawn through the entry. The notation "No Longer Valid," the date and staff initials shall be placed adjacent to the lined-through material.

**72010.12.2 Postings to CDC Form 112**

Entries on the CDC Form 112 shall only include inmate movement/location, data affecting legal status, release and discharge date, length of parole, requests from law enforcement agencies, courts, or interested parties requiring responses, and all BPT and NAEA actions.

All entries on the CDC Form 112 shall be clear, legible and in black ink except those which are specifically designated to be in red ink.

All entries shall be initialed.

Only the abbreviations listed below and the standard facility abbreviations shall be used to provide uniformity.

**72010.12.3 Departmental Rubber Stamp Specifications**

Rubber stamp specifications:

- All capital letters in plain bold type. Average six characters per inch, letters one-quarter inch high.

**72010.12.4 Rubber Stamp Postings/Red Ink Stamp**

Red ink stamp:

- WANTED BY \_\_\_\_ (Write in the agency warrant/hold/detainer number, expiration date. Date stamp document when received and post this in left column.)
- NO LONGER WANTED BY \_\_\_\_ (Write in the agency warrant/hold/detainer number. Use date received. Cross out original wanted notice.)
- NOTICE REQUESTED \_\_\_\_ (Write in kind of request. Note if CDC Form 128-R is confidential.)

**72010.12.5 Rubber Stamp Postings/Black Ink Stamp**

Black ink stamp:

- Report requested, PC 1170(d).
- Report mailed, PC 1170(d).

**72010.12.6 Postings/Handwritten in Red Ink**

Handwritten in red ink (sample abbreviations as noted):

- Escaped.
- Escaped while on temporary community leave (TCL).
- Apprehended by \_\_\_\_.
- Apprehended by \_\_\_\_ after expiration of TCL.
- Public interest case.

**72010.12.7 Postings/Handwritten in Black Ink**

Handwritten in black ink (sample abbreviations as noted):

- Received (rec'd) reception center, SQ (condemned), other jurisdiction.
- Rec'd facility–interfacility transfer.
- Rec'd reception center as parole violator returned to custody (PVRTC).

- Rec'd reception center as parole violator returned with new term (PVWNT).
  - Rec'd community correctional facility.
  - Out-to-court (OTC)–witness, new trial/new charge (NT/NC), further proceedings.
  - Court-return to finish term (Crt Ret TFT).
  - Court-return with new term (Crt Ret WNT).
  - Released to TCL.
  - Returned from TCL (Ret'd from TCL).
  - Ret'd from escape.
  - Paroled to Region \_\_\_\_\_, unit name (Par to Reg).
  - Ret'd to Parole, Region \_\_\_\_\_, unit name (Ret'd to Par Reg) (after release on appeal bond/bail, court order, including while out-to-court.)
  - Discharged.
  - Deceased.
  - Pardon granted.
  - Commutation of sentence.
  - File audited.
  - Additional commitment rec'd.
  - Amended abstract of judgment rec'd, case # \_\_\_\_\_ (specify what was amended).
  - Discharged from previous term, case # \_\_\_\_\_ (BPT Rule 2649).
  - Commitment vacated/recalled/judgment suspended, case # \_\_\_\_\_.
  - Arrested/located.
  - Waiver of extradition (out-of-state arrest).
  - Reinstate on parole effective \_\_\_\_\_.
  - Schedule for revocation.
  - Continue on parole.
  - Earliest possible release date (EPRD).
  - Current release date.
  - Max release date (MRD).
  - Minimum (MIN)/MAX DSL date.
  - Projected revocation release date (PRRD).
  - All Board actions, hearing date, dead time, parolee-at-large (PAL) date, discharge review date (DRD), controlling discharge date (CDD), revocation release date (RRD), ISL date.
- \_\_\_\_ Days Credit Lost. CDC 115, Dated \_\_\_\_\_ Log # \_\_\_\_\_
- \_\_\_\_ Days credit Restored. CDC 115, Dated \_\_\_\_\_ Log # \_\_\_\_\_

#### 72010.12.8 Items Not Posted to CDC Form 112

The following items shall not be posted:

- Release to out-to-court and return same day.
- Optional/unconditional waiver signed (this shall be part of the BPT action).

#### 72010.12.9 Other Postings to CDC Form 112

Any entries not listed above shall be written out and not abbreviated to provide a clear understanding and meaning of the entry.

#### 72010.13 Purging/Retention of C-File Material

When using C-Files, the counselor shall purge assigned case files of nonessential documents in accordance with the following procedures to maintain the C-File at a more manageable and less costly size and to improve the validity of case information.

##### 72010.13.1 General Purge/Retention Guidelines

Eliminate duplication by retaining no more than a single copy of any item.

Retain all legal documents and one copy of all parts of the case summary.

Discard mail envelopes received with items placed in the file after the return address is copied onto the item.

Apply departmental criteria for determining confidentiality before disposing of material.

- All nonconfidential material removed from the file shall be given to the inmate unless otherwise indicated.
- Confidential material removed from the file shall not be given to the inmate but shall be destroyed.

No material shall be removed from the C-File which affects the facility security or the health and safety of inmates or others. If material does affect either, the specified retention schedule for that item is waived and the item shall be retained in the file. For example:

- A threat on a person's life might be documented on an informational chrono, which according to the retention schedule is due for purging. Because of the safety issue, the reviewer shall retain that chrono in the file.

**Do not use local "in-house" forms** in lieu of departmental forms. In cases where a local form was used, purge it according to the criteria established for the departmental form.

#### 72010.13.2 Specific Purge/Retention Instructions

*Revised July 22, 2013*

The following instructions apply to the types of documentation which may be found in a case file and shall be followed in the purge processes:

##### Board Report

Retain in hard copy; microfiche at discharge.

##### Psychiatric Evaluation

Retain in hard copy; microfiche at discharge.

##### Responses to PC 3042 Notice

Retain in hard copy; microfiche at discharge.

##### Statement by Judge and DA

Not usually received on CDC form, but is the PC 1203.1 statement which shall be retained in hard copy; microfiche at discharge.

##### Writs Filed by Life Prisoners

Regardless of the issue raised or the named parties, writs shall be retained until discharge. Numerous writs filed by litigious inmates may be retained in a separate file. Microfiche at discharge.

##### Correspondence Regarding the Prisoner and the Offense

Retain in hard copy; microfiche at discharge.

##### CDC Form 101, Work Supervisor's Report

Retain in hard copy; microfiche at discharge.

##### CDC Form 102, Release Statement and Clothing Authorization

Purge all but most recent one.

##### CDC Form 104, Property and Cash Receipt-- Arrival

Do not file in C-File. Maintain current copies in property room.

##### CDC Form 105, Application for Mail and Visiting Privileges

Do not file in C-File. Retain in visiting office.

##### CDC Form 106, Mail and Visiting Privilege Questionnaire

Do not file in C-File. Retain in visiting office.

##### CDC Form 112, Chronological History

Retain in hard copy; microfiche at discharge.

##### CDC Form 114-A, Isolation-Segregation Record

Retain in hard copy; microfiche at discharge.

##### CDC Form 114-D, Order and Hearing for Placement in Segregation Housing

Retain in hard copy; microfiche at discharge.

##### CDC Form 115, Rule Violation Report (Administrative)

Retain in hard copy; microfiche at discharge.

##### CDC Form 115-A, Serious Rule Violation Report

Retain in hard copy; microfiche at discharge.

- Incident reports attached to CDC Forms 115 retained in hard copy; microfiche at discharge.

##### CDC Form 122, Property and Cash Receipt--Release

Do not file in C-File. Retain in property room.

##### CDC Form 123, Body Receipt

Retain in hard copy; microfiche at discharge.

##### CDC Form 126, Certificate of Driver Eligibility

Retain in hard copy; microfiche at discharge.

##### SOMS - Notification in Case of Inmate Death, Serious Injury, or Serious Illness

##### CDC Form 128-A, Custodial Counseling

Retain in hard copy; microfiche at discharge.

##### CDC Form 128-B, General Chrono

Retain in hard copy; microfiche at discharge.

**CDC Form 128-B-1, Notice of Classification Hearing**

Retain in hard copy; microfiche at discharge. These are needed for accreditation.

**CDC Form 128-C, Medical-Psych-Dental**

Retain in hard copy; microfiche at discharge.

**CDC Form 128-C-1, Reception Center Medical Clearance/Special Instructions**

Retain in hard copy; microfiche at discharge.

**CDC Form 128-D, E, and F, Education Progress Reports**

Retain in hard copy; microfiche at discharge.

**CDC Form 128-G, Classification Chrono**

Retain in hard copy; microfiche at discharge.

**CDC Form 128-L, Education—College**

Retain until BPT hearing (documentation, parole consideration, progress or rescission) which occurs after the conduct documented on the form, then purge.

**CDC Form 128-M, Group Test Results**

Retain in health records.

**CDC Form 128-O, Document Receipt**

Retain in hard copy; microfiche at discharge.

**CDC Form 128-P, Loss of Credit Notification**

Purge all but most recent notice.

**CDC Form 128-P-1, Notice of Work Credits**

Purge all but most recent notice.

**CDC Form 128-R, Requested Notice of Escape or Transfer of Custody**

Retain in hard copy; microfiche all but most recent notice.

**CDC Form 138, Fingerprint Card**

Retain in hard copy.

**CDC Form 146, Release—Motion Pictures, etc.**

Retain in hard copy; microfiche at discharge.

**CDC Form 158, Certification of Education Achievement**

Do not file in C-File. Retain in education/vocational office.

**CDC Form 161, Warden's Checkout Order**

Do not file in C-File. Retain in separate record office file for one year in addition to the current year.

**CDC Form 188, Cumulative Case Summary—Face Sheet**

Retain in hard copy; microfiche at discharge.

**CDC Form 191, Inmate Time Card**

Retain in hard copy; purge 60 days after last credit gain unless an appeal is pending.

**CDC Form 193, Trust Account Withdrawal Order**

Do not file in C-File. Retain in trust office.

**CDC Form 198-A, Source of Information**

Retain in hard copy; microfiche at discharge.

**CDC Form 202, Request for Education Record**

Do not file in C-File. Retain in education office.

**CDC Forms 203, 204-A, 205-A, 206, 207-A, and 208**

All these forms are obsolete.

**CDC Form 209, Psychological Test Results**

Retain in health record.

**CDC Form 241, Request for Military Service Data**

Purge when answer received.

**CDC Form 248-A, Letter of Inquiry Re: Application for Employment**

Retained in C-File only until reply is received, then purge.

**CDC Form 255, Off-Site Work Assignment Eligible List**

Do not file in C-File. Retain in custody office.

**CDC Form 260, Personal Clothing Disposition**

Do not file in C-File. Retain in property room.

**CDC Form 279-L, Facility Appearance Evaluation Sheet**

Retain in hard copy; microfiche at discharge.

**CDC Forms 294 and 295, Western Interstate Corrections Compact Agreement and Cooperative Transfer Agreement**

Retain in hard copy; microfiche at discharge.

**CDC Forms 341, 342, 343, and 344, Discharge Certificates**

Retain in hard copy; microfiche at discharge.

**CDC Form 345, Power of Attorney and Authorization for Deposit**

Retain latest in hard copy; microfiche at discharge.

**CDC Forms 360, 360-A, 361, 362-A, and 362-B, NAEA Vote Sheet**

Retain in hard copy; microfiche at discharge.

**CDC Form 600, Wanted Persons System Notification—Addendum A**

Retain current wants in hard copy. Purge upon cancellation.

**CDC Form 602, Inmate/Parolee Appeal Form**

Retain in hard copy; microfiche at discharge.

**CDC Form 611, Release Program Study**

Purge all but most recent one. Microfiche at discharge.

**CDC Form 616, Form Letter—Request for Disposition of Probation, Waiver of Appearance and Right to Attorney**

Purge when adjudicated.

**CDC Forms 629-A and 629-B**

SHU term of initial confinement, and re-determination of SHU confinement term. Retain in hard copy attached to CDC 115, microfiche at discharge.

**CDC Form 643, Demand for Hearing and Trial**

Retain in hard copy; microfiche at discharge.

**CDC Form 644, Notice of Presumptive Death**

Microfiche at discharge.

**CDC Form 661, Form Letter to Inmate Re: Wanted by Other Agencies**

Retain in hard copy; microfiche at discharge.

**CDC Form 669, Motion to Dismiss Criminal Charges Pending**

Retain in hard copy; microfiche at discharge.

**CDC Form 678, Confinement Computation**

Retain in hard copy; microfiche at discharge.

**CDC Form 679-A Credit/Term Computation**

Retain in hard copy; microfiche at discharge.

**CDC Form 679-A Credit/Term Computation**

Retain in hard copy; microfiche at discharge.

**CDC Form 695, Appeals Office Screening Decision**

Retain in hard copy; microfiche at discharge.

**CDC Form 801, Notice of Detainer**

Retain in hard copy, purge when returned to Department custody or paroled.

**CDC Form 802, Interstate Compact/Placement Agreement**

Retain in hard copy; microfiche at discharge.

**CDC Form 804, Notice of Pending CDC 115**

Retain in hard copy; purge when CDC 115 is adjudicated.

**CDC Form 810, Confidential Information Listing**

Retain latest in hard copy; microfiche at discharge.

**CDC Forms 811 and 811-A, Confidential Information Removal Notice**

Retain latest in hard copy; microfiche at discharge.

**CDC Forms 812, Notice of Critical Case Information—Safety of Persons; 812-A, Notice of Critical Information—Prison Gang Identification; and 812-B, Notice of Critical Information—Disruptive Group Identification**

Retain in hard copy; microfiche at discharge.

**CDC Form 813, Release From Liability**

Retain in hard copy; microfiche at discharge.

**CDC Form 819, Personal/Confidential Information Disclosure/Access Log**

Retain in hard copy; microfiche at discharge.

**CDC Form 833, Record Release Authorization**

Retain in hard copy; microfiche at discharge.

**CDC Form 839, Initial Classification Score Sheet**

Retain in hard copy; microfiche at discharge.

**CDC Form 840, Reclassification Score Sheet**

Retain in hard copy; microfiche at discharge.

**CDC Form 850, Detainer Summary**

Retain in hard copy; microfiche at discharge.

**CDC Form 888, Notice of Request for Search**

Do not file in C-File. Retain in visiting office.

**CDC Forms 913 and 914, Override and Sentence Date Entry**

Do not file in C-File.

**CDC Form 916, Credit Time Waiver**

Retain in hard copy; microfiche at discharge.

**CDC Form 958, Application for Restoration of Credits**

Retain in hard copy; microfiche at discharge.

**CDC Form 1502, Activity Report**

Retain in hard copy; microfiche at discharge.

**CDC Form 1503, Parolee Face Sheet**

Retain in hard copy; microfiche at discharge.

**CDC Form 1504, Parole Release Authorization**

Retain in hard copy; microfiche at discharge.

**CDC Form 1506, Transfer/Correction/Residence Change**

Retain in hard copy; purge at discharge.

**CDC Form 1507, Record of Interview (Reentry)**

Retain in hard copy; microfiche at discharge.

**CDC Form 1508, Parolee's Monthly Report**

Do not file in C-File.

**CDC Form 1509, Assistance Receipt**

Do not file in C-File.

**CDC Form 1510, Loan Repayment Receipt**

Do not file in C-File.

**CDC Form 1512, Form Letter Permit to Drive a Vehicle.**

Obsolete, purge.

**CDC Form 1515, Notice and Conditions of Parole**

Retain in hard copy; purge at discharge.

**CDC Form 1515-L, Conditions of Release**

Retain in hard copy; microfiche at discharge.

**CDC Form 1519, Request to Exercise/Restore Civil Rights**

Obsolete, purge.

**CDC Form 1521-A, Actions of the Parole & Community Services Division**

Retain in hard copy; purge at discharge.

**CDC Form 1521-B, Charge Sheet**

Retain in hard copy; purge at discharge.

**CDC Form 1521-C, Case Summary**

Retain in hard copy; purge at discharge.

**CDC Form 1521-D, Recommendation Review Decision Sheet**

Retain in hard copy; purge at discharge.

**CDC Form 1524, PAL Report**

Retain in hard copy; purge at discharge.

**CDC Form 1526, Visitation Permit**

Retain in hard copy; purge at discharge.

**CDC Form 1529, Parole and Probation Form A, Reply to Parole Investigation Request**

Retain in hard copy; purge at discharge.

**CDC Form 1530, Parole and Probation Form B, Report of Violation**

Retain in hard copy; purge at discharge.

**CDC Form 1531, Parole and Probation Form 1, Parole Investigation Request**

Retain in hard copy; purge at discharge.

**CDC Form 1532, Parole and Probation Form 2, Report of Sending State**

Retain in hard copy; purge at discharge.

**CDC Form 1533, Parole and Probation Form 3, Agreement to Return**

Retain in hard copy; purge at discharge.

**CDC Form 1534, Parole and Probation Form 4, Parole Progress and Conduct Report**

Retain in hard copy; purge at discharge.

**CDC Form 1535, Out-of-State Travel Permit**

Retain in hard copy; purge at discharge.

**CDC Form 1536, Request for Cooperative Investigation**

Retain in hard copy; purge at discharge.

**CDC Form 1538, Opening and/or Closing Notice**

Retain in hard copy; purge at discharge.

**CDC Form 1539, Tracer Letter #1 (PAL)**

Do not file in C-File.

**CDC Form 1540, Final Request Concerning Parolee (PAL)**

Do not file in C-File.

**CDC Form 1541, Request for Submission of Monthly Report**

Do not file in C-File.

**CDC Form 1548, Parolee Outpatient Clinic Referral**

Do not file in C-File.

**CDC Form 1551, Transfer Investigation Request**

Do not file in C-File.

**CDC Form 1570, Guidelines for Parole**

Do not file in C-File.

**CDC Form 1580, Request for Criminal Record (DOJ)**

Do not file in C-File.

**CDC Form 1600, Arrival Report—Work Furlough Inmates**

Retain in hard copy; purge at discharge.

**CDC Form 1601, Departure—Work Furlough**

Retain in hard copy; purge at discharge.

**CDC Form 1604, Agreement of State Prisoner to Participate in Community Correctional Facility Program**

Retain in hard copy; purge at discharge.

**CDC Form 1608, NAEA Vote Sheet**

Retain in hard copy; microfiche at discharge.

**CDC Form 1610, Authorization and Waiver Methadone Maintenance Program**

Do not file in C-File.

**CDC Form 1611, Request for Furlough Absence**

Do not file in C-File.

**CDC Form 1614, Employment Information**

Do not file in C-File.

**CDC Form 1628-B, NAEA Board Report Review—Special Comments**

Retain in hard copy; microfiche at discharge.

**CDC Form 1632, Discharge Review—Retain in Parole Report**

Retain in hard copy; purge at discharge.

**CDC Forms 1664 Through 1672, Agreement on Detainers**

Retain in hard copy; microfiche at discharge.

**CDC Form 1676, Hearing Data (Case Data)**

Retain in hard copy; microfiche at discharge.

**CDC Form 7252, Request Authorization for Temporary Removal for Medical Treatment**

Retain in hard copy; microfiche at discharge.

**72010.13.3 Parole & Community Services Division Forms: Purge/Retention**

P&CSD Forms:

**P&CSD Form 101, Form Letter**

Obsolete, purge.

**P&CSD Form 102, Corrected Discharge Date/Notification of Death**

Obsolete, purge.

**P&CSD Form 103, Form Letter**

Retain in hard copy; purge at discharge.

**P&CSD Form 104, Form Letter**

Obsolete, purge.

**P&CSD Form 105, Affidavit**

Obsolete, purge.

**P&CSD Form 106, Memo—Transmittal**

Obsolete, purge.

**P&CSD Form 107, Weekly Discharge List**

Retain in hard copy; purge at discharge.



**P&CSD Form 180, P&CSD Route Slip**

Do not file in C-File.

**P&CSD Forms 181 and 181-B, Costs of Detention**

Do not file in C-File.

**P&CSD Form 182, Cooperative Case Referral**

Obsolete, purge.

**P&CSD Form 183, Prescription**

Obsolete, purge.

**P&CSD Form 184, POC–Monthly Activities Report**

Do not file in C-File.

**P&CSD Form 185, Records Card**

Obsolete, purge.

**72010.13.4 Non-departmental Forms: Purge/Retention**

Non-departmental forms:

**Abstract of Judgment**

Retain in hard copy; microfiche at discharge.

**Minute Order**

Retain in hard copy; microfiche at discharge.

**Charging Document**

Retain in hard copy; microfiche at discharge.

**Sentencing Transcript**

Retain in hard copy; microfiche at discharge.

**POR**

Retain in hard copy; microfiche at discharge.

**Appellate Opinion:****Lifer Cases**

Retain in hard copy; microfiche at discharge.

**Nonlifer Cases**

If affirmed, destroy when final.

**Remittitur**

Retain in hard copy; microfiche at discharge.

**Board Decision**

Retain in hard copy; microfiche at discharge.

**Requests for Notice of Board Hearings and Correspondence From Victims and Next-of-Kin**

Retain in hard copy; microfiche at discharge.

**General Correspondence**

Purge at review for documents two years old except items containing crucial information in the judgment of the reviewing counselor; microfiche at discharge.

**Current CI&I SSCH**

Retain in hard copy; microfiche at discharge.

**Current FBI Reports**

Retain in hard copy; microfiche at discharge.

**Arrest Reports Re: Instant Offenses or Requested by NAEA**

Retain in hard copy; microfiche at discharge.

**All Violation Reports**

Retain in hard copy; microfiche at discharge.

**All Referrals to Outpatient Status/Civil Addict Parole**

Retain in hard copy; microfiche at discharge.

**All Release Program Studies (Outpatient Status/Civil Addict Parole)**

Retain in hard copy; microfiche at discharge.

**72010.14 CDC Form 135, Transfer Record**

A CDC Form 135 shall be prepared listing the number and name of each inmate being transferred.

A separate CDC Form 135 shall be prepared for each facility or facility of a complex.

Under "Remarks," the sending facility shall note those cases requiring emergency or special handling (e.g., emergency psychiatric, serious escape risk, SHU placement) but not confidential information.

The inmate's privilege group shall be indicated in the remarks.

The CDC Form 135 shall be prepared in quintuplicate, signed by case records staff, and forwarded with the case records to the receiving and release (R&R) sergeant for further processing.

The CDC Form 135 shall be signed by the transporting officer as a receipt for the inmates and their records.

**72010.14.1 Distribution of CDC Form 135**

One copy of the CDC Form 135 shall be returned by R&R to the case records office of the sending facility where it shall be retained for one year in addition to the current year.

One copy of the CDC Form 135 shall be delivered to the sending facility control room.

The remaining three copies of the form shall be carried by the transportation officer to the receiving facility for the following distribution:

- One copy and any confidential information to the receiving facility's control room.
- One copy with the inmate's records to the case records office of the receiving facility where it shall be retained for one year in addition to the current year.
- The remaining copy is retained by the transporting officer.

**72010.14.2 New CDC Form 135 For Layovers**

Case records staff of a layover facility shall prepare a new CDC Form 135 listing all inmates being transferred from their facility including those enroute.

The new CDC Form 135 shall be used as a receipt for the inmates and their records on departure from the layover facility.

Notations shall be made under "Remarks" to indicate the origin of the transfer (e.g., en route from CIM).

When it is apparent that the departmental transportation vehicle shall arrive at a layover facility after regular working hours, the sending facility shall FAX the names, numbers, and destination of those inmates who are stopping over.

This shall enable the case records staff of the layover facility to prepare the CDC Form 135 in advance.

**72010.14.3 Parole Violators Returned From County Jail**

For each parole violator picked up at a county jail by departmental transportation, the receiving facility's staff shall prepare a CDC Form 123, Body Receipt, upon arrival.

Any confidential memos/chronos shall be delivered to receiving facility staff for immediate evaluation.

**72010.15 CDC Form 134, Records Transfer Checksheet**

A CDC Form 134 shall be prepared in duplicate listing the records for transfer to another facility or parole region and using the inmates listed on the CDC Form 135 or the CDC Form 161.

An entry shall be made in each square of the sheet after the inmate's name to indicate that the record is enclosed, delayed, or nonexistent. The disposition of the Form 134 is as follows:

- The original of the Records Transfer Checksheet shall accompany the records to the records office of the receiving facility/region where it shall be retained one year in addition to the current year.
- The duplicate shall be retained by the records office of the sending facility/region one year in addition to the current year.

**72010.16 IW/TIP Records**

The IW/TIP requires proper recording and documentation of an inmate's participation in a work/training assignment for the purpose of granting worktime credit.

DOM 73030 of this manual provides detailed procedures for the completion and processing of the CDC Form 191, Inmate Time Card, and worktime credit chronos.

- Time cards shall be filed in the general chrono section of the inmate's C-File.

**72010.16.1 Transfer of Time Cards**

If a time card is received in the case records office after an inmate and his records have been transferred, the information from the card shall be entered into the computer.

After entry into the computer, the time card shall be mailed immediately by first-class mail to the receiving case records office for placement in the inmate's C-File.

**72010.16.2 Missing Time Report**

The time collection computer program does not permit granting of worktime credits when there are gaps in an inmate's record.

Timely entry of correct worktime data for each day is absolutely necessary.

A missing time report is computer-generated which enables each facility and parole region (community correctional center cases only) to receive a monthly listing of missing computer entries of worktime records.

The missing time report provides a method for staff to make immediate follow-up of any missing time thereby enabling case records staff to grant accurate worktime credits in a timely manner.

The missing time report shall be routed to facility department heads for further distribution to supervisor(s) for follow-up.

Staff shall review their timekeeping records and prepare a time card or chrono for inmates under their supervision who are listed on the report.

#### **72010.16.3 Missing Time Report Format**

The missing time report is printed in CDC numerical order within the following categories:

- Not vested.
- Vested.

Missing time information shall continue to be shown on each monthly listing until a time card or time chrono has been received and entered into the computer by case records staff.

#### **72010.17 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **72010.18 References**

PC § 2081.5.

CCR (15) (3).

DOM §§ 52080 and 73030.

### **ARTICLE 4 — INITIAL INTAKE PROCEDURE**

*Revised July 22, 2013*

#### **72020.1 Policy**

Inmates received by the Department must be accompanied by proper documentation and authorization, and their identity must be verified to prevent inadvertent acceptance of persons not legally committed to CDCR.

If CDCR Intake Control Unit (ICU) has been notified by a county that a new commitment prisoner or a referral pursuant to Penal Code (PC) Section 1203.03 is ready to be transported, the Department is unable to accept delivery by the fifth working day, and the abstract of judgment or minute order has been completed, PC Section 4016.5(d) states that county shall be reimbursed for costs incurred resulting from the prisoner's detention.

California Code of Regulations (CCR), Title 2, Division 2, Financial Operations, Chapter 1, Victim Compensation and Government Claims Board, Section 776, states a county is entitled to reimbursement for allowable expenses incurred in the transportation of a State prisoner to a State institution.

#### **72020.2 Purpose**

This Section establishes standard procedures for the orderly acceptance and processing of inmates in a controlled, expedient manner into departmental institutions.

This Section establishes standard procedures for the reimbursement to a county when the county has notified CDCR of the detention of a new commitment State prisoner in a county facility in excess of five working days from the date of county notification to ICU.

This Section also establishes standard procedures for reimbursement of allowable expenses incurred in the transportation of State prisoners.

#### **72020.3 Types of Inmates/Cases Received by the Department**

Inmates received by CDCR include:

- New commitments.
- Diagnostic commitments [PC 1203.03].
- Safekeepers (PC 4007).
- Out-to-court returns with new terms or to finish terms.
- Parole Violators With New Terms (PVWNT) or Parole Violators Returned To Custody (PVRTC).
- Outpatient returnees with new commitments or to finish commitments.

##### **72020.3.1 New Commitment County Reimbursement**

CDCR shall reimburse a county for each day of a prisoner's detention, starting on the day following the fifth working day (Monday through Friday, excluding holidays as outlined in Government Code Section 19853) after the county notifies CDCR it has a prisoner ready for transfer to CDCR and delivery is denied.

Reimbursement begins for each day in excess of five working days from the date the county notified CDCR ICU that delivery of the prisoner was denied.

The county will not be reimbursed for the detention of a prisoner for any period of time prior to notification and within the five working days after notification.

#### **Notification Processes:**

Notification to CDCR ICU shall be on or before the Friday prior to the week of transport. If a county's designated Receiving Center (RC) is unable to accept delivery of the prisoner, the county shall contact ICU. ICU will either:

- Direct the county to deliver the prisoner to an alternate RC with available beds; or
- Verify that CDCR is currently unable to accept delivery of the prisoner at any RC.

If a county refuses or is unable to deliver the prisoner to the designated or alternate RC, the county will no longer be eligible for reimbursement. Upon notification from CDCR ICU of the inability to accept delivery of the prisoner at any RC, the county shall e-mail, in CDCR's approved format, the following information to CDCR ICU:

- The name of each detained prisoner denied delivery to CDCR, along with his or her criminal investigation and identification number, and date of birth;
- The certified abstract of judgment date or minute order date for each prisoner denied transfer;
- Verification the prisoner denied delivery by CDCR is medically fit for transport.

Priority shall be given to inmates incurring non-routine medical expenses who are otherwise medically capable of transporting to CDCR. If a county attempts to deliver a prisoner to CDCR without notifying ICU and the RC is unable to accept delivery of the prisoner, the date of notification will be the date the county attempts to deliver the prisoner to CDCR. In the event beds become available at an RC for the prisoner whose delivery was initially denied, CDCR will notify the county of the bed availability and the county shall arrange for delivery of the prisoner to the identified RC. The county shall deliver the prisoner within two working days of CDCR's notification of bed availability. If the county is unable to deliver the prisoner within two working days, reimbursement will not be authorized for any additional days.

#### **72020.3.2 Allowable Expenses**

CDCR is responsible for reimbursement to counties for expenses incurred for the transportation of the State prisoner from a county facility to CDCR as outlined in CCR, Title 2, Section 776. Reimbursement claims must be submitted to CDCR within six months of the end of the month in which the costs were incurred.

#### **72020.4 Intake Procedures**

Reception centers or receiving institutions shall prepare required departmental forms on inmates received with new commitments.

In processing arrivals at institutions, standard procedures shall be followed.

##### **72020.4.1 Receiving Responsibility: Receiving and Release (R&R)**

In processing arrivals the R&R sergeant shall:

Verify that new/additional commitments are valid and certified. The court order is deemed certified if it has any two of the following:

- Original judge's signature.
- Original county/court clerk's signature.
- Original county seal.

Refer to Correctional Case Record Manager (CCRM) any questionable documents for verification.

Make a print of arrival's right index finger on the commitment document.

Assign a CDC identification number (CDC number) for new commitments.

Record each newly admitted inmate's number and name in the reception center roster.

#### **Prepare Forms**

Prepare a Body Receipt in duplicate and distribute:

- Original to person delivering inmate.
- Copy to C-File.

Receive new arrival's cash, securities, and other personal property and complete a CDCR Form 104, Property and Cash Receipt Arrival, in quadruplicate and distribute:

- White, retained in R&R.
- Yellow, to inmate.
- Green, to trust office with case/securities.
- Pink, to remain with valuable property envelope.

Have inmate complete a CDCR Form 345, Authorization for the Secretary to Maintain Trust Account, and forward to C-file.

Prepare the Strategic Offender Management System (SOMS) - Notification in Case of Inmate Death, Serious Injury, or Serious Illness, on all new commitments.

- The CCRM shall prepare the SOMS-Notification in Case of Inmate Death, Serious Injury or Serious Illness for commitments received by mail.
- This information is used to prepare the FBI Form FD-249; Fingerprint Cards, and then the form is destroyed.
- The chrono section of the "Notification in Case of Inmate Death, Serious Injury, or Serious Illness" shall be removed and forwarded to Case Records for the C-File.

#### **CDC Form 103-B**

The CDC Form 103-B, Associate Warden--Custody Inmate Record Card, may be used in a facility at the discretion of the Warden. This form is not a part of the inmate C-file and shall not be retained therein.

#### **72020.4.2 Disposition of Personal Clothing**

New arrivals may send civilian clothing out of the facility at their own expense or designate that the facility dispose of it.

#### **72020.4.3 Fingerprints**

Four sets of fingerprints and complete information shall be provided on four FBI Form FD-249, except for 90-day placements (PC 1203.03).

#### **R&R Responsibility**

On 90-day placements, only one FBI Form FD-249 shall be sent to California Department of Justice (DOJ) on an FBI card.

#### **Required Information**

The following information is required on all FBI Form FD-249s:

- Date subject was received by the facility.
- County of commitment.
- Commitment offense(s).
- Court case number(s), crime(s) including probation revocation when applicable, proper code section(s), and sentence(s) shall be specified.
- For diagnostic cases, the charge shall be "PC 1203.03." The charge resulting in PC 1203.03 commitment shall not be reflected.
- Inmate's full commitment name [see DOM 73010.6.1], CDC number, contributing facility's identification number, and the name of the facility submitting the card.

#### **Additional Commitments**

If an additional commitment is involved, indicate the type.

- Court return with new term.
- Additional commitment received by mail.
- Escape return with new term.
- PVWNT.
- Civil Addict cases shall specify outpatient return with a new commitment.

#### **Parole Violators**

PVRTC:

- In the charge box, note "Parole Violator" or "Outpatient Returnee."
- In the final disposition box, note "P.R.T.C."

PVWNT:

- In the charge box, note "Parole Violator with New Term" and include county, case number, code and section number, and offense in narrative form.
- In the final disposition box, place the new term(s) (i.e., Parole Violator with New Term and years of term. Do not include code number).

#### **Audit of Information**

All FBI Form FD-249s shall be audited to ensure that they are proper, accurate, and complete in form.

FBI Form FD-249s that do not contain all the required information shall be returned to the processing facility by DOJ.

Returned FBI Form FD-249s shall be forwarded to the facility of confinement for correction and resubmission to DOJ.

On a daily basis, and no later than four working days after receipt of the inmate, two of the FBI Form FD-249s shall be mailed to:

California Department of Justice  
Bureau of Criminal Information and Analysis  
4949 Broadway  
Room F-109  
Sacramento, CA 95820-1528

#### **Records Office**

The remaining two FBI Form FD-249s will be filed in the C-file. One shall be permanently retained there, and the other one shall be sent out to the Division of Adult Parole Operations (DAPO) when the inmate is released on parole.

#### **72020.4.4 Inmate Photograph Specifications**

Inmate photographs must meet the following specifications:

Photographs and negatives produced for other than institutional use shall have both the front and side views of the inmate. The size of the picture and negative shall be three inches (height) by four inches (width) with no border. The side view shall be on the left side of the photograph facing the front view. All photographs shall be taken in a reduction scale of 7:1. The ground glass on the camera will be marked to provide 2 3/8 inches from the top of the head to the bottom of the number board.

- Number boards shall be used on all front view photographs and be approximately eight inches (width) by four inches (height). They shall contain only the following information:
- "CALIFORNIA PRISON" in 1/2 inch letters. Civil addict commitments will show as "CALIFORNIA REHABILITATION CENTER."
  - Inmate's CDC number in one inch numbers.
  - Inmate's name in 1/2 inch letters (initials and last name).
  - Date photograph taken in 1/2 inch numbers.

Photographs shall reflect as nearly as possible the normal appearance of the inmate. Excessive smiles or squints that distort the shape of the eyes and mouth shall be avoided.

- Inmates shall be photographed every five years or when there is a distinct change in physical appearance.

#### **Staff Responsibility**

Staff shall refer inmates to the institutional photo lab for a new photograph when their appearance differs markedly from the photograph on their privilege or identification card or in the C-file.

Referrals shall be in writing with a copy to CCRM.

#### **72020.4.5 Confidential Folders**

Upon receiving information that an inmate has a prior CDC number and was discharged on or after 1-1-80, the following shall be done.

#### **Reception Center Case Records Staff**

Query Offender Based Information System (OBIS) for confidential file flag.

- If there is a confidential flag, immediately contact ID/Warrants Unit Confidential Folder clerk.
- Request the Confidential Folder and have pertinent information relayed immediately for use by custody and counseling staff prior to receipt of the folder.

#### **ID/Warrants Unit**

Mail Confidential Folders by First Class Mail the same day request is received.

- If the material in the Confidential Folder is deemed nonconfidential (see DOM 61020) the ID/Warrants Unit, Confidential Folder clerk, shall be notified to remove the confidential flag from OBIS.
- The Confidential Folder, with the notation "Deemed Nonconfidential," shall be returned to the Archives Unit with the discharged file.

#### **72020.4.6 Case Files for Parole Violators/CCRM Responsibility**

The CCRM shall communicate with the appropriate regional CCRM, using the telephone, FAX, or OBIS, advising them of the receipt of the parole violator(s) and shall request that the case files be forwarded immediately.

- Case files on parole violators (PVRTC or PVWNT) shall be requested daily.
- Parole regions shall forward requested files to the institution immediately.

#### **72020.4.7 Parolees With New Commitments**

Non-life commitment parolees who have been revoked and returned to prison with a new commitment shall not be automatically discharged.

#### **Case Records Staff**

Case Records staff shall determine whether or not to discharge a prior commitment for a parolee returned to prison with a new commitment in accordance with BPH Rule 2649.

A parolee who has been returned with a new commitment but whose parole has not been revoked shall be presented to the BPH on the Miscellaneous Proceedings Calendar at the reception center or receiving facility.

#### **72020.4.8 Safekeepers**

The PC 4007 provides for housing of county prisoners in State prisons for safekeeping, hospitalization, or because the county jail is unsafe or unfit. The Warden shall immediately, upon receiving such prisoner, advise The Director in writing.

### Records Office Responsibility

The ID/Warrants Unit will issue all "S" numbers and the headquarters OBIS staff will enter all "Admission" movements.

The following information shall be telephoned to the ID/Warrants Unit prior to receiving an "S" number:

- Reviewing facility's name.
- Name, title, and telephone number of person requesting the "S"
- number.
- Safekeeper's date of birth.
- Safekeeper's ethnicity.
- Safekeeper's CI&I number (or state that the CI&I number is unavailable).
- Admitting agency.

The C-file shall be processed in accordance with DOM 71020.5.7.

### 72020.5 Case Summary

Information from the following documents may be used in the preparation of the case summary. Upon receipt they shall be placed in the C-file.

- Abstracts of Judgment or Minute Orders.
- Statements of judge and DA.
- POR.
- Transcript of proceedings at the time of sentence.
- Copy of the indictment or information.
- CI&I SSCH.
- All correspondence pertaining to the inmate's case.

### Responsibility of Case Records Staff

The CCRMs are responsible for incorporation into the case summary all legal information pertaining to the inmate's case, e.g., statement of the judge and DA.

### 72020.5.1 Legal Status

Instructions for completion of the legal status section of the case summary are in DOM 73010.

### 72020.5.2 Commitments Not Processed Through a Reception Center

Newly received commitments not processed by the reception center or for whom a recent case summary is not available shall have a case summary prepared by the C&PR or designee of the facility to which the inmate is assigned.

### 72020.5.3 Former "Z" Cases (PC 1203.03) Case Records Staff

When an inmate is received on a felony sentence and was previously a "Z" case, the following shall occur:

Request the "Z" file from the Archives Unit if it has been shipped to that unit. When it is received:

- Destroy the following material from the "Z" file:
  - All worksheets used by staff during processing.
  - CDC Form 112, Chronological History.
  - SOMS-Notification in Case of Inmate Death, Serious Injury or Serious Illness.
  - FBI Form FD-249, Fingerprint Card.
  - CDCR Form 345, Authorization for the Secretary to Maintain Trust Account.
- Draw a line through the "Z" number on the medical file; place the new CDC number on the file and forward it to the medical department.
- If part of the case summary is used, the new CDC number shall be typed above the "Z" number and the "Z" number lined out.
- Draw a line through the "Z" number on all remaining material and incorporate it into the new C-file. Materials not used shall be destroyed.

### 72020.5.4 PC 1170 (A)(2) Commitments

The Legal Processing Unit (LPU) records commitments for persons sentenced pursuant to PC 1170(a) (2) and not delivered to prison.

The PC 1170(a) (2) provides for disposition of cases in which the amount of pre-prison credit exceeds the sentence under the Determinate Sentence Law (DSL). The BPH rules provide the same provisions for cases sentenced under the Indeterminate Sentence Law (ISL).

### 72020.5.4.1 Procedures for Processing Commitments DSL

Upon receiving a judgment under the provision of PC 1170(a)(2), LPU shall process the case as follows:

To conform with DSL commitments:

- Term(s) shall be calculated and a CDC Form 188 prepared.
- If the preprison credit exceeds the DSL term including period of parole, the CCRM shall notify the sentencing court that the person has completed the prison term and period of parole and should be released from custody.
- If the preprison credit exceeds the DSL term, but not the period of parole, the case shall be presented to the BPTH for consideration of waiver of parole. The court shall be advised of the BPTH decision. If parole is not waived, the court shall be advised to order the individual to the appropriate parole office for parole supervision.
- If the preprison credit does not exceed the DSL term, the CCRM shall notify the court. The notification shall include information reflecting the computation and the amount of time remaining to be served.

### ISL

To conform with ISL commitments:

- Term(s) shall be recalculated pursuant to PC 1170.2(a) using a CDC Form 678, Cumulative Case Summary Confinement Computation, and the case screened for possible extended term hearing.
- The CDC Form 678, Probation Officer Report (PRO), Information, and related documents shall be presented to the BPH for review and disposition.
- If the person is not scheduled for an extended term hearing and is overdue for release on the date calculated under PC 1170.2(a), the CCRM shall notify the sentencing court that the prison term is completed and the person should be released from custody. If the preprison credit does not satisfy the period of parole, the court shall be advised to order the person to report to the appropriate parole office for parole supervision.
- If the person is not overdue for release or if the person is scheduled for an extended term hearing, the CCRM shall notify the court that the person must be delivered to the Department. The notification to the court shall include a copy of the CDC Form 678 or BPH Form 1091, Screening Form, and include the amount of time remaining to be served unless the person is scheduled for an extended term hearing.

### Person Not Delivered

Those cases that require a person **not** be delivered shall be processed as follows:

- Assign CDC number.
- Route to OBIS for input of commitment information.
- Prepare departmental records.
- If discharged, microfiche and forward all documents to the Archives Unit.
- If paroled, forward all documents to the appropriate parole region
- CCRM.

**Note:** CDC numbers and departmental records shall not be issued and/or prepared until it has been determined that the pre-prison credit exceeds the term and the person will be discharged or placed under parole supervision.

### 72020.5.5 Direct Release to Parole From Court

In certain situations courts will sentence a person directly to the Department for parole supervision. The appropriate parole authority will make the final decision to retain or waive parole supervision.

### 72020.5.6 Former Division of Juvenile Justice Files

If a new arrival is identified as a former Division of Juvenile Justice (DJJ) ward or is being discharged to the Department's jurisdiction, the CCRM shall contact DJJ ward master files.

The DJJ will provide a copy of the clinical summary for use by the counselor. If a complete file is needed, it will have to be specifically requested.

### 72020.6 Processing Inmates Tried Under Interstate Agreement on Detainers

Individuals confined in facilities outside California's jurisdiction may request disposition of charges pending in California pursuant to PC1389, Interstate Agreement on Detainers. Upon completion of court proceedings, these individuals must be returned to the sending jurisdiction.

If a California commitment is received to run concurrent with previously imposed terms, the Director is authorized to designate a facility of another jurisdiction as the place of reception on the California term (PC 2900).

### 72020.6.1 Processing Procedures - Concurrent Commitments

Region I, Case Records Office is responsible for processing these cases.

The received date on the CDC Form 188, Legal Status, shall be either:

- The date of receipt by the other jurisdiction after sentencing by California.
  - The date of sentencing in California if the subject was not present.
- The term's start date shall be the same as the received date except for probation revocation cases.

The term's start date on probation revocation cases shall be the date the inmate was originally received by the other jurisdiction.

The CDC Form 112 shall be posted as follows.

Example:

- 01/01/73-Received at Colorado State Prison.
- (Date of Detainer)-Colorado State Prison designated as place of reception on this term pursuant to PC2900.
- 01/01/74-Received at NRC-CMF (transfer from Colorado State Prison).

#### **72020.7 Revisions**

The Director, Division of Adult Institutions, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **72020.8 References**

PC §§ 1170(a)(2), 1170.2(a), 1203.03, 1389, 2081.5, 2082, 2900, 2901, 3058.5, 4007, and 4016.5(d).

GC §§ 19853.

Government Claims Board Section 776.

### **ARTICLE 5 — CENTRAL FILE AND TRANSFER OF RECORDS**

*Revised April 1, 1992*

#### **72030.1 Policy**

Uniform records shall be maintained on persons under the jurisdiction of the Department.

#### **72030.2 Purpose**

This section sets forth the procedures for the uniform preparation of an inmate's C-File and other departmental records pertaining to an inmate.

#### **72030.3 C-File**

The C-File is the central depository for copies of all documents, correspondence, and reports pertaining to each inmate.

A C-File is inaugurated for each new inmate upon admission in the Department.

#### **72030.4 Filing Order**

The C-File is divided into 11 sections. Specific items are designated to be filed in respective sections.

Like documents shall be grouped together in chronological order, most recent information on top.

#### **72030.4.1 Case Summary Section**

- CDC Form 261, Order of Filing.
- CDC Form 112, Chronological Inmate History.
- Legal status sheet.
- Case summary/POR or police report if POR is not available.
- Latest report to paroling board.
- CI&I/FBI SSCHs.
- Other related forms and documents.
- PC 1203.03 reports.
- PC 1170(d) reports.
- CDC Form 916, Time Credit Waiver.

#### **72030.4.2 Legal Documents Section**

- CDC Form 1151, Legal Status Audit Sheets.
- CDC Form 1130, LPU Document Transmittal.
- CDC Form 819, Personal/Confidential Information Disclosure/Access Log.
- Minute Order.
- Abstract of Judgment.
- Court remittitur(s).
- Court decisions.
- Sentencing transcript.
- PC 1203.01 statements.
- Information.

- Legal correspondence.
- CDC Form 123, Body Receipt.
- Other related forms and documents.
- CDC Form 138, Fingerprint Card(s).

#### **72030.4.3 Classification Section**

- CDC Form 262, Custody Classification - Assignment.
- CDC Form 840, Reclassification Score Sheet.
- CDC Form 812, Notice of Critical Case Information – Safety of Persons.
- CDC Form 812-A, Notice of Critical Information – Prison Gang Identification.
- CDC Form 812-B, Notice of Critical Information – Disruptive Group Identification.
- CDC Form 128-B-1, Notice of Classification Hearing. (Filed on a CDC Form 108-A, Chrono Sheet - Classification.)
- CDC Form 114-D, Order and Hearing for Placement in Segregated Housing.
- CDC Form 839, Classification Score Sheet.
- CDC Form 108-A, Chrono Sheet - Classification (all CDC Form 128-G Chronos).
- Other related forms and documents.

#### **72030.4.4 Disciplinary Section**

- CDC Form 804, Notice of Pending CDC 115.
- CDC Form 115s, Rules' Violation Reports and attached Incident Reports.
- CDC Forms 629-A, Segregation Housing Unit (SHU) Term of Initial Confinement, and 629-B, Redetermination of SHU Confinement Term.
- DA response.
- Other incident reports.

#### **72030.4.5 General Chronos Section**

- CDC Form 108, Chrono Sheet - General (CDC Form 128-A).
- CDC Form 958, Application for Restoration of Credit.
- CDC Form 108, Chrono Sheet – General (SOMS - Notification in Case of Inmate Death, Serious Injury, or Serious Illness and all CDC Form 128s except for A, B-1, E and G).
- CDC Form 109, Chrono Sheet - Work Reports (all CDC Forms 101 and 128-E Chronos).
- Other related forms and documents.

#### **72030.4.6 Miscellaneous Section**

- CDC Form 191, Inmate Time Cards and Time Chronos (taped on an 8" x 11" sheet of paper).
- CDC Form 602, Inmate/Parolee Appeal Form.
- Miscellaneous correspondence.
- CDC Form 345, Power of Attorney and Authorization for Deposit.
- CDC Form 601, Temporary Community Leave Request.
- CDC Form 1604, Agreement to Participate in Community Work Furlough Program.
- Other related forms and documents.

#### **72030.4.7 Detainers Section**

- CDC Form 850, Detainer Summary.
- Detainers (all documents related to specific detainers together).
- All nonconfidential notices.
- Advance release notices.
- Other related forms and documents.

#### **72030.4.8 Parole Section**

- Parole violation/activity reports.
- CDC Form 102, Statement Release.
- CDC Form 1515, Notice and Condition of Parole.
- DOJ Form SS 8047, Notice of Registration Requirement.
- CDC Form 611, Release Program Study.
- Other related forms and documents.

**72030.4.9 BPT and NAEA Section**

- Addenda.
- Permanent addenda.
- Board decision forms.
- BPT /NAEA Appeals.
- Board generated psychiatric reports.
- Other related forms and documents.
- Like documents grouped together.

**72030.4.10 Microfiche Section**

- Microfiche duplicate copy of previously filmed records.

**72030.4.11 Confidential Section**

- Confidential file folder containing material designated as confidential.

**72030.5 Movement of Records**

All inmate case records, C-File, subsidiary records, and inmate records' cards shall be moved with the inmate at time of transfer.

**72030.5.1 Transfers**

See DOM 72010 for use and preparation of CDC Form 134, Records Transfer Check Sheet.

- The facility case records office shall provide an advance transfer notice to each facility department of the names and identification numbers of each inmate scheduled for transfer.
- The notice shall include the inmate's destination, date, and time of transfer, and the date and time the records are required to be delivered to the case records office.
- Each facility department shall deliver to the case records office their respective records at the time stated.
- In the event of emergency transfer and/or time does not permit advance written notice, case records staff shall telephone the departments and request immediate delivery of the records.
- The sending facility/parole region shall affix all material in C-File prior to transfer.
- All case records for each inmate shall be transferred with the inmate to the receiving facility, except as provided in DOM 72030.7.
- Legal documents and worktime records received after the case records have been transferred shall be forwarded expeditiously by First Class Mail to the CCRM of the receiving facility.
- Parole violators will have files returned from parole regions to the receiving facility as provided in DOM 75010.14.3.

**72030.6 Transfer of ID Cards**

*Revised December 14, 2012*

The receiving and release (R&R) sergeant of the sending facility shall collect and process inmates' identification cards.

Cards are retained for immediate return to the inmate upon arrival at the receiving facility.

The receiving facility shall ascertain that all ID cards have been delivered by the transporting staff and are returned to the inmates upon arrival at the facility.

**72030.7 Transfers Out-to-Court**

*Revised October 2, 1992*

When an inmate is transferred to another facility for out-to-court release, the following listed records only shall be transferred with the inmate:

- CDC Form 103-B Card.
- Health Record (medical/psychiatric file).
- CDC Form 120, Visiting Records Card.
- Chrono or memos setting forth any special handling or needs.
- Photocopy of transfer FAX or removal order.
- Photocopy of last CDC Form 128-G.
- Photocopy of CDC Form 812/812(a)/812(b).
- Photocopy of CDC Form 839/840.
- Photocopy of up-to-date legal status summary.
- Photocopy of current Abstract of Judgment(s).
- CDC Form 801, Departmental Detainer.
- Two photographs.

The records shall be placed in a manila envelope clearly labeled with the inmate's name and CDC number.

All other case records shall be retained at the sending facility/region (community correctional facility cases).

Sending facility staff shall be responsible for all casework and term computations.

The en route facility shall ensure that any body receipts, court documents, or any other case material is forwarded with the inmate at the time of their return to the sending facility.

**72030.7.1 Parole/Discharge While Out-to-Court**

If an inmate paroles/discharges while out-to-court, the sending facility shall notify the en route facility and the holding law enforcement agency to remove the Department's detainer.

The sending facility shall notify the parole unit and region staff of the change in status and the parolee's location.

Both facilities shall ensure that all of the inmate's records are forwarded to the designated region case records office.

If the inmate discharges while out-to-court, the en route facility shall return all of the records to the sending facility where they shall be retained in hard copy one year and then processed as in DOM 71020.5.4.

Both facilities shall ensure that all of the inmate's records are forwarded to the sending facility.

**72030.7.2 Paroled Cases**

*Revised October 2, 1992*

When an inmate is released to parole, all case records shall be forwarded to the appropriate region case records office no later than 10 working days after release.

Facility departments shall review the daily movement sheet each day and shall immediately forward the records of each released inmate to the case records office.

**Miscellaneous File Material**

Miscellaneous file material received in the case records office, after the records have been forwarded to the region case records office, shall be screened by supervisory staff. Only material that may affect the security of the facility or inmate shall be forwarded to the region for filing.

A CDC Form 134 shall be prepared and completed.

All records for each inmate shall be secured together for packaging and shipping.

**Legal Documents**

Legal documents received after the records have been forwarded shall be expeditiously mailed by first-class mail to the CCRM of the appropriate parole region.

**72030.7.3 Discharged Cases**

*Revised October 2, 1992*

Region case records staff shall microfiche each inmate's/parolee's records within 30 days of discharge.

Records of all inmates/residents discharged directly from the facility shall be forwarded to the appropriate region to be microfiched.

Region I	Region II	Region III	Region IV
FSP	SQ	CCI	RJD
MCSP	CTF	COR	CVSP
CCC	PBSP	CIM	CRC
NCWF	DVI	NKSP	CIW
SCC	ASP	WSP	CMC
CMF	CCWF		LAC
SOL	VSPW		CAL
			ISP

If the microficheing is contracted to a private vendor, the region case records office shall ensure that the records are processed and forwarded to the Archives Unit.

The microfiche format shall follow the order of filing for C-Files.

File material from satellite records, visiting, education, etc., which are included in the C-File, shall be microfiched on the appropriately designated or miscellaneous microfiche.

**Not to be Microfiched**

The following records shall not be microfiched and the hard copies of these files shall be forwarded to the Archives Unit with the microfiches of the C-File:

- Medical and psychiatric files.

- Fingerprint cards.
- Photographs.
- Files of discharged "Z" cases (those referred for diagnostic commitment under PC 1203.03).

Facility/region case records staff shall process cases of deceased inmates as provided in DOM 71020.5.8.

#### **72030.7.4 Previously Microfiched Cases**

C-Files that contain fiches in the old microfiche format:

- The previous master and duplicate fiches shall be placed in envelopes labeled "old format."
- All new fiches shall be made in the revised format and placed in separate envelopes.
- The envelope containing the old master fiches shall then be securely fastened together with the envelope containing the new master fiches to form one file for shipment. The envelopes containing the old and new duplicate fiches shall likewise be secured together to form another file for shipping.

One master and one duplicate set of fiches, excluding the confidential folder, shall be made and sent to the Archives Unit located at CMF in Vacaville.

#### **72030.7.5 Confidential File Folder**

The C-File confidential folder, the folder master, and the duplicate fiches (fiche #10, confidential) shall be sent to the ID/Warrants Unit. The ID/Warrants Unit shall fiche the confidential material.

#### **72030.7.6 Shipping Files to Archives**

Any files (master or duplicate fiche, or hard copy) sent to the Archives and ID/Warrants Units shall be accompanied by a CDC Form 134, Records Transfer Check sheet, which clearly indicates the inmate's/parolee's full name, CDC number, and the date of their discharge. Microfiche and hard copy files shall be forwarded from the parole regions to the Archives Unit no less than once a week.

All masters and duplicates shall be shipped and stored in such a manner as to prevent mutilation or destruction. Masters shall be packaged and mailed separately from the duplicates to prevent chemical damage to the masters and to reduce the risk of loss.

Case records staff shall determine if the used C-File folders are reusable. Serviceable folders shall be shipped to the nearest reception center for reuse and unserviceable folders discarded.

#### **72030.7.7 Disposition of File Material After Microfiching**

Upon completion of microfiching, the DGS or the State-approved local contractor shall be contacted to destroy the original file documents.

#### **72030.8 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **72030.9 References**

PC § 2081.5.

DOM § 71020.

### **ARTICLE 6 — DETAINERS**

*Revised April 1, 1992*

#### **72040.1 Policy**

Detainers shall be processed in a uniform manner to ensure proper disposition.

#### **72040.2 Purpose**

This section sets forth the procedures for the uniform processing of detainers placed against inmates by other agencies or those placed with another agency by the Department.

#### **72040.3 Detainers**

Detainers are written documents received from any facility or law enforcement agency indicating that an inmate is wanted by that agency and specifies the basis for the detainer.

Detainers are placed by the Department on any inmate released to another agency prior to their parole or discharge date. These detainers are covered in the DOM 72040.10. Detainers may also be referred to as "holds" or "wants". However, they shall be referred to as "detainers" for this manual.

#### **72040.4 Detainers From Other Agencies**

A letter or FAX from any facility or law enforcement agency requesting that a detainer be placed on an inmate shall be considered sufficient authority for placement of a detainer.

If a detainer is received after an inmate has been released to parole or discharge, the following action shall be taken:

- If the detainer indicates felony offense and the inmate has been released to parole, case records staff shall telephonically notify the receiving parole regional office as soon as possible and shall send an omnifax copy of the detainer to the parole regional office within three working days.
- Case records staff shall also notify the detainer issuing agency by FAX or telephone as soon as possible advising them of the released person's status and the address of the supervising parole office. Within three working days after notification, the detainer shall be returned by USPS to the issuing agency.
- If the inmate has been released to discharge, the case records staff shall notify the issuing agency by telephone or FAX of the released person's status and return the detainer by USPS.
- If the detainer indicates other than a felony offense, the detainer shall be returned by USPS to the issuing agency within three working days after notification advising them of the released person's status. In the case of parolees, the issuing agency shall be advised of the address of the supervising parole office.
- All such actions shall be entered in the holds/warrants/detainers (HWD) log.

Unless authorized by the Director, no employee of the Department shall request that a detainer be lifted or make an appeal on behalf of an inmate.

If a justifiable hardship is placed on an inmate because of the continuance of a detainer, the Warden shall present a factual statement concerning the circumstances to the Director. Further action shall be taken only with the Director's approval.

#### **72040.5 HWD System**

The HWD system ensures that information regarding any specific or potential detainer is recorded and called to staff attention within four hours of receipt to determine what effect, if any, the hold might have on the inmate's custody.

##### **HWD Coordinator**

A correctional case records specialist (CRS) shall be designated as the HWD coordinator and shall be under the direct supervision of the correctional case records supervisor (CCRS).

##### **CCRS**

In the absence of the HWD coordinator, the CCRS shall be the HWD coordinator. They shall also review, for completeness and accuracy, the HWD log weekly as well as sign each line entry of the log.

##### **Designated HWD Evaluator**

Designated staff are responsible for evaluating holds and determining whether or not immediate action is necessary. This action may include notifying the watch commander for consideration of higher custody placement and/or notifying the Correctional Counselor or C&PR for casework follow-up. This decision shall be recorded on the CDC Form 850, Detainer Summary, under section "Initial Action Taken" and signed.

- Designated staff shall also review detainers received on inmates temporarily housed (en route and out-to-court), as the receiving facility may no longer be appropriate based on the offense. In such cases, the C&PR at the receiving facility shall be contacted.

The Warden or RPA is authorized to designate staff to evaluate detainers. However, this responsibility shall not be sub-delegated. Those delegated to evaluate detainers shall come from one of the following staff positions:

- C&PR
- Watch Commander
- Captain
- Captain/AW
- Assistant RPA
- CC-II

The designated evaluator shall immediately restrict the inmate's movement to ensure the security of the facility and the public if the evaluation warrants.

**Note:** The title of the position designated shall be submitted to the Deputy Director, Institutions, with a copy to the LAD-PMU.

#### **72040.5.1 Responsibility**

The following positions have certain responsibilities to ensure that the detainer system works accurately:

##### **Mail Room Supervisor**

The mail room supervisor shall establish a procedure to ensure that all correspondence to the facility which may include actual or potential hold

information is immediately delivered to appropriate records personnel. Such correspondence includes communication from other law enforcement agencies, the DA, USINS and any out-of-state prison or parole division.

**Note:** Inmate mail from the above agencies shall not be delivered to the records office.

#### Case Records Staff

All HWD correspondence received by mail, FAX or included in the prison package (reception center cases) shall be immediately opened, date/time stamped, initialed and delivered to the HWD coordinator. Telephonic communication that indicates an inmate may be wanted shall be referred to the HWD coordinator or to designated staff, if the coordinator or CCRS is not available.

#### HWD Coordinator

The coordinator shall prepare letters of inquiry or initiate FAX requests to resolve potential holds based on the CDC Form 850's completed by facility staff and complete necessary follow ups on any communication received from law enforcement agencies. The CDC Form 850 shall be attached to the top of the detainer section of the C-File and all such actions shall be entered in the HWD log.

- The coordinator's initial request to obtain information (i.e., to request issuance of the hold to the Department) shall be completed within two working days with follow up at the nine-month, 60-day and 10-day audits prior to release. Telephonic follow up should be used at the 10-day audit.

If a detainer exists or is believed to exist on an inmate, the HWD coordinator shall prepare a CDC Form 850 documenting the pertinent facts, further identifying, by placing a "P" for a potential hold or an "A" for an actual detainer; in the upper right-hand corner of the form, and immediately contacting the designated staff person responsible for evaluating the potential detainer. The designated staff person shall note the immediate action taken on the CDC Form 850, sign the entry and return the document to the HWD coordinator.

- The coordinator shall record any information regarding an actual or potential detainer on a CDC Form 976, HWD Log. This includes information received in the form of documentation, telephonic information, untried indictments, hearsay, inmate statements, etc.. Each line entry on the log shall be initialed by the HWD coordinator, and the log shall be reviewed by the CCRS.

The HWD coordinator and OBIS operator shall follow the same procedures outlined in DOM 72040.5.2.

#### Correctional Counselor

Upon an inmate's arrival the counselor shall interview the inmate and review all available reports, including, but not limited to:

- POR
- Abstract of Judgment
- Sentencing transcript
- Parole reports
- Arrest history from CI&I and FBI SSCHs.

The counselor shall complete and sign the CDC Form 850 for all felony arrests without dispositions that occurred within two years of the date the inmate was last received by the Department. The counselor shall also complete and sign the CDC Form 850 for misdemeanor offenses that occurred during the same period for inmates who are within three months of release at reception.

- The form shall also reflect comments made by the inmate which pertain to recent criminality or references to criminal acts that might be found in the C-File.

This form shall be promptly forwarded to the HWD coordinator for follow-up.

**Note:** Counselors at receiving facilities shall review the inmate's C-File and complete an additional CDC Form 850 if information is found to warrant such.

#### Watch Commander

The watch commander shall review the CLETS terminal every four hours during first watch, third watch, and on weekends. They shall complete a CDC Form 850 on all actual or potential detainees received.

They shall also designate the inmate's custody based on potential or actual detainees received and send a notice to the inmate's counselor, requesting proper and immediate classification action. The CDC Form 850 shall be delivered to the HWD coordinator for follow up.

When the records office is closed the watch commander or AOD shall contact the Identification (ID)/Warrant Unit at (916) 445-6713 or ATSS 485-6713 and request an OBIS inquiry of detainees before moving any inmate to lower custody placement.

#### C&PR

Prior to any temporary community leave (TCL), the C&PR or other designated staff shall review the inmate's C-File for hold information and complete the request for temporary leave/removal form.

Prior to release to work furlough or parole, the C&PR shall review the inmate's C-File for detainer information and complete the CDC Form 128-G for community correctional center/parole.

#### CSR

Before approval for transfer of any inmate, the CSR shall review the inmate's C-File for detainer information and, if appropriate, take the required action.

#### 72040.5.2 Information on Detainers/Potential Detainers at Reception Centers

Incoming mail or other communication from a police department, sheriff or DA's office, the USINS, any federal law enforcement agency, or an out-of-state prison or parole division shall be immediately opened, time stamped, and initialed. The inmate's location shall be determined immediately.

#### Case Records Staff

All detainees shall be promptly hand-carried to the HWD coordinator.

All information received either at the time of an inmate's arrival or prior to the inmate's arrival, which indicates the subject may be involved in other crimes where a detainer may exist, shall be given to the HWD coordinator (except traffic violations.).

Letters of inquiry shall be initiated on matters meeting the criteria for a potential detainer.

#### Potential Detainer Criteria

Information considered as a potential detainer shall be:

- Felony arrests, without disposition, that occurred within two years of the date the inmate was received by the Department.
- Inmate comments about recent criminal acts.
- References to recent criminal activity in file material.
- Misdemeanor offenses, without disposition, that occurred within two years of the date the inmate was last received by the Department, if the inmate is within three months of release at the time of reception.
- Any indication the inmate may be wanted by USINS.

#### Actual Detainer

In the reception centers, actual detainees that are included with the "prison package" or arrive before the counselor has begun processing the case shall be reviewed by the HWD coordinator who will sign off the HWD log in the "Initial Disposition" section as an unprocessed case. These detainees shall not be referred to the designated staff member unless there is an apparent security risk such as a potential life term or extremely long determinate sentence.

#### HWD Coordinator

A detainer included with information received at the time of the inmate's reception or the detainer arrives before the case has been processed, the HWD coordinator shall review it, prepare a CDC Form 850, and document receipt on the HWD Log as an unprocessed case (as noted above) with necessary paperwork to resolve. The detainer shall then be processed as part of the inmate's prison package by the counselor during the reception center processing.

#### 72040.5.2.1 Permanently Assigned Inmates to Reception Centers

Reception centers shall not be required to initiate or follow-up potential HWD requests except for those inmates who are permanently housed at the reception center or pending imminent release. It shall be the responsibility of the receiving facility to review the inmate's C-File for any CDC Form 850's initiated at the reception center and to complete the initial inquiry and any required follow-up as previously specified.

- If a move to work furlough, parole, or TCL is approved, the HWD coordinator shall query the OBIS HWD file within 24 hours of the actual move. If there are no holds, the approval of the move shall not be affected. If a "hold" is received on the same day or subsequent to the approval of a move, the HWD coordinator shall immediately notify the C&PR or the Assistant Regional Administrator for review of the move approval and action in accordance with aforementioned procedures for processing detainees.
- CLETS inquiries shall be made on all inmates prior to parole or discharge to determine if the inmate is wanted.



**72040.5.3 Inmate Housed at Facility/Community Correctional Facility**

If a detainee is for an inmate housed at a facility/community correctional center, the following shall be accomplished:

**OBIS Operator**

The OBIS operator shall enter the information into the computerized HWD file which sets a "flag" in OBIS and on the computer output microfiche (COM). They shall date and initial the "Computer Input" section of the HWD log when information is entered by them.

**HWD Coordinator**

The HWD coordinator shall:

- Indicate in the HWD Log that the information has been placed into the HWD file, initial the entry, and note the name of the OBIS operator.
- Verbally notify the facility counselor or community correctional center Parole Agent and/or designated evaluator, and promptly follow-up with a written notice.
- Notify the inmate in writing that a detainee has been received and recorded using a CDC Form 661, Detainer Memorandum. A copy of the detainer shall be provided to the inmate and they shall be advised what action may be taken to request disposition of the detainer.
- Acknowledge receipt of the detainer with a letter sent by First Class Mail to the issuing jurisdiction.
- Request additional information, if information not contained in the original letter or document is needed for classification, clarification or other purposes.
- Post the information on the CDC Form 112, Chronological Inmate History, and CDC Form 144, Control Card.
- File the detainer, CDC Form 850, and related correspondence in the HWD section of the C-File.
- Enter the actions in the HWD Log.

**72040.5.4 Inmate Not Housed at a Facility**

If a detainee is for an inmate at another departmental location, the following shall be accomplished:

**OBIS Operator**

The OBIS operator shall enter the information into the computerized HWD file.

**HWD Coordinator**

The HWD coordinator shall:

- Promptly notify the affected location by telephone or FAX and forward the detainer by First Class Mail to the attention of the HWD coordinator.
- Enter the actions in the HWD Log.

**72040.5.5 Potential Detainer**

*Revised February 28, 1995*

**Counselor**

Where there is any indication of a potential detainee, the counselor shall provide as much information as possible on the CDC Form 850 and hand-carry it to the HWD coordinator.

**HWD Coordinator**

The HWD coordinator shall:

- Immediately contact the designated staff member responsible for evaluating the necessity for immediate action.
- Within two working days after receipt make initial contact with the agency which may hold the warrant/detainer using the FAX or a letter of inquiry to request issuance of a detainer.
  - A copy of the supporting document (from which the inquiry information is obtained) is to accompany the information request.
- Follow-up at the 60-day and 10-day audits. (Follow-up at the 10-day audit shall be by telephone.)
- Complete the CDC Form 850 and attach it to the top of the detainer section of the C-File.
- Enter action taken in the HWD Log and note with a "P" (potential).
- When a detainee is received, update the log, file information, and change the status to "A" (active) following the appropriate steps (see DOM72040.3.2).

**72040.5.6 Detainer Not Identified as Department Inmate**

If a detainee is received for a person not identified as being in the Department's custody, the HWD coordinator shall:

- Telephone the jurisdiction which issued the detainer for possible additional identification data.
- If still unable to identify, return the detainer to the issuing jurisdiction and advise that the subject is not in the Department's jurisdiction.
- Enter the action in the HWD Log.

**72040.5.7 Detainer Review Prior to Parole/Release to Community Correctional Center**

Prior to parole or transfer to a community correctional center, the HWD coordinator shall query the HWD file within 24 hours of actual movement. If a detainee arrives on the same day or subsequent to the approval of the move:

- The HWD coordinator shall immediately notify the C&PR and the Assistant RPA for review of the move.
- The C&PR or Assistant RPA shall notify the HWD coordinator of their decision from the review.

**72040.5.8 Detainer Received After Release or Discharge**

If a detainee is received after an inmate has been released to parole or discharge, the following action shall be taken:

If it indicates a felony offense and the inmate has been released to parole, case records staff shall telephonically notify the receiving parole regional office as soon as possible and shall send an Omnifax copy of the hold to the parole regional office within three working days.

- Case records staff shall also notify the detainer issuing agency by FAX or telephone as soon as possible advising them of the released person's status and the address of the supervising parole office. Within three working days after notification, the detainer shall be returned by USPS to the issuing agency.

If the inmate has been released to discharge, the case records staff shall notify the issuing agency by telephone or FAX of the released person's status and return the detainer by USPS.

If the detainer indicates other than a felony offense, the detainer shall be returned by USPS to the issuing agency within three working days after notification advising them of the released person's status. In the case of parolees, the issuing agency shall be advised of the address of the supervising parole office.

*Note:* All such actions shall be entered in the HWD log.

**72040.6 Inmate Notification of Detainer and Request for Disposition**

An inmate may request disposition of a detainer, in writing, directed to case records staff who shall prepare the required legal forms for signature by the inmate. Counseling staff are responsible for delivery of the forms to the inmate, witnessing the signature of the inmate, and return of these forms to records.

**72040.6.1 Disposition of California Detainers**

If the detainer is from a California agency for untried charges, the inmate may request disposition of pending charges by filing a CDC Form 643, Demand for Trial in accordance with the provisions of PC 1381.

**Untried Charges**

Demands for trial should not be initiated in the reception centers.

**Case Records Staff**

Case records staff shall mail the CDC Form 643 to the DA by certified mail, return receipt requested.

**Trial Within 90 Days**

PC 1381 stipulates a person must be brought to trial within 90 days after written notification of the place of confinement. The 90-day period starts the day the DA acknowledges receipt of the CDC Form 643.

**Case Records Staff**

If the inmate is not brought to trial at the conclusion of the 90-day period, case records staff shall prepare:

- A CDC Form 668, Affidavit in Support of Motion to Dismiss Pending Charges.
- A CDC Form 669, Motion to Dismiss Criminal Charges Pending.
- A CDC Form 670, Order of Dismissal.
- A CDC Form 1006, Cover Memo - Motion to Dismiss.

All of these forms shall be forwarded to the court having jurisdiction of the matter.

### Violation of Probation

If the detainee is for violation of probation in a California county, the inmate may file a request for disposition of probation in accordance with provisions of PC 1203.2a.

A CDC Form 616, Request for Disposition of Probation, Waiver of Appearance and Right to Attorney (PC 1203.2a), shall be used to request disposition of probation.

### Inmate

The inmate may fill out a CDC Form 616 and forward it to case records.

### Case Records Staff

Upon the inmate's written request, case records staff shall:

- Prepare the form for signature by the inmate.
- Mail the completed form to either the Superior Court or probation officer by certified mail, return receipt requested.

### 72040.6.2 Out-of-State or Federal Detainers on Untried Charges

When a detainee for untried charges is lodged by an agency of the federal government or an agency of a member state of the interstate agreement on detainers (IAD), the interstate form provided shall be used to notify the inmate of the detainer and to request disposition of the pending charges.

The IAD does not apply to violation of probation or violation of parole.

PC 1389 provides for the surrender of temporary custody of a prisoner to the jurisdiction of the federal government or another state which is signatory to the IAD where they are wanted for prosecution, except Louisiana and Mississippi.

#### 72040.6.2.1 Non-Member State of IAD

If a detainee is lodged for untried charges by an agency of a state which is not a member of the IAD, the inmate may only be released for trial in accordance with an executive agreement between governors in compliance with PC 1549.

#### 72040.6.2.2 Custody Requested

When a prosecutor requests custody of an inmate pursuant to PC 1389, Article IV, the following shall be done:

### Case Records Staff

Case records staff shall provide the inmate (by their counselor) with a copy of the explanation of inmate's rights under article IV of the interstate agreement. Afford the inmates an opportunity to sign a form II of the IAD wherein the inmate waives extradition to:

- The proceedings contemplated in the requesting state.
- Serve sentence after completion of the California sentence.

### Court Arraignment

If the inmate does not sign a form II, case record staff shall make arrangements for the inmate to be taken before a magistrate prior to the offer of temporary custody being issued (PC 1550.1).

The purpose of the court arraignment is to give the inmate an opportunity to waive their right to petition for a Writ of Habeas Corpus and to waive the 30-day period for the Governor's intervention.

### Inmate Waiver

This waiver is accomplished by the inmate completing a CDC Form 1668-A, Agreement to Temporary Transfer of Custody in the presence of the court and the court signing the form.

### Inmate Does Not Waive

If the inmate refuses to waive their rights, the court shall fix a reasonable time for the inmate to file a petition for a Writ of Habeas Corpus. When the time has elapsed, a hearing guided by extradition law shall be held.

### 72040.6.3 Inmate Demands Trial

If the inmate demands trial and waives extradition by executing Form II, a court arraignment is not required and case records staff shall proceed on the basis of the inmate's demand for trial pursuant to PC 1389, Article III.

#### 72040.6.3.1 Guidelines/Instructions

Instructions for the preparation, distribution and use of the various forms are contained in the heading of each form.

### Case Records Staff

The case records office shall mail all forms by certified mail, with a return receipt requested.

### 72040.6.4 Out-of-State or Federal Detainers for Un-Sentenced Convictions

Tinghitella v. California (9th CC, 1983) held that an inmate has a statutory right under the IAD to be sentenced in absentia within 180 days after delivery of an appropriate demand for sentencing.

The court held that the IAD applies to sentencing as well as to untried indictments and thus where there is proper demand for return for sentencing said demand must be met.

The court held however that an inmate is not entitled to demand to be transferred to another jurisdiction for the purpose of sentencing if they fled that jurisdiction after conviction but before sentencing.

#### 72040.6.4.1 Inmate Demands Sentencing in Absentia

If an inmate demands sentencing in absentia to any agency of the federal government or an agency of a member state of the IAD, case records staff shall notify the inmate of their rights by CDC Form 1673, "Notice of Conviction..." A request for sentencing shall also be executed by CDC Form 1674, "Inmate's Notice of Place..."

#### 72040.6.4.2 Detainer Lodged

If a detainee is lodged by an agency of the federal government or an agency of a member state of the IAD, case records staff shall notify the inmate of the detainer and their right to demand sentencing.

#### 72040.6.4.3 Request for Temporary Custody

If a request for temporary custody is received from any agency of the federal government or an agency of a member state of the IAD, the following shall be done:

### Case Records Staff

Case records staff shall advise the prosecuting officer that the inmate waived the right to be present for sentencing by absconding from the jurisdiction of the court and may be sentenced in absentia on CDC Form 1675, "Notice of Inmate's Right to..."

#### 72040.6.4.4 Forms/Instructions

Instructions for the preparation, distribution and use of the forms are contained in the heading of each form.

### Case Records Staff

Case records staff shall mail all forms by certified mail, with a return receipt requested.

### 72040.6.5 Out-of-State or Federal Incompleted Sentence

If a detainee is lodged on the basis of an incompleted prior prison term by a facility or paroling agency of another state or the federal government, the provisions of the court decision In re Stoliker are applicable (see DOM 72040.9 for instructions).

### 72040.7 Notification to Filing Authorities

*Revised February 28, 1995*

Each agency that filed a detainer against an inmate shall be notified of the inmate's pending release or parole 90 days prior to the tentative release date.

The Department shall release an inmate to the agency that placed the first detainer. However:

- If multiple detainers are on file, and one is based upon a judgment and sentence to a prison term, the initial offer of custody shall be to the agency holding the prison term detainer.
- The USINS will not assume custody of inmates for deportation proceedings unless the inmate has completed/taken care of all pending legal issues, including misdemeanor charges, or if other agencies which have placed a detainer have declined to take custody.
  - When multiple detainers are on file and the inmate is released to one of the detainers, the remaining detainers shall be given to the transporting officers. The other agencies shall be notified of the release and of the agency that assumed custody.

In the case of an inmate's death, the detainer shall be returned to the notifying agency. Subsequently, the HWD coordinator shall delete the inmate's entire HWD computerized history.

#### 72040.7.1 Notification Letter to Federal Agency

Case records staff shall send the notification letter to the U.S. Marshal of the district in which the facility is located. The letter shall state which marshal's office filed the detainer, the inmate's current release date, and whether the inmate is eligible for a parole date advancement.

A copy of the letter shall also be mailed to the:

- U.S. Marshal's office that filed the detainer.
- Bureau of Prisons, U.S. Bureau of Prisons Correctional Programs, 1301 Shoreway Road, Fourth Floor, Belmont, CA 94002.

#### **72040.8 Release to a Detainer**

*Revised February 28, 1995*

An inmate/parole violator may be released directly to the agency lodging the detainer. Pursuant to PC 4755, any inmate who has a detainer lodged against them by law enforcement or other agency may be:

- Released within five calendar days prior to or five calendar days after the scheduled parole release date. If more than 400 miles away, release may be five court days prior or five court days after the scheduled parole release date.
- Released within five calendar days prior to the scheduled discharge date. PC 4755 does not authorize CDC to hold an inmate beyond their discharge date.

This release procedure permits other agencies to pick up departmental inmates and transport them during regular business hours or, in some instances, at a more convenient time. (Exception: See DOM 72040.8.1 for USINS requirements.)

These parolees are entitled to release funds under PC 2713.1. In these cases, P&CSD staff shall delay in requesting release funds from the facility of release either until after the parolee is released from local custody or until the release date from local custody has been determined. Cash assistance or vouchers shall be provided pending receipt of release funds.

#### **72040.8.1 USINS**

The USINS regulations prohibit retention beyond 48 hours after the scheduled parole release date.

Parolees released to USINS are not entitled to release funds under PC 2713.1. However, they shall be provided cash assistance in a like amount by parole staff in the event they are released pending or following deportation hearings.

#### **72040.8.2 Release to Another State by Violation of Parole**

PC 11177 provides that a parolee from another state may be returned to the state of original conviction for violation of parole if the parolee is residing in California pursuant to the provisions of the interstate parole compact.

An inmate being discharged or paroled may be released directly to an agent of another paroling agency only if:

- The detainer is for violation of parole.
- The inmate was legally residing in California and under supervision of the P&CSD, Interstate Unit, at the time of their incarceration on the California term.

Prior to releasing any inmate to an agent of another state, case records shall confirm that both of the above conditions exist by writing to the compact administrator of the other state.

When an inmate is to be released to an agent of another state, case records staff shall arrange for the inmate's release at a time convenient to the transporting officers within normal business hours.

#### **72040.8.3 Release to Subsequent Prison Commitments**

*Revised October 2, 1992*

An inmate may be released on parole directly to the agent of another jurisdiction when the detainer is based upon a conviction and sentence only if:

- The commitment in the receiving state is subsequent to the California commitment.
- The inmate had initially demanded trial in the receiving state in accordance with the provisions of the IAD or waived their rights before the court by signing CDC Form 1688A, Form V-A.
  - A copy of the inmate's request (Agreement on Detainers, Form II) or inmate's waiver (Agreement on Detainers, Form V-A) is in the inmate's C-File.

If, however, the inmate's initial release to the receiving state was under Article IV of the Agreement on Detainers (the prosecutor requested temporary custody and the inmate did not sign the Form II of the Agreement on Detainers), the executive authority of the receiving state shall forward a requisition to the Governor's office to initiate formal extradition procedures and an extradition hearing shall be held.

#### **Case Records Staff**

When an inmate is to be released to an agent of another state, case records staff shall arrange for release of the inmate at a time convenient to the transporting officers within normal business hours.

#### **72040.8.4 Extradition**

See DOM 72050 of this manual for information.

#### **72040.9 Deletion of HWD Computerized History**

The HWD coordinator shall ensure that an inmate's entire HWD computerized history is deleted whenever they are paroled/discharged to hold.

When the records office receives notification that a detainer previously placed on an inmate has been dropped or expired, the HWD computerized history for that detainer shall be deleted.

#### **72040.10 Concurrent Jurisdiction Transfer**

In re Stoliker (1957) 49 Cal. 2nd 75 requires that the Department make an inmate available to the U.S. Attorney General or their authorized representative for concurrent service of a previously imposed federal term.

While the decision referred specifically to federal terms, subsequent interpretation by the courts has applied the decision to states as well. A superior court order and Attorney General's Opinion applies In re Stoliker to any concurrent case regardless of which term was first imposed.

In re Stoliker does not apply to California sentences ordered to run consecutively with other jurisdiction sentences.

#### **72040.10.1 Processing of Requests**

*Revised October 2, 1992*

Inmates with detainers for unexpired sentences from other jurisdictions may submit a written request to the Director for transfer to the other jurisdiction for service of their sentence concurrent with the California sentence. The request shall be submitted to the facility CCRM for processing.

#### **Case Records Manager**

The CCRM shall process the inmate's request on a CDC Form 1168, Nature of Transfer Availability--In re Stoliker to officials of the other jurisdiction to determine if that jurisdiction agrees to assume custody of the inmate.

Information on referrals shall be sent to the correctional agency or department of the state placing the detainer or the U.S. Bureau of Prisons (see DOM 72040.7.1) and shall include:

- The California offense.
- The California sentence.
- The anticipated California release date.
- A copy of the most recent progress report.
- A copy of the detainer and accompanying documents.

#### **Agency Declines Custody**

If the other agency declines to take custody after notification of availability of the inmate, case records staff shall notify the inmate.

#### **Transfer of Records**

Upon transfer of an inmate to another jurisdiction, the case records staff shall place a CDC Form 801, Notice of Detainer, with a certified copy of the commitment papers and transfer all records to Region I, Attention: Sacramento Central Office (SACCO). An appropriate entry shall be entered into OBIS.

If an inmate escapes, is subsequently convicted and sentenced to a period of confinement to another jurisdiction, whether it's consecutive or concurrent to the California sentence, and if the inmate remains in the other jurisdiction, the case records staff shall place a CDC Form 801, with a certified copy of the California commitment papers and transfer all records to Region I, Attention: SACCO. An appropriate entry shall be entered into OBIS.

#### **72040.10.2 Return of Inmate to the Department**

Inmates transferred under In re Stoliker shall be returned to the Department's custody when ready for release from the other agency if their California term has not been completed.

Inmates transferred In re Stoliker shall waive extradition prior to leaving the state of origin.

If the inmate shall not waive extradition, formal extradition procedures shall be initiated. Region I staff shall be kept advised of the status of each case so extradition papers can be processed before the release date.

#### **72040.10.3 Concurrent Federal Sentences**

Case records staff shall notify federal authorities when a prisoner serving a federal sentence concurrent with a State term is received at a facility and/or transferred within the Department. Notification shall be mailed to the U.S. Bureau of Prisons (see DOM 72040.7.1).

**Case Records Staff**

When an inmate is transferred to federal custody under *In re Stoliker*, case records staff shall send a certified copy of the judgment(s) and a letter to the facility where the inmate is confined.

**72040.11 Departmental Detainers**

A CDC Form 801 shall be placed with the receiving agency for the following inmates released to another agency:

- Escapees who are apprehended and in the custody of another agency.
- Inmates released under the interstate agreement on detainers (PC 1389).
- Inmates released under executive agreement (PC 1549).
- Inmates released under the uniform act to secure witnesses from outside the State in criminal acts (PC 1334).
- Inmates serving sentences in other jurisdictions.
- Inmates released to California agencies for trial, witnesses in criminal cases or civil proceedings in parental or marital cases (PC 2620, 2621, and 2625).
- Inmates released to another jurisdiction's detainer pending parole (PC 2690 and 4755).

The detainer shall be placed to ensure that the inmate is returned to Department custody to serve the unexpired portion of existing sentences or ensure that the inmate remains in custody until the California scheduled parole release date.

**Case Records Staff**

Case records staff shall prepare the CDC Form 801 in triplicate:

- A notation shall be made to contact the Department's case records office prior to release of the inmate by the receiving jurisdiction.
- If the inmate is released to a detainer pending parole, a notation shall be made not to release prior to the actual parole date.
- If an inmate paroled/discharges while out-to-court, the sending facility shall notify the en route facility and the holding law enforcement agency to remove the Department's detainer.
- The sending facility shall notify the parole unit and region staff of the change in status and the parolee's location.
- If the inmate is released out-of-state or to the federal government, the Region I, SACCO address shall be used as the unit to be notified of pending release.

**Receiving and Release**

One copy shall be retained in the C-File until the second copy is returned by Receiving and Release staff, who shall verify that the inmate was released.

The original and second copy shall be signed by the transporting officer or agent of the receiving jurisdiction at the time of release acknowledging receipt. The original shall be given to the officer/agent assuming custody and the second copy forwarded to case records.

Case records staff shall file the signed copy in the C-File and destroy the unsigned copy.

**Case Records Staff**

Upon the physical return of the inmate to Department custody, the CDC Form 801 shall be removed from the C-File and destroyed.

**72040.12 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

**72040.13 References**

PC §§ 1203.2a, 1334, 1381, 1389, 1549, 1550.1, 2621, 2625, 2690, 4755, and 11177.

*In re Stoliker* (1957) 49 Cal. 2d 75.

*Tinghitella v. State of California* (9th Cir. 1983) 718 F.2d 308.

DOM § 72050.

## INTERSTATE COMPACT FOR THE AGREEMENT OF DETAINERS

**ALABAMA**

Interstate Detainer Administrator  
Inmate Records  
Board of Corrections  
3371 Atlanta Highway  
Montgomery, Alabama 36109  
205-261-2963

## INTERSTATE COMPACT FOR THE AGREEMENT OF DETAINERS

**ALASKA**

Interstate Detainer Administrator  
Department of Corrections  
2200 East 42 Avenue  
Anchorage, Alaska 99508-5202  
907-561-4426

**ARIZONA**

Interstate Detainer Administrator  
Department of Corrections  
321 West Indian School Road  
Phoenix, Arizona 85013  
602-255-5598

**ARKANSAS**

Interstate Detainer Administrator  
Department of Corrections  
P.O. Box 8707  
Pine Bluff, Arkansas 71611  
501-247-1800

**CALIFORNIA**

Interstate Detainer Administrator  
Department of Corrections  
1631 Alhambra Boulevard  
Sacramento, California 95816

**COLORADO**

Interstate Detainer Administrator  
Department of Corrections  
2860 S. Circle Drive  
North Building, #2200  
Colorado Springs, Co. 80906  
719-688-6666

**CONNECTICUT**

Interstate Detainer Administrator  
Department of Corrections  
340 Capitol Avenue  
Hartford, Connecticut 06106  
203-566-3393

**DELAWARE**

Interstate Detainer Administrator  
Department of Corrections  
80 Monrovia Avenue  
Smyrna, Delaware 19977  
302-736-5601

**DISTRICT OF  
COLUMBIA**

Interstate Detainer Administrator  
Department of Corrections  
Suite N-207  
1923 Vermont Avenue, N.W.  
Washington, D.C. 20001  
202-673-7316

**FLORIDA**

Interstate Detainer Administrator  
Department of Corrections  
1311 Winewood Boulevard  
Tallahassee, Florida 32301  
904-488-1035

**GEORGIA**

Interstate Detainer Administrator  
Department of Offender  
Rehabilitation  
#2 Martin Luther King, Jr. Drive, S.E.  
Atlanta, Georgia 30334  
404-656-6002

**HAWAII**

Interstate Detainer Administrator  
Hawaii State Capitol  
Fifth Floor  
Honolulu, Hawaii 96813  
808-548-5429

**INTERSTATE COMPACT FOR THE AGREEMENT OF  
DETAINERS**

<b>IDAHO</b>	Interstate Detainer Administrator Department of Corrections P.O. Box 14 Boise, Idaho 83707 208-336-0740
<b>ILLINOIS</b>	Interstate Detainer Administrator Department of Corrections 1301 Concordia Court Springfield, Illinois 62702 217-522-4461
<b>INDIANA</b>	Interstate Detainer Administrator 100 North Senate Avenue - Room 804 Indianapolis, Indiana 46204 317-232-5760
<b>IOWA</b>	Interstate Detainer Administrator Division of Adult Corrections Capitol Annex Des Moines, Iowa 50319 515-281-3342
<b>KANSAS</b>	Interstate Detainer Administrator Pardon/Extradition Attorney State Capitol Topeka, Kansas 66612 913-296-2716
<b>KENTUCKY</b>	Interstate Detainer Administrator Corrections Cabinet State Office Building Frankfort, Kentucky 40601 502-564-4726
<b>LOUISIANA</b>	Not party to agreement.
<b>MAINE</b>	Interstate Detainer Administrator Department of Corrections 411 State Office Building Augusta, Maine 04333 207-289-2711
<b>MARYLAND</b>	Interstate Detainer Administrator Department of Public Safety and Correctional Services 6776 Reisterstown Road, Suite 312 Baltimore, Maryland 21215-2341 207-289-2711
<b>MASSACHUSETTS</b>	Interstate Detainer Administrator Legal Counsel Department of Corrections 100 Cambridge Street Boston, Massachusetts 02202 617-727-3300
<b>MICHIGAN</b>	Interstate Detainer Administrator Department of Corrections P.O. Box 3003 Lansing, Michigan 48909 517-373-0267

**INTERSTATE COMPACT FOR THE AGREEMENT OF  
DETAINERS**

<b>MINNESOTA</b>	Interstate Detainer Administrator Department of Corrections 300 Bigelow Building 450 North Syndicate St. Paul, Minnesota 55104 612-642-0311
<b>MISSISSIPPI</b>	Not party to agreement.
<b>MISSOURI</b>	Interstate Detainer Administrator Department of Corrections and Human Resources 2729 Plaza Drive Jefferson City, Missouri 65102 314-751-2389
<b>MONTANA</b>	Interstate Detainer Administrator Corrections Division Department of Institutions 1539 11th Avenue Helena, Montana 59620 406-449-5671
<b>NEBRASKA</b>	Interstate Detainer Administrator Department of Correctional Services P.O. Box 94661 State House Station Lincoln, Nebraska 68509 402-471-2925
<b>NEVADA</b>	Interstate Detainer Administrator Office of the Attorney General Capitol Complex Heroes Memorial Building Carson City, Nevada 89710 702-687-3539
<b>NEW HAMPSHIRE</b>	Interstate Detainer Administrator State Director of Probation P.O. Box 271 Concord, New Hampshire 03301 603-224-3500
<b>NEW JERSEY</b>	Interstate Detainer Administrator Department of Corrections 609-292-4036
<b>NEW MEXICO</b>	Interstate Detainer Administrator Central Records Unit 1422 Paseo de Peralta Santa Fe, New Mexico 87501 505-827-8674

**INTERSTATE COMPACT FOR THE AGREEMENT OF  
DETAINERS**

<b>NEW YORK</b>	Interstate Detainer Administrator Department of Correctional Services State Campus, Building #2 Albany, New York 12226 518-457-8134
<b>NORTH CAROLINA</b>	Interstate Detainer Administrator Interstate Agreement on Detainers 214 West Hones St. Raleigh, North Carolina 27611 919-733-2557
<b>NORTH DAKOTA</b>	Interstate Detainer Administrator Attorney General State Capitol Bismarck, North Dakota 58505 701-224-2210
<b>OHIO</b>	Interstate Detainer Administrator Adult Parole Authority 1050 Freeway Drive, North Columbus, Ohio 43229 614-431-2777
<b>OKLAHOMA</b>	Interstate Detainer Administrator State Capitol Building Oklahoma City, Oklahoma 73105 405-521-3921
<b>OREGON</b>	Interstate Detainer Administrator Deputy Compact Administrator 2575 Center Street, N.E. Salem, Oregon 97310 503-378-2487
<b>PENNSYLVANIA</b>	Interstate Detainer Administrator Department of Corrections P.O. Box 598 Camp Hill, Pennsylvania 17011 717-975-4860
<b>RHODE ISLAND</b>	Interstate Detainer Administrator Department of Attorney General 72 Pine Street Providence, Rhode Island 02903 401-274-4400 ext. 327
<b>SOUTH CAROLINA</b>	Interstate Detainer Administrator Department of Corrections P.O. Box 21787 Columbia, South Carolina 29210 803-737-8555

**INTERSTATE COMPACT FOR THE AGREEMENT OF  
DETAINERS**

<b>SOUTH DAKOTA</b>	Interstate Detainer Administrator Attorney General State Capitol Pierre, South Dakota 57501 605-773-3215
<b>TENNESSEE</b>	Interstate Detainer Administrator Office of the Governor State Capitol - Ground Floor Nashville, Tennessee 37219-5081 615-741-6849
<b>TEXAS</b>	Interstate Detainer Administrator Uniform Detainer Act P.O. Box 99 Huntsville, Texas 77340 713-295-6371 ext. 430
<b>UTAH</b>	Interstate Detainer Administrator Attorney General State Capitol Salt Lake City, Utah 84114 801-533-5261
<b>VERMONT</b>	Interstate Detainer Administrator Department of Corrections 120 State Street Montpelier, Vermont 05602 802-828-3171
<b>VIRGINIA</b>	Interstate Detainer Administrator Assistant Attorney General 101 North 8th Street Richmond, Virginia 23219 804-786-8137
<b>WASHINGTON</b>	Interstate Detainer Administrator Department of Corrections Mail Stop FN-61 Olympia, Washington 98504 206-753-2500
<b>WEST VIRGINIA</b>	Interstate Detainer Administrator Department of Corrections State Capitol Complex Building 4, Room 300 Charleston, West Virginia 25305 304-348-2037
<b>WISCONSIN</b>	Interstate Detainer Administrator Department of Health & Social Services P.O. Box 7925 Madison, Wisconsin 53707 608-266-6793
<b>WYOMING</b>	Interstate Detainer Administrator 123 Capitol Building Cheyenne, Wyoming 82002 302-777-7841

## INTERSTATE COMPACT FOR THE AGREEMENT OF DETAINERS

### DETAINER ADMINISTRATORS FEDERAL AGENCIES

#### WESTERN REGIONAL OFFICE

Detainer Administrator Alaska, North Dakota, South  
1301 Shoreway Road, 4th Floor Dakota, Arizona, Montana,  
Belmont, CA 94002 Utah, California, Nevada,  
415-598-4700 Washington, Colorado,  
Wyoming, Hawaii, Oregon

#### SOUTH CENTRAL REGIONAL OFFICE

Detainer Administrator Arkansas, New Mexico,  
1607 Main, Suite 700 Louisiana, Texas, Oklahoma  
Dallas, Texas 75201  
214-767-0012

#### SOUTHEAST REGIONAL OFFICE

Detainer Administrator Alabama, Kentucky, South  
5213 McDonough Blvd., S.E. Carolina, Florida, Mississippi,  
Atlanta, Georgia 30315 Tennessee, Georgia, North  
404-624-5202 Carolina

#### NORTH CENTRAL REGIONAL OFFICE

Detainer Administrator Illinois, Michigan, Ohio, Iowa,  
Air World Center Minnesota, Wisconsin, Indiana,  
10902 Ambassador Drive Missouri, Kansas, Nebraska  
Kansas City, Missouri 64153  
816-891-7007

#### NORTHEAST REGIONAL OFFICE

Detainer Administrator Connecticut, Massachusetts,  
U.S. Customs House, 7th Floor Rhode Island, Delaware,  
Second & Chestnut Street New Hampshire, Vermont,  
Philadelphia, Pennsylvania, 19106 District of Columbia, New  
215-597-6317 Jersey, Virginia, Maine,  
New York, West Virginia,  
Maryland, Pennsylvania

#### NORTHEAST REGIONAL OFFICE

Detainer Administrator Connecticut, Massachusetts,  
U.S. Customs House, 7th Floor Rhode Island, Delaware,  
Second & Chestnut Street New Hampshire, Vermont,  
Philadelphia, Pennsylvania, 19106 District of Columbia, New  
215-597-6317 Jersey, Virginia, Maine,  
New York, West Virginia,  
Maryland, Pennsylvania

### FEDERAL BUREAU OF PRISONS

#### Western Regional Office (415) 598-4700

U.S. Penitentiary, McNeil Island, Washington  
U.S. Penitentiary, Lompoc, California  
Federal Correctional Institution, Terminal Island, California  
Federal Correctional Institution, Pleasanton, California  
Federal Correctional Institution, Littleton, Colorado  
Federal Correctional Institution, Safford, Arizona  
Federal Correctional Institution, Phoenix, Arizona  
Metropolitan Correctional Center, San Diego, California  
Metropolitan Correctional Center, Tucson, Arizona  
Federal Prison Camp, Boron, California

#### South Central Regional Office (214) 767-0012

## INTERSTATE COMPACT FOR THE AGREEMENT OF DETAINERS

Federal Correctional Institution, Ft. Worth, Texas  
Federal Correctional Institution, Bastrop, Texas  
Federal Correctional Institution, La Tuna, Anthony, Texas  
Federal Correctional Institution, Seagoville, Texas  
Federal Correctional Institution, Texarkana, Texas  
Federal Correctional Institution, El Reno, Oklahoma  
Federal Prison Camp, Big Spring, Texas  
Federal Correctional Institution, Ft. Worth, Texas  
Federal Correctional Institution, Bastrop, Texas  
Federal Correctional Institution, La Tuna, Anthony, Texas  
Federal Correctional Institution, Seagoville, Texas  
Federal Correctional Institution, Texarkana, Texas  
Federal Correctional Institution, El Reno, Oklahoma  
Federal Prison Camp, Big Spring, Texas

#### Southeast Regional Office (404) 624-5202

U.S. Penitentiary, Atlanta, Georgia  
Federal Correctional Institution, Tallahassee, Florida  
Federal Correctional Institution, Ashland, Kentucky  
Federal Correctional Institution, Lexington, Kentucky  
Federal Correctional Institution, Butner, North Carolina  
Federal Correctional Institution, Memphis, Tennessee  
Federal Correctional Institution, Talladega, Alabama  
Metropolitan Correctional Center, Miami, Florida  
Federal Prison Camp, Eglin Air Force Base, Florida  
Federal Prison Camp, Maxwell Air Force Base, Montgomery,  
Alabama

#### North Central Regional Office (816) 891-7007

U.S. Penitentiary, Marion, Illinois  
U.S. Penitentiary, Leavenworth, Kansas  
U.S. Penitentiary, Terre Haute, Indiana  
Federal Correctional Institution, Milan, Michigan  
Federal Correctional Institution, Oxford, Wisconsin  
Federal Correctional Institution, Sandstone, Minnesota  
Medical Center for Federal Prisoners, Springfield, Missouri  
Metropolitan Correctional Center, Chicago, Illinois  
Federal Medical Center, Rochester, Minnesota  
Federal Prison Camp, Duluth, Minnesota

#### Northeast Regional Office (215) 597-6317

U.S. Penitentiary, Lewisburg, Pennsylvania  
Federal Correctional Institution, Danbury, Connecticut  
Federal Correctional Institution, Morgantown, West Virginia  
Federal Correctional Institution, Petersburg, Virginia  
Federal Correctional Institution, Alderson, West Virginia  
Federal Correctional Institution, Otisville, New York  
Federal Correctional Institution, Raybrook, New York  
Federal Correctional Institution, Loretto, Pennsylvania  
Metropolitan Correctional Center, New York, New York  
Federal Prison Camp, Allenwood, Montgomery, Pennsylvania

### ARTICLE 7 — EXTRADITIONS

*Revised February 23, 1995*

#### 72050.1 Policy

The Department shall comply with the Uniform Criminal Extradition Act for the surrender of inmates or for extradition of inmates in custody outside the state.

#### 72050.2 Purpose

This section sets forth the uniform procedures for processing extradition requests.

#### 72050.3 Extradition Upon Release to Parole

It is unlawful under PC 1550.1 and 1550.2 to deliver an inmate to an agency of a demanding state until the inmate is taken before a magistrate.

There is no legal provision for the Department to take an inmate before a magistrate to consider extradition prior to the parole release date. Therefore,

most inmates shall be released to the custody of a local law enforcement agency with the accompanying warrants.

Occasionally, an extradition hearing may be held at the institution by a local magistrate prior to the inmate's release. These inmates shall be delivered directly to the out-of-state agents when paroled or discharged, on the authority of a waiver signed by a judge or upon a judge's approval.

#### **72050.3.1 Case Records Responsibility**

The CCRM shall contact and arrange for the appropriate agency to take custody of the inmate on the scheduled parole release date:

- The local law enforcement agency if the inmate has to be taken before a magistrate.
- The out-of-state agency if a waiver has been signed by a judge or upon the judge's approval.

An inmate/parole violator may be released pursuant to PC 4755 for the convenience of an out-of-state transporting agency. [See DOM 72040.8].

Arrangements must be made sufficiently in advance of the scheduled parole release date to ensure that the appropriate documents (as described in this section of the manual) are available for delivery to the agency assuming custody.

#### **72050.3.2 Extradition Upon Executive Agreement**

PC 1549 provides that when an inmate is wanted in another state for prosecution and is held in this state, the Governor of California and the Governor of the other state may enter into an Executive Agreement. The Department temporarily surrenders custody of the inmate to the other state for prosecution on the condition that the inmate is returned when prosecution is terminated.

Inmates under sentence of death and wanted in another state shall be processed under Executive Agreement.

Upon receipt of an Executive Agreement the CCRM shall arrange to take the inmate before a magistrate, prior to offering him/her to the out-of-state agent. The Executive Agreement is sufficient authorization to remove the inmate from the institution for the hearing.

The CCRM of the releasing California institution shall maintain contact with the other state to ensure the inmate is returned.

If the CCRM finds that the inmate was placed in prison in the other state to serve a sentence, the prosecuting attorney in the other state shall be contacted and an attempt made to have the inmate returned to California in accordance to the Executive Agreement. If the prosecuting attorney refuses to cooperate, the AG's Office shall be contacted for assistance in having the inmate returned to California.

#### **72050.4 Extradition From Out-of-State**

PC 1547 through 1558 contain information regarding the Uniform Criminal Extradition Act. These provisions are used when the Department requests extradition to return California escapees or parole violators from outside the state.

##### **72050.4.1 Documents**

When the parole violator or escapee refuses to waive extradition, a number of documents must be supplied to initiate a Governor's warrant for their return to California.

When returning inmates from outside the state, the following documents shall be supplied to the Interstate Unit which shall prepare the package for the Governor's warrant:

- Four certified copies by case records staff of each of the information(s)/complaint(s), indictment(s), and Judgment(s)/commitment(s). Each document must bear two of the following thereon:
  - Signature of the county clerk.
  - Signature of the judge.
  - County seal.

Each document must also be certified by case records staff as a true and correct copy of the original in the C-File.

- Four exemplified (by the Superior Court) copies of each of the information(s)/complaint(s), indictment(s), Judgment(s)/commitment(s) pursuant to PC 1207. Each must be signed by the duly elected county clerk and by the judge of the Superior Court of the county of commitment. Exception: The State of Florida requires an affidavit by the judge stating the judgment and sentence against the individual.
- Four copies of an affidavit executed under penalty of perjury by the CCRM to certify the records covering the inmate's commitment, subsequent actions by the parole board, subsequent transfers between institutions, assignment to camp, if any, and circumstances of escape.

- Four copies of fingerprints, pictures, and description.
- Statement of where and by whom the fugitive is being held and the means by which the institution has been notified of such facts.

#### **Parole Violators Additional documentation**

- The extradition package for the return of a parole violator must include documentation that the parolee is still subject to the jurisdiction of the paroling authority. Therefore, certificates of term fixing actions from the date the parolee was originally received by the Department shall be included.

#### **72050.4.2 Waiver of Extradition**

When the fugitive has waived extradition before a magistrate and agrees to accompany the Department's agent, staff of the P&CSD Interstate Unit shall be contacted to arrange pickup of the fugitive. One copy of the waiver shall be forwarded to the Interstate Unit as a necessary document to the state agent's appointment as the agent authorized to take custody and deliver the fugitive to the proper California authorities (*nunc pro tunc*). Except in unusual circumstances, the fugitive will be transported by private transportation agents.

#### **72050.5 Interstate Transportation Cases**

##### **Parolees**

At the time transportation is arranged on a parolee, Interstate Unit will contact the regional case records staff requesting that, no later than the next working day, a telecopy of the following documents be sent to the designated reception center:

- Cumulative Case Summary.
- Photo.
- Fingerprint.

A cover memo boldly marked "Interstate Transportation Case" shall accompany the packet and a copy of the memo shall be telecopied to the attention of the Interstate Transportation Unit.

##### **Inmate**

Upon notification that an inmate/escapee is to be delivered to a designated reception center, a packet will be compiled by the jurisdiction holding the C-file. The packet shall be boldly marked "Interstate Transportation Case" and shall contain in addition to the above named documents the commitment orders.

The packet will be sent by courier to the designated reception center.

#### **72050.6 Revisions**

The Deputy Director, Institutions Division, or designee, shall ensure that the contents of this section are accurate and current.

#### **72050.7 References**

PC §§ 1207, 1549.1 - 1558, and 4755.

### **ARTICLE 8 — NOTICES**

*Revised October 6, 1993*

#### **72060.1 Policy**

Notification of the release of an inmate may be provided upon written request and shall be provided as mandated by law.

##### **Notification of Release**

Notification shall be provided pursuant to PC 3058.6 and 3058.8 on any person convicted of a violent felony listed in PC 667.5 (c), and pursuant to PC 11155 (b) upon the escape of an inmate.

#### **72060.2 Purpose**

The purpose of this procedure is to provide guidelines for acceptance and processing of requests for notification of an inmate's release.

#### **72060.3 Mandatory Notification**

Notification shall be provided to the sheriff, chief of police, and DA pursuant to PC 3058.6.

#### **72060.4 Requests For Notification**

*Revised September 25, 2007*

Written requests for notification shall be accepted from:

- Public or other law enforcement agencies.
- Paroling authority of another jurisdiction.
- DAs (pursuant to PC 270).
- Victim, witness, next-of-kin, immediate family member as defined in Section 3000 of the Title 15.



- Individuals, when the inmate's release or escape presents a potential for harm to the person.

#### **72060.5 Types of Release Notices**

When a request for notification has been made a matter of record, the requester shall be notified of the inmate's:

- Escape.
- Authorized release from departmental custody.
  - Release to a CCF For the purposes of this Section, a CCF means a Work Furlough (WF) facility, a facility which houses a Community Prisoner Mother Program, and the Restitution Community Correctional Center.
  - Release to parole.
  - Discharge.
  - Release from custody for any other reason (e. g., bail).
  - 
  - Transfer of custody to another agency.
  - Death.

The notice of transfer of custody is required to inform the requester that the Department shall no longer assume responsibility to notify them of the inmate's release or escape from custody.

#### **72060.6 Public or Other Law Enforcement Agencies' Requests For Notification**

##### **Counselor**

The inmate's counselor shall process requests from public or law enforcement agencies and those pursuant to PC 270 and 11155.

The counselor shall prepare a letter acknowledging receipt of the request for notice and forward it and a copy of the letter to the requestor and to the C-File by case records staff.

##### **Case Records Staff**

Case records staff shall:

- Send the letter to the requestor acknowledging the receipt of the request.
- Post the CDC Form 112, Chronological Inmate History.
- Post the CDC Form 144, Control Card.
- File the request and a copy of the letter of acknowledgment in the Holds/Warrants/Detainers (HWD) section of the C-File.
- File CDC Form 128-R, Requested Notice of Escape or Transfer of Custody, in the C-File.

#### **72060.7 Victim, Witness, Next-of-Kin, or Immediate Family Member Notification**

Revised September 25, 2007

Victims, witnesses, next-of-kin, or immediate family members as defined in Section 3000 of the Title 15 who request notification shall be notified of the inmate's/parole violator's death, escape, scheduled release to parole, discharge, release from custody for any other reason, or transfer of custody to another agency including a CCF. Requests shall be made in writing by letter or CDC Form 1707, Request for Victim Notification/Special Conditions of Parole.

Written requests from victims, witnesses, next-of-kin, or immediate family members shall be processed in the following manner:

##### **CC-III/C&PR/Parole Region CCRM**

The CC-III (Reception Center), C&PR, or Parole Region CCRM shall send an acknowledgement letter to each victim, witness, next of kin, or immediate family member as defined in Section 3000 of the Title 15 upon receipt of the initial correspondence. **This letter will serve only as an acknowledgement letter, not the official notification letter.**

The acknowledgement letter shall include the offender's most current scheduled release date or BPT hearing date and shall include a brief qualified statement that release dates are an estimate and subject to change. The letter shall state that the requestor shall **AGAIN** be notified 45 days prior to release of any type.

The letter shall also include:

- Request for additional information if needed.
- Inform the requestor of the responsibility to provide the Department with a current address and telephone number which will remain confidential.
- Confirmation of the confidential status of the request.

Notices to a victim, witness, next of kin, or immediate family member as defined in Section 3000 of the Title 15 shall be done by return-receipt mail.

In the event that the requestor does not reside at the last known address provided to the Department, the CC-III/C&PR/CCRM shall make a diligent, good faith effort to learn the whereabouts of the requestor.

If notification of an inmate's release, death, escape, placement in a CCF/WF, or transfer of custody to another agency is returned undelivered, staff shall attempt to locate the person requesting notification using the following means:

- A telephone call to person requesting the notification.
- Directory assistance.
- CDC Victim Services.
- Local law enforcement.

Staff shall complete CDC Form 1722, Notice of Release Returned Undelivered and staple it to the undelivered notice, and insert the materials in the confidential section of the inmate's C-File. If the current address is discovered, staff shall send a new notice to the person requesting notification.

##### **Notification Procedures**

Those persons requesting information regarding offenders convicted of felonies shall be notified by the CC-III/Reception Center, C&PR, or CCRM in writing, at least 45 days prior to the inmate's/parole violator's scheduled release to parole, discharge, release from custody for any other reason, or transfer of custody to another agency. The notification will be done by a completed CDCR Form 863-A, Confidential Notice of Release to Parole, pursuant to PC3058. If there is any change in the release date after the 45-day notice has been sent, the victim, witness, next of kin, or immediate family member as defined in Section 3000 of the Title 15 shall be notified immediately by the most expeditious means. A copy of the completed CDCR Form 863-A shall be filed in the inmate's/parole violator's confidential folder with the request and response.

Parole agents can determine if the proper victim/witness notification has been sent from the releasing facility by reviewing the confidential section of the field-file for request and response documentation. If not completed, the Parole Agent shall send immediate notification to the victim/witness by information provided in the confidential section.

##### **Death**

The CDC Form 1796, Notice of Inmate/Parole Violator's Death shall be utilized for notification in the event of the inmate's/parole violator's death.

##### **Escape**

In the event of an inmate's/parole violator's escape, the victim, witness, next of kin, or immediate family member as defined in Section 3000 of the Title 15 shall be notified by the most expedient means possible. Either by telephone, through the local law enforcement agency of record, or by telegram.

##### **C&PR**

The C&PR shall have the responsibility for notifying the requestor within 30 days of the return to custody of an escapee. A CDC Form 1716, Notice of Return to Custody of Escapee shall be used to notify the requestor of the escapee's return.

##### **Parole Staff**

The regional CCRM shall have the responsibility for notifying requestors of the death, release, or escape of parole violators who are serving revocation time in county jails.

#### **72060.8 Requests For Notification From Individuals**

Requests from individuals shall be processed as follows:

The Warden or designated staff member at not less than the level of Lieutenant or CC-I shall:

##### **Warden**

- Evaluate the request in terms of the potential harm the inmate's release or escape shall present to the requestor.
- Evaluate the need to maintain the confidentiality of the requestor's identity and information contained in the request.
- Write a letter to the requestor informing them of:
  - Action taken by the Department.
  - Additional information required before any further action can be taken.
  - Their responsibility to inform the Department of any change in address or phone number.
  - To what degree the request is confidential and the amount of information which is disclosed to the inmate concerned.
- If the request warrants confidentiality, staff shall send the letter requesting the notice, copies of all staff correspondence, and the CDC Form 128-R to the staff person designated (CCR 3321[d][2]) to review

confidential material. The reason given for confidentiality shall be: "Material relates to a person's fear of subject's escape or release/transfer from departmental custody." This person shall:

- Review the material and, if appropriate, stamp as "Confidential."
- Forward the material to the case records office.

#### **Case Records Staff**

Case records staff shall:

- Make an appropriate entry on the CDC Form 112 and CDC Form 144, in view of status as confidential or nonconfidential.
- File the request, letter of acknowledgment, and CDC Form 128-R in the C-File.

#### **72060.9 Responsibility For Giving Requested Notice**

A promise or implied promise to give notice of an inmate's release from custody or escape imposes that responsibility upon the staff of the facility from which the inmate is released or escapes.

#### **Counselor**

The counselor shall periodically review the inmate's file to evaluate the need or requestor's desire for notice. If necessary, the counselor shall contact the person(s) requesting the notice.

#### **72060.9.1 Notice Announcing Escape**

The staff person who reviews the C-File for information required in notifying law enforcement officials of an inmate's escape (pursuant to PC 11155 and the DOM 55040) shall also notify persons requesting notice by the most expedient means. If possible, by telephone or by telegram.

#### **C&PR**

The C&PR staff shall send written notice to the person requesting notification within 30 days after regaining custody of an escapee.

#### **Case Records Staff**

Case records staff shall file a copy of any written notice with the original request for notice in the C-File.

#### **72060.9.2 Notice Announcing Release to Community Correctional Center or Work Furlough**

*Revised September 25, 2007*

When notification is requested, CCF/WF staff shall send written notice at least 60 days before placement of an inmate in a CCF/WF program to the:

- Chief of police of the city in which the inmate shall reside or in which placement shall be made.
- Sheriff of the county in which the inmate shall reside or in which placement shall be made.
- Victim, witness, next-of-kin, or immediate family member as defined in Section 3000 of the Title 15.

This notice shall identify the inmate, the name, and the address of the facility, the county of release, and the address of the controlling parole region.

Case records staff shall file a copy of the written notice with the original request for notice in the C-File.

#### **72060.9.3 Notice Announcing Release of Inmates Convicted of Violent Felonies**

Any inmate serving a term of imprisonment after conviction for an offense listed in PC 667.5(c) or who is serving a period of parole revocation following release from such imprisonment is subject to the provisions of PC 3058.6 and 3058.8, and notification of release must be made.

The CDC Form 863 shall be completed and mailed no later than 45 days prior to release to the:

- Sheriff of the county to which paroled.
- Chief of police of the city in which the inmate shall reside (if known).
- DA of the county to which paroled.

A copy of the completed CDC Form 863 shall be routed to the:

- HWD section of the inmate's C-File.
- BPT executive officer if the inmate/parolee was sentenced pursuant to PC 1168(b).
- Inmate/parolee.

If residency plans are unresolved at the time of notification, staff shall enter "Community Unknown" on the CDC Form 863 and shall ensure that the parole unit address and telephone number are included.

When the community of residence is learned, the releasing facility records staff shall inform the above-listed agency(s) as soon as possible.

#### **Comments From Other Law Enforcement Agencies**

Comments received from law enforcement agencies regarding the release of an inmate to parole are reviewed by the RPA. After consideration of the comments, the original decision of placement may be changed.

A copy of comments received shall be forwarded to the BPT's executive officer for review in all cases of inmates being sentenced under PC 1168(b).

The law enforcement agency submitting the comments shall be notified of the BPT or Department's decision.

Notifications required by PC 3058.6 and 3058.8 shall be posted to the CDC Form 112 and CDC Form 144 by records office personnel.

After consideration of the comments, the original decision regarding the community in which the person is scheduled to be released may be modified pursuant to PC 3003.

#### **72060.10 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **72060.11 References**

PC §§ 270, 667.5(c), 679.02, 679.03, 1168(b), 3003, 3058.5, 3058.6, 3058.8, 11155, and 12021.1(b).

CCR (15) (3) § 3321(d)(2).

DOM § 55040.

### **ARTICLE 9 — WANTED PERSONS SYSTEM**

*Revised August 19, 1997*

#### **72070.1 Policy**

The Wanted Persons System (WPS) shall be used to ensure prompt notification to other agencies of persons wanted by the Department.

#### **72070.2 Purpose**

This section sets forth uniform procedures for processing notifications on escapees, parolees who have absconded from parole supervision, or inmates who have been released prior to their scheduled release dates and must be returned to custody.

#### **72070.3 Definition of Wanted Persons System**

The WPS is an automated data system providing information on persons wanted by various law enforcement agencies. It encompasses:

- CLETS.
- DOJ WPS.
- The National Crime Information Center (NCIC).
- All Points Bulletin (APB).
- The CDC WPS.

#### **72070.4 Definition of CLETS**

The CLETS is a data computer system that facilitates entries into the following systems:

- DOJ WPS. Entries into this system shall not appear outside the state. A WPS notification remains in the system until cancelled.
- NCIC. This system is maintained by the FBI with State DOJ assuring proper statewide operation. A want entered into NCIC shall appear nationwide upon inquiry. A requirement of a want entered into NCIC is that the person shall be extradited.

#### **72070.4.1 Definition of All Points Bulletin (APB)**

The APB is a separate system that operates through CLETS. APBs are routed to statewide terminals programmed to receive them. APBs are sent after regular working hours, holidays and weekends, to the Identification (ID)/Warrants Unit to enter the APB into the WPS/NCIC. The APB is automatically purged after 72 hours.

#### **72070.5 Escape Procedures**

Facility/parole staff shall follow these procedures when an inmate escapes, or fails to return from a temporary community leave, or is released prior to his/her scheduled release date and should be returned to custody.

#### **72070.5.1 Notification of Escape Procedures**

- Prepare a CDC Form 140, State Prison Escape Bulletin, in accordance with the Department's escape plan.
- Initiate an APB at the earliest possible time. FAX a CDC Form 600-A, APB FAX Worksheet, to the ID/Warrants Unit.
- The ID/Warrants Unit shall enter the want into the CLETS/WPS which automatically generates entry into the NCIC system, and OBIS using the

escapee's CDC number as the warrant number. These warrants shall indicate the escapee is wanted to finish their term.

- Facilities shall not enter the "permanent" want; however, they retain responsibility for:
  - Presenting the facts to the DA within 72 hours and obtaining a warrant for the escapee's arrest. The local sheriff's office is responsible for entering a want on the escape charge.
  - Teletyping notice to the Chief, Correctional Case Records Services, giving escape information, county warrant number and whether the county has entered a want on the escape charge.
  - Prompt notification to the Chief, Correctional Case Records Services, of an escapee's apprehension.
  - Cancelling any APBs issued by the facility when the escapee is apprehended within 72 hours.
  - Making notifications pursuant to the DOM 72060.

#### **72070.5.2 Uniform Escape Notices**

Escape notices shall adhere to the following:

- CDC Form 600, Wanted Persons System Notification--Addendum A, shall be available for use in preparing APBs.
- The descriptive information shall be completed in the order shown as adopted by agencies of State DOJ.
- APBs and cancellations on escapes from conservation camps or emergency firefighting crews shall clearly indicate that the escape was from a Department facility.
- The CDC Form 140 shall be 8 1/2" x 11". List the descriptive information in the order shown. Where case records material describes tattoos or other physical oddities, give adequate descriptive detail. The use of the term "multiple tattoos" shall not be used unless preceded by a specific description and location of one or more of them. The name of co-escapee(s), if any, shall be noted under "additional data."
- Escape bulletins posted in public places shall have the personal information removed (lower portion of the form). The IPA prohibits posting of personal information in a public place without the consent of the person. Other law enforcement agencies posting these forms assume responsibility for removal of this information.

#### **72070.5.3 Escape Bulletin Distribution/Cancellations**

Facility staff shall ensure that local law enforcement each receive:

- A minimum of 12 escape bulletins.
- A minimum of six glossy photographs.
- A copy of the escapee's CI&I SSCH report.
- A case summary.
- A list of visitors, correspondents and addresses, if known.

Escape bulletins shall also be distributed to headquarters, special services units, facilities, and parole regions so mutual assistance may be given in the apprehension and return of escaped prisoners.

If the escapee has a close relative or crime partner on parole, an escape bulletin shall also be forwarded to the appropriate parole unit office.

Escape bulletin cancellations shall be distributed to the same agencies that receive the escape bulletin, immediately following the apprehension of the escapee. The original escape bulletin shall be used by stamping "cancelled" across the bulletin along with the effective date of the cancellation.

#### **72070.5.4 Presumptive Death Policy**

To close an escapee's records under the "presumption of death," their age shall be 70 years or older and whereabouts unknown for 7 years or more.

##### **72070.5.4.1 Presumptive Death Procedures**

The CCRM shall initiate the presumptive death procedure:

- Obtain a current FBI SSCH.
- Complete a CDC Form 644, Certificate of Presumptive Death.
- Forward the original and one copy to the Chief, Correctional Case Records Services, for approval.

The original certificate shall be returned to the facility for permanent retention in the inmate's C-File. The copy shall be forwarded to State DOJ, CI&I. Upon receipt of the signed certificate, the CCRM shall:

- List the "presumptive death" on the daily report of arrivals and departures.
- Post the action to the CDC Form 112, Chronological History.
- File the original certificate in the inmate's C-File.

- Send the C-File to the designated region records office for microfiche. They shall forward the microfiche to the archives unit.

This acts to remove all departmental active records on the inmate.

#### **72070.5.5 Interstate Compact Unit Escapees**

When notified of the escape of a Department inmate housed in another state or federal prison, Region I case records staff shall send a FAX to the Chief, Correctional Case Records Services.

Follow the same procedures as for any other escapee except:

- Obtain a warrant from the DA for the escapee's arrest on escape charges. The interstate compact unit shall make every effort to encourage the authorities of the facility where the escape occurred to:
  - File local charges.
  - Enter a want on escape charges, including the Department as an agency to be notified when the escapee is apprehended.

#### **72070.5.6 Escape From a Civil Addict Facility**

Pursuant to the W&I 3002, escape from a civil addict facility is a felony. Follow the same procedures as for any other escapee.

If sentenced to state prison on the escape charge, the civil addict commitment shall be referred back to the committing court as unsuitable. Discharge procedures shall be followed.

After an escapee has been at-large one year, and their whereabouts remain unknown, an exclusion letter shall be prepared and sent to the court of commitment pursuant to W&I 3053. Upon completion of the exclusion process, a FAX shall be sent to the ID/Warrants Unit requesting removal of the want from the WPS and the departmental warrants' register.

#### **72070.5.7 Disposition of an Apprehended Escapee**

An escapee apprehended by departmental personnel cannot be released to county officials for prosecution on an escape charge until a superior court issues an order as provided in PC 2620. A warrant issued by a municipal court for apprehension and return of an escapee is not sufficient authority for surrendering custody of an inmate.

An escapee apprehended and released to a departmental employee shall be returned to a facility as soon as possible for safekeeping until released in accordance with PC 2620.

An escapee arrested by officials not connected with CDC shall be held by the arresting agency for prosecution.

#### **72070.5.8 Warrant For Unlawful Flight**

18 USC 1073 provides for the issuance of a warrant for the apprehension of a person under commitment for murder, kidnapping, burglary, robbery, mayhem, arson, rape, assault with a dangerous weapon, extortion by threat or coercion, or an attempt to commit any of the above offenses. When an inmate committed for one of these offenses escapes and there is reason to believe the escapee left the state, the Warden shall notify the resident agent of the FBI.

The U.S. Attorney of the district in which the facility is located shall be notified by letter of the issuance of the warrant of arrest and that the prisoner shall be extradited if apprehended. They shall be provided with the information outlined in the escape report and requested to issue a warrant in accordance with the 18 USC 1073.

#### **72070.5.9 Placing of Holds on Apprehended Escapees**

Upon apprehension of an escapee, the Warden shall request immediate custody, and if the request is granted, the escapee shall be returned immediately to the facility. If immediate custody cannot be obtained, the Warden shall place a hold using a CDC Form 801, Notice of Detainer, for the return of the prisoner when they become available for return.

#### **72070.5.10 Grand Jury Indictments Pertaining to Escapees**

County warrants charging escape expire after three years. The CCRM shall review the list of escapees monthly. Any escapee at-large for two-and-one-half years shall be referred to the DA to obtain a Grand Jury indictment prior to the expiration of the three-year period.

#### **72070.5.11 Purpose of an Affidavit of Escape**

When extradition procedures are initiated, an "affidavit of escape" shall be prepared and forwarded to the Captain, Transportation Unit. This document is required by the controller's office so that the transportation officers may be reimbursed for expenses incurred in returning the escapee to California.

#### **72070.6 Parolee-At-Large**

A parolee is an absconder when it is determined by the BPT that the parolee's whereabouts are unknown.

#### **72070.6.1 Placement in Wanted Persons System**

When it has been determined that the parolee is at-large, the Parole Agent shall prepare a CDC Form 600 and submit it to the regional records staff with a CDC Form 1524, Parolee At Large Report (PAL Report).

The CDC Form 600 shall be reviewed for completeness by an office technician or higher and sent to the BPT Central Office Calendar with the PAL Report, or returned to the Parole Agent for completion. The following information shall be included on the CDC Form 600:

- Known aliases (AKA).
- Social Security Numbers (SSI) and additional date(s) of birth (ADB) which are recorded on the CI&I SSCH report.
- Scars, marks, and tattoos - indicate location and description.

Caution codes shall be included in the caution field. If multiple caution codes are required, enter the most serious caution in the caution field and type out the second caution, in English, as the first item in the miscellaneous field. The "X" caution code shall be entered in the miscellaneous field with an explanation. Use prior history to determine caution. The following caution codes shall be used:

A	=	Armed and dangerous
E	=	Escape risk
M	=	Mentally disturbed
S	=	Suicidal
X	=	Miscellaneous

- Miscellaneous field shall contain the commitment offense, not the felony code numbers.
- The agent's name and telephone number shall be used by ID/Warrants Unit staff, but not entered into CLETS. This information shall be provided to the arresting agency upon apprehension.
- The reference field shall be used to indicate the region and unit office.

The facility/region case records office shall maintain a log of the CDC Form 600 entry and cancel requests.

#### **ID/Warrants Unit**

When a CDC Form 600 is received from the BPT, the ID/Warrants Unit shall:

- Date stamp the CDC Form 600.
- Compare the name and date of birth and contact region case records staff concerning any major discrepancies. Change CI&I and FBI numbers to conform to the CI&I SSCH.
- Enter the want in OBIS and perform a QC review of the FAX entry.
- Send a list daily of wants entered and cancelled to each regional case records office.

#### **72070.6.2 Purge/Validation of Warrants**

A NCIC warrant review shall be completed on all suspended PAL cases after 60 months in PAL status.

#### **72070.6.3 Purge/Validation Procedures**

##### **Parole Agent (4-6 Weeks Prior to Annual and 60-Month review)**

Secures and reviews current CI&I and FBI arrest records for any arrest during period parolee has been PAL.

##### **(At 60-Month Review)**

Reviews case files of all PAL cases for commitment offense and prior criminal history if no arrests are noted on CI&I sheets.

Forwards copy of original CDC Form 1524, with completed CDC Form 1524-A attached, to BPT recommending:

- Discharge and recall warrant (if commitment offense and prior criminal history were property offenses with minimum or no history of violent behavior).
- Discharge and recall warrant (if determined there is minimal chance of parolee being located or committing new crimes, and a minimal history of violence or arrests are indicated by CI&I or FBI records).
- Retain in PAL status and in NCIC (if there is a history of violence; CI&I records show arrests; and there is a probability of parolee being located).

Current CI&I and FBI arrest records and legal status summary sheet shall be attached to PAL report.

Submits report to unit supervisor.

##### **Unit Supervisor**

Reviews and submits report to BPT for action.

#### **72070.6.4 Cancellation of Wants**

##### **Parole Agent**

The Parole Agent forwards CDC Form 1676, Charge Sheet/Revocation Tracking/Scheduling Request, by FAX to the ID/Warrants Unit to cancel a warrant.

##### **The ID/Warrants Unit**

Cancels the warrant in the CLETS thereby removing the want from NCIC and WPS, and cancels the warrant in the OBIS.

#### **72070.6.4.1 Parole Agent Requests For PC 3056 Holds**

During normal business hours, the Parole Agent shall contact the region case records office to place a PC 3056 hold on a PAL in custody. After normal duty hours, the agent shall contact the ID/Warrants Unit to request that a hold be placed and the want cancelled.

#### **72070.6.4.2 Hold Placed by ID/Warrants Unit**

When a law enforcement agency requests a hold, the ID/Warrants Unit shall abstract a warrant to the agency with a copy to the region case records office.

Holds and warrant abstracts forwarded to requesting law enforcement agencies shall include the name and telephone number of a staff contact person. The abstract shall also include the charges, any AKAs and the requesting agency's booking or case number, if known, on the wanted person.

The region case records office shall notify the Parole Agent of the hold by the next working day. The agent shall immediately identify the subject.

#### **72070.6.4.3 Hold Placed in Error**

A warrant is no longer active once it has been cancelled in State DOJ CLETS. Once a warrant has been cancelled, it must be reissued for cause by the BPT in order to be used as the basis for entering a want into the state WPS or NCIC. Some warrants for suspended parolees are inadvertently cancelled due to:

- A warrant abstract has been sent to a law enforcement agency on the wrong subject.
- The parolee has been released by a local agency over a CDC hold or detainer.
- Data entry error.

#### **72070.6.4.3.1 Procedures For Reissuing Cancelled Warrants**

##### **Parole Agent**

Submits a copy of the original CDC Form 1524, the BPT Form 1135, Miscellaneous Decision, and completed CDC Form 600, to regional records upon determining that a warrant has been incorrectly cancelled.

##### **Records Staff**

Forwards PAL package to BPT central office.

##### **BPT Staff**

Reissues warrant, FAX signed copies of the BPT Form 1135 and CDC Form 600 to ID/Warrants Unit and forwards a copy of the BPT Form 1135 to the parole unit.

##### **Regional Records Staff**

Posts BPT action to CDC Form 112.

##### **ID/Warrants Unit Staff**

Reenters want into CLETS and OBIS.

#### **72070.6.4.4 Parolee-At-Large Located**

##### **Parole Agent**

Forwards CDC Form 1676 by FAX to ID/Warrants Unit to cancel warrant.

##### **ID/Warrants Unit Staff**

Cancels warrant in the CLETS thereby removing the want from NCIC and WPS, and cancels warrant in OBIS.

#### **72070.6.4.5 Parolee-at-Large Reinstated**

If a PAL is arrested or located in California and there are no violations of the type reserved for decision by the BPT, the RPA may order reinstatement on parole.

#### **72070.6.4.6 Parolee-At-Large Located Out-of-State**

The interstate parole office shall abstract a warrant during the normal workday. The ID/Warrants Unit shall abstract a warrant on weekends and after normal work hours on PALs where a code two warrant has been issued by the BPT.

The ID/Warrants Unit shall forward, to the Interstate Unit, three certified copies of the BPT warrant on any case where an abstract warrant has been issued or when the BPT has acted to issue a warrant as a detainer only.

The Parole Agent shall submit a written report to the BPT recommending a disposition. The BPT shall determine whether the parolee shall be discharged, referred for supervision in the other state, or scheduled for revocation proceedings.

**72070.6.4.7 Emergencies and Emergency Procedures**

Emergencies include:

- A parolee/PAL is apprehended out-of-state and shall be released unless a warrant is immediately issued. The Department's verbal or regular FAX request to detain shall not suffice to hold the subject.
- The parolee/PAL's misconduct is of such a serious nature that any delay incurred by requesting a hold through regular channels would amount to gross negligence on the part of the Department.
- The parolee/PAL is located/arrested out-of-state and the existing code one warrant needs to be upgraded to code two and a return-to-prison order shall be completed.

These emergencies require submittal to the BPT on a BPT Form 1135.

The Parole Agent shall initiate action for a want by telephoning the region CCRM or other region staff as determined by the RPA.

Depending on the need, the agent shall relay such information as is required for the BPT Form 1135, and if needed, the information for filling out a CDC Form 600 for issuance of a warrant. The region CCRM may determine the type of information needed for the agent.

The CCRM shall:

- Maintain control over regional emergency requests.
- Prepare the BPT Form 1135 and/or CDC Form 600, if a want is to be issued.
- Telefax the BPT Form 1135 and a CDC Form 600 to the BPT for action.

The BPT shall:

- Sign the BPT Form 1135.
- Issue a warrant number and complete the entry level and date of warrant.
- Send the CDC Form 600 to the ID/Warrants Unit for entry into the WPS.
- Notify the region CCRM of the action by telefax.
- Telefax the CDC Form 600 to ID/Warrants Unit. Send the original CDC Form 600 and the warrant to the ID/Warrants Unit.

**72070.7 Releasee-At-Large Want**

Upon receiving a request from the supervising Parole Agent for a releasee-at-large (RAL) want, the region CCRM shall complete the CDC Form 600, then forward it, along with the NAEA action to suspend outpatient status, to the ID/Warrants Unit.

The date of the warrant section shall reflect the date the action was taken by the NAEA. The "miscellaneous field" of the CDC Form 600 shall indicate "civil addict commitment." The criminal charges that were suspended shall also be included for entry into the WPS. RAL wants are code one only. Incomplete forms shall not be processed but returned to the originator for completion.

The ID/Warrants Unit shall enter the want into the WPS.

The Parole Agent shall contact the region case records office during normal business hours to place a W&I3151 hold on a RAL in custody and instruct them to request cancellation of the want. After normal business hours, the agent shall contact the ID/Warrants Unit to request that a hold be placed and the want cancelled.

Upon notification that the RAL has been apprehended and is in custody, the region CCRM shall FAX the ID/Warrants Unit requesting the removal of the want upon reinstatement action of the NAEA.

**72070.8 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

**72070.9 References**

18 USC 1073.

PC §§ 2620, 3056, 5054.1, and 11155.

W&I §§ 3002, 3053, and 3151.

DOM §§ 72060, 81040, and 81080.

**ARTICLE 10 — LEGAL STATUS INFORMATION**

*Effective September 22, 1989*

*Updated February 16, 2008*

**73010.1 Policy**

*Revised June 16, 1995*

Uniform legal status information shall be maintained on persons under the jurisdiction of the Department.

**73010.2 Purpose**

*Revised June 16, 1995*

This section sets forth the procedures for the uniform preparation of an inmate's legal status.

**73010.3 Legal Status Information**

*Revised June 16, 1995*

Legal status information contained in the C-File includes:

- CDC Form 112, Chronological History.
- Legal Status Summary.
- POR or Circumstances of Offense.
- FBI Report.
- CI&I SSCH Report.

**73010.4 Preparation and Audit Requirements**

*Revised June 16, 1995*

Legal status information shall be assembled and prepared on all newly arrived inmates by the reception center case records staff.

**Case Records Specialists (CRS)**

Legal data used in the preparation of the CDC Form 188, Legal Status Summary, shall be audited by CRSs. They shall:

**Review**

- Review, compare, and analyze all available legal documents, such as: Abstracts of Judgment, Minute Orders, transcripts of proceedings at time of sentencing, charging documents, appellate court opinions, remittiturs, and other court orders to ensure accuracy, compatibility, and intent of the sentencing court.

**Determine**

- Determine sentence case relationship and appropriate application of credit for entry into OBIS and preparation of the Legal Status Summary.

**Request**

- Request missing documents, necessary to complete the legal portion of the case summary, from the county clerk's office. Requests for proceedings at time of sentencing should not be made until the third or fourth week after the inmate's arrival to permit routine transcribing and mailing by the courts. PC 1203.01 statements shall be requested from the court of commitment for cases not referred to the probation department.

- Occasionally, an inmate may transfer from the reception center prior to receipt of documents and completion of the legal section. The receiving facility specialist shall ensure all pertinent documents/corrections are subsequently received and processed, and that amendments to the legal status summary are made.

**Forward**

- Forward to the Health Care Manager a weekly list of those inmates who are required to provide blood and saliva samples pursuant to PC 290.2. Such samples shall be collected as soon as possible after the inmate leaves the reception center.

**Review**

- Review all computer generated Legal Status Summary Sheets and commitment documents for data entry error.

**Correct**

- Correct Legal Status Summary Sheets which are discrepant due to the lack of computer program edits, e.g., consecutive sex offenses, by causing a manual (M) calculation entry of the data. Cases discrepant due to an error in sentencing shall remain discrepant in OBIS until an amended document is received.

**Refer**

- Refer discrepant cases which require communication to the trial court to the LPU for resolution. Referrals shall include an analysis of the case factors and photocopies of complete court documents necessary for the unit to communicate with the court.
  - Copies of any amended/new legal documents subsequently received on discrepant cases shall be forwarded to LPU following correction of, or addition to, the legal status summary.

**Determine**

- Determine statutorily required reports, referrals, notices, and registration requirements. Make appropriate entries on the CDC Form 112; CDC Form 144, Control Card, and cause entry into OBIS, as program edits allows, for:

- Arson offenses, as specified in PC 457.1 and 11150.
- Sex offenses, as specified in PC 290.
- Controlled substance offenses, as specified in H&SC 11590.
- Reports to the court, as specified in PC 1170(d).
- Notices, as specified in PC 3058.6 and 3058.8.

#### **Edit Error PC 457.1**

OBIS programming for entry on the Legal Status Summary is available only for PC 290, 1170(d), and 11150 and H&SC 11590 requirements. Due to a program edit error, PC 457.1 shall be indicated on the Legal Status Summary as PC 11150 and, unless registration is ordered by the court and reflected on the commitment document(s), the entry shall be modified manually to read "Notification required per PC 11150."

#### **Continue To Audit**

Facility/region specialists shall continue to audit legal status information, and make necessary records/corrections/amendments. They shall:

##### **Time Cards**

- Audit inmate time cards for recorded work credit.
  - Minimum met bubbled on the scannable time card is a combination of actual time worked, ETO, and security time for both fulltime and halftime assignments.

##### **Holiday Credit**

- Holiday credit shall be granted for all State holidays in the appropriate credit earning status for inmates in credit qualifying groups. Holiday credit shall be automatically posted to OBIS from scanned time cards.

##### **ETO**

- An inmate assigned for a minimum of 20 days in any month shall earn 16 hours of ETO in full-time assignments and 8 hours in half-time assignments for each month. An additional 8 hours of credit for full-time and 4 hours of credit for half-time shall be granted for any time actually worked on any State holiday. A maximum of 192 hours for full-time and 96 hours for half-time may be accrued. ETO shall be used in increments of 2 hours. ETO used in excess of ETO earned shall be recorded as an absence.

##### **Review**

- Review recording of all other worktime documentation including CDC Form 115, Rule Violation Reports; CDC Form 128-G, classification actions; general and medical chronos; and computer entries of credit gains, losses, restorations, and dead time.

##### **Calculate**

- Make appropriate calculations and recordings of BPH decisions.

##### **Respond**

- Respond to inquiries from inmates and answer inmate appeals on legal status issues.

##### **Record**

- Make proper recordings of all actions/decisions affecting an inmate's legal status on the CDC Form 112.

##### **Disposition**

- Determine disposition of Holds/Wants/Detainers and take appropriate action for resolution.

#### **73010.4.1 Audit Schedule**

*Revised June 16, 1995*

Periodic audits of the C-File shall be made by CRSs. Audits which include all requirements previously listed in this section shall occur whenever the following exist:

- Upon initial intake at any receiving facility.
- Sixty days prior to an inmate's scheduled parole/release date.
- Ten days prior to an inmate's scheduled parole/release date.
- Upon receipt of an additional commitment following initial intake.
- Upon transfer to facilitate federal deportation.
- Every 30 days beginning 9 months prior to release on notorious or special interest cases.

##### **Prior to Transfer**

An audit prior to any transfer, except for deportation purposes, shall consist of proper recording and disposition of Holds/Warrants/Detainers/Notices, proper recording of worktime documentation, and the generation of an updated Legal Status Summary as a result of a work credit gain.

#### **Three Months Prior to BPH Hearing**

Three months prior to any scheduled BPH hearing, an inmate's C-File shall be audited for accurate computation and recording of the Minimum Eligible Parole Date (MEPD) and any decisions previously made by the BPH.

#### **73010.5 Chronological History Form**

*Revised June 16, 1995*

The CDC Form 112 is the first page of the case summary.

#### **73010.6 Manually Prepared Legal Status Summary**

*Revised June 16, 1995*

A CDC Form 188 shall be prepared manually by the LPU to record the legal status of inmates committed to the Department with an active life term or Indeterminate Sentence Law term pending implementation of a computer generated legal status program for these cases.

#### **73010.6.1 Identifying Data**

*Revised February 16, 2008*

Identifying data on the CDC Form 188 shall include, but not be limited to, the following:

##### **Department Identification Number**

- Show the assigned departmental identification number (CDCR Number).

##### **Name**

- Commitment Name.
  - The commitment name shall be recorded as reflected on the original Abstract of Judgment/Minute Order by which the inmate was delivered to the custody of the Department.
  - If the Abstract contains two or more names, the first name shown shall be used as the commitment name. If one of the names is documented as the true name, the true name shall be shown as the commitment name.
  - Names on subsequent commitment documents which differ from the original commitment name shall be recorded as Also Committed As (ACA), e.g., Jones, George; ACA: Jones, John.
  - If the individual is received with multiple cases, use the name on the case sentenced the earliest.
  - If the individual is received with cases from multiple counties, use the name on the Abstract prepared by the county which delivered the individual.

##### **Name Change Procedures**

Subject to Section 1279.5 of the California Code of Civil Procedure, no person under the jurisdiction of the California Department of Corrections and Rehabilitation shall be allowed to file a petition to change his or her name except as permitted by the Department. Delegation of the Secretary's authority to permit an inmate or parolee to file a petition for a change of name has been granted to the Associate Directors (AD) of the DAI and to the Deputy Director of the DAPO. The following procedures shall be followed:

- Each inmate or parolee request for a legal name change shall initially be reviewed and approved or denied by either the responsible Warden or RPA.
- If circumstances do not exist to grant approval, the Warden or RPA shall respond to the inmate or parolee in writing stating the reasons for the denial. A copy of the response shall be placed in the inmate's/parolee's central file.
- If the Warden or RPA determines the request should be granted, the request shall be forwarded to the appropriate AD or to the Deputy Director, DAPO, along with a cover memo stating the reasons for granting the request. A copy of the memo shall be placed in the miscellaneous section of the inmate's/parolee's central file.
- If approved, the AD, DAI, or the Deputy Director, DAPO, shall forward a letter to the court accompanying the inmate's or parolee's request explaining why the Department is recommending approval for the legal name change. A copy of this letter shall be placed in the miscellaneous section of the inmate's or parolee's central file.
- If the AD, DAI, or Deputy Director, DAPO, does not approve the request, a letter will be forwarded to the inmate or parolee stating the reasons for the denial, a copy of which will be placed in the miscellaneous section of the central file.
- When a court ordered name change is received as a result of a department approval, the Correctional Case Records Manager shall notify the facility mailroom and visiting room of the change if the person is an inmate, or the agent of record if a parolee. The court order shall be filed along with

the other documents regarding the request for name change in the person's central file.

- The mailroom and visiting room staff of the facility shall update their records to reflect the additional name of the inmate.
- The original commitment name of the inmate or parolee shall remain on all departmental records and shall continue to be used on all Department records.
- The new legal name shall be recorded in the OBIS as an "Also Committed As..."
- The inmate shall be notified to inform all persons who may visit or write him/her that they must use the inmate's departmental identification number when using the inmate's new name.
- If an institution or parole office receives a court ordered legal name change that had not been recommended for approval by the Department, but the order was not the result of a successful court challenge against a previous departmental disapproval of the name change, the appropriate Warden or RPA shall forward the order to the Department Secretary or his or her designee for appropriate action pursuant to Section 1279.5 of the Code of Civil Procedure. If an institution or parole office receives a court ordered name change as the result of a successful court challenge against a previous departmental disapproval of the name change, the Warden or RPA shall process the name change in accordance with this section.

#### Ethnicity

- Ethnic Group: American Indian, Black, Cambodian, Chinese, Columbian, Cuban, Filipino, Guamanian, Guatemalan, Hawaiian, Indian (from India), Jamaican, Japanese, Korean, Laotian, Mexican, Nicaraguan, Puerto Rican, Salvadorian, Samoan, Thai, Vietnamese, and White (includes Hindu, Portuguese, Spanish, and West Indian).

#### 73010.6.2 Term Start

*Revised June 16, 1995*

The date the controlling term starts is as follows:

- The term start date shall be the same as the date received by the Department on the controlling commitment.
- If an additional commitment is received by mail and the date of sentence is prior to the original received date, the original received date shall be the term start date.
- If a concurrent commitment which becomes the controlling case is received by mail where the inmate is sentenced in absentia, the date the commitment was received shall be the term start date and postsentence credit shall be calculated and applied to the term.
- If an additional commitment which becomes the controlling case is received, where the inmate has gone out to court for sentencing, the term start date is the date the inmate returns to the Department from the prosecuting jurisdiction.
- If an additional commitment is pursuant to a probation revocation, the original received date shall be the term start date.

#### Federal or Out-of-State Prisoner

If a federal or out-of-state prisoner goes out to court and receives a California Controlling Commitment term, the term start date is the date the prisoner is received in the other jurisdiction after sentencing on the California case.

If a federal out-of-state prisoner is sentenced in absentia to a California Controlling Commitment term, the term start date is the date sentenced.

If a federal or out-of-state prisoner receives a California Controlling Commitment term pursuant to a probation revocation, the original received date in the other jurisdiction shall be the term start date.

#### 73010.6.3 Release Data

*Revised June 16, 1995*

##### Maximum Release Date

The Maximum Release Date (MRD) is calculated by adding the controlling term to the term start date, minus preprison custody credits, and plus any dead time (at-large on escape status/while released on appeal bond or bail).

The facility CCRM shall ensure that the MRD is calculated and entered. On manually prepared CDC Form 188s, any subsequent adjustment to the original MRD shall be entered in pencil to permit correction or change.

If one of the controlling offenses is a life term, the maximum release date shall be shown as "to be determined."

If one of the controlling offenses has an ISL sentence, the maximum release date shall be calculated and entered after the BPH has set the term.

#### Minimum Release Date/MIN DSL/EPRD/MEPD

An inmate's release date or parole eligibility date may be recorded as a Minimum Determinate Sentence Law (DSL) Release Date (MIN DSL), Earliest Possible Release Date (EPRD), or Minimum Eligible Parole Date (MEPD), depending on the controlling term.

#### DSL Non-IW/TIP

Non-IW/TIP DSL terms have a MIN DSL date which is the maximum release date minus goodtime credit plus any credit losses or dead time.

#### DSL IW/TIP

IW/TIP DSL terms have an EPRD. The EPRD is the maximum release date minus vested credits, plus credit losses or dead time and less the potential amount of goodtime credit to be earned based upon credit earning status.

Information relating to the IW/TIP is found in DOM 73030.4 and 73030.6.3.

#### Indeterminate/Life Term

If one of the controlling offenses has an indeterminate or life term, manual entry of the MEPD into OBIS will be made at the time of initial audit and changed as necessary due to any recalculation.

#### Parole Period

The parole period entry shall reflect the maximum parole period required by law (e.g., one year, three years, five years, life).

#### Sosa Credit

Any preprison credit in excess of the term assessed for a particular offense must be used to reduce the maximum parole period (*In re Sosa* (1980) 102 Cal. App. 3d 1002). This entry shall read: "\_\_\_\_\_ years minus \_\_\_\_\_ days *In re Sosa*." If additional credits are received, which are applicable under *In re Sosa*, the entry shall be changed accordingly.

#### 73010.6.4 Term Data

##### Base Term

For the base term, show the base term for the controlling offense.

- If the controlling offense has a determinate term, the entry shall be a four digit entry.

##### EXAMPLE:

5 Year Term	=	05-00
5 Year 8 Months Term	=	05-08

- Whether the controlling offense has an indeterminate or determinate term of one-year-and-one-day, show the base term as 1-year-and-1-day.
- If the controlling offense has a life term, show the base term as life.
- If the controlling offense has an indeterminate life term of 25-life, 20-life, 15-life, etc., the base term shall be recorded as such.

#### Enhancements/Consecutive (CS) Terms

Enter the total sentence for any enhancement(s) and/or CS term(s) added to the controlling term, including:

- Prior prison terms or prior felony convictions.
- Enhancements pursuant to PC §§ 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7 12022.75, 12022.8, 12022.9; H&SC §§ 11370.2, 11370.4, 11379.8, etc..
- CS subordinate terms (PC 1170.1).
- Wholly CS DSL terms.
- CS ISL terms.

The entry for this section shall be a four digit entry.

##### EXAMPLE:

8 Months	=	00-08
4 Years	=	04-00

Whether the CS term is for an indeterminate or determinate term of one-year-and-one-day, show the term as 1-year-and-1-day.

If the CS term is for a life term, show the term as life.

If the CS sentence is for an indeterminate term of 25-life, 20-life, or 15-life, show the term as such.

If the CS sentences/enhancements are combined, they shall be recorded as:

Life + 4 years	=	Life + 04-00
25-Life + 4 years	=	29-Life
25-Life + 25-Life	=	50-Life
4 years + 1-year-and-1-day	=	04-00 + 1-year-and-1-day

Total Term: Show the total term for the controlling case(s). This is the sum of the base term and enhancements/CS sentences.

#### 73010.6.5 Preprison Credit

The preprison credit entry shall reflect the credit granted by the court(s) and reflected on the Abstract(s) of Judgment/Minute Order (s) for the controlling principal term and any CS counts or cases, plus credit administratively granted by the Department. The credits shall be recorded by the specific type of credit, whether accurately reflected on the Abstract/Minute Order and/or administratively granted.

Preprison credit includes:

##### PC 2900.5

- PC 2900.5. Reflect only actual days in local custody even if the Abstract of Judgment reflects a combination of PC 1203.03 and PC 2931 credit.
- Whether included in whole or in part on the Abstract of Judgment, reflect the following:

##### PC 1203.03

- PC 1203.03. Actual days in the Department's custody as a "Z" case.

##### PC 2900.1

- PC 2900.1. Actual amount of time served in the Department for the same offense.

##### CRC

- CRC credit. Actual days confined under the Civil Addict Program, including time in custody on parole hold (our hold only).

##### Mental Health

- Mental health credit. Days confined as incompetent to stand trial (PC 1375.5).

##### PC 4019

- PC 4019. Reflect days of goodtime credit granted by the court for time spent in local custody, as a condition of probation or pursuant to People v. Sage.

##### PC 2931

- Reflect goodtime credit granted for prior departmental time served on the same offense as PC 2900.1. The CDC Form 112, for the prior term shall be reviewed to determine if there are losses of credit.

##### Total Credit

- Total preprison credit. Reflect the total days of credit granted excluding credit applied pursuant to In re Sosa.

##### In re Sosa

- Credits applied pursuant to In re Sosa shall not be reflected in this section but shall be applied to the parole period as specified in DOM 73010.6.2.

#### 73010.6.5.1 Preprison Credit and Multiple Abstracts on CS Cases

Abstracts of Judgment combining CS terms shall reflect the combined amount of preprison credit applicable to the total term. In those instances where the preprison credit is not combined on the last Abstract, record the preprison credit from the other Abstract(s) in order to reflect the total amount of preprison credit to which the inmate is entitled. Any preprison credit which is clearly and totally overlap credit shall not be applied in this manner.

In some cases the principal offense on an earlier Abstract may become the subordinate offense on the Abstract combined pursuant to PC 1170.1 (a). If the preprison credit on the first Abstract exceeds the term imposed as a subordinate term, only the amount of credit equal to the subordinate term shall be applied, as stated above. Any preprison credit in excess of the term assessed shall be used to reduce the maximum parole period.

#### 73010.6.6 Notification/Psychiatric Referral/Registration Required

These entries shall reflect the appropriate code and section when a psychiatric referral, notice or registration is statutorily required prior to release on parole.

##### PC 3002

- PC 3002 requires a psychological evaluation prior to parole of persons convicted of child abuse or neglect.

##### H&SC Code 11590

- Narcotic offender registration pursuant to H&SC 11590 is required for the current offense only. A person is required to register with the Chief of Police or sheriff of the county of residence for five years following discharge from prison or release on parole.

##### PC 290

- Sex offender registration requirement pursuant to PC 290 is with the Chief of Police or sheriff of the county of residence and is applicable

whether the sex offense is for the current offense or for a previous registerable offense. This requirement is for life.

#### PC 457.1

- Arson offenders sentenced pursuant to PC 451 and/or 453, whose crimes were committed on or after 1-1-85, if so ordered by the court and reflected on the commitment document, are required to register with the police in the city or the sheriff in the county of residency pursuant to PC 457.1. This requirement shall terminate five years after discharge.

#### PC 11150

- PC 11150 requires notification of release of persons convicted of any arson offense to the State Fire Marshal, all police departments, and the sheriff of the county in which the person was convicted and, if known, of the county of residence. The notice shall indicate the name of the person to be released, the county in which they were convicted and, if known, the county of residence.

#### 73010.6.7 BPH Hearings

All BPH hearing dates will be shown by month and year. BPH hearings shall be scheduled as outlined in DOM 74030.

Record the month and year of the scheduled documentation hearing, initial parole consideration hearing, and/or BPH review.

#### 73010.6.8 Offense Data

The offense section of the CDC Form 188 is divided into two parts as follows:

- Controlling principal, wholly CS terms and CS subordinate terms, including enhancements.
- Non-controlling terms.

#### Record

The information listed below shall be recorded for each case:

- Date received.
  - Date inmate was received by the Department.
  - If an inmate returns from out-to-court with a new term, the received date is the date the inmate returns from out-to-court. If the subject returns from out-to-court without the Abstract of Judgment and the Abstract is received by mail after the inmate returns from court, the received date shall be the date returned from out-to-court.
  - If an additional commitment is received by mail on a case sentenced prior to the date received in the Department or sentenced in absentia after the inmate has been received in the Department, the received date shall be the date of receipt by mail.
  - If a federal or out-of-state prisoner goes out-to-court and receives a California Controlling Commitment term, the received date is the date the subject is received in the other jurisdiction after sentencing on the California case.
  - If a federal or out-of-state prisoner is sentenced in absentia to a California Controlling Commitment term, the sentencing date is the received date, unless the sentence is the result of revocation of probation. In probation revoked cases, the date the inmate was received in the other jurisdiction is the term start date.
- County: Show committing county.
- Case number: Show committing court case number.
- Count number: Show count number.
- Code and section: Show GC number, i.e., PC, H&SC, W&I, B&PC, VC, etc.
- Offense: Show as listed on commitment document(s). OBIS language may vary somewhat from the document entry.
- Type of weapon: If a weapon enhancement was charged and/or found and whether imposed or stayed, or a weapon was an integral part of the offense, record the weapon type.
- Date of offense: Show date as recorded in the Information/charging document.
- Sentence date: Show date of hearing as recorded on the upper left block of the Abstract of Judgment.

#### 73010.6.9 Recording Controlling Principle and CS Subordinate Terms

Record in this portion of the offense section all cases and/or counts, including enhancements, which make up the controlling term. Prior prison term and prior prison felony conviction enhancements shall also be recorded here.

The count designated as the principal offense shall be recorded first. Record any CS, subordinate, in-prison offense counts and/or cases in numerical



sequence. Record enhancements to specific counts immediately beneath the offense.

**EXAMPLE:**

Date Rec'd	County Case Number	Ct	Code & Off	Type WPN	Date of Offense	Sen- tence Date
09-16-99	Ala 12345	02	P211 Robbery		07-20-99	09-12-99
		03	P211 Robbery	CS		
			P12022.5	CS		
			W/Use F'arm (Pistol)			

Record the number of prior prison terms for which the person was sentenced, if applicable, immediately below the county case number.

**EXAMPLE:**

_____	VPPT	PC 667.5(a)
_____	PPT	PC 667.56(b)
_____	PPT 667.51(a)PC	PC 667.51(a)
_____	SPPT 667.6(b)PC	PC 667.6(b)

Record below the county case number, if applicable, the number of prior felony convictions.

**EXAMPLE:**

_____	PFC	PC 667a
_____	PFC	H&SC Code 11370.2
_____	SPFC	PC 667.6(a)

If the sentence imposed was pursuant to PC 667.51(c) or 667.7, record this below the county case number.

**73010.6.10 Recording Non-Controlling Offenses**

Record in this portion of the offense section any additional Controlling Commitment counts or cases that have no effect on the controlling principal term. This heading will not be preprinted but added by staff, when applicable.

**EXAMPLE:****Non-Controlling Offense:**

09-16-99	Ala 12345	04	P459 Burglary	07-20-99	09-12-99
09-16-99	Ala 12345	01	P459 Burglary	07-21-99	09-12-99

**3010.6.11 Recording Additional Commitments**

Additional commitments received by mail, or court returns with a new term(s), shall be added to the appropriate section of the original CDC Form 188, except when the new commitment results in a new controlling principal term.

**EXAMPLE:** (Added as subordinate.)**Controlling Principal and CS Subordinate Offenses:**

Date Rec'd	County Case Number	Ct	Code & Off	Type WPN	Date of Offense	Sen- tence Date
09-16-99	Ala 12345	02	P211 Robbery		07-20-99	09-12-99
		03	P211 Robbery	CS	07-20-99	
11-21-99	CC 23456	01	P211 Robbery	CS	07-18-99	11-19-99

**EXAMPLE:** (After a change of principal term.)**Controlling Principal and CS Subordinate Offenses:**

Date Rec'd	County Case Number	Ct	Code & Off	Type WPN	Date of Offense	Sen- tence Date
11-21-99	CC 23456	01	P211 Robbery		07-18-99	11-19-99
			P12022.5 W/Use F'arm (Pistol)			
09-16-99	Ala 12345	02	P211 Robbery	CS	07-20-99	09-12-99
		03	P211 Robbery	CS	07-20-99	

Additional commitments which result in a change of principal term require the preparation of a new CDC Form 188.

**73010.6.12 DSL In-Prison Offense Term CS to DSL Terms**

Pursuant to PC 1170.1(c), in-prison offenses which are CS by law or ordered by the court to run CS are wholly CS to the prior term(s).

People v. McCarthy (1982, 32 Cal. 3d 388) held that PC 1170.1(c), read as a whole, called for computation of a single term of imprisonment for all convictions of felonies committed in prison and sentenced CS, whether multiple convictions occur in the same court proceedings or in different proceedings.

In re Haygood (1985, 769F 2d 1350) held that in some cases CS sentences for escape charges are not CS to sentences for offenses committed while at large.

While multiple offenses committed in prison or while subject to reimprisonment for escape may be sentenced to run CS to each other as provided in PC 1170.1(a), that combined term is wholly CS to the prior term, and may exceed the five-year limitation on CS sentencing.

These wholly CS terms are not CS subordinate terms; they become a part of the total controlling term. Therefore, the fully additional term shall be recorded in the controlling principal term section and the total term added into the controlling term computation.

Since the decisions in McCarthy and Haygood there have been various interpretations and application of the holdings in these cases. The Department has determined to accept the court's decision, whether it sentences wholly CS pursuant to PC 1170.1(c).

**73010.6.13 DSL Probation Revoked Cases in Conjunction With Other Terms**

For determinate sentence probation revoked terms received by mail or upon return from court, the term start date is the date of receipt on the original commitment.

Goodtime credit on probation revoked cases shall be computed from the date of receipt on the original commitment.

**73010.6.14 ISL or ISL/DSL Recalculated CS Cases**

The full term for an ISL or ISL/DSL recalculated case sentenced CS to a DSL case shall be recorded and included and/or added as an enhancement to the base term to determine the total term.

The release dates shall be calculated and recorded for the aggregate term.

In these cases, the inmate continues to have eligibility for parole and term setting consideration by the BPH on the ISL Term(s) only.

- If an ISL parole date or discharge date is granted on the ISL term(s) only, the case must be recomputed using the ISL parole or discharge date as the term start date for the DSL term.
- The inmate shall then be scheduled for release on the earliest of the release dates: ISL release date plus the DSL term or the minimum release date on the totally calculated term.

**73010.6.15 Recording Life Terms**

Life term cases shall be recorded manually on a Legal Status Summary by the LPU. The following procedures will be followed in the preparation of these cases.

**73010.6.15.1 Life Terms With Possibility of Parole**

Life terms with the possibility of parole are governed by PC 3046, requiring a 7-year minimum service of term, without benefit of goodtime, before eligibility for parole consideration.

The term shall be entered below the offense and shall be recorded as Life.

**EXAMPLE:**

Date Rec'd	County Case Number	Ct	Code & Off	Type WPN	Date of Offense	Sen- tence Date
09-10-99	LA A123456	01 03	P209 Kidnap For Robb Life	CS CS	06-30-98	09-02-99

**73010.6.15.2 Life Terms/15 and 25 Year Minimums**

For crimes of Murder 1st or Murder 2nd committed on or after 11-8-78, terms changed to 25 and 15 years to Life, respectively.

**EXAMPLE:**

Date Rec'd	County Case Number	Ct	Code & Off	Type WPN	Date of Offense	Sen- tence Date
09-16-88	SF 23456	01 03	P187 Murder 1 <sup>st</sup> 25-Life		01-03-87	09-06-88
			P12022.5			

**73010.6.15.3 Merged Life Terms**

For crimes committed prior to January 1, 1969, PC 669 provided that all terms sentenced prior or subsequent to life terms merge with a sentence of "Life". Following the last count, an explanation of how the terms are affected by PC 669 shall be shown.

Exceptions: Commitments under PC 4500 between 1965 and 1973 and under PC 4530(a).

**EXAMPLE:**

Date Rec'd	County Case Number	Ct	Code & Off	Type WPN	Date of Offense	Sen- tence Date
09-16-84	LA A123456	01	P187 Murder 1 <sup>st</sup> Life		06-30-77	09-02-84
		02	P459 Burg. 2 <sup>nd</sup>	CS	06-30-77	
		03	P470 Forg.	CS	06-30-77	

Pursuant to PC 669, cts 2 and 3 merge with ct 1.

Judgments received with orders in conflict with this section shall be recorded in the sentencing data section as specified by the court.

**73010.6.15.4 Life Terms With CS Enhancements and/or Terms**

PC 669, amended by 1978 statutes, provides that life sentences may be imposed to run CS to one another or to any other term of imprisonment.

For crimes committed on or after 1-1-79 whenever life terms and determinate terms or enhancements are ordered to run CS to each other and have the same received date, the determinate term(s) and/or enhancement(s) shall be served first, and no part thereof shall be credited towards the person's eligibility for parole on the life term as calculated pursuant to PC 3046. This applies to terms and/or enhancements imposed pursuant to PC 667, 667.5, 1170, 1170.1, 12022, 12022.2, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, and 12022.9.

A life term with CS enhancement(s) shall be recorded as follows:

**EXAMPLE:**

Date Rec'd	County Case Number	Ct	Code & Off	Type WPN	Date of Offense	Sen- tence Date
Controlling Principle And Consecutive (Including Enhancement) Offense						
07-24-99	SAC 3478 1 VPPT	01	P187 Murder 2 <sup>nd</sup> 15-Life P12022.5 W/Use F'arm (Rifle)	CS	03-12-99	07-21-99

A life term with CS DSL terms shall be recorded as follows:

**EXAMPLE:**

Date Rec'd	County Case Number	Ct	Code & Off	Type WPN	Date of Offense	Sen- tence Date
Controlling Principle And Consecutive (Including Enhancement) Offense(s)						
12-10-99	LA A137890	01	P187 Murder 2 <sup>nd</sup> 15-Life		03-14-99	12-04-99
		02	P211 Robbery P12022.5 W/Use F'arm (Pistol)	CS		
		03	P211 Robbery P12022.5 W/Use F'arm (Pistol)	CS		

This method of recording shall be used when CS commitments are received with the controlling life term, and/or when an additional commitment(s) is received by mail where the sentence date on the new term is not later than that of the original term.

**73010.6.15.5 Life Term With CS DSL in-Prison Offense Term**

A life term with a CS DSL in-prison offense term shall be recorded as follows:

Base Term	Enhancements	Total Term
25-to-life	04-00*	= 29-to-Life

**EXAMPLE:**

Date Rec'd	County Case Number	Ct	Code & Off	Type WPN	Date of Offense	Sen- tence Date
Controlling Principle And Consecutive (Including Enhancement) Offense(s)						
01-02-99	LA A12345	01	P187 Murder 1 <sup>st</sup> 25-Life P12022.5 W/Use F'arm (Gun) P211 Robbery		09-10-99	12-31-99
5-02-99	MAR 1234*	01	P211 Robbery P4502.5 Wpn. By Prisoner (knife)	CS	03-02-99	04-30-99

\*Terms on Mar 1234 to commence upon completion of term on LA A12345 pursuant to In re Thompson.

When additional commitments are received a new CDC Form 188, shall be prepared to reflect the aggregate term as shown above. The received date shall reflect the date of receipt of the new commitment with a term starts as of the date of original receipt.

**73010.6.16 DSL Indeterminate Terms**

Several sentences remain indeterminate since passage of the DSL in 1977. The most common is the one-year-and-one-day sentence.

DSL indeterminate cases will be placed on calendar for an initial parole consideration hearing by the BPH within 120 days of reception into the Department if the MEPD is within 120 days from the reception date. If the MEPD is more than 120 days from reception, the initial hearing shall be scheduled one month prior to the MEPD (BPT 2273).

These cases require special processing following determination by the BPH. The procedures for producing a manually prepared Legal Status Summary as outlined in DOM 73010.6 will be followed.

These procedures shall be followed in preparing, computing, and recording BPH actions for DSL indeterminate terms.

**DSL Indeterminate Term Only**

Regular ISL procedures shall be followed using the BPT Form 1010 for recording the determination and making the period of confinement computation.

**DSL Indeterminate Controlling Commitment with DSL Term**

If the minimum release date for the DSL term is later than the statutory maximum for the DSL indeterminate term, no BPH parole hearing is required. If the DSL minimum is earlier than the maximum term for the indeterminate offense, the inmate shall be scheduled for an ISL parole hearing. The later release date shall be the controlling release date.

**DSL Indeterminate Controlling Commitment with ISL Term**

Regular ISL procedures shall be followed using the BPT Form 1010 for recording the determination and making the period of confinement computation. In addition, a PC 1170.2(a) recalculation shall be made for the ISL terms.

**DSL Indeterminate CS with DSL Term**

Schedule the DSL indeterminate case for the first available ISL parole consideration hearing for determination of the indeterminate case only. A BPT Form 1010 shall be used for this determination. The reception date for the ISL computation shall be the date originally received on the offenses involved.

The release date for the DSL indeterminate offense shall be the term start date on the DSL term. A DSL computation shall then be completed for the remaining DSL term.

**DSL Indeterminate CS with ISL Term**

Schedule an ISL parole consideration hearing on the first available ISL hearing calendar. The ISL portion of the BPH determination shall be processed in accordance with existing ISL hearing procedures.

**Combined DSL Recalculation and ISL Hearing for the DSL Indeterminate Case**

During the ISL parole consideration hearing, the BPH hearing panel shall enter in the comments section of the BPT Form 1010, a determination of the amount of time assessed for the DSL indeterminate offense for the purpose of determining the CS factor of the recalculation.

A separate BPT Form 1010 shall be used by the specialist to compute the release date for the DSL indeterminate case. This BPT Form 1010 shall be attached to the original form with a notation, "see ISL BPT Form 1010 dated \_\_\_\_\_."

This release date shall be used as the term start date in the computation on the CDC Form 678, Confinement Computation, for the recalculation of the remaining counts or cases.

A PC 1170.2(b) (extended term) screening shall be made at the time of initial processing to ensure completion prior to 90 days after receipt.

Upon completion of the recalculation of the counts or cases, the CDC Form 678 shall be presented to a BPH panel for signature.

### 73010.6.17 Determinate One-Year-and-One-Day Terms

PC 4532(a), Escape From County Jail Without Force, where the crime was committed on or after 1-1-85, has a determinate sentence of one year and one day.

The procedure for producing a manual face sheet as outlined in DOM 73010.6 shall be followed except for DOM 73010.6.3, Release Data. Release dates shall not be calculated by the LPU on these cases. The specialist at the institution housing the inmate shall compute the release date upon receipt of the manual face sheet.

No referral to the BPH is required and those cases are calculated in the same manner as for other DSL terms.

### 73010.6.18 Information Recorded on Bottom of CDC Form 188

On cases with life terms, enter the following information above the name, number, etc., at the bottom of the first page:

- Defense Counsel.
- Investigating agency.

Record on each page of the Cumulative Case Summary the last name, number, unit of the Department, date, the initials of the CRS who calculated the case and the initials of the typist.

#### EXAMPLE:

JONES A50000 RC-C 1-12-88 RO/cs

### 73010.7 Computerized Legal Status Summary

A computerized legal status summary is generated only on cases which have determinate sentences, including cases recalculated pursuant to PC 1170.2(a).

#### 73010.7.1 Identifying Data

Identifying data on a computerized legal status summary is the same as specified for manually prepared Legal Status Summary sheets in DOM 73010.6.1 with the addition of the Date of Birth on the computerized version.

#### 73010.7.2 Release Dates

The OBIS Computer will calculate, with exceptions, the following release dates and reflect them on the face sheet.

DSL Non-IW/TIP and Non-Vested DSL IW/TIP Cases:

- Maximum Release Date.
- Minimum Release Date.
- Maximum Adjusted Release Date.
- Minimum Adjusted Release Date.

DSL IW/TIP Cases:

- Maximum Release Date.
- Maximum Adjusted Release Date.
- Current Release Date.
- Earliest Possible Release Date.

#### Manual Calculations

Maximum release dates, maximum adjusted release dates and EPRDs must be manually calculated and verified for manual entry into OBIS or manual correction on the Legal Status Summary in the following circumstances:

- When the offense data on a case(s) requires manual entry into OBIS because of program edit errors.
- When computation of a concurrent additional commitment results in a controlling maximum date on other than the controlling case.
  - The non-controlling maximum date shall be lined through and the controlling maximum date shall be written in.
- When vested credit is a manual entry.

The EPRD on a Legal Status Summary generated by a work credit gain shall not be correct in the following circumstances:

- When credit losses exceed credit earned at the time of the gain.
- When the gain is through the last day prior to a change in work credit earning status.
- When the correction of time collection data results in a negative balance of a fraction of .5.

Following manual calculation, the incorrect EPRD shall be lined through and the correct date as manually calculated shall be entered on the Legal Status Summary.

Tran Type	Date	End Date	Log Number	Rule Number	Assessed	Lost	Rest	Dead
*****BEG BAL*****								

Beg \_\_\_\_\_

Current PC Balance: \_\_\_\_\_ Current BC Balance \_\_\_\_\_

#### IW/TIP Data

IW/TIP cases will reflect the following information at the bottom of the Legal Status Summary:

IW/TIP Waiver Date	Beginning Balance	Credit Applied	Total Lost	Total Restored	Net Total
_____	_____	_____	_____	_____	_____

Credits Auto (or Manually) vested (or revested) per PC 2934

Tran Type	Date	End Date	Log Number	Rule Number	Viol. Cat.	Days
ETO Balance = _____ as of _____						

EPRD is \_\_\_\_\_ Based on Credit Applied Through \_\_\_\_\_ and Work Group \_\_\_\_\_

### 73010.7.3 Term Data

The face sheet shall reflect as the base term, the term for the controlling offense. The entry for this section shall reflect the term in years and months.

#### EXAMPLE:

5 years = 05-00  
1 year 4 months = 01-04

The face sheet shall reflect the total term for all enhancements included in the controlling total term.

### 73010.7.4 Parole Period

Based on the commitment data the OBIS computer will determine the appropriate parole period. Credits pursuant to In re Sosa will be reflected in the section next to the parole period section.

### 73010.7.5 Preprison and Postsentence Credit

Refer to DOM 73010.6.5.

### 73010.7.6 Notification/Psychiatric Referral/Registration Required

Refer to DOM 73010.6.6.

### 73010.7.7 Offense Data

The offense data section is divided into three parts.

- Controlling case. Offenses and enhancements in the case with the principal term which are included in the controlling term.
- CS factors. Offenses and enhancements from other cases which are included in the controlling term.
- Non-Controlling offenses. Offenses and enhancements which are not included in the controlling term.

#### Record

The following information will be recorded for each count:

- Received date.
- County of commitment.
- Case number.
- Sentence date.
- Count.
- Offense code.
- Offense description.

- Offense date.

**EXAMPLE:**

Date Rec'd	County Case Number	Ct	Code & Off	Type WPN	Date of Offense	Sentence Date
Controlling Principle And Consecutive (Including Enhancement) Offense						
— CONTROLLING CASE —						
11-03-99	LA A123456 PPT-V	01	P667.5(A) 15-Life .P211 Robbery P12022(A) ARM/A	CS	10-27-99	07-21-99
— CONSECUTIVE FACTORS —						
08-08-99	RIV 12345	01 02	P211 Robbery P211 Robbery	CS	03-23-99 04-16-99	07-19-99
— NON-CONTROLLING CASES —						
08-08-99	SBD 54321	01 02	P211 Robbery P211 Robbery		03-22-99 04-10-99	07-02-99

**73010.7.8 Goodtime/Worktime Credit And DSL EPRD**

Non-IW/TIP or non-vested IW/TIP cases will reflect the following information at the bottom of the Legal Status Summary:

**73010.8 Circumstances of Offense**

A POR is prepared by the probation officer in the county where the offense was committed and is considered the main body of the Case Summary. The circumstances of the offense are included in the POR.

The statements of views submitted pursuant to PC 1203.01 by the sentencing judge, DA, defense attorney, and law enforcement agencies shall be included in the Case Summary if a POR is not available. A copy of the arrest report shall be requested and included in the Case Summary if the POR or statement of views does not contain circumstances of the offense.

**73010.9 CI&I Report**

This section is an actual reproduction of the CI&I SSCH.

PC 11120-11126, relating to the SSCH Information maintained under a person's name by DOJ, provide that any person desiring a copy of this record may make application to State DOJ for such record, and upon such request, State DOJ shall furnish that person with a copy.

Statutes prohibit the Department from providing an inmate with a copy of their SSCH. However, an inmate may retain a copy of the record which they obtained from State DOJ.

**73010.9.1 Destruction of CI&I Arrest Records Pursuant to H&S Code 11361.5**

H&SC 11361.5(c) states: "Destruction of records of arrest and/or conviction pursuant to subdivision (a) or (b) of this section shall be accomplished by permanent obliteration of all entries or notations upon such records pertaining to the arrest or conviction, and the records shall be prepared again so that it appears that the arrest or conviction never occurred".

Application for destruction of records as indicated above, must be submitted to and processed by State DOJ. Upon being advised by DOJ that an application has been approved, these procedures shall be followed in removing the information from all departmental records:

- Upon receipt of the information from CI&I that an item(s) has been removed pursuant to H&SC 11361.5, institution/region case records staff shall obliterate all references to the removed material from the Legal Section of the C-file. The new SSCH shall be inserted into all copies of the Case Summary.
- Facility case records staff shall then forward the C-File to the assigned counselor. The counselor shall review the entire C-File and other Department records and remove all references to any arrest or conviction which has been removed from the SSCH pursuant to H&SC 11361.5. Revisions to material in the Case Summary shall require complete redistribution of the corrected material.
- Region case records staff shall forward the C-File to the regional "Olson" coordinator who shall review the entire C-File and other departmental records and remove all references to any arrest or conviction which has been removed from the SSCH pursuant to H&SC 11361.5. Revisions to material in the Case Summary shall require complete redistribution of the corrected material. A corrected copy of the Case Summary shall be forwarded to the Parole Agent for placement in the field file.

**73010.10 FBI Report**

*Revised June 16, 1995*

The FBI provides the Department with a reproduction of criminal history similar to the State criminal history with the addition of arrests and/or convictions which were reported in all and any other state and/or for federal offenses.

**73010.11 Revision of Legal Status Sheet**

*Revised June 16, 1995*

Many cases are complicated by multiple commitments and/or amended judgments received while the individual is in the reception center, facility, or on parole. The receipt of a new commitment requires modification of the Legal Section as follows:

- A new Legal Status Summary shall be prepared showing each additional commitment and/or modification.
- A new CI&I report replaces the previous CI&I report.
- A new FBI report replaces the previous FBI report.

An entry shall be recorded on the CDC Form 112, reciting the date of the change, the authority for the change, the county, and the case number (e.g., 3 Pfc's stricken; degree of Burg modified from 1st to 2nd).

**73010.11.1 Appellate Court Decisions**

*Revised June 16, 1995*

In instances where the sentence is modified by the appellate court, the Legal Status Summary shall be changed in accordance with the decision of the appellate court upon receipt of a certified copy of a Remittitur from the appellate court.

Where the appellate court directs the case to the Superior Court for re-sentencing, and by opinion leaves open-ended the structure for re-sentencing, the Legal Status Summary shall be changed upon receipt of an amended Abstract of Judgment and/or Minute Order from the Superior Court. Information related to judgments on appeal is found in PC 1258, et. al.

**73010.12 Revisions**

*Revised June 16, 1995*

The Director, Division of Adult Institutions, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**73010.13 References**

BPH Rule 2273.

In re Sosa (102 Cal App 3d, 1980).

People v. McCarthy (32 Cal 3d 388, 1982).

In re Haygood (769 Cal 2d 1350, 1985).

H&SC §§ 11361.5, 11370.2, 11370.4, 11379.8, and 11590.

PC §§ 290, 290.2, 451, 453, 457.1, 669, 1170, 1170.1, 1170.2, 1203.01, 1203.03, 1258, 1375.5, 2900.1, 2900.5, 2931, 3002, 3046, 3058.6, 3058.8, 4019, 4532(a), 11120 - 11126, 11150, 12022, and 12022.2 - 12022.9.

Code of Civil Procedure Section 1279.5

**ARTICLE 11 — UNASSIGNED****ARTICLE 12 — TIME COMPUTATIONS**

*Effective September 13, 1989*

**73030.1 Policy**

Time computations shall be completed in a uniform manner to ensure that release dates are true and correct.

**73030.2 Purpose**

This section sets forth uniform procedures for the computation of terms.

**73030.3 Computation of Time**

The phrase "Time Computation" describes the Department's uniform method for determining and computing an inmate's term, minimum and maximum release dates.

An inmate's time is calculated and computed in years, months, and days.

**73030.4 Sentencing and Credit Laws—Non-life Terms**

The method of time computation and appropriate application of credit to a term of a sentenced felon is governed by whichever law or set of laws apply on the date a crime is committed.

The primary sentencing laws applicable to non-life terms are the:

- Indeterminate Sentence Law (ISL) [PC1168(b) and 1170.2].
- Crime committed prior to 7-1-77.

- Determinate Sentence Law (DSL) [PC 667.6(c), 1168(a), 1170, and 1170.1].
  - Crime committed on or after 7–1–77.

The primary laws affecting credit on a term of imprisonment are:

- PC 2931 and 2934 (DSL).
  - Crime committed on or after 7–1–77 and prior to 1–1–83.
- PC 2933 DSL-IW/TIP.
  - Crime committed on or after 1–1–83.

### **73030.5 Credit For Time Served/Pre-prison Credit**

Credit for the total of any time served prior to reception into departmental custody, and good time credit on those days is called "pre-prison credit."

Pre-prison credits apply to the time period as if the time credited had been served in State prison.

All credits ordered by the sentencing court shall be applied when calculating the term(s).

#### **73030.5.1 Pre-sentence Credit and Good time**

Pre-sentence credit, credit for prior time served in county jail or other county facilities pursuant to PC 2900.5, and good time on those days pursuant to PC 4019 is ordered by the court and will be reflected on the legal document.

#### **73030.5.2 Credit For Time Served—Other Commitments**

Credit for time served shall be granted and administratively applied if the credits are not reflected on legal documents for:

- Prior time spent under indeterminate commitment as a mentally disordered offender (PC 1600.5).
- Commitment received on or after September 15, 1965, where there was prior confinement for diagnostic observation and recommendation (PC 1203.03).
- Prior time served under commitment pursuant to the W&I 3200.
- CYA time in custody for the same offense (W&I 1782).

#### **73030.5.3 Credit For Time Served—Invalid or Modified Judgment**

Credit for time served under a judgment subsequently declared invalid or modified shall be granted and administratively applied if a person is recommitted for the same criminal act or acts and the credits are not reflected on the Abstract(s) of Judgment (PC 2900.1).

#### **73030.5.4 Post-sentence Credit and Good time**

*Revised March 16, 1995*

Credit for the number of days between sentencing and actual delivery to departmental custody and good time on post-sentence credit shall be administratively granted and applied pursuant to PC 2900.5(e).

- Postsentence credit shall not apply to a term ordered to run consecutively to another term presently being served.
- Postsentence credit shall not apply to the case of an inmate who returns from court with an additional commitment which occurs after/as a result of revocation of probation.
- Postsentence credits shall not apply to a term if due to a plea bargain the court stipulates that PC 2900.5 credits are not to be granted.

#### **73030.5.5 Additional or Modified Pre-prison Credits**

Upon receipt of an amended Abstract of Judgment or Minute Order modifying credits, the CCRM shall re-compute the release date, minimum eligible parole date (MEPD), minimum term or maximum term, and make appropriate changes in all records.

- On ISL cases, if the inmate has not appeared for an initial parole consideration hearing, place on appropriate calendar in accordance with BPT Rule 2304. If the inmate has had an Initial Parole Consideration Hearing, schedule for Subsequent or Progress Hearing on the next available calendar.

#### **73030.5.6 Application of Pre-prison Credit and Person Overdue For Release**

Upon receipt of a judgment or an amended judgment or court order, if after application of pre-prison credit the inmate is overdue for release, the inmate shall be released within five working days.

Five working days are allowed to provide records staff sufficient time to correct and audit the records and to prepare necessary release documents.

Work time credits shall be entered only to the date calculated as the earliest possible release date (EPRD). Credit from the calculated release date to the date of actual release will be entered into OBIS as "Sosa Credit."

The entry on the CDC Form 112 shall read, "Parole period \_\_\_\_\_ years minus \_\_\_\_\_ days *In re Sosa*."

#### **73030.5.7 Resolution of Pre-prison Credits Issues**

*People v Montalvo* (2 Crim 38558 1982) stated that the matter of granting pre-sentence credit at time of sentencing is done in open court and any challenges to the amount of credit granted should be made by counsel at that time.

Only the following credit issues shall be referred to the sentencing court for resolution:

- Any case that has credit granted which is prohibited by *In re Rojas*. This includes in-prison offenses, crimes committed while on escape, and consecutive cases sentenced after initial receipt in CDC which includes credit for time served after initial receipt.
- Resentenced cases wherein the court has granted erroneous time spent in CDC.
- Probation revocation cases that include more than 60 days custody credit that is also being given by the Department.
- Cases that reflect differing amounts of credits on the legal documents.
- Cases wherein the court has granted "day-for-day" PC 4019 credit.

#### **73030.5.8 Application of Pre-prison Credit To DSL Term**

The procedures set forth in this section shall apply to determinate sentence law terms and cases recalculated pursuant to PC 1170.2(a)(b).

##### **73030.5.8.1 Single DSL Term**

All pre-prison credit shall be deducted from the DSL term, including enhancements for use of weapons, possession of a weapon, or great bodily injury and enhancements for prior prison terms and any other enhancements.

##### **73030.5.8.2 Concurrent DSL Term**

Pre-prison credit is applicable only to the term to which it is attributable; i.e., court case number to that particular crime.

Concurrent terms are computed separately, applying the applicable pre-prison credit to each term.

##### **73030.5.8.3 Consecutive DSL Terms**

All pre-prison credit attributable to the DSL principle term shall be deducted from that term only.

Pre-prison credit attributable to each consecutive case or count shall be applied only to the subordinate term to which it is attributable.

Any pre-prison credit attributable both to the principal term crime and to any subordinate term crime shall be deducted from the total term.

#### **73030.5.9 Pre-prison Credit in Excess of DSL Term**

Any pre-prison credit in excess of the term assessed for a principal and/or subordinate term shall be used to reduce the maximum parole period (*In re Sosa*).

#### **73030.5.10 Pre-prison Credit Application -- ISL Terms**

Pre-prison credits do not change the statutory requirement for the minimum eligible parole date (MEPD), minimum term or maximum term, but apply to the time periods as if the time credited had been served in State prison.

Applicable pre-prison credit shall be applied to any parole date or term of imprisonment no later than one week after it has been established or fixed by the BPT. The total number of days to be credited shall be contained in the Abstract of Judgment or Minute Order as the commitment document.

No pre-prison credits shall be used to offset time assessed for prior prison terms.

Single offense. All pre-prison credit attributable to the base offense shall be deducted from the base period of confinement determined by the BPT.

Multiple offenses. Pre-prison credit shall be deducted from the base period of confinement and the multiple crime adjustment established by the BPT.

Pre-prison credit shall not be deducted from any other adjustment.

No overlapping pre-prison credit shall be applied.

- Preprison credit attributable only to the base offense shall be deducted from the base period confinement.
- Preprison credit attributable only to multiple crimes shall be deducted from the multiple crime adjustment.
- Preprison credit attributable both to the base offense and to multiple crimes shall be deducted from the base period of confinement.
- Any preprison credit in excess of the base period of confinement shall be deducted from the multiple crime adjustment for each multiple crime to which the preprison credit is attributable.

- Preprison credit attributable to multiple crimes shall be deducted from the adjustment beginning with the adjustment for the earliest crime and deducting any remaining preprison credit from the adjustments following the chronological order of the crimes.

Pre-prison credit in excess of the base period of confinement or the multiple crime adjustment shall be deducted from the maximum period of parole (In re Sosa).

Time spent under outpatient status on an "N" commitment is not applicable to parole dates or secondary discharge date.

Time spent as a civil addict outpatient shall apply to ISL maximum terms.

CYA time in custody for the same offense is applicable to the parole date or secondary discharge date.

#### **73030.5.10.1 Application of Pre-prison Credit To Specific BPT Actions**

A BPT action granting parole effective on a specific date is not affected by pre-prison credits.

A BPT action, fixing/re-fixing a term to discharge as of a specific date is not affected by pre-prison credits.

A discharge date fixed/re-fixed by a BPT action cannot fall beyond the expiration of the statutory maximum of the term less pre-prison credits, or occur prior to the statutory minimum term less pre-prison credits.

#### **73030.6 Good time Credit Earning Capability**

Good time credit earning capability after reception into departmental custody is the calculated number of days that can be deducted from a sentence for good behavior and for participation in a work/training program.

##### **73030.6.1 Good time Credit DSL Term (PC 2931)**

The determinate sentence law provides for a one-third reduction of sentence for inmates who function satisfactorily while incarcerated subject to the provisions of PC 2931.

This one-third reduction is divided into behavior credits (BC) and participation credits (PC), collectively called good time/work time credits.

Any case factors that cause the term of the inmate to be modified shall necessitate the recalculation of good time/work time credit.

##### **73030.6.2 DSL Good Time Credit and ISL Recalculations**

The provisions of PC 2931 apply to any term that was sentenced pursuant to PC 1170 for offenses committed between 7-1-77 and 12-31-82 or for all offenses if committed prior to 7-1-77 and recalculated pursuant to PC 1170.2.

##### **73030.6.3 DSL Work time Credits (PC 2933)**

*Revised December 24, 1992*

Inmates serving a sentence(s) for an offense committed on or after January 1, 1983, or on offenses committed prior to January 1, 1983 in which the inmate has exercised a waiver pursuant to PC 2934 shall serve the entire or remaining portion of the sentence imposed by the court, except for a reduction in time served for performance of work, training, and/or education programs.

Earned work time for inmates in fulltime credit-qualifying programs is a reduction in sentence of one day for each day worked/participated in an education or training program. A minimum of six hours must be recorded each assigned workday to earn fulltime credit.

- Worktime credit earned pursuant to PC 2933 shall not apply to life terms with the following exceptions:
  - Sentences for attempted assassinations as specified in PC 217.1(b).
  - Habitual offenders sentenced pursuant to PC 667.7(a)(1) and PC 667.75.
- Worktime credit earned pursuant to PC 2933 shall not apply to terms where the court has found that the provisions of PC 2933.5 apply.

The policy and procedures relating to the IW/TIP are contained in the CCR 3043, 3044, and 3045.

##### **73030.6.4 Waiver of Good time Credits (PC 2934)**

Those inmates whose commitment offenses occurred after 7-1-77 and prior to 1-1-83 and those whose terms were recalculated pursuant to PC 1170.2, and are in full-time credit-qualifying work/training assignments, have the option to waive rights to good time credits under PC 2931 and to earn work time credits pursuant to PC 2933. (Inmates in less than full-time assignments will not benefit from waiving such rights.) See DOM 73030.8.11.

#### **73030.6.5 Good Time/Work Time Credit Terminology**

The recording and computing of good time/work time credits that are earned, forfeited, and restored are essential elements in the keeping of accurate inmate term information.

Credits earned are the recorded number of days that have been reported indicating the inmate's daily participation in assigned work, training, and/or education programs.

Credit forfeited is the number of good time/work time days that are assessed for a disciplinary infraction(s).

Any person serving a SHU term as a result of any serious disciplinary infraction shall, in addition to any forfeiture of time credits, be ineligible to receive work time credits for the length of the credit loss or the SHU term, whichever is shorter.

Credit liens are those credits assessed by the disciplinary hearing officer/committee and confirmed by proper classification committee action that are in excess of credits already earned and will be recorded as a lien against credits to be earned.

Credits restored are those forfeited good time/work time credits that are:

- Restored through the review or appeal process.
- Reinstated by a classification committee to the inmate following a clean disciplinary period pursuant to PC 2933 and DOM 52080.

#### **73030.6.6 Automated Time Collection and Time Adjustment System**

*Revised March 16, 1995*

The IW/TIP Time Collection and Time Adjustment Systems for DSL inmates are automated and are part of OBIS.

Time collection for credit-earning lifer cases may be maintained in the computer; however, time adjustments for determining the MEPD shall be calculated manually.

The time collection and time adjustment systems permit direct input of IW/TIP work time, credit losses and restorations, and the scanning of the CDC Form 191, Inmate Timecard, using the DDPS.

The systems will not interface with the DSL commitment and Good time Credit (GTC) systems until commitment data have been modified and GTC has been vested.

Classification chrono information relating to IW/TIP and inmate timecard data shall be entered or scanned into the system upon receipt in the case records office.

All timecards shall be filed on top of the general chronos. This shall eliminate the possibility of losing timecards prior to purge. See DOM 73030.10.2 and 73030.16.9 for purge requirements.

#### **73030.7 Commitment Data and Sentencing Rules**

Commitment data and the rules for sentencing as prescribed by statute are outlined in this section.

##### **73030.7.1 Commitment Data and OBIS Entry**

All commitment data will be entered into OBIS as instructed in DOM 41020.

##### **73030.7.2 Commitment Documents**

When a judgment has been pronounced, the sentencing court directs forwarding of certified copies of the commitment documents (PC 1216):

- Abstract of Judgment and/or Minute Order pursuant to PC 1213 and 1213.5.
- Charging document/Information pursuant to PC 1203.01.
- Transcript of proceeding at time of plea, if the defendant pleaded guilty pursuant to PC 1203.01.
- Transcript of proceedings at time of sentencing pursuant to PC 1203.01.

##### **73030.7.3 Principal Term**

The principal term consists of the greatest term of imprisonment imposed by the court for any of the crimes, including any enhancements imposed pursuant to PC 667.8, 667.85, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.75, 12022.8, or 12022.9; and, H&SC 11370.4 or 11379.8. (Refer to PC 1170.1(a) for any additional enhancements.)

##### **73030.7.4 Wholly Consecutive Terms**

A full consecutive (CS) sentence is an enhancement (Cal Rules of Court, Rule 405(c)). Wholly consecutive terms include in-prison offenses pursuant to PC 1170.1(c), certain sex offenses as specified in PC 667.6(c), multiple felony convictions as specified in PC 1170.15, and any other offense fully CS by statute.

**73030.7.5 Consecutive Subordinate Terms**

The subordinate term for each consecutive offense shall consist of one-third of the middle term of imprisonment prescribed for which a CS term of imprisonment is imposed, except those subordinate terms for specific offenses as specified in PC.

Subordinate terms for "Violent Felonies" defined in subsection(c) of PC 667.5 shall include one-third of any enhancement imposed pursuant to those sections set forth in PC 1170.1(a).

Subordinate terms for any offense not listed in subsection (c) of PC 667.5 shall exclude any enhancements. (PC 1170.1(a)).

The total term for subordinate non-violent felonies shall not exceed five years, except when a CS sentence is being imposed pursuant to PC 1170.1(b) and (c)). PC 1170.95 and other code sections providing exception.

The term of imprisonment shall not exceed twice the number of years imposed as the base term pursuant to PC 1170(b) unless the person has been convicted of a felony listed in PC 667.5(c) or enhancements are imposed pursuant to PC 1170.1 (b), (c), and (g) or H&SC 11370.4.

**73030.7.6 Concurrent Terms**

Concurrent (CC) terms are terms for multiple cases or counts that are served simultaneously or terms which can be served at the same time.

When an additional commitment is received by mail or after an inmate is returned from court with additional commitment where the trial and conviction occurred prior to imprisonment, or the commitment is a concurrent probation revoked case, the additional commitment shall be considered as wholly concurrent.

Term starts as of the date the inmate initially was received on the original term.

**73030.7.7 Partially Concurrent Terms**

When an inmate is removed from prison for trial on an additional charge which was committed before his original receipt by the Department, and he/she is returned to prison with an additional commitment in which it is specified that the additional commitment is CC with the preceding commitment(s), the additional commitment shall be considered a partially CC term.

Time on the new term starts as of the date of return with the new CC term.

**73030.7.8 Computation of CC Terms**

CC terms require a separate computation for each term or count.

The term which retains the person in custody the longest shall be the controlling term.

**73030.7.9 DSL Enhancements**

In addition to the penalty imposed for crimes on a sentence, terms may be enhanced for:

- Possession and/or use of weapons as specified in PC 12022, 12022.2, 12022.3, 12022.4, and 12022.5.
- A felony committed while released on bail pursuant to PC 12022.1.
- Felony taking, damaging, or destroying of property as specified in PC 12022.6.
- Infliction of great bodily injury (GBI) pursuant to PC 12022.7, 12022.8, and 12022.9.
- Felony offenses involving controlled substances as specified in H&SC §§ 11356.5, 11370.2, 11370.4, 11379.8, and PC § 12022.75.

**73030.7.10 Enhancements—Prior Prison Terms**

Pursuant to PC 667.5 (g), a prior prison term (PPT) is a prior felony conviction which resulted in a continuous completed period of prison incarceration imposed for a particular offense alone, or in combination with CC or CS sentences received before release on parole or discharge, whichever occurs first.

- If the person was returned to prison on revocation of parole, which is not accompanied by a new commitment to prison, the period shall count as a single PPT.
- If any inprison offense is required by law to be served after completion of an earlier prison commitment, the original commitment and the inprison commitment count as separate PPT's.
- If the inmate was returned to prison from parole with a new term, the new term shall count as a second PPT.
- A commitment to DMH as a mentally disordered sex offender (MDSO) following a felony conviction is a PPT if the commitment exceeds one year. If the inmate subsequently is committed to prison for the same offense after termination of the MDSO commitment the time in DMH and CDC shall count as a single PPT.

- When an inmate subject to the custody, control, and discipline of the Director is incarcerated at a facility operated by the CYA, that incarceration shall count as a prior prison term.

Time spent in any state or federal penal institution, including any time which is credited as service of prison time in that jurisdiction may count as a prior prison term. If served other than in California, the inmate must have actually served at least one year, and it must have been for a crime that is punishable by imprisonment in state prison in California.

A violent PPT with a violent commitment offense shall be enhanced by three years for each pled and proved PPT, unless the inmate remained free of both prison custody and the commission of an offense which results in a felony conviction for a period of 10 years immediately preceding the commission of the current commitment offense. (Violent felonies are defined in PC 667.5(c).)

**73030.7.11 Enhancement—Prior Felony Convictions (Habitual Criminal)**

Pursuant to PC 667(a), any person convicted of a serious felony who has previously been convicted of a serious felony (as listed in PC 1192.7(c)) in this state, or of any offense committed in another jurisdiction which includes all the elements of any serious felony shall receive a five year enhancement for each such prior conviction on charges brought and tried separately.

There is no requirement of prior incarceration or commitment for a prior felony conviction (PFC).

PC 1385(b) prohibits a judge from striking any prior conviction of a serious felony for purposes of enhancement of a sentence under PC 667 for any sentence for crimes committed on or after May 6, 1986. This was added to the PC in 1986 which abrogates the holding in People v. Fritz.

There is no limit on the number of PFCs imposed under PC 667(a).

**73030.7.12 DSL Total Term**

The total term shall be the aggregate term of imprisonment for all of the convictions and shall be the sum of the principal term, the subordinate term(s) and any additional term imposed for enhancements and/or prior prison terms.

**73030.8 DSL Term Calculation**

The procedures set forth in this section shall apply to DSL terms and cases recalculated pursuant to PC 1170.2(a)(b).

**73030.8.1 Starting of Term**

The term of imprisonment fixed by a judgment commences upon actual delivery of the inmate into the custody of the Director at a place designated for reception of convicted felons (PC 2900).

- The Director shall designate a facility of another jurisdiction as the place of reception:
  - When pursuant to the Interstate Agreement on Detainers, an inmate of another jurisdiction has been sentenced to a CC California term.
  - When a person committed to a facility of another jurisdiction is subsequently ordered to serve a CC California term.

The date of reception is included in its entirety regardless of the time of reception.

An inmate must serve the full 24-hour period to receive credit for any succeeding day.

**73030.8.2 Received Date**

The received date is the date of initial receipt into a facility of the Department, usually a reception center or a facility of another jurisdiction as designated by the Director.

The received date into a facility may be verified by checking the following documents:

- CDC Form 123, Body Receipt.
- Date and time stamped on the Abstract of Judgment or Minute Order.

**73030.8.3 Time Served**

Time served is the total time in years, months, and days from the date of receipt in the Department to a given date.

**73030.8.4 Ceasing of Time**

Time ceases to run as of the date of escape or parole suspension.

The date of the event is excluded in its entirety.

Time ceases to run when a person is released on bail or appeal bond pursuant to PC 1272 or 1506 or any other provision of law permitting legal release and shall not be credited as service on the prison term. [PC 2900 (c)(1).]

**73030.8.5 Dead Time/at-Large Time***Revised December 24, 1992*

Time which is not credited as time served.

Dead time or at-large time is accrued while on escape status [PC 2900(c)(2)], while parole/release has been suspended, or while released on bail or appeal bond and shall be computed in total number of days.

The number of days of dead time shall be posted on the CDC Form 112 and entered into OBIS.

Dead time or at-large time ceases upon:

- Return to a departmental facility.
- Date of arrest in California of an escapee.
- Date available for return from out-of-state.
- Date of arrest in state of parole jurisdiction.
- Date bail is exonerated and inmate is remanded to custody.

**73030.8.6 Escape or Parole Violators**

PC 2900(c)(2) states: "...the prisoner shall be deemed an escapee and fugitive from justice, until the prisoner is available to return to the custody of the Director or the State of California . . ."

An escapee or parole violator is entitled to credit on their sentence for time in custody of another jurisdiction when they are held on "our Hold only" and are available for pickup by the Department's agents.

An escapee or parole violator held in custody in another state on "our Hold only," but who is not available because they are resisting extradition, is not entitled to credit (on the California term) served in jail while resisting extradition (*In re Pearce* 1974 40 Cal App 3d 399).

A parole violator in local confinement is deemed available on the date our hold was placed or, if previously declared at-large and suspended from parole supervision, on the date of arrest.

An escapee or parole violator in local confinement (California jail or DMH) is deemed available to the Department except when they are serving a sentence in lieu of a fine or a sentence expressly ordered to run consecutively to the existing prior prison term.

**73030.8.7 Maximum Release Date**

The maximum release date is calculated by adding the term ordered by the court to the term starts date and subtracting applicable pre-prison credits.

**73030.8.8 Minimum Release Dates**

ISL (crime committed prior to 7-1-77):

- The minimum term is established by statute.
- The MEPD is determined by adding the statutory minimum term of confinement or the result of computation of aggregate minimum terms to the received date and subtracting any applicable preprison credits.

DSL (PC 2931, crime committed on or after 7-1-77):

The minimum DSL (MIN DSL) release date is calculated by subtracting all applicable days of good time credit from the maximum release date.

- This date shall be adjusted by any credits forfeited and/or restored in the disciplinary process.

DSL IW/TIP (PC 2933, crime committed on or after 1-1-83):

The EPRD is determined in these steps:

- Subtract all earned worktime credit, adjusted by any loss/restoration, from the maximum release date, the result of which is the current release date.
- Subtract from the current release date the date through which credit was applied.
- Divide the remaining number of days eligible for credit based on credit earning status.
- Subtract the resulting number of days from the current release date. That date is the EPRD.

An EPRD is a projected date contingent upon the inmate remaining in the same credit earning work group, having no unexcused absences, and no forfeited or restored credit.

**73030.8.9 Calculation of Good time Credit (PC 2931)**

To determine the total amount of good time credit to be applied to reduce a term pursuant to PC 2931:

- Add the term to the term start date for that particular case and subtract applicable presentence and postsentence credit. The resulting date is the maximum release date.

- Determine the number of days eligible for goodtime credit by subtracting the term start date from the maximum release date and adding postsentence credit.
- Divide the number of days by three. The resulting number is the total number of days of goodtime credit to be granted.
  - Fractions shall be increased to the next whole number.
- Subtract the total goodtime from the maximum release date. The resulting date is the MIN DSL release date.

**73030.8.10 Good Behavior and Participation Credit**

The total good time credit shall be further divided into behavior credit and participation credit.

- The amount of participation credit is determined by dividing the total amount of goodtime credit by four.
- The remaining number of days of credit is behavior credit.
  - When calculating participation and behavior credits, fractions shall be changed to the closest whole number except when the fraction is one-half. A fraction of one-half shall increase behavior credits to the next whole number.

**73030.8.11 Waiver Processing**

Inmates electing to waive PC 2931 credits shall be required to sign a CDC Form 916, irrevocable Time Credit Waiver Form, to be witnessed by their counselor. The effective date shall be documented on the CDC Form 916.

The waiver shall become effective when accepted by the Department.

A waiver shall not be accepted if the inmate is within 30 days of their current release date.

The counselor witnessing the waiver shall verify the inmate's work status and current release date and shall fill in the date the waiver shall become effective. The counselor shall immediately forward the completed and signed waiver to the CCRM for processing.

Inmates who were assigned to less than a full-day assignment on January 1, 1983, and are subsequently reassigned to a full-day assignment shall be given the same option at the time of their reassignment.

**73030.8.12 Vested Credit**

Following acceptance of a waiver, the specialist shall compute the amount of good time credit already earned on the controlling term pursuant to PC 2931 from the date of reception into the Department on or after 7-1-77, to the effective date of waiver.

The credit earned, minus any credit previously forfeited and/or restored by classification action on disciplinary received prior to the effective date of waiver, shall be vested and not subject to future loss.

Vested credit on cases sentenced pursuant to PC 2933 (crime committed on or after 1-1-83) is good time on post-sentence credit.

The application of vested credit will generate a new Legal Status Summary, a copy of which will be sent to the inmate.

**73030.8.13 Calculation of Work time Credit (PC 2933)**

The following steps shall be taken to determine the release date on a term eligible for work time credit:

- Add the controlling term to the term start date on the controlling case and subtract applicable preprison credit. The resulting date is the maximum release date.
- The maximum release and current release dates are the same until vested credit and/or worktime credits are applied to the term.
- The adjusted maximum release date is arrived at by subtracting vested credit from the original maximum release date.
- The current release date is changed as earned worktime credits are applied and/or credits are forfeited or restored.
- The EPRD is projected each time earned worktime credits or forfeited or restored credits are applied to the current release date or there is a change in credit earning status. The application of worktime credits, adjusted by any credits forfeited or restored, through any working month or portion thereof, results in a new current release date. Subtracting the date through which credit was applied from the new current release date determines the remaining number of days eligible for goodtime then divisible based on the inmate's credit earning status. The resulting number of days subtracted from the new current release date is the EPRD.



**73030.9 Work Credit Gains**

Work time credits shall be applied/gained at least once every six months.

The work credit gain will appear on subsequent work credit query computer screens.

**73030.10 Legal Status Summary**

This will generate a Legal Status Summary, a copy of which shall be given to the inmate. Staff other than case records staff shall have the inmate acknowledge receipt of the revised Legal Status Summary by signing a CDC 128-B.

**73030.10.1 Legal Status Summary Appeal**

The contents of the Legal Status Summary may be appealed by the inmate through the Department's appeal process and within the established time frames.

**73030.10.2 Purging of Time Cards**

If no appeal is taken by the inmate the action shall become final and all timecards for the time worked prior to the credit gain shall be purged from the C-File.

**73030.11 OBIS Entry of 1983/Pre 1983 Mixed Cases**

A computer program enables identification of 1983/pre-1983 mixed cases and permits case records staff to set a "flag" to alert counseling staff that an IW/TIP Waiver is needed on the pre-1983 case(s).

A line, "Eligible for PC 2934 Waiver," has been added to the auto or manual vesting computer screen.

When entering 1983/pre 1983 mixed cases at the time of initial processing, the operator shall enter "Y".

This entry will set the flag, and a computer-generated notation "Eligible for PC 2934 Waiver" shall be printed on the Legal Status Summary page.

In those cases in which a waiver has been processed, the operator shall remove the flag deleting the notation from the Legal Status Summary page.

**73030.12 OBIS Entry- Credit Loss**

As CDC Form 115 credit losses are received, case records staff shall make a Work Credit Loss entry directly into the system.

The system will edit the entry to ensure that the log number has not been previously entered and the violation category and days lost are appropriate for the category and vice versa.

Should errors occur during the editing process, the error will be identified on the terminal screen.

The operator shall ensure any error is not an entry error.

If the error is not an entry error, the matter shall be referred to the chief disciplinary hearing officer for correction.

If no errors are found, the entry will be processed by the system resulting in a new Legal Status Summary being generated.

The credit loss will appear on subsequent work credit queries.

**73030.13 OBIS Entry- Credit Restoration**

Modifications or reversals of a credit loss action by a classification committee or through an appeal review shall be reported immediately to the records staff. This shall be done in writing to alert staff of a pending modification of the inmate's release date.

When a credit restoration chrono is received, case records staff shall make a Work Credit Restoration entry directly into the system.

When entered, the transaction shall be edited to ensure that the loss entry for which the time is being restored is in the system and the time restored does not exceed the original time loss.

Should errors occur during the editing process, the entry will not be accepted by the system and referral to the case records specialist for resolution and subsequent reentry is required.

If no errors are found, the entry will be processed by the system, resulting in a new Legal Status Summary being generated.

Credit restorations will appear on subsequent work credit queries.

**73030.14 OBIS Entry- Meritorious Credit**

When a Meritorious Credit Grant (MCG) chrono is received, the operator shall make an MCG entry directly into the system.

Meritorious credit shall not be granted in an amount which, when applied, will make the inmate overdue for release.

This entry will be processed by the system and a revised Legal Status Summary generated.

Meritorious credit grants shall be reflected on the CDC Form 188, Legal Status Summary.

**73030.15 Retention in Custody Past Scheduled Release Date**

*Revised December 24, 1992*

CCR 3323 provides that in some instances a person may be retained in custody beyond their scheduled release date because of a serious disciplinary infraction for which credit may be lost though the CDC Form 115 may ultimately be dismissed or reduced to an administrative infraction.

It is necessary that the C-File reflect the reason the person was retained in custody.

The following procedures are authorized by CCR 3323 and should be used to properly record this information:

- On the scheduled release date, prepare a CDC Form 128-B chrono indicating "Subject being retained in custody pending disposition of CDC Form 115 Log # \_\_\_\_\_ for which \_\_\_\_\_ days may be lost."
- Post entry on CDC Form 112, "Retained in custody pending disposition of CDC Form 115 Log # \_\_\_\_\_."
- If the CDC Form 115 is dismissed, prepare another CDC Form 128-B indicating "CDC Form 115 of ( date ) dismissed. Subject released on parole."
- Post entry on CDC Form 112, "Disciplinary dismissed. Released on parole. Parole period starts (indicate scheduled release date)."
- Any days attributed to time held past release date on a pending CDC Form 115 subsequently dismissed shall be deducted from the maximum parole period.

**73030.15.1 Dismissed Disciplinary Reports**

CCR 3326 provides that all references to dismissed CDC Form 115s must be removed from the records.

**73030.16 Parole Violator Returned To Custody (PVRTC)**

A parolee may be returned to custody in the following circumstances:

- After revocation of parole by the BPT for violating a condition(s) of parole pursuant to PC 3056 (PVRTC).
- Upon conviction for a new term of imprisonment (also known as PVWNT).

**73030.16.1 PVRTC Work time Credits**

Except for parolees specifically excluded in DOM 73030.16.3, any period of revocation time imposed by the BPT may be reduced by work time credits earned in accordance with the CCR 3044(b).

Work time credits for PVRTCs shall only be earned for time served on or after 9-30-1987.

**73030.16.2 Work time Credits For PVRTC County Jail/Community Correctional Centers**

PVRTCs detained and/or serving parole revocation time in a county jail or community correctional center are eligible to earn work time credits pursuant to PC 2933 provided they qualify under criteria set forth in PC 3057(d)(1).

**73030.16.3 PVRTC Work time Credit Exclusion Criteria**

Parolees serving a period of revocation time are not eligible to earn work time credits if:

- Sentenced under PC 1168 with a maximum term of life.
- Found unsuitable by the BPT to earn worktime credits.
- The condition of parole violation related to association with specified persons, entering prohibited areas, failure to attend POC, or failure to obtain psychiatric attention.
- Found guilty and revoked on parole violation charge(s) for conduct described in, or that could be prosecuted under, one or more of the offenses, attempted offenses, or enhancements listed in PC 3057(d)(2)(C).
- The current prison commitment, for which the parolee was serving a period of parole, was for one or more of the offenses, attempted offenses, or enhancements listed in PC 3057(d)(2)(C).

**73030.16.4 PVRTC Credit Forfeited**

Work time credit earned by PVRTCs may be forfeited for disciplinary infractions as provided for in the CCR 323 [PC 3057(d)(1)].

A PVRTC who commits a disciplinary infraction for which credits may be forfeited is subject to a parole revocation extension hearing. At that hearing, the BPT will determine whether to suspend eligibility for work time credits for the number of days forfeited for the infraction, in addition to any extended period of revocation.

**73030.16.5 PVRTC Credit Restoration**

Work time credit forfeited by PVRTCs for disciplinary infractions shall not be restored (PC 3057(d)(1)).

**73030.16.6 PVRTC Meritorious Credit**

PVRTCs are not eligible to be granted meritorious credit.

**73030.16.7 Computation of PVRTC Release Date**

*Revised December 24, 1992*

Time on a revocation period starts on the date a parole violator is available for return to the custody of the Department. See DOM 73030.8.6 for availability criteria.

Computation of parole revocation release dates will be done manually.

Revocation release date (RRD)—ineligible for PC 2933 credit.

Add the assessed revocation period to the date of arrest/hold placed/ available for return to custody of the Department.

- Pursuant to BPT Rule 2635.1, the revocation period for a parolee whose original crime was committed on or before 12-31-78 may not exceed six months. The revocation period for a parolee whose original crime was committed on or after 1-1-79 may not exceed one year.

Projected revocation release date (PRRD)—eligible for PC 2933 credit.

The maximum revocation release date (MRRD) is determined by adding the assessed revocation time to the date of arrest/hold placed available to the Department. The MRRD is adjusted by credits forfeited and number of days during which eligibility was suspended.

The application of work time credits to the adjusted maximum, through any working month or portion thereof, results in the number of days left to serve, then divisible based on the inmate's credit earning status. The resulting number of days is then subtracted from the date of application. That date is the PRRD.

A projected revocation release date (PRRD) is calculated each time earned work time credit and/or forfeited credit is applied or when there is a change in legal status or credit earning status.

**73030.16.8 Parole Violators With New Terms**

Separate computations of release dates for parole violators with new terms shall be completed on both the old and new term to determine the controlling release date.

If, after calculation of both cases, the release date on the new term controls, the previous case shall be discharged pursuant to BPT 2649.

If the release date (RRD, PRRD) on the original term controls, the case will be referred to the BPT for determination of the controlling release date.

- Prior terms of nonrevoked violators returning with new terms will be discharged without a revocation hearing if the new commitment resulted from behavior which occurred prior to the parole date on the prior term.

If the BPT decision is to retain the inmate on the original case, separate release dates will be maintained on both terms, and the inmate will be released on the case that retains them in custody for the longest period of time.

People v. Mitchell (244 Cal Rpt 803 1988).

The ruling in this case allows for consecutive sentencing of a new term to parole revocation time. If the court orders a new term to run CS to parole revocation, the term start date on the new commitment will be the RRD/PRRD and the original case will not be discharged.

**73030.16.9 OBIS Processing Parole Violators Work time**

Parole violators, returned to custody or returned with new terms, and/or inmates receiving additional controlling CC terms who have previous work incentive credit on the earlier term(s) cannot be accurately processed by the DSL/GTC computer system since the previous work history/credit is incorrectly brought forward to the new term. Therefore, additional processing is required:

A parole violator returned to custody to serve a revocation period and eligible for credit pursuant to PC 2933 is processed by entering work time credit on the revocation period, sequential to the existing credit history, beginning on the date of arrest/hold placed/available to CDC, whichever is appropriate.

A parole violator returned to custody with a new controlling term, whose previous term is discharging (BPT 2649), is processed by obtaining a hard copy printout from OBIS of all previous work time credit history using the Timecard Query Screen and Work Credit Query Screen. The hard copy is filed in the C-File under the general chronos.

- Telephone LPU at (916) 323-7373 or ATSS 473-7373 to request a deletion of previous worktime and credit history. Upon deletion, all entries will be eliminated from the computer.

A parole violator with a new non-controlling term, i.e., whose revocation period exceeds that of the new term, will be processed by obtaining a hard copy and deleting the previous credit history. Credit on the new term is then entered in the normal manner, but only to the date calculated as the EPRD.

Timecards on revoked cases will be destroyed only after a hard copy of the previous history is obtained and previous credit history is deleted.

**73030.16.10 PVRTC Controlling Discharge Date**

*Revised December 24, 1992*

Unless the BPT waives the parole period, inmates shall serve a period of parole as specified in PC 3000(a) or (b).

Pursuant to PC 3000(a), an inmate subject to three or five year parole periods may not be retained under parole supervision for longer than four or seven years, respectively, except for periods of suspension.

The maximum statutory period of parole shall be computed from the date of initial parole, or July 1, 1977, whichever is later, and shall be a period chronologically determined.

Time during which parole is suspended because the parolee has absconded or has been returned to custody as a parole violator will not be credited toward the period of parole unless he/she is found not guilty of the parole violation.

A period of return to custody for psychiatric treatment will not be added to the parole period unless so ordered by the BPT.

Calculate the projected controlling discharge date (PCDD) of a PVRTC eligible for PC 2933 credit by adding the applicable parole period, the actual time projected to be served on the revocation period, and any suspension to the parole period.

Calculate the controlling discharge date (CDD) of a PVRTC not eligible for PC 2933 credit by adding the applicable parole period, the actual time served on the revocation period, and any suspension to the parole board.

- In the event the maximum discharge date precedes the revocation release date, the inmate will be discharged from departmental custody on the maximum date.

**73030.16.11 Waiver of Parole**

*Revised March 16, 1995*

Pursuant to PC 3000, the parole authority may waive the parole period of inmates sentenced under PC 1168, 1170, or at the expiration of a term reduced under PC 2931 and/or 2933.

The C&PR shall submit any case, using the following criteria, staff deem acceptable for waiver of parole to the parole authority for consideration of waiver of parole.

Cases may be referred to the parole authority for consideration of waiver of parole unless the term consists of three or more offenses, or where the commitment offense(s) was committed while subject to youth or adult parole supervision, or if the commitment offense(s) included any of the following PC: 187, 192, 203, 207, 209, 212.5(a), 214, 217, 217.1, 220, 236, 243, 245, 245.3, 261(2)(3)(4), 264, 264.1, 286(c), 286(d), 288, 288A(c), 288A(d), 288.5, 289, 452(a), 459/461.1, 4500, 4501, 4501.5, 4503, 4574(a), 12020, 12021, 12022, 12022.5, 12022.7, 12022.9, 12560, 23101, and 23153.

**73030.16.12 Discharge Review**

*Revised March 16, 1995*

Pursuant to PC 3001, the parole of any person who was not imprisoned for committing a violent felony as defined in PC667.5(c) and has been on parole continuously for one year since release from confinement, shall be discharged unless the Department determines that the person shall continue on parole. At the final pre-parole audit prior to either original release on parole or release after service of a revocation period, a discharge review date will be set at one year after the actual release date unless the maximum discharge date precedes the review date, in which case no date for further review will be set.

The discharge review date shall be posted to the CDC Form 112.

**73030.17 ISL Terms**

Terms for offenses committed prior to 7-1-77 under the Indeterminate Sentence Law pursuant to PC 1168(b), where release was determined by the paroling authority are called ISL cases.

**73030.17.1 Recalculation of ISL Terms**

The majority of terms under the ISL require recalculation based on the Determinate Sentence Law (DSL) pursuant to PC 1170.2.

The DSL provides several indeterminate sentences for specific crimes. Those crimes that remain indeterminate do not require recalculation.

- Any case for which the statutory penalty is one-year-and-one-day, except as specified determinate in PC, is an indeterminate sentence under this section. See DOM 73010.6.16 on DSL indeterminate terms.

**73030.17.2 ISL Primary Term Fix**

In re Rodriguez (14 Cal 3d 639 1975) held that the paroling authority must determine the time of incarceration based on the severity of the crime(s).

**73030.17.3 Extended Term Considerations**

PC 1170.2(b) gives the BPT authority to hold hearings for the purpose of possibly extending an inmate's normally recalculated DSL term. These are called Extended Term Hearings (ETH).

**73030.17.3.1 First Screening**

The CCRM (CCRM) is responsible for the first screening of an inmate's case dynamics to determine if an ETH may be necessary. The CCRM shall be guided by the law in determining if the inmate fits the criteria for an ETH.

A CDC Form 678 shall be completed in all applicable cases even for those not meeting the criteria for an ETH. The CDC Form 678 shall accompany the C-File through the screening process.

**73030.17.3.2 Criteria For Extended Term Hearings**

The CCRM shall indicate an ETH is required if the inmate was convicted of any of the following crimes, or in the following circumstances, whether the count was stayed or resulted in a commitment to State prison:

- PC 187, Second degree murder.
- PC 192, Voluntary manslaughter.
- PC 203, Mayhem.
- PC 211/213, First degree robbery or robbery with great bodily injury.
- PC 217, Assault with intent to commit murder.
- PC 243, Battery with serious bodily injury.
- PC 245, Assault with a deadly weapon.
- PC 261(2), 261(3), and 261(4), Forcible rape.
- PC 261/264, Rape with great bodily injury.
- PC 286(c), Sodomy on child or by force.
- PC 286(d), Aid sodomy with force.
- PC 288, Lewd acts on a child under 14.
- PC 288a(C), Oral copulation with force.
- PC 288a(D), Aid oral copulation with force.
- PC 459/461, First degree burglary or burglary with great bodily injury.
- PC 4501, Assault by a prisoner.
- PC 4501.5, Battery on a prisoner.
- CS sentences. Any case in which a CS sentence has been imposed.
- Multiple convictions. Any case in which the person has suffered three or more felony convictions either in a single or separate proceeding for the crimes of robbery, first degree burglary, burglary with explosives, arson, assault with intent to commit murder, extortion, kidnapping, or escape from a state prison with force or violence; or, any case in which the person has suffered five or more felony convictions either in a single or separate proceeding.
- PPTs. Any prisoner with two or more PPTs.
- Arming, use of weapon, GBI. Any case in which the factual circumstances of any current crime indicate that the prisoner was armed with a deadly weapon, used a firearm, or inflicted or attempted to inflict GBI on the victim.
- Early release. Any case in which the ISL parole date is more than one year later than the DSL release date.

**73030.17.3.3 Not an ETH Case, PC 1170.2(A)**

The CDC Form 144, DSL Control Card, shall be checked in the appropriate space to indicate it is not an ETH case and it will be filed with other CDC Form 144 cards in the normal manner, with earliest release dates first.

**73030.17.3.4 Initially An ETH Case**

If the CCRM, during the first screening, determines that the inmate meets ETH criteria, the CDC Form 144 card shall be marked to reflect it as a PC 1170.2(b) case. The DSL Control Card shall be filed with other ETH DSL Control Cards.

**73030.17.3.5 Subsequent Screening**

The BPT may do second and third ETH screenings. Frequently, the third BPT screening will take place without second screening. The BPT can designate a case a PC 1170.2(a) case at any point during the screening process.

If the BPT determines that an inmate is a PC 1170.2(a) (no ETH necessary), then the CCRM shall update the CDC Form 144 to reflect that change.

The third BPT screening shall be reflected on BPT Form 1091. The original shall remain with the C-file with copies going to BPT Headquarters, Research, and the inmate.

If the case is an overdue PC 1170.2(a) case, or scheduled for release within 60 days according to the DSL calculation, the case shall be referred to P&CSD within five days of discovery. The CDC Form 611 shall be identified as a priority case.

**73030.17.3.6 Extended Term Hearing**

PC 1170.2(b) and 3041.5 require that the inmate be notified within 90 days of receipt into the Department if he/she is scheduled for an ETH and the hearing must be held within 120 days of receipt. The 120 days is computed from the latest of the date:

- Of reception.
- Of return to prison from court.
- On return to prison from another jurisdiction following service of a commitment to which a California term is ordered to be served consecutively.
- An amended Abstract of Judgment is received by CDC.

The screenings will be expedited and submitted to the BPT within the time frames set forth in this section.

A BPT Form 1080, Notice of Date, Time and Place of Hearing, and BPT Form 1092, Extended Term Hearing Notice, shall be prepared in duplicate and forwarded to the inmate's counselor who shall have the inmate acknowledge receipt of the forms and return the original to the C-File.

**73030.17.3.7 PC 3022/3042 Notices**

For those inmates who will have an ETH (after final determination is made by the BPT), notices shall be sent to the judge and DA only. The notice shall indicate that a hearing will be held "no earlier than 30 days after the date of this notice." No ETH shall be held until the statutory 30 days have elapsed after mailing of the notice.

**73030.18 Computation of ISL Terms**

The following procedures and forms shall be used in determining the release date of inmates sentenced under the Indeterminate Sentence Law and recalculated pursuant to PC 1170.2.

**73030.18.1 CDC Form 679, ISL Computation Work Sheet For Retroactive Calculations**

The CDC Form 679, Computation Worksheet, shall be used to determine the controlling count in retroactive calculations when multiple counts and/or commitments are present.

The form shall be completed in pencil. Doing one count at a time, enter all case and count numbers and the offense title(s) (Robb. 1st, Burg. 2nd, etc.) under the appropriate heading for each offense.

The middle base term for the offense shall be entered on the form. All time entries shall be written out in years-months-days. The PC shall be used to determine the middle base term.

Add any enhancements for being armed, use of a weapon, or great bodily injury (GBI). See DOM 73030.18.2.1 for criteria on enhancements. If there is no enhancement, enter a zero.

Enter the pre-prison credits that are applicable to the individual count. The received date is listed next in year-month- day order.

Some computations are necessary to finish the process. First, add the middle base and the weapon enhancement, if any. From that total, subtract the net credit. To this figure, add the received date.

**EXAMPLE:**

Middle base, 3 years, recorded as		02-11-30
Weapons enhancement, 1 yr.	+	01-00-00
	=	03-11-30
Net credit to be subtracted	-	00-01-18
	=	03-10-12
Received date	+	77-03-02
	=	81-01-14

The date calculated (in the example, 81-01-14) is entered in the "Date" column. Any prior prison term enhancement(s) is added in the "CS Adj. w/Credits" column. Record that enhancement if appropriate. If the figure represents one-third of the middle base term (plus enhancements under certain circumstances) refer to the enhancements part of this section minus applicable

pre-confinement credit for cases ordered to run consecutively with the count being computed. If there is any applicable "dead time," that year-month-day figure is added. Reflect the proper and final date on the "Final Date" line.

**EXAMPLE:**

Date		81-01-14
Priors (Assuming non-violent)	+	01-00-00
	=	82-01-14
(A) CS adjusted with credit		
(assuming a three year middle base crime with		
No pre-confinement credits	+	01-00-00
	=	83-01-14
Dead Time		
	+	00-01-01
Final Date	=	83-02-15

This process shall be done for all counts, computing each case fully. When computation of all the counts is completed, the controlling principal count shall be the one with the latest expiring final date. After determining the controlling principal count, proceed to the CDC Form 678, Confinement Computation.

**73030.18.2 Confinement Computation CDC Form 678**

The CDC Form 678, after being signed by the BPT, shall be filed in the BPT Section of the C-file.

The top of the form (from the double horizontal lines upward) shall be completed legibly using black ink. The bottom portion of the form "Parole Board and DSL Data Control Information" shall be completed in soft-lead pencil.

The required information shall be the case number, count number, offense, base term, and adjusted base term for the controlling count. The adjusted base term shall be the same as the base term.

**73030.18.2.1 Enhancements - Part I - Weapons**

Under DSL provisions, an additional enhancement will be added to the base term in certain circumstances.

- If a firearm was present during the commission or attempted commission of a felony, all principals in the crime receive an additional one-year enhancement, unless such arming is an element of the offense of which convicted.
- A principal is defined as any person who assists, aids, or abets before or during the commission of the crime. The person does not have to be personally armed, and the weapon does not have to be separately pled and proved.
- Any person who personally uses a deadly or dangerous weapon (all weapons other than a firearm) in the commission or attempted commission of a felony shall receive an additional one-year enhancement unless use of a deadly or dangerous weapon is an element of the offense of which convicted. The weapon does not need to be separately pled and proved. In this case "use" is defined as showing or displaying the weapon in a threatening or menacing manner.

**EXAMPLES:**

- A man enters a market with a knife on his belt and states he wants the money or else and motions to the knife. This is a valid use. If the subject made a statement concerning using a deadly or dangerous weapon, but no weapon is observed, the subject's declaration is accepted and the one-year enhancement applied.
- Suspect A and Suspect B enter a store and commit a robbery. Suspect B had an axe and Suspect A was not armed. In this case Suspect B does get a one-year enhancement for personal use of a deadly or dangerous weapon and Suspect A does not because he did not personally use the weapon.
- PC 3024 and 12022. If the inmate had a separate court finding under PC 3024 or 12022, the facts of the offense need to be reviewed.
- If the finding was due to a firearm, a one-year enhancement shall be added to the terms of all principals in the felony.
- If the finding was due to a deadly or dangerous weapon (all weapons except firearms), a one-year enhancement shall be added only if the weapon was personally used.
  - Use is defined as displaying or showing a weapon in a menacing or threatening manner.

- Principal is defined as any person who assists, aids, or abets before or during the commission of the crime.
- PC 12022.5, Use of Firearm. If a prisoner has a separately pled and proved PC 12022.5, a two-year enhancement shall be added unless use of a firearm is an element of the offense of which convicted. A finding of PC 12022.5, of the commitment offense, makes the crime a violent felony. Violent felonies have different limitations.
- Circle the appropriate PC(s) and record the year-month-day enhancement on the double line provided. Record the enhancement on the corresponding line on the right side of the form.

**73030.18.2.2 Enhancements- Part II – Great Bodily Injury**

An enhancement of three-years must be added to the middle DSL term for the underlying crime if the injury involved is GBI under PC 12022.7, and the prisoner was convicted of:

- First Degree Robbery by torture under former PC 211(a) and 213.
- Robbery with GBI under former PC 211(a) and 213.
- Rape with GBI under former PC 264.
- Burglary with GBI under former PC 461.

A three-year enhancement must be added to any ISL case of robbery, burglary, or rape with GBI pled and proved.

When GBI is pled and proved and not an element of the offense of which convicted, an additional enhancement can be added if a PC 12022 or 12022.5 was also pled and proved. If both PC 12022.2 and 12022.5 are present in conjunction with GBI only the largest shall be used.

Circle the appropriate Penal Code Section(s) and record the year-month-day enhancement on the double line provided. Also record the enhancement on the corresponding line on the right side of the form.

**73030.18.2.3 Enhancements - Part III – Prior Prison Terms - Violent**

Record a PPT that is a violent felony PPT.

Refer to DOM 73030.7.10 for PPT information.

An enhancement shall be added for a violent PPT as follows:

- Violent PPT with a violent commitment offense will be enhanced by three years for each pled and proved PPT. Violent felonies/priors are defined in PC 667.5(c).
- Violent PPT with a nonviolent commitment offense will be enhanced by one year for each pled and proved PPT.

On the line under "Date Last Released or Felony Conviction," enter the appropriate notation.

**EXAMPLE:**

- If a person was released from prison on July 12, 1969, and did not have a subsequent felony conviction, then the date last released, July 12, 1969, would be indicated.
- If that same individual had a felony conviction on October 3, 1972, but did not go to prison, then the proper notation would be October 3, 1972 (the last conviction date).
- If there are more priors than the CDC Form 678 will accommodate, write "See Attachment" and list them on the CDC Form 678-A. If more room is still needed, use additional CDC Form 678-As. There is no limit to violent PPT enhancements.

**73030.18.2.4 Consecutive In-Prison Sentences (Net) - Part III B**

An offense which is committed while the inmate is housed in state prison, or subject to re-imprisonment for escape, and which is ordered to run CS with the original commitment offense(s), shall be placed in this portion of the CDC Form 678.

- List the case and count number. Consult the Offense Edit Table or the Penal Code for the middle base term. Enter the middle term on this line.
- If there are more CS cases than the CDC form will accommodate, write "See Attachment" and list the cases on the CDC Form 678-A. If more room is still needed, use additional attachments.
- If there are two or more in-prison offenses and they are ordered to run CS to each other, then a principal and subordinate-type computation shall be required.

**EXAMPLE:**

An inmate is convicted on PC 4502, Possession of a Weapon, and PC 4530(a), Escape with Force, CS with each other and CS with the original term. The escape shall be considered the principal term with a middle base term of 48 months. The possession of the weapon shall be considered the

subordinate term with one-third of the middle base term that totals eight months.

In such cases, record the principal or controlling in-prison case first, showing the middle base term, then the subordinate term showing the one-third figure. There is no limitation on the number of in-prison CS cases.

#### **73030.18.2.5 Consecutive Violent Subordinates (Net) -**

When the subordinate offenses are violent felonies, the term is one-third the middle base plus one-third of any enhancement for being armed with a deadly weapon, using a firearm, or inflicting GBI. There is no limitation on the number of CS violent subordinates.

If there are more CS cases than the CDC Form 678 will accommodate, write "See Attachment" and list the cases on the CDC Form 678-A.

If the inmate has CS sentences, but has different received dates, both the CS computation and the CC computation are necessary to obtain the proper DSL date.

- The CS sentence shall be computed as outlined in this section.
- CC sentences or single counts shall be computed as outlined in this section.
- The latest expiring release date under the CC calculation is compared to the release date under the CS calculation. The calculation that resulted in the latest release date is the proper one to record on the CDC Form 678, irrespective of the CS order.

#### **73030.18.2.6 Prior Prison Term - Other - Part III D**

Record in this section any PPT that is not a violent felony PPT.

Refer to DOM 73030.7.10 for PPT information.

All valid nonviolent PPT's carry an enhancement of one year. There are no limits on the actual number of PPTs that can be pled and proved as PFC, but the total years of enhancement cannot exceed the middle base term of the controlling or principal term.

The CDC Form 678-A is to be used if the CDC Form 678 does not have enough lines to accommodate the enhancements (see this section for information on the CDC Form 678-A).

If the PPT enhancement column exceeds the base, make a single large "X" over the year-month-day column and enter the middle base term of the principal/controlling term year-limitations.

On the line under "Date Last Released or Felony Conviction," put the appropriate notation.

EXAMPLE:

- A person was released from prison on June 12, 1973, and remained free of felony conviction and prison custody until the current difficulty. In this case, June 12, 1973, would be recorded on the line.
- If that same person had a felony conviction on November 3, 1975, but did not go to prison, then the date November 3, 1975, would go on the line.

#### **73030.18.2.7 CS Nonviolent Subordinates (Net) - Part III E**

Nonviolent subordinate terms (those counts ordered to run CS with the principal term) are recorded in this area. Assuming that all have the same received date, the enhancement for the subordinate term is one-third of the middle DSL sentence.

- If the CS sentences have different received dates, both CS and CC calculations are necessary to determine the proper method of recording.
- No additional time can be added to nonviolent CS counts for arming. If the principal term is nonviolent with no arming, then the CS nonviolent subordinate terms cannot exceed the base. If the principal term is violent or has arming then the non-violent CS subordinate cannot exceed five years.
- If more space is required to record the subordinate terms than provided for on the CDC Form 678, write "See Attachment" and record the counts on the CDC Form 678-A.

#### **73030.18.2.8 Limitations - Part III F**

Exceeds base.

Regardless of the number of pled and proved prior felony convictions and CS nonviolent sentences, the total of Items D and E cannot exceed twice the base term unless the term has an enhancement for: arming; use of weapon; GBI; or if the commitment offense is for a violent felony or the term includes a CS sentence for in-prison crimes.

More than five years.

The total enhancement for non-violent CS sentences cannot exceed five years.

#### **73030.18.2.9 Total Section III**

Total all enhancements (taking into consideration limitations) in Section III, Parts A, B, C, D, and E. The total is to be recorded on the space provided. That total figure is also to be recorded on the corresponding line on the right side of the form.

#### **73030.18.2.10 Term Enhancements Computation and Date**

Total all terms and enhancements and compute the actual dates.

#### **73030.18.2.11 Total Confinement Time - Line 1**

The total year-month-day figure arrived at by adding the adjusted base term with the enhancement totals is recorded on the right side of the form.

#### **73030.18.2.12 Original Received Date - Line 2**

Record the appropriate received date in year-month-day order (if consecutive cases are involved, the earliest reception date is used).

#### **73030.18.2.13 Unadjusted Maximum DSL - Line 3**

Record the received date plus the total confinement time minus pre-prison credits.

#### **73030.18.2.14 At-Large Time - Line 4**

If the inmate has any at-large time, the number of days of at-large time are added to the unadjusted maximum DSL to reflect the adjusted maximum DSL. If no at-large time is involved, place a zero.

#### **73030.18.2.15 Adjusted Maximum DSL Date - Line 5**

This date reflects the maximum DSL date with application of at-large time. If there is no at-large time, Lines 3 and 5 will read the same. If there is at-large time, Line 4 added to Line 3 will produce the answer for Line 5.

#### **73030.18.2.16 Good time Credits Available - Line 6**

Inmates earn good time credits from July 1, 1977 or from the received date if after July 1, 1977. A one-third reduction of sentence is allowed. To compute this reduction of sentence with a calculator the following formula is used:

- Enter the unadjusted maximum DSL date.
- Subtract the received date, or July 1, 1977, whichever is later.
- Add the number of days granted as post-sentence credit if the post-sentence credit is for time in custody on/after July 1, 1977.
- Divide by 3 = total goodtime/worktime credits available. This calculation may result in a fraction of either one-third or two-thirds. When this happens, the prisoner is given a full day (the fractional number is raised to the next whole number.)
- Enter into memory of the calculator.
- Divide by 4 = days of participation credit (round off to the nearest whole number).
- Multiply PC x 3 = days of goodtime credit (round off to the nearest whole number).
- Record this figure in the "Goodtime Credits Available" space.

#### **73030.18.2.17 Minimum DSL Date - Line 7**

Subtracting the good time/work time from the adjusted maximum DSL will provide the minimum DSL date. Occasionally, when computing a case, the inmate will have an overdue maximum DSL date (the DSL date is earlier than the date the computation is done). In these cases, it is not necessary to compute the minimum DSL date.

#### **73030.18.2.18 Minimum Term - ISL Computation**

Minimum term is computed as follows:

Single commitment, not aggravated. Same as specified for offenses in the Penal Code and records chart, e.g., five years, three years, six months, etc. (PC 3023). EXCEPTION: If the court specifies a six-month minimum term under PC 1202(b) (prior to 7-1-77), the minimum term will be recorded at "6 months (PC 1202(b))" even for Robb. 1st or CS cts. On a mandatory life, minimum term is life.

Single commitment, Aggravated. Prior Felony (PC 3024). If a PFC is charged and proved, the minimum term is aggravated to two years. EXCEPTION: (PC 667) Petty Theft w/ PFC; (PC 663(3)) Petty Theft with prior Petty Theft; (PC 12025) Carrying Firearm Without License; and (PC 12021) Ex-Felon with a Gun; the minimum term remains six months.

H&SC Priors. If the instant offense is a violation of the H&SC, a prior narcotic conviction (PNC) may be charged and proved. This may be either a felony or misdemeanor conviction.

- Refer to the H&SC section(s) to determine if the PNC aggravates the sentence. If it does, record the prior conviction as a PNC instead of a PFC.

If the instant offense is NSF Checks (PC 476a), record only the prior felony convictions which are charged and proved but do not record a prior misdemeanor (check) conviction, even if it is charged and proved.

**Deadly Weapon.** If deadly (as distinguished from dangerous) weapon is charged and proved, the minimum term is two years (PC 3024(a)).

**Prior and deadly weapon (PC 3024(b)).** If both a PFC and a deadly weapon are charged and proved, the minimum term is four years (exceptions noted as applicable). The PFC and/or deadly weapon must be first charged in the accusatory pleading (information, indictment, etc.) and subsequently proved or admitted in court per PC 969, 969c, 1158, and 3024. The minimum term may exceed the maximum sentence by reason of weapons enhancements and priors being charged and proved.

If the Abstract of Judgment is unclear, correspondence shall be directed to the committing court asking for clarification.

**Multiple Commitments CS counts (Aggregate Legal Minimums).**

- Consecutive sentences are one continuous term.
- The BPT has the authority to refix an earlier consecutive sentence(s) even though the statutory maximum has passed on the earlier sentence(s).
- The first of two consecutive sentences shall not be set to expire prior to the date the person was received for the second sentence.

**EXAMPLE:**

Inmate received from Los Angeles County for Ct. 1, Forgery W/PFC and Ct. 2, Forgery (Prob. Rev.). Show method used to arrive at minimum term: (Ct. 1: 2 years) + (Ct. 2: 6 months) = 2 1/2 years.

- When all felonies of which the inmate was convicted have minimum terms of ten years or less, and the aggregate of such minimums exceeds ten years, the minimum will be recorded as ten years (PC 3024(d)). The only exception is where a mandatory CS sentence is imposed by statute such as PC 12022.5.
- When one or more of the sentences imposed has a statutory minimum term exceeding ten years, the minimum term will be set at the longest minimum term imposed.

The only exception is where a mandatory CS sentence is imposed, such as PC 12022.5.

- Where an additional consecutive sentence is imposed, such as PC 12022.5, such penalty will be in addition to the minimum term as indicated in subsection above.

**CS Terms (Post-Imprisonment Offenses).**

**EXAMPLE:**

Inmate received from Los Angeles County on 10-1-50 for Robb. 1st, 2 cts. CS, and went out-to-court and returned from San Francisco County 12-1-50 for Robb. 1st, 2 cts. CS with present term: Minimum term in this instance is ten years, CS with present term. (Los Angeles County term must expire before San Francisco County term commences because this is a post-imprisonment offense.) In re Cowan (1946, 27 C2d 637, 166 P2d 279). In re Byrnes (1948, 32 C2d 843, P2d 685).

**Additional Penalties.**

Additional penalties pled and proved under PC 12022 and 12022.5 are CS with the crime of which they are a part. Unless specifically ordered otherwise, the additional penalties are CC with any other offense. It is important that the judgment be followed in recording the terms and computing the minimum term.

#### **73030.18.2.19 Minimum Eligible Parole Date - ISL**

**Computation.**

- Show the minimum eligible parole date (in years and/or months) and the actual date computed with benefit of preimprisonment credits BPT can legally impose by law.
- When a person has been at-large or CDC time stops after commencement of the term but prior to reaching the minimum eligible parole date, the MEPD must be recomputed immediately after his/her return to CDC to include the time lost. The legal status will show a footnote: e.g., "MEPD includes 122 days time lost on escape."
- When differing credits are involved in multiple count (or old multiple case) commitments, it is important that each MEPD be computed, using appropriate credits, and that the controlling (or longest) MEPD be shown. These are: CS counts; two years or 1/3 of aggregate minimum terms, whichever is the greatest (PC 3049).

**Exceptions.**

- The provisions of PC 3049 do not apply to increase the MEPD in cases where an additional penalty under PC 12022 or 12022.5 established the CS nature of the terms (e.g., Ct. 1, Attempted Robb. 1st W/Use of Firearm, 6 mos. 20 yrs., CS W/5-Life: minimum term 5-1/2 yrs.: MEPD: Ct. 1: 1 yr. 10 months).
- Minimum term in excess of 1 year: 1/3 of minimum term (PC 3049).

**EXAMPLE:** (Assume arrival date 1-1-90)

Min Term	MEPD	
6 Months	6 mos.	7-01-90
6 months and 6 month CS or 1 year	2 yrs.	1-1-92
1 year	1 yr.	1-1-91
2 yrs. (if CS are not involved)	8 mos.	9-1-90
5 yrs.	1 yr. 8 mos.	9-1-91
5 yrs and 5 yrs. CS	3 yrs. 4 mos.	5-1-93
Life w/ possibility of parole	7 Cal. Yrs.	1-1-97
Habitual Criminal (PC 644a)	9 yrs.	1-1-99
Habitual Criminal (PC 644b)	12 yrs.	1-1-2002

H&SC violations. Following changes to the Code in 1961, most violations carried a specified minimum period of confinement prior to release on parole and the provisions of the Penal Code were not applicable to reduce that time (except PC 1202B).

- Since 1974, a series of court rulings resulted in modifications to those minimum parole dates and were fully retroactive.
- H&SC statutes effective 1-1-76 eliminated mandatory minimum periods of parole for persons sentenced on or after 1-1-76 under H&SC 11350, 11351 and 11352, thus making provisions of the Penal Code regarding minimum terms and MEPDs applicable to those sections only.

#### **73030.18.2.20 Parole Board and DSL Date Control Information**

The lower portion of the form "Parole Board and DSL Date Control Information" shall be filled in. This part of the CDC Form 678 is to be done in pencil only. The information on the left side, current calendar, parole date, etc., refers to ISL data. Enter the minimum term, maximum term, maximum controlling discharge date and current calendar year. As the inmate proceeds through his/her departmental incarceration, the ISL date will change as he/she appears before the BPT.

##### **73030.18.2.21 Initial Board Appearance**

Enter month and year of first BPT calendar unless inmate must be seen within 120 days, then enter actual date the 120 days expires; e.g., by 6-6-75 (PC 3041).

##### **73030.18.2.22 Change in Parole Board and DSL Date Control Information**

As case dynamics change, reflect the change(s) on the form:

On the right side of the box is "Minimum DSL Date Adjusted by Credits Lost \_\_\_\_." If an inmate loses good time/work time credits, the adjusted date is to be placed in the space provided.

After the computation has been completed, if the inmate has an overdue DSL date, check the "As soon as possible after Board 1170.2(a) PC decision" space on the form.

If the prisoner is not overdue, then either the ISL or DSL date controls, and the "Controlling Release Date \_\_\_\_" box is to be checked (controlling release date means the date that releases the prisoner from prison earliest). Enter the controlling release date on the line.

On the "(as of \_\_\_\_)" line, enter the date the computation was made or the date of the subsequent change of the controlling date.

Occasionally, the controlling release date will change.

An ISL parole hearing may result in a change in a previous ISL parole date. For example, if the minimum DSL date controls and an inmate loses good time/work time credits, the minimum DSL date may pass the ISL date. At the time the DSL date passes up the ISL date then the ISL date will be the controlling.

Whichever date releases the inmate from prison the earliest is the controlling date.

##### **73030.18.2.23 Confinement Computation CDC Form 678-A**

This form is used when the CDC Form 678 is not adequate to list multiple PPT or CS cases. It shall be computed the same as outlined in this section.

### 73030.18.2.24 Subsequent Changes on Computed CDC Form 678/678-A

From time to time a CDC Form 678/CDC Form 678-A will need to be changed for various reasons. The CDC Form is an official document, and if changes are necessary, a new form shall be prepared.

Upon receipt of court ordered pre-confinement credits received after the BPT has signed the form, it is necessary to re-compute the DSL dates on a new CDC Form 678. Indicate "Refer to signed CDC Form 678 dated \_\_\_\_\_" on the new form, attach to corrected copy and file in permanent addenda.

- Should the application of such credit change the base term, return the case to the BPT for re-review and signature.
- The new CDC Form 678 is to be labeled "recalculated" above the CCRM signature block.

Whenever the controlling release date changes that change will need to be reflected on the "Controlling Release Date \_\_\_\_\_" line.

Additionally, the "(as of \_\_\_\_\_)" will be recorded as of the date the change is made.

When the CDC Form 678 is found to have an error, a new form shall be prepared and marked "corrected copy" above the CCRM signature block.

- Send a copy to the inmate.
- Amend the information in OBIS to reflect the change(s).

If the BPT takes an action that changes the ISL data on the CDC Form 678, it is necessary to update the original CDC Form 678. When updating the ISL data, change the "as of \_\_\_\_\_" date to the date the change is made. If the controlling release date changes due to a BPT action, only the inmate needs to be given a copy of the updated CDC Form 678.

### 73030.18.2.25 CDC Form 678 Distribution

After the BPT signs the form, a photocopy shall go to OBIS and the inmate. The original shall be filed in the BPT Section of the C-file.

### 73030.19 Life Terms

Those terms for which the statutory maximum penalty is life in prison with the possibility of parole, terms for which the maximum is life and the minimum is 15 or 25 years and habitual offenders sentenced pursuant to PC 667.7 and PC 667.75 are calculated in this section.

#### 73030.19.1 Parole Consideration

The BPT shall conduct hearings for consideration for parole of life prisoners pursuant to PC 5076.1 and PC 5076.2. Specialists shall schedule hearings based on calculations of minimum eligible parole dates.

#### 73030.19.2 Good time/Work time Credit - Life Terms

Work time credit pursuant to PC 2933 shall be applied to reduce the minimum term of life prisoners sentenced only under PC 217.1(b) and habitual offenders sentenced under PC 667.7(a)(1) and PC 667.75.

Good time/work time credit pursuant only to PC 2931 shall be applied to reduce the minimum term of all other life prisoners on terms with 15 or 25 year minimums, except those convictions for second degree Murder where the victim was a peace officer (PC 190(b)).

Work time credit pursuant to PC 2933 shall apply to DSL enhancements and DSL consecutive cases on all life terms.

- Goodtime credit shall be administratively granted for time in custody after 7-1-77 on first degree Murder and Kidnap offenses committed prior to 11-8-78 if the commitment is subsequently ruled invalid and the inmate is recommitted on a lesser offense arising from the same case.

#### 73030.19.3 "7-Year" Life Terms

Pursuant to PC 3046, persons sentenced to life terms with the possibility of parole must serve at least seven calendar years without benefit of good time. The MEPD for these cases is calculated by adding seven years to the life term start date and subtracting pre-prison credit ordered by the court and post-sentence credit.

- The initial Parole Consideration Hearing (PCH) will be scheduled 13 months prior to the MEPD (BPT 2268).
- If parole is denied at the initial PCH, a Subsequent Parole Hearing will be scheduled annually thereafter, or as determined by the BPT pursuant to PC 3041.5, until parole is granted (a parole date is set).
- Following any hearing at which parole is granted, Progress Hearings will be scheduled as specified in BPT 2269.

#### 73030.19.4 Computation of MEPD 15 and 25 to Life Terms

##### Life term only

If the life term is the only commitment offense and has no DSL enhancements or DSL consecutive cases, calculate the MEPD as follows:

- Add the minimum term to the date received into the Department (the term start date).
- Subtract presentence and postsentence credit.
- Determine the number of days eligible for goodtime credit by subtracting the received date from the date obtained after application of preprison credit and adding postsentence credit.
- Divide the result by three (fractions shall be increased to the next whole number).
- Subtract the total goodtime from the date obtained after application of preprison credit. The resulting date is the minimum eligible parole date.

#### Life Terms With DSL Enhancements/DSL CS Cases

If the life term has DSL enhancements or a consecutive DSL term(s) with the same received date as specified in PC 669, the enhancements/CS term(s) must be served before the life term. Calculate the DSL enhancement/term(s) to determine the life term start date for the purpose of scheduling a documentation hearing on the life term.

Calculate the MEPD in these steps:

- Calculate the DSL release date on the DSL enhancement(s)/CS Case(s) in the normal manner, applying appropriate goodtime/worktime credit.
- Using the resulting DSL release date as the term start date for the life case, calculate the MEPD by proceeding with the steps previously described for the life term only computation.

If the life term has a consecutive post-imprisonment offense(s), the life term will not be interrupted and the DSL case shall be served consecutively to the life term. In re Thompson, 172 Cal. App. 3d 256, 218 Cal. Rptr. 192 (11-8-85).

#### Concurrent Non-Life Terms

Non-life terms concurrent to life terms shall be computed on a CDC Form 679.

#### 73030.19.5 BPT Hearings - 15 and 25 Year Minimums

A BPT Documentation Hearing will be scheduled for prisoners serving life terms with 15 or 25 year minimums three years after the life term starts, and subsequently at three year intervals until the initial Parole Consideration Hearing (BPT 2269.1). Initial, subsequent and progress parole consideration hearings will be scheduled as outlined in DOM 73010.6.6.3.

#### 73030.19.6 Life Terms Legal Status CDC Form 188-C

A Legal Status Summary, CDC Form 188-C, will be manually prepared by the LPU on all life cases as described in DOM 73010.6.

#### 73030.19.7 Life Term Time Collection

Time collection data on life terms will be entered in OBIS in the same manner as for DSL cases for use in the manual calculation of minimum eligible parole dates.

#### 73030.19.8 Disciplinary Actions and Life Terms

Completed disciplinary reports received by inmates serving life terms will be forwarded by custody staff for screening by C&PR to determine whether referral to the BPT will be required.

- If a parole date had previously been granted by the BPT, the disciplinary will be reported to the BPT who will determine whether to initiate rescission proceeding which may result in postponement or rescission of the release date (BPT 2451).

Completed disciplinary reports with credit losses on credit eligible life cases will be forwarded to case records staff who will re-compute the MEPD and reschedule hearing dates based on the recalculation.

- If a documentation hearing preceded the disciplinary action, only the initial parole consideration hearing date will be changed.

#### 73030.20 Posting The Chronological History CDC Form 112

All entries on the CDC Form 112 will be dated in the left-hand column.

Entries of any legal status change, BPT decisions, BPT hearing dates, or classification actions effecting a change in release dates will be entered and briefly described in the "Chronological Listings" column.

The number of days forfeited or restored and any dead/at-large time will be entered in the appropriate column.

Release dates, minimum eligible dates, discharge dates, maximum revocation dates, and discharge review dates will be posted in the right-hand column.

- Release dates/minimum eligible release dates: EPRD, MIN DSL, ISL PD, RRD, PRRD, MEPD.
- Maximum revocation dates: MRRD.
- Discharge dates: DD, CDD, PCDD.

- Discharge review dates: DRD.

All entries on the CDC Form 112 will be posted in black ink with the exception of the MEPD, which will be posted in pencil. See DOM 72040 and 72060 for instructions on other postings.

#### **73030.21 Revisions**

*Revised June 16, 1995*

The Deputy Director, Institutions Division, is responsible to prepare revisions and ensure that this section is current.

#### **73030.22 References**

*Revised June 16, 1995*

CCR (15)

California Rules of Court.

PC §§ 667; 1203.03; 3001; 5076.2; 667.5; 1213; 3022; 12022; 667.51; 1213.5; 2023; 12022.1; 667.7; 1216; 3024; 12022.2; 969; 2635.1; 3041; 12022.3; 1158; 2900; 3041.5; 12022.4; 1168; 2900.1; 3042; 12022.5; 1170; 2900.5; 3046; 12022.6; 1170.1; 2931; 3049; 12022.7; 1170.15; 2932; 3056; 12022.75; 1170.2; 2933; 3057; 12022.9; 1202; 2934; 4019; 1203.01; 3000; 5076.1

W&I §§ 1782 and 3200.

H&SC §§ 11350; 11370.2; 11351; 11370.4; 11352; 11370.8; and 11356.5

Case Laws:

In re Cowan (27 Cal App 2d 637, 166 Cal App 2d 279 (1946)).

In re Byrnes (32 Cal App 2d 685 (1948)).

In re Pearce (40 Cal App 3d 399 (1974)).

In re Rodriguez (14 Cal App 3d 639 (1975)).

In re Sosa (102 Cal App 3d 1002 (1980)).

People v Montalvo (2 Crim 38558 (1982)).

In re Thompson (172 Cal. App. 3d 256, 218 Cal. Rptr. (1985)).

People v Fritz (40 Cal App 3d 277 (1986)).

People v Mitchell (244 Cal Rpt 803 (1988)).

In re Rojas (23 Cal App 3d 152).

AG's Opinions: AG 86-1102 on life terms eligible for PC § 2933 credit.

### **ARTICLE 13 — COURT DECISIONS, ORDERS, AND RELEASES**

*Revised March 16, 1995*

#### **73040.1 Policy**

Court decisions and court orders shall be processed in a uniform manner to ensure proper disposition.

#### **73040.2 Purpose**

This section sets forth uniform procedures for handling and processing court orders and court decisions.

#### **73040.3 Decisions and Orders/General**

Unless otherwise stated in the opinion or order, decisions of the District Courts of Appeal in criminal matters are final 60 days after filed. Decisions of the Supreme Court are final 30 days after filed unless further appeal or rehearing is in process.

A copy of unpublished Appellate or Supreme Court opinions received in headquarters, shall be reviewed by a Correctional Case Records Administrator and forwarded to the facility or parole region where the inmate/parolee is located for appropriate disposition and/or follow-up with the trial court at such time as the opinion is final.

Published opinions become case law and shall be evaluated, and instructions issued by an Administrative Bulletin, revision to this manual or regulation change if applicable.

A decision that reverses a "judgment" on appeal is remitted to the superior court on the date the decision becomes final.

A reversal of "judgment" on appeal is deemed an order for new trial, unless otherwise directed [reference: PC 1262]. The case will usually be brought to trial within 60 days after the reversal is final (PC 1382).

Removal from departmental custody by the sheriff after reversal on appeal does not act as a discharge from departmental records until confirmation from the court or AG's Office is received.

If a defendant is on parole, departmental jurisdiction ceases on the date the decision of reversal is final. See the DOM 71020.3 for issuance of a new registry number if the defendant is returned from court. The old departmental

registry numbers can be reactivated upon approval of the Chief, Case Records Services.

A judgment may be reversed in whole or in part and the order of reversal may include specific instructions to the trial court. Judgments may be affirmed and the matter remanded for the limited purpose of re-sentencing. In those instances where a person is removed from departmental custody and the court orders and/or Appellate Court opinion reflects that the judgment is affirmed but the sentence is reversed for the limited purpose of re-sentencing, the case will remain under departmental jurisdiction as out-to-court (OTC).

CCRM shall contact the trial court every 30 days to determine the status of the case if the defendant has not been returned to departmental custody.

The Appellate Court may modify a judgment in which a count(s) is ordered stricken per PC 654 or an improper penalty or enhancement has been applied to a term.

In these instances, where a trial court can do nothing about the sentence as modified by the Appellate Court, the legal status shall be changed in accordance with the opinion upon receipt of a certified copy of the remittitur from the Appellate Court.

#### **73040.4 Habeas Corpus**

An order in Habeas Corpus proceedings may vacate the judgment in whole or in part or grant other relief including discharge from custody.

Where removal of a prisoner occurs for return to court pursuant to an order to reverse or vacate the judgment and/or sentence, this acts to discharge the case from departmental records.

Where the judgment and sentence remain valid, but the removal is pursuant to an order for further proceedings, time on the sentence continues to run and the case remains under departmental jurisdiction as OTC.

As provided in PC 2620, the order for removal shall recite the purpose for which the person is to be brought before the court. When this information is not included and there is not sufficient time or information on hand to resolve the question as to the purpose for removal, the prisoner shall be noted as "OTC for further proceedings."

The records can be corrected later when the purpose for removal has been conclusively determined.

Sources for such information include:

- The County Clerk.
- Clerk of the Appellate Court.
- DA.
- LAD.
- Chief, Correctional Case Records Services.
- The Deputy AG who handled the case at the appellate court level.

#### **Superior Court**

The Superior Court of the county where a facility is located has jurisdiction to consider petitions filed by inmates of that facility regardless of the commitment county. Resulting orders must be complied with when final.

These orders shall be immediately reviewed by the LAD to determine such questions as proper procedures or whether to appeal, etc.

Such actions would generally be confined to whether the inmate is illegally held, portions of the judgment are defective, or whether the Department administrative handling of the case is proper under law.

The case may be ordered back to the trial court for further proceedings to correct or modify the judgment.

Such actions are legally different in purpose and scope than the authority of the Appellate Courts to review and act on the validity of a judgment of a Superior Court.

Superior Court orders do not establish precedents or rules of general application but are limited in application to the specific case or issue ruled upon.

Differences and conflicts between Superior Courts in different counties have to be resolved by a higher court.

#### **73040.5 Published Decisions**

Published Appellate Court decisions are effective the date they become final and have the same application on all similar cases and circumstances. They only apply prospectively unless ordered in the decision or in subsequent related decisions to be applied retroactively.

Unpublished Appellate Court decisions apply only to the individual case considered.



**73040.6 Court Orders**

A Superior Court order shall be signed by a judge, bear the seal of the court, and be certified by the county clerk (two of the three requirements will suffice).

PC 2620, 2621, and 2625 specify that court orders must show the reason for release. When an order is received for an inmate to give testimony in a criminal proceeding, compliance is mandatory.

The order shall recite a specific date plus may recite, "at such other times as may be ordered by the said court"; and such persons may properly be released more than once on the same court order.

In Payne v. Superior Court, the California Supreme Court held that in certain circumstances an inmate should be released from prison to attend trials in civil matters. Facility administrators are authorized to grant temporary community releases to appropriate inmates to appear in civil matters when the following conditions are met:

- The inmate must be eligible for an escorted release to the community.
- The inmate must be willing to accept such release.
- An order must be obtained from the court in substantially the following form as stated in PC 2625. Such an order shall be to the following effect:

County of \_\_\_\_\_. The people of the State of California to the Warden of \_\_\_\_\_, An order having been made this day by me that \_\_\_\_\_ be produced in this court as a party in the case of \_\_\_\_\_, you are commanded to deliver into the custody of \_\_\_\_\_ for the purpose of \_\_\_\_\_ (recite purposes). Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

The order shall also require the sheriff to pick up and return the inmate within 72 hours.

State Supreme Court or Appellate Court orders must bear the seal of the court and certification by the clerk of said court.

**73040.7 Referrals to the AG's Office**

Any referrals that may require advice, review, or representation by the AG shall be forwarded to the Supervising Deputy, Criminal Law Section, of the appropriate office as indicated:

- Sacramento, Assistant AG:
  - Alpine.
  - Madera.
  - Shasta.
  - Amador.
  - Mariposa.
  - Sierra.
  - Butte.
  - Merced.
  - Siskiyou.
  - Calaveras.
  - Modoc.
  - Stanislaus.
  - Colusa.
  - Mono.
  - Sutter.
  - El Dorado.
  - Nevada.
  - Tehama.
  - Fresno.
  - Placer.
  - Trinity.
  - Glenn.
  - Plumas.
  - Tulare.
  - Kern.
  - Sacramento.
  - Tuolumne.
  - King.
  - San Joaquin.
  - Yolo.

- Lassen.
- San Luis Obispo.
- Yuba.
- San Francisco, Assistant AG:
  - Alameda.
  - Mendocino.
  - San Mateo.
  - Contra Costa.
  - Monterey.
  - Santa Clara.
  - Del Norte.
  - Napa.
  - Santa Cruz.
  - Humboldt.
  - San Benito.
  - Solano.
  - Lake.
  - San Francisco.
  - Sonoma.
  - Marin.
- Los Angeles, Assistant AG:
  - Los Angeles.
  - Santa Barbara.
  - Ventura.
- San Diego, Assistant AG:
  - Imperial.
  - Inyo.
  - Orange.
  - Riverside.
  - San Bernardino.
  - San Diego.

The letter shall contain a thorough explanation of the referral with copies of the documents questioned.

**73040.8 Suspension of Judgment**

An inmate may be released to the custody of the sheriff pending appeal on a court order granting a writ of supersedes or a stay of execution of judgment.

The inmate shall be released to the custody of the sheriff pursuant to PC 1245 and discharged from departmental records upon presentation of the Superior Court order granting a stay or a certificate specified in PC 1243.

**73040.9 Release on Bail**

All court orders for the release of an inmate on bail received from an individual other than a deputy sheriff, or bail bond orders received by mail, shall be confirmed before the inmate is released by contacting the clerk of the issuing court.

Court orders releasing an inmate on bail pending appeal serve as a suspension of judgment. The release shall not be recorded as a discharge on departmental records.

When an inmate is released on bail pending appeal, the CCRM shall contact the Superior Court of the committing county on a semiannual basis to determine the status of the case.

If a copy of an Appellate or Supreme Court opinion is received, which specifies that the judgment is reversed and is final, the CCRM shall discharge the case. CDC Form 112 posting shall reflect, "subject discharged by Appellate (Supreme) Court decision reversing judgment while free on bail."

If an inmate is returned to departmental custody subsequent to posting bail pending appeal, the period of time the inmate was released on bail shall be dead time on departmental records.

**73040.10 Removal Orders Under PC 1170(D)**

Upon receipt of a removal order pursuant to PC 1170(d), the inmate shall be discharged only if the removal order specifies that the judgment (commitment) is vacated or recalled.

When the removal order does not specify that the commitment is recalled, the CDC Form 112 shall be recorded as "OTC for further proceedings." The CCRM shall maintain contact with the courts and secure a copy of the court order that provides the final disposition of the case. A subsequent court order

placing the defendant on probation shall be recorded as a discharge on departmental records retroactively to the date the inmate was released to the custody of the sheriff.

#### **73040.11 Release on Habeas Corpus**

Inmates may be released from a facility for hearing on a Writ of Habeas Corpus.

An order granting a Writ of Habeas Corpus and ordering discharge from custody serves to release an inmate from custody.

The AG has 60 days to file an appeal; if not appealed, the inmate may be released at once on discharge.

In the event a release order is received, the CCRM shall contact the AG's Office to determine if an appeal is to be filed. If so, the AG will be requested to file immediately to stay the release order.

On State Supreme Court or Appellate Court orders for appearance at a referee hearing on a Writ of Habeas Corpus, the Warden is directed to produce the inmate.

Any order for the return of an inmate to the county of commitment resulting in the discharge of the inmate must be executed by the sheriff.

Departmental records shall reflect a "discharge" on the commitment effective the date the sheriff assumed custody.

#### **73040.12 Release Under PC 2625**

When an action is pending in a Superior Court in which an inmate's parental or marital rights are subject to adjudication, the Superior Court may issue an order for the production of the inmate as specified in PC 2625.

A copy of the order shall be transmitted to the Warden of the facility where the inmate is confined 48 hours before the order is to be executed. The order shall be executed by the sheriff of the county in which the order was issued.

An order for such a release must be signed by a Superior Court justice.

When a court order is received it is to be presented to the inmate by the appropriate facility personnel. If the court order includes a waiver section, the inmate must sign if they choose to waive their appearance. When an inmate refuses to sign but clearly indicates they are waiving their appearance, the facility personnel shall fill out the "Acknowledgement of Refusal to Appear" section of the court order. Two copies of the court order are made; one for retention in the inmate's C-File and one for the inmate. The original order shall be returned by mail or FAX to the court.

If the court order does not include a waiver section or if a notice of proceedings and request for removal for out-to-court are made by telephone and the inmate refuses to appear a CDC Form 1750, Waiver of Court Appearance Form, shall be completed. Case records staff shall mail or FAX the top copy of the completed CDC Form 1750 and court order, if provided, to the court. The second copy shall be filed in the inmate's C-File and the third copy forwarded to the inmate. A telephone call to the sheriff to advise the inmate has waived their appearance shall be made in those cases with close pick-up dates.

#### **73040.13 Municipal and Justice Court Appearance**

Inmates may be released by the order of a municipal or justice court to appear as a witness in a case that involves an offense which is triable only in a municipal or justice court.

An inmate may also properly be released under PC 1567 with a proper order from a municipal or justice court for further court action if they were previously tried for a misdemeanor but failed to appear for their probation/sentencing hearing.

#### **73040.14 Federal Writ Ad Prosequendum**

Federal Writ of Habeas Corpus Ad Prosequendum orders may recite a specific date plus "at such other times as may be ordered by the said court"; and such inmates may properly be released more than once on the same court order.

##### **73040.14.1 Federal Writ Ad Testificandum**

A federal Writ of Habeas Corpus Ad Testificandum directs the release of an inmate to the temporary custody of the U.S. Marshal to testify as a witness in a criminal matter, at a civil court proceeding, or non-judicial matter such as a legislative committee hearing.

- When a federal Writ of Habeas Corpus is received, the Writ shall be reviewed carefully, as it is at the discretion of the federal judge as to whether the U.S. Marshal shall provide any of the transportation. In some orders, the responsibility of the Department to transport may be only to jail, in others, it may be to the courthouse. The U.S. Marshal shall be responsible for the inmate while they are in the federal courthouse or local jail. If the judge does not exercise their discretion to order the transportation and costs shared, then the Department shall incur the total costs and responsibility of transporting.

#### **73040.14.2 Federal Writ Civil Case**

If a federal Writ of Habeas Corpus orders an inmate into court in a civil case, the Department shall transport the inmate to court, keeping a record of all costs incurred. The facility's business manager shall send a bill to the person who requested the inmate's appearance.

#### **73040.14.3 Federal Court Jurisdictions Validity of Orders**

The writ may be honored only when served on a facility within the issuing court's territorial jurisdiction directing the production of the inmate within that territorial jurisdiction.

When an order that extends outside the territorial jurisdiction of the issuing court is served, the matter shall be referred to the LAD for consultation with the Attorney General's staff prior to honoring the writ.

Federal court orders shall bear the seal of the court and certification by the clerk of the court.

#### **73040.14.4 Transportation and Release**

Inmates released to the custody of the U.S. Marshal or a Deputy Marshal are transported by the U.S. Marshal at no expense to the State.

The Department shall transport inmates in all federal civil rights cases.

Periodically the U.S. Marshal's office or a sheriff's office may request that an inmate be released without service of the court order to the releasing facility.

- These are normally in instances when a transporting agent is in the area of a facility but the court order is in the marshal's or sheriff's office some distance away.

Such releases are to be authorized by the Chief, Correctional Case Records Services. Telephone approval may be given after it has been ascertained that a valid court order does exist and shall be confirmed by FAX.

#### **73040.15 Witness in Out-of-State Criminal Cases**

An out-of-state release as a witness in a criminal case is authorized per PC 1324 through 1334.6.

- The out-of-state certificate or subpoena is delivered to the Superior Court in the county in which the offender's facility is located. The Superior Court may issue a release order per PC 2621 authorizing the offender's release to the local sheriff. The offender shall be returned to the facility with no expense to the State.

#### **73040.16 Trial on Criminal Charges in Other States**

The release of an inmate to an agent of another state for trial or pending criminal charges is authorized under the Interstate Agreement on Detainers, as specified in PC 1389.

Release of an inmate to an agent of another state for trial on pending criminal charges is authorized upon receipt of an executive agreement between the Governor of California and the Governor of the other state pursuant to PC 1549.

#### **73040.17 Follow-Up for OTC Inmates**

A tickler file shall be established and maintained for each inmate on OTC status.

The court shall be contacted at least every 60 days to ascertain the inmate's status. The information developed by the contact shall be recorded in the tickler file.

If the court orders the inmate released from custody while OTC, the necessary certified court documents shall be obtained immediately.

Upon receipt of these documents, appropriate entries shall be made on the Offender Basic Information Service, the CDC Form 112, and CDC Form 144, Control Card.

If an inmate is returned from OTC, case records staff shall contact the court as necessary, ascertain case disposition, and obtain required certified documents.

The inmate's tickler file shall be purged after completion of the OTC status.

#### **73040.18 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **73040.19 References**

PC §§ 654, 1170(d), 1243, 1245, 1262, 1324 - 1334.6, 1382, 1389, 1549, 2620, 2621, and 2625.

Payne v. Superior Court.

DOM § 71020.

**ARTICLE 14 — RELEASING AUTHORITIES***Revised February 23, 1995***74010.1 Policy**

The Department shall cooperate and communicate with, and provide necessary services to the BPT (BPT, Board) and the NAEA .

**74010.2 Purpose**

This section sets forth the responsibilities of the BPT and NAEA and the procedures for communication to and from the boards.

**74010.3 Authority - BPT**

The BPT consists of nine commissioners appointed by the Governor, with advice and consent of the Senate.

By statute and practice there is a cooperative relationship between The Director and the BPT. Each is empowered to advise and make recommendations to the other on specific policies and procedures relating to the duties of the other.

**BPT Functions**

The function of the BPT consists of term decisions, parole releases, parole supervision, (delegated to the Department) parole revocation, and executive clemency.

**Deputy Commissioner Functions**

The BPT employs deputy commissioners, to whom it assigns appropriate functions not restricted by law; only to commissioners of the BPT.

Such functions include but are not limited to:

- Determine PC 1170.2(a) sentence for ISL prisoners;
- Conducting the initial disparate sentence review screening;
- Conducting documentation hearings and making recommendations;
- Requesting that a life, non-life PC 1168 or ISL prisoner be transferred for diagnosis and treatment;
- Reviewing the Department's denial of time credits;
- Waiving parole and reconsidering the length and conditions of parole;
- Suspending parole;
- Conducting rescission hearing on life prisoner, revocation and revocation extension hearings [CCR (15)(2)].

**74010.4 NAEA****Functions**

The NAEA consists of seven members appointed by the Governor, with advice and consent of the Senate.

The NAEA is responsible for granting release of residents, establishing conditions and terms of release and returning the releasees from outpatient status/parole.

**74010.5 Policy**

Wardens and designated staff within institutions or Headquarters shall communicate with the BPT or the NAEA about problems or scheduling as they affect areas of operations or institutions.

**74010.6 Correspondence Addressed to BPT/NAEA**

Letters requesting information and addressed to BPT in an institution shall be answered using the BPT letterhead and shall include the signature line of the board; countersigned by the C&PR of the institution, followed by the name, address, and telephone number of the institution.

Letters addressed to the NAEA shall be forwarded to the Administrative Officer of the Board for response.

Correspondence received at an institution regarding term-fixing and/or parole granting functions of the Board, which is addressed to other than the Board officials, shall be referred to the C&PR for reply.

Communications received by the BPT concerning parolees are screened by the Executive Officer of the Board. The Executive Officer shall be responsible for the response.

Correspondence pertaining to inmates in reception centers and addressed to the BPT shall be answered over the signature of the AW in charge of the reception center.

The appropriate Board letterhead shall be used for such correspondence if the request for information concerns a board's action or function. The name, address, and public telephone number of the institution where the reception center is located shall follow the signature.

All correspondence addressed to institutions which concerns policies and overall functions of a paroling board shall be referred to the appropriate board's headquarters office for reply.

**74010.7 BPT Rules**

The rules and policies of the BPT are contained in the CCR (15) (2).

To ensure that the inmate population has knowledge of the rules and regulations of the Board, responsibility for the receipt, storage, accountability and distribution is assigned to the institution's C&PR.

All inquiries relating to the BPT rules shall be made through the designated C&PR to the Chief Deputy Commissioner or to the Chief Legal Counsel, BPT.

Prior to the bulk shipment of the board rules the legal counsel of the BPT shall send a notice to the designated C&PR advising of the pending arrival.

Assigned staff shall provide prompt distribution of notices of intent, to change the rules, hold public hearings, etc.

A copy of current BPT rules and any revision thereto shall be sent to the inmate law library or libraries for inmate review.

Parole Regional Administrators shall distribute the Board rules to staff and parolees of their respective region.

**74010.8 NAEA Rules**

The rules and policies of the NAEA are found in the CCR (15) (5).

In addition, the NAEA prepares Administrative Directives that govern NAEA policy. These directives are published from time to time as policy changes.

The distribution of NAEA rules is made by the administrative office of the NAEA.

Inquiries concerning NAEA rules should be directed to the administrative office of the NAEA.

**74010.9 BPT/NAEA Rules Proposed Changes**

Notice of proposed changes in the rules of the BPT or the NAEA shall be submitted to the Board liaison person in Headquarters for review and dissemination to affected institutions and parole regions on policy matters.

Wardens and RPAs shall submit their responses to such proposed changes to the Director through the appropriate Deputy Director.

After review at the Deputy Director's level, and with any significant comment or suggestions, the administrator's response(s) shall then be referred to the Headquarters staff member designated as the Department's liaison officer for the Board.

The liaison officer shall prepare a letter requesting changes or modification of proposed rules, directed to the Board chairman, for the Director's signature.

A copy of the Director's letter shall be routed to the Regulation and Policy Management Section. Headquarters staff who receive notices of proposed changes in the rules of a paroling board are expected to review the proposal(s) and submit any comments to the liaison officer for consideration.

Nothing in this section is intended to prevent any employee of the Department from submitting their personal comments, suggestions, or arguments directly to the BPT or NAEA in response to the Board's public notice of intent to change its rules.

**74010.10 Executive Officer BPT/ Administrative Officer NAEA**

The BPT Executive Officer is the official custodian of records relating to the BPT and as such is empowered under statutory provisions to attest and certify all actions and documents.

The NAEA Administrative Officer is the official custodian of records relating to the NAEA.

**74010.11 Institutional Recording/General Considerations**

Institutional recording is a continuance of the reception center study and provides additional information for management and evaluation of each inmate.

Setting of release dates and the length of time an offender may serve can be influenced by institutional reports when an individual has been received under the ISL or the Determinate Sentence Law (DSL). Staff shall ensure that the information reported is accurate and that only relevant facts are reported.

Reports shall be objective and unemotional.

**74010.12 Objectives of Institutional Recordings**

There are three main objectives for institutional recordings:

- To present a summarized statement of essential information indicating adjustments and accomplishments which can be used to make classification and management decisions.
- To provide the BPT with information needed for release and other BPT decisions.
- To provide information required for prerelease and release processes.

The reports prepared by the institution become a permanent part of the Cumulative Case Summary.

**74010.13 Revisions**

The Deputy Director, Institutions Division, or designee shall ensure that the contents of this section are current and accurate.

**74010.14 References**

CCR (15) (2).

CCR (15) (5).

**ARTICLE 15 — UNASSIGNED****ARTICLE 16 — SCHEDULING APPEARANCES**

*Effective October 2, 1989*

**74030.1 Policy**

BPT hearings shall be scheduled pursuant to BPT regulations.

**74030.2 Purpose**

This section sets forth procedures for scheduling hearings as mandated by the BPT.

**74030.3 Individual Case Decisions**

The Chairperson of the BPT shall assign commissioners or deputy commissioners to make individual case decisions. A hearing panel is comprised of one or more (usually three) of these members.

**74030.4 Institution Hearing Decisions**

The BPT will make individual case decisions affecting release or parole and postponement or rescission of parole release dates at hearings conducted at the institutions. The Board may also hold hearings on Department denial of good time/work time credit (BPT Rule 2120).

Other matters which do not require a hearing, including reviewing the case of an inmate who does not participate in a program recommended by the BPT, shall be placed on the Miscellaneous Proceedings Calendar for review by the BPT when a panel convenes for a regularly scheduled hearings at an institution.

**74030.5 BPT Headquarters Decisions**

Individual case decisions regarding disparate sentence review and review of inmate or parolee behavior to determine the need to order the scheduling of postponement, rescission, revocation or revocation extension hearings, shall be made by the BPT at the Headquarters Calendar.

**74030.6 Community Decisions**

Individual case decisions regarding revocation of parole shall be made by the BPT at hearings normally conducted in the community near where the alleged violation occurred.

**74030.7 Official Decisions Individual Cases**

If two of the three BPT members on a life parole consideration hearing panel agree to grant or deny a parole date that is "a proposed decision".

Any proposed decision setting or denying a parole date for a life prisoner shall become effective 60 days after the decision unless the provisions of BPT Rule 2041 occur (BPT 2043).

All other decisions shall become effective 15 days after signed by the panel member(s) making the decision unless the order states a different effective date for the decision (BPT 2043).

**74030.8 En Banc Meeting of the Board**

When one member on a hearing panel dissents from a decision setting or denying a parole date, at the time of the decision, that the full BPT meet to consider the case.

Such a request shall be reviewed by the full Board within 45 days of the hearing at which the dissenting decision occurred.

The case shall be referred to the Executive Officer or Chief Deputy Commissioner of the BPT for any preparation that is necessary prior to the En Banc meeting (BPT 2044).

The majority opinion at the En Banc meeting will determine whether the original decision remains in effect. If the full BPT disagrees with the hearing panel's majority opinion, they shall order a new hearing, the result of which will become the decision in the case.

**74030.9 Decision Review Committee**

The BPT decision review committee is composed of three commissioners designated by the Chairperson or Vice-Chairperson.

The committee shall review cases to assure complete, accurate, consistent and uniform decisions.

The review committee is authorized to order a new hearing or to make any decision that does not require a hearing (BPT 2042).

**74030.10 Initial Parole Hearing**

At an initial parole consideration hearing an inmate shall be considered for parole for the first time.

The hearing panel shall first determine whether the inmate is suitable for parole.

If the inmate is found unsuitable, parole shall be denied, and a written statement of the specific factual reasons for the denial shall be given to the inmate.

The hearing panel may recommend to the inmate certain steps that may be undertaken to enhance the possibility of a grant of parole at a future hearing.

If an inmate is found suitable for parole, a tentative parole date shall be set.

**74030.10.1 Initial Parole Hearing - ISL Cases**

The Initial Parole Consideration Hearing for a non-life ISL case shall be scheduled pursuant to BPT 2304 as follows:

- Within 120 days of reception if the Minimum Eligible Parole Date (MEPD) is within 120 days.
- One month prior to the MEPD if the MEPD is more than 120 days after reception.

The Initial Parole Consideration Hearing for non-life PC 1168 inmates shall be no later than 60 days after reception (BPT 2271). These hearings are conducted by a panel consisting of two deputy commissioners.

**74030.10.2 Initial Parole Hearing - Life Cases**

The Initial Parole Consideration Hearing for life cases shall be held during the 13th month prior to the prisoner's MEPD.

- The MEPD for inmates with 15- and 25-to-life terms may change depending on credit earned or lost.

Any changes in an inmate's MEPD, which occur within six months of the scheduled hearing date, shall not change the scheduled hearing date.

**74030.11 Subsequent Parole Hearings**

An inmate who was previously denied parole shall be reconsidered for parole in the same manner as at the Initial Parole Hearing. The hearing panel shall consider the information developed since the last hearing.

This hearing shall be scheduled as provided by PC 3041.5 and may be 12, 24, or 36 months after the most recent hearing as determined by the BPT.

If the inmate has a confirmed Determinate Sentencing Law (DSL) release date within 60 days of a scheduled Indeterminate Sentencing Law (ISL) hearing, the parole hearing shall be cancelled and the inmate will be released on the DSL date.

**74030.12 Progress Hearings Non-Life Cases**

Following any parole consideration hearing at which parole has been granted, progress hearings will be scheduled.

- During the fourth month prior to the parole date if parole date is between 10 and 14 months from the date of the last parole consideration hearing.
- On the twelfth month after the hearing at which a parole date was set if the parole date is 15 months or more from the date of the last parole consideration hearing.
- Any time department staff feels an earlier parole date would be appropriate. Staff shall refer the case to the C&PR to place the case on the institutional Miscellaneous Proceeding Calendar with documentation of the reasons for requesting the progress hearing. The Board may deny the department request or may order a Progress Hearing scheduled.

If the parole date is within 9 months from the date of the last parole consideration hearing, no progress hearing shall be scheduled.

A Progress Hearing shall not be scheduled for an inmate with an ISL parole date which is later than a confirmed DSL date if the maximum advancement that could be granted at the progress hearing (four months per year) plus a 60-day advancement would not result in advancing the ISL parole date to a date earlier than the DSL date (BPT 2305).

**74030.12.1 Progress Hearings - Life Cases**

Following any parole consideration hearing, on a life case, at which parole has been granted:

- If the parole date is less than 10 months from the date of the last parole consideration hearing, no Progress Hearing shall be scheduled.
- If the parole date is between 10 and 14 months from the date of the last parole consideration hearing, a Progress Hearing shall be scheduled during the sixth month after the parole hearing.

- If the parole date is between 14 and 18 months from the date of the last parole consideration hearing, a Progress Hearing shall be scheduled during the ninth month after the parole consideration hearing.
- If the parole date is between 18 and 26 months from the date of the last parole consideration hearing, a Progress Hearing shall be scheduled during the twelfth month after the parole consideration hearing.
- If the parole date is between 26 and 34 months from the date of the last parole consideration hearing, a Progress Hearing shall be scheduled during the eighteenth month after the parole consideration hearing.
- If the parole date is between 34 and 50 months from the date of the last parole consideration hearing, a Progress Hearing shall be scheduled during the twenty-fourth month after the parole consideration hearing.
- If the parole date is 50 months or more from the date of the last parole consideration hearing, a Progress Hearing shall be scheduled during the thirty-sixth month after the parole consideration hearing.

Any time department or board staff believes an earlier parole date would be appropriate the case may be placed on the Miscellaneous Proceedings Calendar with documentation of the reasons for requesting a Progress Hearing. The Board may deny the request or order a Progress Hearing scheduled (BPT 2269).

#### **74030.13 Initial/Subsequent Hearings New Criminal or Disciplinary Charges - Life Cases**

A life inmate with new criminal or disciplinary charges pending prior to an Initial or Subsequent Parole Hearing shall be scheduled for that hearing. If it is determined during the course of the hearing that a decision cannot be made because of the pending charges, the hearing panel shall discontinue the hearing (BPT 2272).

Department staff shall then place the case on the Miscellaneous Proceedings Calendar every 90 days from the date of the originally scheduled hearing and include a report of the status on the case. Following conclusion of the criminal or disciplinary charges, the case shall be scheduled for the next regular calendar.

##### **74030.13.1 Non-Life Cases**

A non-life or PC 1168 inmate with new criminal or disciplinary charges pending immediately prior to a scheduled hearing shall be removed from the calendar (BPT 2307).

Department staff shall place the case on the Miscellaneous Proceeding Calendar every 90 days from the date of the originally scheduled hearing and include a report of the status on the case.

Following conclusion of the criminal or disciplinary charges, the case shall be scheduled for the next regular calendar.

#### **74030.14 Progress Hearings New Criminal or Disciplinary Charges**

Staff shall postpone the Progress Hearing of any inmate who has new criminal or serious disciplinary charges pending immediately prior to a regularly scheduled hearing.

Department staff shall place the case on the Miscellaneous Proceedings Calendar every 90 days from the date of the originally scheduled hearing and include a report of the status of the case.

Following conclusion of the criminal or disciplinary charges, the case shall be scheduled for the next regular calendar.

#### **74030.15 Hearings For Prisoners With Changes in Legal Status**

Changes in legal status include:

- A final court decision altering the inmate's commitment status.
- Modification of the judgment or Abstract of Judgement.
- New commitments.

Before an Initial ISL Parole Hearings, if an inmate's legal status changes, the change in legal status shall be considered at the initial parole hearing as regularly scheduled after considering the change in legal status.

If an inmate's legal status changes after an Initial ISL Parole Hearing, staff shall immediately schedule the prisoner for a progress or subsequent ISL parole hearing as appropriate.

#### **74030.16 Postponement or Rescission of Release**

The ISL parole date of an Indeterminate Sentence Law inmate or the parole date of a life or non-life PC 1168 inmate may be postponed or rescinded for good cause at a rescission hearing.

Rescission proceedings refer to any proceedings that may result in the postponement or rescission of a release date.

The C&PR shall report to the BPT Headquarters Calendar, any conduct that may result in rescission proceedings. The BPT shall determine whether to initiate rescission proceedings.

Conduct that must be reported to the BPT includes:

- Assault with a weapon.
- Escape.
- Physically assaultive Behavior.
- Possession of a weapon without permission.
- Possession of controlled substances without a prescription.
- Attempt to escape.
- Urging others by words or acts, with the intent to cause a riot, at a time and place under circumstances which produce and present an immediate danger of a riot which results in acts of force or violence.
- Active participation in a riot that results in acts of force or violence.
- Intentional destruction of state property valued in excess of \$50.00.
- Falsification of a significant record or document.
- Possession of escape tools without permission.
- Manufacture or sale of intoxicants.
- Unauthorized possession or use of alcoholic beverages or any substance which, when inhaled, ingested or breathed, can cause a person to be under the influence of or intoxicated from such substance.
- Urging others by words or acts, with the intent to precipitate a riot, at a time and place under circumstances which present a clear and present and immediate danger of a riot.
- Any inmate whose mental state deteriorates to the point that there is a substantial likelihood that the inmate would pose a danger to himself or others when released and who is within 90 days of release.
- Any new information which indicates that parole should not occur.
- An inability to meet a special condition of parole, such as failure of another state to approve an interstate parole.
- Information significant to original grant of parole was fraudulently withheld from the Board.
- Fundamental errors occurred resulting in the improvident granting of a parole date.

If an inmate with a previously established parole date (life, ISL, non-life PC 1168) receives a new commitment to state prison, the parole date shall be rescinded; no hearing or other BPT action is required.

The inmate may appeal the rescission only on the grounds that he/she is not the person sentenced to state prison by the new judgment.

The CCRM, when processing the new commitment, shall post an entry onto the CDC Form 112, Chronological History Page, indicating the parole date has been rescinded.

The CDC Form 112 posting shall read:

"(Indicate date of posting) Parole date of (indicate date of parole) rescinded per BPT Rule (indicate applicable BPT Rule number)".

- BPT Rule 2273 will be cited in the case of life prisoners; and
- BPT Rule 2308 for ISL and non-life PC 1168 prisoners.

The inmate shall be scheduled for a new Parole Consideration Hearing.

- If the new commitment is for a determinate term, the Parole Consideration Hearing shall be conducted within 60 days of receipt of the new commitment.

#### **74030.17 Procedures For Reporting Disciplinary Behavior To BPT**

The C&PR shall report serious disciplinary behavior to the BPT Headquarters Calendar, for any life, non-life PC 1168 or ISL inmate, pursuant to BPT 2451.

All cases shall be reported to the BPT prior to the inmate's scheduled parole date.

- If a case has not been referred to the DA for prosecution, the case shall be reported within 15 days.

If the case has been referred to the DA for prosecution, the case shall not be reported to the BPT until:

- Within 15 days after the DA has refused to prosecute; or
- Within 15 days after the criminal prosecution has terminated; or
- The prisoner is within 60 days of his/her parole date.

The BPT, Headquarters Calendar, shall either note the report and take no action or shall order the matter scheduled for rescission proceedings.

The date and title of any reports relied on in making the decision shall be noted.

The decision shall be documented by the BPT, Headquarters Calendar, and a copy shall be sent to the institution.

**74030.18 Pre-Rescission Hearing**

If the inmate is scheduled to be released within 20 days, a criminal prosecution is pending, and the criminal prosecution will not terminate before the scheduled release date, department staff shall schedule a Pre-rescission Hearing. The inmate may waive the Pre-rescission Hearing.

An inmate who has had or has waived a Pre-rescission Hearing on any one charge that alone is sufficiently serious to postpone or rescind the release date is not entitled to a Pre-rescission Hearing on any other charges.

Pre-rescission Hearings should occur before the scheduled release date. Any delay beyond the scheduled release date must be authorized by the BPT, normally at the Headquarters Calendar.

**74030.19 Scheduling Rescission Hearing**

If no criminal prosecution is pending, the inmate shall be scheduled for a Rescission Hearing prior to the parole date or within 60 days of the incident or discovery of the information.

When a criminal prosecution is pending, a Rescission Hearing shall be scheduled within 60 days of the termination of the criminal prosecution.

The C&PR shall notify the BPT Headquarters Calendar anytime an inmate submits a written demand for a rescission hearing.

The BPT may order a hearing as appropriate.

The decision to order, or not to order, a hearing scheduled shall be documented and reported to the institution.

Each case shall be referred to the institutional hearing coordinator, with appropriate reports, who shall telephone the Headquarters Calendar to secure appropriate actions.

Such actions shall be recorded on a BPT form and forwarded immediately to the institution. All normal postings, duplicating and distribution shall be handled by the case records office staff.

**74030.20 Extended Term Hearings PC 1170.2(B)**

CCRM shall identify and recalculate an ISL term as if sentenced under the DSL. The case shall then be referred to the BPT Headquarters for determination of whether the case should be scheduled for an Extended Term Hearing.

Extended Term Hearings shall be heard within 120 days of reception by the department or the date the department received a new or amended abstract, or any court order which modifies the original commitment.

**74030.21 Parole Hearing For Cases With ISL and DSL Terms**

An inmate serving concurrent ISL and DSL terms shall be scheduled for an ISL parole consideration only if the minimum recalculated DSL release date on the ISL term is:

- Later than the release date on the DSL term, and earliest eligible release date (EERD). (See BPT 2310.)
- More than 60 days later than the MEPD on the ISL term.

An inmate serving consecutive ISL and DSL terms shall be scheduled for an ISL Parole Consideration Hearing only if the minimum DSL release date on the combined recalculated ISL and DSL term is:

- Later than the release date on the DSL term considered alone [as if it were concurrent (CC)], and
- More than 60 days later than the earliest eligible parole date computed by adding the ISL MEPD and the minimum DSL release date on the DSL term standing alone.

**74030.22 Previously Calculated Retroactive Term**

All legal status changes that might require a recomputation of a previously calculated retroactive term under PC 1170.2(a) or 1170.2(b)) shall be referred to a BPT panel for review and disposition.

Changes to retroactive PC 1170.2(a) or (b) terms include:

- Change in the base term for the base offense used in the calculation.
- Change in the enhancements on the principle offense used.
- Changes in consecutive (CS) offense or their enhancements used in the calculations.
- Additional commitments whether CC or CS.

Changes that do not affect retroactive term include:

- Certification or changes in PC 2900.5 credit or other such credit.
- Changes in CC terms which are not part of the previously approved PC 1170.2(a) recalculated term.

The legal status changes which may affect the term shall be set forth in the "facts" section of BPT Form 1135, Miscellaneous Decision.

The Recommendation Section shall contain the recommended action.

The BPT Form 1135 and related material shall be presented to a BPT panel for consideration and action.

The determination made by the hearing panel shall be recomputed by case records staff using a BPT Form 1094, Serious Offender Decision Face Sheet.

The Miscellaneous Section of the Face Sheet shall be used by case records staff to explain the method of computation. Full distribution of the computation must be completed. BPT Forms 1094 and 1135 shall be stapled together and filed in the Permanent Addenda.

**74030.23 Life Without Possibility of Parole**

All inmate's serving sentences of life without possibility of parole (LWO) shall be scheduled for BPT "review" 30 years after reception by the Department and every fifth year thereafter (BPT 2817).

**74030.24 Lifer Documentation Hearings**

Cases with 25-life or 15-life terms: During the 36th month following receipt in the Department, without regard for pre-prison credit.

Cases with 25-life or 15-life terms consecutive to enhancements and/or a DSL term: During the 36th month after commencement of the life term. In those cases in which the pre-prison credit exceeds the terms for the enhancement and/or the DSL term, the Documentation Hearing will be scheduled as above (BPT 2269.1).

Inmates committed as habitual offenders under PC 667.7 shall be scheduled for Documentation Hearings in accordance with BPT 2269.1. The initial Documentation Hearing shall be held during the 36th month after the life term begins.

Subsequent Documentation Hearings shall be held at three-year intervals until the Initial Parole Consideration Hearing.

If the latest Documentation Hearing falls within one year of the scheduled Initial Parole Consideration Hearing, then the Documentation Hearing shall not be required. This may in some cases require the Initial Parole Consideration Hearing panel to consider a four-year in-prison conduct review instead of the normal three-year span of time for Documentation Hearing reviews.

**74030.25 Community Revocation Hearings**

Revocation Hearings are normally held in the community near where the alleged violation occurred, except in the case of institutions operating Parole Violator processing units, unless the parolee has been transferred to an institution for custodial reasons or because of county jail overcrowding.

**74030.25.1 Revocation Procedures**

Revocation Hearings shall be held within court mandated time frames from date of arrest or date of hold. Pre-revocation Hearings may be held as provided in BPT 2646.

Upon receipt of the violation report, case records staff shall determine if the case must be forwarded to the Revocation Screening Calendar.

**74030.25.2 Waiver of Revocation Hearing**

Parolees, except those scheduled for psychiatric attention and return, are permitted to waive the Revocation Hearing.

**74030.25.3 Unconditional Waiver of Revocation Hearing**

An Unconditional Waiver includes a waiver of any right to a personal appearance before the BPT to contest the charges against the parolee but shall not be an admission of guilt. The parolee shall not later request a hearing, but may appeal the amount of time assessed by the BPT.

**74030.25.4 Optional Waiver of Revocation Hearing**

*Revised December 24, 1992*

A parolee who is undergoing criminal prosecution may conditionally waive the Revocation Hearing, but retains the option to later request a hearing.

Upon receipt of a signed Optional Waiver, the BPT shall determine whether there is good cause to revoke parole. This determination shall be made without a hearing or personal appearance by the parolee.

If the BPT orders parole revoked and the parolee returned to custody, the parolee then may request a Revocation Hearing following adjudication of criminal charges.

A hearing request shall be submitted no later than two months before expiration of the revocation period.

**74030.25.5 Post Revocation Hearing Procedures**

*Revised December 24, 1992*

Upon receipt of the BPT Form 1103, case records staff shall review the action including eligibility/ineligibility to earn applicable credit for accuracy and post it to CDC Form 112.

The Revocation Release Date (RRD), Projected Release Date (PRRD), Discharge Review Date (DRD), Controlling Discharge Date (CDD), and the

Projected Controlling Discharge Date (PCDD) shall be computed and posted to the CDC Form 112, BPT Form 1103, and the CDC Form 144.

One copy of the BPT Form 1103 and one copy of the first page of the BPT Form 1103 shall be sent to the Parole Agent. The Parole Agent shall provide a copy of the first page of the BPT Form 1103 to the affected parolee.

One copy of the BPT Form 1103 and a copy of the violation report shall be sent to research. The canary copy of the BPT Form 1103 shall be sent to the BPT.

Once any action is taken by the BPT, case records staff shall post the action to the CDC Form 112. The PRRD, RRD, DRD, and the CDD shall be computed and posted to the CDC Form 112, the BPT Form 1104, and the CDC Form 144.

Two copies of the BPT Form 1104 shall be sent to the Parole Agent, one copy of the BPT Form 1104 shall be sent to the BPT, and one copy of the BPT Form 1104 and one copy of the violation report shall be sent to research.

#### **74030.25.6 Revocation Screening Calendar**

*Revised December 24, 1992*

If the BPT takes action to schedule the matter for revocation, post the action to the CDC Form 112 and wait for the revocation results (BPT Form 1103).

If the BPT revokes parole for a specified amount of time, hold the BPT Form 1104 until a signed Unconditional Waiver is received.

Upon receipt of the BPT Form 1101 and if parolee accepts offer, then post the action to the CDC Form 112.

Compute the RRD, PRRD, DRD, PCDD, and the CDD and post to the CDC Form 112, BPT Form 1104, and CDC Form 144.

If parolee rejects the offer, post the date of the rejection and the schedule for revocation proceedings on the CDC Form 112.

Dates shall be recomputed upon receipt of the BPT Form 1103.

#### **74030.26 The Call Sheet**

*Revised December 24, 1992*

Approximately three days prior to the scheduled meeting of the BPT, a final Call Sheet shall be prepared showing the order of calendar appearance of each inmate.

Distribution shall be as follows:

- Original to AW, Custody.
- Balance as required by local procedures.

The Call Sheet, listing the order of calendar appearance, psychiatric referral cases, caseload identification, and other related data is used as an administrative tool by both the BPT and facility staff.

#### **74030.27 Removal of Cases From Calendar**

*Revised December 24, 1992*

If a calendared case does not appear as scheduled due to an emergency transfer, hospitalization, refusal to appear, etc., the name shall be lined out on the panel's copy and the reason for the nonappearance listed.

In such cases, the Cumulative Case Summary shall be removed to preclude its unnecessary review by the panel.

However, if an "absentia determination" is to be made, the Cumulative Case Summary will be left for that purpose. (Specific information pertaining to the case may be obtained from the C-File if required.)

#### **74030.28 Absence of Inmate at Hearing**

The C&PR shall inform the officers handling the BPT line to inform the panel whenever an inmate may not be able to appear in regular calendar order.

This notification shall be given to the panel at least one case in advance of the absent inmate's scheduled appearance in order to prevent an unnecessary review of the case.

#### **74030.29 Inmate Refusal to Appear For Hearing**

*Revised December 24, 1992*

In all cases where an inmate refuses to appear on a BPT Calendar, a CDC Form 110--A, Waiver of Release Consideration, shall be prepared. Whether or not signed by the inmate, this form shall provide the inmate's stated refusal to appear and the reason if known.

If signed by a staff member, it shall denote the fact that the inmate has been contacted in person and has refused to appear, stating the reason if known.

This form shall be presented to the BPT panel before any determination is made and shall be subsequently filed in the inmate's C-File.

#### **74030.30 Revisions**

*Revised December 24, 1992*

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **74030.31 References**

*Revised December 24, 1992*

PC §§ 1170.2 and 3041.

CCR (15) (2).

### **ARTICLE 17 — PREPARATION OF CALENDARS**

*Revised March 29, 2006*

*Updated November 18, 2008*

#### **74040.1 Policy**

Department records shall be made available to the Board of Parole Hearings (BPH) at such times and in such form as the BPH may prescribe.

#### **74040.2 Purpose**

This Section sets forth procedures for scheduling, case preparation, and processing of cases for BPH hearings.

#### **74040.3 Preparation**

Preparation of a hearing calendar begins months in advance of the hearings. The processes shall be completed within the specified time frames.

##### **74040.3.1 90-to-120 Days before Month of Hearing**

A tentative computer listing shall be furnished to facilities by the BPH of life prisoners who should be scheduled for a hearing during a two-month period.

- The BPH shall continue to provide new and updated printouts every two months.

Facility staff shall review the listings and advise the BPH of the names and departmental identification numbers (CDC numbers) of prisoners who are:

- Entitled to a hearing during the period, but not included on the list.
- In need of rescheduling from previous months.
- On the list, but facility records reflect the inmate should not be scheduled.
- Ordered by the BPH to have an extended term hearing.

##### **74040.3.2 90 Days Prior to Hearing**

Prepare a tentative BPH calendar of those persons scheduled for hearings. The calendar shall include:

- Inmate's name.
- CDC number.
- Type of hearing.
- Psychiatric report designation (when appropriate).

The tentative calendar shall be widely distributed throughout the facility.

The C&PR's copy of the calendar shall contain the following information:

- County of commitment.
- Minimum Eligible Parole Date (MEPD).

A request for preparation of the appropriate report to the BPH shall be sent to the caseworker of each inmate.

##### **74040.3.3 30-to-60 Days Prior to Hearing**

The Correctional Counselor shall interview the life term inmate prior to the hearing and shall:

- Prepare a BPH report.
- Advise the inmate of hearing rights.
- Advise the inmate of the right to request an attorney. The BPH shall appoint an attorney if the inmate is indigent.
- Advise the inmate of their right to waive a hearing or ask for a continuance.

For life term cases, records staff shall prepare a BPT Form 1002, Life Prisoner: Parole Consideration Hearing Notice, and send an original and one copy for the inmate's signature.

The caseworker shall verify the trust fund balance to determine if the inmate is indigent or able to pay for an attorney. (See BPH Rule 2256.)

If the inmate declines representation, the inmate shall complete a BPT Form 1003, Life Prisoner: Waiver of Attorney or Withdrawal of Request.

If the inmate has a private attorney or had a private or State-appointed attorney at the previous hearing, the caseworker shall verify the attorney's availability for the hearing.

#### **74040.3.4 45 Days Prior to the Hearing**

The C&PR or designee shall prepare and transmit a FAX, or mail a copy of the calendar to the BPH scheduling unit containing the following information:

- Inmate's full name.
- CDC number.
- Attorney designation.
- Attorney's name and telephone number.
- Previous attorney (if applicable).
- County of commitment.

Hearings shall be scheduled according to the proximity of the counties from which the inmate has been sentenced.

- Schedule inmates from the same county in succession. This shall accommodate the DAs who plan to attend.

#### **Restrictions**

The following restrictions shall be considered:

- Microfiche cases shall not be scheduled on Mondays or Fridays.
- The Executive Officer or Chairman shall approve the scheduling of three subsequent hearings in one day.
- If three hearings are scheduled, ensure that none are microfiche cases.
- No more than one initial, rescission, or extended term hearing or any combination of the three shall be scheduled in one day.
- Normal starting times for hearings are as follows:
  - 9:00 a.m. and 2:00 p.m. (two hearings).
  - 8:30 a.m., 10:45 a.m., and 2:30 p.m. (three hearings).

The inmate shall be given copies of BPT Forms 1002, 1003, if applicable, and 1080, Notice of Date, Time, and Place of Hearing.

- Records staff shall make five photocopies of each form to be included in hearing packets.

Crime partner information shall be photocopied and placed in the miscellaneous section of each packet.

#### **74040.3.5 35 Days Prior to Hearing**

*Revised September 25, 2007*

Pull the C-File and prepare PC 3042 and 3043 notices. Mail notices to the following persons prior to any parole consideration or rescission hearing on a life prisoner:

- The judge who presided at the trial and conviction of the inmate.
  - Complete BPT Form 1087-A, Notice of Hearing – Judge (If the judge is retired, deceased, etc., send the notice to the presiding judge of the committing county.)
- The DA's office which prosecuted the case.
  - Complete BPT Form 1087-B, Notice of Hearing – DA, and mail to the DA of the county of commitment.
  - Fill in the exact date and time of the hearing in the space provided should the DA wish to attend.
- The law enforcement agency which investigated the offense.
  - Complete BPT Form 1087-C, Notice of Hearing. Include the location of the offense on the form.
- The attorney who defended the inmate at the time of trial.
  - Complete BPT Form 1087-C.
- The AG's Office.
  - Complete BPT Form 1087-C. Include the county case number and victim(s) name. Indicate any change of venue cases.
- The law enforcement agency which employed the murder victim if the victim was a peace officer.
  - Complete BPT Form 1087-C.
- Victim, next of kin, immediate family member as defined in Section 3000 of the Title 15, support person, or counsel who has requested notice and has provided a current address. (Does not apply to rescission hearing.)
  - Complete BPT Form 1087-D, Victims Notice of Hearing.
- BPT Form 1006, Advance Information Sheet, shall be attached and sent with the BPT Form 1087-D.

#### **BPH and C&PR Responsibilities**

- The BPH shall notify the Office of Victim and Survivor Rights and Services (OVSS) of the authorization for the victim next of kin, immediate family member as defined in Section 3000 of the Title 15, support person, or counsel to attend the hearing.
- The OVSS shall notify the respective C&PR of the authorization and provide the necessary information to process a clearance for the scheduled attendee.
- Upon notification, the C&PR shall initiate a gate clearance per institution/facility procedures.
- A scheduled attendee shall only be excluded from attending a hearing based upon the criteria established in Title 15, Section 3176.3.
- The Warden/Designee shall immediately notify the Director, Division of Adult Operations, whenever a determination is made to exclude a scheduled attendee.
- Should a scheduled attendee be denied access, the Victim Services Representative (VSR) shall make personal contact and provide an explanation as to the denial. The VSR shall also provide a written notice to the denied attendee detailing the reasons for denial and the process for appealing the denial.
- The C&PR shall be designated as the institution/facility's VSR, with the Assistant C&PR as the back-up to the VSR. The Warden may identify additional staff to act as a designee for the VSR.

#### **Reports**

Psychiatric reports from the medical department and board reports from the caseworker are due for completion.

- C&PR is to be advised of any board reports not completed.
  - Photocopy six copies, one of each to the inmate and one in each of the five hearing packets.
- Schedule a C-File review upon the request of the inmate's attorney.
  - Schedule the inmate to review their C-File prior to the attorney review if requested.
- If the inmate waived the right to an attorney, the caseworker shall arrange a C-File review upon request of the inmate.
- Remove confidential folder from the C-File and check contents.
  - Complete CDC Form 819, Personal Information Disclosure Log.
  - Place a copy of the form in the confidential section of the C-File.
  - Original to the C-File.
- Records staff shall review all hearing packets for completeness.
  - Forward one packet each to the DA and the inmate's attorney by certified mail.
  - When returned, file the certified receipt in the inmate's C-File.

#### **74040.3.6 10 Days Prior to Hearing**

*Revised November 18, 2008*

Ten days prior to the hearing is the deadline for incorporating or sending material to the DA or the inmate's attorney for inclusion in the hearing packet.

- Any material received after this date shall be placed in an envelope to be given to both attorneys on the date of the hearing.
- The BPH Forensic Assessment Division's (FAD) evaluations must be delivered to the inmate whether or not it is received within ten (10) days of the hearing. (When available, the BPH FAD evaluation is delivered with the board report by the correctional counselor.)
- Immediately upon notification from BPH FAD that the evaluation has been completed, records staff will print the report from LSTS, attach the CDC Form 128-B, General Chrono, with the inmate name and number already included, and forward to the mail room for priority legal mail service.
- Staff serving the BPH FAD evaluation via the legal mail process will have the inmate sign the CDC Form 128-B and return it to the mail room for delivery to the Case Records Board Desk.
- Mail Room staff will deliver the CDC Form 128-B within 24 hours to Case Records Board Desk staff for priority filing.
- Upon receipt of the CDC Form 128-B, the Board Desk staff will immediately file it in the Central File.

#### **74040.3.7 5-to-7 Days Prior to the Hearing**

Review hearing packets for completeness. Sign and date the BPT Form 1008, Life Prisoner Parole Consideration Hearing Checklist.



Update the master calendar with the names of attorneys who will attend the hearings.

#### **74040.4 Documentation Hearing**

The documentation hearing is conducted for the purpose of monitoring and recording the inmate's conduct, adjustment, and progress while incarcerated and occurs prior to the initial parole consideration hearing.

##### **74040.4.1 Panel Composition**

The documentation hearing shall be conducted by one deputy commissioner. A facility staff representative, knowledgeable about the individual case and facility programs, shall be available to advise and assist the panel in its evaluation and documentation of the inmate's progress.

##### **74040.4.2 BPH Hearing — Victim Escort Procedures**

*Revised September 25, 2007*

Victims, next of kin, immediate family members as defined in Section 3000 of the Title 15, support person, or counsel upon arrival at the correctional facility shall be processed and escorted to the hearing in accordance with the Department Operations Manual Chapter 6, Article 13, BPH.

##### **74040.4.3 Inmate Hearing Rights**

The inmate shall have the rights enumerated in BPH Rules 2246 through 2254.

##### **74040.4.4 Documents Required**

The material to be presented at these hearings shall consist of the:

- C-File.
- BPT Form 1009, Life Prisoner: Documentation Hearing, with the inmate's name, number, facility, sentence information, maximum term, and MEPD typed on the form.
- Parole documentation hearing board report.
- Psychiatric reports.

##### **74040.4.5 Post Hearing Procedures**

The CCRM shall schedule the inmate for a subsequent documentation hearing or parole consideration hearing as appropriate. Documentation hearing results shall be posted to the CDC Form 112, Chronological Inmate History.

The BPT Form 1009 shall be completed by the panel at the time of the hearing and shall be effective at that time.

A copy shall be given to the inmate.

The BPT Form 1004, Life Prisoner: Post-conviction Progress Report, the BPT Form 1009, the psychiatric evaluation, and any other documents designated by the panel shall be incorporated as a part of the "Board Addenda" to ensure availability to the initial parole consideration hearing panel.

##### **74040.5 Initial and Subsequent Parole Consideration Hearings**

If the inmate is found unsuitable, parole shall be denied and a written statement of the specific factual reasons for the denial shall be given to the inmate.

At the subsequent hearings, the panel shall consider the information developed since the last hearing.

The hearing panel may recommend to the inmate certain steps that may be undertaken to enhance the possibility of a grant of parole at a future hearing.

If an inmate is found suitable for parole, a tentative parole date shall be set.

##### **74040.5.1 Panel Composition**

###### **Life**

The panel shall be composed of three BPH staff, two of whom shall be commissioners.

###### **Nonlife**

The panel shall be composed of three BPH staff, two of whom shall be deputy commissioners.

##### **74040.5.2 Inmate Hearing Rights**

###### **Life**

The inmate shall have the rights enumerated in BPH Rules 2245 through 2256.

###### **Nonlife**

The inmate shall have the rights enumerated in BPH Rules 2245 through 2252, 2254, and 2255.

##### **74040.5.3 Required BPT Forms (Life Cases)**

The following forms shall be available for use for life cases:

- BPT Form 1000, Life Prisoner Parole Consideration Worksheet.
- BPT Form 1000(a), Setting a Term-Life Prisoner Parole Denied.
- BPT Form 1000(b), Setting a Term-Life Prisoner Parole Granted.

- BPT Form 1001, Life Prisoner Decision Face Sheet.
- BPT Form 1001-A, Life Prisoner Hearing-Extraordinary Action and Decision.
- BPT Form 1002.
- BPT Form 1003.
- BPT Form 1004.
- BPT Form 1005, Life Prisoner: Parole Consideration Proposed Decision (BPH 2041).
- Life Prisoner: Parole Consideration Proposed Decision.
- BPT Form 1008.
- BPT Form 1080.
- BPT Form 1082, Continuation Sheet.
- BPT Form 1087-A, B, C, and D.

##### **74040.5.4 Hearing Package Preparation**

Three packages plus the original hearing material listed on the CDC Form 822 shall be prepared for use during the parole consideration hearing for non-life cases.

Four packages plus the original hearing material as listed on BPT Form 1008 shall be prepared for use during the parole consideration hearing for life cases.

Lifer and non-lifer packages shall contain letter-size dividers with side index tabs, divided into categories. Within each category, documents shall be filed together in reverse chronological order, beginning with the most recent dated document. The packages shall be divided into the following categories:

- Case Summary.
- BPH report(s) (all).
- Psychiatric report(s) (all).
- Prior BPH decisions (Adult Authority, Community Release Board [CRB], BPH).
- Notices and responses (current hearing) including official letters, fearful letters, and supporting letters.
- Legal documents:
  - POR.
  - Crime report(s).
  - Abstracts of judgment/Minute orders.
  - Charging documents.
  - Appellate court decisions.
  - Sentencing transcripts.
- Miscellaneous:
  - Crime partner decision forms, if any.
  - Notice of hearing rights.
  - Disciplinary reports since last hearing.
  - Other pertinent information developed since the last hearing.
  - Photographic evidence.
- For subsequent hearings include the last hearing transcript, not indexed.

##### **Prior to Hearing**

Prior to the hearing, the case records staff shall prepare the following forms:

- BPT Form 1000.
- BPT Form 1000(a).
- BPT Form 1000(b).
- BPT Form 1001.
- BPT Form 1004.
- BPT Form 1005.
- BPT Form 1081, if applicable.
- BPT Form 1082.

##### **74040.5.5 Distribution of Packages**

The following distribution is mandatory:

- One for each commissioner.
- One for the inmate's attorney.
- One for the representative of the DA's office.

**74040.6 Parole Board Rules Hearings (In re Stanworth)**

The California Supreme Court held that life prisoners who committed their offenses prior to July 1, 1977, are entitled to have parole dates established under the guidelines in effect prior to July 1, 1977.

The court further held that denial of the establishment of parole dates of these prisoners under the earlier guidelines violated the constitutional prohibitions against ex post facto laws.

**74040.6.1 Eligibility**

A life-term inmate is entitled to a parole consideration hearing under Parole Board Rules (PBR) if:

- The offense was committed on or before June 30, 1977, and
- The inmate presently has a parole date that was granted under BPH or CRB Rules, but has not received a parole date under PBR.

**74040.6.2 Hearing Guidelines**

The BPH shall use the parole consideration guidelines in the PBR 2200 through 2360 (CCR (15) (2) Reg 76, No. 21, 5/22/76).

**74040.6.3 Panel Composition**

The hearing shall be conducted by two deputy commissioners.

**74040.6.4 Inmate Hearing Rights**

The inmate shall have the rights specified in PBR C 2110 through 2119 [CCR (15) (2) Reg 76, No. 21, 5/22/76].

**74040.6.5 Hearing Packets**

Two hearing packets detailed in DOM 74040.3.7 shall be prepared for these hearings.

**74040.7 Progress Hearings**

A progress hearing shall be scheduled periodically after a life-term inmate has had a parole date established.

The panel shall determine whether a previously set parole date should be advanced because of the inmate's positive conduct in prison or whether there are changes in circumstances that might lead to an earlier parole date.

**74040.7.1 Panel Composition for Progress Hearings**

Progress hearings shall be conducted by a panel of three, two of whom shall be commissioners.

**74040.7.2 Hearing Procedures**

The inmate is not entitled to an attorney.

A representative from the DA's office of the committing county shall not attend.

No PC 3042 notices are required.

Progress hearings are scheduled as "trailers" to the regular lifer calendar or they may be formally scheduled.

**74040.7.3 Procedures Prior to the Hearing**

Reports required:

- BPH reports.
- Psychiatric report (when a previous panel has requested one for this hearing).

Completion of the report and disclosure to the inmate shall occur 30 days prior to the hearing.

Three hearing packets shall be prepared and include the documents listed on the CDC Form 823, Indeterminate Sentencing Law (ISL) Progress Hearing Checklist.

Complete the information required on the BPT Form 1007, Life Prisoner Progress Hearing Decision Face Sheet.

Complete the required information on the BPT Form 1004.

**74040.8 Postponement or Rescission of Release**

The parole date of an ISL inmate or of a life or nonlife PC 1168 inmate may be postponed or rescinded for good cause at a rescission hearing.

The BPH shall determine whether to initiate rescission proceedings.

**74040.8.1 Procedures for Reporting**

Staff shall report serious disciplinary behavior to the BPH, headquarters calendar, pursuant to BPH Rule 2451.

Cases shall be reported prior to the inmate's scheduled parole date.

- If a case has not been referred to the DA for prosecution, the case shall be reported within 15 days.

If the case has been referred to the DA, the case shall not be reported to the BPH until:

- Within 15 days after refusal to prosecute.

- Within 15 days after the criminal prosecution has terminated.
- The inmate is within 60 days of their scheduled release date.

The BPH shall note the report, take no action, or order the matter placed on calendar.

The decision shall be documented by the BPH, headquarters calendar, and a copy sent to the facility.

**74040.8.2 Postponement or Rescission of Release Date**

If an inmate with a previously established parole date receives a new commitment to prison, the parole date shall be rescinded and no hearing by the BPH is required.

The inmate may appeal the rescission only on the grounds that they are not the person sentenced by the new judgment.

The CCRM shall process the new commitment, post the CDC Form 112 indicating the parole date has been rescinded.

The CDC Form 112 posting shall read: \_\_\_\_\_ (Date of posting) parole date of (date of parole) rescinded per BPH Rule \_\_\_\_\_ (indicate applicable BPH Rule number).

- BPH Rule 2273 in the case of life inmates.
- BPH Rule 2308 for ISL and nonlife PC 1168 inmates.

**74040.9 Hearings for Inmates with Changes in Legal Status**

The inmate shall be scheduled for a parole consideration hearing pursuant to BPH Rule 2308(c).

- If the new term is for a determinate term, the parole consideration hearing shall be conducted within 60 days of the receipt of the new commitment.
- The legal status change shall be considered at the initial parole hearing as regularly scheduled or as would be scheduled considering the change in the legal status.

After the initial ISL parole hearing if a legal status change occurs, the inmate shall be scheduled immediately for a progress or subsequent hearing as appropriate.

**74040.9.1 Pre-hearing Procedures**

An inmate shall have the right to request the presence of friendly and/or adverse witnesses at a rescission hearing, BPT Form 1015, Notice of Right to Rescission Hearing.

The witnesses shall be called unless the hearing panel has specified reasons to deny the request.

Witnesses shall be screened under the procedures of BPH Rule 2668.

An inmate may request, subpoena, or subpoena duces tecum witnesses as provided in BPH Rules 2675 through 2682. If denied, the specific reason(s) for the denial shall be documented and a copy given to the inmate.

During the hearing, the inmate has the right under the direction of the hearing panel to question all witnesses.

An inmate is entitled to an attorney and may request assistance (BPT Form 1015).

PC 3042 notices shall be sent according to procedures outlined in DOM 74040.3.5.

**74040.9.2 Documents Required**

Prepare five hearing packets containing the following:

- A cover sheet with the following information:
  - Inmate's name.
  - CDC number.
  - Reception date.
  - Offense.
  - MEPD.
  - BPH parole date granted and parole date.
  - PBR parole date granted, if applicable, and parole date.
  - Dates of progress hearings, if applicable, and new parole dates.
- Copies of CDC Form 115s and Department investigative reports only.

If the basis for the rescission hearing is psychiatric deterioration, include copies of recent psychiatric chronos or other necessary information.

Copies of BPT Form 1080 and CDC Form 833, Record Information Release Authorization, shall be included.

Prepare BPT Form 1016, Summary of Rescission Hearing and Decision, with name and CDC number on the bottom of the form.

The C-File shall be available in the hearing room.

**74040.9.3 Panel Composition**

The rescission hearing for life prisoners shall be conducted by a panel of three, at least two of whom shall be commissioners.

For ISL inmates, the hearing shall be conducted by two deputy commissioners.

**74040.10 Extended Term Hearings**

The CCRM shall refer the case of any inmate for screening as ordered by the BPH.

The second screening shall be conducted by deputy commissioners who shall review the case including the retroactive calculation, CDC Form 678, Cumulative Case Summary Confinement Computation.

If the panel determines that the inmate shall receive PC 1170.2(a) recalculated Determinant Sentencing Law (DSL) release date that shall be the decision and the inmate shall be notified in writing of the decision, CRB Form 1091, Third Screening Decision.

The cases referred for extended term hearings shall be reviewed by two commissioners within 90 days of reception by the Department.

Extended term hearings shall be conducted within 120 days of reception by the Department or 120 days from the date the Department received a new or amended abstract or any court order which modifies the original commitment.

A prisoner scheduled for an extended term hearing has the rights enumerated in BPH Rules 2245 through 2256.

The panel shall be composed of three BPH staff, two of whom shall be commissioners.

**74040.10.1 Previously Retroactively Calculated**

All legal status changes that might require a re-computation of a previously recalculated term shall be referred to a BPH panel for review.

Changes to retroactive PC 1170.2(a) or (b) terms include:

- Change in the base term used for the calculation.
- Change in the enhancements on the principal term used.
- Changes in consecutive (CS) offenses or their enhancements used in the calculation.
- Additional commitments, whether concurrent (CC) or CS.

Changes that do not affect retroactive term(s) include:

- Certification or changes in preprison credits.
- Changes in CC terms which are not part of the previously approved PC 1170.2(a) calculation.

Legal status changes which may affect the term shall be set forth in the "facts" section of BPT Form 1135, Miscellaneous Decisions.

The recommendation section shall contain the recommended action.

The BPT Form 1135 and related material shall be presented to a BPH panel for consideration action.

The determination of the hearing panel shall be computed by case records staff using CRB Form 1089, Serious Offender Face Sheet.

The miscellaneous section of the face sheet shall be used by case records staff to explain the method of computation.

Full distribution of the computation shall be completed.

The CRB Form 1094, Serious Offender Decision Face Sheet, and BPT Form 1135 shall be stapled together and filed in the addenda.

**74040.11 Parole Hearing for Inmates Serving Life Terms**

All inmates serving sentences of life without possibility of parole shall be scheduled for BPH review 30 years after reception by the Department and every fifth year thereafter (BPH 2817).

**74040.12 Revisions**

The Director, Division of Adult Institutions, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

**74040.13 References**

CCR (15) (2) Reg 76, No. 21, 5/22/76.

PC §§ 1168, 1170.2(a), 1170.2(b), 3042, and 3043.

BPH Rule 2041, 2246 - 2256, 2273, 2308, 2451, 2668, 2675 through 2682, and 2817.

**ARTICLE 18 — UNASSIGNED****ARTICLE 19 — PRE-RELEASE REFERRALS**

*Effective August 21, 1989*

**74060.1 Policy**

*Revised June 16, 1995*

Prerelease referrals shall be processed within established time frames to assure timely reentry screening and assignment to Parole Agents.

PC 6264 requires that each inmate be reviewed for work furlough consideration at least 120 days prior to their scheduled parole date.

**74060.2 Purpose**

*Revised June 16, 1995*

This section sets forth the time frames and procedures for processing prerelease referrals.

**74060.3 Release Defined**

*Revised June 16, 1995*

Release on parole is the legal and physical transfer of an inmate from confinement in an institution to the supervision of a Parole Agent of the P&CSD.

Discharge is the termination of custody of any person committed to the Department accomplished either by expiration of the maximum sentence prescribed by law, official BPT/Narcotics Addict Evaluation Authority (BPT/NAEA) action or court order.

**74060.4 Time Frames for Referral to P&CSD**

*Revised June 16, 1995*

An inmate's case shall be scheduled for a prerelease referral to the appropriate parole region nine months prior to the anticipated release date.

**Regular Cases**

Cases having less than seven months remaining prior to the anticipated release date shall be processed as soon as possible.

**Imminent Release**

Where a calculated release date indicates release on parole must occur in the immediate future the procedures in DOM 82010 shall be followed.

A CDC Form 611, Release Program Study (RPS) is an informational document which specifies the inmate's:

- Proposed residence.
- Employment.
- Available resources.
- Interest in reentry/work furlough.
- Institutional adjustment.
- Prognosis for parole adjustment.

The completed RPS shall be returned to the facility case records office within the time frames established in DOM 81010.

**Counselor**

The counselor shall interview the inmate and prepare the RPS including:

- Special information pertinent to parole.
- Boldly document in the "C&PR Comments" section whether or not the inmate is subject to PC 2933 credit earnings and current work group assignment.

**C&PR**

After completing the RPS, the counselor shall forward the RPS to the C&PR by their supervisor.

**Public Interest Case**

The C&PR shall ensure that the RPS reflects the inmate's status. If the inmate is designated a "Public Interest Case" by Classification Services pursuant to DOM 62010.4.3.3, a copy of the RPS and any supporting documentation shall be forwarded to the:

Assistant Director, Communications  
California Department of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001

**Case Records Staff**

Case Records staff shall forward the RPS and other material pursuant to DOM 74060.4.2 and 74060.4.3 to the parole region of the county of commitment at least 210 days prior to the scheduled release date.

While preparing the prerelease lists, Case Records staff shall identify and notify the CMO of those inmates who are required to provide blood and saliva samples pursuant to PC 290.2 and who have not yet complied with the requirement.

**Dual Referral for Out-of-State**

Dual referral prerelease packages for inmates referred for out-of-state placement shall be forwarded to both the parole region of the county of commitment and the Interstate Unit pursuant to DOM 74060.9.

**74060.4.1 Location for Referral**

*Revised June 16, 1995*

Pursuant to PC 3003, all inmates shall be paroled to the county of commitment as defined in DOM 81010 unless the case complies with the exception criteria in that section.

**County of Commitment**

Exceptions to placement in the county of commitment may be permitted in very unusual cases by P&CSD staff.

**Counselor**

When a pre-parole case is referred or re-referred to the county of commitment contrary to the inmate's expressed desires, the counselor shall include detailed information in the RPS as to the inmate's alternative release program.

If a RPS is returned to the facility and the inmate is not satisfied with the decision to release to a county other than that preferred by the inmate, the inmate may appeal that decision. See DOM 54100.

**74060.4.2 Material Forwarded**

*Revised June 16, 1995*

Case records staff shall forward the material specified in DOM 83000 to the appropriate parole region.

**POC**

If attendance at the POC is a special condition of parole or the case is referred "to be evaluated by POC," one completed and stamped "POC" copy of CDC Form 611, one inmate photo, and one copy of the Case Summary shall be sent to the region office.

**74060.4.3 Photos**

*Revised June 16, 1995*

Case records staff shall forward three inmate photos with the prerelease referral material sent to the parole region.

**74060.5 Retention in the Department for Another Jurisdiction**

*Revised June 16, 1995*

Occasionally, a California inmate may be paroled on their departmental term and retained within a Department facility under contract with another jurisdiction.

The following procedures have been developed to provide a uniform method of recording such transactions:

- The C-File shall be retained at the facility.
- A dummy file shall be forwarded to the Region I Records Office, including copies of:
  - CDC Form 112.
  - Case Summary.
  - Abstract/Minute Order.
  - Fingerprint Card.
  - Photograph.
- A Field File shall be forwarded to the Interstate Unit Office in accordance with established procedures.
- Under no circumstances shall the inmate/parolee be assigned an additional departmental identification number.
- The Daily Report of Arrivals and Departures will show the following entry under "Notices:"
  - B-12345 Doe, John Paroled 12-5-77 and retained on Oregon commitment pursuant to WICC/IC Federal Contract. Parole period: \_\_\_\_\_. DD: \_\_\_\_\_. CI&I: \_\_\_\_\_.
- CDC Form 112 shall be posted as follows:
  - **(Date)** Paroled-Interstate and remains under Oregon commitment per PC 11190 parole period \_\_\_\_\_ discharge date \_\_\_\_\_.
- Should the inmate/parolee be transferred, transfer information shall be forwarded to the Region I case records office for inclusion in the dummy file.
- Upon parole from custody under the other state's commitment, standard parole transfer procedures shall be initiated.

- Should an active parolee be accepted and received in a departmental facility on a contract basis, facility staff shall contact the appropriate region's case records office and request the C-File.
- The region's case records office shall have the responsibility of preparing the dummy file for their use prior to shipping the C-File.
- Upon discharge from parole on California term and remaining on contract case only, refer to DOM 72020 for procedures to be followed for processing the case.

**74060.6 Parolees Released From Institution Subsequent To Revocation or Limited Placement**

*Revised June 16, 1995*

Parolees may be released to parole subsequent to revocation or limited placement as follows:

- When a parolee is serving time in local custody, the Parole Agent shall aid the parolee to return to the previous parole program or develop a different program.
- When a parolee has been returned to a departmental facility for revocation, facility staff shall inform the agent-of-record at least 15 days prior to the scheduled release date of the inmate's proposed residence and other significant program information.

**74060.7 Reentry Referral of Direct Discharge Cases**

*Revised June 16, 1995*

To ensure that direct discharge cases are referred to the P&CSD for reentry screening, facilities shall:

- Identify inmates under PC 1170 commitments where the period of parole has been waived by the BPT.
- Complete Section A of the RPS on these cases and refer them to the parole region.

Inmates with direct discharge dates may request reentry consideration. Direct discharge cases shall be referred to P&CSD in the same manner as pre-parole referrals.

As a means of distinguishing direct discharge cases from pre-parole referrals, institution staff shall ensure that the parole date block of Section A of the RPS includes the word "DISCHARGE" in capital letters after the release date. Additionally, the C&PR comment section shall include the notation "Direct Discharge." Attachments to the RPS shall be the same as pre-parole referrals. Direct discharge cases shall not be referred to the parole units.

**74060.8 Referral of Cases With Detainers**

*Revised June 16, 1995*

Prior to prerelease referral case records staff shall ascertain the status of any detainer and the agency's intent.

If a detainer is to be exercised by a California agency, referral shall be made in accordance with procedures in DOM 74060.4. The RPS shall contain information that the inmate is scheduled for release to a detainer. When the release is imminent, the reentry coordinator of the region shall be contacted and advised of the status.

**Case Records**

If a detainer is to be exercised by an out-of-state or federal agency, referral shall be made to the appropriate region as determined in DOM 74060.4.1. The region shall be kept informed of the status of the detainer and/or pending release.

Files of inmates released to detainers shall be forwarded pursuant to DOM 74070.

**74060.9 Referrals For out-of-state Placement**

*Revised June 16, 1995*

The Interstate Probation and Parole Compact permits the placement of parolees out-of-state. Certain criteria are involved:

- The parolee was a resident of the receiving state.
- Has family ties in that state.
- Is able to obtain employment there.

**74060.9.1 Transmittal Documents**

*Revised June 16, 1995*

Pre-parole material shall be sent to the region designated according to the guidelines in DOM 74060.4.1. The additional documents specified in DOM 81010 for out-of-state parole referrals shall be forwarded to the Interstate Unit not more than 90 days prior to the scheduled release date.

**Note:** Forms must be complete and include necessary signatures.

## Signatures

It is important that the signature element of the form carry the names of the California "Deputy Compact Administrator, Paroles" and "Supervisor, Interstate Unit" to ensure that the replies from out-of-state are directed to the Interstate Unit for appropriate follow-up. In the event the administrator of the out-of-state facility fails to reply on the date in closest proximity of the release date, the Interstate Unit shall attempt to expedite the matter and shall notify the institution accordingly. Practices differ among states and, therefore, the referral shall specifically indicate whether the parolee has a home, an offer of employment and legal residence in the proposed receiving state.

### 74060.9.2 Acceptance

#### Case Records Staff

If the proposed out-of-state placement is accepted by the receiving state, the Interstate Unit shall advise the institution, provide reporting instructions and authorize release to the out-of-state program. At the time of release, prepare a CDC Form 1532, Probation Form II-Report of Sending State Upon Probation and/or Parole Being Sent to Another Jurisdiction in quadruplicate; original to the C-File, three copies to the Interstate Unit (one copy for the receiving state and one copy for the inmate/parolee).

### 74060.9.3 Rejection

#### Counselor

If the proposed out-of-state placement is rejected, the Interstate Unit shall advise institutional staff of the rejection. A copy of the rejection form shall be forwarded to the institution. The counselor shall share the reason for the rejection of supervision out-of-state with the inmate unless restricted from doing so by the other state.

### 74060.10 BPT Investigation and Program Development Requests on ISL Cases

Occasionally the BPT will require additional information concerning a particular case because the information either was not available or was not included in the Case Summary at the time it was prepared.

In general, a request for a special investigation and/or program development shall be made when direct contact with an outside party or agency appears necessary.

When such a report is requested, the information furnished shall include:

- The background and purpose of the referral.
- Suggested or required deadline for completion (unless there are extenuating circumstances, at least 30 to 60 days shall ordinarily be allowed for the completion of the report).
- Commissioner or Deputy Commissioner requesting the investigation.
- The general and specific areas to be included in the report.

If a specific agency, official, or person is involved in the investigation, the request shall include the name of the agency, official, or person to be contacted. In some instances, the request shall delineate the specific information required. In other instances, only a general request shall be made.

### 74060.10.1 Types Of Requests

Before a parole date is set or an affirmative action is taken by the BPT, the matter is usually referred to the BPT, Investigation Unit.

After a parole date has been set or an affirmative action is taken by the BPT, the matter is usually referred to the appropriate parole region.

Categories of Program Development Reports.

- P&CSD.
  - Home and Care placement information.
  - Availability of benefits (e.g., retirement, Social Security).
  - Hospitalization or similar release possibilities.
  - Other release assistance.
- BPT, Investigation Unit.
  - Additional details of instant offense.
  - Information on prior arrest or conviction.
  - Official advice of inmate's progress.
  - Community and/or official attitude with regard to a specific case.
  - Other similar possibilities.

### 74060.10.2 Determination of Unit for Investigation

The primary reason for the referral shall govern the unit to which the referral is sent. In any case where the institutional staff have a serious doubt as to whether the P&CSD or the BPT Investigation Unit, should handle the investigation, the matter will be referred to the BPT's Executive Officer.

### 74060.10.3 Material Forwarded With Request

The following material shall be forwarded with the request:

- Two copies of an up-to-date case summary.
- Photos of the inmate.
- Second and third copies of CDC Form 247, Request for Special Investigation and/or Program Development.
- Copies of any other material pertinent to the investigation.
- Material for referrals to P&CSD shall be sent to the RPA.

### 74060.10.4 Channeling Of Completed Investigations

The results of the investigation and a copy of the initial CDC Form 247, Request for Investigation and/or Program Development, shall be routed to the region for review, approval and transmittal to the institution. All attachments submitted by the institution at the time of the referral shall be returned to the institution with the report.

The unit office shall retain a copy of the CDC Form 247, a copy of their investigation results and the case summary.

This material shall be retained for six months and, if no further information requests are received, destroyed.

### 74060.11 Revisions

The Deputy Director, Institutions Division, or designee shall ensure that the contents of this section are current and accurate.

### 74060.12 References

PC §§ 3003 and 11175.

ACA Standards 2-4482, 2-4483, 2-4484, 2-4485 and 2-4486.

## ARTICLE 20 — INSTITUTION RELEASES

*Revised February 23, 1995*

### 74070.1 Policy

It is the policy of the Department to release inmates on their properly calculated release date.

### 74070.2 Purpose

This section sets forth uniform procedures for the release of individuals.

### 74070.3 Uniform Procedures

All inmates shall be released on the scheduled Indeterminate Sentencing Date (ISL) or Determinate Sentencing Date (DSL) release date. This includes Saturdays, Sundays, and holidays.

Paperwork and routine dress-out procedures on cases with release dates on weekends or holidays shall be completed prior to the weekend or holiday.

### 74070.4 Released To Holds

Inmates that have ISL/DSL release dates may be released to a "Detainer" placed by another jurisdiction.

Refer to DOM 72040.6 and 72040.7.

The CDC Form 161, Wardens' Checkout Order, shall be prepared as outlined in DOM 74070.21 of this manual and shall reflect both the release to custody date and the actual parole date to facilitate proper OBIS entry.

A CDC Form 801, Detainer, shall accompany the inmate upon release to ensure that he/she remains in custody until their actual parole date.

Parole agents, when submitting releasing instructions to the institutions, shall make special note of cases that, due to medication needs or other case factors, require immediate contact with the Parole Agent upon release.

- The Parole Agent shall initiate Temporary Community Release (TCR) procedures to allow release on a regular business day, or shall make arrangements to pick up the inmate on the actual release date.

### 74070.5 Out-of-State Releases

*Revised January 4, 2006*

Authorization for parole to another state is reported to the Division of Adult Parole Operations, Interstate Parole Unit by the receiving state. The Interstate Parole Unit shall transmit, to the appropriate institution, an official memorandum or FAX that outlines release date and reporting instructions.

### 74070.6 Release or Discharge

The release of a prisoner from an institution upon expiration of the maximum sentence (discharge) or upon completion of sentence prior to parole may occur at anytime after 12:01 a.m. on the date of their scheduled release.

### 74070.7 FAX Authorization for Release

The routine use of FAXs for parole release authorization is discouraged; however, it may be used in emergencies.

When FAXs are used, the agent shall prepare a parole release authorization and route the original to the regional office with a copy to the institution.

For FAX releases, the unit supervisor shall notify the institution by FAX no later than 10:00 a.m. (sending time from the unit) on the day preceding such release, and send a copy of the FAX parole release authorization to the region. Refer to DOM 74070.5 and 74070.9 of this manual for information.

#### **74070.8 Modification of ISL Release Up To 60 Days**

BPT Rules permit a 60-day advancement of a previously established ISL parole date.

Conditions for advancement of release date are:

- The release date shall not be prior to the inmate's Minimum Eligible Parole Date (MEPD).
- The Board determination granting release on parole does not specifically direct that the parole date not be advanced. A prior advancement by the BPT shall not, in itself, preclude the advancement per parole procedures in the BPT Rules.
- There are no unresolved or administrative prohibitions to a release on parole, such as notices, pending disciplinary or incident reports, rescission proceedings, etc.
- Any condition upon which the parole date has been specifically conditioned has been fully met.
- The Department's staff have authorized, in writing, the earlier release in accordance with the BPT Rules.

#### **74070.9 Modification of ISL Release by FAXs**

In unusual cases, when time factors make it impossible to process a parole release authorization advancing a parole date through normal channels, the unit supervisor is authorized to certify to their review of the record and compliance with BPT Rules.

- The C&PR may also certify to BPT Rule compliance.
- These procedures shall only be used in critical time factors.

In such cases, a regular CDC Form 1504 shall be immediately prepared, signed by the unit supervisor, and forwarded to the institution for certification and appropriate processing.

#### **74070.10 Modification Of ISL Releases Over 60 Days**

Institutional or regional staff may refer, to the C&PR, a case for consideration of advancement of release date.

The C&PR shall place the case on the BPT Miscellaneous Proceedings Calendar when circumstances warrant an early Progress Review Hearing. Examples of such circumstances are:

- Terminal illness.
- New or modified material which might have significantly altered the panel decision had the information been available at the time of the hearing.
- Completion of requirements specified by the BPT.
- Exceptional employment offer which would not be available at the time of established release date.
- Long-term psychotherapy cases whose progress dictates an earlier release consideration.

#### **Sixty-Day Maximum Advancement to Foreign Jurisdiction ISL Releases Only**

Advancements may be granted to inmates with Detainers from other jurisdictions, including deportation orders.

CCRM shall ensure that all legal requirements have been met, and in appropriate cases, the inmate shall either have waived extradition or extradition proceedings shall have been completed.

#### **74070.11 Release Program Study (RPS)**

P&CSD staff shall return the completed RPS and the Conditions of Parole to the institution no later than 60 days prior to the inmate's scheduled release date.

The RPS shall include specific instructions as to when, where and to whom the parolee should report.

The prospective parolee may have a legitimate reason for a delay en route to the parole program. The Parole Agent's decision in these matters shall be part of any parole release authorization instructions.

Any delay en route to the parole region shall not exceed seven calendar days unless the unit supervisor authorizes a longer delay.

A copy of the RPS shall be given to the inmate.

#### **74070.12 Conditions Of Parole**

A CDC Form 1515, Notice and Conditions of Parole shall be prepared setting forth the conditions of parole or release.

The BPT shall establish and impose the special parole conditions and the length of parole within the statutory maximum for all life prisoners, non-life PC 1168 prisoners, and ISL prisoners released on ISL parole dates.

Under guidelines specified by the BPT, the department shall establish and impose the special conditions of parole and the length of parole within the statutory maximum for all DSL prisoners and ISL prisoners released on DSL release dates as retroactively calculated.

Distribution of the form is:

- Original to C-File.
- One copy to the Field File.
- One copy to the releasee at time of release.

#### **74070.13 Advising Inmate**

At least 45 days prior to the scheduled release on parole, a CC-I shall explain the RPS, the conditions of parole and the reporting instructions to the inmate.

The inmate shall also sign the Notice and Condition of Parole Form.

#### **74070.14 Inmate Refusal to Sign Form 1515**

If an inmate in an institution refuses to sign the CDC Form 1515, the CC-I shall prepare a CDC Form 115, Rules Violation Report; a brief CDC Form 1521-A, Charge Sheet; and a CDC Form 1521-D, Recommendation Review Decision Sheet; and advise the C&PR.

The inmate shall be charged with violating CCR (15) (3) 3315(a)(3), by the specific act of "Refusing to Sign Conditions of Parole". The C&PR shall telephone BPT, Scheduling Unit, and schedule the case for a revocation hearing which should be conducted prior to the inmate's release date.

See DOM 76010 for procedures that relate to Civil Addict cases.

#### **74070.15 Direct Releases From Court**

An inmate released on parole directly from court, placed in a reentry facility, or otherwise released and who has not previously signed the CDC Form 1515, or who has not signed the Notice and Conditions of Parole after special conditions of parole have been added to the form, shall be asked to do so by the Parole Agent during the next interview.

If they refuse to sign the form, the assigned Parole Agent shall inform the unit supervisor.

The unit supervisor shall:

- Ensure that the inmate/parolee is placed in custody.
- Direct the agent of record to prepare a Violation Report and refer the case for a revocation hearing.

When the inmate reads and signs the conditions of parole, they shall also be given a copy of the CDC Form 1570, Guidelines to Parole, and a copy of the communication packet from the Deputy Director, P&CSD, and the Chairperson of the BPT.

#### **74070.16 Release Statement and Clothing Authorization**

Prior to releasing an inmate to either discharge or parole, the C&PR of the releasing institution or the appropriate CC-I shall have a CDC Form 102, Clothing Room and Accounting Office, prepared with the assistance of the releasee.

Upon release, the inmate/releasee shall sign the CDC Form 102, acknowledging receipt of cash, check, and/or clothing, or any combination thereof.

Distribution of this form is printed thereon.

#### **74070.17 Release Clothing**

Inmates should be encouraged to supply all or a portion of their release clothing.

Institutions may offer alteration services on garments privately furnished for release purposes.

State-issued release clothing shall be kept to a minimum.

Any state-issued release clothing shall be charged against the inmate's release allowance.

#### **74070.18 Transportation**

All transportation to the desired location shall be arranged by the institution.

Funds for the transportation are derived from the inmate's release budget.

Family or friends who wish to meet the parolee at the institution shall be instructed to write or telephone the institution several days prior to the scheduled release, confirming their intent and indicating their time of arrival.

The Parole Agent shall indicate on the parole release authorization if the parolee plans to travel from the institution by private transportation.

#### **74070.19 Property Receipt Release**

The receiving and release sergeant shall complete the CDC Form 122, Property Receipt Release, on all inmates and distribute the form as follows:

- Original to the inmate.
- Copy to the Property Room.
- Copy retained by the Receiving and Release (R&R) Room.

#### **74070.20 Release Clearance**

Prior to physical release of the inmate, the CDC Form 162, Release Clearance, shall be prepared. It shall be taken by the inmate to various institution units for clearance.

When completed, it shall be returned to the releasing officer in R&R.

#### **74070.21 Check Out Order**

Prior to release of the inmate, records office staff shall prepare the CDC Form 161, Checkout Order, and arrange distribution as required by institution operations.

The following data shall be typed on the CDC Form 161:

- Date and time of release.
- Type of release.
- CDC number.
- Commitment name.
- Controlling Discharge Date.
- Name of parole unit and county of residence.
- Parole region.
- Length of parole period.

#### **Audit**

The CDC Form 161 shall be typed by clerical staff. As part of the prerelease audit, the release information on the form, shall be verified at a level not less than that of a Case Records Specialist as the form is used by the institution as the source document for OBIS input and therefore, its accuracy determines the accuracy of parole information in OBIS.

Staff at a level not less than Case Records Specialist shall sign the CDC Form 161 as the preparer after completing the prerelease audit of the C-File.

The final approval of the release for the Wardens and the final signature on the CDC Form 161 shall be by staff at not less than the CC-III level.

#### **Forward**

After the inmate's release, a copy of the Checkout Order shall be forwarded by the facility records office to the assigned parole unit along with the rest of the release package.

The package of documents to be forwarded to the parole unit is to include the following:

- CDC Form 102, Release Statement and Clothing Authorization.
- CDC Form 1515, Conditions of Parole.
- DOJ, Notice of Registration Requirements.
- Copy of CDC Form 161, Warden's Checkout Order.
- CDC Form 138, Fingerprint Card(s).

After receipt and review of the CDC Form 161 by parole unit staff, if corrections are required, a completed CDC Form 1506, Notice of Transfer/Correction, shall be submitted to the Regional Records Office. After the OBIS data has been corrected, the CDC Form 1506 is to be destroyed.

#### **74070.22 Registration Requirements**

PC 290(b), PC 457.1(c), and H&SC 11590, mandate that officials in charge of the place of confinement shall inform the inmate of their registration requirement if convicted of certain sex, arson, and narcotics offenses upon their discharge, parole, or release.

Any inmate committed as a Mentally Disordered Sex Offender (MDSO) must register, even if the MDSO commitment was due to a seemingly non-sexual offense, e.g., arson, pursuant to W&I 6316.

#### **74070.22.1 Released On Appeal Bond**

Prior to release on appeal bond or release to out-of-state or federal custody, or to any other hold, the official in charge of the place of confinement shall inform inmates of their registration requirements pursuant to PC 290, 457.1 and/or H&SC 11590.

Inmates taken out-to-court who are subject to registration shall have that requirement noted next to the release date on the Department's Detainer, e.g., "individual subject to registration requirements pursuant to PC 290 or 457.1 and/or H&SC 11590."

#### **74070.22.2 Interstate Compact Parolees**

*Revised January 4, 2006*

An inmate paroled to California from another state or a federal facility whose criminal history indicates any offense, which if committed or attempted in California would have been registrable pursuant to the above Sections, shall be informed of their duty to register by the Interstate Parole Unit.

#### **74070.22.3 CYA Ward Requirement**

Pursuant to PC 290, any juvenile paroled or discharged after January 1, 1986, who was made a ward of juvenile court and committed to the CYA for a specific sex offense is required to register.

A juvenile's duty to register for offenses adjudicated by a juvenile court shall terminate upon reaching age 25.

#### **74070.22.4 Civil Addicts**

Inmates committed to the custody of The Director under the Civil Addict Program are not required to register as narcotic offenders (W&I 3054).

#### **74070.22.5 Notifying Inmates of Duty to Register**

Staff shall notify inmates of their duty to register by requiring them to read and sign the SS Form 8047, Notice of Registration Requirement.

#### **74070.22.6 Refusal To Sign Notification Form**

If an inmate refuses to read and/or sign the SS Form 8047, staff shall order the inmate to comply with the law.

If the inmate refuses to obey the direct order, staff shall prepare a CDC Form 115, citing CCR 3005 (b), Conduct, Obeying Orders.

#### **74070.22.7 Registration Time Limits**

The requirement to register pursuant to PC 290 is ongoing, except as provided for juveniles and for persons who have obtained a Certificate of Rehabilitation.

Facility staff shall notify inmates of their registration requirements upon each discharge, parole, or release regardless of whether their records indicate that they were notified upon release from a previous commitment.

Staff shall notify inmates of their requirement to register pursuant to PC 457.1 only if they are currently being confined for that offense and ordered to do so by the court.

They shall be required to register for five years after discharge or expiration of parole on a first-time conviction and shall have a lifetime requirement for subsequent PC 457.1 convictions in which case the procedures described for PC 290 above shall apply.

Staff shall notify inmates of their requirement to register pursuant to H&SC Code 11590 only if they are currently being confined for that offense.

#### **74070.22.8 Residency Plans**

PC 290 and 457.1 and H&SC Code 11590 requires that the official in charge of the place of confinement shall obtain the address where the inmate expects to reside upon discharge, parole or release not later than 45 days prior to the scheduled release.

Notification forms shall then be distributed so as to be received by the appropriate agencies no more than 60 days and at least 30 days prior to the inmate's discharge, parole or release.

Residency plans may be unresolved in advance of the scheduled release.

Institution staff shall diligently attempt to obtain address information, but if the address cannot be established, staff shall enter "No Address Known" on the notification form and shall ensure that the parole unit's address and telephone number are included on the form.

If prior to release the address becomes known, staff shall expeditiously notify the agencies to which the form was sent. The SS Form 8047 must be completed in all respects, signed and a copy given to the inmate at the time of their release with a copy placed in the C-File.

#### **74070.22.9 Distribution of Notices**

Copies of the SS Form 8047 shall be distributed by the institution as follows:

- Goldenrod original:
  - To DOJ, Registration Unit.
- Yellow Copy:
  - To police department or Sheriff's Office where the person will reside.
- Blue Copy:
  - To DA's Office where case was prosecuted.

- Green Copy:
  - To the court of conviction.

**Note:** Blue and Green copies not required for PC 457.1 or H&S Code 11590 registrations. Discard.

- Pink Copy:
  - To Parole Agent in unit of supervision.
- White Copy:
  - To the inmate.
- One additional photocopy:
  - To C-File.

#### **74070.23 Release Allowances**

Inmates that have served in excess of six months shall be given a total of \$200.00 cash, minus the cost of release clothing and public transportation to the release program.

This provision is not applicable if the inmate is released to the custody of another state or to the custody of the federal government.

Payment of any remaining balances of release funds shall be forfeited by the parolee who willfully absconds after release on parole.

##### **74070.23.1 Mental Health**

Inmates paroled to DMH are entitled to release funds.

Those inmates transferred to and subsequently paroled from DMH shall be provided release funds from the "hub" institution.

- CMF is the hub institution for northern state hospitals.
- CMC is the hub institution for southern state hospitals.
- CIW is the hub institution for all female inmates in mental hospitals.

##### **74070.23.2 Work Furlough**

A furlougee may receive advances of up to \$100 of the \$200 total release funds.

- A furlougee subject to PC 1168 who is returned to the institution and whose parole date is rescinded shall receive an amount of release funds determined in part by the amount of time served after rescission.
- A furlougee who serves six months or more after rescission shall receive \$200.
- A furlougee who serves less than six months may receive up to \$200 with the specific amount subject to the Parole Agent's decision.
- A furlougee subject to PC 1170 who is returned to the institution for administrative reasons shall receive \$200, minus any amount previously advanced during work furlough.

Repayment of program costs, such as food and rent provided by the facility, must come from sources other than the release funds advancement.

##### **74070.23.3 Releases To USINS**

Inmates released to the custody of immigration authorities for the purpose of deportation shall not receive any release funds unless it is subsequently determined they will not be deported. Funds shall be disbursed by the Parole Agent.

##### **74070.23.4 CYA Awards**

Wards of the CYA released in-state shall be given a maximum of \$10 cash, transportation expenses and, if necessary, up to \$20 worth of clothing for which cash cannot be substituted.

If a ward is being released to an independent placement, a maximum of \$25 cash may be given.

To ensure that the ward received the \$25 for an independent placement, the placement report shall clearly indicate that the ward is being independently placed.

Funds may come from the ward's trust fund money if it was not earned for work in an institution and the ward gives his/her authorization (per W&I Code 1752.81) or from institution support funds.

##### **74070.23.5 Disbursements of Funds**

It may be appropriate to give the inmate a portion of the release allowance as they depart from the institution with the remainder sent to their Parole Agent to be given to them within 60 days of the inmate's release date.

This disposition shall be specified in the parole release authorization.

Inmates released to the custody of another state or to the federal government shall not receive a release allowance.

Inmates released to the jurisdiction of a city or county are eligible for release allowance.

#### **74070.23.6 RTC Allowances**

All parole violators assessed revocation time by the BPT are entitled to receive release allowance funds.

RTC's or Civil Addict Out-Patient Returnees serving six consecutive months or more shall, upon subsequent release from confinement, be provided \$200 in release allowance monies (less cost of release clothing and public transportation).

RTC's or Civil Addict Out-Patient Returnees serving less than six months shall be granted a pro rate share of the allowance of \$1.10 for each day or part thereof in custody on revocation status not to exceed \$200.

If the person is serving a local concurrent sentence that exceeds the BPT-ordered revocation time, the monies shall be granted to the inmate only upon completion of the local concurrent term and subsequent release from jail.

Parolees serving local jail sentences and who have not had their parole revoked by the BPT do not qualify for the release allowance. These cases shall be provided out of P&CSD assistance funds.

##### **74070.24 Daily Parole FAX**

Prior to noon each workday, the institution CCRM will transmit a FAX to each parole region, giving the number, name, region, and unit code of persons released on parole the previous day.

##### **74070.25 Material Forwarded To Parole Unit**

When an inmate is released on parole, the following items shall be forwarded to the appropriate parole unit:

- Any correspondence and progress reports.
- A copy of the Notice of Registration if required.
- A copy of Notice and Conditions of Parole.
- A copy of CDC Form 102, Release Statement and Clothing Authorization.
- Any recent medical, psychological, or psychiatric reports.

On re-parole cases, parole supervision reports, BPT reports, parole account records, and readmission summaries shall also be contained in this folder. Where applicable, a copy of the Notice of Registration form required under PC 290 shall be included.

The CCRM shall ascertain that the revocation release date and the new DSL discharge date are posted to the CDC Form 112 on re-parole cases.

##### **74070.26 Records Forwarded To Regional Offices**

Immediately following notification of the release of each inmate, all facility records including medical records, except the inpatient hospital chart and X-rays, shall be forwarded to the facility records office.

The Records Office shall forward the complete file on the parolee to the appropriate region no later than ten working days after release.

Any material received after the records have been forwarded shall be reviewed by a supervisor and only critical case information shall be sent to the regional records office as miscellaneous mail.

##### **74070.26.1 Disposition Released to Custody**

The complete file of parolees released to custody shall be forwarded to the appropriate regional office as follows:

- **Paroled to California Detainer.** The complete file shall be forwarded to the region in which preparole referral was accepted.
- **Paroled to a California County Sheriff Pending Extradition.** These are cases in which the inmate is fighting extradition. The complete file shall be forwarded to the region in which the preparole referral was accepted.

The regional reentry coordinator of that region shall be contacted and advised of the release to custody so the matter can be followed by the assigned Parole Agent.

Upon extradition, the case shall be transferred to the Interstate Unit in accordance with established transfer procedures.

- **Paroled to Local Sheriff for Pick-Up by Another County or State.** These are cases in which the other agency could not arrive at the institution on the release date. In California cases, these records shall be forwarded to the region of referral.
- **Parole to U.S. Marshal or USINS.** The complete file shall be forwarded to the region of referral.

##### **74070.27 Certificate Of Discharge**

A CDC Form 163, Certificate of Discharge, shall be prepared by the Records Office, extracting necessary data from the C-File for all inmates/parolees whose legal jurisdiction of the Department has been terminated either by expiration of maximum term or expiration of the BPT's term.



One CDC Form 163 shall be prepared. The form shall provide the following information only:

- Dischargee's departmental identification number.
- Dischargee's legal commitment name.
- Dischargee's official date of term(s) expiration.

#### **74070.27.1 Facility Distribution**

The CDC Form 163 shall be given to the inmate prior to departure from the facility.

#### **74070.27.2 Parole Distribution**

The Regional Records Office shall forward the CDC Form 163 to the parole unit for transmittal to the parolee. The Parole Agent shall mail the certificate to the parolee after the discharge date.

#### **74070.28 Exchange Of Prisoners**

GC 12012.1 allows the Department provisions for inmates who request transfer to their own country to complete a prison sentence.

Refer to DOM 62040 for criteria and referral procedures.

#### **74070.28.1 Case Records Responsibilities**

Upon an inmate's transfer to a federal prison prior to transferring to a foreign country, the CCRM shall post to the CDC Form 112, "Transferred to (name of federal prison) for verification hearing pursuant to Treaty on the Execution of Penal Sentences."

When notified that the inmate has actually transferred to the foreign country, the CCRM shall:

- Enter on the Daily Report of Arrivals and Departures "Discharged effective date; transferred to (name of foreign country)."
- Post discharge on CDC Form 112.
- Forward all records to the nearest regional parole records office for microfiche and subsequent transfer to the Archives Unit.

#### **74070.29 Revisions**

The Deputy Director, Institution Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **74070.30 References**

CCR (15) (2) and 3.

GC § 12012.1.

H&SC § 11590.

PC §§ 290, 457.1, 2690, 2692, 2713, 2974, 3000, 4755, 11175 - 11179.

W&I §§ 1752.81 and 3054.

### **Sections Of Offense Codes Requiring Registration Under PC 290**

#### **PC Sections**

220	Assault with intent to commit rape, sodomy, oral copulation, or 264.1, 288, or 289.
261(1)	Rape where person is incapable because of mental disease, defect of disorder or because of physical disability of giving legal consent.
261(2)	Rape by means of force or fear.
261(3)	Rape where person prevented from resisting by intoxication, anesthetic or controlled substance.
261(4)	Rape where a person is, at the time, unconscious of the nature of the act.
261(6)	Rape where the act is accomplished against the victim's will by threatening to retaliate in future against victim or any other person.
264.1	In concert with another person, committing by force or violence acts as described in 261 or 289.
266	Inveiglement or enticement or unmarried female under 18 for purposes or prostitution, etc.; aiding and abetting; procuring female for illicit intercourse by false pretenses.
267	Abduction of person under 18 for purpose of prostitution.
272	Causing, encouraging or contributing to delinquency of persons under 18 years because of any offense involving lewd and lascivious conduct.
285	Incest.
286	Sodomy.
288	Lewd and lascivious acts with child under age 14.
288A	Oral copulation.

289	Penetration of genital or oral openings by foreign object, etc.
314(1)	Indecent exposure (before 1961, PC 311.1) (felony conviction only.)
314(2)	Procures, counsels, and assists any person so to expose himself, (before 1961, this was PC 311.2)
647(D)	Loitering in or about any toilet open to public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.
647A	Annoy or molest child under 18.
290(d)	Persons discharged or paroled who were adjudicated a ward of the court pursuant to W&I 602, shall be subject to registration because of the commission or attempted commission of the following offenses:

#### **PC Sections:**

220
261(2)
264.1
286(1)(b)(c)(d)
288
288a(1)(b)(c)(d)
289(a)
647a (repealed 1-1-88)

#### **W&I Section**

6316	Commitment as a mentally disordered sex offender (before 1970, this was W&I 5512 sexual Psychopath).
Conviction Of These Charges Are No Longer A Registrable Sex Offense.[People V. Reed (1983) 33 Col. 3d 914]	
647(a)	Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.
647.5	Old code for lewd vagrancy (before 1961)
Conviction Of This Charge Is No Longer A Registrable Sex Offense. [People V. King (1984) 157 Col. App. 3d 555] 4 Crim No. 17470.	
314.1	Indecent exposure, misdemeanor conviction only (before 1961 this was PC 311.1)

#### **Sections Of Offense Codes Requiring Registration Under H&SC 11590**

#### **H&SC Sections**

11350	Unlawful Possession of Controlled Substance.
11351	Unlawful Possession for Sale.
11352	Unlawful Transportation, Sale, Administration, etc.
11353	Inducement of Minor's Violation, etc., Pursuant to Agreement, etc.
11354	Unlawful Sale, Transportation, etc., Pursuant to Agreement, etc.

#### **Felonies only**

11357	Unlawful Possession of Concentrated Marijuana.
11358	Unlawful Planting, Processing, etc.
11359	Unlawful Possession Marijuana for Sale.
11360.	Unlawful Transportation, Importation, Sale or gift of Marijuana
11361	Unlawful Employment of, or Sale to, Minor etc.
11363.	Opening or Maintaining Place for Unlawful Purpose
11368.	Forging, Altering, etc., Prescription
11550	Prohibited Using, or Being Under Influence of, controlled Substance.

### **ARTICLE 21 — PAROLE PROCEDURES**

*Effective September 12, 1989*

#### **75010.1 Policy**

Pursuant to PC 3000, sentences pursuant to PC 1168 or 1170 shall include a period of parole unless it is waived by the BPT.

#### **75010.2 Purpose**

The purpose of this section is to provide the procedures for processing cases after inmates are released on parole.

**75010.3 Audit and File Procedures**

Cases are received either upon parole from a facility or upon inter-regional transfer. Cases released directly to parole from court [PC 1170(a)(2)] are forwarded from the Legal Process Unit (LPU) after processing.

Records received for each parolee shall be reviewed for accuracy of content and compliance with all legal and policy requirements by the CCRM within the Department.

The CCRM shall ensure accuracy of content and compliance with all legal and policy requirements of each case record in their region and ensure that records are received for each parolee.

The CCRM shall ensure that the complete C-File is audited, including:

- Verification of calculations for parolee-at-large (PAL) revocation time on CDC Form 112, Chronological Inmate History.
- Check for registration requirements and PC 3058.6 and 3058.8 notices.

If a file is received that does not reflect the correct discharge date or a court document is received amending the term or credits; or at-large time is applied, a change of CDC Form 683, Discharge Date Notification, shall be prepared and disseminated. See DOM 75010.14.2 for distribution of forms.

**75010.3.1 CDC Form 144, Control Card**

The CDC Form 144, Control Card, shall be updated and filed alphabetically according to the controlling discharge date (CDD) or discharge revised date (DRD) whichever is earliest on each case. Information posted to this card shall be posted in pencil.

On PAL cases, the CDC Form 144 shall be removed from the active file and placed in a separate section. These control cards shall be filed alphabetically.

**75010.4 Direct Release to Parole From Court**

Refer to DOM 72020, Initial Intake Procedures, and DOM 81010, Release Procedures and Conditions for Parole, for information on processing cases released directly to parole by the courts.

**75010.5 Outgoing Cases**

Cases are transferred from regions by:

- Case transfer to another region.
- Parole violation and return to prison.
- Discharge by the BPT or court order.
- Expiration of sentence.
- Death.
- Pardon.
- Commutation of sentence.

See DOM 71020 for processing after discharge.

**75010.5.1 Transfer To Another Region**

The transfer of a case from one region to another or one unit to another, within the region, is initiated by the Parole Agent completing a CDC Form 1506, Notice of Transfer. The original shall be sent to the sending region by the unit office.

The transfer shall immediately be entered into OBIS.

**Case Records**

The original CDC Form 1506 shall be placed in the C-File and the C-File shall be shipped immediately to the receiving region case records office.

**75010.5.2 Transfer To Department/Mental Facility**

*Revised March 16, 1995*

Refer to DOM 75010.14.3 for procedures on processing parole violators returned-to-custody (PRTC) or DOM 75010.14.4 with new term.

C-Files for parolees placed in mental institutions shall be retained in the respective parole region's case records office until final disposition of the case. Within three days after being advised of a parolee's return to a Department institution the C-file and satellite records shall be forwarded to the institution of confinement.

**75010.5.3 Preparation of Files for Transfer**

Prior to transfer of a C-file:

- All loose material shall be properly filed and fastened down.
- Duplicate material shall be purged.
- The CDC Form 112 shall be current and audited for completeness and accuracy.

A copy of the CDC Form 611, Release Program Study (RPS), and any report to the BPT following release shall be retained in chronological order most recent on top in the parole section of the C-file.

A CDC Form 134, Records Transfer Check Sheet, shall be completed in duplicate, showing date records are shipped and each case shall be listed by number and name. Retain one copy for reference, and place one copy in each package of files, indicating which cases are enclosed.

**75010.6 Parole Violations/Regional Hearing Calendar**

A CDC Form 1521(A), (B), (C), and (D), Parole Violation Reports, are prepared in the parole unit by the Parole Agent and sent to regional case records. These reports shall be received by the eighth working day following arrest/hold/discovery.

**Regional Screening**

For all cases, except PAL or psychiatric attention to be screened by the BPT at the regional office, case records staff shall prepare the following:

- BPT Form 1104, Summary of Revocation Division: Hearing Waived/Screening Offer.
- BPT Form 1116, Eligibility of Parolees for Worktime Credit.
- BPT Form 1132, Headquarters Calendar Control Log.

The cases shall be presented to the BPT by the tenth working day from the date the hold was placed on the parolee.

If parole has previously been suspended/PAL, the case shall require a BPT Form 1130, Headquarters Calendar Decision, if "reinstate" action is taken by the unit supervisor.

After the BPT makes a screening offer or takes an action to schedule for a revocation hearing on the BPT Form 1104, case records staff shall notify the revocation unit of the results for service or the acknowledgment of the offer to the parolee. A copy of the BPT Form 1104 shall be sent to the BPT at this time.

If the parolee signs the Waiver of BPT Form 1101, Revocation Hearing, requesting a revocation hearing, the BPT shall schedule a hearing. The hearing panel may take an action based on their findings on the BPT Form 1103, Summary of Revocation Hearing and Decision. Upon receipt of the BPT Form 1103, case records calculate revocation time, posting the CDC Forms 112 and 144 accordingly.

**Waiver of Revocation Hearing (Unconditional)**

If the unconditional waiver is signed, BPT Form 1101, the documents shall be forwarded to the case records for calculation of the revocation time and the posting of CDC Forms 112 and 144.

A parolee undergoing criminal prosecution may waive a revocation hearing but retain the option to request a hearing at a later date.

**Waiver Of Revocation Hearing (Optional)**

When a parolee has signed an optional waiver, BPT Form 1101, the case shall be submitted to the BPT by case records, accompanied by the BPT Forms 1104, 1116, and 1132 for determination whether there is good cause to revoke parole. The determination shall be made without a hearing or personal appearance by the parolee.

Upon receipt of a signed BPT Form 1104 revoking parole, case records shall make the appropriate calculations and post the CDC Forms 112 and 144 accordingly.

The parolee may request a revocation hearing no later than two months prior to the expiration of the revocation period or after adjudication of pending charges. Upon receipt of a hearing request, the BPT shall schedule a revocation hearing. The hearing panel may take an action based on their finding on the BPT Form 1103, but shall not order the parolee returned to custody for a greater period than previously ordered. Upon receipt of the BPT Form 1103, case records shall calculate the revocation time and post the CDC Forms 112 and 144.

See DOM 75010.14.2 for distribution of reports and forms.

**75010.7 Parole Violations/Headquarters Calendar**

When the initial PAL report(s) or PAL review report(s) are sent to regional case records from the unit office, a BPT Form 1130 shall accompany it.

A daily BPT Form 1132 shall be prepared by case records and include each of the following:

- Parolee's departmental identification number.
- Parolee's name.
- Type of report submitted.

**75010.7.1 Material Forwarded To BPT**

*Revised December 24, 1992*

The original BPT Form 1132 shall be sent by first-class mail or messenger to the BPT Headquarters' calendar and shall include a packet of material for each parolee. The packet shall contain and be assembled as follows:

- One copy of the CDC Form 600, Wanted Persons System Notification-Addendum, prepared only for initial PAL report.
- One copy of Parole Agent's report.
- BPT copy of permanent addenda if requested by the unit.
- BPT Form 1130 (no copy placed in C-File until signed by BPT).

#### **75010.7.2 Results Of Headquarters Calendar**

When the BPT returns the BPT Form 1132 and the signed BPT Form 1130, case records staff shall review the BPT Form 1130 and post each action to the CDC Forms 112 and 144 if applicable.

#### **75010.8 Revocation Hearings**

*Revised December 24, 1992*

##### **Regional Hearing Coordinator Technical Violation**

The Regional Hearing Coordinator shall follow the procedures set forth in DOM 84000 for scheduling and conducting revocation hearings.

A Revocation Hearing should be held within 45 days of parole hold or discovery of parole violation pursuant to BPT Rule 2640(1)(f). A technical violator may be returned and placed in a departmental facility pending a Revocation Hearing.

#### **75010.9 Revocation Extension Hearings**

*Revised December 24, 1992*

The BPT may assess additional revocation time for parolees in RTC status who commit law violations or a serious jail or CCR (15) (3) violation.

##### **RTCs in Department Facilities**

Violations committed by parolees in RTC status in Department facilities shall be handled by Department staff (CDC 115s) as specified in DOM 52080.

##### **RTCs in Nondepartment facilities**

P&CSD staff shall handle violations committed by parolees in RTC status in local custody.

The specific procedures for initiating/processing a BPT Form 1135-A, Report of In Custody Misconduct, are contained in DOM 84000.

When the unit supervisor submits the BPT Form 1135 and the BPT Form 1135-A, the case records staff shall prepare a BPT Form 1104, BPT Form 1116, and a BPT Form 1132 before presenting the package to the Regional Hearing Officer calendar. After the BPT makes an offer or takes an action, the case records staff shall notify the revocation unit of the results for service of the offer to the parolee.

- Recalculate the revocation release dates accordingly if the BPT extends a revocation period.
- Post the BPT action to the CDC Form 112.
- Post the CDC Form 144 card if the Revocation Release Date (RRD), Projected Revocation Release Date (PRRD), Controlling Discharge Date (CDD), and/or the Projected Controlling Discharge Date (PCDD) change.
- Update OBIS with new RRD.

See DOM 75010 for form distribution.

#### **75010.10 Discharge Review**

*Revised March 16, 1995*

Discharge reviews shall be conducted on parolees whose offense occurred on or after January 1, 1979. Discharge review schedules and procedures are specified in DOM 81080.

The Discharge Review Report from the Parole Agent must be received in the case records office within 20 calendar days of the discharge review date. Case records staff shall submit the case to the BPT Regional Screening Calendar for decision at least 20 days prior to the appropriate calendar anniversary date.

Following the BPT action, the results of the hearing shall be forwarded to the parolee by the Parole Agent.

##### **Retain on Parole**

If a retain-on-parole action is taken, the discharge review date shall be extended for one year unless it exceeds the CDD or is stated differently in the BPT action.

##### **Discharge**

If a discharge action is taken, the effective date will be at least 15 days from time the discharge is granted or otherwise specified by the BPT. A CDC Form 163, Certificate of Discharge, shall be prepared by case records and mailed to the Parole Agent for delivery to the parolee.

#### **Posting Discharge and Review actions**

Case records staff shall post the discharge or new discharge review dates on:

- The CDC Form 112.
- The CDC Form 144 card.

#### **75010.11 Emergency Actions**

The parole unit may request various "emergency" actions from the BPT through the case records office.

The unit supervisor shall contact records by telephone and dictate a brief, concise report and the requested BPT action.

Case records staff shall type the report on a BPT Form 1135 and Omnifax it to the BPT for action.

Requests, other than PAL, may be acted on at the region if a BPT Deputy Commissioner is present. Otherwise, the request is to be FAXed to BPT Headquarters.

Upon receipt of the BPT action, case records shall notify the unit supervisor by phone of the action taken. The CDC Forms 112 and 144 card shall be posted accordingly. The BPT Form 1135 shall be filed in the C-File.

#### **75010.12 Emergency Psychiatric Attention Cases**

Emergency psychiatric treatment cases may be returned to a facility for treatment upon written authorization of the BPT and acceptance by facility medical staff.

##### **Regional CCRM**

- The regional CCRM shall telecopy the BPT Form 1135 to the facility CCRM.
- Inform the parole unit staff the results of the BPT action.
- Forward the C-File to the facility in accordance with DOM 75010.14.3.

A parolee may be returned for psychiatric attention for the maximum period (six months or one year) to allow treatment by medical staff (refer to DOM 73030.16.7).

- The time starts upon date of hold or date of arrest if parole was previously suspended.
- Clinical services staff shall notify the C&PR or appropriate counselor when a parolee's psychiatric condition has improved enough to warrant BPT consideration of release from psychiatric return placement.
- The parolee may be released at an earlier date than specified at the revocation hearing if their psychiatric condition improves.
- The C&PR shall submit a BPT Form 1135 to the BPT recommending a release date at least ten working days in the future to allow sufficient time for the Parole Agent to finalize details of the release program.

#### **75010.13 Special Regional CCRM Responsibilities**

The regional CCRM shall:

- Review all BPT actions to ensure appropriate decisions have been made by the hearing panel.
- Return of pertinent documents to the Headquarters Calendar for clarification and/or correction in cases where inappropriate actions were taken.
- See that all computations are completed and posted accordingly.
- See that BPT actions are posted to CDC Forms 112 and 144 (if applicable).

#### **75010.14 Records Functions After BPT Decisions**

Case records staff shall process cases after BPT hearings.

##### **75010.14.1 Time Computations**

The appropriate CCRM shall compute the RRD, PRRD, if eligible to earn work time credits, PCDD (if applicable), CDD, and DRD in accordance with the BPT order. For time computation see DOM 73030.16 et al.

Time during which parole is suspended because the parolee has absconded shall not be credited toward period of parole pursuant to PC 2900(c)(1). The revocation period of parole starts from the date arrested/date hold is placed/date available for return to California from out-of-state.

When revocation of parole extends the period of parole, the recomputed PRRD (if applicable), RRD, PCDD (if applicable), CDD and DRD shall be posted to the first page of the BPT Form 1103; or BPT Form 1104, top right corner, prior to distribution.

##### **75010.14.2 Distribution of Reports and Forms**

The original of all board reports and BPT decision forms shall be filed in the C-file.

The below listed forms shall be distributed by case records staff, as follows:

- BPT Form 1101, Waiver of Revocation Hearing.
  - Parole agent.
  - Parolee.
  - BPT, immediately after parolee signs the form.
- BPT Form 1103, Summary of Hearing.
  - Parole agent.
  - Parolee.
  - Research, accompanied by current CDC Form 112.
- BPT Form 1104, Summary of Revocation Decision, Hearing Waived.
  - Parole agent.
  - Parolee.
  - Research, accompanied by current CDC Form 112.
- BPT Form 1116, Eligibility of Parolees for Worktime Credit.
  - Parole agent.
  - Parolee.
- BPT Form 1130, Headquarters Calendar Decision.
  - Parole agent.
  - Parolee.
  - BPT, if action taken by unit supervisor to "reinstate".
- BPT Form 1132, Headquarters Calendar Control Log.
  - Retained in the Log File.
- BPT Form 1135, Miscellaneous Decisions.
  - Parole agent.
  - Parolee.
- BPT Form 1135A, Report of In-Custody Misconduct.
  - Parole agent.
  - Parolee.
- CDC Form 683, Change of Discharge Date Notification.
  - Parole agent.
  - Parolee.
  - Offender Information Service Branch.
- CDC Form 1521 (A, B, C, and D), Violation Report.
  - Research, accompanied by current CDC Form 112.

#### **75010.14.3 Processing Of Cases Ordered Returned To Custody**

When a parole violator (PV) is received at a PVs' processing unit the CCRM shall:

- Identify the PV and send a FAX to the appropriate region indicating the subjects Name and CDC number.

Upon notification from the PV processing units of the receipt of PVs, the regional CCRM shall:

- Within three working days ship the C-file by courier service to the institution receiving the parolee.

If a parolee reaches their statutory discharge date while pending adjudication of criminal charges, the case shall be discharged.

#### **75010.14.4 Revoked Parolees With New Commitments**

Revoked parolees who were on parole for a non-life commitment and are returned with a new commitment shall not be discharged automatically.

##### **Reception Center PV Unit**

The prior commitment shall be discharged only if the RRD and the parole have been revoked. If the release date for the new commitment is later than the RRD, case records shall discharge the former term. If the RRD is later than the release date on the new commitment, the case shall be presented to the BPT on the Miscellaneous Proceedings Calendar for a decision on whether or not to discharge the prior commitment.

#### **75010.15 Discharge**

The procedures in DOM 71020.5.4 through 71020.5.8 shall be followed.

##### **75010.15.1 Deaths**

Upon the death of a releasee/parolee a copy of the following shall be obtained and placed in the C-file:

- Death certificate.
- Closing case summary.
- In some cases an autopsy report or certification by the Parole Agent that the death certificate was reviewed.

The CCRM shall post the CDC Form 112 as to the date and the notation "deceased". This officially closes actions on the CDC Form 112 and the file shall be closed. The procedures in DOM 71020.5.4 through 71020.5.8 shall be followed. Files shall be microfiched; however, those involved in litigation shall be retained in the regional records office until litigation is completed.

Case records staff shall make the entry into OBIS.

#### **75010.15.2 Pardons And Commutations**

Pursuant to PC 4800 and Article V of the State Constitution, reprieves, pardons and commutations are granted by executive authority of the Governor.

Investigations and reports related to such actions are prepared by BPT staff as provided in PC 4810 and 4812. Notices of executive clemency actions are transmitted by the Governor's Legal Affairs Secretary to the BPT. The case records office is notified with data furnished for records keeping and necessary departmental action by the BPT.

When a pardon or commutation terminates the sentence, this acts as a discharge on Department records. The date the pardon or commutation is granted and by whom is posted to the CDC Form 112, and entered into OBIS. The file shall be closed following procedures in DOM 71020.5.4 through 71020.5.8.

#### **75010.15.3 WICC/ICC/Federal Contract Cases**

In some instances parolees may have completed their California parole while remaining under departmental jurisdiction in accordance with WICC/ICC/Federal contract. The following procedures shall apply in these cases:

- Upon expiration of the period of parole on the California term, the parolee shall be discharged on the California term(s) and remain on the contract case only.
- A new departmental identification number shall be issued. Routine identification and intake procedures shall be followed (See DOM 72020).
- A new CDC Form 188 shall be prepared indicating that the inmate is a WICC/ICC/Federal contract case only. This shall be attached to the old cumulative case summary and placed in the new C-File.
- All correspondence and reports shall reflect the new number and be filed in the new file.
- The old C-File and related records on the discharged California term shall be microfiched and forwarded to Archives. The contract case records shall be forwarded to Archives upon discharge.

#### **75010.16 PC 969(b) Certifications**

*Revised March 16, 1995*

Due to the involvement of parole cases in criminal and civil actions, the case records office is required by law to furnish certified copies of various departmental records to county and court officials. Under PC 969(b), certifications constitute proof of a prior felony conviction. The DA of any county or the prosecuting authority of jurisdictions in other states or from the federal level, or Alcohol, Tobacco and Firearms may request a "PC 969(b) certification."

These requests are either sent directly to the Identification (ID)/Warrants Unit who shall forward them to the appropriate region. In response to California requests, a photocopy is made of the fingerprint card, each abstract of judgment pertaining to the case, CDC Form 112, Chronological History, and photo. A certification letter is prepared by the CCRM, as the custodian of records, and is typed, signed and sealed. Each of the documents shall also be signed and sealed. The material is then forwarded to the requesting office.

In response to requests from out-of-state, the above material, excluding certification of the records shall be prepared and forwarded to headquarters records for processing. Materials shall not be stapled together but paper clipped. It is imperative that a photocopy of the fingerprint card be made and included in this material. If a fingerprint card is not available, a request for a certified copy shall be directed to State DOJ. When received, it, along with the above material, shall be forwarded to headquarters records.

##### **Exemplified Certifications**

CCRA shall have the records exemplified by the local court and process the documents to the requesting state.

Records on discharged persons are retained in the Archives Unit at CMF. Requests for certified copies of discharged records as provided in PC 969(b) shall be sent to CMF. Such requests shall contain the date on which the person was discharged. It is imperative that the Archives Unit include a photocopy of the fingerprint card with the discharged records. If none is available, a request for a certified copy shall be directed to State DOJ. When received, it,

along with the other discharged records material shall be forwarded to the office requesting such records.

#### **75010.16.1 Miscellaneous Certifications**

*Revised March 16, 1995*

The Department is required at various times to furnish certified copies of departmental records as ordered by subpoena or as established by intra-agency relationships. Certification statements shall be stamped, typed, or written on each copy prepared, and certification letter may be typed separately and attached to all the copies. A notation is made in the C-File of compliance, with the request. The certification is then signed, sealed, and forwarded to the requesting agency.

#### **75010.17 Application Of Court Decisions**

All cases are reviewed at various times and primarily in preparation for BPT review to see that all court decisions affecting each case have been complied with and that the appropriate changes were made with notification sent to interested divisions.

#### **75010.18 Response To Subpoenas**

Refer to DOM 14010.

#### **75010.19 Revisions**

The Deputy Director, Institutions Division, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **75010.20 References**

PC §§ 969(b), 4800, and 4812.

CCR (15) (2)

### **ARTICLE 22 — CIVIL ADDICT COMMITMENTS**

*Revised February 28, 1995*

#### **76010.1 Policy**

The W&I provides for civil commitment to the Department of certain persons found to be addicted to the use of narcotics or in imminent danger of becoming addicted to the use of narcotics. Commitments are made by a Superior court pursuant to W&I 3050, 3051, or 3100.

The NAEA Board shall have the power to release to outpatient status/civil addict parole those individuals certified as having recovered from addiction or imminent danger of addiction pursuant to W&I 3150.

Reception and transfer of all persons committed as civil addicts shall be in accordance with classification procedures.

#### **76010.2 Purpose**

The purpose of this section is to provide procedures for the processing, release or return of civil addict commitments.

It also establishes standard procedures for conducting required NAEA hearings and preparation of civil addict commitment reports.

#### **76010.3 Commitments to the Civil Addict Program**

Commitments pursuant to W&I 3050 or 3051 indicate conviction of a crime or probation revocation and criminal proceedings have been suspended/adjourned and the individual found to be a narcotic addict or in imminent danger of becoming a narcotic addict.

##### **W&I 3050 and 3051**

Commitments pursuant to W&I 3050 indicate conviction in a Municipal or Justice court and certified by a Superior court.

Commitments pursuant to W&I 3051 indicate conviction in a Superior court. Terms of these commitments are in accordance with W&I 3201(a). For offenses that occurred prior to July 29, 1980, the term is recorded as seven years pursuant to W&I 3201(a).

##### **W&I 3100**

Commitments pursuant to W&I 3100 may be involuntary or voluntary. If anyone believes a person is addicted to the use of narcotics or by repeated usage is in imminent danger of becoming addicted or any person who believes himself to be addicted or about to become addicted may report to the DA, who may petition the Superior court for commitment. Terms of commitment shall be recorded as 12 months pursuant to W&I 3201(b).

##### **Dual Commitments**

Departmental parolees under the jurisdiction of both the BPT (BPT, Board) and the NAEA are referred to as dual commitments. These persons have a commitment to:

- State prison as a result of a conviction while on outpatient/civil addict parole status.

- A civil addict program as a result of a conviction while on felony parole status.

#### **76010.4 Male/Female Commitments**

All commitments must be accompanied by a certified copy of the Judgment and Commitment, Minute Order, and POR.

Registry of narcotics (N) numbers shall be issued by the ID/Warrants Unit.

Male civil addict commitments shall be accepted from court at:

- Reception center, CRC, Norco.
- Reception center, CMF.

Female civil addict commitments shall be accepted from court at the women's unit of CRC.

#### **76010.5 Cumulative Case Summary**

Information compiled in the Cumulative Case Summary (Cum Sum) originates both inside and outside the institution and is prepared and placed in the following order by the following staff:

##### **Case Records Staff**

- Legal.
- Circumstances of commitment.
- Sentence data and offense.
- Prior commitments.
- CI&I SSCH.

##### **CC-I**

- Social history.
- Initial study.

#### **76010.5.1 Cum-Sum Face Sheet Composition**

The CDC Form 188L, Cum Sum Face Sheet, is the legal information section of the Cum Sum. This information is abstracted from the commitment documents received from the court. The legal data below "Received" through "Pre-confinement Credits" shall be recorded for each commitment.

Narrative of revised CDC Form 188-L is as follows:

- Name: The name on the original commitment document. (If two names are indicated on the commitment document and one is the "true name", then the "true name" shall be used.) Subsequent commitments, with different names, shall be recorded as "Also Committed As" (ACA).
- Birthdate: The subject's actual date of birth, no age need be shown.
- Birthplace: The state or the country of birth.
- Ethnicity: Subject's ethnic derivation.
- Received: The date subject was received in the Department for the specific commitment.
- Commitment: The total period of commitment as shown on the Abstract of Judgment or civil commitment document shall be recorded in years and months (In addition, the type of commitment shall be noted in parentheses: e.g., Indeterminate, SB 1878 or SB 176).
- County: The county of subject's commitment.
- Custody Time: The maximum amount of days a person may be retained in custody represents two-thirds of the total commitment including preconfinement and postsentence credits.
- Civil Case No.: The case number on the civil addict commitment form which may, or may not, be the same as the criminal case number.
- Program Expiration Date (PED): The total commitment time added to the received date less the total preconfinement and postsentence credits including conduct credit. It is also referred to as the commitment expiration date.
- Section and Code: The appropriate W&I section of the commitment.
- Custody Expiration Date (CED): The latest date a person can be retained in custody. This date changes once the person has been released to outpatient status (OPS) and must be recalculated when the person has been returned to custody. This date is calculated by adding the number of remaining custody days to the date the person was taken into custody. Custody expiration date cannot exceed PED.
- PC 2900.5 Credits: Credits granted by the court.
- PC 4019 Credits: conduct credits granted by the court.
- Postsentence: Credit administratively granted by the Department for time between date of sentence and delivery to the Department.
- Total credits: The number of credits applied to the term.

**Discrepancy in Credit**

Any discrepancy in credits granted by the court shall be referred to the Civil Addict Legal Process Unit (CALPU) located at CRC.

Information recorded below double line shall include:

- Date released to outpatient status and/or civil addict parole.
- Custody parole.
- Custody days remaining. The number of days subject may remain in custody less time spent in local custody, from date of hold, prior to return. This shall be computed by institution case records staff upon receipt of the records reflecting the number of custody days remaining as of date last received as an outpatient releasee to finish term (OPRTFT).
- Subsequent NAEA actions.
- Date received at CRC from outpatient and/or parole status (if applicable).
- PED is the latest date subject may remain in program for each commitment. This date is computed upon initial receipt of the commitment by institution case records staff. This date may only be increased by the number of days a person has been suspended, releasee-at-large (RAL) (if applicable).
- CED (if applicable).

**Civil Addict Parole Violator**

In the event the person is a civil addict parole violator, the maximum parole discharge date shall be recorded.

- Maximum Parole Discharge Date: The maximum eligible parole discharge date represents three years from date of original civil addict parole plus one year additional custody time. The date is computed upon receipt of records by CRC as Civil Addict Parolee Return.

**Bottom of Each Page**

Information recorded at the bottom of each page of the Cum Sum shall include the last name, first initial, number, civil addict program branch, date typed, and the corresponding correctional case records specialist (CRS) and typist's initials.

EXAMPLE:

JONES, B.N-00000      CRC-Norco      7/7/99      MSS/Ab

**76010.5.2 Computation of Time**

Time runs from date of arrival at CRC or designated institution or to a civil addict program agent.

On civil addict commitments, time runs while under treatment and jurisdiction in a civil addict program designated institution or under supervision on outpatient status.

Maximum custody time on CRC commitment will be reduced by:

- Time spent in local custody on Our Hold Only (OHO).
- Time spent in local custody under a Hold (W&I 3151), except the period of time that represents the serving of a local sentence.

**Dead Time**

Time does not run under the following circumstances and is computed as "dead time":

- Time between date of escape and RTC.
- Time between suspension of outpatient status/parole and removal of at-large status.
- Time elapsed between court pick-up and return, unless the exclusion request is withdrawn.

Court ordered pick-ups from institution custody resulting from a reversal on appeal, the granting of a writ, and exclusion referrals shall act to discharge the case from all departmental records. Where the immediate result of the subsequent court proceedings is to return to the civil addict program, a new "N" number shall be issued. If another disposition is made and, at a future date, the case is recommitted to CRC a new "N" number will be issued. No credit is granted for time spent under the previous "N" number.

**76010.5.3 Circumstances of Commitment - Sentence Data and Offense**

The circumstances and significant information regarding the criminal offense(s) shall be recorded as follows:

EXAMPLE: SENTENCING DATA AND FACTS:

CASE #A448113 CT1 BURG 2ND (459 PC) 6-30-80 (POR)

Subject was observed by witnesses exiting a burglarized residence carrying a colored television set valued at \$500.

CASE #A588055 CT1 BURG 2ND (459 PC) 7-6-80 (POR)

The victim returned to her residence and found numerous items of her property stacked near the front door. Officers found subject hiding under a bed. Search of subject revealed two balloons of heroin.

The commitment information of discharged cases shall remain in the case summary until the person has been discharged on all cases.

**76010.5.4 CI&I Report**

The SSCH is provided by CI&I, at the request of the records office, after submission of CDC Form 138, Fingerprint Cards.

**76010.5.5 Social History**

The Case Summary [GA Form 2] is compiled by the counselor from available material and an interview with the resident. Each time the inmate is returned to the institution the case summary is reviewed and updated as needed to provide accurate information.

**76010.5.6 Initial Study**

*Revised September 25, 2007*

A narrative report is compiled by the counselor discussing facts, or relationship between facts, which may be applicable to the treatment and controlling of the resident. A treatment plan is formulated from these assessments and evaluations:

**Employment Assessment**

This section responds to the questions:

- Does the individual have stable or sporadic work history?
- Do they claim work skills?
- If a member of a union, is the individual skilled at journeyman or apprentice level?
- If a welder, for example, are they certified, etc.

**Verify Employment**

Verification of prior employment is required through correspondence with former employers, indicating pay scale, future employability, etc.

- Does the individual need additional training to become employable?

**Education Assessment**

Highest grade completed.

- What is tested grade level?
- Considering age and claimed work skills, is General Education Development (GED) requirement appropriate?
- Does he/she require vocational or academic training?

**Note:** If the resident cannot read and/or write, the need for remedial education should be assessed.

**Drug/Alcohol Assessment**

Assessment as follows:

- Is the individual an alcohol abuser in need of Alcoholics Anonymous?
- Are there conflicts in the POR's and doctor's court report regarding drug use?
- Are they a poly-drug user?
- How old was the person when usage began?
- Are there specific concerns regarding drugs used?
- Are they in need of Narcotics Anonymous?

**Social Evaluation**

This section should speak to the individual's relationships with family members who are defined in Section 3000 of the Title 15.

- Are there problem areas with any family members, including mother, father, siblings, wife, husband, registered domestic partner, children, etc., which need to be resolved?
- Have any family members ever been incarcerated?
- If so, who and for what offense?

**Evaluation and Program Plan**

Considering the above factors, which program at CRC will best equip the individual for success on OPS/parole?

This area should include any special needs and/or problems, including any medical/psychiatric problems, exclusionary concerns, or legal concerns that would preclude the individual from participating in a particular program.

**Within 35 Days**

The program information shall be compiled within 35 days after the individual's reception.

Based on the information contained in this report, a recommendation shall be made as to what the person should accomplish while at CRC, the anticipated period of time needed to complete the program, when the program should be available, and whether the individual agrees to complete the program. Other factors that may be included are:

- Relationship of narcotic use to other criminal activity.
- Their associate in use, such as:
  - Siblings.
  - Peers.
  - Parents.
- Inconsistencies regarding the individual's narcotic usage between various reports such as:
  - The POR.
  - Court appointed medical examiner's report.

**Casework Follow Up**

Does the individual need to be referred to psychiatric services for violence potential evaluation? Is an initial field study in order? If a dual commitment, does the individual need to be scheduled for a BPT hearing? Are arrest reports needed? If no follow-up is necessary, indicate "none".

**76010.6 Miscellaneous Reports****Headings**

Centered at the top of the report should be the title of the report, usually phrased in terms of a particular decision-making recommendation. Examples of headings are:

- Referral to OPS/Civil Addict Parole.
- Annual Review.
- Closing Summary.

**76010.7 CDC Form 611, Release Program Study (RPS) Report**

CDC Form 611 reports shall contain the following sections and headings:

- Program Plan. One or more brief paragraphs which summarize appropriate program planning information as recorded on the Classification Chrono (CDC Form 128-G) and Initial Program Study. Note any program changes made that differ from the original recommendations on the Initial Program Study.
- Administrative Review. All levels of administrative review shall be chronological and include program changes, confirmation and exclusion review.
- Institutional Assignments. Summarize the individual's assignments during his stay in the institution. State specifically the duration of the assignment and grades received.
- Institutional Behavior/Response to Dormitory Program. Describe the individual's response to the above summarized treatment plan as it applies specifically to dormitory behavior and activities. Those activities may include Alcoholics Anonymous, Narcotics Anonymous, self-help groups and psychotherapy groups. Also included in summary form are all Rule Violations Reports (CDC Form 115); or Counselling Chronos (CDC Form 128-A) received. Major infractions of the rules will be listed individually.
- Evaluation. This section will analyze and evaluate the individual's progress in terms of the above factual information and the occasion for the progress review report. If a referral to release status is a part of the recommendation, then the appropriateness of the release plans which are contained in the following section shall be evaluated.

**Final Section of the Referral**

The final section of the referral describes residence and employment plans that have been developed by the individual.

**Residence Plans**

- List either "Parole Agent to develop near place of employment", or a statement describing the proposed residence, including address, telephone number, names, and relationships of those living therein. Alternative residence plans shall be included if there is a possibility that the first plan may be unacceptable.

**Employment Plans**

- List either "none" with an explanation as to the type of work preferred, the work skills possessed, and the community where employment is desired, or a statement covering the following:
  - Name of company and person's position making the employment offer, address and telephone number at which the Parole Agent can make contact, type of work and wage involved.
  - Other information related to the position offered that may be of help to the Parole Agent, such as length of prior employment experience, education, or vocational training and union status. The same type of information shall be listed for each separate employment offer or lead.

**Counselor's Comments**

- Include, when applicable, the plans and arrangements made by the resident to pursue academic or vocational training programs. Resources such as veteran's benefits or financial aid from some source should be included along with names, addresses and file numbers. All significant debts and anticipated child support or alimony payments shall be listed. Plans on how to meet these obligations shall be spelled out. Assets, such as money in institutional trust account, are to be listed.

**Legal Interests**

- Unresolved legal matters shall be listed and clarified, which may include welfare interest in the resident or their family; names, titles, telephone numbers, addresses, file numbers and other identifying information about each interested agency.

**Medical or Psychiatric**

- When community follow-up is indicated for either medical or mental disorders, these are to be identified and explained.

**Release Resources**

- List the name, relationship, and address on each significant person in the community if this information is not contained in an earlier section.

**Supplemental Evaluation**

- This evaluation shall be added as a current addendum summary to the program response summary and evaluation section when the NAEA decides that the referral of an annual review case is appropriate for release. This section shall be evaluated in terms of the prior recommendation and plans. Regarding prior appearance cases postponed by the NAEA, a current section addendum summary shall be added before the next NAEA appearance.

**Signatures**

- The name and title of the counselor and supervisor are typed below the body of the report. Each shall sign the report above his/her name after review.

**Prerelease**

- Prerelease case assessment and planning is accomplished by the assigned supervising Parole Agent who verifies the above information as viable release plans. The Parole Agent shall approve, modify or disapprove release plans, depending upon prior failures, successes, significant recent changes in community resources or plans that have not proven valid.

**Signatures**

- The title of the assigned Parole Agent and unit supervisor are included on the proposed RPS, and each shall review and sign the report.

**76010.8 Processing Dual Commitments**

When it is determined that a new civil addict commitment was on felony parole:

- The regional case records staff, upon notification of the civil addict commitment, shall immediately send the felony C-file to the records office at CRC.
- Within 60 days of arrival at CRC a determination shall be made by the classification committee to recommend retention in or exclusion from the civil addict program.

**Retain in Program**

- If the decision is to retain in the program, an CDC Form 1502, Activity Report, shall be submitted to the BPT for possible discharge of the felony commitment.
- If the felony commitment is discharged, the subject shall remain under the jurisdiction of the NAEA. Refer to DOM 76010.8.1 for processing.

**Exclude from Program**

- If CRC classification committee's decision is to exclude the person from the civil addict program, institution staff shall prepare an exclusionary letter referring the civil commitment back to the committing court, recommending vacation of commitment.
- If an outpatient/civil addict parolee is subsequently committed to state prison, P&CSD shall refer the civil addict commitment back to the committing court.

#### **Unusual Dual Commitment**

If the decision is made to retain a felony commitment to the Department in the civil addict program or in the rare event that the committing court refuses to vacate the civil commitment, the status will remain a dual commitment.

These cases will not be eligible for release consideration by the NAEA until the BPT ordered parole revocation period has expired.

#### **76010.8.1 Felony or Civil Addict Discharge**

The BPT's action discharging the felon case shall be posted to the CDC Form 112, Chronological History, in the felons C-file. A civil addict Cum Sum and C-file shall be completed. Actions affecting the resident's movement in and out of the institution, detainers and cancellations of same entered on the CDC Form 112 in the felony file shall be transferred to the civil addict file. The discharged felon C-file shall be sent to the designated region to be microfilmed then forwarded to the Archives Unit.

#### **Felony/Civil Addict**

Upon the resident's release to custody of the sheriff of the committing county as an unfit subject for the civil addict program, CRC case records staff shall place a Hold for the Department. A copy of the court order and of the CDC Form 123, Body Receipt, shall be placed in the "N" number case file. The original shall be forwarded to the designated reception center to be placed in the felons C-file.

#### **Daily Reports of Arrivals and Departures**

CRC case records staff shall make a notation on the Daily Report of Arrivals and Departures (DRAD) showing the discharge from the "N" number commitment(s) [and remaining on the departmental number (CDC number)]. The CDC Form 112, in the "N" number case file and the Control Card (CDC Form 144) shall also be posted to this effect.

#### **76010.9 Unsuitability for Program**

The Director or designated representative may:

- Return persons charged with a crime and committed to the civil addict program to committing court as unsuitable for the program (W&I 3053).
- Order discharge from the civil addict program for persons not charged with a crime who prove unsuitable for confinement or treatment in the program (W&I 3109).

W&I 3053 provides for automatic termination of a civil addict commitment upon a subsequent felony conviction and a commitment to state prison pursuant to PC 1168 or 1170.

#### **76010.9.1 Removal From Civil Addict Program**

Criteria for determining suitability for the civil addict program is set forth in W&I 3052.

#### **76010.9.2 Procedure for Referring Cases to Committing Courts Pursuant To W&I 3053**

After the decision has been made by the Director or designee that a person is unsuitable or has been committed to state prison in another matter, a letter from the Warden or RPA shall be directed to the presiding judge of the superior court of the county of commitment. This letter shall set forth the reasons for the determination of unsuitability.

If a person has been committed from two or more different counties, letters shall be directed to each of the committing courts.

When the referral resulted from a subsequent commitment to state prison and the person is an outpatient, the receipt of a court order by CRC or regional case records staff vacating the civil addict commitment is sufficient documentation to discharge the commitment on departmental records.

- Entries shall be made on CDC Forms 112 and 144 and the DRAD to reflect the discharge. The date of the court order shall be recorded as the discharge date. On multiple commitment cases, the entries shall indicate "Discharged on Case #00000 and remains on # \_\_\_\_\_."
- Reception center and institution case records staff shall forward a copy of any removal orders, executed by the sheriff, to CRC or appropriate regional case records staff to ensure appropriate disposition of the civil addict commitment records.

When the referral resulted from a determination of unsuitability other than a subsequent felony commitment, the commitment(s) shall not be discharged until the person is removed from the Department's custody for further proceedings on the suspended criminal charges. Upon receipt of a court order and removal for further proceedings, CRSs shall make an appropriate entry onto the CDC Forms 112 and 144 and DRAD to reflect the removal from custody and discharge on the civil addict commitment. On multiple commitment cases, the entry shall indicate "Discharged on Case #00000 and remains on # \_\_\_\_\_."

#### **76010.10 Transfers Of Civil Addicts**

Persons committed to the civil addict program shall be housed at CRC or institutions designated as branches of CRC.

Approval for transfer of a civil addict between institutions designated as CRC branches is delegated to the chief deputy Warden of the institution where the inmate is housed. A CDC Form 128-G shall be prepared by classification staff, recommending the transfer and the chief deputy Warden shall make the appropriate endorsement.

A limited number of northern county exclusion cases may be transferred to the northern reception center (NRC) to await completion of the exclusion process and return to the committing court. The approval of the CSR is required prior to such a transfer. This approval shall be documented on a CDC Form 128-G. Transfer of a civil addict to CMF for medical reasons shall require the additional approval of CMF's CMO and the Chief, Classification Services.

The C-file, the slough file, health and educational files, CDC Form 103-B, and the CDC Form 144 shall accompany all civil addicts transferred to CRC branches.

#### **76010.11 Escape From Civil Addict Institution**

Pursuant to W&I 3002, escape from a facility for civil addicts is a felony.

Pursuant to PC 4530(c), escape from a temporary community release (TCR) is a felony.

#### **76010.11.1 Escape Procedures**

Departmental escape procedures shall be followed and a complaint shall be filed with the appropriate criminal justice agency pursuant to the appropriate section.

Upon notification of an escapee's apprehension, the CCRM shall place a Hold with the arresting agency for the Department pursuant to the existing civil addict commitment. Following prosecution of the escape charge, if sentenced to state prison, the civil addict commitment shall be referred back to the committing court as unsuitable. Discharge procedures shall be followed.

After an escapee has been at-large over one year and their whereabouts are unknown, an exclusion letter shall be prepared and forwarded to the court of commitment pursuant to W&I 3053. Upon completion of the exclusionary process, the information for the deleting of the Want is to be FAXed to the ID/Warrants Unit for the removal of the Want from the Wanted Persons System (WPS) and the Department Warrants Register

#### **76010.12 Readiness for Release Criteria**

The primary factor to be considered when a counselor is considering referral to outpatient status/parole is the resident's readiness for release to the community. In making this determination, the counselor shall take into consideration the following:

- Did the resident successfully complete the program outlined by the counselor, initial classification committee, or subsequent classification actions?
- Does the resident meet the criteria for certification to the NAEA?

The intent is to have the person meet the set expectations in a measurable manner and for this to be documented in chrono form for review by the certifier and the NAEA. The documentation is to provide the reviewer with the necessary data to evaluate the individual's readiness for release to the community.

#### **76010.13 Civil Addict Program/Expectations**

In accordance with W&I 3000, a person shall not be placed on referral status simply because they have completed a certain amount of program time but has not otherwise met the expectations set for them. Every effort will be made to encourage utilization of program opportunities. However if the resident refuses to program, they can and shall be kept in the program for control purposes and not be placed on referral status.

#### **76010.14 Scope Of Case Review Procedures**

Case review procedures are those to which the release readiness criteria will be applied and the individual evaluated for release consideration. The Case Summary format shall be utilized to report and document the residents' progress in C-file.



If both the CC-I and CC-II concur in a recommendation for release consideration, the summary, which will include the referral, shall be forwarded to the appropriate parole office for release program study investigation.

When the Warden or designee approves an early release, the information shall be relayed to the Parole Agent telephonically.

#### **76010.15 Director Certification**

The Warden or designee of CRC shall review the entire summary (including the RPS) and determine whether certification for release is in order.

If so certified, the case shall be placed on the next NAEA hearing calendar accompanied by an NAEA Board Order:

- Institution Calendar (CDC Form 360).
- Outpatient Releasee Limited Placement (CDC Form 362).
- Civil Addict Parolee Limited Placement (CDC Form 362-A).

If the NAEA concurs, dependent somewhat upon the specifics of the release plan, it is anticipated that the individual will be released within seven days following the decision of the NAEA board.

In the event the Warden does not feel certification is indicated, he/she shall state the findings on the NAEA hearing certification work sheet and return case responsibility to the CC-I. A duplicate copy of the work sheet shall be forwarded by the records office to the appropriate parole office.

If there is deterioration in the behavior and/or adjustment, the case shall be referred to the program unit classification for review.

#### **76010.16 Classification Committee/Responsibility**

If this committee recommends for release, referral procedures are initiated and the counselor shall complete the Referral to OPS/RPS worksheet. The date of the committee action and those participating on the committee shall be listed. The evaluative summary shall be listed and include the committee's evaluation.

If the resident is not considered ready for release, this committee establishes the next review date and returns case responsibility to the CC-I. The committee shall submit an evaluation and recommendation(s) for change(s) or addition(s) to the plan.

In the event that the program unit classification committee is split in its opinion, the case shall be referred to the Institution Classification Committee for final determination.

#### **76010.17 Annual Review by NAEA of Uncertified Cases**

W&I 3151 provides that if a case has not been certified "...within the preceding 12 months, in the anniversary month of the commitment of any person committed under this chapter, their case shall automatically be referred to the authority for consideration of the advisability of release in outpatient status..." It is the policy of the NAEA that review of such cases will be on an appearance basis, unless the case has already been referred for release consideration.

The material presented to the NAEA for this review shall consist of the Cum Sum, complete with all previous staff reviews and recommendations. In addition, a summarization and evaluation of the case shall be prepared and added to the Cum Sum.

All cases in the civil addict program, including those in out-to-court and escape status, shall be reviewed by the NAEA in the anniversary month of their receipt by the institution. Cases unavailable for personal appearance shall be presented in absentia.

#### **76010.18 CYA Wards**

By law, CYA wards must appear before the CYA Board at the end of one-year following reception by CYA, if not certified earlier. A report shall then be completed with recommendations for the CYA Board. The annual review report shall be used for this purpose.

A CYA case shall not be referred to the CYA parole division until ordered by the CYA board.

#### **76010.19 Recertifying Cases Denied by NAEA**

If a case has been denied release, it shall be considered for recertification when the counselor is satisfied that a significant behavioral change has occurred but no earlier than 60 days from the date of the last release hearing unless approved by the Warden.

#### **76010.20 Release Return Report**

Whenever a releasee is returned to CRC, the field agent's report and evaluations of the circumstances shall become a part of the summary.

#### **76010.21 Limited Placement Cases/P&CSD Notification/Patient Appeal Rights**

Limited placement cases shall be submitted to the NAEA prior to the 60-day delimiting date on a Limited Placement Classification/Referral Summary (CDC Form 1139) prepared by the counselor.

Certification decisions regarding limited placement cases shall include the recommendations of the field agent assigned to the case and whether the inmate was of "gate-turn-in status".

If limited placement status is removed for any reason, the appropriate field agent shall be notified of the action as soon as possible.

Denial of limited placement shall have the concurrence of the CC-II and the captain. This decision may be appealed by the individual.

#### **76010.22 NAEA Personnel, Rules and Responsibility**

Members of the NAEA are appointed by the Governor and by law are given responsibility for conducting hearings to consider the advisability of releasing individuals committed to the civil addict program to outpatient status/civil addict parole. The rules and manner in which these responsibilities are carried out are contained in CCR (15) (5) as well as the Administrative Directives (ADs) of the board.

The NAEA board has the following specific responsibilities:

- Cases reviewed annually from date of arrival at CRC for release consideration.
  - New commitment.
  - Outpatient returnee.
  - Civil addict parolee returned TFC.
- Conduct P&CSD hearings to review the cases of outpatients/civil addict parolees to determine whether the individual should be returned to the institution or retained in outpatient/civil addict parole status.
- To issue an Oral Order of Return, (CDC Form 1607) which may be made by a single member of the NAEA, suspending the release/parole status of an individual, when the facts indicate an immediate return to the institution is necessary, prior to a regularly scheduled NAEA board hearing.
- Recommend discharge from the civil addict program for those persons who have successfully completed outpatient status and discharge individuals who successfully complete parole.

#### **76010.22.1 Institutional Hearing Liaison**

The C&PR is the liaison for the NAEA and the institution staff and shall be familiar with the NAEA rules and Administrative Directives which pertain to internal procedures. The C&PR shall coordinate the hearings.

If the NAEA board members take any action that conflicts with policy, the C&PR shall call the discrepancy to the members' attention.

If complex issues need clarification, the C&PR or the assistant C&PR shall be contacted.

The resident's counselor shall attend the NAEA hearing whenever possible, to provide information which may have developed since the referral, clarify information in the C-file or answer questions that may arise concerning the individual or institution policy.

#### **76010.23 NAEA Hearings**

Institution and any other relevant reports shall be provided to the NAEA for the following types of hearings:

- Release hearing.
- Annual review hearings.
- Rescission hearings.

#### **76010.23.1 NAEA Hearing Room Accommodations**

Hearing rooms shall be as quiet and comfortable as possible. Paper, pencils, vote sheets, reference materials, other official documents and necessary supplies shall be available in the hearing rooms. Cold drinking water will be available. All aspects connected with the mechanics of the hearing shall be attended to so that the members of the NAEA can devote their full attention to consideration of the cases presented.

#### **76010.23.2 Scheduling**

Scheduling shall be accurate, with NAEA members being informed in advance of any deviations from the schedule. Relevant case materials shall be available for reference.

#### **76010.23.3 Visitors**

Visitors shall not attend NAEA hearings, except as authorized by the chairperson or their designee.

#### **76010.24 Case Records Preparation for NAEA Hearings**

Prior to an NAEA board hearing, case records staff shall prepare an addenda folder, for each resident, with the following material from the C-file:

- Current Work Supervisors Report (CDC Form 101) or Educational/Vocational Chronos (CDC Forms 128-D, E, F and/or L).

- Urine Analysis Report (UA).
- Confirmation of the Civil Commitment Education Program consisting of 120 hours.
  - Thirty hours of physical fitness recorded on a CDC Form 128-B.
  - Ninety hours of classroom participation recorded on a CDC Form 128-D.
- Medical clearance stated on a CDC Form 128-C.
- Institution Appearance Evaluation Sheet (CDC Form 279-L) on prior hearings, if applicable.
- CDC Form 115 (if applicable).
- Review of certification prepared by counseling staff.
- CDC Form 1139.

#### Addenda Folder

The addenda folder shall also contain:

- Two Cum Sums.
- CDC Form 279-L.
- NAEA Board Order, whichever is applicable:
  - CDC Form 360.
  - CDC Form 360-A, Annual Review Calendar.
  - CDC Form 361, Institution Calendar, Rescission Hearing.
  - CDC Form 362.
  - CDC Form 362-A.
- Condition of Release (CDC Form 1515-L).

#### 76010.24.1 Case Records Responsibility Following NAEA Hearings

Immediately following the hearings, case records staff shall post the NAEA board actions to the CDC Forms 112 and 144.

The applicable NAEA Board Order shall be distributed as follows:

- Original to C-file.
- NAEA.
- Resident.
- Parole agent.

The material in the addenda folder shall be refiled in the C-file by CRSs immediately after the hearing.

Case records staff shall type the NAEA board results on the CDC Form 244-B, NAEA Minute Sheet. The minute sheet is retained at NAEA headquarters.

#### 76010.25 Forms Used By NAEA

Forms used by NAEA include, but are not limited to:

- CDC Form 244-B, NAEA Minute Sheet, (retained at NAEA Headquarters located at CRC).
- CDC Form 279-L, Institutional Appearance Evaluation Sheet.
- CDC Form 341, Certificate of Discharge and Release.
- CDC Form 342, Certificate of Discharge and Release.
- CDC Form 343, Recommendation and Certificate of Discharge.
- CDC Form 344, Recommendation and Certificate of Discharge.
- CDC Form 344-A, Recommendation and Certificate of Discharge.
- CDC Form 360, NAEA Board Order-Institution Calendar.
- CDC Form 360-A, NAEA Board Order-Annual Review Calendar.
- CDC Form 361, NAEA Board Order-Review of Previous Board Order.
- CDC Form 362, NAEA Board Order-Confirmation of Oral Order (Outpatient Violator).
- CDC Form 362-A, NAEA Board Order-Confirmation of Oral Order (Parole Violator).
- CDC Form 919, NAEA Conditions of Parole.
- CDC Forms 1085 through 1093, Outpatient/Parolee Violation forms.
- CDC Form 1515-L, NAEA Conditions of Release.
- CDC Form 1521, Report to NAEA.
- CDC Form 1607, Oral Order of Return.
- CDC Form 1608, NAEA Board Order-P&CSD (Outpatient/Civil Addict Parolee) Calendar.
- CDC Form 1628-A, NAEA Report.

#### 76010.26 Release On Outpatient Status/ Civil Addict Parole

Persons committed to the civil addict program shall be certified and referred for release consideration to the NAEA.

#### Annual Review

Any person (whether a new commitment or an outpatient/parolee returned to CRC or CRC branch) who has not been certified within the preceding 12 months shall be scheduled for a personal appearance before the NAEA for release consideration to OPS/civil addict parole.

#### In Absentia Hearing

In absentia hearings may be held for:

- Individuals on release referral status.
- Individuals unable to attend a hearing.
- Individuals on escape status.
- Confirm oral order of return.

#### Certification

Upon proper certification by the Warden or their designee of the individual's readiness for release, the individual shall appear before the NAEA. The appropriate vote sheet shall be prepared.

Any person committed pursuant to W&I 3051 (amended statutes September 17, 1981) who has spent a period of confinement/custody (excluding time spent on OPS, equal to that which he or she would have otherwise spent in state prison had sentence been executed, including application of good behavior and participation credit) shall upon reaching such accumulation of time, be automatically released on civil addict parole under the jurisdiction of the NAEA.

#### 76010.26.1 Persons Placed On Felon Parole Pursuant To PC 1170(2)(a)

When a person is placed on felony parole under the jurisdiction of the BPT, the following procedure shall be followed:

- To minimize the delay in transmitting information to P&CSD when these individuals are placed on felony parole, immediately upon receipt of the Minute Order from the court, the CCRM at CRC shall forward this document to the CCRM at the appropriate regional case records office. Copies of CDC Form 343 (DOM 80000), Recommendation and Certification for Discharge, shall also be forwarded. P&CSD shall track the court actions for these cases to determine when placement on felony parole is ordered.
- The unit supervisor or designee shall request a copy of the Minute Order and Abstract of Judgment from the court or CRC case records, if the person was released from facility custody as a result of a court action. The CDC Form 138, Cum Sum, and photograph shall be requested from facility records. If the person was on active nonfelony parole when the commitment was vacated and the person was put on felony parole, the current C-File shall have the documents.
- When requested documents are secured, two copies of each document shall be prepared.
  - The original certified court documents shall be sent to regional case records.
  - One copy of the documents shall be retained in the field file.
  - Regional case records shall contact ID/Warrants Unit by telephone for a felon ID number, and advise the respective parole unit of the following information:
    - CDC number.
    - Date of issue.
    - Court sentencing date (placing case into active status).
    - Discharge information and review date.
- Regional case records shall then send a FAX to the ID/Warrants Unit providing the person's name, former "N" number, the parole unit to which the person is assigned, the effective date of the action that placed the person on parole and the new felony ID number of the person.

#### In Re Morales

If an active, non-felony outpatient, under supervision in the community or in local custody, is placed on felon parole by the court as a result of an In re Morales review, which discharged the civil commitment, but placed the person on felony parole, the procedures shall be:

- The parole unit supervisor shall assign the case to a Parole Agent in the unit. The parolee shall sign a CDC Form 1515 as evidence of parole status. The existing "N" number unit file shall become the felony C-File.

- Regional records shall be notified that a former civil addict by name and "N" number is now a felony parolee. If the parolee petitioned for a review under In re Morales, regional case records shall obtain a copy of the court's Minute Order or Abstract of Judgment placing the person on parole. Regional case records shall contact ID/Warrants Unit and follow the same process as above.

#### **76010.26.2 Persons Placed On Civil Addict Parole Under the NAEA**

For inpatients who reached their maximum custody/PED:

- Case records shall recompute the time.
- The outside of the C-File and the Cum Sum shall be marked "Civil Addict Parolee."

For outpatients who reached their maximum custody/PED:

- The CDC Form 919, Civil Addict Conditions of Parole shall be completed including any special conditions and distributed as follows:
  - Original to C-File.
  - Parole agent.
  - Parolee.
- CRC CRS's shall recompute the time.

#### **76010.26.3 Records Disposition**

Within five working days following release of an individual to OPS/civil addict case records staff shall:

- Post CDC Forms 112 and 144.

The slough file shall contain at least two copies of the Cum Sum. The C-File shall include the CDC Form 144 and three photos.

The C-File shall be retained at CRC until discharge, at which time it shall be processed as in DOM 71020.5.4.

#### **76010.27 Responsibility for Obtaining Oral Order**

When an outpatient/parolee surrenders to CRC or CRC branch without the agent's knowledge on a weekend or legal holiday and the next day is not a working day, facility staff shall be responsible for contacting an NAEA member to request an oral order of return.

At all other times, the Parole Agent's supervisor shall contact the NAEA member to request an oral order. If the outpatient/parolee surrenders during normal working hours without the Parole Agent's knowledge, facility staff shall obtain all pertinent information and notify the appropriate Parole Agent or unit supervisor who shall contact the NAEA member requesting the oral order of return.

In the event an oral order of return or Releasee-at-Large (RAL) is obtained by P&CSD staff and circumstances develop which require that the order be rescinded, the Parole Agent shall submit a report to the NAEA indicating the reasons and requesting that action be taken. In the event a duplicate oral order is obtained by facility staff at the time the outpatient/parolee surrenders at the gate and the oral order has not been confirmed, no further action on the part of the NAEA is necessary. The date, time, and NAEA member who granted the request, as well as the reasons, shall be noted on the original copy of the CDC Form 1607.

Upon return of an individual from OPS/parole, the case file shall be updated and the Cum Sum revised in accordance with DOM 76010.5.1.

#### **Case Records**

The CCRM shall enter the appropriate data on the CDC Form 112, indicating NAEA actions.

- Suspending releasee/parolee status.
- Date of return to the facility.
- At-large time.
- Recalculate discharge date.

The legal page of the Cum Sum shall reflect the new discharge date and updated "custody time remaining" in accordance with DOM 76010.5.1 or if a person is a civil addict parole violator, the maximum eligible parole date shall be added.

#### **76010.28 Return From OPS/Parole**

A civil addict may be returned from OPS/parole as a technical violator, as a voluntary return, or with an additional civil addict commitment from the courts.

#### **76010.28.1 Voluntary Return**

Civil addicts may turn themselves in to the facility (CRC only) requesting return to inpatient status.

During regular working hours, the CCRM shall be notified upon arrival of the resident at the gate. If it is after regular working hours, the CCRM shall be notified at 8:00 a.m. the next regular working day.

#### **Case Records**

The CCRM shall:

- Ascertain the resident's number of custody days remaining, PED, etc., by contacting the regional CCRM.
- Determine whether an oral order has been obtained. If not, contact the Parole Agent.

#### **Parole Agent**

The Parole Agent shall obtain the oral order and notify the regional CCRM.

#### **Case Records**

The regional CCRM shall:

- Notify the facility CCRM.
- Post the CDC Forms 112 and 144.
- Cancel the Want if one is outstanding.
- Forward the files immediately to CRC.
- Place the case on the next NAEA calendar for action "continue of oral order of return."

#### **76010.29 Limited Placement Return Policy**

Outpatients and civil addict parolees may either voluntarily return or be involuntarily returned to CRC for a limited placement of up to 60 days for the purpose of detoxification, meeting special program needs, or dealing with cooperative cases whose behavior is deteriorating. Limited placement status is a privilege and may be removed by reclassification by CRC staff if there is a difference of opinion between the NAEA and the counselor, or if the civil addict's behavior is not conducive to limited placement. A limited placement return case must be recommended for limited placement by a CRC classification committee and subsequently granted a release date by the NAEA in order for confirmation to occur.

The unit supervisor of the assigned parole unit shall obtain the oral order of return (an NAEA member shall be contacted for an oral order between 8:00 a.m. and 10:00 p.m. unless an emergency arises). Both the assigned Parole Agent and the assigned counselor share the responsibility for development and implementation of a limited placement program plan while the case is at CRC.

#### **76010.29.1 Limited Placement Return Eligibility Criteria**

Limited placement denial shall occur if a case does not meet eligibility criteria or if an outpatient or civil addict parolee accumulates disciplinarys at CRC.

In order to be accepted for limited placement, an outpatient or civil addict parolee [including RALs or Parolees-at-Large (PALs)] must:

- Have no felonious criminal involvement other than illegal drug use.
- Either turn themselves in at CRC gate or surrender to the Parole Agent.
- Be recommended for limited placement by a CRC classification committee and granted a release date by the NAEA.

If the outpatient or civil addict parolee did not surrender or volunteer to return to CRC for limited placement, they must have cooperated with the Parole Agent and the Parole Agent shall indicate the outpatient or civil addict parolee does not require a lengthy stay at CRC in order for the case to be accepted for limited placement.

#### **76010.30 Suspend/Return Cases**

Upon receipt of a suspend/return report and a "Bye" hearing package from the parole unit, case records staff shall:

- Post on the CDC Form 112, the resident's/parolee's decision regarding a Bye hearing.
- Type resident's/releasee's decision regarding a "Bye" hearing on the NAEA Board Order-P&CSD [Outpatient/Civil Addict Parolee] Calendar, and the CDC Form 1608, Vote Sheet.
- Forward the complete "Bye" hearing package, violation report, addenda material, and updated Cum Sum to CALPU at CRC.

#### **76010.31 Oral Orders Obtained**

The parole unit office shall notify the regional case records office immediately following receipt of an oral order and shall also advise them of the releasee's/parolee's decision regarding a "Bye" hearing.

#### **76010.31.1 Region Case Records Staff**

Upon being advised of an oral order, case records staff shall:

- Prepare the CDC Form 1608.
- Post the CDC Form 112, "Oral Order Obtained on DATE from MEMBER."

- Pull and place the CDC Form 144, in the C-File.
- Obtain a complete up-to-date Cum Sum attaching a copy of the CDC Form 1608. This material shall be used at the NAEA hearing.
- Place the case on the next NAEA calendar for confirmation.
- Limited placement oral orders shall be confirmed at CRC hearing calendar.

#### **76010.32 Process Cases For Bye Hearing**

The provisions of the California Supreme Court case, *In re Bye*, extended certain hearing rights on alleged revocation of OPS/civil addict parole to the civil addict program.

If the releasee/parolee desires a hearing or refuses to sign the "Bye Papers," the action shall be referred to CALPU at CRC.

With the exception of voluntary returns, two Cum Sums shall be updated, one to remain in the C-file and the other to be forwarded to the NAEA calendar.

The regional CCRM shall make sure that a current Violation Report Fact Sheet, (CDC Form 1521), accompanies each case to be presented to the NAEA calendar.

#### **76010.33 Suspended RAL/PAL**

Suspended RAL/PAL reports with vote sheets attached shall be presented to the NAEA calendar.

After the NAEA has taken action on the RAL/PAL report, a Want shall be issued effective the date of the NAEA action.

The case shall be classified as either an exclusion category I or II and this classification shall be included in the violation report.

Example:

- Category I. Cases shall be reviewed for exclusion no later than six months after the date of suspension.
- Category II. Cases shall be reviewed for exclusion when they have been in RAL/PAL status for 12 months. A pending file, by month, shall be maintained for RAL reports. A copy of the report shall be filed in the current month.

Further:

- Category I cases shall be pulled within five months to notify the agent and the appropriate superior court(s) that the releasee/parolee shall be RAL/PAL six months on (date).
- Category II cases shall be pulled within 11 months to notify the agent and the appropriate superior court(s) that releasee shall be RAL 12 months on (date).

#### **76010.34 NAEA/P&CSD Calendar Order**

Cases presented to the NAEA on the P&CSD calendar shall be in order as follows:

- Confirm oral order of return (Include remove RAL/PAL if applicable).
- Suspend - return (Include remove RAL/PAL if applicable).
- Suspend - return with new commitment.
- Suspend - reinstate (Include remove RAL/PAL if applicable).
- Continue on OPS/civil addict parole.
- Suspend - RAL/PAL.
- Remove RAL/PAL status.
- Defer pending adjudication.
- Miscellaneous order.
- Discharge from parole (civil addict).
- Recommend discharge (outpatient).

#### **Calendar List**

A typewritten list of those persons scheduled, in calendar order, shall be prepared.

#### **NAEA Board Order**

A CDC Form 1608 shall be prepared for each resident scheduled on the calendar and stapled to the front of one copy of the NAEA board report.

#### **Institution Appearance Evaluation Sheet**

A copy of any CDC Form 279-L, which was prepared at a release calendar postponing release, shall be included in the hearing packets.

#### **76010.34.1 Contents Of Hearing Packets**

The hearing packet for the chairperson shall contain:

- Copy of calendar list.
- NAEA board reports.

- Prior CDC Form 279-L (if applicable).
- CDC Form 1608 (vote sheet).

The hearing packet for the RPA shall contain:

- Copy of calendar list.
- NAEA board reports.
- Prior CDC Form 279-L (if applicable).

The hearing packets shall be enclosed in a manila envelope in calendar order.

#### **76010.34.2 Processing Vote Sheets**

Immediately upon receipt of the signed CDC Form 1608, CRSs shall:

- Post CDC Form 112.
- Post CDC Form 144.
- Distribute copies of the CDC Form 1608 as follows:
  - Original to C-file.
  - Copy 1 to NAEA.
  - Copy 2 to Parole agent.
  - Copy 3 to Parolee/releasee.

#### **76010.35 Outpatient Exclusions Unsuitable**

When the decision is made by P&CSD to exclude a releasee from the civil addict program, the unit supervisor shall forward the exclusion letter and closing case conference to the CCRM. The unit supervisor shall send a notification letter to the outpatient/civil addict parolee advising them of the plan to exclude.

After the exclusion letter has been proofread and legal data verified, the letter shall be forwarded to the RPA for approval.

Upon receipt from the RPA, the exclusion letter shall be retained for 15 calendar days to allow time for the releasee to file an appeal.

If an appeal is not received by the end of the 15th calendar day, the CRSs shall make the following distribution:

- Original and one copy to the committing superior court, along with the updated Cum Sum. If there is more than one county of commitment, a letter shall be prepared for each county, with a copy of the letter to the other committing counties.
- Copy to DA of the county of commitment.
- Copy to the supervising Parole Agent.
- Copy to C-file.
- Copy to pending file.

An exclusion recommendation based upon unavailability for reasons of deportation or for a felony commitment to prison is not appealable.

When the superior court provides a certified copy of the Minute Order, vacating the commitment, the original shall be retained in the C-file and one copy forwarded to the Parole Agent.

#### **76010.36 Outpatient Exclusions Resulting From State Prison Commitment**

If the exclusion is a result of a releasee receiving a felony commitment to state prison, the procedure above shall apply.

In addition, a copy of the Cum Sum and a copy of the CDC Form 112 shall be forwarded to the appropriate reception center case records office.

The CCRM in the reception center shall forward a copy of the court removal order and a copy of the body receipt to the CCRM of the parole region when the releasee is taken out-to-court for further proceedings on the criminal charges.

The civil commitment shall be discharged from OPS on the date of the removal order.

In addition to the above listed documents, a copy of the certified Minute Order from the court shall be forwarded to the appropriate reception center.

The civil addict case may be discharged on either the Minute Order or the documents from the reception center, whichever is received first.

#### **76010.36.1 Processing L.A. County Exclusionary Cases**

When sending an exclusionary package to Los Angeles County DA's (LADA) Office, it will expedite matters to address the material to the appropriate LADA's office as determined by the superior court case number.

#### **76010.37 Outpatient Early Discharge**

Upon receipt of a board report from the parole unit, the CCRM shall ascertain that the discharge time is correct by auditing the previous actions on the CDC Form 112. The time period begins as of the date of release to OPS/parole or reinstatement, whichever occurs last.

To qualify for early discharge:

#### **Commitment Offense Prior to 7-29-80**

- An outpatient committed to civil addict program pursuant to W&I 3050 or 3051 whose offense occurred prior to July 29, 1980, must abstain from narcotics and otherwise comply with the conditions of release for 24 consecutive months. If the individual is participating in a methadone maintenance program, this time frame is extended to 36 consecutive months.

#### **Commitment Offense On or After 7-29-80**

- Outpatients committed to civil addict program pursuant to W&I 3050 or 3051 for a period of 24 months or less whose offense occurred after the enactment of SB 1878 (effective July 29, 1980) must abstain from narcotics and comply with the conditions of release for 12 consecutive months (W&I 3200).
- Outpatients committed under W&I 3051 for more than 24 months must abstain from narcotics and comply with the conditions of release for 16 consecutive months (W&I 3200).

Two Cum Sums shall be updated; one shall remain in the C-file and the other shall be forwarded to the NAEA calendar with the following:

- NAEA board report.
- CDC Form 1608.
- CDC Form 343 for W&I 3051 and 3051 commitments.
- CDC Form 342 for W&I 3100 and 3100.6 commitments.

If the NAEA acts favorably regarding the recommendation for discharge, the original discharge certificate and two copies, accompanied by a cover letter for each, shall be attached to an updated Cum Sum and referred to the committing court in the case of W&I 3050 and 3051 commitments.

One copy of the cover letter shall be mailed to the DA, one copy to C-file, and one copy to the appropriate parole unit.

#### **76010.38 W&I 3100 Discharge**

If an outpatient is committed under W&I 3100 or 3100.6 (no crime), the CDC Form 342 (DOM 80000) shall be completed and submitted to the RPA for approval. The above procedure shall apply, with the exception of forwarding the CDC Form 342 to the committing court. Favorable action by the NAEA acts as a discharge.

#### **76010.39 Civil Addict Parolee Early Discharge**

Individuals in this category must abstain from narcotics and otherwise comply with the conditions of parole for one year continuously or must have been under continuous parole supervision without interruptions, including OPS, for 16 months, whichever occurs first.

#### **76010.40 Discharge For Felony Commitment**

Upon receipt of a court order reflecting that the civil addict commitment has been vacated, the case records staff shall make appropriate entries on the CDC Form 112 indicating the discharge.

When all W&I commitments have been discharged, the records shall be retained at CRC six months, then forwarded to the assigned region to be microfilmed prior to being forwarded to the Archives Unit.

#### **76010.41 W&I 3109 Discharge**

The W&I 3109(a) institution exclusion or W&I 3109(b) new felony commitment shall be discharged upon receipt of a court order.

#### **76010.41.1 Expiration of Commitment W&I 3100**

Fifteen days prior to expiration of 12-month commitment, the CCRM shall prepare and sign the CDC Form 341 (DOM 80000). Signature by the CCRM acts as a discharge.

Distribution of the CDC Form 341:

- Original to dischargee.
- Copy to parole unit (if applicable).
- Copy to C-file.

#### **76010.41.2 Expiration of Commitment W&I 3201**

Forty-five days prior to expiration of commitment, the CCRM shall forward to the units a list of all persons scheduled for discharge, requesting a closing case summary.

Thirty days prior to the discharge date, the CCRM shall prepare a CDC Form 344-A (DOM 80000).

The RPA shall approve and sign the certification for the Director.

The CCRM shall forward the original and five copies, along with an updated Cum Sum, to the committing court(s) for further proceedings on the suspended criminal offense(s). For multiple commitments, a Cum Sum and copy of the certificate of discharge shall be sent to each committing court.

Upon receipt of the CDC Form 344-A signed by a judge of a superior court(s), case records staff shall make the following distribution:

- Original to parolee.
- Copy to parole unit (if applicable).
- Copy to C-file.

The CDC Forms 112 and 144 shall be posted to reflect discharge effective the date of the expiration of commitment. The discharge date shall be input into OBIS.

#### **76010.42 Methadone Maintenance Program**

The W&I 3200 provides that an outpatient may be discharged if they have abstained from the use of narcotics for at least two consecutive years; or is in a methadone program and has abstained from the use of narcotics for at least three consecutive years while in such program. W&I 3154 provides that participation in a methadone maintenance program shall not be construed to break the abstention from the use of narcotics referred to in W&I 3200.

Being in or having been in a methadone program extends the time for discharge eligibility to three years; dropouts from the methadone program do not affect the discharge target date if the releasee remains drug free.

The three-year period starts on the date of the person's release to OPS or reinstatement, whichever occurs last.

An outpatient may be discharged if they have abstained from the use of narcotics (as in DOM 76010.15) for periods of time pursuant to W&I 3200 (amended Statutes, July 1980).

#### **76010.43 Revisions**

The Deputy Director, Institutions Division, or designee shall ensure that the content of this section is accurate and current.

#### **76010.44 References**

W&I §§ 3000; 3100; 3050; 3109; 3051; 3200; 3052; 3201; 3053; 3301

PC §§ 4530(c).

CCR (15) (5), NAEA.

### **ARTICLE 23 — CYA WARDS**

*Effective September 26, 1989*

#### **76020.1 Policy**

CYA wards may be accepted for placement in the Department pursuant to PC 2037 and Welfare and Institution Code (s) (W&I) 1731.5 and 1755.5.

Inmates under the age of 21 years sentenced to the Department may be transferred to CYA to serve their commitments pursuant to W&I 1731.5(c).

In cases other than "court ordered", the director of CYA and/or The Director may require a "Director's Agreement" prior to transfer of wards or inmates between departments.

#### **76020.2 Purpose**

This section provides instructions for the processing of CYA wards in Department facilities and the transferring of Department inmates to CYA.

#### **76020.3 Placement Requests**

A request for transfer of a CYA ward or a Department inmate shall be initiated by the Director or their designee of the requesting department.

- Requests for a CYA ward placement in a Department facility pursuant to W&I 1755.5 and 1755.5(c) shall be reviewed by the Departments' Classification Services section.
- Classification Services shall process CYA orders placing wards at DVI pursuant to PC 2037 without delay.

The Chief, Classification Services shall review and recommend approval/denial of each case. Upon notification the Chief, Classification Services shall notify the CYA pursuant to the following:

- Whether the case is accepted or denied.
- Reasons for denial (if applicable).
- Reasons for any delay in transfer of more than ten working days.

#### **76020.4 Acceptance Documents**

Upon approval, CYA wards transferring to Department institutions shall be accompanied by the following documents:

- A copy of the CYA Form 1.310, YOPB Order, directing the transfer.
- The parole district case folder containing documents concerning the ward (if applicable).
- A case summary (Cum Sum) with a photograph.
- The wards C-File containing all relevant information.

#### **76020.5 Placement of CYA Wards in the Department**

Classification Services shall review all information available and place CYA wards who are not juvenile court commitments under PC 2037 at one of the following approved facilities:

- CMF.
- CTF.
- CIM.
- DVI.
- CIW.
- CRC (over age 18 only).

Normally, such placement for males shall be DVI and CMF. Wards whose paramount problem is narcotic involvement shall be placed at CRC.

Wards committed to the Department pursuant to PC 2037 shall be placed at DVI.

#### **76020.5.1 Records Maintained**

Case records shall prepare and maintain the following records:

##### **Fingerprints**

- One copy of CDC Form 138, Fingerprint Card, on all CYA wards except those received by transfer from another departmental institution. File this card in the C-file.
  - The only number on the card shall be the CYA number.
  - The card shall show the same entries as indicated in the DOM 72020.4.3 in the space provided for "county", "crime", and "crime and term".

##### **Photographs**

- Photographs as indicated in DOM 72020.4.4 except:
  - Use the word "CALIFORNIA" on the first line of the number card on photographs instead of "CALIFORNIA PRISON". Show the CYA number.

##### **C-file**

- C-files in accordance with instructions pertaining to departmental commitments.

#### **76020.5.2 CYA Wards With a Department Prison Term**

##### **Case Records**

If a consecutive (CS) state prison commitment is received on a CYA ward, case records staff shall:

- Notify CYA of the CS prison commitment.
- Place a Department detainer, if the ward goes out-to-court for discharge on the CYA commitment specifying upon completion of the court hearing, the county shall deliver the inmate to a Department reception center for processing.

When a CYA ward receives a concurrent (CC) prison commitment, case records staff shall:

- Notify CYA of the commitment.
- Request a departmental identification number (CDC number).
- Request immediate transfer of the ward to a Department reception center for processing.

#### **76020.5.3 CYA Board Hearings**

Follow the CYA Board manual for procedures to conduct YOPB hearings.

#### **76020.5.4 Escape/Disturbance Serious Disciplinary Violations**

If a CYA ward is involved in an escape or serious disturbance, send two copies of the report made for the Director to the CYA, Attention: Clerk's Office, 4241 Williamsborough Drive, Sacramento, CA 95823. These shall be in addition to the copies sent to the Director or other departmental institutions.

If a ward is found guilty of any serious offense or conduct requiring placement in a SHU notify appropriate CYA staff. Departmental staff may refer the case to the DA's Office for prosecution or recommend that CYA consider returning the ward to court.

#### **76020.5.5 Emergency Transfers**

Transfer CYA wards only upon authorization of the CYA, except under emergencies. General emergency transfer provisions apply to CYA wards.

Direct requests for emergency medical/psychiatric transfers, to the Case Records Services Specialist of the Population Management Section of the CYA.

When an emergency transfer of a CYA ward is for the security and safety of the institution, the superintendent or their designee shall notify the Director/Chief Deputy Director or the Deputy Director, Institutions; who shall

coordinate with the Case Records Services Specialist, CYA, to make arrangements for the review and authorization for transfer.

#### **76020.5.6 Release**

The assigned CYA Parole Agent shall handle the release of CYA wards. At the time of release, case records staff shall forward prerelease/field file to the appropriate CYA parole unit and the C-file to the designated regional case records office.

#### **76020.6 Court Placement of a Department Commitment in CYA**

The court may commit certain felons who were under the age of 21 years at the time of their apprehension with actual housing in a CYA facility. CYA may accept the case or refer it back to the court for resentencing.

This placement shall be solely for the purpose of housing and participation in available CYA programs. The inmate, in all other respects, is under the jurisdiction of The Director and the BPT.

#### **76020.6.1 Transfer of a Department Inmate to CYA**

Transfer of any inmate under 21 years of age to CYA, by the Director with the approval of the Director of CYA pursuant to PC 1731.5(c) shall meet but is not limited to the following criteria:

##### **Criteria**

- The inmate is unable to cope in the Department's general population.
  - The inmate voluntarily signs a CDC Form 128-B, General Chrono, indicating their desire to transfer to CYA and acknowledging an understanding of CYA's structure and program.

#### **76020.7 Processing Transfers**

Institutions shall refer transfer agreement cases meeting the proper criteria to the Chief, Classification Services for review and forwarding for approval of the directors of CYA and the Department. Such referrals shall include:

- A memorandum endorsed by the Warden indicating significant case factors and reasons for the proposed transfer.
- The inmate's Cum Sum.
- The inmate's next scheduled board date, if applicable.
- The latest BPT report and preboard psychiatric evaluation, if applicable.
- The current medical and dental reports (CDC Form 128-C).
- A current photograph.

Classification Services shall notify the requesting institution of the referral's approval or denial in writing. The Chief, Classification Services, shall coordinate the actual transfer with the transportation unit (of the Department) and notify the institution of the date and time of the projected move.

#### **76020.8 Department Inmates in CYA Facilities**

Inmates transferred to CYA shall remain with CYA until:

- The Director of CYA orders their return to the Department.
- Released on parole.
- Discharged on their commitment.
- Returned to the Department upon their 25th birthday.

**Note:** An inmate being transferred to CYA shall be given the opportunity of reviewing their C-file prior to transfer.

#### **76020.8.1 Programs/Responsibility**

While housed in a CYA facility, Department inmates shall:

- Use the CYA ward's grievance procedure for any appeals.
- Have access to all available CYA programs, assignments, and medical/dental services.
- Be subject to CYA's Disciplinary Decision Making System (DDMS). CYA shall use the Department, Disciplinary Credit Loss Schedule when assessing a credit loss.
- Be given all credits and restoration opportunities as afforded all Department inmates.

#### **76020.8.2 Escapes**

CYA shall be responsible for initiating escape procedures when a Department inmate escapes from a CYA facility. Such procedures shall include:

- Notifying the Department's Law Enforcement and Investigations Unit by the Headquarters ID/Warrants Section.
- Notifying the Departments' LPU-(LPU).
- Alerting the Department if the escapee is a public interest case.

Upon apprehension of the inmate, CYA shall:

- Return the inmate to a CYA facility.

- Determine if the inmate shall be prosecuted and if they shall be transferred to the Department.

**76020.9 Process of Maintaining Records**

The Department's LPU is the hub institution and shall maintain the inmate's C-file while they are at CYA. Upon transfer of an inmate to CYA, case records staff shall forward the C-file to LPU.

- Each inmate without an existing CDC number shall be issued a departmental identification number upon acceptance by CYA.
- Headquarters OISB is responsible for commitment and movement data entry into OBIS until the release, return to the Department, or parole of the inmate. OBIS shall show the location of inmates in CYA facilities as SACCO (Sacramento Central Office), secondary unit, CYA/LPU.
- LPU is responsible for the entry of time collection and IW/TIP credits into OBIS.

Upon an inmate's release, parole or return to a Department facility, LPU shall forward the C-file to the appropriate institution or parole region. Any subsequent return of the inmate to custody shall be to a departmental facility.

CYA shall be responsible for forwarding all documents regarding these inmates to LPU.

**76020.10 BPT Hearings**

LPU staff shall contact the BPT Scheduling Unit to determine board dates for inmates at CYA.

All required reports and documents shall be available for the Board hearing.

**76020.11 Prerelease**

CYA shall follow the Department's prerelease referral procedures for Department inmates nearing their Minimum Eligible Parole Date (MEPD)/Earliest Possible Release Date (EPRD).

**76020.12 Parole**

Department inmates housed in CYA facilities are paroled to CYA parole supervision and the CYA file shall be forwarded to the parole unit. If an inmate reaches the age of 25 prior to discharge, the Department will assume supervision.

LPU shall forward the C-files on these inmates to the appropriate Department regional case records office.

**76020.13 Parole Violator Housing**

Department reception centers shall process "returned to the Department" parole violators who had been serving their term and were paroled from a CYA facility.

**76020.14 Revisions**

The Deputy Director, Institutions Division, shall ensure that the content of this section is accurate and current.

**76020.15 References**

W&I §§ 1731.5 and 1755.5.

PC § 2037.

## CHAPTER 8 — ADULT PAROLE OPERATIONS

### ARTICLE 1 — RELEASE PROCEDURES AND CONDITIONS OF PAROLE

*Revised February 10, 2022*

#### 81010.1 Policy

The period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. Through the application of controls and the provision of services, the parole agent helps to create favorable conditions for the offender's successful adjustment. A parole agent has broad discretion over the life of an offender and in exercising that discretion, shall act as a professional. During this period of supervision and observation, it is imperative that the parole agent be knowledgeable about the activities of the offender and the offender's significant others. The parole agent's principal duty is to uphold public safety by reducing the risk an offender poses to the community. The parole agent accomplishes this by directing the offender to services that meet the criminogenic needs of the offender, monitoring the offender to determine if they are involved in criminal activity or violations of their supervision conditions, and promptly addressing law and technical violations.

##### 81010.1.1 Purpose

The purpose of this article is to enable proper placement of offenders in the community and proper application of conditions of parole to ensure public safety and rehabilitative needs are met.

#### 81010.2 Parole to County or City of Last Legal Residence

(a) All offenders committed to prison for a non-sex offense for which registration is not required pursuant to Penal Code (PC) section 290, shall be paroled to the County of Last Legal Residence (CLLR) unless the case complies with exception criteria for paroling to another county.

(b) Pursuant to PC section 3003, all offenders committed to prison for a sex offense for which registration is required pursuant to PC section 290, shall through all efforts reasonably possible be returned to their city of last legal residence or a close geographic location in which they have family, social, or economic ties, unless a return to that location would violate any other law, or the case complies with exception criteria for paroling to another county.

(c) Offenses that occur in custody, defined as being confined in a State prison, local jail, or a Department of State Hospitals facility for treatment shall not be considered in determining the CLLR or city of last legal residence. If the offender has been discharged from all previous terms, consideration shall be given to placement in another, more appropriate county or city in accordance with the factors listed in this section. An offender may be paroled to another county or city if it is in the best interest of the public and the offender.

##### (d) Parole to Another County

(1) The following factors shall be considered in determining if parole to another county is justified:

(A) The need to protect the life or safety of a victim, the offender, a witness, or any other person.

(B) Public concern that would reduce the chance of the individual's parole being successfully completed.

(C) The verified existence of a work offer, or an educational or vocational training program in another county that encompasses the following:

1. Permanent employment that will enable the offender to be financially self-sufficient. (Minimum wage jobs, such as busboy or short-term jobs such as cannery worker, are not

self-supporting or of sufficient duration to qualify.)

2. Training or educational program that is full time; will materially upgrade the offender's employment skills or educational level, and thus substantially improve employability; and will provide sufficient funds to preclude the offender from relying on welfare, California Department of Corrections and Rehabilitation (CDCR) cash assistance, or similar programs.

(D) The existence of immediate family in another county with whom the offender has maintained strong ties and whose support would increase the chance that parole would be successfully completed.

1. Immediate Family Members are defined in California Code of Regulations, Title 15,

section 3000 as the offender's legal spouse; registered domestic partner; natural parents; adoptive parents, if the adoption occurred and a family relationship existed prior to the offender's incarceration; step-parents or foster parents; grandparents; natural, step, or foster brothers or sisters; the offender's

natural and adoptive children; grandchildren; and legal stepchildren of the offender. Aunts, uncles, and cousins are not considered immediate family members but may be considered on a case-by-case basis if strong family ties have been maintained and the biological relationship can be verified.

(E) The lack of necessary outpatient treatment programs for offenders receiving treatment pursuant to PC section 2960.

(F) Direct placement into a CDCR-funded, community-based residential treatment program located outside of the CLLR, including but not limited to:

1. Female Offender Treatment and Employment Program.

2. Transitional Housing Program.

3. Parolee Service Center.

4. Specialized Treatment for Optimized Programming.

(G) Pre-parole referrals for placement in another state or territory shall be made in accordance with Article 6 of Chapter 8 of this manual.

#### (e) Criteria for Administrative Placement Pursuant to PC sections 3003(f) and 3003(h)

(1) Upon request of the victim and after approval by the Division of Adult Parole Operations (DAPO) District Administrator, a parolee whose commitment offense is any of the following shall not be allowed to reside within 35 miles of the current residence of the victim or witness of the commitment offense.

(A) Murder or Voluntary Manslaughter.

(B) Mayhem.

(C) Rape as defined in PC sections 261(a)(1), 261(a)(2), 261(a)(3), 261(a)(4), 261(a)(6), 262(a)(1), or 262(a)(4).

(D) Sodomy as defined in PC sections 286(c), 286(d), 286(f), 286(g), or 286(i).

(E) Lewd or Lascivious act as defined in PC sections 288(a) or 288(b).

(F) Oral Copulation as defined in PC sections 287(c)(1), 287(d)(1), 287(f), 287(g), or 287(i).

(G) Continuous Sex Abuse of a Child as defined in PC section 288.5.

(H) Sexual Penetration as defined in PC sections 289(a), 289(b), 289(d), 289(e), and 289(i).

(I) Any felony punishable by death or imprisonment for life.

(J) Any felony in which an enhancement for great bodily injury as defined in PC sections 12022.53, 12022.7, or 12022.9 have been proven.

(K) Stalking as defined in PC section 646.9.

#### 81010.2.1 Determination of County of Last Legal Residence

(a) The CLLR for non-sex offenders, or city of last legal residence for sex offenders, is the county or city of residence where the offender resided prior to incarceration for the most recent commitment offense. If an offender has multiple commitment offenses, the most recent offense shall determine the CLLR or city of last legal residence. The following criteria, listed in order of priority, shall be utilized to determine the CLLR or city of last legal residence:

(1) The last residence as recorded on the Probation Officer's Report (POR) for the current commitment.

(2) The last address as identified on the sentencing transcript for the current commitment.

(3) The last residence as recorded on the arrest report for the current commitment.

(4) The county of commitment.

(b) If the POR, sentencing transcript, and arrest report for the current commitment identifies that the offender was transient or homeless, the offender shall be paroled to the County of Commitment or city of last legal residence for sex offenders.

(c) To be considered the last legal residence, the document used to verify the CLLR or city of last legal residence must have a complete street address, which includes a route or street number, route or street name, and city name. Post office boxes can be considered for rural areas if the parole unit responsible for that area confirms that only post office boxes are used. Incomplete addresses, ambiguous references to street intersections in lieu of a complete address, and addresses listed only by the name of a business shall not be considered for determining the CLLR or city of last legal residence.

#### 81010.3 Release on Parole Definitions

(a) Release on parole: The legal and physical transfer of an offender from confinement in an institution, reentry facility, or housed temporarily in a county or city jail, to the supervision of CDCR, DAPO, on a date established



by operational law (PC 1170) or by the Board of Parole Hearings (BPH) (PC 1168).

Release dates:

(1) Indeterminate Sentence Law (ISL) release date: The date on which an ISL offender may be released from confinement pursuant to the ISL.

(2) Determinate Sentence Law (DSL) release date: The date a DSL offender sentenced under PC 1170 is released to parole or discharged; also the date an offender sentenced prior to July 1, 1977, and recalculated by BPH under the provisions of PC 1170.2 is released to parole or discharged.

(3) Life Inmate ISL release date: An offender serving a sentence of life with the possibility of parole. The parole date is determined by BPH.

(b) Release Program Study (RPS): An electronic informational document generated within the Strategic Offender Management System (SOMS) that specifies the offender's proposed case factors, residence, employment, institutional adjustment, supervision determination, reporting instructions, and medical disability.

(c) County of Commitment: The county in which the crime was committed.

(d) Inmates housed in Division of Juvenile Justice (DJJ) facilities ("M cases"): The Welfare and Institutions Code authorizes a superior court to order certain offenders (aged 18-21 years) committed to prison be housed and programmed in DJJ institutions.

#### **81010.4 Release Program Study Policy**

(a) The RPS is used to document offender management data such as case factors, residence plans, supervision determination, reporting instructions, notification and registration requirements, special interest factors, detainers, employment plans, caseworker evaluations, and medical and psychiatric designations. The electronic RPS provides associated data to pertinent staff in a real-time environment within the SOMS database.

(b) Pre-release interviews (RPS, the Correctional Offender Management Profiling for Alternative Sanctions [COMPAS] reentry assessments, reporting instructions, conditions of parole or probation, direct program placements, and Pre-Release Video Conferences [PRVCs]) shall be completed pursuant to CCR Title 15, Section 3045.3(b) and Section 53130.8.1. Pre-release interviews shall take priority over institutional program participation.

(c) Processing of the RPS shall adhere to the following time frames:

<b>Standard Release</b>		<b>No Later Than (NLT)</b>
<b>Action</b>		<b>Calendar Days to Offender's Release</b>
Community Transition Program (CTP) initiates RPS		210
CTP forwards RPS to Institutional Case Records or Reentry Unit		NLT 180
Reentry Unit forwards RPS to parole unit Institutional Case Records forwards RPS to Probation Department		NLT 165
Parole unit forwards RPS to CTP		NLT 90
CTP serves copies of the RPS, Notice of Conditions (NOC), Special Conditions of Parole (SCOP), and Reporting Instructions to the inmate		NLT 30
<b>Imminent Release</b>		
<b>Action</b>		<b>Calendar Days to Offender's Release</b>
CTP initiates RPS		60 or less
RPS processed by responsible staff		Immediately, or within five business days following notification of imminent release.

#### **81010.4.1 Release Program Study Procedures**

##### **(a) Community Transition Program**

##### **(1) Parole Service Associate**

(A) The CTP shall be responsible for processing all RPS packets with exception of Fire Camps. The Parole Service Associate (PSA) shall screen each case to determine DAPO or Post Release Community Supervision (PRCS) eligibility and update the "Initiator Input" section of the "Release Plan" screen in SOMS. Upon completion of the Initiator Input section of the Release Plan screen, a system-generated notification shall be sent to the appropriate Regional Reentry Unit for the creation of the "RPS Packet Mash-Up" in the Electronic Records Management System (ERMS) "Advance Mash-Up" tab for cases determined to be within DAPO's jurisdiction. The PSA shall then generate the RPS and ensure the following sections of the RPS are accurate and complete:

- I. Case Factors
- II. Residence Plans
- III. Supervision Determination by PSA
- V. County Agency Reporting Instructions (if applicable)
- VIII. Notification and Registration Requirements/Special Interest
- IX. Detainer(s)
- X. Employment Plans
- XI. Caseworker Evaluation
- XII. Serious Disciplinaries
- XIII. Medical/ Psychiatric

(B) The PSA shall ensure the proposed primary residence is compliant with the statutory authority for parole placements pursuant to PC 3003. Upon completion of the assigned sections of the RPS, the PSA shall digitally sign the RPS and electronically forward it to the CTP Parole Agent II (Supervisor). A system-generated notification will be sent to the supervisor. If an RPS was previously generated for the current term and is over one year old, a new RPS shall be initiated by the PSA to ensure current inmate case factors are captured.

(C) Upon receipt of the RPS, the Notice of Conditions (NOC), and Special Conditions of Parole (SCOP) from the parole unit or the CDCR Form 1515-CS, Notice and Conditions of Postrelease Community Supervision and any special conditions from the probation department, the PSA shall digitally sign Section VII, "Inmate Received a Copy of Reporting Instructions" of the RPS, and print the RPS and supporting documents.

(D) Upon completion of Section VII of the RPS, the PSA shall ensure the following:

1. Known disabilities requiring a reasonable accommodation to achieve effective communication are verified via the Disability and Effective Communication System (DECS).
2. Effective Communication has been achieved, if appropriate.
3. The inmate signs and receives a copy of both the RPS and NOC.
4. The PSA forwards the finalized hard copy of the RPS, and the NOC or the CDCR Form 1515-CS to the Institutional Case Records office for scanning into the "Parole" tab in ERMS.

##### **(2) Parole Agent II Supervisor**

(A) Upon receipt of the RPS from the PSA, the PAII Supervisor shall:

1. Review the RPS for accuracy and completeness.
2. If there are errors on the RPS, the PAII Supervisor shall electronically return it to the PSA with instructions for correction.
3. Upon verification that the RPS is accurate and complete, the PAII Supervisor shall complete Section IV, "Supervisor Review and Approval of Screening Determination", digitally sign the RPS and electronically forward it to the appropriate DAPO Regional Reentry Unit.

##### **(3) Division of Adult Institutions - Institutional Case Records Staff**

(A) Case records staff shall not prepare and send RPS pre-release packets to DAPO. Only the finalized inmate-signed copy of the RPS will be scanned into ERMS by case records staff.

(B) Case record staff shall complete the RPS pre-release packets for all offenders who are statutorily eligible for PRCS jurisdiction. Case Records staff shall process the RPS packets according to current procedures for the Secure Automated File Exchange (SAFE) to the county probation department and update SOMS accordingly.

##### **(4) Regional Reentry Unit**

(A) Upon receipt of the SOMS-generated notification that an RPS has been initiated, Regional Reentry staff shall electronically compile a Mash-Up of documents which are stored in ERMS for use with the RPS Packet Mash-Up. This will ensure that all associated pre-release documents which are electronically filed in ERMS are readily accessible for review by staff during the pre-release process.

The following documents shall be included in the RPS Packet Mash-Up when available:

1. POR or Arrest Report (most recent)
2. Psychological Evaluation pursuant to PC 3002 (if applicable)
3. Abstract of Judgment or Minute Order for all active cases
4. Mental Health Placement Chrono
5. Inmate/Parolee Disability Placement (if applicable)
6. Criminal Identification and Information (CI&I) (most recent)
7. Request for Victim Notification Required by PC 3058.8 and 3058.61 (if applicable)
8. Notification in Case of Inmate Death, Serious Injury/Illness (if signed copy is required)

## 9. Serious/Non-Serious Determination (if applicable)

(B) The following RPS packet documentation shall be accessible via the “RPS Packet” drop-down menu in SOMS:

1. Sentence Data Sheet
2. Four Photographs
3. Inmate Synopsis
4. Institution Staff Recommendation Summary & Social Factor Sheet
5. Initial Classification Chrono and most recent Classification Hearing
6. Safety: Non-Confidential Offender Separation Alerts
7. Disability Placement Program Disabilities Summary
8. Medical Classification Chrono
9. Inmate Health Assessments
10. Test of Adult Basic Education Results
11. Notification in Case of Inmate Death, Serious Injury/Illness (if signed copy is not required)

(C) The reentry screener shall ensure the RPS Packet Mash-Up for the offender’s current term has been created in ERMS. Upon verification that the RPS Packet Mash-Up is in ERMS, the reentry screener shall complete the Reentry Unit portion of Section VI, “CDCR Parole Reporting Instructions,” of the RPS.

(D) The reentry screener shall assign the supervising parole unit pursuant to PC 3003(b), 3003(f), or 3003(h) and CDCR Form 1707, Request for Victim Services, or PC 3003(a) and Section 61010.11. Upon completion of the assigned section of the RPS, the reentry screener shall digitally sign the RPS and electronically forward it to the assigned parole unit. A system-generated notification will be sent to the supervisors of the assigned parole unit.

**(5) Parole Unit****(A) Unit Supervisor or Assistant Unit Supervisor**

1. The Assistant Unit Supervisor (AUS) shall ensure that the Reentry Unit has given the RPS to the appropriate parole unit assignment. If it is determined that the current parole unit assignment is incorrect, the AUS shall electronically reassign the RPS to the appropriate parole unit within the same parole region. If the new parole unit assignment is outside the current parole region, the AUS shall redirect the RPS to the appropriate Regional Reentry Unit for reassignment. Upon verification that the parole unit assignment is correct, the AUS shall complete the “Unit Supervisor Initial Review” portion of Section VI, “CDCR Parole Reporting Instructions” on the RPS.

2. Upon completion of the RPS, the AUS shall digitally sign the RPS and electronically forward it to the assigned parole agent. A system-generated notification will be sent to the parole agent and the RPS “Offender Investigation” will automatically be initiated in SOMS.

3. The due date of the RPS Offender Investigation will be generated at the time the investigation is initiated in SOMS. However, the AUS may manually override the due date, if appropriate. The AUS shall monitor the status and ensure the timely completion of the RPS Offender Investigation in SOMS. The standard release RPS due date shall be scheduled at least 90 calendar days before the offender’s release.

4. Upon electronic receipt of the completed RPS, NOC, and SCOP, the AUS shall review all documents for accuracy and completeness. If the documents are not accurate and/or complete, the AUS shall electronically return them to the parole agent with instructions for correction and update the RPS Offender Investigation in SOMS with the reason for additional investigation.

Upon verification that the RPS, NOC, and SCOP are accurate and complete, the AUS shall:

- a. Complete the “Unit Supervisor Final Review” portion of Section VI, CDCR Parole Reporting Instructions.
- b. Digitally sign the RPS, NOC, and SCOP.
- c. Electronically forward the documents to the assigned PSA.

5. A system-generated notification will be sent to the PSA. SOMS will close the RPS Offender Investigation and generate the supervision level and associated “Supervision Event” based on data entered on the RPS screen.

6. The AUS shall ensure the parole agent initiates a Transfer Investigation Request (TIR) in SOMS when the “Request Out of County Parole/Release” box is checked on the RPS and the offender is eligible in accordance with Section 81010.10.

**(B) Parole Agent**

1. The parole agent shall review the RPS for accuracy and completeness and conduct the RPS Offender Investigation, including preparation of applicable related standard forms. Any documentation produced on hard copy shall be filed in the field file.

2. Upon completion of the investigation, the parole agent shall update the RPS Offender Investigation in SOMS and complete the “Parole Agent” portion of Section VI, CDCR Parole Reporting Instructions, of the RPS.

3. Upon completion of the assigned section of the RPS, the parole agent shall digitally sign the RPS, NOC, and SCOP, and electronically forward the documents to the AUS. A system-generated notification will be sent to the unit supervisor and AUS.

4. The parole agent shall initiate a TIR in SOMS when the “Request Out of County Parole/Release” box is checked on the RPS and the offender is eligible in accordance with Section 81010.10. In the event a TIR is requested but not initiated, the parole agent shall document the reason on the RPS and in the automated Record of Supervision (ROS) in SOMS.

5. Unless waived by the unit supervisor, the parole agent shall conduct the pre-release residence verification (home visit) after receiving the RPS Offender Investigation in SOMS. The pre-release residence verification should be scheduled in advance to ensure someone will be at the residence at the time the home visit is conducted. The pre-release residence verification shall be documented on the CDCR Form 1658, Parolee Residence/Employment Verification, and in the electronic ROS in SOMS. Prior to release, the parole agent shall:

- a. At least 30 days prior to release: Complete Section I of the CDCR Form 2289, Notice and Request for Assistance During a Parole Proceeding. Verify any known disabilities requiring a reasonable accommodation to achieve effective communication via DECS.
- b. Released 30 days or less: If the offender is scheduled to be released 30 days or less upon the receipt of the RPS, residence verification is not required. However, it must be completed upon the offender’s release.
- c. If the pre-release residence verification is not conducted, the parole agent shall document on the electronic ROS the reason it was not conducted.
- d. Ensure a Re-Entry Case Plan and a Re-Entry Assessment exist in the COMPAS database. If the documents do not exist, the parole agent shall contact the CTP via electronic mail at [ParoleCOMPASReentry@cdcr.ca.gov](mailto:ParoleCOMPASReentry@cdcr.ca.gov).
- e. If the offender is a sex offender, ensure the Static-99R or Female Sex Offender Risk Assessment (FSORA) is in the COMPAS database. If the assessment is not completed, the parole agent shall contact the CTP via electronic mail at [Static99Request@cdcr.ca.gov](mailto:Static99Request@cdcr.ca.gov).
- f. Lifer pre-release residence verifications shall be conducted. The time frame of 30 days referenced above does not apply to lifer parolees as they will have a shorter time frame pursuant to Section 82101.5.
- g. Create the NOC and SCOP using SOMS, and indicate the reason for each SCOP in SOMS in accordance with Section 81010.15.
- h. Submit the RPS, NOC, and SCOP to the unit supervisor in SOMS for electronic signature.

**(C) Parole Unit Support Staff**

Upon receipt of the RPS by the assigned parole unit, support staff shall enter or update as much data as possible in SOMS and create a field file pursuant to Section 81090.6.1.

**81010.4.2 Imminent Release Policy**

(a) PC 3003 requires all cases be referred to the parole region of the offender’s CLLR for reentry screening. Every effort shall be made to initiate and/or process the RPS immediately for imminent release inmates. However, in no instance shall staff delay the processing of an imminent release case for more than five business days. Whenever possible, the RPS shall be returned to CTP and DAI no more than five business days following receipt by the assigned parole unit, and/or no less than five business days prior to the scheduled release date.

**81010.4.3 Imminent Release Procedures****(a) Community Transition Program (Immediately upon Learning of Imminent Release)**

(1) CTP staff shall initiate and/or process the RPS for imminent release cases immediately or within five business days following notification of imminent release, whichever occurs first pursuant procedures outlined in Section 81010.4.1.

(2) If the offender is granted parole by the BPH, CTP shall adhere to the release procedures outlined in Section 82101.2. CTP is not required to wait for receipt of the BPH Form 3005, Parole Verification Document to initiate and complete the RPS.

**(b) Parole Service Associate**

- (1) Immediately initiate and process the RPS for imminent release cases.
- (2) Complete the RPS utilizing the procedures in Section 81010.4.1.

**(c) Parole Agent II Supervisor**

Upon verification that the RPS is accurate and complete, the PAII Supervisor shall complete the RPS utilizing the procedures in Section 81010.4.1.

**(d) Regional Re-Entry Coordinator. Regional Re-Entry staff shall:**

(A) Complete the RPS utilizing the procedures in Section 81010.4.1 immediately or within five business days following receipt of the SOMS-generated notification for imminent release cases, whichever occurs first.

(B) Adhere to the procedures in Section 82101.3 for offenders granted parole by the BPH.

(C) Input into the "Supervision History" under the "Parole" tab in SOMS, the date(s) for each BPH Form 3005 received and the assigned parole unit.

**(e) Parole Unit**

Parole unit staff shall complete the RPS utilizing the procedures in Section 81010.4.1 immediately or within five business days following receipt of the SOMS-generated notification for imminent release cases, whichever occurs first.

**(f) Division of Adult Institutions - Institutional Case Records Staff**

(1) For PRCS eligible imminent release cases, Institutional Case Records staff shall:

(A) Immediately process the RPS according to current procedures for the SAFE to the county probation department and update SOMS accordingly.

(B) Upon receipt, immediately forward the RPS and the CDCR Form 1515-CS to the CTP PSA assigned to the institution where the offender is housed.

(C) Scan into ERMS the signed copy of the RPS and the CDCR Form 1515-CS.

**(g) Division of Adult Institutions - Institutional Case Records Notifications**

(1) In addition to any local institutional procedures that have been established, Institutional Case Records staff will notify the parole agent or the Officer-of-the-Day (OD) when changes occur in the offender's release date during the ten-day audit process which begins ten days prior to release. Information regarding imminent changes (e.g., dropped holds, change in pick-up, release date, etc.) shall be entered into SOMS and forwarded to the appropriate DAPO Regional Re-Entry Unit or Regional Immigration and Customs Enforcement (ICE) Unit or parole unit.

(2) Whenever there is an imminent release date change and any of the following is applicable:

(A) The offender has a California Static Risk Assessment (CSRA) score of five.

(B) The offender is required to register as a sex offender pursuant to PC 290 through 290.024.

(C) United States Immigration and Customs Enforcement (USICE) cancelled their hold, detainer, or both and the offender is required to report to the secondary parole unit.

(3) Institutional Case Records staff is directed to place a telephone call to the appropriate parole unit to inform that unit of the change and confirm receipt of the electronic transmission. If the imminent change involves a Regional ICE Unit, Institutional Case Records staff will telephone that unit, and provide notification to available staff (i.e. parole agents, PSAs, etc.). A voicemail message is not sufficient notification. Upon notification via telephone and/or electronic transmission that an ICE hold has been dropped, the assigned staff shall immediately contact the assigned secondary parole unit via telephone and inform the unit supervisor or designee that the case shall be transferred. The Regional ICE unit supervisor shall initiate the transfer to the parole unit in SOMS. The receiving unit, unit supervisor will then accept the transfer in SOMS.

**(h) Parole Units**

(1) Upon notification that a warrant or hold has been cancelled or a release date has been adjusted, support staff shall immediately ensure SOMS is updated with the appropriate information. Additionally, the unit supervisor or AUS shall ensure the case is assigned to a parole agent, and update SOMS as needed for parole agent assignment. If the warrant, hold, or both cancellation or release date adjustment requires specialized reporting instructions, the unit supervisor shall ensure the instructions are transmitted to the releasing institution no later than the next working day. The reporting instructions shall be completed by the parole agent or OD on the CDCR Form 1649, Reporting Instructions, and submitted to the Institutional Case Records (parole desk) at the releasing institution.

**81010.5 Pre-Release Video Conference Procedures**

(a) Parole agents assigned to a specialized sex offender caseload shall make every effort to conduct, facilitate, or both a PRVC for every inmate required to register as a sex offender who will be released on parole; unless one or more

of the exceptions listed in this section exist. The PRVC shall normally be scheduled during normal business hours, and at times least likely to disrupt institutional operations. A PRVC conducted at any other time requires prior approval of the CTP PAII Supervisor where the inmate is housed. Parole agents are permitted to utilize state issued electronic equipment (i.e. mobile phone or laptop computer) for the purpose of conducting a PRVC via Skype for Business and/or Lync.

**(b) Scheduling**

(1) The Adult Parole Offender Management System (APOMS) will notify the assigned CTP PSA 90 days prior to release of a DAPO sex offender.

(2) The PSA shall:

(A) Determine two PRVC scheduling options on separate dates and times; send the scheduling options to the assigned parole agent via electronic mail.

(B) Confirm with the parole agent the amount of time required (30 or 60 minutes) to complete the PRVC.

(C) Provide at least 14 calendar days advance notice of the PRVC appointment to the parole agent. Due to institutional staffing and other factors beyond the control of CTP, only two PRVC appointment attempts will be exchanged with the assigned parole agent.

(D) Schedule the PRVC on the third attempt, if two previous scheduling attempts were unsuccessful, or if an appointment that was previously determined was not successfully completed.

(E) Notify the assigned parole agent and the unit supervisor of the appointment by electronic mail, to include a Skype for Business or Lync meeting invitation via Microsoft Outlook.

(3) If the parole agent cannot attend the PRVC, the parole agent shall notify the unit supervisor and request to be waived from attending that specific PRVC. The unit supervisor shall assign parole agent coverage for the PRVC and notify the PSA of the change. The PSA will send the parole agent covering the PRVC and the unit supervisor a Skype for Business/Lync scheduling invitation.

**(c) Equipment**

Each CTP PSA will be issued and trained on the use of their PRVC equipment. In the event there are technical issues with the PRVC equipment and the inmate is present, every attempt should be made to facilitate the meeting via telephone (if available).

**(d) Conducting a Pre-Release Video Conference**

CTP staff shall adhere to local institutional safety procedures at all times. CTP staff shall ensure they have appropriate safety equipment (whistle, personal alarm device, etc.) prior to entering the PRVC location. CTP staff shall also ensure the camera is positioned in a manner that will not result in areas, staff, or inmates not involved in the PRVC being visible on the screen.

**(e) Community Transition Program**

(1) To facilitate a PRVC, the PSA shall be responsible for the following tasks:

(A) Provide the parole agent with two alternative appointment dates and times. If scheduling conflicts prevent a PRVC appointment from being scheduled during the first two attempts, the PSA will select an appointment date and time on the third attempt.

(B) Enter the PRVC appointment in the Microsoft Outlook calendar and send a Skype for Business or Lync meeting invitation to the assigned parole agent and unit supervisor.

(C) Record the scheduling of the PRVC in APOMS.

(D) Request a priority ducat for the PRVC appointment: date, time, and location.

(E) Notify the assigned parole agent, unit supervisor, and CTP parole agent supervisor as soon as possible if the scheduled PRVC is no longer possible at the institution or if conditions in the institution (such as a modified program or inability to move the inmate to the video conference location) prevent the PRVC from occurring. If possible, provide the parole agent an alternative PRVC appointment.

(F) Review DECS and if it is determined that effective communication, reasonable accommodations, or a Sign Language Interpreter (SLI) is required, make appropriate arrangements pursuant to current DAPO policy.

(G) Schedule SLI services by contacting the Parole Litigation Management Unit via electronic mail at [PLMU@cdcr.ca.gov](mailto:PLMU@cdcr.ca.gov) and provide the requested date, time, and location for the SLI services. SLI appointments shall be scheduled at least five business days in advance.

(H) Schedule Foreign Language Interpreter Services (FLI) by contacting the respective parole regions and provide the requested date, time, and location

for the FLI services. FLI appointments shall be scheduled at least five business days in advance.

(I) Log into the video conference system and confirm the system is functioning with the parole agent. If the PRVC is being conducted in a non-confidential location, notify the parole agent prior to the start of the PRVC.

(J) If the inmate does not report for the PRVC, notify appropriate institution staff according to institution procedures.

(K) If the parole agent does not begin the PRVC within 15 minutes of the designated start time, the PSA may cancel the PRVC. The PSA shall notify the parole agent, unit supervisor, and CTP supervisor of the cancellation. The PSA will need to initiate another PRVC appointment by emailing the parole agent. A new appointment will need to be established following the procedures outlined in this section.

(L) Upon completion of the PRVC, the PSA will select "Completed" from the APOMS drop-down menu.

(M) If a scheduled PRVC is not completed, the PSA shall record the PRVC as "Attempted" in APOMS and select the reason the PRVC was not completed from the APOMS drop-down menu.

#### **(f) Parole Agent**

(1) Prior to conducting the PRVC, the parole agent shall:

(A) Review the RPS.

(B) Review DECS to determine if effective communication, reasonable accommodations, an SLI, or a combination of the above are needed. If an SLI or a Foreign Language Interpreter is required, the PSA will ensure the SLI or Foreign Language Interpreter is available at the time of the PRVC.

(C) Log into the video conference system and confirm the system is functioning with the PSA in the institution. If the PRVC does not commence within 15 minutes of the scheduled start time, the parole agent may cancel the PRVC. A new appointment shall be established following the procedures outlined in this section.

(D) Determine if the PRVC will be conducted in a non-confidential location. If so, the parole agent shall not discuss any topic that may jeopardize the inmate's safety.

(2) During the PRVC, the parole agent shall review:

(A) Reporting instructions.

(B) NOC and SCOP.

(C) Direct placement into a CDCR-funded program, if the inmate has not already accepted a direct placement, or other residence and employment plans.

(D) Discharge consideration criteria.

(E) Pre-release services and benefit referrals (e.g., Medi-Cal enrollment, California Identification Card, Transitional Case Management Program, Veteran's benefits, Social Security).

(F) If time permits, the parole agent may conduct the comprehensive interview, and document it on the CDCR Form 1650-B, Initial/Comprehensive Interview. If the comprehensive interview is conducted and no changes occur prior to the inmate's release, a new comprehensive interview is not required.

(G) The parole agent shall document the PRVC in the electronic ROS and if effective communication or reasonable accommodation was required, document the type of accommodation provided to achieve the inmate's understanding.

#### **(g) Unit Supervisor**

(1) The unit supervisor shall:

(A) Ensure compliance with Section 81010.5.

(B) Ensure the video conferencing equipment is accessible to the parole agent prior to the PRVC.

(C) Maintain a log of PRVC equipment usage with the following information:

1. Date and time PRVC equipment is to be used.
2. Parole agent using equipment.

(D) Ensure parole agents document effective communication and other reasonable accommodations in the automated ROS and on the CDCR Form 1650-B.

(E) Determine a location in the parole unit where confidentiality will be maintained during the PRVC.

#### **(h) Exceptions**

(1) CTP staff will not facilitate a PRVC if any of the following apply:

(A) The inmate will be released to a USICE warrant or detainer.

(B) The inmate declines to attend the PRVC.

(C) The inmate is housed at a California Out-of-State Correctional Facility (COCF), Fire Camp, Male Community Reentry Program (MCRP), or Custody to Community Transitional Reentry Program (CCTRP).

(D) The inmate is housed in a Security Housing Unit (SHU), Administrative Segregation (AD-SEG) Unit, Psychiatric Services Unit (PSU), Mental Health Crisis Bed, or the inmate is housed in a location in which the inmate cannot report to the PRVC location.

(E) The local conditions where the inmate is housed prevents the PRVC from being conducted.

(F) A PRVC is scheduled, but the inmate's release date is adjusted, resulting in the inmate being released prior to the scheduled PRVC.

(2) In the event a PRVC is not conducted for an inmate due to any of the above exceptions, the PSA shall notify their immediate supervisor via electronic mail as soon as possible.

(3) If for any reason(s) the PSA is unable to schedule a PRVC based on the volume of requests, the PSA shall notify their immediate supervisor as soon as reasonably possible. The supervisor shall then notify their PAIII who will identify alternate arrangements for conducting the PRVC, when possible. Should there be no available alternatives, the CTP PAIII will be authorized to waive the PRVC for impacted inmates. The PAIII shall inform the parole agent and unit supervisor of the inability to complete a PRVC.

#### **81010.6 Release Funds Policy**

(a) Offenders and exonerated persons are entitled to receive \$1.10 per day of incarceration upon their parole date, up to a maximum of \$200. The parole agent and the unit supervisor may determine the release fund amount the inmate shall receive upon release to parole, with the balance forwarded to the parole unit. These amounts shall be in the reporting instructions section of the RPS. Release funds forwarded to the parole unit shall be given to the offender within 60 days of the day the offender reports to the parole unit, or within 60 days of the day the parole agent is notified by unit support staff that the release funds have been received by the parole unit.

(b) Offenders, who are paroled to a hold issued by another state or the federal government, including USICE detainees, are not entitled to release funds.

(c) Offenders who are paroled to a hold issued by a local law enforcement agency in the State of California, or offenders who are paroled to a DSH facility are entitled to release funds. The releasing DAI facility will request the release funds and forward the funds to the local law enforcement agency holding the offender, or to the DSH facility for deposit into the patient's account. If an offender incarcerated for local charges is sentenced to CDCR for a new prison term, the offender is not entitled to release funds from the prior term.

#### **(d) Release Funds Log**

A log shall be maintained by parole unit support staff documenting the name of the parole agent who was given the funds for distribution, the date they were given, the date they were delivered by the parole agent to the offender, or the disposition of the undelivered funds.

#### **81010.6.1 Ordering and Issuing Release Funds Procedures**

##### **(a) Parole Agent**

(1) For offenders being released to the supervision of DAPO, specify the amount of money to be given to the offender at release and the amount to be forwarded to the parole unit on the RPS.

##### **(2) (Within 30 Days After Release)**

(A) Provides the balance of funds not given to the offender at the time of release, to the offender, if applicable.

(B) Returns all undelivered funds more than 30 days old from the date of issue, receipt, or release; whichever comes later to CDCR Inmate Accounting.

#### **81010.6.2 Ordering Release Funds After Release Procedure**

##### **(a) Parole Agent**

(1) When an offender is released from an institution to the supervision of DAPO, or discharged from supervision without release funds, the parole agent shall calculate the amount owed to the offender and complete the CDCR Form 102, Release Statement, and give the form to parole unit support staff.

(2) After the parole unit receives the release funds, the parole agent shall instruct the offender to sign the CDCR Form 102 prior to being issued the funds.

(3) The staff issuing the funds shall sign the "Witness Signature" section of the form.

##### **(b) Support Staff**

(1) Support staff shall scan the CDCR Form 102 and submit the form to CDCR Inmate Accounting by sending an electronic mail to: paroleegatefunds@cdcr.ca.gov.

- (2) Support staff shall return the CDCR Form 102 to the parole agent. When the parole unit receives the release funds, support staff shall notify the parole agent.
- (3) After funds are issued to the offender, mail the CDCR Form 102 within seven working days to:

California Department of Corrections and Rehabilitation  
Accounting Services Branch-Bakersfield  
PO Box 12050  
Bakersfield, CA 93389-2050

#### **81010.6.3 Ordering Release Funds For Exonerated Persons Procedure**

(a) Pursuant to PC 3007.05(d), in addition to any other payment entitled by law each person who is exonerated shall be paid the sum of six thousand dollars (\$6,000) upon their release. When an exonerated person is released from State prison, the releasing Institutional Case Records staff will issue release funds pursuant to PC 2713.1 and 3007.05(e).

##### **(b) Institutional Case Records Staff**

(1) When an exonerated person is released from a facility other than directly from a CDCR institution, they are responsible for requesting their release funds by contacting the parole desk of the releasing institution. When contacted by an exonerated person requesting their release funds, Institutional Case Records staff shall:

(A) Obtain the exonerated person's address and contact the appropriate regional parole re-entry unit to determine the parole office closest to that address.

(B) Complete the CDCR Form 102, attach the *Exonerated Person Notice to ASB-Bakersfield* and forward both documents to the Accounting Services Branch – Bakersfield (ASB – BAK) for processing and the issuance of release funds:

Accounting Services Branch – Bakersfield  
PO Box 12050  
Bakersfield, CA 93389-2050

(C) ASB – BAK will send the release funds to the parole office identified on the CDCR Form 102.

##### **(c) Designated Parole Unit**

###### **(1) Unit Supervisor**

(A) Upon receipt of the processed CDCR Form 102 and release funds from ASB – BAK, the unit supervisor or designee shall:

1. Ensure that the exonerated person signs the CDCR Form 102.
2. Sign the CDCR Form 102 as a witness confirming issuance.
3. Once the CDCR Form 102 is signed, issue the release funds to the exonerated person.

(B) The signed CDCR Form 102 and one copy shall be sent to ASB – BAK.

(C) Funds not disbursed and debit cards not activated within 30 days from the date of issuance must be returned to ASB – BAK. Any checks outstanding for more than 60 days from the date of issue will be voided.

#### **81010.7 Verification of Employment Authorization Policy**

(a) All persons, including offenders, must present potential employers with certain documents that prove their identity and right to work. It is illegal for employers to knowingly hire, recruit, or refer for a fee unauthorized aliens for employment. An unauthorized alien includes anyone who is not a U.S. citizen, is not a permanent resident alien, or is not authorized to work by the Immigration Reform and Control Act or the U.S. Attorney General. In order to be lawfully employed, all persons, including offenders, must prove their identity and right to work by presenting one of the following documents to prospective employers:

- (1) Driver's license with individual's photograph.
- (2) Identification card with individual's photograph.
- (3) Social Security card which authorizes employment.
- (4) U.S. birth certificate.
- (b) If the above-listed documents are unavailable, an individual may present one of the following:
  - (1) U.S. passport.
  - (2) Certificate of U.S. citizenship.
  - (3) Certificate of Naturalization.
  - (4) Unexpired, foreign passport authorizing employment.
  - (5) Resident alien card or other alien registration card with individual's photograph.

(6) Any other document(s) the U.S. Attorney General finds acceptable.

(c) The verification of employment authorization shall occur within 24 hours of an individual's hiring, recruitment, or referral.

#### **81010.8 Length of Parole**

(a) The length of the parole term shall be determined by Parole Case Records staff. The length of the parole term is based on the statutes defining the parole term for a particular offense at the time of the commitment offense.

(b) The length of parole shall be established within specified statutory maximums by the BPH for offenders subject to PC 1168 and by CDCR for offenders subject to PC 1170. BPH shall set the length of parole for offenders sentenced under PC 1168 at the Parole Consideration Hearing. The parole period specified by the BPH shall be on the NOC. The offender shall be given a copy of the NOC prior to release on parole.

#### **81010.8.1 Division of Juvenile Justice "M" Case Policy**

"M" cases are felon offenders age 16-21 years committed to prison but ordered housed in a DJJ facility. As felon commitments, DJJ "M" cases are subject to Title 15, Division 3 of the CCR, BPH rules and regulations, and all laws applicable to CDCR offenders. DJJ may transfer an "M" case to CDCR jurisdiction at any time it is determined that DJJ jurisdiction is no longer appropriate (usually on the basis of serious disciplinary or additional law violations). Jurisdiction automatically transfers to CDCR when an "M" case reaches age 25, if still under correctional supervision.

#### **81010.9 Effect of Revocation and Suspension on Parole Period**

(a) Pursuant to Penal Code Section 3000(b)(6), time during which parole is revoked extends the parole period automatically by the amount of days served in custody for the revocation. When parole is revoked, any time credited toward continuous parole is lost. Time on continuous parole begins again when the offender is released to the jurisdiction of DAPO after serving the revocation period.

(b) Pursuant to Penal Code Section 3000(b)(6), time during which parole is suspended because the offender has absconded will not be credited toward the parole period. When parole is suspended, any time credited towards continuous parole is lost. The tolled time period begins on the day the warrant issued by the superior court, or, if the warrant is issued by BPH, on the suspension date ordered by BPH. Tolled time ends when the offender is arrested for the outstanding warrant.

#### **81010.9.1 Revocation and Suspension for Offenders Resentenced Pursuant to PC 1170.18(d)**

Offenders resentenced pursuant to PC 1170.18(d) shall serve a maximum one-year parole term, unless the court, in its discretion, as part of the resentencing order, releases the person from parole, and shall be subject to tolling in the event of revocation or suspension of the parole term.

#### **81010.10 Transfer Investigation Request Policy**

(a) An offender shall be paroled to CLLR. An offender may be paroled to another county, or an active parolee may be transferred to another county when this would be in the best interest of the public and parolee, in accordance with the criteria specified in Section 81010.2.1. If a decision is made to allow parole to another county, the reasons shall be specified in SOMS and approved by the procedures established in this article. DAPO staff shall review the RPS, and information in SOMS to determine if a TIR has been requested and to verify that the proposed residence plans meet the criteria for a TIR specified in Section 81010.2.1. The TIR shall be processed using SOMS. Pre-Parole out-of-state transfer requests for PRCS offenders will be processed by the supervising probation department. Offenders subject to a lifetime parole term require BPH approval for out-of-state transfer request. Offenders with active detainers are not eligible for out-of-State transfers. Pre-Parole TIRs that are submitted for direct placement from an institution to a CDCR-funded residential treatment program shall be processed with automatic approval, regardless of whether or not the county is considered closed to transfers. DAPO staff assigned to arrange direct placements shall make every effort to place the offender in a CDCR-funded residential treatment program in the offender's CLLR prior to initiating a TIR.

(b) An offender may be transferred for the purpose of temporary placement in a county other than the CLLR for participation in a remedial sanction program, regardless of supervision level. Transferred offenders shall be returned to the CLLR upon completion of the program if the offender does not maintain one of the other criteria for transfers in Section 81010.2. When utilizing a program as a remedial sanction, temporary placement of an out-of-county offender shall not be restricted by current import, export, or both limitations.

(c) When the offender is transferred outside of the CLLR based on participation in a CDCR-funded or an approved non-CDCR-funded community-based residential treatment program, to include education, employment, or training and the program is no longer offered within that

county, the offender may be allowed to participate in a similar program pursuant to CCR Title 15, Division 3, Subsection 3745(b).

(d) If an offender successfully completes a qualifying program outside the CLLR, the offender may be given the option to remain in that county if the offender maintains one of the other criteria for transfers in Section 81010.2 and pursuant to CCR Title 15, Division 3, Subsection 3745(d).

#### **81010.10.1 Transferred Offender Returned to the County of Last Legal Residence**

(a) An offender transferred outside the CLLR may be returned to the CLLR for supervision at any time for good cause as determined by the unit supervisor of the parole unit outside the CLLR when:

- (1) It is in the best interest(s) of the offender and the public.
- (2) The offender has violated any condition of parole or applicable statutory requirement.
- (3) The offender's residence is in violation of any condition of parole or applicable statutory requirement.
- (4) The offender is unavailable for supervision.
- (5) The supervising parole unit in the CLLR to address parole violation(s) and impose remedial sanctions.

(b) Factors to be considered before returning offenders to the CLLR who are determined to be unavailable for parole supervision should include, but are not limited to:

- (1) The length of time the offender was supervised in the county outside of the CLLR.
- (2) Whether the offender has any established family, social, or economic ties in the county outside of the CLLR.
- (3) Whether the offender has established a pattern of criminal history in the county outside of the CLLR.
- (4) Whether a return to the CLLR will increase the likelihood of locating the offender.

(c) When returning an offender to the CLLR for non-compliance with the terms and conditions of parole, within two business days of the parole violation discovery date, the assigned parole unit in the CLLR shall be notified. The TIR shall be completed pursuant to Section 81010.10.3, and the field file shall be returned to the assigned parole unit. The following lines of responsibility shall apply:

##### **(d) Parole Agent**

- (1) Conduct a case conference with the unit supervisor.
  - (2) Document the reason(s) for returning the offender to the CLLR in the TIR and automated ROS.
  - (3) Complete a TIR pursuant to Section 81010.10.3.
  - (4) Provide the offender with reporting instructions for returning to the CLLR, or arrange for transportation of the offender as approved by the unit supervisor.
- (e) Unit Supervisor**
- (1) Upon determining the offender's return to the CLLR is appropriate, coordinate the return to the CLLR with the assigned parole unit.
  - (2) If the offender is not available for parole supervision, place the offender into "Pending Warrant" status in SOMS.
  - (3) Complete a TIR pursuant to Section 81010.10.3.

#### **81010.10.2 Closed County Denial of Transfer Requests**

(a) In accordance with PC 3003(i), if more than five percent of the total parolee population in a county does not have that county as their CLLR, the District Administrator may consider that county closed to transfers. The following offenders are not subject to closed county denials of transfer requests:

- (1) Direct placement offenders, as described in Sections 81010.2, 81010.10.5,
- (2) Interstate Compact offenders, as described in DOM, Chapter 8, Article 6.
- (3) Parolees originally sentenced to a life term and granted parole by the BPH.

#### **81010.10.3 Active Offender Transfer Investigation Request Procedures**

(a) DAPO staff shall receive and process offender requests to transfer to another county within SOMS. Such requests must meet at least one of the criteria listed in 81010.2.1. If it is evident the transfer request clearly does not meet criteria, the parole agent will conduct a case conference with the unit supervisor, deny the request with approval of the supervisor, and document the request and reason(s) for denial in the automated ROS. If an offender's request appears to meet the criteria, the following lines of responsibility shall apply:

#### **(b) Sending Parole Unit, Parole Agent:**

- (1) Conduct a case conference if the request is being made as an emergency due to an immediate educational or employment opportunity which cannot be duplicated in the CLLR, the unit supervisor may authorize a travel permit pending approval of the TIR.
- (2) Initiate the TIR and cite the specific criteria for which the TIR is being submitted.
- (3) Digitally sign the TIR form and electronically forward the TIR form to the unit supervisor.
- (4) Upon notification of the District Administrator decision, inform the parolee of the status of the TIR and issue reporting instructions, if applicable.
- (5) Print a copy of the TIR form and attach it to the outside front cover of the field file.

Immediately forward the field file with all supporting documents to the receiving unit.

#### **(c) Sending Parole Unit, Unit Supervisor or Assistant Unit Supervisor:**

- (1) Review the TIR to verify the request meets criteria for transfer.
- (2) Digitally sign the TIR form and electronically forward to the unit supervisor of the receiving parole unit.
- (3) Update the TIR investigation status in SOMS to "Pending."
- (4) Notify the parole agent of the District Administrator decision.
- (5) If approved, complete the "Sending Unit" portion of the "Transfer" section of the TIR form and forward to the receiving unit, unit supervisor.

#### **(d) Receiving Parole Unit, Unit Supervisor or Assistant Unit Supervisor:**

- (1) Review the TIR to verify the request meets criteria for transfer.
- (2) Assign the TIR investigation to a parole agent in SOMS.
- (3) Ensure the investigation is completed within 14 calendar days of receipt of the TIR.
- (4) Upon the parole agent's completion, review the TIR and recommend approval or denial with appropriate comments.
- (5) Digitally sign the TIR form and electronically forward to the receiving parole unit District Administrator.
- (6) Close the TIR investigation in SOMS.
- (7) Complete the "Receiving Unit" portion of the Transfer section of the TIR form.
- (8) After the parolee reports to the receiving unit, enter the "Transfer Between Units" Supervision Event and assign the parolee to a parole agent in SOMS.

#### **(e) Receiving Parole Unit, Parole Agent**

- (1) Conduct the TIR investigation by verifying that the request meets criteria for transfer.
- (2) Upon completion of the investigation, indicate a recommendation of approval or denial with appropriate comments on the TIR form.
- (3) Digitally sign the TIR form and electronically forward to the unit supervisor.
- (4) Ensure that applicable victim, witness, and law enforcement notifications are made pursuant to PC 3058.6 and 3058.8.

#### **(f) Receiving Parole Unit, District Administrator**

- (1) Review the TIR to verify that the request meets the criteria for transfer.
- (2) Make the decision to approve or deny the TIR, and record the decision on the TIR form with appropriate comments.
- (3) Digitally sign the TIR form.

#### **81010.10.4 Pre-Parole Transfer Request Lines Of Responsibility Correctional Counselor**

##### **(a) Parole Service Associate**

- (1) The PSA shall review the proposed residence plans, including request for transfer to a county other than the CLLR or an out-of-State transfer, prior to an offender's release from prison. The PSA shall:
  - (A) Update the Initiator Input section of the Release Plan screen in SOMS. When the offender is within 210 days (seven months) of release, complete the appropriate sections of the RPS, including proposed Residence Plans.
  - (B) Check the "Requests Out-of-County Parole/Release" box located in Section II of the RPS in the event the proposed residence is outside of the offender's CLLR.
  - (C) Check the "Requests Out-Of-State Parole/Release" box located in Section II of the RPS in the event the proposed residence is outside of California.

(2) If the inmate meets the Interstate Commission for Adult Offender Supervision (ICAOS) rules transfer criteria, the PSA staff shall:

(A) Send an electronic mail request to [ovssinterestate@cdcr.ca.gov](mailto:ovssinterestate@cdcr.ca.gov) and retain this correspondence for inclusion in the offender's interstate transfer packet. If the inmate owes restitution, the out-of-State transfer shall not be initiated, unless this requirement was waived by the sentencing court pursuant to PC 11177.2(c).

(B) Document the reason on the RPS and/or Release Plan screen in SOMS, if the inmate does not meet the criteria for transfer.

(C) Complete the Interstate Compact transfer packet and include the following forms:

1. "Offender's Application for Interstate Compact Transfer" ICAOS signed by the offender and the staff who witnesses the offender's signature.
  2. "Transfer Request" ICAOS form.
  3. Signed CDCR Form 1515, Notice and Conditions of Parole, in addition to any addendums, (if required).
  4. Abstract of Judgement and Minute Order for the commitment offense.
  5. Probation Officer's Report and Police Report (if available), for the commitment offense.
  6. Photograph of the offender.
  7. Confirmation from the CDCR Office of Victim and Survivor Rights that all restitution is satisfied (unless waived by the sentencing court pursuant to PC 11177.2(c)).
  8. Rules Violation Reports and 128-A Counseling Chrono's (if applicable).
  9. An acceptance letter is also required if the inmate is a veteran participating in a specialized program,
  10. For sex offenders, the following documents shall also be included in the transfer packet (if available):
    - a. A copy of the offender's notice to register.
    - b. Any sex offender specific risk assessments.
    - c. Law enforcement report(s) that provides specific details of sex offense.
    - d. Victim information, including the name, sex, age, and relationship to the offenders; and the victim's statement or statement from the victim's representative (if available).
- (D) Forward the completed packet to the Interstate Compact Unit no earlier than 120 days from release and provide a copy of the packet to Institution Case Records to scan into ERMS.
- (E) Initiate the Out-of-State (OOS) Transfer in the SOMS Offender Investigations section.
- (F) Notify the inmate of approval or denial of the transfer request, obtain any required signatures (if applicable), and reaffirm the reporting instructions outlined on the RPS or CDCR Form 1649.
- (G) Forward the transfer approval or denial and any additional documents received from Interstate Compact to the Institution Case Records for scanning into ERMS.
- (H) Upon approval of the transfer request, notify the parole agent and reaffirm to the inmate that they must first report to their assigned California parole unit to finalize the transfer.

**(b) Institutional Case Records.**

Scan any documents related to the Interstate Transfer into ERMS as requested by CTP.

**(c) Interstate Compact Unit**

- (1) Process Out of State transfer request pursuant to ICAOS rules.
- (2) Forward any additional documents requiring the inmate's signature to CTP institution staff.
- (3) Upon receipt of the approval or denial from the receiving state, notify CTP institution staff and the parole agent of the outcome.
- (4) Provide the parole agent the reporting instructions from the receiving state.

**(d) DAPO Parole Unit Lines of Responsibility**

In an effort to ensure public safety, the offender shall first report to their assigned Parole Unit and parole agent, or Officer-of-the-Day after the OOS transfer has been approved. The parole agent shall:

- (1) Conduct the initial interview
- (2) Review the Special Conditions of Parole and make any modifications (if needed). If modifications are required send the modified conditions to the Interstate Compact Unit.
- (3) Complete and have the parolee sign section 1 of the CDCR Form 1605 Notification of Earned Discharge Criteria, if applicable.

(4) Complete the ICAOS "Notice of Departure" form and forward it to Interstate Compact.

(5) Provide the parolee with the receiving states' reporting instructions.

(6) Complete any Victim Notifications that are required per current policy.

**81010.10.5 Administrative Placement of Parolees Policy**

(a) The CDCR DAPO relies upon specific criteria that shall be used to determine the release of offenders who meet criteria pursuant to PC 3003(b), 3003(f), and 3003(h) specifically, as to the administrative placement of parolees pursuant to PC 3058.8.

(b) DAPO shall adhere to the specific criteria in Section 81010.2 to define the basis of an administrative placement of a parolee to no less than 35 miles from the actual residence of an identified victim, or a witness, of an offense as defined under PC 3003(f) and 3003(h).

(c) DAPO management retains the exclusive right to transfer the parolee based upon the needs and vital interests of the victim and/or witness on a case-by-case basis.

**81010.10.5.1 Administrative Placement of Parolees Procedures**

**(a) Pre-Parole Determination and Documentation of an Administrative Placement Case Screening - Staff Lines of Responsibility**

(1) Regional Reentry Unit (RRU) Supervisor. The RRU Supervisor shall be responsible for ensuring administrative placement activities are completed by RRU staff.

(2) Regional Reentry Unit Screener. The RRU Screener shall review and identify victim notification issues pursuant to an administrative placement on the Release Program Study (RPS) and forward to the RRU Supervisor.

(3) Regional Reentry Unit Staff

(A) Upon receipt of a RPS packet, the RRU staff shall ensure the following steps are completed:

1. Review the CDCR Form 1707, Request for Victim Services, to determine if the request is from an actual victim of, or witness to, a qualifying crime, and there is a request for a Special Condition of Parole (SCOP) that the parolee not be allowed to live within 35 miles of the victim's or witness's residence.

2. Review the current Abstract of Judgement to verify that the commitment offense meets the criteria for administrative placement in section 81010.2.

3. Review the probation or arrest report to confirm the identity of the victim or witness in the case facts. If the case does not meet the criteria for administrative placement, the RRU staff will assign the case to the appropriate parole unit pursuant to section 81010.4.1, and note on an attached CDCR Form 1650-D, Record of Supervision, that the case does not meet the criteria for an administrative placement.

4. Contact the victim via telephone to confirm the information noted on the CDCR Form 1707.

a. If necessary, obtain a current CDCR Form 1707 from a child victim formerly represented by a parent or guardian who has reached the age of 18 or above.

b. If the victim is currently represented by a legal guardian, the coordinator shall request a certified copy of guardianship documents.

5. If RRU staff are unable to establish contact with the victim via telephone, the following steps shall be completed:

a. Exercise due diligence to contact the victim using information contained on the CDCR Form 1707.

b. Keep copies of any correspondence; i.e., mailed letters, electronic mail, or any other forms of correspondence between CDCR and the victim.

6. The victim shall be allowed 14 calendar days to respond. If contact with the victim is unable to be established within the allotted time, the RRU staff shall:

a. Screen out the administrative placement until such time that the victim reestablishes contact with the Office of Victim and Survivor Rights and Services (OVSRS) or the Division of Adult Parole Operations.

b. Document on the original correspondence sent to the victim "Unable to Locate," sign, and date the correspondence.

c. Maintain a copy of the correspondence and attach it to the RPS packet.

7. Upon confirmation that the victim or witness no longer requests the residential restriction, has relocated, or is deceased, the RRU staff shall:

a. Rescind the original CDCR Form 2258, Administrative Parole Placement.

b. Complete a new CDCR Form 2258 returning the offender to their CLLR or relocating them.

8. Upon determination that victim notification cannot be completed, the case shall be assigned by the offender's CLLR or city of last legal residence pursuant to section 81010.2.1.

a. The RRU staff shall document the following five entries on a

CDCR Form 1650 D, for review and approval by the RRU Supervisor: basic details of the victim's or witness's request, as well as confirm that the request meets all criteria for administrative placement, and provide the resulting parole unit assignment; any and all special conditions of parole imposed on the parolee pertaining to the administrative placement; a detailed summary of the case facts and the source of the information; the offender's CLLR or city of last legal residence; and the last entry shall read, "Confidential (insert parole unit name)."

(4) Once an appropriate parole unit assignment has been determined, the recommendation shall be submitted to the Regional Parole Administrator (RPA), or designee, for a decision.

Any concerns regarding a victim or witness request following an administrative placement decision shall be forwarded to the RRU Supervisor.

(5) Upon approval by the RPA, the RRU Supervisor shall:

(A) Complete the RPS packet, designating the approved parole unit assignment.

(B) Notify the receiving parole unit of the decision to administratively place an offender in their jurisdiction by submitting the CDCR Form 2258.

(C) Forward the CDCR Form 2258 via electronic mail to the receiving parole unit supervisor and District Administrator as an official notice of administrative placement.

(6) Receiving Parole Unit

(A) Unit Supervisor or Assistant Unit Supervisor (AUS). The AUS shall ensure the pre-parole administrative placement and RPS is completed as required in section 81010.4.1.

(B) Parole Agent. The parole agent responsibilities shall include, but are not limited to, the following:

1. Establish and enforce a SCOP restricting the parolee from being within 35 miles of the victim's and witness's residence.

2. When establishing the 35-mile distance, use Internet-based mapping software that measures the distance "as the crow flies" and not actual driving miles.

3. The victim's or witness's address shall remain confidential and shall only be known by authorized staff.

(C) Upon receipt of a new CDCR Form 1707 from the victim or witness that does not request residential restrictions, or the CDCR Form 1650-B, Initial/Comprehensive Interview, or the victim or witness has relocated, the parole unit staff shall forward via email the new CDCR Form 1707 and pertinent relocation information via email to the RRU Supervisor and OVSR&S.

(D) Upon notification that the victim or witness is deceased, the parole unit staff shall forward any documentation (e.g., death certificate, funeral publication, or newspaper obituary) via email to the RRU Supervisor and OVSR&S requesting to rescind the CDCR Form 1707.

(7) Administrative Placement of Active Parolees

(A) All requests for administrative placement of active cases shall take priority over pre-parole cases. All procedures remain the same for pre-parole cases with the following exceptions:

1. Upon assignment, the sending unit supervisor shall ensure that the parolee reports for their initial interview at the receiving parole unit.

2. Transportation or pick-up of the parolee shall be coordinated between the parole units.

(8) Non-Mandatory Administrative Placement of Parolees

(A) Non-mandatory administrative placements are defined as a managerial discretionary decision based upon review of case criteria and warrant relocation of a parolee from their CLLR or city of last legal residence. These may include cases that are deemed high notoriety or public interest; contain violent offenses that do not meet the mandatory placement criteria; or, contain any other case factor(s) that, upon review, warrants relocation.

1. Upon determination that a case shall be reviewed for a non-mandatory administrative placement of a parolee, the unit supervisor shall refer the matter to the RRU Supervisor for review and recommendation to the RPA.

2. If the reason for a review is related to a victim or witness matter, the unit supervisor shall refer the victim to the RRU Supervisor for appropriate assistance and disposition.

(9) Office of Victim and Survivor Rights and Services

(A) Once the victim, victim's next-of-kin, or witness completes the CDCR Form 1707, the form shall be electronically transmitted, faxed, or mailed to:

Office of Victim and Survivor Rights and Services  
P.O. Box 942883

Sacramento, CA 94283-0001

Fax: (916) 445-3737

Email: victimservices@cdcr.ca.gov

(B) OVSR&S will input the information identified on the CDCR Form 1707 into the

Strategic Offender Management System (SOMS) and scan a copy into the ERMS "Confidential" tab.

(C) To locate victim information in SOMS:

1. Type a CDCR number in the Offender Search box and press enter.

2. Click on the "Offender" tab on the top of the page.

3. Select the menu item for "Victim Notification," and click on "Notification Requests,"

4. A list of victims on file will populate. Click on the hyperlink of the commitment prefix (example: AA) and the victim's information will populate.

(D) The original CDCR Form 1707 is barcoded and scanned into ERMS, Confidential tab.

To view a CDCR Form 1707, open ERMS and input the CDCR number in the box in the top left of the screen and press enter. The CDCR Form 1707 will be found in the Confidential tab.

(10) Institutional Case Records Staff. Institutional Case Records staff will notify the victim, victim's next-of-kin, or witness who submitted a CDCR Form 1707 of any change in the offender's custody status by telephone, electronic mail, or certified mail at their last known address, using the method of communication selected by the requesting party, if that method is available

(PC section 646.92).

#### **81010.10.6 Direct Placement Pre-Parole Transfer Investigation Request Procedures**

(a) CTP staff shall coordinate the direct placement of eligible offenders in CDCR-funded programs with the assigned parole unit and the parole unit in the geographical area where the offender will be placed. Every effort shall be made to place the offender in a CDCR-funded treatment program in the offender's CLLR. CTP staff may determine that an offender meets criteria for placement in a CDCR-funded treatment program outside of the offender's CLLR when this would be in the best interest of the public and parolee, in accordance with the criteria specified in Section 81010.2. Offenders with active detainees are ineligible for Direct Placements or pre-parole transfers.

(b) If the offender is approved for placement outside of the CLLR, the PSA shall:

(1) Initiate and complete the "TIR Offender Investigation" and designate the receiving unit for direct placement of an offender in a county other than the CLLR. The receiving unit is the parole unit responsible for the geographic area where the residential treatment program is located. Cite the specific criteria for which the transfer is being submitted in the appropriate section of the form.

(2) Digitally sign the TIR form and electronically forward it to the CTP supervisor via SOMS.

(3) If CTP initiates a direct placement that results in a change to the assigned parole unit, complete the CDCR Form 1649, (Reporting Instructions), forward to the CTP supervisor for signature, and issue a copy to the Institution Case Records.

(4) If the transfer is approved monitor SOMS to ensure the "Transfer Between Units Supervision Event" is entered prior to the generation of the Warden's Checkout Order by the releasing institution.

**(c) The Community Transition Program Supervisor, or Designee, shall:**

(1) Transfer the case from the assigned parole unit to CTP headquarters in SOMS and assign the case to a CTP PSA.

(2) Upon receipt of the TIR form in the "Forms Awaiting Review," review the TIR to verify that the direct placement meets criteria, found in Section 81010.2 based upon participation in a CDCR-funded treatment program.

(3) Digitally sign the TIR form in SOMS and electronically forward the form to the unit supervisor or assistant unit supervisor of the receiving unit.

(4) Transfer the case from CTP headquarters back to the originally assigned Parole Unit in SOMS to complete the rest of the pre-release process.

(5) Upon approval of the TIR by the receiving unit's District Administrator, complete the Sending Unit portion of the Transfer section of the TIR form.

(6) Digitally sign the Transfer section of the TIR form and forward to the receiving parole unit's supervisor.

(7) Upon approval of the TIR, review the new CDCR Form 1649 for accuracy, sign and forward it to the receiving parole unit.



(8) Manually transfer the case to the receiving parole unit prior to the generation of the Warden's Checkout Order by the releasing institution, if the receiving parole unit has not assigned the case in SOMS.

**(d) Institutional Case Records**

(1) If a CDCR Form 1649 is received changing the offender's reporting instructions from one county to another, update the release plan screen in SOMS pursuant to current procedures outlined in this Article. (A) Pursuant to PC 3058.6, notify local law enforcement agencies of the release of offenders convicted of violent offenses at least 45 days prior to the parole date, or as soon as practicable.

(B) Pursuant to PC 3058.8, notify victims and witnesses of approved transfer of pre-parole cases.

**(e) Unit Supervisor or Assistant Unit Supervisor**

(1) Review the TIR to verify the request meets criteria for transfer.

(2) Assign the TIR investigation to a parole agent in SOMS.

(3) Ensure the investigation is completed within 14 calendar days of receipt of the TIR.

(4) Review the TIR and recommend approval or denial with appropriate comments. Pre-Parole TIRs that are submitted for direct placement from an institution to a CDCR-funded treatment program shall be processed with automatic approval, regardless of whether or not the county is considered closed to transfers.

(5) Digitally sign the TIR and electronically forward it to the receiving parole unit District Administrator.

(6) Close the TIR investigation in SOMS.

(7) Upon notification that the sending parole unit has initiated a transfer, complete the "Receiving Unit" portion of the "Transfer" section of the TIR.

(8) Request the pre-parole file from the parole unit who was originally assigned the case, enter the "Transfer Between Units" Supervision Event, and assign the offender to a parole agent in SOMS. The "Transfer Between Units" Supervision Event shall not be delayed and shall be done bi-laterally after the pre-parole TIR is approved by the receiving unit.

**(f) Parole Agent**

(1) Conduct the TIR investigation by verifying that the request meets criteria for transfer.

(2) Upon completion of the investigation, indicate a recommendation of approval or denial with appropriate comments on the TIR.

(3) Digitally sign the TIR and electronically forward it to the unit supervisor.

(4) Ensure that applicable victim, witness, and law enforcement notifications are made pursuant to PC 3058.6 and 3058.8.

**(g) Receiving Parole Unit District Administrator**

(1) Review the TIR to verify that the request meets the criteria for transfer.

(2) Approve or deny the TIR, and record the decision on the TIR with appropriate comments. Pre-parole TIRs that are submitted for direct placement from an institution to a CDCR-funded treatment program shall be processed with automatic approval, regardless of whether or not the county is considered closed to transfers.

(3) Digitally sign the TIR.

**81010.10.6.1 Intra-County Transfer Request**

(a) A TIR is not required when a case is transferred between parole units within the same county. If there are no known parole or law violations open in the Parole Violation and Disposition Tracking System (PVDTS), and the offender is not in custody, transfers of offenders between parole units to an approved program or residence shall be completed as an

"Intra-County Transfer" in the Strategic Offender Management System (SOMS).

(b) The following criteria shall be completed for intra-county transfers:

(1) Offenders must remain in an approved program or the new residence for at least 30 calendar days, without any days detained in a local jail, prior to initiating the transfer of the case to the new unit.

(2) A face-to-face home visit shall be conducted at the parolee's residence of record within the last 30 days prior to transferring the case.

(3) All other monthly case specifications (e.g., discharge reviews, case conference reviews, containment team meetings, etc.) shall be completed prior to transferring the case.

(4) The receiving parole unit shall ensure the intra-county transfer investigation is completed within 14 calendar days of receipt from the sending unit. If the intra-county transfer request is denied, the unit supervisor shall document the reason(s) for the denial in the automated

Record of Supervision and close the TIR investigation in SOMS.

**81010.10.7 Direct Placement Request After "RPS Offender Investigation" Initiated by Parole Unit**

In the event an offender requests placement in a CDCR-funded residential treatment program after the parole unit has initiated an "RPS Offender Investigation" in SOMS, the CTP supervisor shall:

- Ensure the parole unit is notified of the offender's request for placement.
- Request that the parole unit supervisor cancel all assigned offender investigations and ensure that the CDCR Form 611 is forwarded to the parole unit responsible for the geographic area where the residential treatment program is located.
- Enter the "Transfer Between Units" Supervision Event in SOMS, to intake the case.
- Ensure the TIR is processed in accordance with 81010.11.2.

**81010.10.8 Direct Placement After "RPS Offender Investigation" Completed by Parole Unit**

In the event an inmate requests placement in a CDCR-funded residential treatment program after the parole unit has completed an "RPS Offender Investigation" in SOMS, the CTP supervisor shall:

- Ensure the parole unit is notified of the offender's request.
- Enter the "Transfer Between Units" Supervision Event, to intake the case in SOMS.
- Ensure the TIR is processed in accordance with 81010.11.2

**The Receiving Parole Unit, Unit Supervisor shall:**

- Enter the "Transfer Between Units" Supervision Event, to intake the case in SOMS.
- Review the TIR to verify that the request meets criteria for transfer.
- Assign the TIR and "RPS Offender Investigation" to a parole agent.
- Ensure the TIR is completed within 14 calendar days of assignment.
- Digitally sign the TIR form after the parole agent completes the investigation and electronically forward the TIR form to the District Administrator.

**The Receiving Parole Unit, Parole Agent shall:**

- Conduct the investigation and verify that bed space is available for the offender.
- Review the TIR form to verify that the request meets the criteria for transfer.
- Enter a recommendation to approve or deny the TIR, with appropriate comments.
- Digitally sign the TIR form and electronically forward it to the receiving unit's supervisor.
- Upon approval of the TIR by the District Administrator, complete section VI, "Reporting Instructions," of the CDCR Form 611 and ensure the CDCR Form 611 is forwarded to the institution.

**The Receiving Parole Unit, District Administrator shall:**

- Review the TIR to verify that the request meets criteria for transfer.
- Record the approval or denial decision on the TIR form, with appropriate comments.
- Digitally sign the TIR form and electronically forward the TIR to the sending unit's supervisor and receiving unit's supervisor.

**81010.11 Parole of Offenders Sentenced Under Penal Code 1168**

The BPH establishes parole dates for cases sentenced under PC 1168. BPH can establish a fixed date or, order a parole date advancement, if the offender has what appears to be a valid program.

**81010.11.1 Consent to Information Release**

(a) Pursuant to PC section 13350, excluding Post Release Community Supervision (PRCS) cases, offenders shall be informed they have a right to Consent to Information Release (CIR).

If a parolee provides consent, a local law enforcement agency may release their name and address to a social service referral program by local law enforcement agencies within the law enforcement agency's jurisdiction. Subsequent to the CIR notification:

(1) The parole agent shall document the offender's response in Section II of the CDCR Form 1650-B and in the automated Record of Supervision.

(2) The parole agent shall ensure the supervision cautions in the Strategic Offender Management System (SOMS) are updated by selecting the

supervision caution “CIR” in the drop down box and the parolee’s response, “Yes” or “No.”

(3) The parole agent shall ensure the offender signs the CDCR 1650-B, which confirms authorization to release their information.

(b) The CIR information will be published on the Law Enforcement Automated Data System, pursuant to PC section 13350 via an automation process in SOMS.

(c) Offenders may revoke their CIR at any time, which shall be documented accordingly pursuant to this section. Once updated in SOMS, the offender is responsible for informing law enforcement and social services agencies of their consent withdrawal.

#### **81010.12 Direct Release to Parole From Court**

(a) In any case that the amount of pre-imprisonment credit is equal to or exceeds the sentence imposed, the entire sentence is deemed to have been served and the defendant is not delivered to CDCR. Instead, the court shall advise the defendant they must serve a parole term, and shall order the defendant to report to a Division of Adult Parole Operations (DAPO) parole unit. Whenever the court sentences a defendant directly to parole supervision, DAPO shall supervise the parolee in the same manner as an inmate who was released from a CDCR facility.

(b) PC section 3000.08(l) required, “Any person released to parole supervision pursuant to subdivision (a) shall, regardless of any subsequent determination that the person should have been released pursuant to subdivision (b), remain subject to subdivision (a) after having served 60 days under supervision pursuant to subdivision (a). On December 31, 2020, California Appellate Court decision in *People vs. Ruiz* effectively repealed PC section 3000.08(l). Upon discovery, Post Release Community Supervision (PRCS) cases shall be transferred to county supervision within 60 days. Any circumstances that delay the transfer of PRCS cases to county supervision beyond the specified time shall be documented in the automated ROS.

(c) Depending on the instructions given by the court, the offender may not initially report to the parole unit that will be responsible for supervising the offender. The court’s reporting instructions may also vary from standard instructions given to inmates and may not comply with PC section 3060.7 reporting requirements. The timeliness in which the courts send sentencing documents to CDCR will vary.

(d) If it is discovered an offender has failed to report to DAPO upon release from county jail, the unit supervisor shall assign the case to a parole agent to investigate the matter. It is the responsibility of DAPO, when appropriate, to request a warrant even if the case may be eligible for PRCS. The time during which the offender’s parole is suspended shall not be credited toward any period of parole supervision.

(e) At the time of release or while on parole, if a California Static Risk Assessment (CSRA) score does not auto populate, a manual request may be submitted via electronic mail to: requestforsra@cdcr.ca.gov. The request shall include the parolee’s name, CDCR number, and the reason for the request. This request may take up to 45 to 60 days for a CSRA score to auto populate, until then the offender shall be assigned a risk value of 5.

#### **81010.12.1 Direct Release to Parole from Court – Initial Procedures Officer-of-the-Day**

(a) Request a picture form of identification from the offender.

(b) Obtain and review any legal documents the offender may have in their possession.

(c) Notify the unit supervisor of the direct release and provide any known sentencing information, documents, or both.

(d) Conduct an initial interview and document the interview on the CDCR Form 1650-B, ensuring the documentation of the offender’s CIR pursuant to section 81010.11.1, as needed, and that the offender was notified of their right to grieve their classification to parole supervision via the CDCR 602 grievance process. If the offender does not have any legal documents, interview the offender to determine the sentencing court, docket number, sentence details, and commitment offense information.

(e) Search SOMS to determine if the offender is currently being supervised by DAPO.

(f) Document in the automated ROS any reasonable accommodations and modifications provided, and effective communication methods used.

(g) If the offender reports to a parole office other than their assigned parole unit subsequent to their release from custody, the Officer-of-the-Day shall complete an abbreviated interview pursuant to DOM section 81020.11.

#### **81010.12.2 Direct Release to Parole from Court – Parole Violator with New Term Procedures**

(a) Officer-of-the-Day

(1) Follow procedures outlined in section 81010.12.1.

(2) Upon identification of an active record:

(A) Update Offender Demographics, SOMS Supervision Cautions pursuant to section 81010.11.1, and Offender Photographs as needed.

(B) Immediately notify the unit supervisor of the parole unit supervising the active record.

(C) Obtain reporting instructions from the parole unit and instruct the offender accordingly.

(D) Provide any legal commitment documents and a copy of the CDCR 1650-B signed by the offender to the unit supervisor for scanning and submission to Parole Case Records.

(E) Email any legal commitment documents to Parole Case Records via DAPO-DirectReleaseDocuments@cdcr.ca.gov for the new commitment entry into SOMS.

(b) The case shall be processed by the supervising parole unit as a Parole Violator With New Term (PVWNT).

(c) If the parolee is already serving a parole term, the agent of record shall ensure the certified documents for the new commitment offense are mailed to Parole Case Records.

#### **81010.12.3 Direct Release to Parole from Court – New Offender Procedures**

##### **(a) Officer-of-the-Day**

(1) Follow procedures outlined in section 81010.12.1.

(2) If the offender does not have an active record in SOMS, obtain a Criminal Identification and Information (CI&I) Report by the CI&I number, if known, or by querying the offender’s identifying information in the California Law Enforcement Telecommunications System.

(3) Review prior conviction history to determine any registration requirements.

(4) Create a Live Scan profile for the offender.

(A) Enter the offender’s demographic information into Live Scan station.

(B) Capture the offender’s fingerprints, palm prints, and photos utilizing the Live Scan station.

(C) Save the fingerprint and photo data in the offender’s Live Scan profile, which will automatically forward the profile to the Live Scan Controller at Parole Case Records.

(5) Transmit a Live Scan DNA inquiry to the Department of Justice (DOJ) to determine if a DNA sample needs to be collected.

(A) If needed, collect the DNA sample of the offender using the Live Scan station.

(6) Obtain three photos via any state-issued recording device. Print the photos and place in the field file.

(7) Determine if there are any Americans with Disabilities Act accommodations or concerns and provide the offender with a CDCR Form 1824-B, Parolee Request for Accommodation, if needed.

(8) Complete the CDCR Form 2289, Notice and Request for Assistance During a Parole Proceeding.

(9) Based on available information, generate a Notice and Conditions of Parole and a Special Conditions of Parole if appropriate and review them with the offender.

(10) Provide the CI&I Report and Minute Order, the CDCR Form 1650-B, or any other sentencing documents to the unit supervisor to obtain a CDCR number from Parole Case Records.

##### **(b) Parole Agent**

(1) Shall obtain the following documents for submission to Parole Case Records:

(A) Certified copy of the Abstract of Judgement.

(B) Certified copy of the Minute Order.

(C) Felony complaint or information, or both, filed by the district attorney.

(D) Probation officer’s report, if not waived by the defendant.

(E) Police reports, arrest reports, and any other pertinent information.

(F) Copy of the CDCR 1650-B signed by the offender.

(2) Request a California Static Risk Assessment score by sending an email request to requestforsra@cdcr.ca.gov.

(3) If the offender has a conviction for a crime requiring registration pursuant to PC sections 290 through 294, regardless of whether or not the offender is required to register, request a Static-99R or Female Sex Offender Risk

Assessment (FSORA) by sending an email request to: static99request@cdcr.ca.gov.

(4) Conduct a case conference with the unit supervisor or assistant unit supervisor to determine supervision level and conditions of parole.

(5) Conduct a comprehensive interview within 15 business days of release and document the interview on CDCR Form 1650-B.

(6) Update Offender Demographics, SOMS supervision cautions pursuant to section 81010.11.1, and Offender Photographs as needed.

(7) Submit the NOC and SCOP to the unit supervisor in SOMS for electronic signature.

(8) Review CI&I Report to determine if a DNA (buccal swab) sample has been collected. If not previously collected as prescribed in subsection 81010.12.3(a)(5)(A), obtain a buccal swab sample, right thumb-print, and full palm impression of each hand as required by PC section 295 et seq.

(9) Fingerprints will be retained electronically in ERMS.

(10) Supervise the offender in accordance with current DAPO policy.

(11) Document contacts with the offender in the automated ROS.

#### **(c) Unit Supervisor or Assistant Unit Supervisor**

(1) If an offender does not have an active record in SOMS, scan the CI&I Report and Minute Order (if available) and send the documents via electronic mail to Parole Case Records at: DAPO-DirectReleaseDocuments@cdcr.ca.gov.

(2) Upon creation of a new Personal Identification (PID) number or discovery of an existing PID number in SOMS, assign a parole agent.

(3) Open the RPS Offender Investigation and assign the due date.

(4) Close the RPS Offender Investigation and update "Offender Status."

(5) Assign the supervision level of the offender.

(6) Review and electronically sign the NOC and SCOP created by the OD or parole agent.

(7) Ensure all required court documents have been collected, scanned, and emailed to Parole Case Records for inclusion in ERMS. Required documents shall include a copy of the Abstract of Judgement, Minute Order, or the charging documents. Additional documents shall include the probation officer's report or police report.

(8) Ensure all required certified court documents are mailed to Parole Case Records to include at least one certified copy of the Abstract of Judgement, Minute Order, or the charging documents.

#### **(d) Parole Case Records Staff**

(1) Conducts an Offender Registration Search in SOMS to determine if there is an existing record. If no record exists, a PID and CDCR number shall be generated and forwarded to the unit supervisor via electronic mail within 48 hours.

(2) Enters the "Intake New Case" in supervision events in SOMS during the process of generating the new CDCR number.

(3) Submits the CDCR Form 2218, Re-Entry Data Sheet, to the appropriate Regional Reentry Unit for parole unit assignment.

(4) Enters commitments, legal mandates, and personal characteristics/ and demographics information into SOMS.

(5) Completes any registration requirement forms mailed to the parole unit for parolee signature and thumb-print. Forms are to be returned to Parole Case Records for distribution to ERMS and DOJ.

(6) Verifies all required offender documents are received from the parole units, including original signed NOC, SCOP, and the offender's signed CDCR Form 1650-B.

(7) Enters the required commitment data from certified Abstract of Judgement or certified Minute Order into Live Scan Controller.

(8) Once commitment data recording is complete, transmit Live Scan profile to DOJ.

(9) Print the fingerprint card from Live Scan Controller.

(10) Scan fingerprint card into ERMS.

#### **(e) Regional Reentry Unit**

(1) Upon receipt of the CDCR Form 2218 from Parole Case Records, determines the parole unit assignment.

(2) Returns the completed CDCR Form 2218 to Parole Case Records, and sends a copy to the assigned parole unit.

#### **81010.12. 4 Post Release Community Supervision Screening and Initial Interview Procedures**

(a) DAPO staff shall prioritize screening of direct release cases to determine Post Release Community Supervision (PRCS) eligibility. The unit supervisor

or AUS shall review the certified court documents to determine if the commitment offense meets criteria for PRCS supervision, as described in PC sections 3000.08 and 3451. If applicable, the Static-99R score FSORA shall be reviewed to determine if the offender meets the criteria for designation as a High-Risk Sex Offender. If it is determined the offender meets the criteria to be supervised as a PRCS case, including an offender erroneously classified for parole supervision (*People v. Ruiz* (2020) 59 Cal.App.4th 372), the unit supervisor or AUS shall approve the determination as applicable. The RPS for direct release offenders is only completed for those who are determined to be PRCS eligible after they have reported to a parole unit.

(b) It is the responsibility of DAPO to notify the offender in writing of their responsibility to report to the appropriate county PRCS agency. DAPO shall not forward the required documents to Parole Case Records for case closure without first notifying the offender in writing to report to the appropriate county PRCS agency utilizing CDCR Form 1515-CS, Notice and Conditions of Post Release Community Supervision. If the offender fails to report to DAPO upon initial release from county jail and it has been determined the offender is eligible for PRCS supervision, the unit supervisor shall assign the case to a parole agent to investigate the matter and make every effort to locate the offender.

(c) If the offender cannot be located, a warrant shall be requested. After the offender has been located, and if the offender has not been notified to report to PRCS, DAPO shall ensure the offender is informed in writing of their obligation to report to the appropriate county PRCS agency utilizing CDCR Form 1515-CS. The parole agent will then forward the required documents to Parole Case Records and request the offender's supervision be transferred to the appropriate county PRCS agency.

(d) Failure to forward the completed documents (RPS, CDCR Form 1515-CS, and certified court documents) to Parole Case Records, or provide notice to the offender pursuant to this section will delay the transfer of PRCS cases to the appropriate county agency for supervision.

(e) DAPO will review the Record of Arrests and Prosecutions (RAP) sheet to determine if a DNA sample and fingerprint card are required.

(f) Direct release offenders who report to DAPO as ordered by the sentencing court and are determined to be PRCS-eligible shall be processed as follows:

##### **(1) Parole Agent**

(A) Initiates and completes the designated fields in the Release Plan screen in SOMS.

(B) Completes Sections I, II, and III of the RPS in SOMS, then electronically route to the unit supervisor or AUS for signature.

(C) After the RPS is "Finalized" by the supervisor, prints the RPS, contacts the appropriate county PRCS agency for reporting instructions, and completes Section V of the RPS in hard copy.

(D) Ensures the offender signs Section VII of the RPS hard copy and provides a copy of the signed RPS to the offender.

(E) Completes CDCR Form 1515-CS, ensures the offender signs it or indicates if the offender refuses to sign, and provides a copy to the offender.

(F) Completes the CDCR Form 1502, Activity Report, only if the parole agent identifies additional pertinent information not already referenced in the RPS. In the event any section of the RPS is locked, the parole agent shall have the option to print the RPS and handwrite any required information.

(G) Documents the contact with the offender in the automated ROS.

(H) Updates Offender Demographics in SOMS.

(I) Determines if fingerprints have been taken. To determine if fingerprints have been taken, the parole agent shall:

1. Review the RAP sheet and locate the entry for the commitment offense arrest.

a. Fingerprints taken at the time of arrest via Live Scan will have a "COM: SCN" comment line.

2. Record the COM: SCN Number generated by Live Scan in the automated ROS.

3. Obtain fingerprints, if applicable.

(J) As prescribed in subsection 81010.12.3(a)(5), obtains a buccal swab sample, right thumb-print, and full palm impression of each hand of the offender as required by PC sections 295 et seq., if applicable.

(K) Forwards copies of the RPS, CDCR Form 1515-CS, CDCR Form 1502, and copies of the certified court documents (Abstract of Judgement, Minute Order or the district attorney's felony complaint, and the probation officer's report or police report) to Parole Case Records via electronic mail at DAPO-DirectReleaseDocuments@cdcr.ca.gov.

(L) Ensures original certified court documents are mailed to Parole Case Records within 24 hours.

## **(2) Unit Supervisor or Assistant Unit Supervisor**

(A) If an offender does not have an active record in SOMS, scan the CI&I Report and Minute Order (if available) and send the documents via electronic mail to Parole Case Records at: DAPO-DirectReleaseDocuments@cdcr.ca.gov.

(B) Opens the RPS Offender Investigation in SOMS and assigns a parole agent upon receiving a PID number from Parole Case Records.

(C) Upon RPS completion by the parole agent, completes Section IV of the RPS with electronic signature, then closes the RPS Offender Investigation, which updates the status of the form to Finalized.

(D) Reviews and signs the CDCR Form 1515-CS.

(E) Assigns the supervision level of the offender pending transfer to PRCS.

(F) Notifies Parole Case Records of the completion of the PRCS initial interview procedures via electronic mail at: DAPO-DirectReleaseDocuments@cdcr.ca.gov.

(G) Ensures all required documents are completed and have been collected and mailed to Parole Case Records for inclusion in ERMS.

## **(3) Parole Case Records Staff**

(A) Conducts an Offender Registration Search in SOMS to determine if there is an existing record. If no record exists, a PID and CDCR number shall be generated and forwarded to the unit supervisor via electronic mail.

(B) Enters the "Intake New Case" in supervision events during the process of generating the new CDCR number.

(C) Submits the CDCR Form 2218 to the appropriate Regional Reentry Unit (RRU) for parole unit assignment. Ensure the RRU is advised the offender is PRCS eligible.

(D) Enters commitments, legal mandates, personal characteristics, and demographic information into SOMS.

(E) Completes any registration requirement forms to be mailed to the parole unit for parolee signature and thumb-print. Forms are to be returned to Parole Case Records for distribution to ERMS and DOJ.

(F) Enters into Live Scan Controller the required commitment data from certified Abstract of Judgement or certified Minute Order.

(G) Once recording of commitment data is complete, transmits Live Scan profile to DOJ.

(H) Prints the fingerprint card from Live Scan Controller.

(I) Scans fingerprint card into ERMS.

(J) For commitment offenses of PC sections 245(a)(4) and 4501, and Vehicle Code section 23153, determines if the convictions meet the criteria of PC section 1192.7(c).

(K) Verifies all required offender commitment documents have been received.

(L) Forwards required documents to the appropriate PRCS agency via the SAFE system upon receipt of the completed RPS generated by SOMS.

(M) Completes the discharge process in SOMS when the offender is determined to be PRCS eligible and all required documents have been received from the parole unit.

## **(4) Regional Reentry Unit**

(A) Upon receipt of the CDCR Form 2218 from Parole Case Records, determines the parole unit assignment.

(B) Returns the completed CDCR Form 2218 to Parole Case Records.

(C) Initiates and completes Section VI, CDCR Parole Reporting Instructions, in the RPS. SOMS will automatically generate an alert to the assigned parole unit that a new RPS is available.

## **81010.13 Parolee Reporting and Pick Up (Penal Code 3060.7)**

(a) All inmates and parolees shall be instructed to report on the first working day following any release, unless prior arrangements are approved in writing by the unit supervisor. Inmates who meet the highest risk classifications are required to report no later than 48 hours after release, or the first working day following release, whichever is sooner.

(b) Offenders who are required to register pursuant to PC 290 through 290.024, or have a CSRA score of five shall be designated as meeting the highest risk classifications. The release date of these inmates may be adjusted in accordance with CDCR policy to ensure the inmate reports no later than 48 hours after being released. For reporting instruction purposes, in the event a CSRA score is not available, DAPO shall presume an offender's CSRA score is five until the CSRA scoring process is completed and the offender's actual score is determined. Offenders who are being

released from an AD-SEG Unit, SHU, PSU, or offenders who are being treated in the Enhanced Outpatient Program (EOP) that are unable to take public transportation shall be picked up by a parole agent and transported to the parole unit in accordance with 81010.13.3. DAPO has the discretion to require other offenders to be picked up by the parole agent.

## **81010.13.1 Reporting Instructions Procedures**

### **(a) Parole Agent**

(1) Document the CSRA score for the offender on the RPS, in the "Parole Supervision Level."

(2) Attach the CSRA score generated by the COMPAS system to the RPS, and retain a copy of the CSRA score in the field file.

(3) Document reporting instructions on the RPS.

(4) If the offender has a CSRA score of five or is required to register pursuant to PC 290 through 290.024, complete the CDCR Form 1649. Submit the CDCR Form 1649 via electronic mail to the assigned institutional case records analyst. Check the box titled "Release per PC 3060.7" on the RPS. The offender shall be instructed to report within 48 hours of release, in accordance with Section 81010.13.

(5) The CDCR Form 1649 may also be used to transmit reporting instructions to any offender, at the discretion of the parole agent.

(6) The NOC may also include reporting instructions.

(7) Return the RPS and any supporting documents (i.e. Reporting Instructions, NOC, and SCOP) to the institution prior to the offender's release date.

## **81010.13.2 Release Date Adjustment Procedures**

(a) Offenders who meet the highest risk classification criteria and are being released on a Friday or on a day before a holiday shall have their release date adjusted to allow the offender to report within 48 hours. There will be some instances in which a parole agent may be required to work on a weekend or a holiday in order to comply with the reporting requirements. When a release date is adjusted, the following lines of responsibility shall occur:

### **(b) Parole Agent**

(1) Complete the CDCR Form 1649 with the date, time, and reporting location the offender is to be instructed to report.

(2) The parole agent may provide instructions for the offender to report to a location other than the parole unit, with approval from the unit supervisor. These instructions and reporting location shall be documented on the CDCR Form 1649, with the complete address of the reporting location, as well as the date and time. "N/A" shall be entered in the "Parole Unit" box if the offender is being instructed to report to a location other than a parole unit.

(3) After unit supervisor approval of the reporting date and time, electronically transmit the CDCR Form 1649 to the institutional records office.

(4) If the offender fails to report as instructed, conduct a case conference with the unit supervisor to determine if an after-hours warrant is necessary.

### **(c) Unit Supervisor**

(1) Ensure the reporting instructions on the CDCR Form 1649 shall instruct the offender to report no later than 48 hours after release.

(2) Ensure a parole agent is on-duty to conduct an initial interview when the offender is scheduled to report.

## **81010.13.3 Parole Agent Pick Up Procedures**

(a) Offenders who meet any of the following criteria shall be picked up by a parole agent or team of parole agents:

(1) Serving a determinate or indeterminate SHU term imposed by an Institutional Classification Committee or the Departmental Review Board, and is being released from an AD-SEG Unit, SHU, or PSU.

(2) Classified EOP and determined by two institutional mental health clinicians to be unable to use public transportation. This finding shall be documented by institutional staff on a CDC Form 128-C, Medical-Psychiatric-Dental Chrono.

(3) Any offender who, as determined by the parole agent and unit supervisor, may pose an enhanced risk to public safety that may be reduced by a direct pick-up.

(b) The following lines of responsibility shall occur when the determination is made that an inmate will be picked up at the institution or other designated location.

### **(1) Parole Agent**

(A) Complete the CDCR Form 1649 noting the date and approximate time the offender shall be picked up from the releasing facility or at a pre-arranged meeting location.

(B) Provide the CDCR Form 1649 to support staff to be electronically transmitted to the releasing institution.

(C) If the offender is housed at a facility that will require the parole agent to drive an excessive amount of time, contact the Classification and Parole Representative (C&PR) at the institution housing the offender to make

arrangements to have the offender transported to an institution closer to the parole unit or to arrange a meeting point.

(D) Contact the releasing institution if there are delays in the anticipated arrival time.

(E) Pick up the offender at the designated facility or prearranged meeting location at the scheduled date and time.

(F) Transport the offender pursuant to DAPO policy to the parole unit or residence of record.

## (2) Unit Supervisor

(A) Ensure the parole agents are available to pick up the offender on their scheduled or adjusted release date.

(B) Ensure the parole agent provides pick up instructions to the releasing institution by completing and sending the CDCR Form 1649.

(C) Coordinate the pick up date and time with C&PR.

## 81010.14 Notice and Conditions of Parole Policy

(a) The Notice of Conditions of Parole (NOC), as established by CDCR or the Board of Parole Hearings (BPH), are the same for persons sentenced to either a determinate or an indeterminate term of imprisonment. These conditions of parole are not a contract, but are a means of informing offenders of the specific rules governing their behavior. The conditions shall be imposed on the offender whether or not the offender signs the NOC and the SCOP forms.

(b) **Non-English.** If the offender does not understand English, DAPO shall provide an interpreter in a language the offender understands for all parole proceedings.

## 81010.15 Special Conditions of Parole Policy

(a) DAPO may impose SCOP in addition to the conditions of parole prior to or after the initial parole date. County superior courts may also impose or modify conditions of parole for parolees sentenced under PC 1170. SCOP imposed by the court may only be modified or removed by the court.

(b) BPH shall establish and impose the SCOP for parolees over which BPH has jurisdiction. BPH may impose any SCOP at the hearing where parole is granted. The special condition and reasons for its imposition shall be created using the SOMS "Notice of Conditions" and "Special Conditions of Parole" functions, printed, and given to the offender prior to release. SCOP imposed by BPH are removed or modified only through BPH action. DAPO may impose additional SCOP on offenders under BPH jurisdiction.

(c) DAPO shall establish and impose NOC and/or SCOP for persons subject to PC 1170. All SCOP shall be specified in writing with the reason for their imposition and must be issued to the offender in writing prior to becoming effective. The SCOP shall be clearly defined to provide the reader a substantive, defensible, and clear understanding of the SCOP and the reasons for validity.

(d) SCOP may regulate conduct that is not in itself criminal, but reasonably likely to increase the chance the offender will commit a new crime. SCOP may be imposed if there is a nexus or if the SCOP are reasonably related to the offender's commitment offense, criminal history, and/or future criminality. SCOP that prohibit otherwise lawful activity are valid only if the prohibited conduct either (1) has a relationship to the commitment offense or criminal history, or (2) is reasonably related to the offender's history to deter future criminality.

## 81010.15.1 Special Conditions of Parole Mandated by Statute Policy

(a) Offenders who meet the following criteria shall have SCOP imposed as required by the statute listed in the following table:

Commitment Offense or Past Offense	SCOP required	Statutory justification
Current commitment offense(s) of PC 136.1, 262, 273.5, 273.6 (where victim was the victim of domestic violence), 422 (where victim was the victim of domestic violence), 646.9, and any serious or violent offense in which the victim was a family member	The offender shall enroll in and complete a certified batterer's program within 30 days of the first contact between the parole agent and parolee. The offender shall not threaten, stalk, sexually abuse, harass, or commit further violent acts against the victim. The offender shall not come within 100 yards of the victim's residence or workplace (upon request of the victim or victim's legal guardian if the victim is a minor, and/or if	PC 3053.2

Commitment Offense or Past Offense	SCOP required	Statutory justification
	the parole agent or unit supervisor deems it appropriate). The offender shall not contact the victim or victim's family (upon request of the victim or victim's legal guardian if the victim is a minor, and/or if the parole agent or unit supervisor deems it appropriate).	
Current commitment offense(s) of PC 422.6, 422.7, 422.75, 594.3, or 11411, including, but not limited to any commitment offense for a hate crime against the person or property of the victim because of the victim's actual or perceived race, color, ethnicity, religion, nationality, country of origin, ancestry, disability, gender, or sexual orientation.	The offender shall refrain from further acts of violence, threats, stalking, or harassment of the victim, or known immediate family or domestic partner of the victim. The offender shall complete a class or program on racial or ethnic sensitivity, or other similar training in the area of civil rights, or a one-year counseling program.	PC 422.55 PC 3053.4
All commitment offenses, past and present, that require offenders to register per PC 290-294	The offender shall report to, enroll in, and actively participate in a sex offender therapy program approved by DAPO. The offender shall waive psychotherapist-patient privilege and sign all necessary enrollment documents. The offender shall agree to polygraph examinations.	PC 3008
Current commitment offenses for a crime listed in PC 667.5(c)	The offender shall not contact the victim, witness, or victim's or witness's family. The offender shall not reside within 35 miles of the victim/witness (if requested by the victim/legal guardian). The offender shall not reside in the same county as the victim (if requested by the victim/legal guardian)	PC 3003, PC 3003(f)
Current commitment offense(s) of PC 288 (including subsections) and/or PC 288.5	The offender shall not reside within ½ mile of a school serving any grades kindergarten through 12.	PC 3003(g)

(b) The parole agent, upon approval of the unit supervisor, may impose additional SCOP if the SCOP meet the criteria established in *People v. Lent* (1975) 15 Cal.3d 481.

## 81010.15.2 Special Conditions of Parole Procedures

### (a) Parole Agent

(1) Reviews case factors to determine appropriate SCOP, if any.

(2) Determines whether the offender is capable of understanding the NOC and SCOP in English.

(3) Reviews offender's profile in DECS to determine if any accommodations are necessary.

**(No Later Than 90 Days Prior to Earliest Possible Release Date)**

(4) Creates the NOC and SCOP (if applicable) in SOMS and the reason(s) for recommendations.

(5) Electronically routes the NOC and SCOP to the unit supervisor for review.

**(b) Unit Supervisor**

(1) Ensures all SCOP meet the requirements as set forth in Section 81010.16 are clearly defined.

(2) Reviews the NOC and SCOP and enters approval and digital signature in SOMS, thereby imposing the special conditions.

(3) The unit supervisor and parole agent shall conduct a case conference if there is a disagreement about the proposed NOC and SCOP prior to approval.

**(c) CTP Parole Service Associate**

(1) Verify that the NOC and SCOP (if applicable) exist in SOMS.

(2) If there is no NOC or SCOP, create a "generic" NOC within SOMS.

(3) No later than 30 days prior to scheduled release on parole, print and provide a copy of the NOC and SCOP to the offender and obtain the offender's signature and initials in the designated sections. If the offender refuses to sign, write "refused to sign" and initial and date in place of the offender's signature.

(4) If the offender is unable to read the NOC or SCOP, provide effective communication accommodations and document in DECS.

(5) Forward the completed RPS, NOC, and SCOP to Institutional Case Records.

**(d) Institution Case Records Staff (Prior to Inmate's Parole)**

(1) Scan the completed RPS, NOC, and SCOP into ERMS.

**81010.15.3 Imminent Release (Oral RPS) Conditions of Parole /Probation Procedures**

**(a) CTP Parole Service Associate**

(1) If there is no NOC or SCOP, from parole, create a generic NOC within SOMS. If there is no NOC or SCOP, from probation, create a generic CDCR Form 1515-CS for PRCS cases.

(2) Print and review the copy of the NOC and SCOP (if applicable) with the offender, as described above. Obtain offender signature and date.

(3) Provide a copy of the NOC and SCOP to the offender.

(4) Forward the completed RPS, NOC, and SCOP to Institutional Case Records.

**(b) Parole Agent.**

Upon assignment of the case, immediately or with five business days following notification of imminent release complete the NOC and SCOP

**81010.15.4 Serving Offender With Notice of Conditions and Special Conditions of Parole Procedures**

**(a) Parole Agent**

(1) Print a copy of the NOC and Special Conditions of Parole (SCOP), if applicable, and review them with the offender. If necessary, use the DAPO approved translator service in a language the offender understands.

(2) Instruct the offender to initial and sign appropriate boxes in the NOC and SCOP.

(3) If the offender refuses to sign, write "refused to sign" and initial and date in place of the offender's signature.

(4) Provide a copy of the NOC and SCOP to the offender.

(5) Document in the automated ROS any reasonable accommodations and modifications provided and effective communication methods used.

**81010.16 Removal or Revision of Special Conditions of Parole Policy**

The unit supervisor may remove or modify SCOP not imposed by BPH or the court. The SCOP to participate in psychiatric treatment may not be removed without concurrence of Behavioral Health Reintegration (BHR) staff. A new NOC shall be completed anytime special conditions of parole are removed or modified.

**81010.16.1 Removal or Revision of Special Conditions of Parole Procedures**

**(a) Parole Agent**

(1) Conducts case conference with the unit supervisor to determine if NOC, SCOP, or both need to be revised, modified, or removed.

(2) Records, dates, and signs case conference decisions in the automated ROS.

(3) Prepares a new NOC and modified SCOP in SOMS.

(4) After unit supervisor approval, serves offender with the new NOC and SCOP as described in section 81010.15.4.

(b) **Unit Supervisor.** Reviews and electronically signs the new NOC and modified SCOP in SOMS.

**81010.16.2 Revisions to Board of Parole Hearings-Imposed Special Conditions of Parole**

**(a) Parole Agent (After Release to Parole)**

If the parole agent seeks to modify a special condition imposed by BPH, the agent completes the BPT Form 1135, Miscellaneous Decision, indicating recommended SCOP and reasons for recommendation and forwards to unit supervisor.

**(b) Unit Supervisor**

(1) Reviews BPT Form 1135 and signs if approved.

(2) Electronically transmits the BPT Form 1135 to BPH.

**(c) Parole Agent (After Board of Parole Hearings Decision)**

If needed, creates new NOC and SCOP in accordance with BPH's decision and serves offender.

**81010.17 Offender Refusal to Sign Notice and Conditions of Parole Policy**

The parole agent shall request the offender sign the NOC and SCOP (if applicable). A California offender is not required to sign the NOC and SCOP in order for them to be in effect. If an offender supervised by DAPO under the terms of the Interstate Compact on Adult Offender Supervision refuses to sign the NOC and SCOP, this shall be considered behavior requiring retaking and reported to the sending state in accordance with DOM Chapter 8, Article 6, with a recommendation that the offender be returned to the sending state

**81010.17.1 California Offender Refusal to Sign Notice and Conditions of Parole Procedures**

**(a) Parole Agent**

(1) Interviews offenders to determine why they refuse to sign.

(2) Attempts to resolve any dispute.

(3) If the offender continues to refuse to sign the NOC and SCOP, the parole agent shall advise the offender that the conditions are imposed regardless of signature.

(4) The parole agent shall write "REFUSED TO SIGN" in the offender's signature box of the NOC and SCOP forms.

(5) Informs the unit supervisor of the refusal.

(6) Documents in the automated ROS any reasonable accommodations and modifications provided, and effective communication methods used.

**81010.17.2 Interstate Compact Offender Refusal to Sign Notice of Conditions and Special Conditions of Parole Procedures**

**(a) Parole Agent**

(1) Interview offender to determine why the offender refuses to sign the NOC and SCOP (if applicable).

(2) Attempt to resolve the dispute.

(3) If the offender continues to refuse to sign the NOC and SCOP, report the violation to the sending state as behavior requiring retaking as described in Section 81060.10. The offender may be placed in custody on an interstate hold with unit supervisor approval. When submitting the violation report, the parole agent shall recommend that the sending state retake the offender.

**81010.18 Parole Agent's Verbal and Written Instructions Policy**

A verbal instruction requiring or prohibiting specific behavior that will be in effect for five calendar days or more shall be confirmed in writing within five business days after notifying the offender. The parole agent shall ensure the offender understands the instructions, and shall document the instructions given in the automated ROS. If the verbal or written instruction is permanent, a new NOC and modified SCOP shall be served to the offender within five business days from the date of verbal instruction.

**81010.19 Dual Referral Pre-Parole Policy**

For offenders in CDCR institutions referred to out-of-state placement, the RPS Offender Investigation in SOMS shall be forwarded to both the appropriate parole region and the Interstate Compact Unit for investigation. Parole unit staff shall conduct the pre-release tasks in the same manner as other pre-parole referrals until notified by institution staff of acceptance by the receiving state. If the offender is not accepted for supervision by the receiving state prior to release on parole, the offender shall report to DAPO as instructed.

**81010.20 Warrant Pending Pre-Parole Policy**

(a) For offenders with pending warrants, holds, or detainers the RPS in SOMS shall be forwarded to the appropriate parole region.

(b) Parole unit staff shall conduct the pre-release tasks in the same manner as other pre-parole referrals.

(c) If the warrant is exercised by a California agency or a federal agency (other than USICE) upon the offender's release and the offender is housed in custody in California, the assigned parole agent is responsible for monitoring case status and providing service in the same manner as other cases in local custody.

(d) If the warrant is exercised by an out-of-state agency or by a federal agency (other than USICE) and the offender will be in custody outside California, the assigned parole agent shall monitor case status in the same manner as other cases in local custody.

(e) If the warrant is exercised by an out-of-state agency or by a federal agency (other than USICE) and the offender is released to a local agency pending extradition, the assigned parole agent is responsible for monitoring case status and providing services in the same manner as other cases in local custody.

#### **81010.20.1 Offenders Paroled to Warrant Procedures**

##### **(a) Parole Agent**

(1) Assures that length of parole, NOC, and SCOP, if applicable, for Determinate Sentence Law cases are included in the completed RPS.

(2) Determines name, address, warrant number, and Also-Known-As (AKA), if applicable, of the offender for an agency taking custody out-of-state.

##### **(b) Institution Staff**

(1) Notifies parole agent, on or before the scheduled release date, if a warrant is not exercised (parole agent assumes responsibility for the case).

(2) Enters parole unit into SOMS.

#### **81010.21 United States Immigration and Customs Enforcement Detainer Policy**

(a) If known, SOMS and the RPS shall specify if an offender will be paroled to a USICE hold. DAPO is responsible for monitoring case status both prior to completion of deportation proceedings and after deportation according to the following procedures:

(1) Each DAPO Region shall maintain a Regional ICE Unit.

(2) The Regional ICE Unit is the repository for field files for all offenders who are in the custody of ICE and/or pending deportation. The Regional ICE Unit shall also monitor deported parolees.

(3) A SCOP shall be imposed on all cases that have a USICE detainer prior to release stating, "If deported you shall not re-enter the United States of America (USA) illegally."

##### **81010.21.1 United States Immigration and Customs Enforcement Detainer Procedures**

When a parole agent becomes aware of an offender under their supervision is being held in USICE custody, or has an active USICE hold or detainer, they shall prepare that case for transfer to the respective Regional ICE Unit. The parole agent shall forward the reports and field file to the unit supervisor for approval. Once approved by the unit supervisor, the case shall be transferred to the respective Regional ICE Unit according to current DAPO policy. Information justifying the reason for the transfer to the Regional ICE Unit shall be entered into SOMS.

##### **81010.21.2 Regional Re-Entry Unit Procedures**

(a) If a USICE hold or detainer exists when the case is sent by CTP staff to the Regional Re-Entry Unit, the Re-Entry Unit shall:

(1) Process the RPS in accordance with current policy.

(2) Review all available records and databases for the active USICE hold or detainer.

(3) In the "Assigned Parole Unit" box of the RPS, the Re-Entry Screener shall note the Regional ICE Unit assignment. The assigned DAPO parole unit shall be written in parentheses next to the Regional ICE Unit.

(4) The parole units' address and location shall reflect the assigned parole unit in the event the offender is released.

(5) The reporting instructions shall be report to the OD.

(6) Supervision level and reporting instructions shall be in accordance with current DAPO policy.

(7) The Regional ICE Unit shall make an assessment and recommendation as to the supervision level of the offender, regardless of the offender's foreign national affiliation.

(8) The case shall be forwarded to the Regional ICE Unit. The parole unit assignment in SOMS for all active Northern Region USICE cases shall be INS1 and all active Southern Region cases shall be INS3.

##### **81010.21.3 Regional Immigration and Customs Enforcement Unit Supervision Procedures**

(a) Upon receipt of field files from DAPO parole units or the Regional Re-Entry Unit, the Regional ICE Unit shall:

(1) Update SOMS to reflect acceptance of the case transfer.

(2) The Regional ICE Unit supervisor shall review the field file(s) and assign to a PSA.

(3) On the offender's release date, or the following business day, the PSA shall review SOMS to verify whether or not the offender was released to the community or to another law enforcement agency. If the offender was released to a hold or detainer other than an USICE hold or detainer, but still has an active USICE hold or detainer, the PSA shall keep the field file and monitor the case in accordance with DAPO policy.

(4) If the law enforcement agency releases the offender to the community with no pending USICE hold or detainer, the PSA shall prepare the field file for transfer to the respective parole unit identified on the RPS.

(5) Prior to transfer, any Discharge Review Date or Controlling Discharge Date discrepancies shall be submitted to Parole Case Records for clarification prior to transferring the field file, but shall not delay transferring the field file to the appropriate parole unit.

(6) If the offender was released to the custody of USICE, the PSA shall determine the current custody location or deportation status. Upon verification that the offender is in USICE custody, the case shall be designated "Pending Deportation" status in SOMS.

(7) The PSA shall verify a "Pending Deportation" parolee's USICE custody status each calendar month.

##### **81010.21.4 Regional Immigration and Customs Enforcement Unit Procedures for Deported Offenders**

(a) Upon verification that the offender has been deported, the Parole Services Associate (PSA) in the Regional Immigration and Customs Enforcement (ICE) Unit shall:

(1) Change the status in SOMS to "Deported."

(2) Continue to monitor the case according to current DAPO policy.

(b) When PVDTS shows that the discharge review is due:

(1) Obtain a Criminal Identification and Information (CI&I) Report not more than 45 days older than the due date of the discharge review and any documents verifying the offender's deportation.

(2) Complete a discharge review on the automated, Discharge Review Report, in PVDTS.

(3) In the body of the Discharge Review Report, provide details that the offender was deported and recommend "Retain on Parole" or "Discharge Denied/No Action" for the offender.

(4) Upload proof of deportation into the PVDTS Discharge Review packet.

(5) Continue to supervise the case until discharged.

(c) When the Regional ICE Unit places a PC 3056 hold, or becomes aware a hold has been placed on a United States Immigration and Customs Enforcement (USICE) case, the PSA shall initiate the automated Probable Cause Determination (PCD) in PVDTS. The completed PCD shall provide as much information as possible to include, but not limited to:

(1) Arresting agency;

(2) Agency case number;

(3) Custody location;

(4) Current charges; and

(5) Scheduled court date.

(d) The Regional ICE Unit supervisor shall review the PCD and electronically sign it in PVDTS. Upon approval of the PCD, the Regional ICE Unit PSA shall:

(1) Contact the assigned parole unit's supervisor or Parole Agent II (PAII) Supervisor as indicated on the Release Program Study (RPS), via electronic mail and inform them of the arrest, including all of the information listed above.

(2) Initiate transfer of the case in SOMS to the assigned parole unit.

(3) Forward the PCD and field file to the assigned parole unit via overnight mail.

##### **81010.21.5 Regional Immigration and Customs Enforcement Unit Procedures for Offenders Released**

(a) During monitoring of an offender that was being held in USICE custody, if the PSA discovers or is notified that the offender is pending release to the community, the PSA shall contact the assigned parole unit via electronic mail and inform the unit supervisor or Parole Agent II (Supervisor) of the upcoming release date and notify the parole unit that the case is being transferred.

(b) If the PSA discovers or is notified the offender was released from USICE custody, the PSA shall:

(1) If the offender has reported to the parole unit, initiate the transfer in SOMS and forward the field file to the appropriate parole unit.

(2) If the offender has not reported to the parole unit, initiate the transfer in SOMS to the appropriate parole unit, detailing the known circumstances of the release. The PSA shall determine if the offender has a CSRA score of five, or if the offender is required to register pursuant to PC 290 through 290.024. If either of those apply, the PSA shall electronically mail the unit supervisor of the assigned parole unit and report the case factors along with any other pertinent information about the release.

### **81010.21.6 Regional Immigration and Customs Enforcement Unit Procedures for Deported Offenders Who Return to the United States of America Illegally**

- (a) If the offender has not been arrested, enter comments into SOMS detailing the case factors and discovery of the illegal re-entry.
- (b) Determine if the offender has a CSRA score of five or if the offender is required to register pursuant to PC 290 through 290.024. If either of those apply, the PSA shall electronically mail the unit supervisor and Parole Agent II (Supervisor) of the assigned parole unit and report the case factors along with any other pertinent information about the offender's release and/or arrest.
- (c) Initiate the transfer in SOMS to the appropriate parole unit and transfer the case to the parole unit via overnight mail.
- (d) If the offender has been arrested, complete the PCD in PVDTS, detailing the known circumstances of the arrest, including case numbers and court dates. Transfer the field file to the parole unit via overnight mail after the unit supervisor approves and electronically signs the PCD.

### **81010.21.7 Parole Unit Responsibilities**

- (a) Upon receipt of a field file from the Regional ICE Unit, the case shall immediately be assigned to a parole agent. The case shall be supervised in accordance with DAPO policy.
- (1) If the case was transferred to the parole unit due to the offender being released from USICE custody, and the offender has not reported to the parole unit, the parole agent shall request a warrant for the offender's arrest in accordance with DAPO policy.
- (2) If the case was transferred to the parole unit after the offender's arrest and the placement of a parole hold, the parole agent shall conduct a case conference with the unit supervisor or designee and determine the course of action for the violation in accordance with DAPO policy.
- (3) If the case was transferred to the parole unit and the offender reported, the parole agent shall supervise the case in accordance with DAPO policy.
- (4) If the offender is returned to USICE custody, the case shall be transferred back to the Regional ICE Unit.
- (5) If the offender reports prior to the parole unit's receipt of the field file from the Regional ICE Unit, or prior to the case being assigned to a parole agent, the Officer-of-the-Day (OD) shall access CDCR databases to obtain necessary documents to begin the initial interview and update the NOC and modify the SCOP, if necessary. The OD shall also ensure that the offender is photographed according to current DAPO policy.

### **81010.22 Release From Revocation Status Policy**

The superior court or BPH may set a specific period of revocation time following a finding of good cause. The offender shall be released from custody on the day of completion of the revocation period. The parole agent shall assist the offender in readjusting to the community.

### **81010.22.1 Release From Revocation Status Procedures**

- (a) Parole Agent
  - (1) Retain field file of offender serving a revocation period.
  - (2) Supervise offender as an active case when serving a revocation period in local custody in accordance with DAPO policy.
  - (3) If necessary, modify the SCOP to comply with applicable changes ordered by BPH, or the courts, or as a result of conduct or circumstances of the violation.
  - (4) Serve offender with new NOC and SCOP upon release from revocation.
  - (5) Monitor the case in local custody during the revocation period.

### **81010.23 Revisions**

The DAPO Director or designee is responsible for ensuring this section is current and accurate.

### **81010.24 References**

- PC §§ 136.1, 245, 261, 262, 273.5, 273.6, 286, 287, 288, 288.5, 289, 290 through 294, 295 et seq., 422, 422.6, 422.47, 422.55, 422.75, 594.3, 646.9, 646.92, 667.5, 1168, 1170, 1170.2, 1170.18, 1192.7, 2713.1, 2960, 3000, 3000.1, 3000.08, 3002, 3003, 3007.05, 3008, 3053.2, 3053.4, 3056, 3058.6, 3058.61, 3058.8, 3057(b), 3060.5, 3060.7, 3064, 3451, 4501, 11177.2, 11411, and 12022.53, 12022.7, and 12022.9.
- VC § 23153
- CCR (15) (2) §§ 2510, 2512, 2513, and 2515.
- CCR (15) (3) §§ 3000, 3054.3, 3058.6, 3058.8, 3741 through 3748
- *People v. Lent* (1975) 15 Cal.3d 481

### **Revision History**

Revised: February 24, 2017.

Revised: January 14, 2020.

Revised: February 10, 2022.

## **ARTICLE 2 — CASE SUPERVISION**

*Revised October 30, 2018*

### **81019 Policy**

#### **Legal Basis of Parole**

The California Legislature has found and declared "...that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the State to provide for the supervision and surveillance of parolees and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge."

#### **Responsibility for Supervision**

Each parolee, whether on active, suspended Parolee-at-Large (PAL), or revoked status, shall be assigned to a parole agent. Parole agents are responsible for case supervision, surveillance and services delivery to parolees assigned to their caseloads. The primary means through which parole agents fulfill these responsibilities are through contacts with parolees and persons involved with the parolees. Parole agents shall cooperate with other law enforcement and human services agencies that may be involved with their parolees. Case contacts (field, office or collateral) shall be carried out to accomplish supervision objectives.

#### **81019.1 Purpose**

The purpose of this Article is to establish supervision specifications consistent statewide, based on the current risks and needs of an offender supervised by Division of Adult Parole Operations (DAPO). Should any clause of this article be in conflict with the Bargaining Unit 6 Memorandum of Understanding (MOU), the MOU shall prevail.

### **81020 California Parole Supervision Reintegration Model**

The California Department of Corrections and Rehabilitation (CDCR), DAPO, utilizes the California Parole Supervision Reintegration Model (CPSRM), which utilizes evidence-based practices to enhance public safety through long-term positive behavioral change. The mission of CPSRM is community safety through recidivism reduction. The core of CPSRM emphasizes the quality of supervision and the total involvement of the parolee in the supervision process. These practices have proven to positively impact offender reintegration into society.

#### **81020.1 California Parole Supervision Reintegration Model Supervision Categories**

DAPO shall utilize varying supervision categories that are consistent with the parolee's case plan and risk level as determined by the California Static Risk Assessment (CSRA) score and performance on parole. Each parolee shall be assigned to a specific supervision category level based on their assignment to a supervision model. The supervision categories are as follows:

- TP - Transition Phase
- CA - Category A
- CB - Category B
- CC - Category C
- CD - Category D
- CP - Residential Treatment Program
- HC - High Control
- EX - Enhanced Outpatient Program (EOP) Non-Specialized
- EO - EOP Specialized
- MD - Mentally Disordered Offenders (MDO) Specialized
- MX - MDO Non-Specialized
- IS - Electronic In Home Detention (EID) Monitoring (Sanction)
- IM - EID Monitoring (Monitoring Tool)
- OH - Non-Sex Offender referred to the Office of Correctional Safety
- PD - Pending Deportation
- DP - Deported

#### **81020.2 Case Category Assignment Criteria Initial Case Category Assignment**



Unless otherwise specified in this Article, all parolees shall be supervised in category TP, upon their initial release from custody.

### Changing Supervision Levels

When changing supervision levels, the individual parolee's case factors, risk to the community, and progress in addressing their criminogenic needs must be the foundation for the decision. CPSRM is designed to customize the supervision to the individual needs of the parolee. When reducing the supervision level, there should be an incremental decrease in supervision level which is based on the parolee's performance, length of time in the community and programming to address criminogenic needs. The parole agent should have the opportunity to assist the parolee with long-term behavioral change, but also observe the parolee's community adjustment for a period of time prior to reducing the supervision level.

The following guidelines to change supervision levels, based on the case conference review rating scale stating "reduction is warranted" may be followed:

Category TP - Category A = 60 to 90 days (mandatory).

Category A - Category B.

Category B - Category C.

Category D - Custody/Gravely Ill (mandatory)

#### 81020.2.1 Transition Phase Cases

Parolees assigned to the category TP shall be:

- Assigned upon initial release from custody. Parolees directly released to or immediately placed into a state funded residential program shall normally be reduced to the category CP level of supervision while participating in the program.
- Assigned for a minimum of 60 consecutive calendar days, and a maximum of 90 consecutive calendar days.
- Parolees in the first year of the parole term who are returned to custody for a period of 60 consecutive calendar days or more.
- Parolees in the first year of the parole term who are reinstated to parole after being PAL for 30 calendar days or more.
- The following parolees shall be excluded from placement into the TP category:
  - Parolees required to register pursuant to Penal Code (PC) Sections 290 through 290.024 who shall be supervised in accordance with the Sex Offender Management Program (SOMP).
  - Validated gang members or associates as approved by the unit supervisor, who shall be placed on Global Positioning System (GPS) monitoring and placed on a specialized caseload.
  - Enhanced Outpatient Program (EOP) and MDO participants.
  - Inmates who are eligible for post release community supervision pursuant to PC Section 3451.

#### 81020.2.1.1 Exceptions to Transition Phase

- Parolees directly released to or immediately placed into a state funded residential program shall normally be reduced to the category CP level of supervision while participating in the program.
- Inmates supervised under the Alternative Custody Program (ACP) or Expanded Medical Parole program.
- Parolees who are in the second year or beyond of the parole term that previously successfully completed a program during the first year to address their criminogenic needs and are then returned to custody for a period of 60 consecutive calendar days or more, and/or are reinstated after being PAL for 30 calendar days or more, shall have a case conference review to determine if the category A supervision level is more appropriate.

#### 81020.2.2 Category A Cases

Category A cases shall normally be reserved for the following parolees:

- Parolees whose risk level includes High Drug, High Property, and High Violence, defined as:
  - High Risk Drug, with a CSRA score of 3.
  - High Risk Property, with a CSRA score of 4.
  - High Risk Violence, with a CSRA score of 5.
- Public interest cases.
- High notoriety cases.
- Parolees governed by the Interstate Commission for Adult Offender Supervision until a manual CSRA score is calculated.
- Parolees assigned to EID supervision.

- Immediately following supervision in category TP for additional transition time, if case factors warrant a higher supervision level.

#### 81020.2.3 Category B Cases

Primarily reserved for parolees whose risk level is moderate with a CSRA score of 2.

#### 81020.2.4 Category C Cases

Primarily reserved for parolees whose risk level is low with a CSRA score of 1.

#### 81020.2.5 Category CP Cases

Reserved for parolees participating in an approved residential treatment program. These cases shall be designated in the Strategic Offender Management System (SOMS) with the supervision level "CP."

Upon successful completion of, or any discharge from, the approved residential treatment program, a case conference review shall be conducted to determine the appropriate supervision level. Any unsuccessful discharge occurring during the first year of the parole term shall not be supervised at less than category A.

Parolees assigned to category CP shall be supervised using monthly specifications equivalent to category C; however, upon recommendation of the parole agent, the unit supervisor may keep a parolee residing in residential treatment at a higher supervision level. The reason for maintaining a higher supervision level shall be documented during the Case Conference Review.

#### 81020.2.6 Category D Cases

Reserved for parolees:

- In custody.\*
- Gravely ill in a home care facility.

\*Parolees shall be placed in category D immediately upon discovery of the arrest or in-custody status. Parolees shall be removed from category D when they are released from custody and report to the parole unit. In the event the parolee is released on a date other than the calculated revocation released date, or in the event the parolee does not report upon release, the parolee shall be removed from category D upon discovery of the parolee's release.

#### Movement Into and Out of Category D

At the unit supervisor's discretion, the parolee may be returned to former supervision category or placed into a higher supervision category upon release if:

- Parolee is in custody for 59 consecutive calendar days or less.
- PAL for 29 days or less.

**NOTE:** The categories listed above may be modified by the unit supervisor based upon the parolee risk to the public and their demonstration in addressing their criminogenic needs. All changes to the supervision levels shall be documented on the electronic Record of Supervision, by the unit supervisor.

#### 81020.2.7 Definition of Category HC Cases

All CPSRM cases placed in suspend status meeting the criteria of determining highest control or risk classification as defined in the California Code of Regulations (CCR) Section 3504.1 [CSRA of 5 (high-violence) or required to register per PC Section 290]. All other CPSRM cases placed in suspend status shall remain in their current CPSRM supervision category.

#### 81020.2.8 Enhanced Outpatient Program Cases

A parolee is designated as a mental health participant at the level of EOP after meeting the following criteria:

- Diagnosed with a major mental disorder requiring more intensive services.
- Require mental health services provided by a Parole Outpatient Clinic (POC) provider or a community-based treatment program.

A parolee designated as an EOP case that is required to register as a sex offender and subject to SOMP supervision, shall be supervised on a SOMP specialized caseload and assigned the appropriate supervision level in accordance with SOMP.

#### Mentally Disordered Offender Cases

Inmates/parolees who meet the following criteria are considered MDO:

- Certified by the CDCR Chief Psychiatrist as meeting the criteria as outlined in PC Section 2962.
- Required to have a special condition of parole mandating treatment by the Department of State Hospitals (DSH).

#### 81020.2.9 Electronic In Home Detention Supervision Categories

When a decision is made by the unit supervisor, Administrative Review Officer, or the Parole Authority to assign a parolee to the EID program, the

unit supervisor shall determine if the assignment is the result of a sanction for a violation or if there is a direct nexus to enhance public safety.

**Offenders assigned to the EID Program shall be supervised using monthly specifications equivalent to category A and shall be designated in SOMS as follows:**

EID as a sanction	IS
EID as a monitoring tool	IM

#### **Case Exceptions to California Parole Supervision Reintegration Model**

Cases meeting any of the following criteria shall not be assigned to CPSRM caseloads and shall be assigned to a specialized caseload:

- Required to register pursuant to PC Sections 290 through 290.024.
- Gang offenders meeting criteria for placement on a gang offender GPS caseload (as needed).
- EOP participants and MDO cases (when there is a minimum of 32 EOP/MDO cases to establish a specialized caseload).

#### **81020.3 Workload Management**

Workload distribution and management is essential to be effective in administering the CPSRM. Uniform guidelines have been established for determining workload. The unit supervisor or designee shall ultimately be responsible for the distribution of the workload to subordinate parole agent staff within the CPSRM parole unit.

##### **81020.3.1 Unit Workload Balance Policy**

On a weekly basis, the unit supervisor or designee shall be responsible for reviewing and maintaining a balanced and equitable workload between assigned staff, and shall use the Unit Workload Summary report to review the assigned workload. Upon review, the unit supervisor or designee shall attempt to balance the unit workload and maintain an equitable mix of categories on each caseload. No parole agent shall have more than 40 parolees in total between the designations: transition phase, category A, EOP or MDO. The remaining cases shall consist of cases from categories B, C, CP, and/or D and EOP non-specialized caseload overflow (EX), EID Sanctioned (IS), EID Monitored (IM), MDOs non-specialized caseload overflow (MX), and/or category HC cases. EOP cases shall not be placed on a 53:1 caseload except in the following circumstances:

1. There is a sufficient number of EOP, including MDO, cases assigned to a Parole Unit or Complex to create a 40:1 Specialized EOP caseload. EOP Specialized caseloads may be established if there are a minimum of thirty-two (32) cases. The approved 40:1 caseload ratio may be exceeded under the following circumstances: (1) a parolee previously supervised who is now in custody or PAL or (2) an excessive Unit workload situation as described above.
2. If there are insufficient numbers of EOP cases to form an EOP Specialized caseload, the EOP shall be placed on a 53:1 caseload. No more than four (4) EOP, including MDO, cases shall be placed on any non-specialized caseload except in situations where there are not enough case carrying agents (less than eight [8] parole agents in a unit) to allow for four (4) EOPs per agent and less than thirty-two (32) EOPs total. If it is necessary to exceed the preferred maximum level of four (4) cases per parole agent, an equitable distribution of EOP cases within the unit will occur.

If a mental health clinician removes the parolee from EOP status or an MDO parolee is no longer classified as MDO, the parolee may be placed in an appropriate supervision category based on their CSRA score and a case conference review.

#### **81020.4 California Parole Supervision Reintegration Model Category Assignment for Expanded Medical Parolees and Re-Entry Court Parolees**

Standard DAPO supervision levels shall apply to all Expanded Medical Parole (EMP) parolees on a case by case basis to be determined by the unit supervisor or designee; however, no EMP parolee shall be supervised at category D, including EMP parolees who are gravely ill. Category D is reserved for in-custody or regular parolees who are gravely ill.

Re-entry court parolees shall be assigned to a category based upon their CSRA score.

#### **81020.5 Documenting Case Activity Policy**

The electronic Record of Supervision shall be utilized to record all case activity and parolee interaction during their parole period. It is important to note that all case activity and parolee interaction recorded on the electronic Record of Supervision is critical to the CPSRM process and that recorded entries shall be reviewed by the unit supervisor for accuracy and completeness. Entries should include start and end times and all relevant details of the interactions with anyone related to or involved in the parolee supervision and

reintegration. These recorded details shall include the contact's name, relationship to the parolee (on every reference), and the pertinent information discussed.

#### **81020.5.1 Documenting Searches**

Any time a parolee is contacted at their residence, the parole agent shall document the type of search that was conducted during the home contact. The type of search to be conducted includes the following:

- Plain View Search - A plain view search is a visual inspection of the immediate environment to locate any parole violations or threats to the parole agent.
- Cursory Search - A cursory search is a more detailed examination to locate any parole violations or threats to the parole agent. The search may include checking in closets, bedrooms, etc.
- Comprehensive Search - An extensive and thorough search of the parolee's residence, any structure situated on the property, or any other property/area as identified by the parole agent. This search is to determine compliance with parole conditions and shall be conducted with more than one peace officer to ensure parole agent safety.

The parole agent shall indicate "plain view search conducted," "cursory search conducted," or "comprehensive search conducted" on the electronic Record of Supervision depending on the type of search that was conducted in the residence.

#### **81020.5.2 Documentation of Type of Contact**

When entering information into the electronic Record of Supervision, the parole agent shall select the appropriate contact type, as defined in section 81020.7.1, from the drop down menu and document the contact in the electronic Record of Supervision.

#### **Americans with Disabilities Act Accommodation Codes**

Select the appropriate Americans with Disabilities Act (ADA) accommodation code from the ADA Accommodation Codes menu.

#### **81020.6 Case Conference Review Policy**

The case conference review is a structured analysis of a case by the parole agent, unit supervisor or designee, and the parolee (if the parolee participates); in addition, other stakeholders may participate, such as the assigned POC clinician, District Administrator, and the parolee's family members or members of the parolee's community support network. The case conference review shall specify factors such as employment, residence, compliance with special conditions, response to supervision, violations, review of the parolee's individual case factors, and progress relating to addressing their criminogenic needs including the CDCR Form 1661, Goals and Progress Reports.

The case conference review is utilized to determine the appropriate supervision level through the collaborative review of the parole adjustment, which includes positive reintegration efforts demonstrated by progress toward achieving goals and the work performed related to addressing criminogenic needs, and to refine the supervision activities on the case. All category changes shall become effective immediately after the case conference review is completed. Case conference reviews shall be conducted based on the following circumstances:

- Change in supervision level (except into or out of categories CP or D).
- Determination of suitable supervision category following completion of category TP.
- Increase in the supervision category.
- On an annual basis.
- When a parolee is retained on parole or there is no action taken by the paroling authority.
- Decrease supervision (abbreviated case conference review).
- Upon the request of the parole agent or upon instruction from the unit supervisor.

#### **81020.6.1 Case Conference Review Procedures**

All case conference reviews shall be conducted utilizing the following process:

##### **Parole Agent**

- The parole agent shall review their caseload roster and/or the electronic Record of Supervision at the end of each calendar month to determine if case conference reviews are due or required for the parolees.
- Schedule the case conference review with the unit supervisor or designee.
- Invite the parolee to participate in the case conference review.
  - Parolee may attend in person, via telephone, or decline to participate in the review.

- Parolee's participation is not required but shall be encouraged.
  - Parole agent shall document this notice and the parolee's response on the CDCR Form 1657, Case Conference Review/Discharge Consideration Committee.
  - The District Administrator, POC clinician, and parole support networks may also be included.
  - Complete the CDCR Form 1657.
  - Determine new goals and tasks for the parolee, and document on a new CDCR Form 1661.
  - Check Disability and Effective Communication System (DECS) to determine if the parolee is identified as having any physical and/or mental disabilities pursuant to ADA. If ADA disabilities exist, then the parole agent shall make the necessary arrangements to have reasonable accommodations available for the Case Conference Review.
- NOTE:** If the parolee requires assistance, the parole agent may serve as the designated assistant.
- Provide the following documents prior to the Case Conference Review as instructed by the unit supervisor or designee:
    - CDCR Form 1657.
    - CDCR Form 1661.
    - Any additional relevant documents or information.

#### Unit Supervisor or Designee

Utilizing the following process, the unit supervisor or designee shall:

- Review the CDCR Form 1657 and all supporting documents, including the electronic Record of Supervision to determine an appropriate supervision category:
  - Ensure all necessary information/documents are present and completed in the field file.
  - Review and ensure the parole plan, CDCR Form 1661 and all relevant information is being utilized in the case management of the parolee.
  - Review information presented during the case conference review.
  - Sign and date the CDCR Form 1657.

Any noted supervision deficiencies shall **not** be documented on the electronic Record of Supervision, nor shall they be discussed in the presence of other staff or the parolee. Supervision deficiencies shall be addressed in accordance with Chapter 3, Article 22.

#### 81020.6.2 Case Conference Review Collaboration

The case conference review is conducted collaboratively with the unit supervisor or designee, parole agent, parolee, and additional stakeholders (who choose to participate) as described in section 81020.6.

- The unit supervisor shall meet with the parole agent in person to conduct the case conference review even if the parolee is not present. If the parolee is unable to attend the meeting in-person but has requested to participate telephonically, the parole agent may meet with the unit supervisor or designee prior to the start of the case conference review, and then facilitate the parolee's participation by telephone call.
- Evaluate the case factors, CDCR Form 1657, and any additional information provided by the case conference review attendees.
- Determine the appropriate supervision level based on the case factors and CSRA score.
- The date and time of the case conference review shall be recorded on the electronic Record of Supervision.
- The final results of the case conference review shall be documented on the electronic Record of Supervision.
- Update SOMS with the case conference review date and the new category, if applicable.
- If the change in supervision level occurs on or prior to the 20th of the month, the parole agent shall be responsible for the contact specifications for the new category of supervision.
- If the change in supervision level occurs after the 20th of the month, the parole agent shall be responsible for the contact specifications of the prior level of supervision.

**NOTE:** Case conference review shall not be delayed if the parolee is not present.

#### 81020.6.3 Case Conference Review Factors

Case conference review may specify factors including, but not limited to the following:

- Employment.
- Residence.
- Compliance with conditions of parole.
- Response to supervision.
- Patterns of urinalysis testing.
- Individualized supervision goals.
- Addressing criminogenic needs.
- Community relations.
- Support network.
- Community activities.

#### 81020.6.4 Documenting Case Conference Reviews Procedures

Parole agents shall use the CDCR Form 1657 for case conference reviews. The review may be either computer generated or handwritten.

**NOTE:** If the CDCR Form 1657 is computer-generated, it must contain an original signature.

#### CDCR Form 1657 Section I – Summary of Parole Adjustment

##### To Be Completed by the Parole Agent:

- CDC number and parolee's name.
- Last release date.
- Region and parole unit.
- Commitment offense.
- CSRA score and current supervision level.
- Reason for the completion of the form:
  - Abbreviated case conference review.
  - Case conference review, or
  - Discharge consideration committee.
- Five criminogenic objectives which shall be rated with a rating score of 1, 2, or 3.
- The cumulative score for all five objectives shall be totaled, and the appropriate box shall be checked in the "Total Objectives Score" section.
- The totaled score represents the final recommendation for a supervision category.

**NOTE:** This score may be adjusted upward or downward with documented aggravating or mitigating circumstances.

- If the scoring assessment has already been previously completed within the last 60 calendar days on a CDCR Form 1502-DR, Discharge Review Report, the parole agent shall:
  - Transfer the scores from the rating scale onto the case conference review to determine the appropriate supervision level.
  - The parole agent shall attach the completed CDCR Form 1502-DR, checking the box on the CDCR Form 1657 titled, "See Discharge Review Report Dated \_\_\_\_\_," and write the date of the respective report.

**NOTE:** The CDCR Form 1502-DR rating scales determine the discharge or retain suitability. The CDCR Form 1657 case conference review rating scales determine the appropriate supervision level.

- The parole agent shall document the basis for the recommendation in the "Support for Recommendation" box. If the parole agent is referencing supplemental information or reports, the parole agent shall check the box titled "Additional Report Attached", and include the appropriate report.
- The Parole agent shall make a recommendation with regards to supervision category movement.
- The parole agent shall invite the parolee to participate in their case conference review or discharge consideration committee and note the date and method of notification to the parolee. This section is not required to be completed for abbreviated case conference reviews.
- Document if the parolee is present for the case conference review. Check yes or no. If no, cite reason.
- If a reasonable accommodation was provided to the parolee, that accommodation shall be noted.
- Document other participants that were in attendance.
- Parole agent's signature, badge number, and date.

**CDCR Form 1657 Section II – Summary/Certification****To Be Completed by the Unit Supervisor:**

Section II shall be completed by the unit supervisor and shall contain the following:

- Comments and instructions.
- Supervisor's decision.
- Discharge consideration committee results. Only required to be completed for this proceeding.
- Unit supervisor signature, badge number, and date.

**81020.6.5 90-Day Case Conference Review Policy**

The 90-day case conference review is utilized to determine a suitable supervision category following the category TP, review the parolee's adjustment in the community, and review the progress the parolee is making toward their criminogenic needs.

A case conference review shall be conducted as follows:

- Follow all steps described in the "Case Conference Review Procedures" Section.
- For all cases assigned to category TP, a case conference review shall be conducted no earlier than 60 calendar days and no later than 90 calendar days from the parolee's release from custody, release from a residential treatment program, or placement into the category TP.
- The parolee's supervision category may be modified to the appropriate supervision category based upon individual case factors, CSRA score, and criminogenic needs.
- The 90-day case conference review shall not be conducted on parolees in custody assigned to supervision category D.
- All category changes shall become effective immediately.
- EOP cases, on a non-specialized caseload, shall be supervised utilizing category A supervision specifications with a classification code of category EX until the POC clinician determines the parolee is no longer classified as an EOP. The parolee shall then be classified into a supervision category based on their CSRA score and/or the parolee's individual case factors.
  - EOP parolees shall be supervised the same whether they are on a specialized or non-specialized caseload; however, only four EOP cases may be supervised on a non-specialized CPSRM caseload.

**81020.6.6 Annual Case Conference Review Policy**

The annual case conference review shall be completed as follows:

- Follow all steps described in the "Case Conference Review Procedures" section.
- Conduct on all cases except category D cases.
- Complete within 60 calendar days after the anniversary of the:
  - Parole date.
  - Revocation release date.
  - Date of reinstatement.

If a discharge review report is due, the case conference review may be completed simultaneously to, but no later than 60 days after the discharge review; if the recommendation of the unit supervisor or designee is to retain the parolee. If no action is taken, the case conference review shall be conducted within 60 days regardless of the final recommendation of the District Administrator, Parole Agent III, or Parole Agent II (Supervisor).

**81020.6.7 Abbreviated Case Conference Review**

An abbreviated case conference review is conducted when the parole agent recommends a reduction in the supervision level. An abbreviated case conference review may be conducted under the following circumstances:

- The parole agent's recommendation is to reduce the supervision level for parolees who are currently in category A or B.
- Increase supervision level when a parolee is suspected of committing new crimes and is under investigation (parolee's attendance is not required).

**NOTE:** An abbreviated case conference review may not be conducted to reduce the supervision level from category TP or in lieu of the annual case conference review. A full case conference review shall be conducted no later than 90 days after the parolee's initial release and annual review.

An abbreviated case conference review shall be completed as follows:

- Follow all steps described in the "Case Conference Review Procedures" section (**Exception** – The parolee's presence and notification is not required).

- The parole agent shall submit the completed CDCR Form 1657 to the unit supervisor for review and final determination.

**81020.7 California Parole Supervision Reintegration Model Case Contact Requirements**

Case supervision requirements are necessary to assist parolees in their rehabilitation and to monitor their activities in the community. The case contacts are derived from the parolee's CSRA score and case factors.

In any instance where the parole agent is unavailable due to vacation, illness or other reasons for a period sufficient to prevent timely field contacts and case reviews, the unit supervisor shall assign those responsibilities to another parole agent, in accordance with the Bargaining Unit 6 MOU.

The contact requirements described in this section represent the minimum contact requirements for parolees assigned to specific supervision categories. Nothing in this section prevents a parole agent from electing to exceed these contact specifications, making additional face-to-face contacts, or obtaining an additional urinalysis test(s), if deemed appropriate.

**81020.7.1 Contact Types Defined**

Each case supervision task entails different types of contacts. The type of contacts for each of the following categories described shall be defined as follows:

- **Initial/Comprehensive Interview** – Upon release to the community, the initial/comprehensive interview is the parole agent's initial contact with the parolee to discuss the conditions of parole, conduct intake procedures, and determine the parolee's criminogenic needs. The comprehensive interview shall be conducted by the agent of record.
- **Goals and Progress Report** – Document detailing the criminogenic needs in which the parolee is working on for a particular duration of time. The document is the source document which is utilized throughout the parolee's parole period to track the progress of addressing their criminogenic needs.
- **Home Contact** – The parole agent conducts a home visit at the parolee's residence of record. The home contact should be unscheduled and unannounced unless approved by the unit supervisor in writing. The home contact is conducted to:
  - Ensure the parolee is residing at their residence of record.
  - To become familiar with the parolee's significant others.
  - Continue case management processes.

For transients, a field contact at a location where the parolee frequents or sleeps shall be conducted in lieu of the required home contact.

- **Additional Face-to-Face Contact** – An additional in person contact with the parolee that includes, but is not limited to:
  - Working with the parolee on their criminogenic needs.
  - Conducting a comprehensive search.
  - Facilitating a group.
  - Participating in a community meeting.
  - Contacting the parolee at their residence a second time.
  - Contacting the parolee at their place of employment, the parole unit or in the field.
- **Urinalysis Test** – Conduct a random and unscheduled urinalysis test, if applicable.
- **Significant Collateral** – A significant collateral is a person who has significant knowledge of the parolee. This includes, but is not limited to, an individual who makes up a parolee's support group, family, friends, neighbors, associates, church members, colleagues, members of social groups, etc. Individuals who play a consistent part in the parolee's life before, during and after parole.
- **Resource Collateral** – A resource collateral is a person, group, or organization which assists the parolee in addressing their criminogenic needs.
- **Law Enforcement Collateral** – Information received from law enforcement that meets the criteria of a significant or resource collateral as stated above may fulfill one of the monthly collateral contact requirements in each supervision level.

**81020.7.2 Transition Phase - Case Supervision Requirements**

Upon initial release from custody, a parolee shall be placed in category TP. The following supervision requirements shall be completed within the first month of supervision:

- Initial/comprehensive Interview.

- Issue first CDCR Form 1661.
- One home contact.
- One additional face-to-face contact.
- Urinalysis testing (if required).
- One significant collateral contact.
- One resource collateral contact.

Completion of the Pre Release Video Conference will satisfy the requirement of one significant and one resource collateral contact during the first month after the initial release.

#### **Transition Phase - First Month of Release**

On the first working day after release, or within 48 hours, whichever is earlier:

- Conduct initial face-to-face contact (first working day following release).
- Conduct initial interview utilizing sections I and II of the CDCR Form 1650-B, Initial/Comprehensive Interview. This is normally completed at the parole unit, and may be in conjunction with the initial face-to-face contact.

Within **6 working days** following release, conduct an initial home contact. This contact should be scheduled and include family members.

Within **15 working days** following release:

- The agent of record shall conduct a comprehensive interview, utilizing the CDCR Form 1650-B, Section III. The comprehensive interview may be scheduled in advance. The comprehensive interview may also be conducted during the initial interview if both interviews are being conducted by the agent of record.
- The agent of record shall complete a CDCR Form 1661 and provide a copy to the parolee by the 15th working day following release for cases that are in category TP.

If released on or prior to the **20th** of the month:

- Conduct one random and unscheduled urinalysis test, if required by CDCR Form 1515-Addendum, Special Conditions of Parole (SCOP). The test shall be observed whenever possible. The date the test was taken and all test results shall be recorded on the electronic Record of Supervision.
- Obtain one significant collateral contact.
- Obtain one resource collateral contact. For EOP cases, the resource contact must be with the parolee's mental health treatment provider.

If released after the **20th** of the month:

- The initial interview, sections I and II of the CDCR Form 1650-B, shall be completed on the first working day following release, and the initial home contact shall be completed within six working days following release.
- The comprehensive interview, section III of the Form CDCR 1650-B, shall still be required to be completed within 15 working days following release.

#### **Transition Phase - Ongoing Supervision (Each subsequent calendar month)**

After the first month of placement in category TP, the following specifications shall be completed each subsequent *calendar month* thereafter:

- One unannounced home contact at the parolee's residence of record.
- One additional face-to-face.
- One resource collateral contact.
- One significant collateral contact.
- Urinalysis test (if required).

In the event that the parolee has a break in their supervision while in category TP, the unit supervisor may elect to return the parolee to category TP level of supervision for up to the full specified duration of category TP once the parolee has returned to active supervision in the community.

#### **Case Conference Review - Within 90 Calendar Days**

The case conference review shall be conducted no earlier than 60 days and no later than 90 days from placement into category TP. During the case conference review, the parolee's performance, case factors, and criminogenic needs shall be discussed. The unit supervisor, parole agent, and the parolee (if the parolee attends) shall be included in the case conference review meeting. The parolee shall be notified of the case conference review in writing, verbally, or telephonically and be given the opportunity to participate in the review. The

parolee may elect to decline or participate in person or telephonically. The POC clinician and parolee support networks may be included, if applicable (see the Case Conference Review procedure section for more details).

#### **81020.7.3 Category A - Case Supervision Requirements - Each Calendar Month**

Parolees supervised in category A, shall have the following requirements completed each calendar month:

- One unannounced home contact.
- One additional face-to-face.
- One resource collateral contact or one significant collateral contact.
- Urinalysis test – random and unscheduled (if required).
- CDCR Form 1661 (reviewed and issued at each case conference review).

#### **81020.7.4 Category B - Case Supervision Requirements - Each Calendar Month**

Parolees supervised in category B, shall have the following requirements completed each calendar month:

- One unannounced home contact.
- One significant collateral contact or one resource collateral contact.
- Urinalysis test – random and unscheduled (if required).
- CDCR Form 1661 (reviewed and issued at each case conference review).

#### **81020.7.5 Category C and Category CP - Case Supervision Requirements - Every Other Calendar Month**

Parolees supervised in category C and category CP shall have the following requirements completed every other calendar month:

- One unannounced home contact.
- One significant collateral contact or one resource collateral contact.
- Urinalysis test – random and unscheduled (if required).
- CDCR Form 1661 (reviewed and issued at each case conference review).

#### **81020.7.5.1 Category D - Case Supervision Requirements - Each Calendar Month**

Parolees supervised in category D, shall have the following requirements completed each calendar month:

- Collateral contact with appropriate agencies to track status, release dates and other changes. For court cases, collateral contacts must note the next court date or release date. Additional collateral contacts may be required if the next court date occurs within the same calendar month.
- Document findings on the electronic Record of Supervision.
- Provide an updated status of the parolee's court case to appropriate entities.

#### **81020.7.6 Category HC - Case Supervision Requirements - Each Calendar Month**

Parolees assigned to category HC shall require one collateral contact associated with efforts to locate the suspended parolee.

#### **81020.7.7 Enhanced Outpatient Program and Mentally Disordered Offender Case Supervision Requirements and Procedures**

Parolees deemed to be classified as an EOP or MDO parolee shall be placed on an EOP/MDO specialized caseload when there are a minimum of 32 EOP/MDO cases utilizing the EO and MD supervision categories. No more than 40 EO/MD cases shall be assigned to one parole agent. When the parole unit exceeds 40 EO/MD cases, excess cases may be assigned to non-specialized CPSRM parole agents utilizing the EX or MX supervision categories. No more than four EOP/MDO cases shall be assigned to one non-specialized CPSRM parole agent.

All parolees classified as MDO shall be supervised at the same case specifications as EOP parolees, except:

- Those in the custody of DSH.
- Those incarcerated in a county jail.

These parolees shall be supervised at category D case specifications and assigned to CPSRM caseload while assigned to this CPSRM supervision category.

Parolees decertified as MDO shall be classified to an appropriate supervision type and assigned the appropriate supervision category in SOMS, as determined by current DAPO policy.

On the first working day after release or within 48 hours of release, the parole agent shall:

- Conduct an initial face-to-face contact.

- Conduct an initial interview utilizing sections I and II of the CDCR Form 1650-B. This is normally done at the parole unit, and may be in conjunction with the initial face-to-face contact.

Within **3 working days** following release:

The parolee shall be seen by a POC clinician.

Within **6 working days** following release:

The parole agent shall conduct an initial home contact. This contact may be scheduled.

Within **15 working days** following release:

The agent of record shall complete section III of the CDCR Form 1650-B. The comprehensive interview may be scheduled in advance for a later date within 15 working days of release or conducted during the initial interview if both interviews are being conducted by the assigned agent of record.

If released on or prior to the **20th** of the month:

- Conduct one random and unscheduled urinalysis test, if required by the SCOP. The urinalysis test shall be observed whenever possible and the date the test was taken and all positive test results shall be recorded on the electronic Record of Supervision.
- Obtain one resource contact with the parolee's mental health treatment provider. The identity of the person contacted and the information provided by that person shall be documented on the electronic Record of Supervision.

If released after the **20th** of the month:

- Only the initial interview on the first working day of release and the initial home contact within six working days following release shall be required.
- The comprehensive interview shall be conducted within 15 working days following release.

Each calendar month:

- One unannounced home contact.
- One additional face-to-face contact.
- One resource collateral contact (must be with POC clinician).
- One significant collateral contact.
- Urinalysis test - random and unscheduled (if required).
- CDCR Form 1661 (review on a case-by-case basis to determine if parolee is capable of participating in the process).

EOP cases shall remain in category EX or EO while in suspended status and shall require monthly specifications equivalent to that of category HC; if the EX or EO case meets criteria designating them as highest control or risk classification as defined in CCR, Title 15, Division 3.

#### **81020.8 Unusual Circumstances**

In unusual circumstances (e.g., a parolee residing in a geographically remote area, natural disaster), the unit supervisor may establish contact requirements for a specific case that varies from mandated supervision requirements. The reason for such variations shall be documented on the electronic Record of Supervision.

#### **81020.9 Residence/Employment Verification Policy**

##### **Pre-Release**

An essential part of the parolee's success revolves around the parole agent preparing for the parolee's release. The parole agent must conduct a pre-release residence verification (home visit) after receiving the pre-parole package consisting of the CDCR Form 611, Release Program Study and other supporting documents. The pre-release residence verification shall be scheduled in advance via telephone or a letter to ensure someone will be at the residence at the time the home visit is made. The parole agent must complete the following in anticipation of the parolee's release:

- At least 30 days prior to release - Complete section I of the CDCR Form 2289, Notice and Request for Assistance During Parole Proceeding. To ensure effective communication, search DECS to verify any known disabilities requiring a reasonable accommodation.
- Released 30 days or less - If the inmate is scheduled to be released within 30 days or less upon assignment to the parole agent, the residence verification as described in section 81020.9.1 shall be completed at the initial home contact.

- Lifer pre-release residence verification must be conducted. (The time frame of 30 days referenced above does NOT apply to lifer parolees as they are required to complete the Parole Verification Document within 5 days of receipt, unless expedited, from the Community Transition Program).

#### **81020.9.1 Residence Verification**

The residence verification is an opportunity for the parole agent to become familiar with the proposed residence of the parolee and to determine if the residence will be an appropriate place for the parolee to reside. Applicable registration requirements, general conditions of parole or SCOP, or potential victim issues shall be taken into consideration by the parole agent. A residence found to be in violation of any applicable condition of parole or statutory requirement shall not be approved. A residence shall be considered for approval as long as it does not cause the parolee to violate their general conditions of parole or SCOP or any other applicable statutes.

#### **81020.9.2 Parolee Residence/Employment Verification Procedures**

The CDCR Form 1658, Parolee Residence/Employment Verification, shall be completed by the parole agent when conducting the residence verification. The CDCR Form 1658 is a two page document containing five parts. Entries by parole agents shall only be made in black or blue ink and shall be clear and legible.

- Section I – Describes the individuals who reside in the residence.
- Section II – Describes the physical layout of the residence.
- Section III – Includes a diagram of the residence and surrounding property.
- Section IV – Proposed residence and/or employment
- Section V – Additional information regarding the residence or its occupants.

In order to provide uniformity and a clear understanding and meaning of each entry, *only the standard departmental abbreviations shall be used*. No other abbreviations shall be used on the form.

If additional pages are needed, an additional CDCR Form 1658 shall be used. The use of white-out or correction tape is prohibited.

The CDCR Form 1658 shall be kept in the parolee's field file. The original shall remain in the parolee's field file. All forms shall be retained until the parolee is discharged from parole.

#### **81020.9.3 Procedure for Completion of CDCR Form 1658**

The parole agent shall document the following on the CDCR Form 1658:

- Address of proposed residence.
- Occupant information.
- Identity of the person(s) contacted at the residence.
- The relationship of the person(s) contacted at the residence.
- Identity of the responsible/primary occupant of the residence.
- Name of the owner(s) and/or property manager of the residence and if they are aware of the parolee's status.
- Confirm how long the parolee will reside at the proposed residence.
- Confirm search and seizure provisions were explained to the occupant(s).
- The living area and, if approved by the occupant(s) on pre-parole cases, conduct a cursory inspection of the parolee's proposed personal quarters.
- Any barriers that could preclude access to the front door of the residence and what is needed to overcome those barriers (i.e., obtain access codes, gate keys, etc.).
- All dogs and/or other animals on the property and whether or not they may pose a danger to a parole agent and/or law enforcement officers.
- Any noted concerns with the residence (e.g., gang members, registered sex offenders, safety concerns, etc.).
- Note if residence is compliant with the law (sex offender/victim restrictions).
- Check if the residence is approved or disapproved and, if disapproved, explain why.
- Draw a diagram of the residence and surrounding property.
- A secondary address (only lifer parolees) requires pre-release verification of the secondary address.
- Proposed employment information (only lifer parolees) requires pre-release verification of proposed employment. If the employment plan is

not viable, the parole agent shall note the reason why in Section V of the form.

The parole agent shall complete the initial CDCR Form 1658. If the question is not applicable, enter either “N/A” or a slash mark “/”. For subsequent CDCR Form 1658 updates, the parole agent is only required to complete those sections requiring updated information or if no updates are required, marking the appropriate box on the form and noting the date of the prior CDCR Form 1658 containing the correct information.

After three updates on the form and/or if no space is available to notate additional changes, the parole agent must complete a new residence verification form to maintain the legibility of the information on the form. For example, if there is a new resident moving in with the parolee, the “update” box may be checked and the date of the change written next to the new information entered.

#### 81020.9.4 Change in Residence Verification

Pursuant to the general conditions of parole, a parolee must inform their parole agent about a change in address at least 72 hours before the address change occurs.

Upon receiving notification of a change of address, the parole agent shall:

- Update the address information in SOMS.
- During the next required home contact (depending on supervision category), excluding Residential Multi-Service Center (RMSC), Parolee Service Center (PSC), Female Offender Treatment and Employment Program (FOTEP) residential drug treatment program, homeless shelters, emergency housing accommodations, or other approved exceptions, complete the applicable sections of the CDCR Form 1658. This requires the completion of sections I, II, and III of the CDCR Form 1658. If the residence change involves the parolee’s return to a residence for which a CDCR Form 1658 was previously completed for that parolee, the parole agent shall update the prior form, then date and sign the form.

Consistent with the pre-release residence verification process, any subsequent change in residence shall be verified by the agent of record utilizing the CDCR Form 1658, except for a change in residence meeting the following criteria:

- Homeless shelters or other emergency housing accommodations.
- The change in residence is to *homeless* or *transient* status.
- Parolee resides in a residential program (contracted RMSC, PSC, FOTEP, or residential drug treatment program).
- Other approved exemptions as determined by the unit supervisor.

In the aforementioned exceptions, the parole agent shall note on the electronic Record of Supervision, the location of the parolee’s room or bed area, any limitations, restrictions, or obstacles that may be present, and with whom the parolee would be residing.

#### 81020.9.5 Home Contact Procedures

Unless otherwise approved in writing and documented by the unit supervisor, home contacts shall be random and unannounced to maintain an element of uncertainty and surprise. Although the element of surprise is advantageous to the parole agent, the element of surprise may put the agent in harm’s way. The parole agent should remain alert and vigilant at all times for any signs of violations.

Home contacts shall:

- Be conducted at random and unannounced times, unless authorized by a unit supervisor to schedule a home contact in advance (e.g., initial home visit or to sign documents), with the duration varying each time, but lasting approximately 20 minutes.
- Include a walk-through of the entire residence to establish an understanding of the floor plan, who resides within the residence, and where they reside in the residence, if applicable.
- Include a cursory inspection and/or plain view search of the parolee’s personal quarters or living area. However, a more comprehensive search of the residence could be planned after conducting a case conference with the unit supervisor.
- Include an inspection of the garage, yards, and any outbuildings, if applicable.

#### 81020.10 Initial and Comprehensive Interview Procedures

This section describes the procedures for conducting the initial and comprehensive interviews of a parolee following their release from confinement.

##### 81020.10.1 Definition of Initial Interview

**Initial Interview** – The primary objective of the initial interview is to advise the parolee about their responsibilities while under parole supervision and to determine their case management objectives.

The parole agent shall conduct the initial interview with the parolee within the first working day following the parolee’s release and shall document the interview in sections I and II of the CDCR Form 1650-B. The initial interview shall normally be completed in the parole unit and after each release from custody.

Sections I and II of the CDCR Form 1650-B shall be used by the parolee and the parole agent to record the parolee’s personal information and the results of the face-to-face interview. The following guidelines shall be adhered to when completing the CDCR Form 1650-B:

- Review DECS to determine if any disabilities exist, or if reasonable accommodations are required.
- Complete the form in its entirety.
- Ensure the document is dated and signed by both the parolee and parole agent.
- Parole agent or the officer of the day shall conduct the initial interview.
- Section I shall be completed by the parolee.
- Section II shall be completed by a parole agent or officer of the day conducting the initial interview.

For the purpose of this section, a release from confinement shall include:

- An initial release from a state prison facility.
- A revocation release from a state prison facility or county jail beyond 60 days.
- A release from local custody, federal custody, DSH or local mental health facility, or from another state’s jurisdiction.

Releases subsequent to an arrest for an alleged violation resulting in a “no violation” or “continue on parole” finding shall not constitute a release under this provision. However, releases pursuant to PC Section 1170(a)(3), also known as “Direct Releases,” shall be subject to this provision.

##### 81020.10.2 Definition of Comprehensive Interview

**Comprehensive Interview** – The comprehensive interview is an intensive face-to-face interview with the parolee utilizing motivational interviewing techniques to obtain in-depth knowledge of the parolee. During the comprehensive interview, the agent of record shall:

- Establish a positive rapport with the parolee.
- Inform the parolee of available assistance and services.
- Engage in a discussion with the parolee about their criminogenic needs.
- Reaffirm the parolee’s responsibilities while under parole supervision.

The agent of record shall conduct the comprehensive interview with the parolee within **15 working days** of the parolee’s release and is only required for parolees:

- After their initial release.
- Released after serving more than 60 days in custody.
- Reinstated on parole after being PAL for longer than 30 days.

The comprehensive interview is not required for parolees being released who are not placed into the category TP after serving less than 60 days in custody, or who are reinstated after less than 30 days in PAL status.

Upon completion of the CDCR Form 1650-B, the officer of the day, agent of record, or support staff shall ensure that the original form is placed into the parolee’s field file.

##### 81020.10.3 CDCR Form 1650-B Guidelines

The initial and comprehensive interview form is comprised as follows:

- CDCR Form 1650-B: Sections I and II, Initial Interview.
- CDCR Form 1650-B: Section III, Comprehensive Interview.

##### 81020.10.4 Guidelines for Entries on the CDCR Form 1650-B

Each form requires certain information to be recorded. The following guidelines shall be adhered to when completing the CDCR Form 1650-B:

- Parole staff shall record other information as needed.
- Entries shall only be made in black or blue ink.
- Entries shall be clear and legible.
- Only the standard departmental abbreviations/acronyms shall be used to provide uniformity.
- The use of “white-out” or correction tape is prohibited.
- If additional pages are needed, an additional CDCR Form 1650-B shall be utilized.

**CDCR Form 1650-B – Section I:**

This section shall be completed by the parolee and used to record specific information about the parolee. This section must be signed, dated, and completed in full by the parolee. Parolees unable to complete Section I may require assistance from DAPO staff.

**CDCR Form 1650-B – Section II:**

Section II shall be completed by the parole agent conducting the initial face-to-face interview. Section II certifies the parole agent has reviewed elements of the parolee's field file and/or completed specified tasks, and has advised the parolee of their requirements and/or responsibilities. Section II encompasses a series of check boxes the parole agent must mark as appropriate. The bottom of section II of the CDCR Form 1650-B contains a place where the parole agent shall sign their name, write their badge number, and date the signed form.

**CDCR Form 1650-B – Comments Section:**

This section shall be used by the parole agent to record any additional pertinent information.

**CDCR Form 1650-B Initial/Comprehensive Interview, Section III:**

The comprehensive interview consists of a series of questions contained within section III of the CDCR 1650-B that the agent of record is required to ask the parolee. The responses are then documented by the agent of record in section III of the CDCR 1650-B.

The parole agent shall utilize motivational interviewing techniques to gain rapport and illicit detailed responses. The questions are designed to determine the following:

- Parolee criminogenic needs.
- Identify barriers to rehabilitation.
- Framework for parolee supervision.
- Family, friends, and support system.
- Utilize motivational interviewing skills to gain rapport.
- Academic, employment, and other needs.

The comprehensive interview shall be completed in its entirety, dated and signed by the agent of record and unit supervisor upon completion.

**Comments Section:**

- This section shall be used by the parole agent to record any additional pertinent information.
- Parolee and parole agent signature blocks must be completed.
- The parolee signature block consists of the parolee's signature, CDC number, and date.
- The parole agent signature block consists of signature, badge number, and date.

**81020.10.5 Procedure for Conducting an Initial and Comprehensive Interview (Within 15 Days After Release)**

In order to conduct an initial and comprehensive interview, the parole agent shall complete the following process:

- Review the DECS to determine if any disabilities exist, or if reasonable accommodations are required.
- Review and be familiar with the parolee's Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) Case Plan.
- Review section I and section II with the parolee for completeness and accuracy.
- Interview the parolee by asking the questions listed in section III of the CDCR Form 1650-B.
- Record the parolee's responses on CDCR Form 1650-B. Document exact responses. If a question is not applicable to the parolee, the agent of record shall write "N/A."
- Review and discuss the general conditions of parole, as noted on the CDCR 1515, Notice and Conditions of Parole and any added special conditions of parole, as represented on CDCR 1515-Addendum.
- If registration has been completed by the time of the comprehensive interview, obtain a copy of any applicable registration for retention in the field file. SOMS shall be updated with the date of registration.
- Explain urinalysis testing instructions.
- Explain the parole grievance policy.
- Explain the parole search policy.
- Explain the case conference review and the parolee's right to participate in a case conference review process.

- Explain the discharge process and the standards that must be met to be considered for a discharge recommendation (if applicable).
- Explain the CDCR Form 1661 process (refer to section 81020.12).
- Sign and date the CDCR Form 1650-B.

**81020.11 Abbreviated Interview Policy**

Abbreviated interviews may be used by parole staff when a parolee reports to a parole unit other than the parole unit they are assigned to following release from confinement. For the purpose of this section, a release from confinement shall include:

- An initial release from a state prison facility.
- A revocation release from a state prison facility or county jail.
- A release from local custody, federal custody, DSH or local mental facility, or another state's jurisdiction.

In almost all instances, inmates receive clear reporting instructions prior to release to parole supervision. Occasionally, inmates are released to holds maintained by other agencies and are not provided with clear reporting instructions or are released with insufficient funds to hire transportation to their assigned parole unit. In these instances, offenders may report to the nearest parole unit for assistance.

**Documenting the Abbreviated Interview**

The CDCR Form 1650-B, Sections I and II, shall be used by parole staff to record the results of the abbreviated interview. The form shall be dated and signed by the parolee and the officer of the day conducting the abbreviated interview. The form does not have to be completed in its entirety, but enough information shall be provided by the parolee or obtained by the officer of the day to accomplish the objectives outlined in section 81020.10.1. The original form and any supporting documentation shall be forwarded to the agent of record and kept in the parolee's field file pursuant to current policy.

**Abbreviated Interview**

If a parolee reports to a parole unit or complex and it is determined that the parolee is assigned to a different parole unit, parole unit staff shall ensure an Abbreviated Interview is conducted.

**81020.11.1 Abbreviated Interview Procedures****Lines of Responsibility**

Parole unit support staff shall:

- Provide the parolee with the CDCR Form 1650-B, Section I.
- Determine the correct assigned parole unit by checking SOMS for parole unit assignment.
- Advise the officer of the day when the parolee has completed section I of the CDCR Form 1650-B.
- Make a copy of the completed CDCR Form 1650-B and CDCR Form 1515, Notice of Conditions of Parole, and provide a copy to the parolee pursuant to the officer of the day's instructions.
- Fax or e-mail a copy of the CDCR Form 1650-B and any supporting documents provided by the parolee to the assigned parole unit.
- Mail the original documents and photograph(s), as appropriate, to the assigned parole unit.
- Process any cash assistance request approved by the unit supervisor.

Officer of the day or parole agent shall ensure:

- The parolee is provided any cash assistance required to facilitate travel to their assigned parole unit.
- The parolee's primary mug shot and left and right profiles are captured utilizing the photo capture station. If the photo capture station is unavailable or cannot be utilized, the officer of the day shall capture photographs, using a digital camera capable of downloading to the photo capture station once it becomes available or operational. A State-issued camera may be utilized if the photo capture station and digital camera are not available.
- The parolee reviews and signs the CDCR Form 1515 and is provided a copy.
- The assigned parole unit is contacted for reporting instructions.
- The parolee is informed of their responsibility to report to their assigned parole unit, as instructed by their parole agent.
- The parolee is provided written reporting instructions including the assigned parole unit's address and complete telephone number on the CDCR Form 1650-B.
- The parolee is provided a copy of the CDCR Form 1650-B, acknowledging receipt.



- The parolee is instructed to provide their parole agent with a copy of the CDCR Form 1650-B and the CDCR Form 1515.
- The abbreviated interview and any results are documented on the electronic Record of Supervision.
- Support staff is instructed to send the original documents (CDCR Forms 1650-B, CDCR Form 1515, and photographs) to the assigned parole unit via regular mail or upload to the Electronic Records Management System when available.

The unit supervisor shall:

- Review any request for cash assistance and approve as appropriate.
- Ensure support staff and the officer of the day complete assigned tasks in accordance with the abbreviated interview policy.

Parole agent at the assigned parole unit shall:

- Document the actions and receipt of the documents as noted above.
- Conduct an initial and comprehensive interview of the parolee in accordance with the initial, comprehensive, and abbreviated interview policy.

#### **81020.12 Goals and Progress Report Policy**

The parole agent shall use CDCR Form 1661, Goals and Progress Report, to communicate to the parolee specific goals that should be accomplished during a specified period. This document shall be utilized to track the progress of the goals and criminogenic needs in which the parolee is currently working on in the community. Successful completion of the CDCR Form 1661, by the parolee, could be considered a "positive behavior."

##### **81020.12.1 Identifying Criminogenic Needs**

The cornerstone of this process is determining the criminogenic needs and assigning goals to positively impact those criminogenic needs. The criminogenic needs shall be derived from the following:

- Case factors.
- Case plan.
- Parolee's request.
- Parole agent's direct observation.
- Goals in which the parolee are currently working on with an outside entity (i.e., programs, legal mandate, POC clinician, etc.).
- Criminogenic needs identified during the pre-release process by the Parole Planning and Placement Unit in accordance with Article 49.

The criminogenic needs may fall under these categories including, but not limited to, the following:

- Anti-social cognition (aka, anti-social values and thinking).
- Anti-social companion.
- Anti-social personality or temperament.
- Family and/or marital.
- Substance abuse.
- Employment.
- School.
- Leisure and/or recreation.

When engaging in the Goals and Progress Report process, the parole agent shall:

- Issue one CDCR Form 1661 within 15 calendar days of initial release to parole supervision (may issue more frequently as needed).
- Review the CDCR Form 1661 with the parolee during the case conference review, and issue a new CDCR Form 1661 at the conclusion of the case conference review.
  - If the parolee declines to attend the case conference review in person, or if an Abbreviated Case Conference Review is conducted and a new CDCR Form 1661 is generated, the CDCR Form 1661 shall be provided to the parolee within 30 days. If the parolee is reduced to category C or CP at the Abbreviated Case Conference Review, the new CDCR Form 1661 shall be issued at the next face-to-face contact.
- Have a CDCR Form 1661 in progress at all times. (Each time a form is collected a new form must be issued so the parolee may work continually on his or her goals.)
- Collaboratively work with the parolee to select appropriate goals that will assist the parolee in meeting his or her individual criminogenic needs.
- When assigning hours, the parole agent shall:

- Assign a reasonable number of hours to address the criminogenic needs.
- Typically, assign 50 to 60 hours per month to address three cumulative criminogenic needs.
- When assigning hours, the parolee's existing time constraints shall be considered.
- Have the parolee sign and date the CDCR Form 1661, acknowledging receipt of the goals.
- Upon issuance, the parole agent shall note the date issued and the due date on the CDCR Form 1661.
- Continuously encourage the parolee to work on their identified criminogenic needs during their period of parole.
- Parolees shall be informed that:
  - Participation in this process is vital to their success on parole, successful reintegration into the community, and ultimate discharge.
  - Failure to address their criminogenic needs may impact their supervision level and the recommendation being submitted for their discharge review.
  - Failure or refusal to participate in this process shall be noted on the CDCR Form 1661 by the parole agent.
- Follow-up with the resource providers.

If the parolee refuses to participate in completing the CDCR Form 1661, it does not relinquish the responsibility of the parole agent to continuously issue a new CDCR Form 1661 during each case conference review while the parolee is on active supervision, or upon learning the parolee did not return a completed CDCR Form 1661 to the parole agent. The parole agent shall document the parolee's refusal to participate on the electronic Record of Supervision.

#### **81020.12.2 Goals and Progress Report Procedures Documenting on the CDCR Form 1661**

When documenting on the CDCR Form 1661, the parole agent shall:

- Document the parolee's current supervision category, name, CDC number, agent of record name, and the month and year the CDCR Form 1661 is to be completed.
- Document when the CDCR Form 1661 was provided to the parolee.
- Document the date the form is to be returned to the parole agent.
- The time frames for completion of goals and return of the form is at the discretion of the parole agent, and may be earlier than the case conference review; however, the time frame for date of issue and date to be returned shall be clearly noted.
- Ensure the CDCR Form 1661 is completed in its entirety.
- Shall be dated and signed by both the parolee and the parole agent.
- Record in the electronic Record of Supervision that a CDCR Form 1661 was issued.
- Ask the parolee if they have any questions.
- Retain a copy of the CDCR Form 1661 in the field file, and provide the parolee with the original.

##### **CDCR Form 1661 Section I –**

Shall be completed by the parole agent. Section I states six specific goals that may be assigned by the parole agent. The goals are as follows:

- Find stable housing.
- Develop job skills or attend school.
- Practice money management, secure Supplemental Security Income or General Assistance, etc.
- Continue to work or look for a job.
- Attend a substance abuse treatment program.
- Attend an anger management class, batterer's program, etc.
- Other (specify).

**CDCR Form 1661 Section II** - Shall be completed by the parolee. Section II includes fillable rows that reflect the following information:

- The date.
- Specific activity or goal.
- Hours spent.
- Contact information for the provider.

**CDCR Form 1661 Section III** - Shall be completed by the parole agent which would reflect the parolee's participation in the CDCR Form 1661. The parole agent shall sign the form upon completion of Section II by the parolee at the end of the period specified on the CDCR Form 1661. The parole agent shall evaluate the parolee's level of participation by selecting from any of the following options:

- Parolee submitted the CDCR Form 1661.
- Parolee failed to submit the CDCR Form 1661.
- Parolee has partially met goals.
- Parolee failed to meet goals.
- Parolee refuses to participate in goals reporting.

#### **81020.12.3 Defining Goals and Tasks**

Once the criminogenic needs have been determined pursuant to Article 49, the parole agent shall work collaboratively with the parolee and set reasonable and attainable goals. When setting goals, the parole agent shall do the following:

- Review the case plan, initial and comprehensive interview, and case factors in the field file, to determine the criminogenic needs to be addressed.
- Make a list of all the identified criminogenic needs for the parolee.
  - Pick the three most urgent, critical, and most impactful criminogenic needs to be addressed.
  - After those needs are addressed, begin working on the criminogenic needs identified in the case plan and/or return to the initial list and begin working on the remaining criminogenic needs.
- Identify the resources available to address the criminogenic needs.
- Determine the goals to address the criminogenic needs.
  - Determine exactly what is necessary to address the criminogenic needs.
  - Determine tasks to address the criminogenic needs.
  - Determine exact tasks the parolee can do to complete or address the goal.
  - Locate resources to assist the parolee with the identified goals and tasks to be completed.

#### **81020.12.4 CDCR Form 1661 Issuance Procedures**

The intent of the CDCR Form 1661 is to provide a tool for both the parole agent and parolee to use to address and monitor the progress of meeting the parolee's criminogenic needs. The parole agent shall discuss with the parolee:

- Obtain a CDCR Form 1661.
- Identify appropriate criminogenic needs to be addressed during the defined period of time.
  - Locations where they will go to complete the tasks
  - Times and dates when the parolee shall work on the tasks
  - When the parolee is expected to complete the task.
  - Expectation of how and when the parolee shall document the name, date, and telephone number of individuals assisting them with the completion of the tasks.
  - Explain to the parolee they shall return the completed report to the parole agent.

#### **81020.12.5 CDCR Form 1661 Collection and Review Procedures**

The parole agent shall monitor the progress the parolee is making on addressing their criminogenic needs. Each time there is face-to-face contact with the parolee, the parole agent shall:

- Ask the parolee to review their CDCR Form 1661.
- Ask the parolee about any challenges they are having completing these goals.
- Provide counsel or an alternative approach if the parolee is having challenges addressing the goals.

Upon the parolee completing the goals/tasks associated with the CDCR Form 1661, case conference review, or sooner the parole agent shall:

- Review the CDCR Form 1661.
- Follow up with the resource providers or individuals who worked with the parolee on their criminogenic needs listed on the CDCR Form 1661.
- Ask the provider what follow-up is needed (if applicable).
- Provide the parolee with rewards and incentives for completing the goals/tasks.

If the parolee did not complete the goals/tasks:

- Review the goals/tasks with the parolee to determine the reason they were not completed.
- Modify, renew, suspend to a later date or omit the goals/tasks based on the following:
  - Case factors.
  - Conversation with the parolee.
  - Professional observation.
  - Reasonableness of the goals/task completion.
- Speak with the outside resource with whom they are working with to determine if a modification of resource is required.
- Evaluate if the parolee requires a shorter duration of time between issuing the CDCR Form 1661 and parole agent follow-up.
- Re-issue the CDCR Form 1661 for a set time.

#### **81020.12.6 Exclusions to the Goals and Progress Reports**

This form shall be provided to all active parolees upon release during the first 30 days of supervision, with the exception of the following:

- Category D parolees.
- EOP parolees shall have the CDCR Form 1661 issued at the discretion of the unit supervisor on a case-by-case basis. If the unit supervisor determines that a CDCR Form 1661 is not required for a parolee designated as EOP, this decision shall be documented on the electronic Record of Supervision.
- EMP.
- MDO.
- Inmate participants in community based programs supervised by DAPO, e.g., ACP.

#### **81020.13 Rewards and Incentives Policy**

Rewards and incentives identify the parolees' pro-social behaviors and attitudes and case management progress. A range of rewards and/or incentives can be given to parolees for demonstration of these behaviors and/or attitudes. Incentives are maximized if issued in front of their peers and/or family members. Incentivizing positive behavior and programming can foster pro-social long term behavioral changes in criminal offenders. The rewards and incentives shall be administered in accordance with this policy.

A myriad of incentives shall be utilized by the parole agent in order to reward the parolee for their pro-social behavior. Those incentives shall be provided based upon four qualifying levels of positive behavior. The levels are titled as Level I, Level II, Level III, and Level IV.

The parole agent shall identify positive, pro-social behavior exhibited by the parolee, if possible. If the parolee exhibits positive behavior at a ratio of four positive behaviors to every one negative behavior, or four positive behaviors to no negative behavior, the parolee may be eligible for recognition in order to promote behavioral change.

It is recognized that not every parole agent contact with a parolee will result in an observation of a positive or a negative behavior. Thus, a positive or negative behavior does not have to be noted for each face-to-face or collateral contact. Only those contacts where a positive or negative behavior is discovered shall require annotation. Positive or negative behavior shall be documented in the electronic Record of Supervision with a description of the behavior.

#### **81020.13.1 Examples of Positive and Negative Behaviors**

<b>POSITIVE BEHAVIORS</b>	<b>NEGATIVE BEHAVIORS</b>
Positive attitude during face-to-face contacts with DAPO staff.	Negative attitude during face-to-face contacts with DAPO staff.
Drug/alcohol free for 30 days as evidenced by a negative urinalysis test result.	Failed to remain drug/alcohol free for 30 days as evidenced by a positive urinalysis test result.
Received positive reports from collateral contacts.	Received negative reports from collateral contacts.

Enrolled, reported, and attended DAPO programs as instructed.	Failed to enroll, report, or attend DAPO programs as instructed.
Displayed a diligent search for gainful employment.	Failed to diligently search for gainful employment.
Remained drug/alcohol free for 60 days as evidenced by a negative urinalysis test.	Failed to remain drug/alcohol free for 60 days as evidenced by a positive urinalysis test.
A period of 60 days without missing any appointments.	Documented history of missed appointments.
Obtained verifiable gainful employment.	Failed to secure a verifiable legal income.
Received positive reports from a teacher/employer/therapist.	Received negative reports from a teacher/employer/therapist.
Observed displaying positive parenting, conflict resolution, stable family relationships, etc., during interactions with the parole agent.	Observed displaying negative or anger management issues during interactions with their parole agent.
Maintained residential stability.	Forced out of placement due to negative behavior.
Remained violation free for a period of 90 days.	Committed any violation of the law.
Maintained residential stability for a period of six months.	Committed any technical violation of parole conditions.
Completed a program related to criminogenic needs.	Failed to participate in a program related to criminogenic needs.
Displayed a complete compliance with their case plan.	Does not appear to accept responsibility for compliance with their case plan.
Completed a school quarter/semester or 30 days regular GED or literacy lab attendance.	
Obtained their GED or high school diploma.	
Completely satisfied restitution order.	
Performed volunteer duty in the community or parole office; i.e., parole office exterior clean-up, weed abatement, car wash.	

### 81020.13.2 Rewards and Incentives Issuance Procedures

The following are examples of rewards/incentives that may be provided by the parole agent without prior approval of the unit supervisor:

- Verbal recognition
- Sharing positive comments to family, peers, and support systems.
- Certificate of accomplishment presented by parole agent.
- Community celebration.

The following are examples of rewards/incentives that require unit supervisor approval, prior to issuance:

- Bus tokens, food vouchers, clothing vouchers – Submit a CDCR Form 1509, Financial Aid Loan and Incentive Request.
- Travel permit.
- Reduce reporting requirements – request a case conference review to recommend a supervision category reduction.
- Modification of the CDCR Form 1515 or CDCR Form 1515-Addendum– Early discharge consideration as a reward/incentive shall be processed in accordance with Chapter 8, Article 8.

Any reward or incentive provided to the parolee shall be documented on the electronic Record of Supervision.

The unit supervisor shall:

- Monitor the use of rewards and incentives during the case conference review process. If the unit supervisor believes the parolee has earned a reward or incentive, the unit supervisor shall review the case with the parole agent to identify an appropriate reward or incentive, and direct support staff in preparing incentive letters, certificates, etc.
- Review all requests for consideration of any reward or incentive requiring unit supervisor approval. Any reward or incentive denied or amended by the unit supervisor shall be recorded on the electronic Record of Supervision, stating the reason the request for a reward or incentive was denied or amended.
- Approve CDCR Form 1509, if appropriate and forward to the fund custodian for processing in accordance with existing bank draft, food voucher, and/or bus token processing policy and procedures.
- Approve travel permits as appropriate, and ensure they are processed in accordance with existing policy and procedures.
- Approve modifications to conditions of parole in accordance with existing policy and procedures.
- Discuss the use of rewards and incentives policy during parole unit staff meetings, and provide examples where rewards and incentives may be used to positively influence the parolee's behavior.

### 81020.13.3 REWARD AND INCENTIVE OPTIONS

BEHAVIORS	INCENTIVES
<b>LEVEL I</b>	
<ul style="list-style-type: none"> <li>• Positive attitude during office/field visit.</li> <li>• 30 days drug/alcohol free.</li> <li>• Positive report from collateral contacts.</li> <li>• Timely enrollment/reporting/attendance (Substance Abuse Treatment and Recovery (STAR), Literacy Lab, POC, parole agent, etc.).</li> <li>• Search for gainful employment.</li> </ul>	<ul style="list-style-type: none"> <li>• Verbal recognition by the parole agent and/or unit supervisor.</li> <li>• Encouraging comments to family, peers, support systems.</li> </ul>
<b>LEVEL II</b>	
<ul style="list-style-type: none"> <li>• 60 days drug/alcohol free.</li> <li>• 60 days without missing appointments.</li> <li>• Obtained verifiable gainful employment.</li> <li>• Volunteer duty in the community or parole office.</li> <li>• Positive report from teacher/employer/therapist.</li> <li>• Pro-social behavior (positive parenting, conflict resolution, stable family relationships, etc.).</li> <li>• Residential stability.</li> </ul>	<ul style="list-style-type: none"> <li>• Verbal recognition by the parole agent and/or unit supervisor.</li> <li>• Certificate of accomplishment presented by parole agent.</li> <li>• Bus token(s).</li> <li>• Food voucher(s).</li> <li>• Clothing voucher/referral.</li> <li>• Travel permit.</li> </ul>
<b>LEVEL III</b>	

<ul style="list-style-type: none"> <li>• 90 days violation free.</li> <li>• 90 days of employment.</li> <li>• Six months stable residence.</li> <li>• Completion of a program related to criminogenic needs.</li> <li>• Complete compliance with case plans.</li> <li>• Completed a school quarter/semester or 30 days regular GED attendance.</li> <li>• Complete GED or obtain a high school diploma.</li> <li>• Satisfy restitution order.</li> </ul>	<ul style="list-style-type: none"> <li>• Letter to parent/significant other.</li> <li>• Reduce reporting requirements.</li> <li>• Modify the SCOP.</li> <li>• Vouchers or gift certificates upon availability.</li> <li>• Early discharge consideration.</li> <li>• Community celebration.</li> </ul>
<b>LEVEL IV</b>	
<ul style="list-style-type: none"> <li>• Successful Discharge.</li> </ul>	<ul style="list-style-type: none"> <li>• Community celebration/recognition.</li> <li>• Certificate presentation.</li> </ul>

#### 81020.14 Motivational Interviewing Policy

Motivational interviewing is the cornerstone of CPSRM. It is essential for the parole agent to utilize the motivational interviewing to successfully interact and assist in the rehabilitation of the parolee. Various supervision tools are available to assist the parole agent to ensure that the parolee is compliant with their conditions of parole, and that the parolee is provided with the needed positive direction and guidance to succeed.

Open-ended questions, affirmations, reflections, and summaries help gather information and set the stage for change. Expressing empathy, rolling with resistance, developing rapport, and supporting self-efficacy facilitate productive interaction. Targeting dynamic risk factors helps the parolee make other positive changes. The parole agent shall employ all techniques presented within motivational interviewing.

#### 81021 Urinalysis Testing Program Policy

The purpose of urinalysis testing (previously referred to as anti-narcotic testing) is to detect the presence of prohibited substances used by parolees which allows staff to respond to positive tests with case appropriate sanctions.

Parolees with a narcotics-related conviction within five years of incarceration for their current offense, or who have a history of drug and/or alcohol abuse, may have a SCOP imposed requiring urinalysis testing at the direction of a parole agent. Special conditions of parole to participate in urinalysis testing shall be selected, and shall appear on the Notice of Conditions of Parole and SCOP in SOMS, which shall be forwarded in SOMS to the unit supervisor for approval. The frequency in which urinalysis testing is administered shall be determined by supervision specifications, and/or any imposed SCOP set by the unit supervisor or the court. The urinalysis test is conducted by obtaining an unscheduled (less than 72 hours' notice) urine sample from the parolee. The parole agent may order the parolee to provide a urinalysis sample at any time when there is reasonable suspicion that the parolee has used or is under the influence of a prohibited substance. All confirmed positive urinalysis test results shall be addressed according to current DAPO policy and procedures for technical parole violations.

##### 81021.1 Urinalysis Collection Procedures

Prior to collecting a urinalysis sample, parole agents shall inquire whether or not the parolee is taking any prescribed medication. When the parolee declares they are taking prescribed medication, parole agents shall document the parolee's response on the electronic Record of Supervision and instruct the parolee to provide proof of a current and valid prescription. Upon receipt of a positive urinalysis test, parole agents shall contact the contracted laboratory to inquire if the parolee's utilization of said prescribed medication was the cause of the positive test. This information shall be documented on the CDCR Form 1502, Activity Report, and on the electronic Record of Supervision.

The urinalysis sample shall be taken under observation of a parole agent when possible, where they can clearly observe the flow of urine into the instant test kit. During the collection of the urinalysis sample, staff shall adhere to the following:

- Check the restroom for contraband and conduct a visual search of the parolee's person prior to administering the test.

- Conduct a pat down search when necessary and only when safe to do so.
- Prohibit the parolee from taking anything other than the urinalysis test kit into the restroom.
- The observing parole agent shall evaluate the color and temperature of the urinalysis sample immediately following the test to prevent tampering of the sample.
- In the event that direct observation is not possible due to opposite gender of the parolee and parole agent, further steps may be taken to reduce the chance of manipulation (i.e., no running water or flushing the toilet).
- If direct observation is not possible, the urinalysis test shall be documented as an unobserved test.

Staff shall adhere to the following procedures when collecting, packaging, and shipping urinalysis samples to the laboratory. The urinalysis samples being sent to the laboratory for confirmation shall include the security labels provided by the contracted laboratory, and shall be completed by the parole agent who collected the urinalysis sample. The parole agent shall clearly indicate the type of urinalysis tests to be completed. The label shall include the following:

- The date the urinalysis sample was obtained.
- The parolee's name and CDC number.
- The parole unit's identification or billing number.
- The name or initials of the parole agent who collected the urinalysis sample.
- The security seal to be placed on the urinalysis sample bottle.

#### 81021.2 Alcohol and Marijuana Testing Policy

Special conditions prohibiting parolees from possession and/or use of alcohol or marijuana shall only be imposed if there is a nexus or it is reasonably related to the parolee's commitment offense, criminal conduct, and/or future criminality.

#### 81021.3 Instant Test Kit Results

##### Negative Results:

In the event of a negative result, the parole agent shall have the parolee discard the urinalysis sample in the toilet, and discard the instant test kit in a trash receptacle. No further laboratory confirmation is required. The parole agent shall document the urinalysis results on the electronic Record of Supervision.

##### Presumptive Positive Results:

In the event of an undisputed presumptive positive instant test, prior to disposal of the instant test kit, the parole agent shall also review the CDCR Form 1527, Voluntary Statement of Admission with the parolee and have the parolee complete and sign the form. The parole agent shall have the parolee discard the urinalysis sample in the toilet, and discard the test kit in a trash receptacle. No further laboratory confirmation is required. The parole agent shall adjudicate the presumptive positive test according to Chapter 8, Articles 26 through 33.

In the event of a disputed positive instant test result, or if the parolee refuses to sign the CDCR Form 1527, the parole agent shall prepare the urinalysis sample for laboratory confirmation by completing the identification label and instruct the parolee to place the label on the instant test kit in the parole agent's presence. The instant test kit shall be placed into the individual specimen bag. The parole agent obtaining the urinalysis sample from the parolee is responsible for documentation and placement of the urinalysis sample into the locked urinalysis storage container for confirmation of test results. The parole agent shall document all information on the electronic Record of Supervision.

For disputed urinalysis samples collected in the field, the parole agent shall deposit the urinalysis samples into the locked urinalysis sample storage container upon returning to the parole unit or no later than the next business day.

#### 81021.4 Tracking of Urinalysis Sample and Documentation

The parole agent shall log every sample received by the parolee as follows:

- All urinalysis testing information shall be documented on the electronic Record of Supervision, including collection date, time, location, test kit item number, urinalysis results, and outcome.
- For undisputed positive test results, the parole agent shall ensure the completion of the CDCR Form 1527.
- For disputed positive test results requiring laboratory confirmation, the parole agent shall place the urinalysis sample in the locked urinalysis sample storage container. Upon receipt of laboratory confirmation, the

parole agent shall document final results on the electronic Record of Supervision.

#### **81021.5 Locked Urinalysis Sample Storage Container**

To ensure the integrity of the urinalysis sample is not compromised in temporary storage, staff shall maintain security of the urinalysis sample from the point of collection and storage to the subsequent transfer to the contracted courier. Each parole unit shall maintain the locked urinalysis sample storage container in a secure location. This shall be in an area where parolees/visitors are not allowed unattended access. Only the unit supervisor shall maintain the key and be granted access to the locked urinalysis sample storage container to facilitate courier pick up.

The labeled and sealed urinalysis sample shall be secured in the locked urinalysis sample storage container. This shall serve to maintain the chain of custody of the urinalysis sample. The transportation bag shall be maintained inside the locked urinalysis sample storage container. The contracted courier will utilize the transportation bag for transport of urinalysis samples.

#### **81021.6 Transfer of Urinalysis Samples to Vendor**

Upon arrival of the laboratory courier, the unit supervisor shall:

- Remove the plastic transportation bag from the locked urinalysis sample storage container, secure the bag and transfer to the contracted courier. Print the courier's name and sign the CDCR Form 2250, Urinalysis Transfer Log.
- Obtain the courier's signature documenting the date and time of the pick-up on the CDCR Form 2250.
- Place a new plastic transportation bag in the urinalysis sample storage container and lock the container.

#### **81021.7 Documentation of Laboratory Test Results**

The contracted laboratory responsible for analyzing the urinalysis samples shall provide each parole unit with the test results for all submitted urinalysis samples. Upon receipt of the laboratory test confirmation, results shall be logged and maintained. A copy of each individual test result shall be kept in the parolee's field file.

The parole unit support staff shall:

- Maintain one copy of all test results for the parole unit in a central location, accessible to all staff.
- Provide the unit supervisor with one copy of the test results.
- Verify parole agent assignment and provide a copy of the urinalysis test results.

#### **Unit Supervisor**

The unit supervisor shall:

- Ensure parole agents document urinalysis tests on the electronic Record of Supervision.
- Verify urinalysis testing specifications are met during the case conference or abbreviated case conference review process.
- Maintain copies of the CDCR Form 2250 for three years.

#### **81022 Sex Offender Management Program Purpose**

Pursuant to PC Section 3008, CDCR must implement a sex offender parolee management and containment program developed in accordance with the standards established under PC Section 9003. SOMP is a comprehensive program consisting of enhanced supervision; sex offender parolee specific treatment; polygraph use; and victim advocacy, and is intended for the management of all parolees required to register with law enforcement, pursuant to PC Section 290.

All offenders under DAPO supervision convicted of a crime requiring registration under the Sex Offender Registration Act codified in PC Section 290 et seq., shall be supervised in accordance with the SOMP policy. Parole agents assigned to a specialized sex offender parolee caseload shall receive SOMP training prior to the assignment of sex offender parolee cases.

#### **81022.1 Sex Offender Management Program – Supervision Categories**

SOMP consists of five sex offender parolee supervision categories defined in SOMS as follows:

- **ST** - Sex Offender Parolee Transitional Phase.
- **SA** - Highest level of supervision.
- **SB** - Moderate level of supervision.
- **SC** - Lowest level of supervision.
- **SP** - Level of supervision for a parolee in a residential treatment program. Upon recommendation of the parole agent, the unit supervisor may keep a parolee residing in residential treatment at a higher

supervision level. The reason for maintaining a higher supervision level shall be documented during the Case Conference Review.

- **SD** - Category designation for all in-custody cases.

#### **81022.2 Sex Offender Management Program – Caseload**

A male sex offender with a Static-99R score of four or greater or a female sex offender parolee with a Female Sex Offender Risk Assessment (FSORA) with a score of "Moderate" or "High" shall be designated as a High Risk Sex Offenders (HRSO) for the purpose of identifying release to parole supervision. All sex offender parolees required to register pursuant to PC Section 290, shall be assigned to and supervised on specialized caseloads. Sex offender parolee caseloads shall be inclusive of all supervision categories (ST, SA, SB, SC, and SD). In determining the equitable combination of HRSO and Non-HRSO parolees, ST and SA supervision levels shall be considered HRSO cases for the purpose of supervision level identification only. Cases designated SB, SP, and SC shall be considered Non-HRSO for the purpose of supervision level identification only. Sex offender parolee caseload ratios shall be determined pursuant to the Bargaining Unit 6 MOU.

In SOMS, the supervision level selected for offenders in Pre-Release status shall be "ST."

The Parole Agent II (Supervisor or Specialist) shall be assigned to carry a sex offender parolee caseload at 25 percent of the average parole agent workload within the parole unit. The caseload should be proportionate to the equitable breakdown of cases by category being supervised within the parole unit. Sex offender parolee caseloads shall consist only of the aforementioned supervision categories with the exception of special circumstance cases approved by the DAPO Director to be monitored with GPS technology. Special circumstance GPS cases shall be designated as "GT" in SOMS and shall count as part of the caseload. Contact requirements for "GT" cases are outlined in current policy.

Beginning on the first of each month, the unit supervisor shall utilize the Parole Unit Workload Summary Report to review and adjust the assigned workload for each parole agent on a weekly basis. Upon review, the unit supervisor shall attempt to balance the workload and maintain an equitable mix of categories on each caseload.

When a parole unit has an excessive workload, excess cases shall be assigned equitably. The unit supervisor shall make every effort to distribute pre-parole and Transfer Investigation Request (TIR) cases equitably, taking into account geography and current workload. Exceptions may be considered under any of the following criteria:

- Rural caseloads requiring excessive vehicle travel to complete supervision specifications.
- Urban caseloads in an area with regular traffic congestion.
- Caseloads in areas where inclement weather conditions result in modified driving conditions such as chain requirements.
- Parole agents currently participating in the apprenticeship program.
- Other reasonable circumstances.

#### **81022.3 Sex Offender Management Program – Releases**

Pursuant to PC Section 3010.10, a person who is required to register as a sex offender pursuant to PC Section 290 as a condition of parole, shall report to his or her parole agent within one working day following release from custody or as instructed by a parole agent, to have an electronic GPS device affixed to his or her person. Initial contact shall not exceed two days from the date of release.

All sex offender parolees who are initially released on parole or any sex offender parolee that is initially supervised on a non-sex offender parolee caseload then transferred to a sex offender parolee caseload shall be classified at the transitional level of supervision, "ST." The classification shall remain "ST" until required assessments are conducted by the contracted sex offender therapist or the supervision level is adjusted in conjunction with a Containment Team meeting.

Sex offender parolees released after a minimum of 90 days in custody shall be classified as "ST." The classification shall remain "ST" until thorough assessments are conducted in conjunction with a Containment Team meeting.

If the sex offender parolee remains in custody less than 90 days following arrest, the case may be reclassified by completing a new CDCR Form 3043, Sex Offender Management Program, Containment Team Meeting/Discharge Consideration Committee, or may be returned to the most recent supervision category. If the sex offender parolee remains in custody for 90 days or longer, the case shall be reclassified as "ST" upon release.

#### **81022.4 Sex Offender Registration**

Sex offender parole agents shall ensure all sex offender parolees register in accordance with the Sex Offender Registration Act.

Any sex offender parolee required to register as a sex offender as prescribed in the Sex Offender Registration Act shall be relieved of this requirement only upon receipt of a Certificate of Rehabilitation or a pardon, unless that person has been declared a Mentally Disordered Sex Offender.

The sex offender parole agent shall verify sex offender registration by obtaining a copy of the registration receipt for placement into the field file and by entering the date of registration into SOMS.

If the sex offender parolee fails to register as required, the sex offender parole agent shall case conference the violation with the unit supervisor and if necessary, determine an appropriate action in accordance with the current DAPO policy (e.g. remedial sanction, petition for revocation, filing charges with the local District Attorney).

#### **81022.5 Obtaining Static-99R and Female Sex Offender Risk Assessment and/or California Static Risk Assessment Scores**

The Static-99R and FSORA are screening tools used to determine risk level for sex offender parolees who are required to register as a sex offender. The Static-99R shall be utilized to assess adult male sex offender parolees, while adult female sex offender parolees shall continue to be assessed through the use of the FSORA. Any sex offender parolee who does not have a completed Static-99R or FSORA shall be supervised as an HRSO on a GPS caseload, pending the receipt of a completed Static-99R or FSORA.

The Static-99R and FSORA instruments are completed by DAPO's Community Transition Program (CTP) staff and displayed in the COMPAS database. The parole agent shall use the most recent score displayed in COMPAS to apply to the Classification Scoring Sheet.

In circumstances where a Static-99R or FSORA does not exist for a pre-parole or sex offender parolee on parole supervision (i.e., court walkovers, parolees with imminent release dates, "R" numbers), the unit supervisor or parole agent shall request a Static-99R or FSORA assessment within five working days of discovery that no assessment exists.

To obtain a Static-99R or FSORA, submit a request via electronic mail to Static99Request@cdcr.ca.gov, and include the first and last name of the parolee, the CDC number, and the region where the sex offender parolee is located, if appropriate.

Sex offender parolees shall be re-scored for a new Static-99R or FSORA score when the following circumstances occur:

- Whenever the parolee is returned to state prison on a new term.
- Whenever the parolee is returned to county jail for a parole violation or new criminal charge that is sexual in nature\* regardless if the violation is ultimately dismissed.
- Whenever substantial aggravated or mitigating circumstances are discovered which were not already captured on the previous Static-99R or FSORA screening.

\*Sexual in Nature – Any officially recorded sexual misbehavior or criminal behavior with sexual intent that results in a return to county jail.

Requests for re-screening of Static-99R or FSORA scores shall be sent to Static99Request@cdcr.ca.gov and include a detailed description of the violation and/or new local charge(s) or a copy of the violation or police report, if the information is not available in the Parole Violation Disposition Tracking System (PVDTS). If the information is available in PVDTS, CTP staff shall access PVDTS to obtain the arrest/violation information and re-score the Static-99R or FSORA. The CTP supervisor has the authority to decline to rescore for a new Static-99R or FSORA if the violation resulting in the request was a revocation only for possession of sexually explicit material depicting adults. If the sex offender parolee is returned to prison for a new term, they shall be reassessed pursuant to Article 49. No request shall be necessary.

#### **81022.6 Sex Offender Management Program – Court Walkovers**

Prior to being placed on an active sex offender parolee caseload, sex offender parolee court walkovers shall have an active CDC number issued to them as outlined in current DAPO policy.

#### **81022.7 Sex Offender Management Program – Interstate Compact Sex Offenders**

##### **“R” Numbers**

A Static-99R or FSORA shall be completed for all Interstate Compact sex offender parolee cases that are referenced by an "R" number and pending referral to a parole unit for a TIR. Prior to the TIR, the Interstate Compact Unit (ICU) shall provide all appropriate documentation to CTP for staff to complete a Static-99R or FSORA. Once the Static-99R or FSORA is completed, the ICU shall forward the TIR to the parole unit for investigation. If the TIR is denied by the parole unit, the ICU shall maintain a copy of the Static-99R or FSORA for future referrals on the same case.

##### **“I” Numbers**

Cases that have been previously accepted for supervision in California and issued an “I” number without a completed sex offender risk assessment shall require a Static-99R or FSORA. Requests shall be directed to the ICU. The ICU shall obtain all appropriate documentation and provide it to CTP for staff to complete a Static-99R or FSORA within five working days of the request. CTP staff shall have five working days to complete the Static-99R or FSORA assessment and return the results back to the requestor via electronic mail. Any sex offender parolee entering into California for parole supervision shall be supervised at the level of “ST” until a thorough risk assessment is conducted in conjunction with Containment Team meetings.

#### **81022.8 Sex Offender Management Program – Strategic Offender Management System**

A sex offender parolee's supervision level may be increased or decreased depending on the sex offender parolee's status following release from custody, Containment Team meetings, and/or following an arrest. As classifications are changed, the unit supervisor shall ensure the sex offender parolee's supervision category is promptly updated in SOMS.

#### **81022.9 Sex Offender Management Program – Residence Restrictions**

All parolees, including Interstate Compact transfers, who are convicted of a crime listed in PC Sections 290 through 290.024, inclusive, may be subject to residency restrictions and transient requirements on a case-by-case basis. Parole agents shall ensure that applicable residency restrictions for sex offender parolees subject to parole supervision are imposed and adhered to. Parole agents shall impose residency restrictions in accordance with applicable California statute and in accordance with SCOP that meet the requirements set forth in *People v. Lent* (1975) 15 Cal.3d 481, 486. However, local ordinances shall not be enforced since State law overrides local ordinances.

##### **Residence Declaration**

The responsibility to locate and maintain compliant housing shall ultimately remain with the sex offender parolee through utilization of available resources.

During the course of the initial interview and prior to all subsequent changes of residence, the sex offender parolee shall provide the parole agent with the address where they propose to live. The sex offender parolee shall not be allowed to reside at any residence until such time as the parole agent has verified it is compliant with any law or SCOP. The parole agent shall conduct a residence verification check utilizing a GPS handheld device, in accordance with this article. If it is determined that the intended residence is not in compliance, the parole agent shall advise the sex offender parolee of the non-compliant status. The sex offender parolee shall be required to immediately provide a compliant residence or declare themselves transient.

##### **Residency Restrictions for Sex Offender Parolees**

Residency restrictions for PC Section 3003.5(b) shall not be enforced as a blanket restriction. All residency restrictions that do not apply to PC Section 3003(g) will be placed on a case-by-case basis and supported by the particularized circumstances of each individual parolee (*In re Taylor* (2015) 60 Cal.4th 1019).

##### **Residency Restrictions Pursuant to Penal Code 3003(g)**

Parole agents shall be responsible for ensuring all HRSOs with a commitment offense of PC Sections 288 or 288.5 are subject to the provisions of PC Section 3003(g).

Male sex offender parolees with a Static-99R score of four or greater and female sex offender parolees with a FSORA score of “Moderate” or “High” shall be designated as a HRSO for the purpose of identifying specific residence restrictions.

Notwithstanding any other law, an inmate who is released on parole for a violation of PC Sections 288 or 288.5 whom CDCR determines to pose a high risk to the public shall not be placed or reside for the duration of their parole period within one-half mile of any public or private school, kindergarten, and grades 1 to 12, inclusive.

##### **Residency Restrictions Pursuant to Penal Code 3003.5(a)**

Pursuant to PC Section 3003.5(a), all registered sex offender parolees shall not reside in a single family dwelling with any other registered sex offender, whether or not that registered sex offender is on parole, unless the offenders are related by blood, marriage, or adoption.

A single family dwelling shall be defined as a residence, unit, or room intended to be used by one family. This shall include, but is not limited to: houses designed for one family, single units of a duplex or multiplex housing unit, dwellings subdivided into more than one unit if each unit is fully self-contained (e.g., own bathroom and kitchen area), and a single unit in a multi-unit apartment complex, hotel, motel or inn, or a mobile or motor home.

occupying a single, self-contained space in a trailer park, recreational vehicle, or other similar facility.

#### **Address Verification Prior to a Change in Residence**

Prior to allowing a sex offender parolee to reside at a proposed residence, the parole agent must confirm the residence is in compliance with the applicable SCOP. This shall be done utilizing the GPS handheld device to determine the exact distance from the proposed residence to the nearest excluded location. The distance shall be noted on the electronic Record of Supervision.

#### **Residential Facility**

DAPO shall use the following criteria to define the term "residential facility" as used in PC Section 3003.5(a). Parole agents shall ensure any "single family dwelling" that houses between two and six sex offender parolees shall meet the criteria of a "residential facility" as defined in this section. This will only apply to "single family dwellings determined to be a residential facility" that house six or fewer sex offender parolees who are required to register pursuant to PC Section 290, et seq.

The term "Residential Facility" shall include:

- Facilities licensed as a Residential Facility by the Department of Social Services.
- Facilities licensed as Sober Living or Clean and Sober Program by the Alcohol and Drug Programs.
- Facilities licensed as Residential or Sober Living by other State or Federal agencies, such as the Veteran's Administration.
- Unlicensed Residential or Sober Living facilities provided that a number of services, are made available as a condition of occupancy.
- Transitional Housing provided that a number of services are made available as a condition of occupancy.

In order to qualify as an unlicensed or transitional facility, program services shall be a requirement and structured throughout the duration of the participant's stay. Requirements will encompass a minimum of ten hours per week for unemployed sex offender parolees and two hours per week for employed sex offender parolees. Requirements may be modified on an as-needed basis with the consent of the Agent of Record. Services can be provided on-site or referred to an off-site service provider licensed or authorized to provide the service.

In order for an unlicensed residential facility to be considered for use by DAPO, the following requirements shall be met by the facility owner/manager:

- Each facility shall be required to clearly post in a conspicuous place, the house rules regarding noise, curfew, visitors, and contraband possession.
- Each facility shall make available to the sex offender parolee residents a minimum of four services.
- Each facility shall adhere to all local, State, and Federal fire marshal requirements with posted emergency exit routes and meet standards required by the ADA.

Each facility shall be properly maintained, including vector control, and must allow full access by DAPO staff at any time for purposes of inspection and possible searches of parolee and common areas.

Any unlicensed residential facility that fails to meet the above standards shall not be utilized for the purposes of housing sex offender parolees until such time as they are compliant with these standards.

#### **Factors That May Qualify For Exclusion**

A request for a waiver of the residency restrictions may be made under the following circumstances:

- The sex offender parolee is mentally ill and housed in a licensed mental health facility.
- The sex offender parolee is in need of medical care in a licensed medical facility with 24-hour care.
- The sex offender parolee is developmentally delayed and housed in a licensed assisted living facility with 24-hour supervision.

To initiate a waiver, the parole agent may request that the sex offender parolee's licensed care provider provide them with a report outlining the basis and recommendation for placement. For those sex offender parolees located in a medical facility where the parole agent is unable to secure a report from the licensed care provider, the parole agent may conduct a face-to-face interview with the sex offender parolee and physician to verify the need for a medical placement waiver. In such a case, the parole agent must clearly articulate the circumstances of the placement and request for exclusion.

The parole agent shall review all documents received, ensuring they address the medical or mental health condition and the requested exclusion. If the

documents appear complete, the parole agent shall conduct a case conference with the unit supervisor and provide a recommendation. This review shall be documented on the electronic Record of Supervision.

The parole agent shall monitor the sex offender parolee for any changes which may void the decision to grant the waiver. Upon discovering that the sex offender parolee no longer meets the criteria under which the exclusion was granted, the parole agent must immediately case conference with the unit supervisor to determine whether the exclusion should be rescinded or modified.

If it is determined that an exclusion appears appropriate, the unit supervisor shall prepare an exclusion request utilizing a CDCR Form 2193, Request for Residency Exclusion/ Global Positioning System (GPS) Modification or Exclusion addressed to the Director of DAPO or designee, detailing the circumstances which preclude the sex offender parolee from residing in compliant housing. The exclusion form, as well as any supporting documentation, shall be forwarded to the District Administrator for approval/denial.

The District Administrator shall review the request for exclusion. Approved requests shall be forwarded to the Regional Parole Administrator (RPA) for approval or denial. If the request is denied, the exclusion form shall be returned to the sending unit for retention in the field file.

The RPA shall review the request for appropriateness. Approved requests shall be forwarded for review by electronic mail to the Director, via the DAPO Sex Offender Unit (SOU) at CDCR DAPO SVP-HRSO. Additionally, the RPA or representative shall track all requests that have been forwarded to the Director or designee. If the Director or designee approves the request, the RPA shall ensure the sex offender parolee's status is reviewed every 90 days by the unit supervisor for any changes that may impact the continued exclusion from compliant housing.

#### **Residence Defined**

The definition of a residence as defined in PC Section 290.011(g) shall be the minimum standard in determining residency. Pursuant to PC Section 290.011(g), "residence" means one or more addresses at which a person regularly resides, regardless of the number of days or nights spent there, such as a shelter or structure that can be located by a street address, including but not limited to houses, apartment buildings, motels, hotels, homeless shelters, and recreational and other vehicles.

The following factors, including but not limited to the following, may substantiate that a sex offender parolee has established a residence:

- The sex offender parolee stays one day or night at the same address every week for multiple consecutive weeks, thus establishing an apparent pattern of occupancy.
- The sex offender parolee stays two or more consecutive days or nights at the same address, or two days or nights at the same address in a period that would appear to establish a pattern of occupancy.
- The sex offender parolee is in possession of a key to an address where they have stayed and there is evidence of an apparent pattern of occupancy.
- The sex offender parolee receives mail at an address where they have stayed and there is evidence of an apparent pattern of occupancy.
- Contacting the sex offender parolee at an address where they are located or had been staying, and evidence exists they have established residency. Evidence would include, but is not limited to, clothing in a closet or drawer, toiletries in the bathroom, or information from occupants, neighbors, or other reliable sources. Such evidence could establish a pattern indicating establishment of residency.

In an effort to determine whether a residence has been established, the parole agent shall utilize all available resources and information. The parole agent shall evaluate the totality of circumstances to determine compliance of the residence. If the totality of the circumstances clearly indicates residency has been established and a reasonable and prudent parole agent reviewing the same information would draw a similar conclusion, then a residence has been established.

#### **Transient Status Defined**

For purposes of this policy, "transient" and "homeless" shall be used interchangeably. "Transient" is defined in PC Section 290.011 as a person who has an obligation to register as a sex offender and who has no residence.

When the parole agent determines that a sex offender parolee is transient, the parole agent shall:

- Inform the sex offender parolee of the transient sex offender registration requirements pursuant to PC Section 290.

- Instruct the sex offender parolee to charge the GPS device in accordance with charging directions issued by the parole agent. In addition, transient parolees shall be given the opportunity to charge their GPS devices in the parole unit any time they report in person.

Some locations where transient sex offender parolees stay may not meet the statutory definition of a “residence”; however, the parole agent may still impose a SCOP to restrict the proximity of the transient sex offender parolee to schools, parks, or other areas where children congregate if the SCOP meets the requirements of *People v. Lent*.

For transient sex offender parolees who establish a residence and are required to register, there is no violation until expiration of the five business day period after the residence has been established. If a transient sex offender parolee establishes a residence but vacates prior to the expiration of the five-day period, the act shall not be considered a violation of the registration requirement and the requirement to re-register at that address no longer exists. However, the act of vacating an established residence prior to the expiration of the five business day period shall not be utilized or manipulated in such a way as to circumvent the statute or as a means by which to avoid registration, in the event the sex offender parolee is utilizing multiple residences.

#### 81022.10 Sex Offender Management Program – Parolee-at-Large Cases

A sex offender parolee who becomes unavailable for supervision shall have a warrant request submitted pursuant to current DAPO policy. Unless the case is referred to and accepted by the Office of Correctional Safety (OCS), the designated supervision category shall remain unchanged until the sex offender parolee is apprehended. Upon issuance of a warrant, the respective case shall be referred to the California Parole Apprehension Team and/or OCS pursuant to current DAPO policy. Cases referred to OCS shall use the “OS” supervision category in SOMS.

For cases that remain assigned to the supervising parole unit, the parole agent shall continue to make efforts to locate all assigned PAL cases. These efforts shall include at least one collateral contact per month, which shall be documented on the electronic Record of Supervision. For caseloads at or above the designated ratio as defined in the MOU and when workload is associated with attempts to locate a sex offender PAL, current policy for authorizing overtime and/or modifying case supervision specifications shall apply. PAL cases remaining on a SOMP caseload shall have a case review every 90 days.

#### 81022.11 Sex Offender Management Program – Monthly Contact Requirements

The SOMP monthly contact requirements are outlined as follows:

CATEGORY	FACE-TO-FACE CONTACTS	COLLATERAL CONTACTS	URINALYSIS TESTING (UA)	OTHER	SEX OFFENDER TREATMENT PROGRAMMING
CATEGORY ST TRANSITIONAL PHASE	Initial home visit completed within <b>six</b> working days after release from custody.  <b>Two</b> unannounced home visits.  <b>One</b> additional unscheduled face-to-face contact at the parole agent’s discretion.  <b>Transients:</b> <b>Two</b> unscheduled face-to-face field contacts; and  <b>One</b> additional face-to-face contact, location of contact at parole agent’s discretion.	<b>Two</b> Significant Collateral contacts.	<b>One</b> random and unscheduled UA (if required).	Initial contact shall be <i>within one working day</i> following release from custody or as instructed by a parole agent, to have an electronic GPS device affixed to his or her person. Initial contact shall not exceed two days from the date of release.  Initial interview within first working day following release.  Comprehensive interview within 15 working days following release.  Case Review no later than 30 days after being placed into the ST category. Case Review not required if not completed by 30th day and the parolee has been referred to the court for revocation or deferred for local adjudication.  Initial Containment Team meeting within 90 days of release.	Upon initial release to parole supervision or for cases not previously in treatment: Refer (with full referral packet) to the contracted Sex Offender Treatment Program within five working days.  Upon rerelease to parole supervision for cases previously in treatment, complete and send a CDCR Form 1502 with updated documentation to contracted Sex Offender Treatment Program at initial interview.  Submit a signed Authorization to Release/Obtain Confidential Information and Polygraph Examination Consent Interview forms to the parole agent/unit supervisor within 15 calendar days of providing services.  Initial Intake Screening/Assessment to the parole agent/unit supervisor within the first 30 calendar days following referral.
CATEGORY SA HIGHEST	<b>One</b> unannounced home visit.  <b>One</b> additional unscheduled face-to-face contact at the parole agent’s discretion.  <b>Transients:</b> <b>Two</b> unscheduled face-to-face field contacts; and  <b>One</b> additional face-to-face contact, location of contact at	<b>One</b> significant collateral contact.  <b>One</b> resource contact related to criminogenic needs and/or sex offender treatment.  <b>One</b> law enforcement contact within six months after release from custody and within every six months thereafter.	<b>One</b> random and unscheduled UA (if required).	Containment Team meeting within six months following the date of assignment to category SA.  Unannounced search within the first six months of release and annually thereafter.	<b>Two</b> Polygraphs in the 1st year of treatment and <b>one</b> in the 2nd year of treatment, forwarded to the parole agent/unit supervisor within 15 calendar days.  <b>One</b> individual therapy session a month, no less than 50 minutes long. Initially upon release, a minimum of <b>two</b> group therapy sessions per week, no less than 90 minutes long.  As the treatment plan dictates and at the discretion of the therapist in consultation with the parole agent/unit supervisor, the number of therapy sessions can



CATEGORY	FACE-TO-FACE CONTACTS	COLLATERAL CONTACTS	URINALYSIS TESTING (UA)	OTHER	SEX OFFENDER TREATMENT PROGRAMMING
	parole agent's discretion.				<p>subsequently be reduced or increased.</p> <p>A Monthly Electronic Progress Report to be submitted to the parole agent/unit supervisor on or before the last day of the month.</p> <p>A treatment plan to be submitted to the parole agent/unit supervisor within 90 calendar days following initial intake.</p> <p>Discharge Assessment submitted to parole agent/unit supervisor within 30 calendar days after discharge.</p>
CATEGORY SB AND CATEGORY SP MODERATE	<p><b>One</b> unannounced home visit.</p> <p><b>Transients:</b></p> <p><b>Two</b> unscheduled face-to-face contacts.</p>	<p><b>One</b> significant collateral contact or</p> <p><b>One</b> resource contact.</p>	<p><b>One</b> random and unscheduled UA (if required).</p>	<p>Containment Team meeting within six months following the date of assignment to category SB/SP.</p> <p>Annual unannounced search.</p>	<p><b>Two</b> polygraphs in the 1st year of treatment and <b>one</b> in the 2nd year of treatment forwarded to the parole agent/unit supervisor within 15 calendar days of polygraph.</p> <p>A Monthly Electronic Progress Report to be submitted to the parole agent/unit supervisor on or before the last day of the month.</p> <p><b>One</b> individual therapy session a month, no less than 50 minutes long.</p> <p>A maximum of <b>four</b> group therapy sessions per month, no less than 90 minutes long.</p> <p>As the treatment plan dictates and at the discretion of the therapist in consultation with the parole agent/unit supervisor, the number of therapy sessions can subsequently be reduced or increased.</p>
CATEGORY SC	<p><b>One</b> unscheduled face-to-face contact.</p> <p>(At a minimum, the face-to-face contact must occur at the parolee's residence every other month).</p>	<p><b>One</b> significant collateral contact or</p> <p><b>One</b> resource contact every other calendar month.</p>	<p><b>One</b> random and unscheduled UA (if required).</p>	<p>Containment Team meeting within 12 months following the date of assignment to category SC.</p> <p>Annual unannounced search (optional).</p>	<p><b>One</b> individual therapy session a month, no less than 50 minutes long.</p> <p>A maximum of <b>four</b> group therapy sessions per month, no less than 90 minutes long.</p> <p>As the treatment plan dictates and at the discretion of the therapist in consultation with the parole agent/unit supervisor the number of therapy sessions can subsequently be reduced or increased.</p>
CATEGORY SD CUSTODY	N/A	N/A	N/A	<p>Upon the arrest of a sex offender parolee on active parole supervision <b>and</b> following the unit supervisor referral for revocation or deferral of charges to the court</p> <p>Active cases pending Sexually Violent Predator (SVP) screening shall be designated "SD" while the offender is in custody, and reclassified as "ST" upon release.</p>	N/A

Supervision contact requirements shall be accomplished within each calendar month and shall be documented on the electronic Record of Supervision.

If the sex offender parolee is released after the 20th of the month, only the initial contact (first working day or within 48 hours), initial interview (first

working day), and initial home visit (within six working days of release), shall be required during that calendar month. In some cases, depending upon the parolee's release date, minimum contact requirement time frames, such as the initial home visit, may carry over to the following calendar month.

#### **Home Visits/Face-to-Face Contacts**

Face-to-face contacts shall include an unannounced visit at the sex offender parolee's residence of record, place of employment, treatment program, community meetings related to criminogenic needs as determined through a risk/needs assessment, contact initiated by GPS related data, and/or other location(s) specified by the unit supervisor.

If the sex offender parolee is transient, face-to-face contacts shall be in the field. For transient parolees, at least one face-to-face contact shall be conducted at the location where the parolee sleeps at night as determined by GPS data. For all other required face-to-face contacts, the parole agent has discretion on the field location of the contact to include, but not be limited to, seeing the sex offender parolee at his or her place of employment, treatment program, community meetings related to criminogenic needs, or as directed by the unit supervisor. One additional face-to-face contact at the parole agent's discretion shall be conducted per calendar month while the sex offender parolee is transient. The parole agent may conduct a case conference with the unit supervisor to determine what type of field contact would be most effective and/or beneficial to the supervision of the transient sex offender parolee. Transient sex offender parolees shall not be classified as "SC" due to the dynamic case factors governing residential stability.

#### **Significant Collateral/Resource Contacts**

Significant collateral contacts are contacts or interactions with a person(s) who has knowledge of, or interest in, a sex offender parolee's performance or activities while in the community. Significant collateral contacts could include, but are not limited to individuals who make up the sex offender parolee's support group, family, friends, neighbors, associates, church members, colleagues, or members of social groups. The contact can include local law enforcement and can be conducted in person, by telephone, in writing, or electronically. For the purpose of the SOMP, significant collateral contacts may also be conducted within the scope of the Containment Team meetings.

Resource contacts consist of communication with people who are associated with a community based program, agency, or service, or are frequently involved at the facility where the sex offender parolee is currently receiving services, for the purpose of developing resources related to the sex offender parolee's criminogenic needs. Communication can be in person, by telephone, in writing, or electronically transmitted. For the purpose of the SOMP, resources related to criminogenic needs may include, but are not limited to sex offender treatment, psychological and/or psychiatric services, substance abuse treatment, and/or vocational/educational programs, and may be included in the Containment Team meetings.

When recording collateral contacts on the electronic Record of Supervision, indicate if the collateral contact is a Significant or Resource contact.

#### **Community Partnership Meetings**

Community partnership meetings are an integral part of community supervision and a valuable tool in keeping representatives from parole, local law enforcement agencies, treatment providers, victim advocates, and other stakeholders involved in the supervision and containment of sex offender parolees. Community partnership meetings are purposeful in exchanging up-to-date information regarding a sex offender parolee's status (residence, stability, employment, view of the offense, amenability to treatment, etc.), highlighting a sex offender parolee's unique offending history, modus of operandi, victim targets, supervision plan, and other related information. At each community partnership meeting, the parole agent shall provide accurate sex offender profile reports outlining the sex offender parolee's history and the facts and circumstances surrounding the sex offense(s). The unit supervisor shall ensure a community partnership meeting is scheduled each calendar quarter and in such a manner and location to attain the largest possible attendance.

#### **81022.12 Sex Offender Management Program – Initial and Comprehensive Interview**

The CDCR Form 1650-B, Sections I and II, shall be completed by a parole agent no later than the first working day following the release of all sex offender parolees and shall include a review of the sex offender parolee's SCOP. Section III shall be completed by the parole agent of record within 15 working days following the release of the sex offender parolee. Section III, as it relates to sex offender parolee supervision, is considered a guide for parole agents to establish positive rapport with their sex offender parolees and to gather information to be presented as part of the first Containment Team meeting.

The parole agent shall ensure that any SCOP related to the sex offender containment model are reflected with the appropriate nexus within the SOMS, SCOP function.

#### **81022.13 Sex Offender Management Program – Contracted Sex Offender Treatment Referral**

All sex offender parolees initially released to parole supervision shall be referred by the parole agent to a CDCR contracted sex offender treatment program by completing a CDCR Form 1502 and including all necessary case history documentation. This referral shall take place within five working days of a sex offender parolee's release from custody. For sex offender parolees re-released to parole supervision who were previously placed in a contracted sex offender treatment program, the parole agent shall provide the CDCR Form 1502 and updated supporting documents at the time of the initial interview.

#### **81022.14 Sex Offender Management Program – Case Review**

The case review is a quality control mechanism used to ensure all initial contact and PC Section 290 registration requirements have been completed, and all appropriate referrals have been made. A case review shall be conducted on all initially released sex offender parolees no later than 30 days after the parole date. However, a case review shall not be required for sex offender parolees, if the case review due date coincides with or occurs after a Petition for Revocation to the courts or deferral for local adjudication.

The results of the case review shall be documented on the electronic Record of Supervision.

In SOMS, the case review shall be entered as a "Case Conference Review" supervision event, and "30 Day Case Conference Review" shall be entered in the note section.

#### **81022.15 Sex Offender Management Program – Containment Team Meetings**

The Containment Team meeting is a collaborative effort establishing a mechanism of consistent communication with all involved parties. The purpose of the Containment Team meeting is to review relevant case factors, sex offender treatment progress, dynamic risk factors, polygraph results, community reintegration, response to parole supervision, and supervision category.

The Containment Team shall normally consist of a parole agent, unit supervisor, sex offender parolee, contracted clinician (licensed psychiatrist, psychologist, and/or psychiatric social worker directly treating the sex offender parolee), and victim advocacy representative. The Containment Team may also include other relevant stakeholders, sex offender parolee family members, or members of the sex offender parolee's community support network. Efforts should be made to ensure all members of the Containment Team are present during normally scheduled Containment Team meetings. In the event members of the Containment Team are not available to meet, the Containment Team shall minimally consist of a contracted clinician, parole agent, unit supervisor and the sex offender parolee.

Prior to conducting a Containment Team meeting, parole agents shall be provided with the required assessments by the contracted clinician. Additionally, Containment Team meetings shall be minimally staffed, in part, by a contracted clinician and the sex offender parolee. In the event the required assessments are not completed by the contracted clinician, and provided to the parole unit, or the contracted clinician or sex offender parolee is absent from the scheduled Containment Team meeting, the Containment Team meeting shall not be delayed beyond the required due date. The Containment Team meeting shall be conducted within the designated timeframes utilizing any available required assessments. The absence of the contracted clinician, sex offender parolee, or required assessments shall be documented on the CDCR Form 3042, Sex Offender Management Program-Classification Scoring Sheet, or CDCR Form 3043, Sex Offender Management Program-Management Program Management Program Containment Meeting/Discharge Consideration Committee, as applicable.

Although Containment Team meetings are intended to occur in person, they can be conducted by teleconference/video conference calls when necessary, and only when approved by the unit supervisor or above. The initial Containment Team meeting shall be documented on the CDCR Form 3042 and submitted to the unit supervisor for approval. All subsequent Containment Team meetings shall be documented on the CDCR Form 3043 and submitted to the unit supervisor for approval.

A Containment Team meeting shall be conducted within 90 calendar days of release for all "ST" cases. Subsequent Containment Team meetings shall be conducted within six months for "SA" and "SB" cases, and 12 months for "SC" cases, following the date of assignment to the current supervision level. Sex offender parolees currently classified as "ST" or "SA" shall not be directly re-classified to "SC" without approval of the District Administrator.

Nothing shall preclude the parole agent or unit supervisor from conducting a Containment Team meeting prior to the next scheduled meeting if the parole agent or unit supervisor determines that the sex offender parolee's behavior or dynamic risk factors change, increasing or decreasing the risk to public safety.

#### **Abbreviated Containment Team Meeting**

An abbreviated Containment Team meeting is a meeting consisting minimally of a parole agent and a unit supervisor, and may be optionally used when an offender's behavior or dynamic risk factors change to a level likely to lead to an immediate risk to public safety and where staff necessary to comprise a normally scheduled Containment Team meeting are unavailable due to the immediate time constraints.

In the event an abbreviated Containment Team meeting is conducted, the clinician shall be notified of any change in supervision category the next business day. The circumstances leading to the abbreviated Containment Team meeting shall be discussed and documented at the next available Containment Team meeting or subsequent clinician collateral contact. The abbreviated Containment Team meeting shall be documented on the CDCR Form 3043 and the electronic Record of Supervision, noting the justification for the abbreviated meeting.

Abbreviated Containment Team meetings may satisfy the normally scheduled Containment Team meeting requirement, as dictated by the SOMP supervision category. However, the abbreviated Containment Team meeting shall not be routinely used as a substitute for normally scheduled Containment Team meetings. If an abbreviated Containment Team meeting is conducted, a full containment team meeting shall be completed within 30 calendar days of the abbreviated Containment Team meeting.

When a parolee supervised at "SP" leaves the residential treatment program, the parole agent and unit supervisor shall conduct an abbreviated Containment Team meeting to determine the appropriate supervision level.

#### **81022.16 Sex Offender Management Program – Searches**

Unannounced searches serve as a valuable tool in sex offender parolee supervision, as well as a public safety mechanism, and shall be performed safely and effectively, consistent with current DAPO policy. Parole agents are encouraged, with supervisory approval and when feasible, to utilize a team approach when conducting searches. Searches shall be counted towards case specifications as described in section 81022.11, and may include all relevant and available tools to conduct the search. Searches should be focused on the components dictated by the sex offender parolee's criminal history and circumstances of their sexual behavior. Searches shall be conducted in accordance with Chapter 8, Article 3.

#### **81022.17 Sex Offender Management Program – Parole Agent II, Supervisor, Caseload**

The Parole Agent II, Supervisor, shall be assigned 25 percent of the average parole unit workload for supervision. The caseload should be proportionate to the equitable breakdown of cases by category being supervised within the parole unit. The Parole Agent II, Supervisor, shall provide support to the unit supervisor with administrative duties and sex offender parolee management within the parole unit. Administrative duties may also include facilitating community relationships with local law enforcement agencies, acting as a victim advocacy liaison, and coordinating Community Partnership meetings.

In a parole unit with both CPSRM and SOMP caseloads, the unit supervisor may determine which type of caseload the Parole Agent II supervisor will be assigned. The Parole Agent II Supervisor shall not be assigned a mixture of CPSRM and SOMP cases.

#### **81022.18 Sex Offender Management Program – Unit Supervisor**

The unit supervisor shall administratively manage the quality of sex offender containment within their parole unit.

The unit supervisor shall, at a minimum:

- Utilize the SOMS Unit Workload Summary report for determining workload.
- Balance and maintain an equitable combination of supervision categories.
- Ensure that the nexus for imposing SCOP related to the sex offender containment model is imposed in accordance with Chapter 8, Article 1.
- Transfer PAL cases in accordance with current policy in respect to referrals for apprehension.
- Coordinate community relationships with local law enforcement agencies and victim advocacy groups.
- Monitor that all initial contact and PC Section 290 registration requirements have been completed and all appropriate referrals have been made.
- Ensure GPS monitoring procedures are followed in accordance with this

article.

- Ensure there is proper parole unit coverage in their absence.
- Conduct periodic reviews to ensure monthly specifications for suspended SOMP cases are performed and documented on the electronic Record of Supervision.
- Complete additional duties as assigned by the District Administrator.

#### **81022.19 Sex Offender Management Program – District Administrator**

Each District Administrator shall ensure that sex offender parolee caseloads within each parole unit/complex/district are created and managed in accordance with the mandates pursuant to current DAPO policy and procedures.

#### **81022.20 Sex Offender Management Program – Contracted Sex Offender Treatment**

Placement in treatment shall be decided upon by the parole agent/unit supervisor in consultation with the treatment provider. Sex offender parolees not placed into contracted sex offender treatment due to severe mental health issues shall continue to participate in or be referred to the POC for available mental health treatment until such a time that they can participate in sex offender treatment services.

The referral process is consistent with current procedure of the parole agent completing and submitting a CDCR Form 1502 to the unit supervisor for approval. Following unit supervisor approval, the parole agent shall forward the CDCR Form 1502 and the Cumulative Summary to the treatment provider.

The Cumulative Summary documents shall include, at a minimum, the following (when available):

- Completed and unit supervisor approved CDCR Form 1502.
- Parolee Face Sheet.
- CDCR Form 1515 and/or CDCR Form 1515-Addendum.
- Abstract of Judgment.
- Probation Officer report(s).
- Institution Staff Recommendation Summary.
- Available sex offender risk assessment(s).
- Completed COMPAS evaluation that identifies risks and needs of the parolee.
- Criminal histories (Rap Sheets).
- Police reports.
- PC Section 288.1 forensic evaluations.
- Psychosexual history.
- Other mental health evaluations and case history documents.
- Intake and home visit information when relevant.
- Juvenile records.
- Sexually Violent Predator records.

If the Sex Offender Treatment provider requests additional documents related to the sex offender's criminal history which are not contained in the Cumulative Summary, the parole agent shall make a reasonable effort to obtain and provide the documents to the Sex Offender Treatment provider in a timely manner. If the parole agent is not able to obtain the documents within 14 working days of the request, the parole agent shall notify the Sex Offender Treatment provider.

Within five days of receipt of the CDCR Form 1502 and the Cumulative Summary, the treatment provider will be responsible for screening the sex offender parolee to determine the services to be provided. The treatment provider will then submit an Intake Report to the parole agent within 30 calendar days after screening, and submit a Comprehensive Report/Individual Treatment Plan and completed State Authorized Risk Assessment Tool for Sex Offenders scores to the parole agent within 90 days after screening. The treatment provider will also be responsible for submitting the assessment scores to the parole agent and SOU within 30 days of completion.

Within five working days of receiving the assessment scores, the SOU shall forward the scores to the Department of Justice in accordance with PC Section 290.09(b)(2).

The SOU shall oversee Sex Offender Treatment contracts and shall monitor contract compliance through monthly reviews, periodic compliance reviews, quarterly audits, and site inspections.

The parole agent shall issue the sex offender parolee specific reporting instructions, including the address of the treatment facility, and the date and time to report. Failure of a sex offender parolee to attend and/or participate in

treatment shall be addressed by a case conference with the unit supervisor for appropriate action.

#### **81022.21 Sex Offender Management Program – Polygraph**

The use of the polygraph examination by parole agents and treatment providers is an important tool. The sex offender parolee shall be advised of the use of the polygraph, documented on the Notice and Conditions of Parole or SCOP in SOMS, which shall include conditions requiring the sex offender parolee to:

- Report to, enroll in, and actively participate in outpatient sex offender treatment, which includes polygraph examinations.
- Agree to waive psychotherapist-patient privilege, and agree to polygraph examinations while in treatment during parole.
- Report to their designated outpatient sex offender treatment program, sign forms presented by the treatment providers, including an information release form and consent to polygraph form.

Every sex offender parolee shall submit to a polygraph examination(s) in accordance with the Sex Offender Treatment contract. The focus of the polygraph examination is as follows:

- Initial intake and/or sexual history examinations utilized to explore and extract their involvement in criminal sexual behavior. This examination is helpful in facilitating treatment for the sex offender parolee and assessing risk factors.
- Maintenance/monitoring exam is utilized to monitor the sex offender parolee's activities; behavior, truthfulness, and compliance with the Containment Team while on parole.

The polygraph examiner formulates an opinion as to the truthfulness of statements made by a parolee, and provides a written report summarizing the polygraph examination. The report shall be forwarded to the parole agent within 15 calendar days of the examination. The parole agent, or available parole unit staff, shall be notified immediately in the event the examination yields information that could constitute a threat to public safety.

The polygraph examination is used as a maintenance, supervision, and treatment tool. Sex offender parolees are required to participate in and complete the polygraph examination as outlined in their SCOP and as directed by their parole agent. Failure to do so shall be addressed in a Containment Team meeting. If, upon the results of a polygraph examination, a sex offender parolee is determined to be deceitful, the parole agent shall investigate the possibility of new crimes and/or parole violations. Polygraph examinations shall not be used as an alternative to regulatory requirements for determining a person's guilt or innocence of charges in disciplinary matters.

#### **81022.22 Sex Offender Management Program – Victim Advocacy**

Victim advocacy is an important and valuable part of the containment model. This component expresses the concern for the safety and privacy of known victim(s) and victim families. The victim advocate represents the interest of the victim(s), including being responsive to victims' needs for information and protection, safeguarding victims' rights, ensuring victim input in the community supervision planning process, and ensuring that policies and practices do not negatively impact victims. Parole staff may work with the victim advocate to ensure that the victim(s) have adequate safety plans, treatment referrals, and to provide information to the victim advocates regarding the SOMP.

The SOU shall coordinate victim advocacy referral resources for DAPO. The SOU shall liaison between DAPO and victim service agencies, and shall maintain a current list of victim/witness agencies for each county throughout the State. The parole agent may directly refer victims to the local county or state victim/witness program, including CDCR's Office of Victim and Survivor Rights and Services.

The parole agent may also involve victim advocates in treatment and supervision by including the advocates in the sex offender parolee's partnership meetings, and/or Containment Team meetings.

#### **81022.23 Sex Offender Management Program – Training**

Supervising sex offender parolees poses unique challenges for parole agents due to the complex nature of sex-offending behavior. Training of specialized sex offender parole agents and their supervisors is critical to maintaining evidence-based standards of sex offender containment and management.

Staff supervising sex offender parolees shall receive specialized training. To promote an effective implementation of the SOMP, a clear understanding of new protocols and strategies, an understanding of new risk assessment instruments, and an increased emphasis on sex offender specific treatment, the parole agent shall be trained to utilize all available techniques in order to maximize public safety.

#### **81023 Global Positioning System Monitoring Policy**

The use of GPS technology as a parole supervision tool is an effective means of administering preventative and intense supervision.

##### **Statutory Authority**

California PC Sections 3010 through 3010.10 provides the statutory foundation to mandate all parolees to be supervised utilizing GPS technology. PC Section 3010 reads in part:

*"Notwithstanding any other provisions of law, the Department of Corrections and Rehabilitation may utilize continuous electronic monitoring to electronically monitor the whereabouts of persons on parole, as provided by this article."*

The provisions outlined in PC Section 3004(b) apply to sex offenders released to parole on or after November 8, 2006. PC Section 3004(b) reads in part:

*"Every inmate who has been convicted for any felony violation of a 'registerable sex offense' described in subdivision (c) of Section 290 or any attempt to commit any of the above-mentioned offenses and who is committed to prison and released on parole pursuant to Section 3000 or 3000.1 shall be monitored by a global positioning system for life."*

For non-sex offenders assigned to a GPS specialized caseload, the tenets contained within this policy shall apply.

##### **81023.1 General Criteria for GPS Specialized Caseloads**

- GPS sex offender and GPS gang offender cases shall not be mixed by consolidating them into a single specialized caseload.
- All parolees who are required to register pursuant to PC Section 290 who also meet the GPS Monitoring Gang Eligibility Assessment Criteria shall be supervised on a GPS sex offender specialized caseload. At no time shall a parole agent assigned to a GPS gang offender specialized caseload be assigned supervision of a PC Section 290 offender.
- The only exception to using GPS to monitor sex offenders are those who meet the exclusionary criteria to GPS monitoring as described in this article.
- At no time shall a probationary parole agent assume the supervision of a GPS caseload.

##### **81023.1.1 Special Circumstances GPS Supervision**

When a parole agent or unit supervisor determines that the supervision of a parolee will be enhanced by the utilization of GPS monitoring, the parole agent or unit supervisor shall complete the CDCR Form 2193, and submit the form to the RPA via the chain of command. The requesting staff shall clearly describe the need for GPS to enhance supervision. If approved, the RPA, or designee, may assign the case to an appropriate parole unit in the region. The RPA, or designee, shall ensure Electronic Monitoring Unit (EMU) is notified of the decision.

##### **81023.2 Management of GPS Monitored Caseloads**

All GPS caseloads within a multi-unit parole complex shall be assigned to one specialized GPS parole unit. If needed, excess GPS cases within the multi-unit parole complex shall be assigned to a second parole unit. GPS sex offender cases within the second parole unit shall only be assigned to a GPS specialized caseload. GPS gang offender cases within the second parole unit shall only be assigned to a GPS specialized caseload.

In areas where there are not enough GPS caseloads to justify staffing an entire specialized GPS parole unit, when feasible, those caseloads shall be consolidated with other GPS specialized caseloads in nearby parole units to create one multi-location GPS parole unit within the same district. The multi-location GPS parole unit shall be supervised by one unit supervisor. The only exception to establishing a GPS specialized parole unit is where there are insufficient GPS gang or sex offender caseloads within a geographical area to warrant such a unit (e.g., rural locations).

##### **81023.30 Lines of Responsibility of GPS Monitored Caseloads**

##### **81023.3.1 Electronic Monitoring Unit**

The EMU shall have the overall responsibility for the development and implementation of the DAPO statewide Electronic Monitoring, GPS, and SOMP, as well as related policies and procedures associated with the programs. The EMU shall be responsible for direct contact and coordination with the GPS vendor. The Parole Administrator of the EMU shall be considered the DAPO Program Manager.

- All Parole Agent Is, Parole Agent IIs, and Parole Agent IIIs, associated with the GPS and SOMP shall be trained by EMU staff. Training will emphasize the use of GPS technology as a parole supervision monitoring tool.
- All parole agents must complete the specialized GPS and SOMP training prior to supervising GPS monitored parolees. The training shall include detailed instruction on the requirements associated with GPS policies,

procedures, and protocols.

#### Electronic Monitoring Unit Coordinator

Under the direction and supervision of an EMU Parole Agent III, the EMU Coordinator Parole Agent II shall be responsible for the statewide standardization of GPS as a supervision tool and SOMP, to include:

- Serving as a subject matter expert with GPS technology, equipment, and software.
- Training staff throughout the region and State to understand and operate the GPS system.
- Serving as a liaison to DAPO headquarters, field agents, and local law enforcement agencies.
- Provide SOMP training.
- Providing GPS program technology training updates to field staff.

#### 81023.3.2 Parole Agent

The parole agent shall perform all GPS enrollment, activation, supervision, and deactivation tasks.

#### 81023.3.3 Enrollment Procedures

When enrolling a parolee into the database for GPS supervision, either prior to or upon their release from custody, the parole agent shall do the following:

- Prepare the GPS device for use by ensuring the GPS device is fully charged and prepared for installation.
- Enter and/or update the parolee's profile information into the GPS database.
  - The parole agent shall be required to use a computer with internet access to populate and update the parolee's profile information in the GPS database to include all available information, such as personal descriptors, addresses, employment, and identification numbers.
  - Whenever the parolee profile information is updated in SOMS, the information shall also be updated in the GPS database to ensure accuracy between the two databases.
- Enter inclusion/exclusion zones into the GPS database:
  - Enter all mandatory inclusion and exclusion zones that must be manually applied by the parole agent into the GPS database no later than the completion of the first contact following release, and the issuance of SCOP.

#### 81023.3.4 Use of Zones Policy

The application of inclusion and/or exclusion zones enables the parole agent to be alerted to a parolee's movement in or out of a specific location. Parole agents shall utilize zones to enhance caseload supervision.

- Zones may include, but are not limited to, the parolee's residence of record, employment, treatment locations, victim's residence, areas of known narcotic activity, prior arrest locations, areas of known gang activity, and areas of restricted travel.
- Zones may also be utilized for informational purposes, or as tools for monitoring compliance with SCOP. Informational zones and alerts may or may not result in a parole violation, depending on the circumstances.
- A review of case factors, prior criminal history, and offender typology shall be considered when creating zones.
- All inclusion and exclusion zones with immediate phone call notification alerts to the parole agent shall require prior unit supervisor approval.

After entering a zone into the GPS database, the parole agent shall:

- Verify the zone is accurately placed no later than the first working day following the activation of the parolee on GPS monitoring.
- Adjust the zone criteria to reflect any necessary changes (i.e., schedule, physical location, etc.).

#### 81023.3.5 Mandatory Zones

Parole agents shall assign the following mandatory zones as appropriate:

- Home Inclusion Zone: Place an inclusion zone around the parolee's residence of record. If created as an informational zone that does not have an associated curfew special condition of parole, the schedule shall have a minimum of a four-hour time frame.
- Transient Inclusion Zone: For transient parolees, place a ten-mile zone around the city/county center in which the parolee registers as a sex offender, or around the locations where the parolee discloses he or she intends to sleep/stay during the day and/or night. If created as an informational zone that does not have an associated curfew special condition of parole, the schedule shall have a minimum of a four-hour

time frame.

- 25/50-Mile Travel Restriction Inclusion Zone: Place either a 25- or 50-mile inclusion zone in accordance with the parolee's specific conditions of parole. Travel restriction zones shall be a 24/7 time frame, unless travel has been approved by the unit supervisor.
- Victim Exclusion Zone (PC Section 3003(h) cases): Any parolee with a special condition of parole, pursuant to PC Section 3003(h), who cannot be within 35 miles of his or her victim, shall have an appropriate exclusion zone established.
- Victim Exclusion Zone: Place an exclusion zone around any known victim's residence/work locations.

#### 81023.3.6 Global Zones

Upon activation of the GPS device, the GPS database will automatically apply zones to the California border and the State and Federal prisons located in California.

#### 81023.3.7 Activation Procedures

To activate the GPS device, the parole agent shall do the following:

- Install the GPS device on the parolee: The device shall be installed on the parolee, as instructed in training, during the first face-to-face contact. Verify the fit of the device on the parolee's ankle, attach, and activate for GPS monitoring.
- Verify the GPS device's functionality: At the time of GPS device installation, review the device status in the GPS database to ensure the GPS location, current cellular transmission, and battery level are all working properly.
- Clear any previously unresolved GPS events: At the time of GPS device activation, review the GPS database to ensure no unresolved events occurred prior to current installation. If prior events are discovered, resolve the events, and note any available information relative to the event in the GPS database.

#### 81023.3.8 Supervision Procedures

Upon GPS supervision of a parolee, the parole agent shall:

- Serve the parolee with GPS SCOP. During the pre-parole process or initial interview, advise the parolee of the SCOP, outlining the SCOP related to GPS supervision and monitoring. The justification and/or nexus shall be, "*Pursuant to PC Sections 3010 and/or 3004(b) and California Code of Regulations, Title 15, Sections 3540 and 3560.*"
- Provide instructions to the parolee: Upon the parolee's release, familiarize them with the GPS components, CDCR-mandated procedures, and specific behaviors constituting GPS program noncompliance. The instructions shall be incorporated into the CDCR Form 1515-Addendum. Issue a copy of CDCR Form 1515 and CDCR Form 1515-Addendum to the parolee, in accordance with Chapter 8, Article 1, and also place a copy of each form into the parolee's field file.
- When appropriate, effectively communicate prohibited area(s) and/or curfew zone restrictions in writing via the CDCR Form 1515-Addendum.
- Inspect the GPS device and accessory equipment. At each face-to-face contact, physically inspect the GPS device, strap, and any additional components for evidence of tamperers or defects.
- Document all actions taken on the electronic Record of Supervision.

#### 81023.3.9 Global Positioning System Track Review Procedures

When reviewing and analyzing GPS track data, the parole agent shall:

- Conduct a track review each working day for all GPS-monitored parolees assigned to their caseload by displaying the points from the last GPS point viewed, up to the start of the most current day, using Point Pattern Analysis and/or Point-by-Point playback methods.
- Following a weekend, holiday, or scheduled day off, conduct the GPS track review by displaying points from the last GPS point viewed, up to the start of the most current day, in no more than 24-hour track analysis increments.
- During the course of the track analysis, thoroughly investigate all points of interest and notifications/alerts, utilizing the most appropriate system options, including Point-by-Point track playback, Point Pattern Analysis, zoom levels, and mapping tools. In some cases, both methods of track review must be utilized in order to get a clear view of a parolee's daily activities. Select the most appropriate method for accurate and thorough GPS track review based on knowledge of the individual case factors.
- Upon completion of the track review, document on the electronic Record of Supervision the date/time the review was started and completed, and

the date/time range of the GPS tracks that were reviewed. For weekend track reviews, one Record of Supervision entry may be used to document all findings for the weekend review session.

- Document on the electronic Record of Supervision any findings that require further investigation, as well as parole violations that were discovered through the track review process or system alerts.
- Sex offender cases approved for exclusion from GPS monitoring shall have the supervision requirements modified to exclude required GPS track review. In lieu of the GPS track review requirement, the parole agent shall conduct a significant collateral contact at a minimum of once every week. This requirement shall replace the sex offender caseload supervision collateral contact requirements until such time that the parolee returns to traditional or modified GPS monitoring.

If exigent circumstances prevent the GPS track review from being completed on a particular working day, obtain approval from the unit supervisor to complete the track review the next working day.

#### **Vendor Monitoring Center**

The Vendor Monitoring Center (VMC) will assist GPS parole agents in the monitoring of GPS alerts. The VMC will follow pre-established protocols to triage GPS alert information. For less urgent alerts, the VMC will attempt to resolve alerts directly with the parolee prior to parole agent involvement. In the event the alert cannot be resolved with the parolee, the alert will be escalated to the parole agent. For more urgent GPS alerts, the VMC will provide immediate notification utilizing the parole agent in accordance with established GPS alert notification protocols.

#### **81023.3.10 Alerts and Daily E-Mail Reports Procedures**

The parole agent shall receive notifications via text message and/or telephone call for alerts that may require immediate or additional investigation. The parole agent will also receive the GPS activities and events of the previous day via e-mail on a cumulative daily summary report that may also require additional investigation. Upon a review of the daily report, or after receiving an alert notification, the parole agent shall:

- Immediately investigate all alerts as deemed appropriate and in accordance with the GPS Alert Notification Protocols.
- When investigating alerts, utilize GPS technology, when applicable, and document any and all possible parole violations.
- Resolve all GPS alerts to clear the event, noting actions taken for resolution in the GPS database.
- All GPS notifications of alerts shall be resolved in the GPS database no later than six working days from discovery of the alert.
- If a GPS device has ongoing loss of communication, and the VMC and/or parole agent are unable to contact the parolee, or the parolee's whereabouts are unknown, the parole agent shall case-conference with the unit supervisor for appropriate action to bring the parolee back under parole supervision.

#### **81023.4 Sharing of Global Positioning System Data and Subpoena Process Policy**

The sharing of GPS printed or recorded data shall be restricted to identified law enforcement personnel. Such law enforcement-oriented GPS collaboration shall only occur for the purposes of investigating incidents, assisting the prosecution, or when responding to a subpoena in accordance with the following process. Whenever a subpoena duces tecum requiring production of GPS documentation or data is received at a parole unit, the subpoena shall be forwarded as soon as operationally possible to the Regional Litigation Coordinator for appropriate disposition. The Regional Litigation Coordinator shall request the GPS documentation or data from the GPS vendor via the EMU Program Manager or designee. At no time shall GPS data or GPS protocols be released to any other entity without prior approval of the EMU Program Manager. At no time shall a GPS parole agent share computer log-in and password information.

##### **81023.4.1 Global Positioning System Data and Olson Review**

GPS supporting documentation may be required as part of the violation report submission process. The parole agent shall ensure that all confidential information contained within the documents or maps has been redacted in accordance with established Department policy and procedures.

#### **81023.5 Media Contacts Regarding Global Positioning System Policy**

All contacts from the media regarding the use of GPS as a parole supervision tool shall be forwarded to the respective regional Public Information Officer. The regional Public Information Officer shall liaison with the DAPO EMU Program Manager and the CDCR Office of Public and Employee Communications regarding specific policy requests or GPS supervision

protocols. GPS data or other information that would jeopardize the safety of staff or parolees shall not be released to the media.

#### **81023.6 Crime Scene Correlation Policy**

Crime scene correlation is available to GPS-trained agents and DAPO-trained law enforcement agencies. Crime scene correlation serves as a critical investigative tool, and provides historical GPS data relative to specific search criteria. The parole agent may utilize crime scene correlation as an investigative tool on an as-needed basis to assist local law enforcement agencies and provide GPS information in a timely manner.

#### **81023.7 Interstate Cases Policy**

Any out-of-state parolee who is being considered for transfer to California, who is otherwise eligible for GPS monitoring under this policy, shall be advised that failure to comply with the GPS program requirements shall result in the denial of their transfer request.

Any eligible parolee who elects to maintain their request to transfer to California shall be supervised via GPS monitoring. Upon arrival for supervision, the parolee retains the discretion to remain in California and participate in GPS monitoring, or to return to their sending state. Willful noncompliance with GPS monitoring shall result in the parolee being placed in local custody, and a Good Cause Hearing shall be scheduled to determine appropriate action, in accordance with Chapter 8, Article 6.

For CDCR's PC Section 290 cases accepted for transfer out of California, the parole agent shall:

- Issue written instructions requiring the parolee to keep the GPS device attached to their ankle and the battery charged while traveling to the receiving state's supervising unit.
- Provide the parolee with a prepaid postage return envelope or box that shall be used to return the GPS equipment to California.
- While the parolee is in transit, the case shall continue to be monitored by the parole agent and the GPS tracks shall be reviewed in accordance with existing GPS track review requirements.
- Upon arrival at the receiving state's supervising unit, while in the presence of the supervising officer or designee, the parolee shall be required to call the DAPO parole agent/Officer of the Day. The parolee shall be advised to remove the GPS device and place the device and charger in the postage paid envelope or box, and place it into the outgoing mail for return to CDCR.
- Review GPS tracks up to the time of removal of the GPS device, and resolve all alerts in the GPS database.
- Document actions taken to close supervision on the electronic Record of Supervision.

#### **81023.8 State-Issued Equipment Control Policy**

Equipment inventory control is vital to the success of DAPO's GPS program. Currently, GPS parole agents are issued a State laptop, cellular telephone, and accessories. This equipment shall only be used to conduct State business. At no time shall this equipment be left in plain view within a vehicle. If assigned equipment is lost or damaged, the parole agent shall:

- Immediately notify their unit supervisor for immediate replacement, and submit a completed CDCR Form 1617, Memorandum, to the unit supervisor describing the circumstances.
- The unit supervisor shall contact the EMU Program Manager or designee for immediate equipment replacement, and forward a copy of the CDCR Form 1617 as soon as it is practical, to the EMU Support Unit mailbox at [EMUSupport@cdcr.ca.gov](mailto:EMUSupport@cdcr.ca.gov).
- Parole agents may be required to reimburse the State for replacement cost of equipment loss due to negligence or employee culpability, as outlined in Department Operations Manual Section 85050.5, Equipment Responsibility Policy.
- State issued equipment shall remain with a GPS-trained parole agent or the unit supervisor during a parole agent's vacation or extended leave of absence.
- Equipment options may change based on program objectives.

#### **Global Positioning System Vendor Equipment Control**

For security reasons, all GPS equipment (consumables and GPS devices) shall be safely secured. At no time shall a parolee be left in an area with unsecured GPS equipment. At no time shall GPS equipment be left in plain view within a vehicle. Defective GPS devices shall be immediately returned to the vendor for replacement and/or disposal. Used or defective straps and installation pieces shall be destroyed by the parole agent by cutting them into unusable pieces.

##### **81023.8.1 State-Issued Cellular Phones Policy**

All DAPO staff issued a cellular phone shall have the phone readily accessible to them at all times while on duty. All DAPO staff issued a cellular phone shall exercise due care and diligence for their State-issued phones. Staff issued a cellular phone shall safeguard their State-issued cellular phone when off-duty.

Staff may be required to reimburse the State for the cost of replacement equipment for losses due to several acts (3 or more) of negligence or a single act of gross negligence, in accordance with Chapter 3 and the staff member's MOU.

#### **81023.8.2 Global Positioning System Equipment Lost, Destroyed, or Damaged by Parolee Procedures**

If a parolee intentionally loses, destroys, or damages a GPS device, the parole agent shall confer with the unit supervisor to determine if the case should be referred to the County District Attorney's Office for prosecution. Any completed violation report shall reflect this charge accordingly.

#### **81024 Transitioning Parolees Off of Departmental Global Positioning System Monitoring Procedures**

In circumstances when the sex offender was released to parole on or after November 8, 2006, the unit supervisor or designee shall complete the appropriate notice of pending discharge letter. The notice of pending discharge letter shall be mailed to the respective PC Section 290 registering law enforcement agency, no later than 60 days and no sooner than 90 days prior to the parolee's discharge. A letter shall be completed for all qualified PC Section 290 registrants discharging from parole, regardless of their current status (active or revoked). A copy of the completed letter shall be retained in the field file. Law enforcement agencies may elect to assume GPS monitoring of discharged sex offenders, and, if requested, DAPO staff shall provide reasonable assistance to the respective law enforcement agency.

##### **81024.1 Deactivation Procedures**

When deactivating a GPS device, the parole agent shall:

- Perform all necessary unenrollment tasks associated with the removal of a GPS device.
- Inspect the device for evidence of tampers.
- Retain the device and prepare for future use, or return the device to the vendor for repair/replacement.
- Upon notification of a parolee's arrest, unenroll the parolee from the GPS database within one working day.
- When a parolee is placed in local custody, retrieve the device from the facility no later than the third working day following arrest. Document all unsuccessful efforts to retrieve the device on the electronic Record of Supervision, and notify the vendor that the device has been lost and unrecoverable, in order to maintain accurate equipment inventory.
- Upon discovery that a parolee has absconded from parole supervision, the parole agent may delay for up to three days unenrolling the parolee from the GPS database to allow for possible additional GPS data collection and intelligence gathering. In the event the parolee cuts the strap and removes the GPS device from their ankle, and the location of the device is known, retrieve the device no later than the third working day following notification. Document all unsuccessful efforts to retrieve the device on the electronic Record of Supervision, and notify the vendor that the device has been lost and is unrecoverable, in order to maintain accurate equipment inventory.
- On the Controlling Discharge Date (CDD), remove the GPS equipment and unenroll the parolee from the GPS database. If the CDD falls on a non-business day, verify the CDD on the prior working day, and unenroll the parolee from the GPS database on the date of the CDD. The parole agent shall collect the GPS equipment on the next business day.

##### **81024.2 Supervisory Procedures Related to Global Positioning System Parole Agent II**

The Parole Agent II shall provide support to the unit supervisor with administrative duties and GPS-related functions within the parole unit as outlined in current policy and procedures. The Parole Agent II assigned to a parole unit supervising GPS sex offender specialized caseloads may be assigned sex offender cases for supervision.

Administrative duties may include, but are not limited to, the following:

- Assisting the unit supervisor in maintaining accurate GPS equipment inventory for their parole unit.
- Utilizing audit reports from the GPS database.
- Assisting parole agents with pre-parole zone application and profile enrollment into the GPS database.
- Analyzing and reviewing GPS tracks.

- Reviewing the GPS vendor daily report, and auditing for outstanding alerts.

##### **Unit Supervisor**

- Utilize the Unit Workload Summary Report to determine workload.
- Balance and maintain an equitable combination of cases as outlined in the sex offender caseload matrix.
- Ensure all GPS specialized caseloads include only parolees with supervision categories within SOMP.
- Effectively utilize all available supervisor reports and case management tools in the GPS database to perform audits and ensure compliance with GPS track review requirements and duties of parole agents assigned to GPS specialized caseloads
- Review the daily summary report and GPS database to ensure alerts are addressed by the parole agent.
- Ensure SCOP relating to GPS supervision reflect an appropriate nexus.
- Maintain accurate inventory of GPS equipment assigned to the respective parole unit.
- Ensure the GPS call trees remain current and up-to-date, with all pertinent information, by providing any changes to the EMU GPS Coordinator.
- Ensure a GPS-trained parole agent is available to complete daily GPS duties, to include GPS track reviews, investigation, and alerts, in the event the parole agent is unavailable (i.e., sick, vacation).
- During case reviews, ensure GPS events, violations, and alerts are being resolved and noted into the GPS database, and significant GPS events are documented on the electronic Record of Supervision (e.g., those that are deemed to require further investigation or action, immediate alerts/notifications).

##### **District Administrator**

Each District Administrator shall ensure that GPS caseloads within the parole district/complex/unit are created and managed in accordance with the mandates outlined in this policy. The District Administrator shall liaison with the EMU Program Manager to ensure their respective district is maintaining compliance with this policy. Each District Administrator shall utilize all available vendor supervisor reports and case management tools to perform audits and compliance checks within their respective district.

##### **Administrative Officer-of-the-Day**

GPS call trees will include the Administrative Officer-of-the-Day (AOD) contact information. In situations where the VMC is unable to contact all parole agents assigned to a specific call tree, the VMC will contact the AOD. The AOD schedule shall be utilized for after-hour alerts (1700 hours to 0800 hours during the normal business week), and all hours during weekends and State holidays. Each RPA or designee shall be responsible for providing a current AOD schedule to the EMU program manager or designee.

##### **81024.3 Temporary Global Positioning System Device Removal Policy**

When an instance arises, necessitating temporary removal from traditional GPS monitoring, such as a medical procedure, the unit supervisor may direct the temporary removal of the GPS device as follows:

- The decision to temporarily remove the GPS device shall be documented on the electronic Record of Supervision.
- Temporary removal shall not exceed 12 hours.
- The parolee shall be required to carry an activated GPS device to the medical procedure, and shall remain within proximity of the device, unless being in proximity of the device would interfere with the medical equipment.
- For modifications or exclusion from GPS monitoring beyond 12 hours, a request for approved modification must be submitted as outlined below.

All steps shall be taken to minimize the time a parolee is in the community without traditional GPS monitoring. Mitigating actions such as transportation to and from a medical appointment, or having the parolee reschedule an appointment, may become necessary to minimize the temporary removal of the device.

##### **81024.4 Exclusion or Modification Criteria from Traditional Global Positioning System Monitoring for Sex Offenders**

Traditional GPS monitoring devices are designed to be secured to a person's ankle. In certain circumstances, such as a condition of mental illness and/or physical disability, traditional GPS monitoring may not be an appropriate consideration or option.

Modifications to traditional GPS monitoring are available, but shall only be used when absolutely necessary. If traditional or modified GPS monitoring is

likely to cause serious injury or death to a parolee, a GPS monitoring exclusion shall be considered.

Extended exclusion or modification to traditional GPS monitoring that meet the temporary requirements outlined above shall be approved or disapproved in writing by the DAPO Director or designee via case conference, including the respective RPA, and shall be documented on the CDCR Form 2193.

#### **81024.4.1 Mental Illness/Disability Procedures**

For GPS-monitored disabled or mentally ill parolees, documentation clarifying the need for modification or exclusion from traditional GPS supervision is required if it is determined that participating in traditional or modified GPS monitoring will cause serious injury or death.

The CDCR Form 128-PMH3, GPS Supervision of Mentally Ill Parolee-Clinical Recommendation to Continue, Modify, or Exclude from Traditional Monitoring, shall be used when the parole agent suspects GPS monitoring may have an adverse effect on a parolee's mental health, and/or suspects a parolee's mental disorder prevents the parolee from compliance with traditional GPS monitoring. With this type of case, the following shall take place:

- The parole agent shall complete Section I of the CDCR Form 128-PMH3, attach the CDCR Form 7385-A, Authorization For Release of Information-DAPO, and submit both forms to the POC Regional Headquarters Supervising Senior Psychologist for completion.
- Upon receipt of the CDCR Forms 128-PMH3 and 7385-A, within no more than two working days, the POC Regional Headquarters Supervising Senior Psychologist shall assign a POC Clinical Psychologist or Clinical Social Worker to evaluate the parolee.
- No more than ten working days following clinical assignment, the POC Clinical Psychologist or Clinical Social Worker shall evaluate the parolee and conference the case with the parole agent to determine if there is or is not a need for modification or exclusion to traditional GPS monitoring. The evaluation and recommendation shall be documented on the CDCR Form 128-PMH3, with the completed CDCR Form 7385-A attached.
- Within one business day following the evaluation, the POC Clinical Psychologist or Clinical Social Worker shall provide the completed CDCR Forms 128-PMH3 and 7385-A to the POC Regional Headquarters Supervising Senior Psychologist. In an effort to ensure these forms are received timely, the forms shall be sent via fax when overnight delivery is unavailable.
- Within two working days after receipt of the completed CDCR Forms 128-PMH3 and the CDCR Form 7385-A, the POC Regional Headquarters Supervising Senior Psychologist shall conference the case with the unit supervisor and/or the District Administrator, complete Section 4 of the CDCR Form 128-PMH3, and provide both forms to the referring parole agent.

Parolees in a 24-hour licensed mental health facility do not require the POC clinician's report. In these cases, the parolee's licensed care provider; e.g., Doctor of Philosophy (PhD) or Doctor of Medicine (MD) at the facility, will be asked to prepare the report. Upon receipt of the licensed care provider's report, the parole agent shall attach the report to the CDCR Form 128-PMH3 and CDCR Form 7385-A, and provide the completed documents to the POC Regional Headquarters Supervising Senior Psychologist.

Note: Parolees who have difficulty remembering to charge their GPS device because of a mental illness or disability do not meet the criteria for exclusion from GPS monitoring.

#### **Physical Disability Procedures**

If it is determined that a physical disability exists precluding the parolee from wearing a traditional GPS monitoring device, or if traditional GPS monitoring is likely to cause serious injury or death, modified supervision or exclusion from GPS monitoring may be considered.

Such physical disabilities may include, but are not limited to:

- Amputated limb(s) prohibiting traditional placement of a GPS device on parolee's ankle.
- Diabetes or other medical condition(s) causing severe swelling of limbs, potentially resulting in physical harm if a traditional GPS monitoring device is applied.
- Parolee's current and/or continued placement in a medical facility with diagnostic imaging equipment. Medical equipment may be adversely affected by GPS monitoring, or the increased potential for exposure to infection may exist (during surgery).
- Documentation is not necessary in cases where a parolee is a double leg amputee.

- The parolee must provide a letter to their parole agent from their licensed medical physician. Letters from physician assistants or other designees will not be accepted.

In the event that a physical disability exists, the physician's letter must provide the following information:

- Parolee's medical condition and clarification as to whether the condition is acute or chronic.
- Specifically how the parolee's condition limits traditional GPS monitoring.
- Specifically how wearing the GPS monitoring device is likely to cause serious injury or death relative to the parolee's current medical condition or location in a medical facility.

#### **81024.5 Approved Modifications to Traditional Global Positioning System Monitoring**

Modifications to traditional GPS monitoring deviating from traditional placement of the GPS monitoring device may be authorized. These modifications include the following:

- If a modification to GPS monitoring is approved, the parole agent will contact the EMU Program Manager or designee to determine what equipment options are available for use.
- The parolee must carry the GPS monitoring device on their person at all times (fanny pack, backpack, belt, or alternative tracking device approved by the EMU Program Manager), and must be kept within reach when showering or sleeping.
- The GPS device can be attached to any device which enables a non-ambulatory parolee the ability to move around (i.e., a wheelchair).
- The parole agent shall serve the parolee with the SCOP, mandating GPS participation, with specific directives related to the requirements for the approved modification to GPS supervision and monitoring.
- The following specific directives shall include, but are not be limited to: "You shall maintain the GPS device on your person or ambulatory device 24 hours a day, 7 days a week, except when showering or sleeping. When showering or sleeping, you must keep the device within reach of your person."

#### **81024.5.1 Requesting and/or Obtaining Global Positioning System Exclusion and/or Modification Procedures**

##### **Parole Agent**

Exclusion or modification to traditional GPS monitoring relative to mental illness or disability requires the parole agent to obtain the CDCR Form 128-PMH3 from the POC Regional Headquarters Supervising Senior Psychologist, as previously stated.

When requesting and/or obtaining GPS exclusion or modification, the parole agent shall do the following:

- Ensure any parolee requesting exclusion or modification from traditional GPS monitoring, due to a physical disability, has submitted a letter from a licensed medical physician, as well as the completed CDCR Form 7385-A. The recommendation must be in writing on the physician's letterhead, and must be signed by the actual physician.
- Review the letter to verify that the signing physician is currently licensed to practice medicine. This shall be done by accessing the Medical Board of California's website at <http://www.mbc.ca.gov>, and clicking the field titled "License Search."
- Contact the physician by telephone to verify the recommendation is true and correct, and that it displays the physician's own signature.
- Document the name of the person spoken with, annotating the date and time on the electronic Record of Supervision.
- Review and compile all supporting documents that pertain to the request for the modification or exclusion.
- Document the request for modification or exclusion, along with the recommendation for feasible alternatives, on the electronic Record of Supervision, and submit a CDCR Form 1502, Activity Report to the unit supervisor. The recommendation shall include feasible alternatives to GPS exclusion or modification.

Any changes in the parolee's circumstances that may void the GPS modification or exclusion decision shall be reported to the unit supervisor on the first working day following discovery.

##### **Unit Supervisor**

If it is determined a modification or exclusion appears appropriate, the unit supervisor shall:

- Complete a CDCR Form 2193.



- When making a recommendation, the unit supervisor shall clearly articulate all supporting modification or exclusion case factors. This form and all supporting documentation shall be forwarded to the District Administrator for approval or denial.
- In some instances, the review process may include a case conference with the District Administrator, treating physician and/or clinician, and DAPO SOU.
- Once the modification or exclusion decision has been made, the unit supervisor shall conduct a review every 90 days or immediately following a change in modification or exclusion circumstances. This review shall be documented on the electronic Record of Supervision, and include the parolee's current medical and/or mental condition, and whether continued modification or exclusion is warranted.
- The modification or exclusion determination shall be provided to the DAPO SOU via electronic mail or fax, with a courtesy copy forwarded to the appropriate chain of command. This determination shall include a summary of the decision to continue or terminate the modification or exclusion.
- A decision to return the parolee to traditional GPS monitoring does not require approval from the Director.

#### **District Administrator**

The District Administrator shall review the request for appropriateness. Appropriate requests shall be forwarded to the RPA for approval or denial. If the request is denied, the CDCR Form 2193 shall be returned to the requesting unit as soon as operationally possible and shall be retained in the field file.

The RPA shall review the request for appropriateness. Appropriate requests shall be scanned and electronically mailed to the Director via the SOU for review. If the Director approves the request, the SOU shall maintain and store the hard copy, and electronically distribute to the RPA, District Administrator, and regional exclusion tracking coordinator.

The RPA shall ensure the parolee's status is monitored every six months by the unit supervisor and the District Administrator. The review shall include documentation of changes that may impact the continued exclusion or modification from traditional GPS monitoring. Additionally, the RPA shall track all requests that have been forwarded to the Director.

#### **Director**

The Director, or designee, shall review all GPS monitoring modification or exclusion requests. The Director shall retain the discretion to approve a request as written, approve a request with modification, or to deny a request. The Director's decision shall be noted on the CDCR Form 2193, and shall be returned to the requesting unit via the respective regional headquarters office. The decision by the Director is final. The CDCR Form 2193 shall be retained in the field file.

If the parolee is approved for exclusion or modification to traditional GPS supervision, the case shall continue to be supervised on a GPS specialized caseload. Once the parolee's condition changes and the need for exclusion or modification is no longer deemed necessary, the parolee shall be immediately returned to traditional GPS monitoring.

#### **81025.1 Arson Registration**

Parolees who have been convicted of arson offenses specified in PC Section 457.1 that occurred on or after January 1, 1985, and have been ordered by the court to register, shall register with the sheriff or chief of police within 14 days of coming into any city or county.

Within 14 days, the parole agent shall verify the parolee registered as required. The parole agent shall also obtain a copy of the registration receipt for placement into the field file and notify the unit supervisor or designee for entry of the registration into SOMS.

If after 14 days, the parolee fails to register as required, the parole agent shall case conference the violation with the unit supervisor and if necessary, determine an appropriate action in accordance with Chapter 8, Articles 26 through 33, for remedial sanction, petition for revocation, filing charges with the local District Attorney.

#### **81025.2 Controlled Substance Offender Registration Policy**

Any person convicted in California of any offense listed in Health & Safety Code (HSC) Section 11590(a), or convicted in Federal Court or another state, of an offense which would have been punishable as one of the offenses in HSC Section 11590 (a) if committed in this State, must register with the police department or sheriff's office within 30 days of establishing residence in any California city or county.

Within 30 days, the parole agent shall verify the parolee registered as required. The parole agent shall also obtain a copy of the registration receipt for

placement into the field file and notify the unit supervisor or designee for entry of the registration into SOMS.

If after 30 days, the parolee fails to register as required, the parole agent shall case conference the violation with the unit supervisor and if necessary, determine an appropriate action in accordance with the current DAPO policy, e.g. remedial sanction, petition for revocation, filing charges with the local District Attorney.

#### **81025.3 Notification and Disclosure of HIV Infected Parolee Policy**

Information regarding the Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS) or AIDS Related Condition (ARC) status of a person is confidential and shall not be disclosed except as provided by law. Willful or negligent disclosure of HIV information by a peace officer is a misdemeanor.

Designated Department institution medical representatives shall inform the assigned parole agent of the pending parole of an inmate who has tested positive for HIV infection or who has been diagnosed with ARC or AIDS and of the appropriate medical precautions to be taken. The parole agent shall inform the parolee who has tested positive for HIV infection or who has ARC or AIDS of available resources provided by the county health department or other providers in order to receive appropriate counseling and medical treatment for AIDS.

If it becomes known to a parole agent that a parolee who has tested positive for HIV infection, or has ARC or AIDS has not informed his or her spouse or registered domestic partner, the parole agent shall contact the California Correctional Health Care Services (CCHCS) Litigation Coordinator and request assistance for properly notifying the spouse or registered domestic partner. The parole agent shall document requests for notification on the electronic Record of Supervision.

When conducting the arrest of a parolee diagnosed with ARC or AIDS, the parole agent shall notify all law enforcement officers assisting the parole agent of the parolee's ARC or AIDS status.

#### **81025.3.1 Notification and Disclosure of HIV Infected Parolee Procedures**

Performed by designated institution medical representative prior to parolee's release:

- Notes inmate's HIV infection status on the CDCR Form 611, Release Program Study, and on a CDC Form 128-C, MEDICAL-PSYCHIATRIC-DENTAL for the Medical Record.

- Conveys the appropriate medical precautions to the parole agent.

Performed by parole agent:

- Ensures that HIV infected parolee is informed of available assistance provided by the county health department or other providers in order to receive appropriate counseling and medical treatment for HIV.
- May request institution CCHCS or the physician treating the spouse, registered domestic partner, or parolee to inform the spouse, or registered domestic partner of the parolee's HIV positive status if parolee has not informed the spouse of HIV infection.
- Informs assisting law enforcement officers of parolee's diagnosis with ARC or AIDS.

#### **81025.4 Notification of Release of Parolees Convicted of a Violent Felony Policy**

Any parolee who has served a term of imprisonment after conviction for an offense listed in PC Section 667.5(c) and who is serving a period of parole revocation is subject to the provisions of PC Sections 3058.6 and 3058.8.

The Division of Adult Institution staff are responsible for providing the notice for those persons first released from prison to parole.

DAPO is responsible for notification of victims, or witnesses who request notification of the death, release, or escape of parole violators, convicted of a violent offense, serving revocation time in county jails. DAPO is also responsible for the notification of release from revocation status to law enforcement officials, including the District Attorney of the county to which the parolee will be released.

All notifications pursuant PC Sections 3058.6 and 3058.8 to notify local law enforcement, including the District Attorney of the county the parolee will be released to, shall be automated via SOMS into the Law Enforcement Automated Database System.

All notifications pursuant to PC Section 3058.8 to notify victims/witnesses shall be the responsibility of the assigned parole agent. PC Section 3058.8 victims/witnesses shall be verified within the Legal Mandates and Notifications section of SOMS prior to initiating notifications. In the event that the parolee's release is imminent, or if the parolee is released prior to the

Revocation Release Date, the parole agent shall notify the victims/witnesses by the fastest means possible (telephone, electronic mail, express mail).

#### **81025.4.1 Procedures for Notification of Release of Parolees Convicted of a Violent Felony**

##### **Parole Agent**

- Reviews the SOMS Legal Mandates and Notifications screens to verify the presence of victims/witnesses.
- Whenever possible, notice shall be made at least 45 days prior to release if parolee is returning to county other than county of last legal residence.
- Includes parole unit address and telephone number on the CDCR Form 863-A, Confidential Notice of Release.
- Documents the notification of release to victims/witnesses on the electronic Record of Supervision.
- Notifies the witnesses or victims of any change in release date or assigned parole unit for pre-parole cases.
- Completes and mails CDCR Form 863-A to the person requesting notification.
- Retains a copy of the CDCR Form 863-A in the field file.

#### **81025.4.2 CDCR Form 863-A Procedures**

Notification to victims, next of kin, or witnesses of parolee's release from custody, if such notice has been requested, shall be on the CDCR Form 863-A.

- The notice shall inform those persons of the fact that the person who committed the violent offense is scheduled to be released and specify the proposed date of release.
- Notice of the community in which the person is scheduled to reside shall also be given only if it is:
  - In the county of residence of a witness, or family member including a registered domestic partner of a victim who has requested notification, or
  - Within 35 miles of the actual residence of a witness, victim, or family member including a registered domestic partner of a victim who has requested notification.
  - If, after providing the witness, victim, or next of kin with the notice, there is any change in the release date or the community in which the person is to reside, the parole agent shall provide the witness, victim, or next of kin with the revised information.
- Any CDCR Form 863-A sent to victims and witnesses, shall be deemed confidential.

##### **Parole Case Records Staff**

- Updates the Legal Mandates screen in SOMS if not entered by institutional staff.
- Posts notification requirements on the electronic CDC Form 112, Chronological History, if not posted by institution staff.

##### **Regional Administrator or Designee**

- Reviews any comments received from a law enforcement agency regarding the release of an inmate or parolee.
- Forwards copy of comments to Executive Officer, Board of Parole Hearings, if Indeterminate Sentencing Law case.
- Modifies original decision regarding community of release per PC Section 3003 after consideration of comments, if appropriate.

#### **81025.4.3 Response to Written Request for Victim or Witness Notification Policy**

Written requests for notice of an inmate's/parole violator's death, release, or escape will be responded to in writing by the Regional Administrator, or designated staff members not less than the level of a Parole Administrator.

Each request will be evaluated in terms of the potential risk of harm the parolee's release or escape will present to the requester, as well as the need to maintain the confidentiality of the requester's identity and of information contained in the request.

#### **81025.4.4 Response to Written Request for Victim or Witness Notification Procedures Regional Administrator or Designee**

Acknowledges request and advises requester:

- Of actions taken by CDCR;
- Of additional information, if any, required before an action can be taken.
- Of his or her responsibility, pursuant to PC Section 3058.8, to inform CDCR of any change in the address (or telephone number) to which a notice is to be sent or a call is to be made

- That the request is considered confidential.
- Forwards copies of request and response to regional records.

#### **81025.5 Restrictions After Parolee is Discharged**

Parolees are prohibited from owning, using, having access to or having under their control any firearm or other weapon as defined in state or federal statutes. This includes any weapons used for hunting, self-defense or display, whether or not the weapon is operable.

The following State and federal statutes continue to apply after discharge from parole:

- The PC prohibits anyone who has been convicted of a felony, or is addicted to any narcotic drug, from owning or possessing any firearm capable of being concealed upon the person.
- The PC also prohibits those who have been convicted of using a firearm in the commission of a felony, from owning, possessing, or having under their control or custody any firearm, regardless of whether or not the weapon is operable.
- Federal law prohibits persons convicted of felonies from owning, possessing or having under their control any firearm or ammunition.

According to California law, the right to possess a firearm may be restored by a Governor's pardon unless the person was ever convicted of a felony involving use of a firearm. The right to possess a firearm under federal law is not restored by a Governor's pardon but may be requested through application to the United States' Secretary of the Treasury.

Parolees should be referred to the County Registrar for specific requirements.

A person convicted of a felony may be ineligible to hold certain public offices but may request a determination from the official who certifies candidates for the office in question.

#### **81025.6 Parolees Employment Restriction Policy**

A parolee's criminal, psychiatric or drug abuse history may indicate that the parolee will pose a serious threat to the person or property of others in certain employment situations. The parole agent may prohibit specific employment by a special condition of parole if a parolee's case factors include, but are not limited to:

- With a narcotics record would have access to drugs.
- With a record of embezzlement would have access to a large amount of funds.
- With a history of violent or aberrant sexual behavior would be in a situation which is likely to prompt similar behavior.

Any special condition of parole restricting employment must meet the requirements described in Chapter 8, Article 1.

The parole agent will disclose the parolee's status to an employer if it is necessary for the safety or well-being of the employer, the employer's property, the parolee or others.

#### **81025.7 Disclosure of Parolee Status Procedures**

##### **Parole Agent**

Requires the parolee to inform the employer of the conviction(s) within a set time (or notification will be done by parole agent) if disclosure is indicated.

Contacts employer to verify whether parolee informed the employer and makes disclosure if necessary.

Discloses no more information than is necessary to safeguard employer or others.

##### **(Immediately)**

Confers with unit supervisor and advises employer if parolee's employment poses an immediate and serious threat to the safety of employer or others.

#### **81025.8 Parolee Contact With Prisoner Policy**

A parolee or former parolee may not enter grounds of any jail, camp or prison in California without the consent of the Warden or Official-In-Charge (OIC).

##### **81025.8.1 Parolee Contact With Prisoner Procedures**

In the event a parolee requests contact with an inmate serving a prison term in California, the parole agent shall:

- Send a CDCR Form 1617, Memorandum to the Warden or OIC of the institution where the parolee wishes to visit with a recommendation.
- Direct the parolee not to visit until the Warden or OIC responds to the CDCR Form 1617 and consents to the visit.
- Advises the parolee of Warden's or OIC decision.

If the inmate is temporarily housed in a county jail, the parole agent shall also obtain in writing the permission of the OIC of the county jail.

**81025.9 Parolee Financial Matters**

DAPO is not a collection agency. Parole staff will not collect money for any other agency or person and will not threaten a parolee with sanctions to compel payment of a debt. If a parole agent is contacted by a creditor, the parole agent shall verify the identity of the creditor and indicate that the parolee will be advised of the obligation to pay debts. On occasion, institution staff will contact the field to verify debts or financial obligations by an inmate. DAPO staff may also be contacted by the institution to verify trust fund withdrawal information. It is the policy of DAPO to investigate all such requests as expeditiously as possible.

DAPO staff will not handle funds of individual parolees except:

- The disbursement of release funds forwarded to unit office.
- The disbursement of cash assistance.
- Managing funds of a physically or mentally incompetent parolee pending establishment of a conservatorship. The parole agent shall obtain unit supervisor approval for such management and will document approval on the electronic Record of Supervision.
- The repayment of cash assistance loans by parolee.

**81025.10 Parolees Acting As Informers Policy**

DAPO shall cooperate with law enforcement agencies regarding the use of parolees as informers. Information regarding a parolee's activities as an informer shall be restricted to parole staff and law enforcement personnel on a need-to-know basis. Any documents regarding informer activity shall be classified as confidential. An inmate-participant in a community-based reentry program shall not be permitted to act as an informer, unless approved by the on-site Correctional Counselor III, Program Manager.

**81025.10.1 Parolees Acting As Informers Procedures****Parole Agent**

Advises law enforcement agency to submit request (on official letterhead stationery) signed by an agency command person with the following specific information:

- Activity parolee will be involved in.
- Duration of activity.
- Scope of the activity.
- Travel from area required by activity.
- Planned procedures to protect parolee during and after activity.

Contacts parolee and determines:

- If parolee wishes to act as an informer.
- If parolee knows potential danger involved.

Informs parolee that supervision will continue and that informant status does not exempt parolee from being subject to parole violations or remedial sanctions.

Conducts case review with unit supervisor, and documents the case review on a confidential memorandum.

Prepares specific plan of supervision, including anti-narcotic testing, to be followed while parolee is in informer status.

Places law enforcement agency letter of request, written case review and report in envelope marked "Confidential".

All documents dealing with parolee informer status shall be marked "Confidential" and processed per instructions on handling confidential documents.

In the event a parolee requests to become an informer while pending a parole violation, the violation shall be adjudicated in accordance with current DAPO policy. The violation report or Parole Violation Decision Making Instrument adjudication document shall include a written report addressing the circumstances of the request (e.g., parolee is in custody with a hold, suspended, or has a revocation proceeding scheduled).

Submits entire package to District Administrator via the unit supervisor for review and approval.

**Unit Supervisor**

Reviews package and forwards it with recommendation to District Administrator.

**District Administrator**

Reviews package and approves or denies informant program request.

**Parole Agent**

Initiates approved Informer program if approved by the District Administrator.

**81025.11 DAPO Use of Informants Policy**

Peace officers assigned to OCS and whose peace officer status is defined in PC Section 830.2(d)(1) are exempted from this section. OCS agents shall report any preplanned or pre-arranged use of a parolee informant to the supervising parole agent or unit supervisor in advance of such use.

DAPO parole agents will not recruit, develop, or utilize individuals on a, pre-arranged basis solely for the purpose of acting as informants. Under no circumstances will an agent:

- Pay or offer to pay an individual for information.
- Make any promises of immunity, dismissal of charges, or reduced charges in exchange for information.
- Have operational control over any individual whose primary role is that of an informant, except in supervising a parolee who may be operating as an informant for a law enforcement agency.

**81025.12 Electronic Travel Permit Policy**

The regulatory authority for the issuance of a Travel Permit is defined in the CCR, Title 15, Division 2, Section 2512.

The electronic Travel Permit shall be utilized by DAPO staff to authorize parolee travel outside the county of residence for more than two calendar days (48 hours), outside the State of California, or for travel that exceeds 50 miles from the parolee's residence of record. Travel Permits shall not be issued for a period exceeding 30 calendar days. Travel Permits for parolees who are PC Section 290 registrants shall be limited to four days or less, due to statutory registration requirements. The receiving parole unit (i.e., the parole unit in the area to which the parolee will travel) shall be notified of parolee travel by the unit supervisor or designee.

A Travel Permit may be issued upon review of the following factors:

- Review the field file for overall parole adjustment, the CSRA Score, any CDCR Form 1707, Request for Victim Services, and the CDCR Form 1515-Addendum, for any documentation that restricts travel to the requested location.
- Purpose of travel.
- Travel details (i.e., method of travel, vehicle information, destination, departure/return dates, person(s) to be visited, travel companions.
- Impact of travel on employment.
- Impact of travel on reporting, testing or registration requirements.

A Travel Permit will not be issued to allow a parolee to seek employment or a program in another county. Parolees who routinely travel to another county for approved purposes do not require a Travel Permit, but must have prior written approval from their parole agent. The receiving parole unit of the area to which the parolee routinely travels shall be notified by the assigned parole agent.

**81025.12.1 Electronic Travel Permit Procedures**

Parolee requests to travel outside the county of residence or more than 50 miles from their residence of record shall be processed in the following manner:

**Parole Agent**

The parole agent shall:

- Review the travel request to determine permissibility based upon the factors outlined in this policy. Case conference the request with the unit supervisor, or designee.
- Review parole plan requirements to determine if there is a special condition of parole for the parolee to attend the POC. In the event that a POC requirement exists, contact the assigned POC clinician for input regarding the travel request.
- Approve or disapprove travel request and document on the electronic Record of Supervision.
- If approved, complete the electronic Travel Permit in SOMS. Include appropriate "Special Instructions" (e.g., reporting or emergency instructions).
- Enter digital signature on the Travel Permit and electronically route to the unit supervisor.
- Upon unit supervisor approval, document the issuance of the Travel Permit on the electronic Record of Supervision.
- Review the terms of the Travel Permit with the parolee and obtain parolee signature.
- Provide a copy of the signed Travel Permit to the parolee.
- Verify parolee's return from travel by face-to-face contact.

**Unit Supervisor or Designee**

Unit supervisor or designee shall:

- Review and approve/disapprove Travel Permit in SOMS.
- If disapproved, notify the parole agent and provide instructions to cancel the Travel Permit. If approved, enter digital signature on the Travel Permit.
- Notify the receiving parole unit of the status of the Travel Permit.

**81025.13 Merchant Marine Travel Policy**

Any employment as a Merchant Marine shall be pre-approved by the assigned parole agent or unit supervisor.

A parolee employed by the Merchant Marine will advise parole staff of his or her position, union, union number, name of ship and name of shipping company. The case of a parolee employed by the Merchant Marine will be kept in the San Francisco, Long Beach, or San Diego unit offices with the following exceptions:

- If the parolee is at sea and port of embarkation is outside of California the case will be processed for transfer according to Interstate procedures.
- If the parolee resides with a person or family within 50 miles of the port of embarkation, the case will be assigned to the parole unit covering area of residence providing that case meets county of last legal residence exception criteria, as described in Chapter 8, Article 1.

**81025.13.1 Merchant Marine Travel Procedures****Parole Agent**

Instructs parolee to submit monthly reports on CDCR Form 1508, Parolee's Monthly Report, while at sea, giving estimated date of return to California.

Instructs parolee to report to parole agent within seven days of return to California.

**81025.14 Enemy or Gang Information Policy**

Enemy or gang information is highly sensitive and shall be transmitted as rapidly as possible to those who have a need-to-know. The CDC Form 812, Notice of Critical Case Information-Safety of Persons (Non-Confidential Enemies), shall be used to document gang membership, associations, enemies, assault on others or victim of assaults. This information is confidential and will be handled in accordance with procedures for handling confidential information.

**81025.14.1 Enemy or Gang Definitions****Member**

Any offender or person who, based on documented evidence, has been accepted into membership by a Security Threat Group (STG). STG members will be identified by the STG investigator through the validation process, reviewed by OCS, and affirmed by the STG Unit Classification Committee, as described in CCR, Title 15, section 3378.2.

**Associate**

Any offender or any person who, based on documented evidence, is involved periodically or regularly with the members or associates of a STG as described in CCR, Title 15, section 3378.2.

**Enemy or Victim**

A person who is an enemy or a victim of a gang as indicated by personal admission, CDCR records, other agencies' reports or information from informants.

**81025.14.2 Collecting and Transmitting Enemy and Gang Information Procedures****Institution Staff**

Informs Regional Reentry Coordinator of inmate involved in gang activities or parolee who has enemies, by noting information on the CDCR Form 611.

**Regional Reentry Coordinator**

Informs unit supervisor where the case will be assigned via electronic mail.

Places confidential information in confidential folder in case file.

**Parole Agent**

Presents case to unit supervisor for case review to determine appropriate supervision methods and any special conditions that should be recommended. Considers the following factors:

- Information supplied by institution staff, OCS staff, and other law enforcement agency staff or other credible sources.
- Danger and safety factors associated with parole supervision.
- Special conditions prohibiting association with known gang members by specific name.

- Type of supervision required (e.g., collateral in-office only, in the field and where, always with another agent, etc.).

Notifies local jail staff of gang status when the parolee is booked into local jail.

Documents above contacts on the electronic Record of Supervision.

**(Immediately)**

Requests warrant suspending parole if the parole agent establishes probable cause that the parolee is avoiding supervision.

Notifies appropriate law enforcement agencies.

**81025.15 Revision**

The DAPO Director or designee is responsible for maintaining the accuracy and currency of this section.

**81025.16 References**

PC §§ 290, 457.1, 667.5, 830.2, 3000, 3000.1, 3003, 3003.5, 3053.5, 3058.6, 3058.8, 3059, and 4571.

HSC § 11590.

CCR (15) (2) §§ 2512 and 2513.

CCR (15) (3) §§ 3001, 3378.1, and 3378.2.

**ARTICLE 3 — SEARCH AND ARREST**

*Revised January 24, 2017*

**81030.1 Policy**

A parolee may be arrested and a Penal Code (PC) 3056 parole hold placed when there is probable cause to believe a parolee has violated the conditions of parole and the parolee:

- Is a danger to the safety of another person or property of another person; or
- Likely to abscond.

A parolee shall not be arrested either as punishment or as a means of instilling fear in the parolee or people related to the parolee.

When conducting an arrest, a parole agent shall only use force in accordance with the use of force policy.

Within one working day of the placement of a parole hold or upon discovery that a hold was placed, the parole agent shall conduct a case conference with the unit supervisor or designee. The parole agent shall make a recommendation for processing the parole hold, and the unit supervisor may concur or direct an alternative. The violation shall be processed in accordance with Articles 26 through 33 of Chapter 8. A parole hold shall be maintained only when it is determined by the unit supervisor that the parolee's release from custody will pose a serious risk to the safety of other persons, the security of property, or when it is likely the parolee will abscond.

**81030.2 Authority to Arrest**

Peace Officer Status. A parole agent employed by the California Department of Corrections and Rehabilitation (CDCR), assigned to the Office of Correctional Safety (OCS), is a peace officer pursuant to the provisions of PC 830.2(d)(1). A parole agent employed by CDCR and assigned to the Division of Adult Parole Operations (DAPO) or any other entity within CDCR (except for OCS) is a peace officer while on duty pursuant to the provisions of PC 830.5.

Authority. A parole agent's authority to arrest extends to any place in the state and to any person committed to CDCR or being supervised under the terms of the Interstate Compact, in accordance with Article 6. A parole agent's peace officer status extends to enforcement of the conditions of parole, apprehension of an escapee from a CDCR institution, the transportation of inmates or parolees, any violation of law which is discovered in the course of employment, and to providing mutual aid to other peace officers. A parole agent shall not preempt another law enforcement agency in enforcing the law.

Arrest of Non-Parolee. A parole agent may arrest a non-parolee observed committing a crime during the performance of a parole-related activity indicated in the section above. The arrest of a non-parolee shall be made in accordance with the same use of force and arrest policies that apply to parolees.

**81030.3 Rights of Arrestee**

The parole agent shall inform the person being arrested of:

- Intention to arrest.
- Reason for arrest.

**81030.4 Miranda Rights**

A parolee has no right to silence during questioning by CDCR peace officers, specifically regarding parole violations. CDCR peace officers will not advise parolees of Miranda Rights in this situation as it may lead to a perceived right to silence which could be detrimental in securing all necessary information. However, if law violations are present and criminal prosecution is probable, Miranda Rights shall be administered.

**Parole Agent**

Any parole agent effecting an arrest of any person for any criminal offense shall advise the arrestee of his or her constitutional rights pursuant to the Miranda decision. The arrestee shall be advised of his or her rights prior to any interrogation by reading verbatim the following to the arrestee in a language that the arrestee understands:

- “You have the right to remain silent.”
- “Anything you say can and will be used against you in a court of law.”
- “You have the right to an attorney and to have that attorney present while you are being questioned.”
- “If you cannot afford an attorney, one will be provided for you at no charge.”
- “Do you understand each of these rights I have explained to you?”
- “Having these rights in mind, do you wish to talk to me now?”

If the arrestee does not understand English, the parole agent shall contact the DAPO translator service to provide translation.

A “yes” answer to both questions above completes the waiver; a “no” answer to either invokes the right.

The arresting parole agent shall, whenever possible, ensure that another parole agent or peace officer is present when the parolee is advised of these rights. The answers to these questions, along with any statement provided after a waiver of these rights, shall be documented in the appropriate reports.

**81030.5 Planned Arrest Policy**

Arrests are situations with high potential for danger that require thoughtful planning. Every arrest, when possible, will be reviewed with the unit supervisor, or designee, prior to the arrest. Arrests will not be “made at all costs.” Parole agents shall not exceed the scope of their training and capability to make an arrest. Parole agents shall not take any action that seriously jeopardizes public safety to make an arrest. Use of force shall be in compliance with the use of force policy.

Parole agents should use universal precautions when making physical contact with a parolee to reduce the risk and transmission of communicable diseases regardless of a parolee’s known or unknown infectious status.

**81030.6 Planned Arrest Procedures****Parole Agent (Prior to Planned Arrest)**

Reviews planned arrest with unit supervisor.

Presents facts about circumstances surrounding the violation(s).

Recommends whether a suspected violator requires custody.

Presents criminal history with emphasis on potential for weapons and violence.

Advise of anticipated location of arrest and potential interference by others.

Advise of conditions and factors at the anticipated location of arrest that will impact staff and officer safety.

Advise of ideal staging area, if needed.

Contacts other law enforcement agencies to request assistance, if needed.

**Unit Supervisor**

Determines which parole agents or other law enforcement agency personnel will assist in the arrest.

Ensures the parole agent contacts other law enforcement agencies for assistance, if needed.

Arranges for call back upon completion of arrest to unit supervisor or, if after hours, to the Administrative Officer-of-the-Day (AOD) or DAPO staff designated by the unit supervisor.

Designates the Parole Agent II (PA II), Supervisor to provide on-scene supervision responsible for the tactical operation and coordination with local law enforcement. In the absence of the PA II, Supervisor, the unit supervisor shall designate a parole agent to supervise the planned arrest.

**Parole Agent (Briefing Prior to Arrest)**

Briefs participating parole agents and other law enforcement agency personnel regarding the following:

- Names and descriptions of persons to be arrested, including photographs.

- Reason for arrest and current parole status.
- Arrest history, potential for violence and weapons.
- Information about others living in home or associates who may be present and pose a danger.

Describes or draws picture of arrest location showing escape routes and deploys assisting personnel.

Determines any special equipment needed.

Determines tactics to be used (as person in charge).

Plans route to and from arrest location.

Plans route to nearest hospital or trauma center, if needed.

**81030.7 Unplanned Arrest Policy**

The parole agent may unexpectedly find a parolee engaged in behavior that calls for an arrest. The decision to arrest may need to be made quickly and without the opportunity to confer with the unit supervisor if delaying the arrest is likely to result in imminent danger to another person. Such an arrest is usually made without assistance and thus potential for injury may be increased. In an unplanned arrest, the parole agent shall adhere to the use of force policy.

**81030.8 Unplanned Arrest Procedures****Parole Agent (Immediately)**

Evaluates the following based on information available at the time of discovery:

- Seriousness of violation.
- Necessity to make an arrest at that time.
- Ability to make an arrest successfully without exceeding the scope of training and capability to make the arrest.
- Any alternatives to arrest.
- Danger suspect presents to self or others.
- Location and presence of other persons.
- Ability to leave and return with appropriate assistance.

Takes appropriate action.

**81030.9 Off-Duty Contact with Wanted Parolees**

If a parole agent encounters or becomes aware of the location of a Parolee-At-Large (PAL) or a wanted parolee for whom a warrant has not yet been issued the agent shall:

Contact the nearest local law enforcement or security personnel and advise them of the location and description of the parolee.

Relay vital information to the local law enforcement or security personnel regarding the parolee’s classification (supervision level, commitment offense, whether the parolee is considered armed and dangerous or has a history of weapons, mental health concerns, etc.), if the parole agent is knowledgeable about that information.

Inform the unit supervisor or AOD of the contact as soon as possible.

Document the contact and any additional information and, if applicable, the disposition on the CDCR Form 1650-D, Record of Supervision, the next working day following the occurrence.

A parole agent’s further involvement in the attempt to locate and arrest the parolee shall be consistent with existing policy as defined in Section 81030 (regarding unplanned arrests), and Section 85030 (regarding on-duty and off-duty status).

**81031.1 Forced Entry Policy**

Pursuant to PC 844, “...a peace officer may break open the door or window of the house in which the person to be arrested is, or in which they have reasonable grounds for believing the person to be, after having demanded admittance and explained the purpose for which admittance is desired.”

Force will not be routinely used to enter buildings to arrest a parolee. Forced entry will be used when it is the only reasonable alternative to effect an arrest, to prevent evidence from being destroyed, or when a person’s safety or life is at risk. In conducting preplanned arrests and parole searches, forced entry shall be an approved option if factors outlined in this policy at the scene are present. The parole agent shall ensure there are sufficient personnel present to safely effect a forced entry.

**Parole Agent**

When determining if forced entry is a viable alternative, the parole agent shall consider the following:

- If forced entry will enhance safety of the parole agent, law enforcement, parolee, or other persons who might be present.
- If failure to act will result in harm to the parolee or others or evidence being destroyed.

After considering these factors, if forced entry is determined to be the appropriate course of action, the parole agent shall provide a knock and notice and then demand entry before forcing entry. If there is no response to the demand to enter, reasonable force may be used to gain entry.

If sufficient personnel are not present, the parole agent(s) and other law enforcement personnel present shall make efforts to contain the scene and establish a staging area. If another law enforcement agency assumes tactical command of the situation, the parole agent(s) shall follow instructions from the agency in charge of the scene.

#### **81031.2 Forced Entry Procedures**

Upon completion of the entry and subsequent search or arrest, the parole agent shall:

- Make every reasonable effort to secure the building where forced entry was made.
- Notify the owner/landlord or absent occupant that forced entry was made and note any damage that occurred. Provide owner/landlord/absent occupant with necessary claim form information.
- Advise the owner/landlord/absent occupant that they have a right to submit a request for reimbursement consideration, and provide the Government Claim Form, DGS ORIM 06. Document results and actions on CDCR Form 1650-D.
- Confer with unit supervisor regarding the forced entry that was conducted. The parole agent must be able to articulate the reasons why forced entry was necessary.

#### **Unit Supervisor**

The unit supervisor shall evaluate the situation and determine whether or not forced entry was appropriate based on the facts and circumstances provided by the parole agent.

#### **81031.3 Knock and Notice Warning**

Knock and notice is the practice of knocking loudly on a door, notifying the occupants of who is knocking, and then demanding entry. A typical knock and notice is conducted as follows; several audible knocks followed by a statement that clearly and briefly identifies the officers and their purpose for entry, such as:

“State Parole. Parole Search. Demand Entry.”

The purpose of the knock and notice is to avoid violent confrontations between peace officers entering the premises and the people who are inside. Knock and notice shall be given prior to entry for all planned arrests and comprehensive searches. When conducting a knock and notice, parole agents may use the term “police” or “state police” to identify themselves.

#### **81031.4 Exceptions to Knock and Notice Warning**

Knock and notice, prior to exercising forced entry, is not required in the following situations:

- The danger to the parole agent or others would be increased.
- The possibility of evidence being destroyed is increased.
- Someone inside the building is in distress or in need of immediate assistance.
- There is a probability that the person inside will flee.

#### **81031.5 Notification to Law Enforcement**

After entering a structure by means of forced entry, if local law enforcement was not present at the time of entry, and when it is safe to do so, the parole agent shall notify the appropriate law enforcement agency of the location and type of entry made. This will allow for independent documentation of the forced entry.

#### **81031.6 Damages to a Structure**

If a parole agent’s forced entry into a structure results in damages to the structure, the parole agent shall make available to the owner/landlord/absent occupant the claim form needed to recover repair costs. Parole agents shall take necessary steps to secure the structure upon departure, or ensure that an authorized adult is present to take care and custody of the structure before departing.

#### **81031.7 Property Receipt**

Pursuant to the California Code of Regulations (CCR), Title 15, Division 3, Section 3600, Search of Parolees, any contraband or evidence of illegal activity shall be seized by the parole agent or law enforcement officer conducting a search of a parolee’s person, property, or residence. Property not belonging to the parolee shall be seized only when needed as evidence to support a parole violation charge.

Property seized as evidence by the parole agent shall be documented on a CDCR Form 1136, Evidence Report and Inventory Receipt. A copy of the CDCR Form 1136 will be available to the parolee, a responsible adult, or left

at the place of seizure. Property seized by an assisting law enforcement agency does not need to be documented on the CDCR Form 1136. All contraband and evidence shall be processed in accordance with existing evidence procedures.

#### **81032.1 Restraint Equipment Policy**

A set of handcuffs and carrying case will be issued to all parole agents. Each parole agent shall have handcuffs operational and available for use at all times. Two sets of waist chains and leg irons will be maintained in each parole unit. Only CDCR-issued restraint gear and equipment that has been authorized by CDCR for use at the discretion of staff shall be issued/assigned to an employee or carried/used by an employee while on duty.

#### **81032.2 Restraint Equipment Procedures**

##### **Parole Agent**

Whenever possible, handcuffs person behind the back whenever there is an arrest.

Removes handcuffs only when arrestee is safely in a detention facility, or at the direction of licensed health care clinicians if the arrestee is taken to a hospital prior to booking in a detention facility.

Searches person being arrested for weapons or contraband.

When a restraint device is required, handcuffs, alone or attached to a waist chain, will be the means of restraint normally used.

When a restraint device is applied on a subject, the parole agent must ensure there is constant control and observation of the subject until the restraint device has been removed. Placement of a person on his or her stomach for the time necessary to restrain the person is authorized but shall not be for any period longer than necessary to gain or maintain control.

Restraint devices may be used under the following circumstances:

- When effecting an arrest of a person.
- When transporting a person between locations.
- When a person’s history, present behavior, apparent emotional state, or other conditions present a reasonable likelihood that he or she may become violent, cause injury to self or others, or attempt to escape.
- When directed by licensed health care clinicians to prevent a person from attempting suicide or inflicting injury to self.
- To prevent the destruction or concealing of evidence.
- For agent safety.

Restraint devices shall not be:

- Used as punishment.
- Placed around a person’s neck.
- Applied in a way likely to cause undue physical discomfort or restrict blood flow or breathing, e.g., hog-tying.
- Used to secure a person to a fixed object except, as a temporary emergency measure. A person who is being transported shall not be locked in any manner to any part of the transporting vehicle.
- Placed on a person during labor, including during transport to a hospital, during delivery, and while in recovery after giving birth, unless circumstances exist that require the immediate application of a restraint device to avoid the imminent threat of death, escape, serious or great bodily injury, and only for the period during which such threat(s) exist.

#### **81032.3 Medical**

Use of a restraint device by direction of licensed health care clinicians shall be fully documented in the medical file of the restrained person.

Use of restraint devices on a person confirmed or suspected by health care staff to be pregnant shall be subject to the following requirements:

- No leg restraints or waist chains shall be applied.
- If handcuffs are applied, the arms shall be brought to the front of the body for application.
- When transporting a pregnant person, the application of a restraint device shall be restricted to handcuffs and only applied to the front of the person. If the pregnant person is in labor, restraint devices shall not be applied.

When a restraint device is applied on a subject, there shall be constant control and observation of the subject until the restraint device has been removed. Persons who have a disability that prevents standard search methods or application of restraint equipment in the prescribed manner shall be afforded reasonable accommodation under the direction of the field supervisor. Restraint equipment shall be applied to ensure effective application while reasonably accommodating the person’s disability.

#### **81032.4 Removal of Parole Hold Policy**

The parole hold shall be removed immediately when a final decision on a parole violation does not require further time in custody, when good cause is found by the local court to revoke parole, or when the unit supervisor concurs with the parole agent’s recommendation to continue on parole. Whoever

makes the final decision on the violation may approve maintaining the hold until the end of the next working day, if arrangements must be made for an adequate release program.

In no case shall a parole hold be maintained past the parole expiration date or the revocation release date or in any case longer than 90 days.

When a parole hold is removed, the parole hold should not be reissued unless new information has been received that indicates the parolee's behavior meets any of the following criteria:

- (1) The parolee is a danger to the person or property of another.
- (2) The parolee has absconded from parole supervision.

If a removed parole hold is reissued, the parolee shall be given the reasons in writing within three business days following placement of a parole hold.

The unit supervisor or AOD may remove a parole hold when appropriate. Circumstances for this may include, but are not limited to: Facts and circumstances of arrest and placement of the parole hold that do not support continuance of the parole hold, which may result in the determination of an alternative sanction other than a return to custody.

#### **81032.5 Detention of Parolees Beyond the Final Case Disposition**

In order to ensure DAPO parole holds are removed and parolees are released in a timely manner:

The parole agent shall:

- Determine the facility where the parolee is being detained.
- Immediately contact the Warrant Unit by telephone and request for the parole hold to be removed.
- Ensure the parole hold release has been received by the detaining facility prior to the conclusion of the business day.
- Document all calls, persons contacted, faxes, electronic mail, and teletypes sent on the CDCR Form 1650-D.

The unit supervisor shall:

- When it is discovered that a parolee is detained beyond final case disposition (revoke, continue on parole, dismiss, defer for criminal prosecution), immediately conduct a case conference with the parole agent to ascertain the reason for the continued custody.
- Ensure the parole agent immediately removes the parole hold when warranted and verifies the parolee is released from custody.

#### **81032.6 Retaining Parole Hold Policy**

Once a decision is made at a revocation hearing, the parole hold shall be removed and either the parolee will be released due to time served/continue on parole or the local court will place its own hold if revocation time needs to be served.

The parole agent shall:

- Monitor the case for final disposition.
- Ensure the parole hold is removed and the parolee is released prior to the close of business on the day of final disposition.
- Monitor the case according to case contact specifications, to ensure the parolee is released on or before the Revocation Release Date.
- Document all calls, persons contacted, faxes, electronic mail, and teletypes sent on the CDCR Form 1650-D.

#### **81032.7 Controlling Discharge Date Reached**

When a parolee at a non-CDCR facility reaches his or her Controlling Discharge Date (CDD), the parole agent shall ensure the parole hold is removed prior to the conclusion of the same business day, following verification of the correct CDD. The parole agent shall document all calls and persons contacted when determining the CDD. The parole agent must verify the detention facility received the release instructions and documents on the CDCR Form 1650-D.

#### **81032.8 Out-of-State Parole Holds**

All out-of-state parole holds may only be removed by the Extradition Unit. Once notified of an out-of-state arrest or the availability for extradition of a parolee, the unit supervisor will have one working day to inform the Extradition Unit of the intent not to extradite.

#### **81032.9 After-Hours Parole Hold Releases**

There shall be no parole hold releases by parole agents after the business hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, without prior approval by the AOD. The AOD will make the determination regarding the hold and will contact the Warrant Unit for the hold release.

#### **81033.1 Office of Correctional Safety Interest in Custody Case Procedures**

##### **Parole Agent**

Contacts appropriate OCS agent before removing hold.

##### **Unit Supervisor and Office of Correctional Safety Supervisor**

Resolves any difference of opinion regarding continuation of hold.

##### **Parole Agent (Day Hold is Dropped)**

Notifies appropriate OCS agent of revocation term if hold must be removed.

#### **81033.2 Transportation Policy**

An arrested person shall never be secured to any part of a moving vehicle with any type of locking restraint.

#### **81033.3 Transportation Procedures**

##### **Parole Agent**

Assures vehicle is fueled, in safe operating condition, and free of contraband.

Assures handcuffs are double locked and properly applied on arrestee.

Uses waist chains when transporting long distances or from one custody setting to another.

May use leg irons if arrestee is an escape risk or potentially violent.

Secures arrestee with seat belt and, if the transport vehicle has a childproof locking mechanism, it shall be engaged in order to prevent an escape.

A caged vehicle may be used when available to transport a parolee being placed into custody.

A minimum of two parole agents shall be used to transport a parolee being placed into custody or transporting any parolee displaying behavior that presents a risk of harm to officers or the public. Parole agents may case conference with the unit supervisor prior to any transport of a parolee with a special condition of parole to participate in the Parole Outpatient Clinic if they believe two parole agents should be used in the transport in order to enhance parole agent safety.

The parolee shall be placed in the back seat on the passenger side when being transported for custody. At least one parole agent shall sit in the back seat during the transportation of a parolee being placed into custody unless using a caged vehicle.

#### **81033.4 Cooperation With Other Law Enforcement Policy**

Cooperation with other law enforcement agencies in the arrest or investigation of parolees suspected of new crimes or parole violations is expected of all DAPO employees. Parole agents shall not exceed the scope of their training and capability when cooperating with other law enforcement agencies.

#### **81033.5 DAPO Initiated Arrest Procedures**

##### **Parole Agent**

Reviews proposed arrest with unit supervisor.

Participates in arrest and investigation of parolees suspected of committing new crimes or parole violations.

Shares information with law enforcement.

Requests assistance of other law enforcement agencies in situations where violence or weapons are anticipated (assistance may also be requested in any other situation).

Assumes tactical command of DAPO initiated arrest.

Shifts tactical command to another agency if parole agent believes it is the safest way to handle the situation.

Releases other law enforcement agencies to regular duties as soon as possible.

#### **81033.6 Other Law Enforcement Agency Initiated Arrest Procedures**

##### **Parole Agent**

Evaluates information provided by other law enforcement agency personnel and makes an independent judgment whether a parole violation or criminal act has occurred.

Briefs unit supervisor.

Acts under tactical command of other law enforcement agency when assistance is provided.

##### **Unit Supervisor**

Determines whether safety of other law enforcement agency personnel or community will be enhanced by parole agent's involvement.

Determines whether parole agent's presence is required by such factors as:

- Ability to identify parolee or other suspects.
- Ability to provide information about parolees or others and about arrest location.
- Ability of parole agent, through contacts with parolee, to alleviate a situation.

**81033.7 Arrest Authorization Assistance Policy**

The parole agent, in emergency situations, may orally summon as many persons as necessary to aid in making an arrest. The authority to summon aid is provided by PC 839.

**81033.8 Department of Motor Vehicles Inquiry Policy**

Emergency Department of Motor Vehicles (DMV) computer inquiries may be made through the Warrant Unit. An emergency is defined as an immediate threat to the safety of persons or property. A parole agent may also contact local law enforcement if there is a contract agreement in place with the local law enforcement agency.

The information available from DMV through the California Law Enforcement Telecommunications System is:

- Vehicle registration by license plate.
- Vehicle registration by name of owner.
- Driver's license by number.
- Driver's license by name.
- Stolen vehicle information.
- Vehicle identification number.
- Parts numbers.
- Automated firearms information.

This list is not inclusive. Region or Warrant Unit staff secures most of the items provided by DMV.

**81033.9 Motor Vehicle Emergency Inquiry Procedures**

The parole agent will make a telephone inquiry to the Warrant Unit, headquarters, and provide the following information:

- Name and badge number.
- Unit and last four digits of home telephone number.
- Kind of vehicle for which plates are being run (i.e., van, truck, motorcycle, automobile, etc.).
- Type of plates (standard plates, environmental plates, or other special plates).
- Advises person taking call that agent will remain on the phone while plates are being run (failure to do this results in a much longer response time).
- Radios request for vehicle information to local enforcement agency if permitted by agreement.

**81034.1 Search Policy**

A parolee's person, residence, and property may be searched pursuant to PC 3067, which states in part, "Any inmate who is eligible for release on parole pursuant to this chapter...shall be given notice that he or she is subject to terms and conditions of his or her release from prison. The notice shall include...an advisement that he or she is subject to search or seizure by a probation or parole officer or other peace officer at any time of the day or night, with or without a search warrant or with or without cause."

The authority and ability to conduct warrantless searches is a valuable tool in the supervision and management of the parolee population. It is the intent of DAPO that these searches are conducted for a lawful purpose and to ensure compliance with the terms and conditions of parole.

The parole agent shall review the Notice and Conditions of Parole with the parolee and provide him or her with a completed copy. A copy of this form shall be placed in the field file and the original shall be forwarded to Parole Case Records.

The Notice and Conditions of Parole, states in part:

"You, your residence, and any property under your control are subject to search or seizure by a probation officer, an agent or officer of the California Department of Corrections and Rehabilitation, or any other peace officer, at any time of the day or night, with or without a search warrant, with or without cause."

**81034.2 Residence Search Procedures**

Prior to searching a parolee's residence, residency must first be established. In most cases, this will be the residence of record that is verified by the parole agent. In other cases, probable cause under totality of the circumstances must exist that the location is the parolee's residence.

Possible observations that may establish probable cause of residency include but are not limited to:

- Parole agent's observation of a parolee entering and exiting a residence in such a manner and fashion that demonstrates the parolee lives at that

residence. For example, the parolee utilizes a key upon entry or exit. This observation alone is not enough to establish residency but contributes to the totality of circumstances.

- Parole agent's viewing of current official documents (rental agreement, utility bill, mail, etc.) with the parolee's name and address affixed and the parole agent also articulating other corroborating reasons to believe that the parolee is living at the identified residence.
- Collateral information received from friends, family members, or confidential informants can be used to corroborate the information above but shall not be used as the sole justification for establishing residency.

Whenever possible, the decision to search a parolee's residence will be made after conferring with the unit supervisor. If residency is not established by probable cause through a totality of circumstances, a warrantless search of the location is not authorized. A search will normally be conducted by two or more parole agents or with the assistance of other law enforcement personnel. However, this does not preclude a parole agent from conducting a complete or partial search of the parolee's residence with additional staff with prior supervisory approval and when it is safe to do so.

Only those areas of a parolee's residence occupied solely by the parolee, common areas, parolee's property, or areas in the parolee's immediate control shall be searched without a search warrant. Areas where the parolee has regular and/or unrestricted access may be considered common areas.

A residence occupied solely by a parolee is subject to search in its entirety, with each room, closet, drawer, etc. falling within the legal scope of the search. A residence occupied by a parolee and non-parolee is limited in the scope of the search.

Upon entry, every unsecured room can be inspected to see if there are individuals in the room who could pose a threat to officer safety. This includes rooms identified as not routinely occupied by the parolee or rooms that are not considered common areas. The scope of the search of these rooms will be limited to the standards set forth in the plain view doctrine, which states that only items discovered in plain view by a law enforcement officer who is present with a lawful purpose, are immediately apparent to the officer, and do not require an overt action on the part of the officer to view, can be seized as evidence. To expand the search in these situations, a warrant may need to be obtained.

**81034.3 Clothed Body Searches**

To ensure compliance with the terms and conditions of parole or subsequent to arrest, all parolees are subject to clothed body searches.

Subsequent to arrest, the parole agent shall conduct a clothed body search for weapons and contraband. Searches shall be conducted in a manner consistent with the procedures demonstrated in the Parole Agent Safety and Tactics Training. All searches shall be conducted in a professional manner that avoids embarrassment or indignity to the parolee.

Compliance searches or routine searches of clothed parolees may be performed by employees of either gender. If present, the same gender should be utilized to minimize the effects of opposite-gender contact inherent in searches. The exception would be if there is an articulable need to search for weapons that could pose a threat to staff safety, or exigent circumstances exist that would require a search to prevent the destruction of evidence.

**81034.4 Unclothed Body Searches**

A parole agent shall not conduct an unclothed body search of a parolee of the opposite sex except under emergency conditions where life or death consequences are present if the search is not conducted. In addition, whenever possible, unclothed body searches shall be conducted outside the view of others.

**81034.5 Pending Revocation**

After a parolee is placed into custody on a parole hold, information may be developed that would warrant the need to search the residence or property of the parolee. Searches of this nature do not require a warrant if the parolee is in custody and pending revocation proceedings. Prior to conducting such a search, the parole agent shall ensure the parolee has not been revoked by the county court. If the parolee has not been revoked, he or she is still subject to his or her conditions of parole and subject to search. Once the parolee has been revoked, the residence is no longer searchable.

**81034.6 Suspended Cases**

After a parolee's parole term has been suspended, the listed residence of record is no longer considered searchable due to the offender's parole status alone. Residency must be reestablished based on the criteria described in section 81034.2. Once residency is established, the areas solely under the parolee's control and all common areas are subject to search.



**81034.7 Property Receipt**

Any contraband or evidence of illegal activity shall be seized by the parole agent or the law enforcement officer conducting a search of a parolee's person, property, or residence. Property not belonging to the parolee shall be seized only when needed as evidence to support a parole violation charge.

Property seized as evidence by the parole agent shall be documented on a CDCR Form 1136. A copy of the CDCR Form 1136 will be available to the parolee, a responsible adult, or left at the place of seizure. Property seized by an assisting law enforcement agency does not need to be documented on the CDCR Form 1136. All contraband and evidence shall be processed in accordance with existing evidence procedures.

**81034.8 Damage Claims**

Anyone who wishes to file a claim against a State department or agency must submit their claim on the Government Claim Form, DGS ORIM 06. These forms can be obtained by calling (800) 955-0045 or via the internet at: [www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx](http://www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx).

**81035.1 Handling Evidence Policy**

The test of the integrity of the chain of evidence requires that procedures used to seize, record, and store evidence substantiate that evidence presented in any proceeding is actually evidence that was seized at time of search. If local police are assisting in a search, the parole agent shall aid in the processing of evidence during the search, ensuring that the chain of evidence is maintained, especially when criminal charges are likely to result from the search. The parole agent will then obtain a copy of the police agency's inventory for use in any subsequent revocation or court proceeding. If law enforcement is not assisting in a search, the parole agent shall secure the scene and request the assistance of law enforcement when the following observations are made:

- Evidence of a major crime; i.e., drug trafficking, drug lab, domestic violence, weapons, child pornography, ammunition, spent shell casings.
- Firearms.
- Suspected explosives.
- Suspected criminal activity involving persons other than the parolee.
- Large quantity of United States currency.
- Large quantity of stolen merchandise.

**81035.2 Handling Firearms Evidence Procedures****Parole Agent**

- Visually identifies all potential evidence, ensures the integrity of the evidence is preserved, and immediately contacts the nearest OCS field office or local law enforcement agency having jurisdiction.
- Avoids handling firearms unless it becomes absolutely necessary to prevent jeopardizing agent safety.
- Handles any firearm as if loaded.
- Once the firearm is rendered safe, photographs and records the serial number, make, model number of the firearm, and records the necessary information on the CDCR Form 1136.
- Collects all ammunition and shell casings from the scene and records the necessary information on the CDCR Form 1136.
- Does not move any suspected explosive devices discovered at the scene. If such devices are discovered, immediately clears the residence and area and contacts the respective local law enforcement agency for assistance in securing the device.
- Transports the firearm to the local law enforcement agency that has jurisdiction and submits request for a firearms record check.
- If unable to transport firearm to local law enforcement agency for a firearm records check, transports the firearm and other evidence to the parole unit for delivery to the unit supervisor.

**Unit Supervisor**

- The unit supervisor shall receive the firearm as evidence for storage in the evidence locker.
- The evidence will be inventoried and entered on CDCR Form 1221, Evidence Custodian Log-Parole and retained until released to the appropriate local law enforcement agency.

**81035.3 Handling Narcotics Evidence Procedures**

Controlled substances/drugs and related physical evidence may consist of large quantities of a controlled substance, drug, or narcotic. Also, trace amounts of controlled substances or drugs may be found on spoons, syringes,

scales, or pipes that appear to have been used to inject, manufacture, or distribute controlled substances and drugs.

**Parole Agent**

- Collects the controlled substance in a safe manner and records the quantity, appearance, and packaging on CDCR Form 1136.
- Records on the package the name or initials of the person who seized the material and the date and time of seizure.
- Transports the packaged controlled substance to the respective police department, sheriff's office, or other law enforcement agency and submits it in accordance with local procedures.
- If unable to transport the seized narcotics to the respective law enforcement agency, the parole agent shall transport the seized narcotics and CDCR Form 1136 to the parole unit for delivery to the unit supervisor.

**Unit Supervisor**

- The unit supervisor shall receive the narcotics with the inventory receipt and store them in the evidence storage locker. The evidence will be inventoried and logged on CDCR Form 1221.
- The unit supervisor shall record on CDCR Form 1650-D all details specific to the collection of any evidence regarding a parolee.

**81035.4 Digital Evidence Defined**

Digital evidence, including photographs, is information and data of value to an investigation that is stored on, received, or transmitted by an electronic device (e.g., cellphone). This evidence is acquired when data or electronic devices are seized and secured for examination.

Seized and secured digital evidence shall be stored utilizing the following mediums:

- CD-ROM
- DVD-ROM
- Thumb Drive
- Memory Stick
- Flash Card
- Cellular Phone Memory Card

**81035.5 Digital/Electronic Device Evidence Procedures**

It is necessary to maintain the integrity of the digital evidence in the event it is needed for criminal prosecution.

Digital evidence requires special collection, packaging, and transportation techniques. Parole agents without the proper training and skills shall defer to law enforcement to explore the contents of or to recover information from digital/electronic devices other than to record what is visible on the display screen.

When conducting a parole search of an electronic device connected to the internet, the parole agent should first disconnect the device from the internet (for example, by putting a cellular phone in "airplane mode"). This will ensure that only the phone's contents are searched. Otherwise, the parole agent may inadvertently search electronic communication information stored on the device that is subject to the protections of the Electronic Communications Privacy Act (ECPA). Information protected by the ECPA requires a search warrant.

Improperly accessing data stored on electronic devices may violate federal and State laws, including the California Electronic Communications Privacy Act. As a first responder, the parole agent may need to obtain additional legal authority before proceeding.

**Parole Agent**

When encountering digital evidence or searching electronic devices, general evidence handling and procedural practices will be utilized. The parole agent shall:

- Visually identify all potential digital evidence to ensure the integrity of the evidence is preserved.
- Collect digital evidence utilizing general evidence handling and procedural practices and record all evidence on CDCR Form 1136.
- Collect components relating directly to identified digital evidence such as display screens, keyboards, mouse, removable storage media, and other peripherals that may hold latent fingerprints or deoxyribonucleic acid and record all evidence on CDCR Form 1136.
- Transport all packaged digital evidence and related physical evidence to the parole unit for delivery to the unit supervisor.

If it is anticipated during the arrest planning/case conference that digital evidence will be encountered, the unit supervisor and/or parole agent must take the necessary steps to ensure the availability of personnel with the appropriate level of technical expertise to process the digital evidence. Any digital/electronic device seized and brought to the parole unit will be inventoried and logged in accordance with the established procedures.

#### **Unit Supervisor**

The unit supervisor shall receive the evidence for storage in the evidence locker. The evidence will be inventoried and entered on CDCR Form 1221.

#### **81035.6 Chain of Custody**

Chain of custody refers to the chronological documentation pertaining to the seizure, custody, control, transfer, storage, and disposition of evidence obtained as a result of a parole search.

#### **81035.7 Parole Agent Procedures**

After seizing evidence, the parole agent shall record the following information on CDCR Form 1136.

- Parolee's name and CDCR number.
- Location of evidence seized.
- Date and time evidence seized.
- Item number and object description.

The parole agent shall retain physical custody of the evidence until turned over to the unit supervisor for secure storage. Upon delivery of the evidence to the unit supervisor for storage, the parole agent shall record the following information in the Chain of Custody section of CDCR Form 1136:

- Name of person from whom the evidence was received.
- Name of unit supervisor to whom the evidence was delivered.
- Time and date evidence was delivered to the unit supervisor.
- Signature of parole agent who released the evidence.

#### **81035.8 Unit Supervisor Documentation**

Upon receipt of the evidence and CDCR Form 1136, the unit supervisor will record the following information on CDCR Form 1221:

- Parolee's name and CDCR number.
- Date and time evidence received.
- Description of evidence.
- Name of parole agent from whom evidence was received.
- Date and time evidence released.
- Signature of unit supervisor who received the evidence.

The unit supervisor shall retain custody of the evidence until final disposition of the evidence is recorded in the Disposition/Comments section of CDCR Form 1221.

#### **81036.1 Surveillance Policy**

Surveillance is intended to obtain or verify information about a parolee's behavior in the community. The proper use of surveillance can be effective in gathering information not obtainable through other sources.

The parole agents shall confer with the unit supervisor and other parole agents prior to conducting fixed or moving surveillance. (Moving surveillance is difficult and requires the use of several agents or other law enforcement agency staff with communications equipment.)

Parole agents shall not exceed the scope of their training and capability to conduct surveillance. Parole agents shall not jeopardize public safety to conduct surveillance. Parole agents shall comply with all local and state traffic laws while conducting surveillance.

#### **81036.2 Surveillance Definitions**

Surveillance is the process of keeping a parolee's person, residence, or vehicle under observation to gain information about their activities, associates, or contacts.

There are three types of surveillance: spot, fixed, and moving.

Spot Surveillance – the observation of a specific location for a short period of time (e.g., driving or walking by to determine current activity, who is present, and potential safety hazards).

Fixed Surveillance – the observation of a specific location for a period of time to determine parolee's associates, traffic to and from location, and whether the location is the parolee's actual residence.

Moving Surveillance – following a specific parolee from place to place to secure information about parolee's activities. Moving surveillance can be conducted on foot or in a vehicle.

### **81036.3 Surveillance Procedures**

#### **Parole Agent**

The parole agent obtains unit supervisor approval prior to conducting spot or fixed surveillance for greater than 15 minutes or moving surveillance for any amount of time.

- The approval, along with the outcome of the surveillance shall be noted on CDCR Form 1650-D.
- The AOD shall be contacted before beginning fixed or moving surveillance after normal business hours, if the unit supervisor is unavailable.

The parole agent presents sufficient information regarding surveillance to allow the unit supervisor to allocate resources:

- Reason for parolee surveillance.
- Supervision category.
- Prison gang member or affiliate.
- Suspected large scale drug sales or transportation.
- Violent behavior or sexual offenses.
- Suspected large scale property or fraud offenses.
- Organized crime activities.
- High risk PAL cases.
- Expected outcome of surveillance.
- Location of surveillance.
- Duration of surveillance.
- Other participants in the surveillance activities.

The parole agent shall ensure local law enforcement is contacted during fixed or moving surveillance to ensure the agency is aware of DAPO surveillance activities. If circumstances warrant notification during surveillance, the parole agent shall contact the local law enforcement agency to advise them of the surveillance activities.

#### **Unit Supervisor or Administrative Officer of the Day**

Reviews request to conduct surveillance.

Specifies duration and type of surveillance to be conducted.

Instructs parole agent to notify unit supervisor or AOD upon completion of surveillance.

#### **Parole Agent**

Contacts unit supervisor when the surveillance is completed.

#### **81036.4 Pretext Interview Policy**

A pretext interview is an interview where a false identity is used to obtain information that would not be given if the parole agent's identity were known. Trademarks or equipment of a company or organization shall not be used in a pretext interview without consent. A pretext interview may not be conducted to gain entry, arrest, search, or secure a confession. Pretext interviews shall not be attempted with persons who cannot legally or morally disclose information.

#### **81036.5 Pretext Interview Procedures**

##### **Parole Agent**

Reviews case with unit supervisor to evaluate need for pretext interview.

Identifies specific people involved and information to be secured.

Determines false identity to be used.

Establishes specific time frame.

Documents the results of interview on CDCR Form 1650-D.

#### **81036.6 Referral to District Attorney for Prosecution Policy**

When a parole agent discovers a major crime, it shall be brought to the attention of the local law enforcement agency having jurisdiction so that the agency can pursue the investigation and subsequent criminal prosecution. However, if police are not available, it may be more appropriate for the parole agent to continue investigation and make a subsequent referral to the District Attorney (DA). The parole agent shall consider the following factors before deciding to make the referral:

- Determine which agency has the majority of the information relative to the crime.
- The reasons local law enforcement is unwilling to prosecute.
- Likelihood of successful prosecution.
- The nature of instant offense(s).
- Availability of parole agent's time and resources to continue investigation.

### Local Requirements

Local requirements for criminal prosecution vary. Parole staff need to determine what is required for prosecution by the DA and the time limits for referring such cases.

Issues to be addressed to support criminal prosecution are:

- Elements of each crime to support charge(s) that a crime has occurred (list crimes committed by PC sections and titles).
- Reasonable belief, probable cause, or circumstantial indicators if a felony charge is to be filed.
- The parole agent must have personally observed the crime or a complaining victim or witness must have observed the crime if a misdemeanor charge is to be filed.
- Evidence to link parolee to crime and how it ties to parolee.
- Witnesses and facts to which they can testify (a short summary shall be prepared outlining facts of crime, names and addresses of witnesses, and their willingness to cooperate in investigation and to testify in subsequent court proceedings).

### Legal Issues

The following legal issues are to be included in the parole agent's report to the DA:

- Basis for parolee's arrest.
- Relationship between parole agent and parolee (e.g., parolee is a member of parole agent's caseload).
- Parole agent's peace officer powers as defined in PC 830.2 or 830.5.
- An explanation of whether arrest notice was given and whether parole agent complied with PC 844 (knock and notice requirement).
- The point during investigation when Miranda Rights were given (if not given, the reason must be explained).
- Circumstances under which a parolee's statement or confession was taken. (Was it voluntary? Made under duress or coercion? Were promises made? Was it signed and dated?)
- Conditions under which a search was conducted and authority for the search. If police were involved, whether they assisted a parole agent or whether a search warrant was issued. If a parole agent initiated the search, the information relied upon for reasonable belief to search.
- Circumstances under which any evidence was seized and which agency conducted the analysis, the type of analysis (drug, fingerprint match, handwriting), and the results.

#### 81036.7 Referral to District Attorney for Prosecution Procedures Parole Agent and Unit Supervisor

Conduct case review to determine if case should be referred for prosecution.

#### Parole Agent

Advise parolee of rights and obtains statement using parolee's own words. If parolee grants permission to tape the statement, the date statement was taken, the fact that permission to tape was granted, and a summary of the tape's contents shall be included.

Prepares and submits CDCR Form 2278, Arrest Report, to the DA's Office for prosecution, including all required information and attachments.

- Any known inconsistencies in the case will not be included in the memorandum, but will be discussed in person with staff from the DA's Office.

Forwards copy of the parolee's criminal investigation and identification arrest record along with the referral for prosecution.

#### 81036.8 Revision

The DAPO Director or designee shall ensure that this section is current and accurate.

#### 81036.9 References

PC §§ 830.2, 830.5, 839, 844, and 3056.

CCR (15) (2) §§ 2511; CCR (15) (3) 3268, 3600.

Evidence Code §§ 1 – 670.

### ARTICLE 4 — UNASSIGNED

### ARTICLE 5 — SPECIAL INCIDENT REPORTS

*Revised January 30, 2017*

#### 81050.1 Policy

Incidents, events and activities that involve offenders under the supervision of the Division of Adult Parole Operations (DAPO) shall be reported to the Division Director as described in this article.

#### 81050.2 Purpose

This article defines staff responsibility and provides procedures and criteria for reporting incidents.

#### 81050.3 Daily Report

The Director, DAPO, shall be notified via the procedures in this article of any behavior by an offender under DAPO's jurisdiction who receives major media attention or which is likely to stimulate significant interest because the behavior is notorious, bizarre, or meritorious. Major media attention involving DAPO programs, services, or enforcement operations that do not focus on a specific offender(s) shall also be reported.

Timely and factual information shall be provided to the Director in accordance with this article to ensure proper responses to administrative, media, and legislative inquiries.

Any critical or significant incidents that occur during normal business hours shall be immediately reported by telephone to the Regional Parole Administrator (RPA) through the chain of command. When information is received after normal business hours, the unit supervisor or Administrative Officer of the Day (AOD) shall immediately contact the RPA or Chief Deputy Regional Administrator (CDRA) by telephone.

#### 81050.3.1 Incidents to be Included in the Daily Report

- Any occurrence that generates media attention related to a specific offender, offenders in general, or DAPO. Media articles such as arrest logs in a local media source, general "police blotter" listings, or social media posts by a law enforcement agency that identify an offender being arrested that do not contain specific details regarding an offender or parole activities are not required to be reported.
- Any incident involving the discharge of a firearm by DAPO staff, other than approved departmental training.
- Any incident where DAPO staff used force, other than the use of only physical strength and holds to hold an offender in place.
- Any incident in which force was used against an offender by another law enforcement agency that resulted in the death or serious injury of the offender.
- Any conduct by an offender that results in the death or serious injury of any law enforcement officer or other person in the community.
- All incidents of death of a DAPO staff member, except those determined to be natural causes occurring while off-duty.
- All incidents of death of an offender, except those determined to be by natural causes.
- All assaults on DAPO staff.
- Significant public appearances and speeches given by DAPO staff acting as a representative of DAPO, such as appearances, speeches, and/or testimony at:
  - City Council meetings.
  - County Board of Supervisors meetings.
  - State Legislature hearings.
- Supplemental information from previous incidents.

#### 81050.3.2 Reporting Significant Events for Lifers

The following significant events shall be reported to the DAPO Policy and Procedures Unit for inclusion in the Daily Report:

- A lifer transitions from stable housing to transient status or resides in a homeless shelter.
- A lifer is terminated from stable employment.
- A lifer's whereabouts become unknown and parole is suspended.
- A lifer is arrested.
- A lifer is reinstated on parole.
- A lifer receives a remedial sanction for a violation.
- A lifer is returned to prison with "lifer inmate status."
- A lifer is sentenced to a new prison term.

#### 81050.4 Daily Report Lines of Responsibility Unit Supervisor or Assistant Unit Supervisor

Submission of information for inclusion in the Daily Report shall not be delayed in an effort to gather additional information. No later than 0840 hours each business day, the unit supervisor or assistant unit supervisor shall complete the following:

- Verify any potential reportable incident from their assigned parole unit by conferring with parole unit staff, reviewing local media (e.g., newspapers, internet sites, and television stations), and reviewing arrests of offenders that occurred after business hours.
- The information shall include, if known:
  - The name, CDC number, and California Static Risk Assessment score of the parolee(s) involved in the incident.
  - Assigned parole unit(s).
  - Name and classification of any California Department of Corrections and Rehabilitation (CDCR) staff involved.
  - A brief summary of the incident.
  - The names of outside agencies involved, and their role in the incident, if applicable.
  - The names of the media organizations that may have reported or will likely report the incident, if applicable.

After the information is compiled, submit the information to the Regional Daily Report Coordinator via electronic mail.

Any incidents that occur during normal business hours, yet following the submission of the Daily Report, shall be immediately reported by telephone to the RPA through the chain of command, and via an additional electronic mail to the Regional Daily Report Coordinator. If no reportable incidents have occurred, the unit supervisor or assistant unit supervisor shall send an electronic mail to the Regional Daily Report Coordinator stating that there are no reportable incidents. All telephone contacts shall be followed up with a written summary of the incident for inclusion in the Daily Report no later than 0840 hours the next business day.

After completion of the electronic mail to the Regional Daily Report Coordinator, the unit supervisor, or designee, shall ensure a complete Field Incident Report package, using the forms described in section 81050.4.1, is completed and submitted to the RPA through the chain of command within 24 hours of notification of a reportable incident. If the package cannot be completed within 24 hours, the unit supervisor or designee shall document the reason for the delay on the CDCR Form 1662-A, Field Incident Report: Part A-Cover Sheet.

#### **Regional Daily Report Coordinator**

No later than 0850 hours, the Regional Daily Report Coordinator shall compile the information from each parole unit and submit it via electronic mail to the DAPO Policy and Procedures Unit, [ParolePolicyandProcedureUnit@cdcr.ca.gov](mailto:ParolePolicyandProcedureUnit@cdcr.ca.gov). Any reportable incidents that occur during business hours but after the submission by the Regional Daily Report Coordinator shall be immediately reported by telephone to the Regional Parole Administrator through the chain of command. The Regional Daily Report Coordinator shall submit a supplemental electronic mail to the DAPO Policy and Procedures Unit no later than 1630 hours. Information received after 1630 hours shall be included on the following business day's Daily Report.

#### **Policy and Procedures Unit Staff**

Policy and Procedures Unit staff shall prepare the Daily Report for the DAPO Director, and other staff designated by the DAPO Director, under timeframes and in a format prescribed by the DAPO Director.

#### **81050.4.1 Field Incident Report Package Forms**

The Field Incident Report package consists of the following forms:

- CDCR Form 1662-A, Field Incident Report: Part A-Cover Sheet
- CDCR Form 1662-B, Field Incident Report: Part B-Parolee Summary Information
- CDCR Form 1662-C, Field Incident Report: Part C-Employee Report
- CDCR Form 1662-C1, Field Incident Report: Part C1-Supplement Page

#### **81050.5 Confidential Report**

The following incidents are confidential and shall not be reported via Daily Report procedures:

- Investigations of DAPO staff.
- Threats against DAPO staff.

- DAPO staff misconduct or neglect requiring adverse action, as defined in Chapter 3, Article 22.
- Arrests of DAPO staff.
- Search warrants served on DAPO staff.
- When these incidents occur, they shall be reported to the RPA or CDRA through the chain of command. These incidents shall be reported on a CDCR Form 1617, Memorandum by the supervisor(s) of the affected DAPO staff.

#### **81050.6 Threats Against Public Officials or Their Families**

Any written or oral threat by an offender that threatens the life of, or serious bodily injury to, the President or Vice-President of the United States; the Governor of California; other state, county, or city officials; other officials; appointees of the Governor; BPH Commissioners and Deputy Commissioners; state or county judges; or any person related to the official by blood or marriage, shall be immediately reported and addressed with the following lines of responsibility and notifications.

##### **81050.6.1 Threats Against Public Officials Notification Procedures**

#### **DAPO Staff Who Receive the Threat**

All DAPO staff shall immediately report all threats received against a public official to their supervisor. The reporting employee shall complete the CDCR Form 1662-C and CDCR Form 1662-C1 within 24 hours of the receipt of the threat. The CDCR Form 1662-C and CDCR Form 1662-C1 shall document the following:

- Circumstances of threat: including the date, time, and location of threat.
- Details and circumstances relating to the threat; report shall also include information in the narrative section regarding what may have led to the offender's involvement in the incident.
- Source of information regarding the threat (if in written form) or a verbatim statement of the threat (if made verbally) shall be included in the report.

#### **Parole Agent**

- If the offender's location is known, arrest the offender in accordance with DAPO policy and procedures and book the offender into the county jail with the appropriate hold for the type of offender.
- If the offender's location is unknown, request an arrest warrant from the superior court for the county in which the offender is being supervised (or from the sending state) in accordance with current DAPO and county court policies and procedures for obtaining an arrest warrant.

#### **Unit Supervisor**

The unit supervisor or designee shall document the incident on the CDCR Form 1662-A, and the CDCR Form 1662-B. Both forms shall be completed within 24 hours of the discovery of the threat.

The forms shall document:

- Synopsis of threat.
- Parties involved.
- Name and title or position of staff member who received the threat.
- If the threat was from an offender, name and location of the offender making the threat, CDCR number, parole term status, and California Static Risk Assessment score at the time of the incident.
- Date received by CDCR.
- County of commitment.
- Commitment offense(s).
- Date paroled, or date DAPO supervision began.
- Discharge date.
- Special condition(s).
- Arrest and conviction history.
- Offender adjustment. Short summary of the offender's behavior while under DAPO supervision that may relate to the threat (A detailed review of the offender's adjustment is not required).
- Supervision category.

##### **81050.6.2 Threats Against Public Officials Mandatory Notification Procedures**

When DAPO staff receive a threat against a public official from an offender, the unit supervisor shall designate a parole agent to immediately complete the following telephone notifications. In addition to the notifications in the table below, the Chief of the Office of Correctional Safety shall be notified as soon as operationally feasible. These notifications shall be recorded on the CDCR Form 1650-D, Record of Supervision. The notified agency or agencies shall depend on the subject of the threat, according to the following:

Subject of threat:	Agency or agencies to be notified:
President or Vice President of the United States	United States Secret Service (nearest field office)
All other federal public officials (e.g., Congressperson, federal court magistrates, federal appointed positions, and federal employees)	<ul style="list-style-type: none"> <li>Federal Bureau of Investigation (nearest field office)</li> <li>United States Marshals Service (nearest field office)</li> </ul>
Governor of the State of California, all other state elected officials, state appellate court judges, state supreme court judges	California Highway Patrol, via any of the following: <ul style="list-style-type: none"> <li>Emergency Notification and Tactical Alert Center, <i>if information or evidence indicates the threat is imminent</i></li> <li>Capitol Communication Center (916) 445-2895</li> <li>Threat Assessment Unit (916) 327-5451</li> <li>Protective Services Division (916) 323-1514</li> </ul>
Board of Parole Hearings' staff	<ul style="list-style-type: none"> <li>Office of the Board of Parole Hearings' Executive Officer</li> <li>Board of Parole Hearings, Offender Investigations and Screening Division, Officer of the Day</li> </ul>
County court judges, commissioners, and local officials	County Sheriff's Department, or agency employing the official.

#### 81050.6.3 Entering Threat Information Into The Strategic Offender Management System

Within five business days of the day DAPO staff receive a threat, the parole agent shall add a Supervision Caution in the Strategic Offender Management System noting threats towards a public official.

#### 81050.6.4 Ongoing Notification Requirements

When an offender under DAPO supervision has previously made a threat towards a public official, the parole agent shall make the following notifications:

- If the offender absconds, a synopsis of the threat incident shall be documented in the warrant request, and the agency or agencies notified when the threat was made shall be notified that the offender has absconded.
- When the offender discharges from parole, the agency or agencies notified when the threat was made shall be notified.

#### 81050.7 Reporting Suspected Involvement in Terrorist Activity

Terrorism is defined in federal law as acts dangerous to human life that violate federal or state laws and are intended to intimidate or coerce a civilian population; influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by mass destruction, assassination, or kidnapping.

When a parole agent has reasonable suspicion that an offender's activities indicate the offender may become involved in any terrorist activity, the parole agent shall conduct a case conference with the unit supervisor. The parole agent shall document the evidence of reasonable suspicion and case conference on the CDCR Form 1650-D. If the unit supervisor concurs, the parole agent shall:

- Immediately notify the nearest Federal Bureau of Investigation field office if there is evidence of an imminent threat.

- Notify the Office of Correctional Safety, Criminal Intelligence and Analysis Unit, Terrorism Liaison Officer if there does not appear to be an imminent threat.

The parole agent shall continue to supervise the offender and shall not take any action that may interfere with another law enforcement agency's investigation of the offender.

If the unit supervisor does not concur, the parole agent may still provide notifications to the appropriate agency or agencies responsible for handling terrorism investigations as a concerned citizen.

#### 81050.8 Forwarding of Field Incident Reports to Division Headquarters

The regional Daily Report Coordinator shall ensure that all completed Field Incident Reports, including reports described in this article, as well as Use of Force reports, are forwarded to the Fidelity Assurance and Outcomes unit via electronic mail, to: [FidelityAssuranceandOutcomesUnit@cdcr.ca.gov](mailto:FidelityAssuranceandOutcomesUnit@cdcr.ca.gov).

#### 81050.9 Revision

The DAPO Director or designee shall ensure that this section is current and accurate.

#### 81050.10 References

PC § 76

18 U.S.C. § 2331

### ARTICLE 6 — INTERSTATE PROCEDURES

*Revised November 3, 2016*

#### 81060.1 Interstate Policy

(a) California is a member of the Interstate Compact for Adult Offender Supervision. This compact is the legal authority that permits an offender convicted of a crime in one state (sending state) to be supervised in another state (receiving state).

(b) Compact Offenders shall receive similar services as California parolees and shall be supervised in the same manner as a California parolee. The California Department of Corrections and Rehabilitation (CDCR) do not have the authority to place Compact Offenders in a California prison. If any section within Article 6 is in conflict with the published rules of the Interstate Commission for Adult Offender Supervision (ICAOS), the published rules of the ICAOS shall prevail. Any conflict that cannot be resolved shall be referred to the Interstate Compact Unit (ICU) for clarification.

#### 81060.2 Interstate Definitions

(a) California Adult Compact Commissioner

The Director, Division of Adult Parole Operations (DAPO), or designee.

(b) Cooperative Parolee

A person under supervision according to the provisions of the Interstate Compact for Adult Offender Supervision.

(c) Interstate Commission for Adult Offender Supervision

The ICAOS is charged with overseeing the day-to-day operations of the Interstate Compact for Adult Offender Supervision. Rules promulgated by the ICAOS shall have the force and effect of statutory law and shall be binding in the compacting states.

(d) Interstate Compact for Adult Offender Supervision

A formal agreement between member states that seeks to promote public safety by systematically controlling the interstate movement of certain adult offenders. California's participation is authorized by the Penal Code (PC). For purposes of this Article, this shall be herein referred to as "The Compact."

(e) Interstate Compact Offender Tracking System

The internet-based electronic database used by all parties of the ICAOS for communication, and the sending and receiving of ICAOS official forms. The ICU staff are responsible for accessing and using the Interstate Compact Offender Tracking System (ICOTS) in accordance with ICAOS rules.

(f) Interstate Compact Unit

The ICU coordinates the functions of ICAOS.

(g) Resident

A person who: (1) has continuously inhabited a state for at least one year prior to the commission of the offense for which the offender is under supervision; and (2) intends that such state shall be the person's principal place of residence; and (3) has not, unless incarcerated or on active military deployment, remained in another state or states for a continuous period of six months or more with the intent to establish a new principal place of residence.

(h) Sending State

The state requesting the transfer of an offender, or transfers supervision of an offender under the terms of the ICAOS and its rules.

(i) **Receiving State**

The state to which an offender requests transfer of supervision or is transferred.

(j) **Strategic Offender Management System**

The main CDCR database for storage of offender records.

(k) **Behavior Requiring Retaking**

An act or pattern of non-compliance with conditions of supervision that could not be successfully addressed through the use of documented corrective action or graduated response and would result in a request for revocation of supervision in the receiving state.

(l) **Behavior Not Requiring Retaking**

An act or pattern of non-compliance with conditions of supervision that can be addressed through remedial sanctions at the unit level.

### **81060.3 Interstate Areas of Responsibility**

The Compact Administrator is responsible for implementing the following functions through the ICU under provisions of the Compact:

(1) Administrative control of California parolees who are under the supervision of other states or in custody (state or federal) outside California [excluding Parolee-at-Large (PAL) cases].

(2) Acceptance, rejection, or termination of supervision of an offender under the Compact shall be made only with the involvement and concurrence of a state's compact administrator or the compact administrator's designated deputies.

(3) Informal assistance to CDCR staff and staff of other agencies supervising the offenders of other states.

(4) Process request for supervision of offenders from sending states requesting supervision in California.

(5) Generate a Person Identification (PID) number in the Strategic Offender Management System (SOMS) to identify the offender.

(6) Process states' requests for information and disseminate to the appropriate parole unit.

(7) Assist CDCR staff and staff of other agencies in processing reports on California parolees confined in other states.

(8) Process extradition and retake requests.

(9) Transmit violation reports and other notices to sending and/or receiving states.

### **81060.4 Distribution of Interstate Forms**

All ICAOS forms referred to in this article shall be placed on the department intranet site and accessible to the parole units, regional headquarters, and department headquarters. ICAOS forms are created and managed by the ICAOS and distributed to the states. DAPO staff shall use ICAOS forms to communicate with other states via the ICU. DAPO staff shall send all ICAOS forms electronically to ICU via the ICU electronic mail address: INTERSTATEPAROLE@cdcr.ca.gov.

### **81060.5 Compact Parolee Transfer Acceptance Policy**

No state shall permit an offender who is eligible for transfer under this Compact to relocate to another state except as provided by the rules of the ICAOS. California is not required to accept all transfer requests. Legal residents of California, or offenders with family residing in California who can locate employment may be accepted for Compact supervision. Offenders who are not residents or do not have family residing in California must have a compelling circumstance to be accepted for Compact supervision. An offender who is not eligible for transfer under the Compact is not subject to these rules and remains subject to the laws and regulations of the state responsible for the offender's supervision.

#### **81060.5.1 Supervision Conditions Prior to Transfer**

(a) A sending state shall inform the receiving state of any special conditions which the offender is subject to at the time the request for transfer is made or at any time thereafter. A receiving state that is unable to enforce a special condition imposed in the sending state shall notify the sending state of its inability to enforce a special condition at the time the request for transfer of supervision is made. The receiving state's inability to enforce a sending state's conditions/terms of supervision is not grounds for a Compact supervision denial.

#### **81060.5.2 Mandatory Acceptance Criteria**

(a) At the discretion of the sending state, an offender shall be eligible for transfer of supervision to a receiving state under the Compact and the receiving state shall accept transfer, if the offender:

- (1) Has more than 90 calendar days or an indefinite period of supervision remaining at the time the sending state transmits the transfer request; and
- (2) Has a valid plan of supervision; and

(3) Is in substantial compliance with the terms of supervision in the sending state; and

(4) Is a resident of the receiving state; or (1) has resident family in the receiving state who have indicated a willingness and ability to assist as specified in the plan of supervision; and (2) can obtain employment in the receiving state or has means of support.

### **(b) Immediate Issuance of Mandatory Reporting Instructions**

In accordance with ICAOS Rule 3.101-1, the receiving state shall issue mandatory reporting instructions no later than two business days following receipt of such a request from the sending state when:

(1) An offender who is a member of the military and has been deployed by the military to another state, shall be eligible for reporting instructions and transfer of supervision. A copy of the military orders or other proof of deployment for the military member shall be provided at the time of the request.

(2) An offender who lives with a family member who has been deployed to another state, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the military member in the receiving state. A copy of the military orders or other proof of deployment for the military member shall be provided at the time of the request.

(3) An offender whose family member, with whom he or she resides, is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment, shall be eligible for reporting instructions and transfer of supervision, provided that the offender will live with the family member in the receiving state. Documentation from the current employer noting the requirements shall be provided at the time of the request.

(4) An offender who is transferred to another state by their full-time employer, at the direction of the employer and as a condition of maintaining employment shall be eligible for reporting instructions and transfer of supervision. Documentation from the current employer noting the requirements shall be provided at the time of the request.

(5) An offender who is a veteran of the United States military services who is eligible to receive health care through the United States Department of Veterans Affairs, Veterans Health Administration and is referred for medical and/or mental health services by the Veterans Health Administration to a regional Veterans Health Administration facility in the receiving state shall be eligible for reporting instructions and transfer of supervision provided:

(A) The sending state provides documentation to the receiving state of the medical and/or mental health referral; and

(B) The transfer of supervision will be accepted if the offender is approved for care at the receiving state Veterans Health Administration facility.

(c) In all of these situations, the sending state shall provide documentation with the transfer request confirming the employment or need for care in the receiving state.

### **81060.5.3 Compact Offenders Transfer Procedures**

#### **(a) Interstate Compact Unit Staff**

Within three days of receipt refers the transfer request from the sending state to the appropriate parole region for parole unit assignment.

#### **(b) Regional Reentry Unit Screening Staff**

Within two working days of receipt provides the ICU with a parole unit assignment, based on the offender's proposed residence.

#### **(c) Parole Agent**

(1) Investigates transfer request to determine whether it meets acceptance criteria based on current ICAOS rules.

(2) Investigates proposed residence and determines:

(A) If the occupants of the proposed residence are willing to have the offender reside with them and there is a valid plan of supervision.

(B) If the sponsor(s) has the means and a willingness to assist the offender while in California.

(C) If any item or person already residing in the proposed residence would result in a violation of the law, jeopardize public safety, or a violation of conditions of parole necessary for supervision in the state of California, e.g., an occupant in the proposed residence storing a firearm.

(D) If the sending state's offender's conviction requires registration pursuant to PC 290 in California, and if the proposed residence is compliant with current sex offender residence requirements.

(3) Investigates proposed employment and/or training program(s) and determines:

(A) If, based on the nature of the offender's criminal history, the proposed employment or training program is inappropriate and will likely lead to future criminality.

(B) If the offender's proposed job and/or training duties will result in a violation of California law or conditions of supervision imposed by the sending and/or receiving state.

(C) If the prospective employer is aware of the offender's criminal background.

(4) Determines if special circumstances exist which will allow acceptance of a case that does not meet criteria.

(5) The parole agent shall document the steps of the investigation on the automated Record of Supervision by utilizing the PID number.

(6) **(Within 14 Calendar Days of Receipt of Case)** Completes “Reply to Transfer Request” ICAOS form. On this form the parole agent shall state reporting instructions if case is accepted; or state the reason for rejection if case is rejected based on current ICAOS rules.

(7) Provide a completed “Reply to Transfer Request” ICAOS form to the Unit Supervisor (US) for review.

**(d) Unit Supervisor**

(1) Reviews the automated Record of Supervision, “Reply to Transfer Request” ICAOS form and investigation material and takes the following actions:

(A) Conducts a verbal case conference with the parole agent to resolve any differences of opinion.

(B) Documents the outcome of the investigation in the Offender Investigation comment section of SOMS and closes the offender investigation if applicable.

(C) Submits “Reply to Transfer Request” ICAOS form to the ICU for processing to the sending state.

(D) Ensures the “Reply to Transfer Request” ICAOS form is received by the ICU no later than 14 calendar days from the day the ICU sent the transfer request to the parole unit.

**(e) Interstate Compact Unit Supervisor**

(1) Reviews transfer investigation package and:

(A) Makes final determination based upon current ICAOS rules whether a case is accepted or rejected for supervision.

(B) Forwards “Reply to Transfer Request” ICAOS form, with reporting instructions if the case is accepted, to the sending state via the ICOTS system.

(C) In order to maintain compliance with the rules of ICAOS and DAPO policy, reserves the right to accept the case on a parole unit’s behalf if the “Reply to Transfer Request” is not received by ICU within specified timelines as described in this article.

**(f) Assigned Parole Agent**

(1) If the offender does not report within five business days of the specified reporting instructions and California has received notice of the offender’s departure, the parole agent shall submit a “Notice of Arrival/Failure to Report” ICAOS form to ICU.

**81060.6 Compact Offenders Case Supervision Policy**

Compact Offenders shall be supervised in a manner determined by the receiving state and consistent with the supervision of other similar offenders sentenced in the receiving state. A Compact Offender shall be supervised with the same specifications according to the California Parole Supervision Reintegration Model (CPSRM); or if the Compact Offender is required to register per PC 290, according to the specifications of the Sex Offender Management Program (SOMP).

**81060.6.1 Compact Offenders Case Supervision Procedures**

**(a) Parole Agent (When a Compact Offender or Concurrent Case Reports)**

(1) Completes CDCR Form 1650-B, Initial and Comprehensive Interview.

(2) Creates case-specific Notice of Conditions and Special Conditions of Parole in SOMS, and serves the Compact Offender when the offender reports in the same manner as a California parolee.

(3) Completes “Notice of Arrival” ICAOS form, specifying the effective date as the date the offender reports to the parole unit, or the date on which case is accepted, if the offender is already in California.

(4) Electronically sends “Notice of Arrival” ICAOS form directly to the ICU.

**(b) Unit Supervisor**

(1) Enters the “Notice of Arrival” supervision event in SOMS.

**(c) Interstate Compact Unit Staff**

(1) Enters case openings, closings, and transfers into SOMS and ICOTS.

(2) Enters the “Notice of Arrival” ICAOS form into ICOTS specifying the effective date as the date the offender reports to the parole unit or the date on which the case is accepted if offender is already in California.

**(d) Parole Agent**

(1) Supervises case in accordance with Department Operations Manual, Chapter 8, Article 2, Case Supervision. The “Progress Report” ICAOS form will be requested by the sending state through the ICU. Upon receipt of such a request, the ICU will forward the request to the assigned parole agent, Parole Agent II, Assistant Unit Supervisor (AUS) and Parole Agent III, Unit Supervisor. To ensure timelines are met, the ICU will also include a date of when the “Progress Report” ICAOS form is due. If a sending state has requested information that is not available in the “Offender Violation” ICAOS form or “Progress Report” ICAOS form, the parole agent shall note that in the report. The parole agent shall also include in the report the anticipated date

the information will be available, and will forward the information to the ICU upon receipt.

(2) The “Progress Report” ICAOS form shall be completed at any time upon request of the sending state and submitted to the ICU within 20 calendar days of the request. The parole agent shall complete a “Case Closure Notice” ICAOS form, and submit the form to the sending state via the ICU whenever any of the following occurs:

(A) The date of discharge indicated for the Compact Offender at the time of application for supervision unless informed of an earlier or later date by the sending state.

(B) The absconding of the Compact Offender from supervision in the receiving state.

(C) The Compact Offender has been sentenced to incarceration for 180 calendar days or longer. In this case, the parole agent shall submit sentencing documents and information about the Compact Offender’s location to the ICU.

(D) Discovery of the death of the offender.

(E) The Compact Offender returns to the sending state.

(3) The parole agent shall continue supervision of the Compact Offender until ICU closes the case in SOMS. After closure, the parole unit shall maintain the field file according to current DAPO policy.

**81060.6.2 Obtaining Fingerprints, Palm Prints, and DNA Sample Policy**

(a) Offenders accepted for supervision in California are required to submit fingerprints, palm prints, and Deoxyribonucleic Acid (DNA) samples pursuant to PC 296.1(a)(5)(A). If a Compact Offender refuses to comply with instructions to submit the sample, this shall be considered a behavior requiring retaking. Pursuant to PC 296.1(a)(5)(B), the samples must be obtained at the county jail, or other location designated by the county, in the county where the Compact Offender resides within five calendar days of reporting to DAPO. If the county refuses to obtain the samples, at no fault of the Compact Offender, this shall not be considered a violation. After reasonable attempts, if county jail staff will not obtain the samples, the parole agent shall obtain the fingerprints, palm prints, and DNA sample in the same manner as a California parolee.

**81060.6.3 Obtaining Fingerprints, Palm Prints, and DNA Sample Procedures**

**(a) Parole Agent**

(1) During the initial interview, the parole agent shall instruct the Compact Offender to report to the county jail or other designated location for palm prints and DNA sample collection.

(2) Record interactions with county jail staff and efforts made to coordinate obtaining the samples on the automated Record of Supervision.

(3) If the county staff are unable to obtain the sample, the parole agent shall obtain the fingerprints, palm prints, and DNA sample in the same manner as a California parolee.

(4) Document on the automated Record of Supervision.

(5) The fingerprint card shall be mailed to the ICU.

(6) The DNA sample shall be submitted to the location designated by the California Department of Justice.

**81060.7 Compact Offenders Conditions of Parole**

(a) Compact Offenders are subject to supervision conditions of both the receiving and sending state. When the offender signs the “Offender’s Application For Interstate Transfer” ICAOS form and the case is accepted, it is understood that the Compact Offender must obey the rules of the receiving state as well as the rules of the sending state. At the time of acceptance or during the term of supervision, the compact administrator or supervising authority in the receiving state may impose a special condition on a Compact Offender if that special condition would have been imposed on the offender if sentence had been imposed in the receiving state.

(b) In accordance with ICAOS Rule 4.109-1, Compact Offenders who violate the supervision conditions of either state, or who are a danger to others, themselves, or to property of others, may be placed in custody under a California Interstate Parole Hold (PC 3056 and 11177.1).

**81060.7.1 Changes to an Offender’s Supervision Conditions**

A receiving state shall notify a sending state that it intends to impose or has imposed a special condition on the offender, the nature of the special condition, and the purpose.

**81060.8 Compact Offenders Transfer Between Parole Units Policy**

Procedures for transferring Compact Offender cases between parole units are not subject to county of last legal residence policies. Transfer will only be made on the basis of an approved residential, employment, or education program and shall be processed in the same manner as transfers of parolees between parole units in different counties; however, a closed county shall accept a Compact Offender if an otherwise valid reason for the transfer exists.

**81060.8.1 Compact Offender Transfer Between Parole Units****Parole Agent**

Prepares transfer summary on the Electronic Transfer Investigation Request function in SOMS.

**81060.8.2 Compact Offenders Transfer and Travel to Subsequent State Procedures****(a) Parole Agent**

(1) At the request of a Compact Offender to transfer to a subsequent receiving state, the parole agent shall:

(A) Assist the sending state in acquiring the Compact Offender's signature on the "Application for Interstate Compact Transfer," ICAOS form and any other forms that may be required by the rules of ICAOS.

(B) Complete a "Progress Report" ICAOS form.

(C) Submit the forms to ICU for transmission to the sending state.

(D) Upon notification that the subsequent transfer has been approved and receipt of reporting instructions from the sending state, issue a travel permit according to current DAPO policy and consistent with ICAOS rules and provide to the Compact Offender.

(E) Submit the "Case Closure Notice" ICAOS form to ICU after the Compact Offender leaves California.

**81060.8.3 Compact Offenders Move to Third State Without Permission Procedures****Parole Agent**

A Compact Offender under DAPO supervision who moves to a subsequent state without permission from the sending state shall be considered at large and the parole agent shall proceed according to 81060.8.4.

**81060.8.4 Compact Offenders-At-Large Procedures**

(a) If there is reason to believe that a Compact Offender has absconded, the parole agent shall attempt to locate the Compact Offender in the same manner as a California parolee and in accordance with ICAOS Rule 4.109-2. Such activities shall include, but are not limited to:

(1) Conducting a field contact at the last known place of residence.

(2) Contacting the last known place of employment, if applicable.

(3) Contacting known family members and collateral contacts.

**(b) Parole Agent**

When probable cause exists that a Compact Offender has absconded, within one working day the parole agent shall complete the "Offender Violation Report" ICAOS form and the "Case Closure Notice" ICAOS form, stating the evidence of absconding, documenting the steps taken to locate the Compact Offender, and submit the form to the US. On the form the parole agent shall request that a warrant be issued by the sending state. The parole agent shall also document steps taken to locate the Compact Offender on the automated Record of Supervision.

**(c) Unit Supervisor**

The US shall review the "Offender Violation Report" ICAOS form and submit it to ICU via electronic mail.

**(d) Further procedures**

Once the sending state issues a warrant for the Compact Offender's arrest, the parole unit shall retain the field file indefinitely in the event the Compact Offender is arrested in California. The field file may be purged after 12 months, once the Compact Offender has been arrested on the warrant and returned to the sending state.

**81060.9 Compact Offender's Violation Addressed with Remedial Sanctions Procedure**

(a) Pursuant to PC 11177.1, PC 11180, and ICAOS Rule 4.109-1, CDCR has the authority to impose conditions of parole and instructions as needed to address a violation with remedial sanctions. When the parole agent discovers probable cause that a Compact Offender has violated his or her conditions of parole, the parole agent shall:

(1) Conduct a verbal case conference with the US and document the result of the case conference on the automated Record of Supervision.

(2) Enter the charge(s) in the Parole Violation Disposition Tracking System (PVDTS) within required timeframes.

(3) Complete the automated Parole Violation Decision Making Instrument (PVDMI) within required timeframes.

(4) Upon concurrence from the US, impose the remedial sanction(s) and instruct the Compact Offender as necessary.

(b) Within five business days, document the violation(s) on a "Progress Report" ICAOS form, as a behavior not requiring retaking, and also document

the incentives, corrective actions or graduated responses on the automated Record of Supervision. Upon US approval of imposed remedial sanctions, electronically submit the "Progress Report" ICAOS form and supporting documents to the ICU.

**81060.10 Compact Offender Violation Addressed with Revocation Procedure**

(a) CDCR has the authority to arrest and detain Compact Offenders suspected of violations of supervision conditions. ICAOS Rule 5.108(d) provides offenders the following rights:

(1) Written notice of the alleged violation(s).

(2) Disclosure of non-privileged or non-confidential evidence regarding the alleged violation(s).

(3) The opportunity to be heard in person and to present witnesses and documentary evidence relevant to the alleged violation(s).

(4) The opportunity to confront and cross-examine adverse witnesses, unless the hearing officer determines that a risk of harm to a witness exists.

(b) In the state of California, the superior court for the county having jurisdiction over the county where the Compact Offender is being supervised has the jurisdiction to hold a good cause hearing.

(c) If the violation has resulted in a new felony charge being filed against the Compact Offender by the local district attorney, a separate hearing to adjudicate the violation is not required.

**81060.10.1 Compact Offender Revocation and Hearing Procedures****(a) Parole Agent**

(1) If conduct rises to the level of behavior requiring retaking, the parole agent shall:

(A) Conduct a verbal case conference with the US and document the result of the case conference on the automated Record of Supervision.

(B) Upon US approval, arrest and book the Compact Offender into the county jail where the hearing should be held. The Compact Offender shall be booked under the PC 3056 and 11177.1, Interstate Parole Hold. The parole agent shall contact the Warrant Unit to have an "INTERSTATE PAROLE HOLD" sent by teletype to the appropriate facility.

(C) Complete the Probable Cause Determination (PCD) by the deadlines identified in PVDTS.

(D) Complete the automated PVDMI, and automated Parole Violation Report, by the deadlines identified in PVDTS.

(E) Upon completion of the automated Parole Violation Report, complete the "Offender Violation Report" ICAOS form and submit supporting documents for review to the US.

(2) The "Offender Violation Report" ICAOS form shall contain the following information:

(A) The offender's name, state-issued identifying numbers, and current location.

(B) The date and description of the behavior requiring retaking.

(C) The date, description, and documentation regarding the use of incentives and corrective actions, including graduated responses or other supervision techniques to address the behavior(s) requiring retaking in the receiving state.

(D) The offender's response to such actions.

(E) The date, description, and documentation regarding the status and disposition, if any, of the offense(s) or behavior(s) requiring retaking up to and including any previous non-compliance, to include a description of the use of corrective actions, graduated responses, or other supervision techniques.

(F) The name and title of the parole agent making the report.

(G) If the offender has absconded parole supervision, the offender's last known address and telephone number, name and address of the offender's employer, and the date of the offender's last personal contact with the supervising parole agent including details regarding how the supervising parole agent determined the offender to be an absconder.

(H) Supporting documentation regarding the violation.

(3) Attend court hearing(s), if subpoenaed.

**(b) Unit Supervisor**

(1) Upon a case conference review that the Compact Offender's conduct rises to the level of behavior requiring retaking, the US shall:

(A) Review the violation packet, complete the supervisor's portions, and after the notice agent serves the offender idle the case.

(B) Review the "Offender Violation Report" ICAOS form within one business day and submit the report to ICU via electronic mail.



(C) Upon notification from ICU that a Probable Cause Hearing (PCH) has been requested, remove the case out of idle and refer for revocation in PVDTS.

(D) Ensure that court hearings are attended by DAPO staff, if subpoenaed.

(E) Ensure the PC 3056 and 11177.1 hold is lifted within 24 hours and that the parole agent continues supervision of the Compact Offender, if the superior court does not find "good cause."

(F) Ensure minute orders are obtained and scanned into PVDTS and sent to the ICU via electronic mail within 24 hours, if the superior court does find "good cause."

(G) Ensure the PC 3056 and 11177.1 hold remains in place pending a detainer from the sending state for the parolee to be retaken by the sending state.

**(c) Interstate Compact Unit Administrator or Designee**

(1) Upon receipt of an "Offender Violation Report" ICAOS form, the ICU shall:

(A) Review the "Offender Violation Report" ICAOS form.

(B) Submit the completed "Offender Violation Report" ICAOS form to the sending state via ICOTS within ten business days of receipt from parole units, and no later than 30 days from date of violation discovery.

(C) Upon receipt of instructions from the sending state, ensure the parole unit complies with those instructions.

(D) If the sending state requests a PCH, within two business days, notify the Unit Supervisor of the assigned parole unit and the Court Compliance Unit by electronic mail.

**81060.10.2 Compact Offenders Who Commit a New Law Violation Procedures**

**Parole Agent**

**(a) Parole Agent**

(1) Discovers new criminal charges have been filed in a California court against a Compact Offender.

(2) If the Compact Offender was arrested, places an Interstate Parole Hold pursuant to PC 3056 and 11177.1, as described in Section 81060.10.1.

(3) Obtains police report(s), court docket number, and upcoming court date(s), within the timeframes for California parolees in custody on a parole hold.

(4) Completes the Probable Cause Determination (PCD), automated PVDMI, and automated Parole Violation Report, then attaches all documents relevant to the violation and submits the automated PVDMI to the US. Include the docket number, next known court hearing date, and charges filed against the Compact Offender in the "Court Information" section.

(5) Completes the "Progress Report" ICAOS form, and attaches all documents relevant to the violation, and submits the report to the US.

(6) Advises ICU of all pending court proceedings and/or dispositions via electronic mail.

(7) Supervises the case according to current DAPO policies and procedures.

**(b) Unit Supervisor**

(1) Reviews the PCD, automated PVDMI, automated Parole Violation Report, and completes the supervisor's portions.

(2) Reviews the "Progress Report" ICAOS form and submits the report to the ICU via electronic mail.

(3) After approving the PCD, automated PVDMI, and automated Parole Violation Report, idles the case in PVDTS.

(4) Ensures all pending court proceeding updates are submitted to ICU via electronic mail.

(5) Ensures all disposition minute orders are submitted to ICU via electronic mail.

(6) Ensures any instructions from the sending state are followed.

**(c) Interstate Compact Unit Administrator or Designee**

(1) Reviews the "Progress Report" ICAOS form and enters the report into ICOTS.

(2) Submits the "Progress Report" ICAOS form to the sending state via ICOTS.

(3) Upon receipt of instructions from the sending state, ensures the parole unit complies with those instructions.

(4) Monitors and tracks pending court procedures and dispositions.

(5) Upon receipt of a minute order with a conviction of new law violation(s), submits an "Offender Violation Report" ICAOS form to the sending state via ICOTS.

(6) If the local charges are dismissed and it is determined that the offender's behavior still rises to the level of behavior requiring retaking, ICU has the discretion to submit an Offender Violation Report to the sending state.

**81060.11 California Interstate Parolee Transfer Investigation Policy**

A request by a California parolee to move to another state will first be evaluated to determine compliance with Interstate Compact requirements before the submission of a transfer investigation request. The parolee shall not be allowed to travel to the receiving state pending investigation unless prior approval is obtained from ICU. The receiving state shall not be contacted directly by the parole agent. Any necessary telephone contact with receiving state shall be made by ICU. Parolees with special conditions of parole shall not be allowed to transfer to another state unless receiving state indicates ability to enforce the special condition or the special condition is removed. No California parolee shall be allowed to transfer his or her parole supervision to another state until all restitution orders and fines ordered to be collected by CDCR are satisfied.

Prior to submission of the transfer request, the parole agent shall make a reasonable effort to verify the California parolee's claims of the proposed address and support. The parole agent shall conduct a case conference with the US to determine if the California parolee has a valid plan.

**81060.11.1 California Interstate Parolee Transfer Victim Notification**

(a) Upon submission of a Request for Reporting Instructions and/or Transfer Request the US shall inform any known victim(s) on departmental letterhead of their right to be heard.

(1) The subject line of the letter shall state, "Victim's Right to Be Heard and Comment."

(2) The letter shall advise victim(s) of offender's request to transfer out of state and the victim's right to be heard.

(3) The letter shall advise the victim(s) they have 15 days to respond to the US from the date of letter.

(b) Upon receipt of a victim's comments, the US shall consider their comments relating to the Transfer Request.

(1) Victim's comments shall remain confidential.

(2) If the US determines that the victim(s) is/are deemed at-risk by the approval of the offender's Transfer Request, then the US shall contact the ICU via electronic mail requesting withdrawal of the transfer if one has already been submitted.

(3) The US shall respond to the victim no later than five business days following receipt of the victim's comments, indicating how the victim's concerns will be addressed.

(4) The US shall send a copy of the "Victim's Right to Be Heard and Comment" letter and copies of all correspondence received from the victim via electronic mail to ICU at [Interstateparole@cdcr.ca.gov](mailto:Interstateparole@cdcr.ca.gov).

(5) The US shall send a copy of the "Victim's Right to Be Heard and Comment" letter and copies of all correspondence received from the victim via electronic mail to Parole Case Records for entry into SOMS.

(c) The US shall document all correspondence and attempts to notify victim(s) and document all actions to show compliance with ICAOS Rule 3.108-1, including type of contact, letters sent, responses received, victim concerns, and services provided on the automated Record of Supervision.

(d) For purposes of complying with ICAOS Rule 3.108-1, DAPO defines identified victim(s) as those who have completed a CDCR Form 1707, Request for Victim Services, and have requested notification of changes to an offender's status.

**(e) Parole Case Records**

(1) Upon receipt from a parole unit of a "Victim's Right to Be Heard and Comment" letter or a copy of the victim's response to the "Victim's Right to Be Heard and Comment" letter, Parole Case Records staff shall: select the menu option "Victim Notification," in SOMS under the "Offender" tab, select "Notification Request," select the name of victim who submitted a "Victim's Right to Be Heard and Comment," scan document and file it electronically within victim's record.

**81060.11.2 California Interstate Parolee Transfer Investigation Procedures**

**(a) Parole Agent**

(1) The parole agent shall complete the Interstate Transfer Request package and submit the package to ICU electronically. ICU will enter the package into the ICOTS system. At a minimum, the package will include:

(A) "Offender's Application for Interstate Compact Transfer" ICAOS form, signed by the California parolee and the parole agent who witnesses the California parolee's signature.

(B) "Transfer Request" ICAOS form.

(C) Signed, automated Notice and Conditions of Parole, and any Addendums, or the Notice of Conditions and Special Conditions of Parole created in SOMS.  
 (D) Abstract of Judgement for the commitment offense.  
 (E) Probation Officer's Report and Police Report, if available, documenting the commitment offense.

(F) Photograph of the offender.

(G) Criminal Identification & Information Report copied from the field file.

(H) Confirmation from the CDCR Office of Victim Services and Survivor Rights that the California parolee satisfied all restitution owed.

(I) A CDCR Form 1502, Activity Report, summarizing the parolee's conduct on parole, need for transfer, any violations, and any medical or mental health problems.

(J) If the transfer request is for a treatment program, a letter on letterhead from the program stating that the parolee is accepted into the program and has a space available for the parolee.

(K) An acceptance letter from a training program, college or university, or employer, if applicable.

(L) If the parolee is a sex offender, the following documents, if available, shall also be included in the transfer request:

1. A copy of the parolee's most recent registration, California Department of Justice Form 8102, Sex Registration/Address Change/Annual or Other Update.

2. Assessment information, including any sex offender specific risk assessments.

3. Law enforcement report that provides specific details of sex offense.

4. Victim information, including the name, sex, age, and relationship to the offender; and the victim's statement or statement from the victim's representative.

5. The sending state's current or recommended supervision and treatment plan.

(2) Document actions completed by the parole agent, including any victim concerns or right to be heard, shall be documented in the automated Record of Supervision.

(3) Advises parolee if request is rejected.

(4) Proceeds as follows if case is accepted:

(A) Special conditions will be removed or transfer will be denied if receiving state cannot provide compliance with special conditions of parole.

(B) Notifies parolee of transfer decision and gives specific reporting instructions to the parolee based on the response from the receiving state.

(C) Complete "Notice of Departure" ICAOS form and submit the form to the ICU on the day of the parolee's departure or within one business day of departure. Upon notification from the ICU that the parolee has arrived in the receiving state, complete a CDCR Form 1502 Activity Report recommending the case be transferred to the ICU for continued supervision.

(D) Transfers the case to ICU and forwards the field file and all CDCR Form 1650-D(s) to ICU.

(E) Life-term offender cases accepted by the ICU for out of state transfer of parole must be reviewed and confirmed by the Board of Parole Hearings (BPH) before being granted placement in the desired state. If necessary, the geographic placement shall be amended or vacated.

(F) Ensure there are no victim/witness concerns within the desired state, as documented on the offender's special conditions of parole.

#### (b) Unit Supervisor

(1) Ensure field file is in compliance with current DAPO policy and forwarded to the ICU within five business days.

#### (c) Interstate Compact Unit Staff

(1) Forwards completed investigation packages to receiving state via the ICOTS system.

(2) Ensures a letter pursuant to ICAOS Rule 3.108-1 notifying victims of their "Victim's Right to Be Heard and Comment" regarding an offender's Transfer Request has been sent to the victim(s), a letter responding to the victim(s) concerns has been sent, and that the correspondence has been entered into SOMS under the "Notification Request" section prior to an approved "Reply to Transfer Request" ICAOS form being sent to the parole unit.

(3) Forwards "Reply to Transfer Request" ICAOS form to the parole unit.

(4) Forwards a "Notice of Departure" ICAOS form from the parole unit to the receiving state via ICOTS.

(5) Upon receipt of a "Notice of Arrival" ICAOS form from receiving state, forward to the parole unit and request that the field file be sent to ICU within five business days.

### 81060.12 California Interstate Parolee Return to California Procedures

(a) In accordance with ICAOS Rule 5.103, a California Interstate parolee will be returned to California when the parolee commits a behavior requiring retaking violation, absconds from supervision in the receiving state, when the parolee is convicted of a new felony offense, or when the parolee is convicted of a misdemeanor with an element of violence. The following staff procedures shall be followed upon ICU's notification of a parolee's arrest:

#### (1) Interstate Compact Unit Staff

(A) Manually initiate a case in PVDTS.

(B) Complete the automated PCD and idle the case.

(C) Monitor the parolee's court status to determine the parolee's availability to return to California.

(D) Collect all available court documents, including but not limited to, the minute order, probation officer report, or police reports, of the violation and upload them into the PVDTS packet.

(E) Make arrangements with the Extradition Unit for transportation of the parolee back to California with the CDCR Statewide Transportation Unit if the parolee is in custody. If the parolee is not in custody, provides reporting instructions for the parolee's return.

(F) Send the field file with all supporting documents to the originating parole unit in California via overnight courier, on the first business day following the final transportation arrangements or submission of reporting instructions.

#### (2) Parole Unit Parole Agent

(A) The parole agent shall be responsible for making a recommendation to the unit supervisor if the parolee should be continued on parole, or if the violation committed in another state should be addressed with a revocation. Upon returning to California, the parole agent shall:

1. Conduct a verbal case conference with the US no later than close of the next business day following the parolee's return to California.

2. If the decision is made to refer for revocation, proceed with filing a Petition for Revocation.

3. If the parolee fails to return to California by the date ordered, request a Code 2, NCIC warrant for the parolee's arrest from the superior court.

4. The parolee shall not be permitted to return to the state previously approved under the initial transfer request. A new transfer request must be submitted via the ICU.

### 81060.13 California Interstate Parolee-At-Large Policy

A California Interstate parolee (a California parolee supervised in another state) absconds when the parolee becomes unavailable for supervision. A suspension action and warrant are necessary to arrest and detain any California Interstate parolee who is not in California or the authorized receiving state. California Interstate absconders whose warrant was issued prior to July 1, 2013, will be reported to the Board of Parole Hearings (BPH). California Interstate absconders whose warrant was issued on or after July 1, 2013, will be addressed with a remedial sanction or filing of a Petition for Revocation in the superior court for the county where the parolee was last supervised prior to being transferred to another state. Should anything in this section conflict with county superior court procedures, the county superior court procedures shall prevail.

#### 81060.13.1 California Interstate Parolee Absconding Procedures

##### Interstate Compact Unit Parole Agent

Upon being notified by the receiving state that a California Interstate parolee has absconded from supervision in the receiving state the ICU parole agent shall:

- Complete Judicial Council of California Form CR-301, Warrant Request and Order, and MC-031, Attached Declaration if needed, and enter them into the PVDTS system.
- Notify the Court Agent for the California county where the parolee was supervised prior to the parolee's transfer to another state. The Court Agent will submit the Warrant Request and Order to the appropriate Court for review and/or approval and provide the parole agent with a copy of Court's decision.
- Upon issuance of the warrant, the ICU parole agent shall notify the receiving state via the ICOTS system.
- When the parolee is apprehended, the ICU parole agent shall ensure a detainer is in place and submit a Judicial Council of California Form CR-302, Request to Order and Recall Warrant, via the PVDTS system.
- When the parolee is available for extradition the ICU parole agent shall proceed as described in section 81060.14.

**81060.14 Extradition Policy**

(a) A parolee is an absconder anytime the parolee leaves California without permission, does not return to California on the date specified on a travel permit, or is arrested outside of California for an outstanding PAL warrant. All arrests and parole violations committed by California parolees outside California shall be reported to BPH if the warrant was issued prior to July 1, 2013. All warrants issued by a California superior court on or after July 1, 2013 shall be resolved with remedial sanctions or by the filing of a Petition for Revocation in the county where the warrant was issued.

(b) A California detainer cannot be issued to arrest or detain a California parolee who is outside California until the BPH or superior court issues a warrant, suspends parole, and orders return to California. A California parolee who is suspended and is in custody outside California (with no criminal prosecution pending in the other jurisdiction) must be returned to California if the recommendation is to refer to BPH or the superior court for revocation proceedings. A parolee is not entitled to a revocation hearing in another state. Prior to extraditing the parolee, the parolee shall receive a discharge review by BPH, if BPH has discharge jurisdiction over the parolee. BPH may act to discharge the parolee or BPH may take no action. If BPH takes no action the parolee will be returned to California. In cases where the commitment offense occurred after June 27, 2012, the parole agent shall submit a discharge review in PVDTS. If DAPO discharges the parolee, the parole agent shall ensure that the warrant is cancelled and the holding facility removes the detainer. If DAPO acts to retain the parolee, the parole agent shall proceed in Section 81060.14.1.

(c) If the parolee is not returned to California within 90 days of filing the detainer, the parole agent shall issue reporting instructions to the holding facility for the parolee to report to California after release.

**81060.14.1 California Parolee Arrested Outside California Procedures****(a) Extradition Unit**

(1) Upon being notified of the arrest of a parolee for an outstanding PAL warrant, the Extradition Unit shall:

(A) Send the CDCR Form 1737, Extradition Data Worksheet via electronic mail to the US, the AUS, and the parole agent.

(B) Send the CDCR Form 1737, to the BPH Special Processing Unit via electronic mail.

(C) The Extradition Unit shall proceed with the extradition process unless BPH or DAPO act to discharge the parolee and submits the decision to the Extradition Unit.

**(b) Parole Agent**

(1) If the parole agent discovers the parolee was arrested out of state via any method other than the California Law Enforcement Telecommunications System, the parole agent shall determine the arrest and custody location information and notify the Warrant Unit.

(2) Upon receiving the CDCR Form 1737, Extradition Worksheet, enter all known charges into PVDTS and complete the automated PCD within required timeframes.

(3) Complete an abbreviated automated Discharge Review Report within PVDTS timeframes using the Discharge Review function. The type of Discharge Review will be "Extradition."

(4) Enter "Out of State" in the Current Location, County of Arrest, and Current County of Custody in PVDTS.

(5) Ensure the State and current location of the offender is identified within the narrative of the Discharge Review Report.

(6) PVDTS will automatically forward the automated PCD and Discharge Review Report to BPH to conduct a discharge review.

(7) If BPH acts to discharge the parolee, the parole agent shall ensure the warrant is cancelled and the detainer is removed.

(8) If BPH takes no action, the parole agent shall proceed with the revocation process.

(9) Upon the return of the parolee to California, file the Petition for Revocation in the superior court that issued the warrant.

**(c) Unit Supervisor**

(1) Ensure detainer is in place at the facility holding the parolee.

(2) Ensure the signed CDCR Form 1515 is submitted electronically to the Extradition Unit at [Extradition@cdcr.ca.gov](mailto:Extradition@cdcr.ca.gov).

(3) Complete the Probable Cause Determination step in PVDTS indicating at least one charge is true.

(4) Idle the case in PVDTS pending return to California.

(5) Activate the case upon return to California.

(6) Ensure the parole agent and Court Agent file the Petition for Revocation in superior court by the due dates indicated in PVDTS.

(7) If the parolee is continued on parole by the Administrative Review Officer (ARO) upon release from custody, ensure the parolee is supervised according to current DAPO policies and procedures.

**81060.15 California Parolee Revocation Period Policy**

If a parolee is extradited to California for revocation proceedings, the revocation period begins when the parolee detained by BPH or superior court warrant is filed as a detainer with the holding facility. A parolee is available for return to California when any local prosecution or sentence is completed, and one of the following occurs:

- Extradition is waived.
- Extradition is ordered by the court in the other state.

**81060.16 Concurrent Parolee Supervised in California Violation Policy**

The superior court may revoke the California parole of any concurrent parolee supervised in California.

**81060.17 Appeal Policy**

An offender, whether supervised in California or in a receiving state, may appeal decisions, actions, or policies of CDCR that the offender can demonstrate adversely affect the offender. A Compact Offender may also appeal decisions, actions, or policies of CDCR that the parolee can demonstrate adversely affect the offender's welfare.

**81060.17.1 Appeal Procedures****Parole Agent (During Initial Interview)**

Reviews appeal process and current forms with the offender.

**81060.18 Special Investigation Policy**

Special Investigation Requests are from another state seeking information about an offender who has been arrested in California and may be in a local custody facility. Other types of information may also be requested by other states.

**81060.19 Special Investigation Procedures****Interstate Compact Unit Staff**

Forwards Special Investigation Request to appropriate region.

**Regional Screener**

Forwards Special Investigation Request to appropriate parole unit.

**Unit Supervisor**

Assigns Special Investigation to parole agent.

**Parole Agent (Within 30 Days of Receipt of Investigation)**

Secures information requested by other state.

Prepares report for requesting state on "Compact Action Request" ICAOS form, or as directed by requesting state.

Forwards original Investigation Report and any supporting documents to requesting state and a copy to ICU.

**81060.20 Revisions**

The DAPO Director shall ensure the contents of this article are accurate and current.

**81060.21 References**

PC §§ 296.1, 3059, 11175, 11176, 11177, 11177.1, 11177.2, 11180, 11181, 11192, 11193, 11194 and 11195

CCR (15) (2) §§ 2731, 2732, and 2733

CCR (15) (3) § 3478

ICAOS Rules 3.101-1, 3.108-1(a), 4.109-1, 4.109-2, 5.103, 5.108, 5.108(a), and 5.108(d)(4)

DOM Chapter 8, Article 2

**Revision History**

Revised: November 3, 2016

Revised: December 12, 2019

**ARTICLE 7 — CASEWORK SERVICES**

*Effective August 28, 1989*

**81070.1 Policy**

Cash assistance funds are loans to parolees or discharges intended to be used when other funds or resources are not available. Cash assistance loans are not part of the bank draft system. A determination of how much money is needed is a matter of judgment, and circumstances will generally differ from case to

case. Care shall be taken in deciding whether to make a loan. Repayment of loans is expected when the person's employment and personal circumstances permit. It is the agent's responsibility to periodically review cash assistance records and request parolee to make repayment where possible. A clerical staff (not the fund custodian) shall be designated as the cash assistance clerk.

#### **81070.1.1 Cash Assistance Procedures**

##### **Cash Assistance Clerk**

Issues Cash Assistance Loan Receipt Book and Cash Assistance Repayment Receipt Book to Parole Agent.

##### **Parole Agent**

Reviews request for cash assistance loan to determine the need for a loan.

Obtains unit supervisor's approval for any loan in excess of \$50.

Obtains unit supervisor's prior approval if loans to an individual parolee within any 30-day period will exceed \$150.

Completes CDC Form 1509.

Releases loan funds to parolee and obtains receipt.

Distributes completed copies of CDC Form 1509, Loan Receipt to:

- Original attached to Parole Agent travel expense claim;
- Yellow and pink copies are provided to the cash assistance clerk.
- Green copy remains in the receipt book.

Delivers all monies collected from parolees or discharges to cash assistance clerk.

##### **Unit Supervisor**

Verifies that the Cash by Agent portion of the Loan Receipt agrees with the Parole Agent's request for reimbursement on travel expense claim for that month.

#### **81070.2 Bank Draft Usage Policy**

Bank drafts are to be used for casework services. Bank drafts shall state the specific purpose for which the loan is intended; e.g., housing, food, clothing, etc. The intent of the Bank Draft System is to improve vendor-user-state agency relations by allowing parolees and discharges to pay immediately for over-the-counter purchases. The bank draft can be made payable to:

- Vendor.
- Parolee with (CDC number).
- Parolee and vendor (jointly).

Approval for use of the Bank Draft System shall be obtained from Financial Management and Support Services staff prior to establishing such a system in a parole unit. Bank drafts are only to be used in situations where cash purchases would normally be made. Under no circumstances will bank drafts be mailed to vendors or used for employee expenses or for purchase of supplies for state offices. Bank drafts shall not exceed \$500. In accordance with SAM 8124, multiple bank drafts to the same vendor, to avoid the \$500.00 limit or use of bank drafts to void using contracts are not proper uses of the bank drafts. Bank drafts shall not be used for release (gate) money under PC 2713.1. It is the responsibility of the unit supervisors to assure that agents make proper use of the bank drafts.

All loans and repayments must be posted to appropriate parolee account sheets, including loans made to reentry inmates that were not repaid.

Instructions contained herein meet state fiscal requirements and conform to generally accepted accounting principles. Each step is intended to safeguard state funds and to protect employees should any transaction concerning issuance of a bank draft for cash assistance be questioned. However, employees involved are still responsible for performing their respective duties and will be held responsible for all monies, bank drafts, receipts, and bank draft stock entrusted to their possession.

#### **81070.2.1 Bank Draft Usage Procedures**

##### **Unit Supervisor**

Submits memorandum (by channels) specifying need for use of bank drafts to Financial Management and Support Services Branch to obtain approval to implement Bank Draft System.

Contacts local bank using CDC Form 910, Form Letter, if approval to implement Bank Draft System is obtained.

Designates a clerical staff person, fund custodian and two additional employees who have authorization to sign bank drafts.

Ensures each employee designated above signs CDC Form 910A, Individual Issuance and Cancellation of Authorization to Sign Bank Drafts, on line "Restricted Signature Specimen".

Cancels authorization when a designated person's status changes.

Forwards CDC Form 910A, Authorization to Sign Bank Drafts, in duplicate to Headquarters, Accounting when authorizing or canceling Authorization to Sign Bank Draft.

Designates clerical staff person (other than fund custodian) as collection clerk (A Parole Agent may be assigned collection responsibilities).

Ensures that in absence of fund custodian bank drafts are signed by two employees who can authorize cash assistance expenditures (The number of employees authorized to issue or countersign bank drafts will not exceed three in any field parole office).

Ensures that a person other than fund custodian is thoroughly familiar with forms, records and procedures so that a fully trained replacement is always available.

Completes listing of CDC Form 1197, Authorized Bank Draft Personnel, and maintains in unit.

#### **81070.3 Bank Draft Stock Supply Policy**

Cash receipts, including checks, warrants and currency should be kept in a safe. The field unit supervisor will ensure that the unit fund custodian has access to a safe in which the supply of CDC Form 898s, Bank Draft Purchase Vouchers, are stored. Supply of bank drafts on hand will not exceed three months. Bank Draft Purchase Vouchers stock shall not be transferred between field offices without prior approval from Headquarters, Accounting staff.

The Fund Custodian shall maintain a Bank Draft Stock Memorandum Register that identifies the person receiving the draft, the date of receipt, the Fund Custodian's name, and the press-number(s) of bank draft(s) issued. A new register will be established each month and the verified receipts will be kept until an audit is performed.

A back-up fund custodian shall be identified and trained in Fund Custodian duties. The back-up Fund Custodian shall be provided with authorization for bank draft signature and access to the unit safe.

Safe combinations shall be changed when an employee knowing the combination leaves.

Records shall be maintained documenting dates when safe combinations have been changed and the names of persons knowing the present combination.

#### **81070.3.1 Bank Draft Stock Supply Procedures**

##### **Fund Custodian**

Requests estimated three month supply of (initial start) CDC Form 898s from Headquarters, Accounting.

##### **(As Needed)**

Orders additional CDC Form 898s.

##### **Headquarters Accounting Staff**

Issues transfer receipts showing bank draft numbers of CDC Form 910Bs, Stock Transferred Forms and forwards to field office by certified mail.

Mails CDC Form 910Bs to field office separately from CDC Form 898s.

##### **Person Receiving Certified Package (Upon Receipt)**

Opens sealed package and signs CDC Form 910B, Accountability after verifying and Fund Custodian accuracy of contents.

##### **Fund Custodian**

Notifies Headquarters, Accounting staff if information on CDC Form 910B does not agree with contents of package containing CDC Form 898s.

Retains CDC Form 910B until audit is conducted by Headquarters, Internal Audit staff.

#### **81070.4 Bank Draft Purchase Voucher Safekeeping Policy**

All CDC Form 898 stock shall be kept in a safe when not being used or processed. The combination of the safe will be known by at least two but not more than three field office employees. The safe combination shall be changed within five days after an employee having knowledge of the combination transfers or combination becomes known to more than three employees.

#### **81070.4.1 Bank Draft Purchase Voucher Safekeeping Procedures**

##### **Unit Supervisor**

Prepares memo providing names of persons knowing present safe combination and date of last combination change and forwards to Headquarters, Accounting.

Updates memo as changes occur and forwards to Headquarters, Accounting.

#### **81070.5 Bank Draft Purchase Voucher Issuing and Recording Policy**

CDC Form 898s shall be completed by filling in all required information. Bank draft vouchers shall identify the purpose, the unit office, payee's name, and department number. It is essential that bank drafts be issued in ascending numerical order. Bank draft purchase vouchers shall be typed only on non-

correctable typewriter ribbon (SAM 8041) if a typewriter is used. Corrections shall not be made. Bank drafts with errors shall be voided, the signature blocks removed and then returned to CDC accounting. No alterations are allowed on the actual bank draft. If an error is made, "VOID" will be marked across the face of bank draft and signature section will be cut off.

The parolee's CDC identification number should be written on the face of the bank draft in addition to the Bank Draft Purchase Voucher. Bank drafts shall be signed by an employee authorized to sign bank drafts and countersigned by the Fund Custodian.

All receipts shall have press numbers. An inventory control must be kept for all press-numbered receipts.

The loan receipts will contain an authorizing signature, the parolee's signature, and CDC number.

The person authorizing a loan to a parolee will sign the authorization. Each unit office will establish a method for parolees to sign for checks and verify that a check has been delivered to the parolee.

#### **81070.5.1 Bank Draft Purchase Voucher Issuing and Recording Procedures**

*Revised March 8, 1990*

##### **Parole Agent**

Prepares CDC Form 1509, Loan Receipt.

##### **Unit Supervisor or Designee**

Signs CDC Form 1509 if approving loan.

##### **Parolee or Dischargee**

Signs CDC Form 1509 before receiving loan.

##### **Parole Agent**

Gives completed CDC Form 1509 to fund custodian if a CDC Form 898 is to be issued.

##### **Fund Custodian**

Obtains CDC Form 898, Bank Draft Purchase Voucher and prepares it from written CDC Form 1509.

Establishes CDC Form 1618, Parolee Account Sheet at the time first loan is made to parolee or dischargee. Appropriate entries will be made as repayments or additional loans occur.

Enters CDC Form 898 number on CDC Form 1509.

The Fund Custodian shall compare and reconcile the previous month's bank draft activities. Reconciliation shall include comparison of the most recent invoice for Bank Draft Stock, the previous month's loan receipts, and the CDC Form 910G, Bank Draft Stock Daily and Monthly Reconciliation Form by the fifth of each month.

Checks records and makes necessary adjustments to bring forms into agreement if the two amounts do not agree.

Enters monthly grand total for all loan receipts, cash, and bank drafts in CDC Form 1619, Cash Assistance Expenditures Record.

Detaches yellow copy of CDC Form 898 and files for forwarding to Headquarters, Accounting.

Gives remainder of completed CDC Form 898s and CDC Form 1509s to employee authorized to sign bank drafts.

##### **Employee Authorized to Sign Bank Draft**

Compares name, amount and bank draft number with CDC Form 1509.

Signs and returns CDC Form 898 and returns it with Loan Receipt to fund custodian.

##### **Fund Custodian**

Countersigns bank drafts and makes distribution to payees or Parole Agents after they sign in space provided on CDC Form 1509s.

##### **Weekly**

Forwards white and yellow copies of Loan Receipts (85-92665) and CDC Form 898s with corresponding receipts to Headquarters, Accounting, using CDC Form 910E.

##### **Parole Agent**

Gives blue copy of CDC Form 898 to recipient of assistance.

##### **Fund Custodian**

Files green copy of CDC Form 898 and CDC Form 1509 together and retains copies at field office until audited.

#### **81070.6 Bank Draft Purchase Voucher Verification Policy**

Bank draft stock shall be verified on a monthly basis to assure that no unauthorized CDC Form 898s have been used. A reconciliation shall also be made when there is a change in employees responsible for bank draft stock.

The employee verifying CDC Form 898 stock cannot be the same person preparing, issuing and responsible for safekeeping of the bank draft stock. Whenever a CDC Form 898 is stolen or missing, Headquarters, Accounting shall be notified.

#### **81070.6.1 Bank Draft Purchase Voucher Verification Procedures**

##### **Fund Custodian**

Signs CDC Form 910C, Bank Draft Stock Memorandum Register.

##### **Person Receiving Bank Draft**

Signs CDC Form 910C.

##### **Fund Custodian (Monthly)**

Establishes new register and retains verified receipts until an audit is performed by Internal Audit Unit.

##### **Unit Supervisor**

Ensures reconciliation is made when there is a change in employee(s) responsible for bank draft stock using CDC Form 910D, Change of Responsibility for Bank Draft Stock Receipt.

##### **Unit Supervisor (Immediately)**

Telephones Headquarters, Accounting staff whenever a CDC Form 898 is stolen or missing, giving description of bank draft and circumstances of disappearance.

##### **(Within One Day)**

Confirms missing or stolen voucher in a memorandum to Headquarters, Accounting.

#### **81070.7 Repayment of Cash Assistance by Parolee or Dischargee Policy**

A Loan Repayment Receipt shall be made for every repayment made by a parolee or dischargee. The designated collections clerk shall receive repayment from parolees or dischargees and Parole Agents and deposit such collections in accordance with established procedures. If a repayment receipt is spoiled, all copies will be marked "VOID". An inventory shall be maintained of the supply of Loan Repayment Receipt Books. Headquarters, Accounting staff shall be notified if a partially used or unused book is lost or stolen.

#### **81070.7.1 Repayment of Cash Assistance by Parolee or Dischargee Procedures**

##### **Employee Receiving Money**

Completes CDC Form 1510, Loan Repayment Receipt and distributes copies:

- Green to parolee.
- Blue to collection clerk. (Clerk initials agent's bank copy to indicate repayment received.)
- Pink remains in agent's receipt book.

##### **Collection Clerk**

Posts individual's repayment to CDC Form 1618, Parolee Account Sheets, and places receipt in "batch" envelope for the week.

##### **(End of Week)**

Writes total amount received on outside of "batch" envelope and files until end of month.

##### **(End of Month)**

Enters total amount collected during month as one posting to CDC Form 1619, Cash Assistance Expenditure Record.

Files repayment batches for subsequent audit by Internal Audit Unit.

Maintains inventory of Loan Repayment Receipt Books on hand in field parole office.

Posts inventory as Loan Receipt Books are issued to and returned from Parole Agents.

##### **Parole Agent**

Returns Loan Receipt Book to collection clerk when last receipt is used.

##### **Unit Supervisor (Immediately)**

Telephones Headquarters, Accounting staff if a partially used or unused book is stolen or lost, giving description of book and circumstances relating to disappearance.

##### **(Within One Day)**

Confirms above information in memorandum to Headquarters, Accounting staff.

#### **81070.8 Deposit of Repayment Policy**

*Revised March 8, 1990*

All loan repayments and other deposits shall be deposited when the individual or cumulative amount equals \$500.00 or within seven days whichever comes first. A report of deposit shall be prepared for each deposit made.

### 81070.8.1 Deposit of Repayment Procedures

*Revised March 8, 1990*

#### Designated Employee

Prepares typewritten STD Form 441, or STD Form 442, and CDC Form 910F, Report of Deposit providing following information:

- Starting each July 1, number each deposit in sequence beginning with #1.
- Indicate name, branch and location of bank.
- "Agency" is always "Department of Corrections/P&CSD."
- "Location" is name of unit office.
- "Account No." is always "057" when depositing cash assistance repayments.
- Enter amount for "currency," "coins" and "checks," and enter quantity of "checks" being deposited in asterisked box on the Report of Deposit.
- Employee making deposit shall sign Report of Deposit. Employee's name and date of deposit shall be typed.
- Space in center of form is for use of bank teller in acknowledging receipt of deposit.

#### Unit Supervisor

Dates and initials green copy of Report of Deposit and verifies deposit was made.

Distributes STD Form 441, CDC Form 910F and STD Form 442 after making deposit at bank, as follows:

- Bank teller will keep original (white).
- Second and third copies (pink and canary) are to be immediately forwarded to that state agency or office whose name is printed on right hand margin of form.
- Fourth copy (goldenrod) is for Headquarters, Accounting, Attention: Accounting Officer.
- Fifth copy (green) is stapled to blue file copy of "Repayment Receipt" covered in specific deposit.

### 81070.9 Record Retention and Disposition of Parolee Account Sheet Policy

The cash assistance receipt book, and vouchers shall be retained by field units for audit by Internal Audit Unit for at least two years. After two years, destroy after audit or four years whichever comes first. When a parolee is transferred to another parole unit, the Parolee Account Sheet shall be forwarded to receiving unit.

The following records shall be retained by the field units for audit by the Internal Audit Unit:

- 85-92665, Combined Loan Receipt/Request for Bank Draft.
- CDC Form 898 (10/81), Bank Draft Purchase Vouchers.
- CDC Form 910-A, Issuance/Cancellation of Authorization.
- CDC Form 910-B, Mailing of Bank Draft Purchase Voucher Stock Report.
- CDC Form 910-C, Bank Draft Stock Memorandum Register.
- CDC Form 910-D, Change of Responsibility for Bank Draft Stock Receipt.
- CDC Form 910-E, Bank Draft Voucher/Receipts Report.
- CDC Form 1510, Loan Repayment Receipt.
- CDC Form 1618, Parolee Account Sheet.
- CDC Form 1619, Cash Assistance Expenditure Record.
- CDC Form 1620, Unit Inventory of Repayment Receipts.
- STD Form 441/442, Record of Deposit.

### 81070.10 Contracts for Correctional Services for Parolees Policy

Each region is allocated funds to contract with private and public groups or agencies for services for parolees.

Contracts may be developed for:

- Private halfway house services.
- Training and educational services to pay for tuition and materials at various schools.
- Employment placement services to purchase services from private employment agencies for placement of cases which are not amenable to efforts of public placement agencies.
- Specialized medical or psychiatric treatment services.

- Contracts for medical or psychiatric services shall be cleared with the Assistant Deputy Director, P&CSD.

Parolees placed in privately operated reentry facilities will have assistance received posted to their parolee account sheets as cash assistance loans; however, it is not necessary to prepare "Loan Receipts" for such assistance. Arrangements with privately operated reentry facilities, whether by formal contract or an "informal direct billing", will provide that the monthly invoice from the reentry facility will be accompanied by a "Register of Participation" indicating those persons referred to the reentry facility by the P&CSD during the month.

Occasionally a special type contract will be arranged between P&CSD and a privately operated facility. Such arrangements may require departure from the foregoing policies. In these cases, the field office shall contact Headquarters, Accounting for guidance.

### 81070.11 POC Policy

The major purposes of the POC are to provide:

- Outpatient treatment and supervision to mentally ill parolees and members of their families.
- Consultation and evaluation of special cases for Parole Agents, BPT and NAEA

POC staff shall provide psychiatric diagnosis, evaluation and treatment for all parolees referred by parole staff. Some treatment services may be provided through contractual or other agreements with county mental health programs or other agencies.

Parolees with the following mental problems should be referred to POC:

- Delusions, hallucinations, bizarre behavior, persecutory feelings, or disjointed or incoherent speech.
- An apparent lessening of control over behavior.
- Suicidal tendencies or attempts.
- Extreme anxiety, tension or depression arising out of a situation similar to one which led to past problems.
- Excessive anxiety, tension, alcoholism, paranoia or belligerence on part of a parolee.

If psychiatric treatment is mandated by a special condition of parole and treatment will be provided by another agency, written approval from a POC psychiatrist is required. The Parole Agent maintains responsibility for the case management for cases provided treatment by an outside agency.

The Parole Agent shall maintain regular contact with parolee's therapist. The therapist will contact the Parole Agent to advise of any serious deterioration.

### 81070.11.1 POC Procedures

#### Parole Agent and Unit Supervisor

Conduct case review to determine course of action if parolee exhibits evidence of mental problems.

Submit CDC Form 1548, Parole Outpatient Referral, Cumulative Case Summary and photo if decision is to refer for POC services.

#### POC Staff (Within Ten Days of Evaluation)

Forwards completed Initial Psychiatric Evaluation report, including patient evaluation, diagnosis and recommendation to Parole Agent.

#### (When Evaluation Completed)

Telephones Parole Agent to provide information from emergency psychiatric evaluation, addressing concerns that prompted referral.

Submits written evaluation report.

### 81070.12 Warning Potential Victim of Threat by Parolee Policy

The POC psychotherapist shall immediately contact and warn a potential victim if a parolee indicates an intent to commit bodily harm to an identifiable individual.

#### 81070.12.1 Warning Potential Victims Procedures

##### POC Therapist (Immediately Upon Termination of Interview)

Telephone unit supervisor regarding threat and potential victim.

Attempts to contact potential victim by telephone to advise of the threat.

Documents warning or efforts to warn.

Forwards copy to unit supervisor, and copy for inclusion in parolee's psychiatric file by the chief psychiatrist.

**Unit supervisor (Immediately)**

Ensures that appropriate steps are taken to warn potential victim. Takes other appropriate actions (e.g., arrest of parolee, notification of local law enforcement of threat and potential victim, submission of an Activity Report and Violation Report, etc.).

Notifies PA, and the Deputy Director, P&CSD, of the incident.

**POC Therapist**

Consults with the chief psychiatrist if therapist becomes aware of violent propensities of a parolee towards an identifiable potential victim without an actual threat of violence having been made against that individual.

Resolves any doubts about need to notify potential victims and parole staff in favor of notification.

Documents both consultation and decision to notify potential victims and parole staff of parolee's violent propensities towards an individual and includes documentation in parolee's file.

**81070.13 Post Discharge Service Policy**

When continued treatment and services are indicated after discharge, the Parole Agent and therapist shall assist the parolee in obtaining these from an appropriate community mental health agency. If needed services are unobtainable through community agencies, the parolee may continue with POC services.

**81070.13.1 Post Discharge Service Procedures****POC Staff**

Refers parolee's case to local mental health agencies.

**Parole Agent (At Discharge)**

Advises parolee of eligibility for continued POC services.

Continuation in POC treatment is dependent on sufficient availability of POC staff and at discretion of POC therapist.

Requires an ex-parolee electing to continue POC participation to sign a statement indicating that continued POC participation is voluntary.

POC staff will retain signed statement for three years after treatment is terminated.

**81070.14 Revisions**

The Deputy Director, P&CSD shall ensure that this section is current and accurate.

**81070.15 References**

Not Applicable.

**ARTICLE 8 — DISCHARGE AND PARDON**

*Revised March 8, 1990*

**81080.1 Policy**

*Revised July 23, 2002*

A parolee may be recommended for discharge at any time when case factors or other considerations support early discharge. The factors to be considered are:

- First term with no prior convictions.
- Legally self-supporting or self-sufficient.
- Currently drug free.
- Stable residence.
- Effort to satisfy restitution obligations.+

A parolee should be recommended for early discharge if:

- Parolee is under other supervision [e.g., probation, federal probation, other prison system, Department of Mental Health (DMH) facility, or long-term drug treatment program]; or
- Verifiable changes in physical abilities or health, which are rendered no longer a danger to society; or
- Special circumstances (e.g., parolee's life in danger, job offer in another country).

**81080.1.1 Annual Discharge Review Policy**

*Revised July 23, 2002*

Discharge review periods are specified in the Penal Code (PC).

Discharge review periods and maximum parole jurisdiction, depending on date and type of commitment offense, are:

**PAROLE AND REVOCATION PERIODS**

Date of Commitment Offense	Type of Offense	Discharge Review	MaxiPeriod of Parole	Max Revocation Period *	Max Period of Parole Jurisdiction
Commitment Offense on or before 12-31-78	Life	None	3 years	6 months	4 years
Commitment Offense on or before 12-31-78	Non-Life	None	1 year	6 months	18 months
Commitment Offense on or after 1-1-79 but prior to 12-31-82	Life	During 37 <sup>th</sup> month of cont. parole	5 years	1 year	7 years
Commitment Offense on or after 1-1-79	Non-Life	During 13 <sup>th</sup> month of cont. parole	3 years	1 year	4 years
Commitment Offense on or after 1-1-83	Life (Murder 1 <sup>st</sup> Degree)	Within 30 days of completion of 7 years cont. parole	Life	1 year	Life
Commitment Offense on or after 1-1-83	Life (Murder 2 <sup>nd</sup> Degree)	Within 30 days of completion of 5 years cont. parole	Life	1 year	Life
Commitment Offense on or after 9-26-88	Violent Felony PC 667.5	Within 30 days of completion of 2 years cont. parole	3 yrs. or 5 yrs.	1 year	4 years or Life based on commitment offense

\* Multiple revocation terms may be imposed

**Continuous Parole**

"Continuous parole" means the Board of Parole Hearings (BPH) has not interrupted the parole period by suspending or revoking a parolee who has been found guilty of an offense. Suspended Parolee-at-Large (PAL) time does not count toward maximum time limits unless the BPH makes a good cause finding to exclude at-large time from the parole period.

The assigned parole agent shall review each case within the specified review period, and recommend either to retain the case on parole or allow the case to discharge by operation of law.

The following factors shall be considered in conducting discharge review:

- Commitment offense.
- Parole adjustment.
- Recent drug use.
- Restitution obligations.
- Stable residence and employment.
- Prior criminal history.

**Report**

A Discharge Review Report shall be prepared and submitted to the unit supervisor at least 20 days prior to completion of one, two, three, five, or seven years of continuous parole, based on commitment category, and at least 20 days prior to completion of each year of continuous parole thereafter.

Parolees committed to prison for a "violent felony," under PC 667.5(c), shall be referred to the BPH for discharge review.

"Violent felony" means any of the following:

- Murder or voluntary manslaughter.
- Mayhem.
- Rape as defined in PC 261Subdivision 2.
- Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

- Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
- Lewd acts on a child under 14 as defined in PC 288.
- Any felony punishable by death or imprisonment in state prison for life.
- Any other felony in which the defendant inflicts great bodily injury on any person other than an accomplice, which has been charged and proved as provided for in PC 12022.7 or after July 1, 1977, or as specified prior to July 1, 1977, in PC 213, 264, and 261 or any felony in which the defendant uses a firearm in which use has been charged and proved as provided in PC 12022.5.
- Any robbery perpetrated in an inhabited dwelling house or trailer coach, as defined in the Vehicle Code, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of PC 12022, in the commission of that robbery.
- Arson in violation of PC 451(a).

Parolees committed to prison for the following felonies, unless specifically included under PC 667.5(c), shall be referred to the Parole Administrator for final discharge decision:

- Robbery.
- Child Molestation.
- Assault with a deadly weapon.
- Rape.
- Large scale narcotics sales.
- Kidnapping.
- Attempts to commit a violent felony listed in PC 667.5(c).

Parolees committed to prison for all felonies not included under the last two bullets above shall be referred to the unit supervisor for final discharge decision.

By law, a parolee, unless committed to prison for a "violent felony" under PC 667.5(c), is discharged if the BPH does not order the parolee retained on parole by the 30th day after completion of one, two, three, five, or seven years of continuous parole as appropriate to the commitment category. For example: A parolee sentenced for a non-life offense committed on January 1, 1984, and paroled on June 30, 1986, has a discharge review date of June 30, 1987, and would discharge 30 days later during the 13th month of continuous parole (on July 30, 1987) if a "retain on parole" action were not taken during that 30-day period.

A parolee committed to prison for a "violent felony" under PC 667.5(c) that occurred prior to September 26, 1988, discharges by law upon reaching the maximum Controlling Discharge Date.

#### **81080.1.2 Discharge Procedures**

##### **Parole Agent**

Secures and reviews CI&I SSCH for unreported arrests since release to parole or last discharge review.

Requests current POC psychiatric evaluation if parolee has a special condition of parole requiring POC attendance.

Reviews case file and Record of Supervision to evaluate parolee's fitness for discharge.

##### **(20 Days Before the 1st or 3<sup>rd</sup> Year Anniversary)**

Prepares and submits CDC Form 1632, Discharge Review Report Form, to unit supervisor recommending either:

- Retain on parole supervision.
- Discharge effective \_\_\_\_ (date) \_\_\_\_.

##### **Unit Supervisor**

Reviews Discharge Review Report and supplemental materials and makes a decision either to discharge or recommend retain on parole. Effective date of discharge is 30 days following completion of one year of continuous parole.

Decision to allow parolee to discharge completes discharge review process. Parolee will discharge by action of law on date specified.

Submits any Discharge Review Report requiring PA decision to PA.

Unit supervisor shall include a recommendation to either discharge or retain on parole supervision.

Submits any Discharge Review Report recommending "retain on parole supervision" and any report requiring BPH decision to BPH.

#### **PA (Prior to 30th Day Following Any Anniversary Date Specified Above)**

Reviews Discharge Review Report and takes an action to recommend retain on parole supervision; or, discharge effective \_\_\_\_ (date) \_\_\_\_ . Effective date is 30 days following completion of one year of continuous parole; or,

Submits any Discharge Review Report recommending "retain on parole supervision" to the BPH.

#### **BPH (Prior to the 30th Day Following Any Anniversary Date Specified Above)**

Reviews Discharge Review Report and takes an action to either:

- Retain on parole supervision; or
- Discharge effective \_\_\_\_ (date) \_\_\_\_ . Effective date is 30 days following completion of one year of continuous parole.

#### **Parole Agent (Within 10 Days of Final Action)**

Provides parolee with copy of CDC Form 1632, Discharge Review Report; BPH Form 1130, BPH Decision; and CDC Form 602, Inmate/Parolee Appeal; if decision is "retain on parole supervision."

#### **81080.2 Cancellation of Discharge Policy**

Any parole violation requiring a mandatory report to the BPH, which was committed by a parolee either previously recommended for discharge or ordered discharged shall immediately be reported to the unit supervisor. An Emergency Action Report shall be immediately submitted to the BPH. Other violations shall also be reported to the unit supervisor for review and decision. An order to discharge may be cancelled by BPH action at any time prior to 12:00 Midnight on date scheduled for discharge.

#### **81080.2.1 Cancellation of Discharge Procedures**

##### **Parole Agent and Unit Supervisor**

Review behavior that violated parole and determine whether discharge action should be cancelled.

Behavior requiring BPH decision shall result in decision to cancel discharge.

##### **Parole Agent**

Prepares handwritten Emergency Action Report that briefly describes behavior that violates parole.

Submits Emergency Action Report to unit supervisor.

##### **Unit Supervisor**

Reviews Emergency Action Report and telephones report to region office for FAX to the BPH.

##### **BPH**

Reviews report.

Makes decision to either extend term to maximum of four years or seven years pending revocation hearing or discharge case.

Notifies parole region of action.

##### **Region Staff**

Notifies unit supervisor of BPH action.

#### **81080.3 Parole Appeal of BPH Action to Retain on Parole**

The parolee may appeal any action by the BPH to retain on parole supervision through the BPH appeals procedures.

#### **81080.4 Parolee-at-Large Purging Policy**

An annual National Crime Information Center (NCIC) warrant review shall be completed on all suspended Parolee-at-Large (PAL) cases assigned Code 2 and placed in the NCIC system. A review shall be completed on all suspended PAL cases after 60 months in PAL status.

#### **81080.4.1 Parolee-at-Large Purging Procedures**

##### **Parole Agent (4-6 Weeks Prior to Annual and 60 Month Review)**

Secures and reviews current CI&I and FBI SSCH records for any arrest during period parolee has been PAL.

##### **(At Annual NCIC review)**

Forwards copy of original Parolee-at-Large Report, CDC 1524 with completed Parolee-at-Large Review Report, CDC 1524-A attached for suspended parolee with warrant entered into NCIC, dates report and recommends either retain or remove want from NCIC.

- CI&I and FBI arrest records and legal status summary sheet will be attached to PAL report.

##### **(At 60-Month Review)**

Reviews case files of all PAL cases for commitment offense and prior criminal history if no arrests are noted on CI&I sheets.

Forwards copy of original PAL report (CDC 1524) with completed CDC 1524-A attached to BPH recommending:



- Discharge and recall warrant (if commitment offense and prior criminal history were property offenses with minimum or no history of violent behavior).
- Discharge and recall warrant (if determined there is minimal chance of parolee being located or committing new crimes, and a minimal history of violence or arrests are indicated by CI&I or FBI records).
- Retain in PAL status and in NCIC (if there is a history of violence; CI&I records show arrests; and there is a probability of parolee being located).

Submits report to unit supervisor.

#### **Unit Supervisor**

Reviews and submits report to BPH for action.

#### **81080.5 Discharge to Other Jurisdiction Policy**

*Revised July 23, 2002*

If a parolee receives a commitment to federal prison, another state's prison, or to a local jurisdiction that exceeds the parole term, the parole agent may submit a report recommending discharge to the other jurisdiction. The following information shall be included in the Discharge Review Report:

- Anticipated minimum and maximum term of incarceration of new term.
- Anticipated length of parole or whether parolee discharges upon release.
- If sentenced to county jail, length of county jail sentence and anticipated release date.
- If parolee was granted probation, whether parolee was placed on formal or informal probation.
- If placed on formal probation, length of formal probation.
- Outstanding restitution obligations.

#### **81080.5.1 Discharge to Other Jurisdiction Procedures**

##### **Parole Agent**

Secures copies of commitment documents or other documented proof of sentence.

Prepares and submits report by unit supervisor to BPH with documented proof attached.

#### **81080.6 Certificate of Discharge and Release Procedures**

##### **Regional Records (Prior to Discharge Date)**

Prepares Certificate of Discharge and Staff Release, CDC Form 163.

Sends certificate to Parole Agent.

##### **Parole Agent**

Mails Certificate of Discharge and Release to parolee's last address of record or makes arrangements to hand deliver to parolee.

Advise parolee that all rights except the following are restored upon discharge.

- To act as executor of an estate.
- To hold public office.
- To possess or own a firearm.

Advise parolee of eligibility to receive parole services in any DAPO office.

Degree of service will depend on request and availability of funds to meet need.

#### **81080.7 Certificate of Rehabilitation and Pardon Policy**

Authority to grant reprieves, pardons, and commutations of sentence is conferred upon the Governor by Section 8, Article V, of the Constitution of California. A person may file for pardon either by obtaining a Certificate of Rehabilitation or applying directly to the Governor's Office.

#### **81080.7.1 Certificate of Rehabilitation Eligibility**

*Revised July 23, 2002*

Any person convicted of a felony and released from confinement in a California prison who has not been re-imprisoned since release from confinement, and who has waited the specified time period, may file for a Certificate of Rehabilitation.

The period of rehabilitation starts to run upon release to parole or direct discharge from custody.

The period of rehabilitation shall constitute three years residence in this state; plus, four years in case of any person convicted of violating PC Sections 187, 209, 219, 4500 or 12310, or 1672(a) of the Military and Veterans Code, or committing any other offense which carries a life sentence.

Two years in case of any person convicted of committing any offense not listed above.

The petitioner shall not be eligible to file for a Certificate of Rehabilitation until the period of rehabilitation stipulated has passed.

During the rehabilitation period, petitioner shall live an honest and upright life, conduct a life of sobriety and industry, make reasonable effort to satisfy restitution obligations, exhibit a good moral character, and obey all laws.

#### **81080.7.2 Certificate of Rehabilitation Procedures**

##### **Petitioner**

Files a petition for ascertainment and declaration of fact of petitioner's rehabilitation with Superior Court in county of petitioner's residence after meeting period of rehabilitation requirements.

Notifies DA of county in which petition was filed and DA of any counties which petitioner was convicted of a felony.

These persons must be notified of petition and date and time of hearing in Superior Court.

##### **Superior Court**

Determines if petitioner has demonstrated rehabilitation.

Grants Certificate of Rehabilitation and recommends that Governor grant a full pardon if rehabilitation was demonstrated.

##### **Clerk of Court**

Transmits certified copies of Certificate of Rehabilitation to:

- Governor.
- BPH.
- DOJ, CI&I.
- State Supreme Court if petitioner was convicted of a felony two or more times. (A majority of State Supreme Court must give written concurrence with pardon in these cases).

#### **81080.8 Pardon Policy**

Any person, including one who is ineligible to file for a Certificate of Rehabilitation, may apply directly to the Governor for a pardon.

#### **81080.8.1 Pardon Procedures**

##### **Petitioner**

Requests an application for pardon from Governor's Office, Legal Affairs Secretary.

Submits written notice of intention to apply for pardon to DA of county of conviction.

Signs and submits to Governor, notice or proof by affidavit that DA was notified.

Submits, with application for pardon, full statement of any compensation being paid any attorney or any other person assisting with application for pardon.

#### **81080.8.2 Pardon Limitations**

A pardon entitles a person to exercise all civil and political rights of citizenship except:

- Persons convicted of use of a dangerous weapon may not own, possess or keep any type of firearm.
- Federal statute prohibits ex-felons from owning or possessing firearms.
- A pardon will not abridge or impair the power or authority conferred by law on any board or tribunal to revoke or suspend any right or privilege or franchise.

#### **81080.9 Revisions**

*Revised July 23, 2002*

The Director, DAPO, shall be responsible for ensuring the contents of this Article are kept current and accurate.

#### **81080.10 References**

*Revised July 23, 2002*

Penal Code Sections 187, 209, 213, 219, 261, 264, 288, 667.5, 12022, 12022.5, 12022.7, 12310, 3001, 4500, 4800, 4801, 4802, 4852 thru 4852.19, 4853, and 4854.

California Code of Regulations, Title 15, Division 2, Chapter 2, Sections 2050, 2052, 2515, 2535, 2536, 2537, and 2546 and Division 3, Section 3501.

Military and Veterans Code 1672(a).

### **ARTICLE 9 — CASELOAD MANAGEMENT**

*Revised May 29, 2019*

#### **81090.1 Policy**

All Division of Adult Parole Operations (DAPO) staff shall ensure records are updated in a timely manner, accurate, readily available, and maintained in a manner that permits retrieval of information and statistical data by authorized personnel.

**81090.2 Purpose**

This policy establishes guidelines for uniform interpretation, application, and administration of caseload management plans and the use of the Virtual Integrated Mobile Office (VIMO). VIMO shall be accessed using a State-issued cell phone. State-issued cell phones shall be utilized in accordance with DOM Section 85050.5.1. Should any section in this article conflict with the Bargaining Unit 6 Memorandum of Understanding (MOU), the MOU shall prevail.

**81090.3 Record of Supervision Procedures**

(a) The parole agent shall maintain a current Face Sheet, generated by the Strategic Offender Management System (SOMS) and an automated CDCR Form 1650-D, Record of Supervision (ROS), located within the Supervision Contact screen in SOMS, for each assigned offender. The CDCR Form 1650-D is still in use by the Regional Reentry Unit for confidential administrative placement. It is essential that the information recorded on the Face Sheet and the automated ROS be current, accurate, and grammatically correct. VIMO, a mobile application that links to SOMS, will allow staff to remotely access and update specific facets of the SOMS database via a State-issued cellular smartphone.

**(b) Face Sheet**

(1) The Face Sheet contains case information relative to each parolee. The text information found in the Face Sheet is populated by the SOMS database. The photographs are populated by the Photo Capture Workstation, which is a feature in SOMS. The Face Sheet and associated photographs shall be maintained in accordance with current DAPO policy.

**(c) Parole Agent Photograph Procedures**

(1) Parolee photographs are populated by the Photo Capture Workstation. The parole agent shall:

(A) Take a minimum of three mug shot photographs of the parolee without glasses, hats, scarves, or other items that can cover or obscure the head or face. The three photographs shall include a full-face frontal primary mug shot, one left facial profile, and one right facial profile. If the parolee wears glasses, a photograph of the parolee shall be taken while they are wearing glasses.

(B) If there are any significant changes to the parolee's appearance the parole agent shall immediately update the parolee's photo with a minimum of three mug shots as described above.

(C) In the event that the Photo Capture Workstation is temporarily inoperative, parole agents may use their State-issued cell phones to take and upload parolee photos into SOMS. This will ensure that a photo is available in SOMS until the Photo Capture Workstation is functioning. Once the Photo Capture Workstation is operational, parole agents shall retake the photos with the Photo Capture Workstation.

**(d) Record of Supervision**

(1) The automated ROS is legal documentation and the information recorded must be kept up to date. The automated ROS shall be the only method used to record any and all efforts to supervise an offender. All activity, contacts (not mere visual contact), actions, or information received about an offender, or taken by a parole agent, shall be recorded on the automated ROS. Recording this and other essential case information is important, as parole agents are sometimes called upon to testify in court, as well as to appear at revocation hearings. This information is also vital as an operational and safety tool in planning field contacts. Examples of the types of events requiring an entry on the automated ROS include, but are not limited to:

(A) Contact with the parolee at the parolee's residence, parole unit, or any other location.

(B) Collateral contacts.

(C) Urinalysis tests obtained, and results of the tests.

(D) Attempts to contact the parolee, including the location of the attempted contact and/or phone number(s) called.

(E) Contact with parolee by telephone, electronic email, or by any other form of electronic communication.

(F) Submission of other documents or processes completed in supervising a case, such as the submission of a transfer request, discharge review, program referral, or the issuance and/or collection of CDCR Form 1661, Goals and Progress Report.

(2) The parole agent may use note pads, personal computers, or other alternate methods of note taking. However, the parole agent shall ensure all case activity and parolee interaction is recorded on the automated ROS within 24 hours but no later than close of business the day after the recorded event(s). Entries recorded on the automated ROS utilizing VIMO shall be uploaded into SOMS within 24 hours but no later than close of business the day after the recorded event(s). In the event of a scheduled absence which would prevent

timely upload of case activity recorded via VIMO, the parole agent shall ensure all case activity is uploaded to SOMS prior to the absence. Each time an automated ROS is created in VIMO or SOMS, the contact event is automatically captured in SOMS for reporting purposes.

(3) VIMO and associated desktop/laptop functionality in SOMS shall serve as the parole agent's field book and shall be the primary means of reviewing offender data while in the field. The parole agent shall also utilize VIMO and/or SOMS to maintain urinalysis testing records for offenders. In order to maximize the informational value of VIMO for use in the field, the parole agent shall ensure the Relatives and Associates screen in SOMS is accurate, current, and grammatically correct.

Each entry on the automated ROS shall include:

(A) The name(s) of the person(s) contacted or providing information. If the parole agent is receiving information from a person(s) who desires to remain anonymous, this shall be noted in the entry.

(B) Location of contact.

(C) Method of contact.

(D) Beginning and ending time of contact.

(E) A narrative description of the contact.

(F) Accommodations provided to ensure effective communication in accordance with the Americans with Disabilities Act (ADA).

**81090.4 Caseload Count Policy**

(a) For the purposes of determining parole agent and parole unit workload, the following cases shall be included as of:

(1) The date an offender is released from a CDCR institution/facility following a period of revocation, new commitment, or a 90-day diagnostic study.

(2) The date a suspended offender was located outside of California is ordered reinstated or continued on parole.

(3) The date the case is received on transfer in SOMS.

(4) The arrival date noted on the "Notice of Arrival" Interstate Compact for Adult Offender Supervision (ICAOS) form.

(5) The date a Parolee-At-Large who is arrested out-of-state waives extradition and is available to California.

(6) The date the parole unit is notified of a direct release (court walkover) as described in Chapter 8, Article 1, or the date the direct release reports to the parole unit.

(b) For the purposes of determining parole agent and parole unit workload, the following cases shall not be included when SOMS reflects "Discharge" or "Closed Interest," as of:

(1) The date the offender is returned to a CDCR institution/facility to serve 90-day diagnostic study, or a new commitment.

(2) The date a parolee serving a life parole term is returned to a Division of Adult Institutions facility following a Superior Court good cause finding for a violation of conditions of parole.

(3) The effective date of discharge.

(4) The date on a death certificate, letter from coroner, coroner's report, or Criminal Identification and Information report, indicating an offender's date of death.

(5) The date of transfer to another parole unit.

(6) The date noted on the "Case Closure Notice" ICAOS form as the closing date.

**81090.5 Caseload Roster Policy**

On the first working day of each month, the parole agent shall generate the "Agent Caseload Contacts Roster" (roster) for the parole agent's caseload in SOMS. The roster shall be generated in PDF format and printed. SOMS will automatically include the offender name, CDCR number, supervision level on the date the roster was generated, most recent parole date, controlling discharge date, and the reinstatement date or revocation release date.

**81090.5.1 Parole Agent Caseload Contacts Roster Procedures**

The parole agent shall utilize VIMO and/or SOMS to maintain the Face Sheet and the automated ROS in SOMS for each assigned offender. These electronic records are vital operational and safety tools which provide information about offenders. It is essential that the information recorded on the Face Sheet and automated ROS screen is current and accurate. Parole agents shall also record dates of supervision contacts and events resulting in a change of supervision on the roster every working day. On the last working day of the month, parole agents shall review the roster for accuracy and submit to unit supervisor for review.

**81090.6 Field File Policy**

The field file is established to provide staff with copies of pertinent information extracted from the Electronic Records Management System, and an organized, chronological history of documents related to the offender obtained during the parole term. Field files shall be maintained for all offenders. Upon discharge, the field file shall be processed as described in Section 81090.8.

**81090.6.1 Field File Composition and Maintenance Procedures**

(a) Manila file folders shall be utilized for field files. In the event a parolee makes a threat against DAPO staff, a red file folder shall be utilized.

(b) The front of the field file shall include a label (e.g., Avery Label 5161) with the parole agent's name. This label shall be typed and centered at the top of the field file. When the field file is transferred to another parole agent, the label shall be updated, retyped, and placed over the existing label.

(c) The front of the field file shall also be labeled (e.g., Avery Label 5164) with identifiers to designate specialized cases and other supervision categories. This label shall be typed and centered directly beneath the parole agent's name. The following identifiers shall be included on the label:

- ☐ PC290 (Static-99R SCORE): \_\_\_\_\_
- ☐ LIFE TERM
- ☐ EOP/CCCMS ☐ CSRA: \_\_\_\_\_
- ☐ MEDICAL PAROLE ☐ CLLR: \_\_\_\_\_
- ☐ ACP ☐ ADMIN PLACEMENT
- ☐ INTERSTATE
- ☐ PROP 47/57 (CIRCLE)
- ☐ ADA/DDP/DPP SLI: YES/NO  
CODES(S): \_\_\_\_\_
- CRIMINOGENIC NEEDS:
- ☐ SUBSTANCE ABUSE
- ☐ EMPLOYMENT
- ☐ EDUCATION (TABE SCORE): \_\_\_\_\_

(d) All documents shall be filed chronologically in the field file with the current material on top. Parole units shall use tabs provided by DAPO to divide the field file in sections by subject matter. The filing of documents shall be distributed in the field file as follows:

Left Side of File	Right Side of File
One copy of the most recent Face Sheet.	CDCR Form 1244, Parole Violation History.
The most current gang, sex, arson, and/or narcotic registration receipt or copy of registration form. Copies of previous registrations may be purged or retained at the parole agent's discretion.	Printout of the Sentence Data Sheet as generated in SOMS.
<b>TAB 1</b> CONDITIONS OF PAROLE/ INITIAL INTERVIEW	CDCR Form 1244-A DECS, Disability and Effective Communication Review Log, printed on blue paper.
A copy of the CDCR Form 1515, Notice and Conditions of Parole, or the Notice and Conditions generated in SOMS, and any addendums and/or attachments. The most recent version shall be on top, and copies of previous versions shall be retained in the field file beneath the most recent version. The signed original shall be forwarded to Parole Case Records.	<b>TAB 1</b> ARREST REPORTS/ PROBATION OFFICER'S REPORTS

CDCR Form 1650-B, Initial/Comprehensive Interview.	Arrest report(s) from commitment offense(s).
<b>TAB 2</b> ROS/MONTHLY REPORT RESIDENCE-EMPLOYMENT VERIFICATION	Probation Officer's Report(s) from commitment offense(s), if available, and Abstract of Judgment from commitment offense(s).
Automated ROS. This form shall be electronically maintained within SOMS.	<b>TAB 2</b> RELEASE PROGRAM STUDY RISK & NEEDS
CDCR Form 1508, Parolee's Monthly Report	Release Program Study (RPS) generated in SOMS.
CDCR Form 1658, Parolee Residence/Employment Verification.	<b>TAB 3</b> VIOLATION REPORT WARRANTS
<b>TAB 3</b> SEX OFFENDER ASSESSMENT CORRECTIONAL OFFENDER MANAGEMENT PROFILING FOR ALTERNATIVE SANCTIONS/CASE PLAN	Parole violation documents and attachments, including warrant request documents.
Sex Offender Treatment assessments, progress reports, and polygraph reports. Sex Offender Treatment discharge review evaluation.	<b>TAB 4</b> CASE CONFERENCE REVIEW/DISCHARGE REVIEW
Correctional Offender Management Profiling for Alternative Sanctions Case Plan, Reentry Assessment, and Reentry Summary.	CDCR Form 1657, Case Conference Review/Discharge Consideration Committee, CDCR Form 3042, Sex Offender Management Program – Classification Scoring Sheet. CDCR Form 3043, Containment Team Meeting/Discharge Consideration Committee.
<b>TAB 4</b> TESTING	CDCR Form 3016-A, Threats Against Staff: Regional Administrator Analysis/Summary (if applicable).
Urinalysis lab testing results. CDCR Form 1527, Voluntary Statement of Admission.	CDCR Form 1502, Activity Reports, Discharge Reviews.
<b>TAB 5</b> CRIMINAL IDENTIFICATION AND INFORMATION/OTHER/ CONFIDENTIAL	<b>TAB 5</b> NON-CONFIDENTIAL PAROLE OUTPATIENT CLINIC (POC)/LEGAL
Criminal Identification and Information report (behind confidential tab).	Non-confidential POC evaluations/reports.
Other letters, memoranda, instructions, or other documents regarding the offender. CDCR Form 2157, Review for Notice of Release Requirement (PC 3058.6). CDCR Form 2256, Parole and Community Team (PACT) Orientation Meeting Notice. CDCR Form 1661, Goals and Progress Report. All Interstate Documents.	Confidential medical/ADA envelope attached to inside back cover. Test for Adult Basic Education (TABE) Score/Disability Effective Communication Systems Printout. ADA Form 2271.
Confidential section for confidential, and non-ADA documents. CDCR Form 1707, Request for Victim Services.	Any other legal form(s).

**81090.7 Strategic Offender Management System Data Entry Policy**

(a) The SOMS database is essential to the tracking and management of offender data and serves as the source of information extracted into management reports required both internally and for reporting to external stakeholders. Offender data entered into SOMS populates critical fields within the Law Enforcement Automated Data System (LEADS) and the Department of Justice Supervised Release File (SRF), both of which are utilized by many law enforcement agencies within the state of California. In addition, SOMS will be the source for management reports used to compare and identify parole supervision trends and make adjustments in offender supervision strategies.

(b) The SOMS database is organized into modules and sections. The primary modules are Offender, Prison, Parole, Health, Support, and Administration. The parole module is further divided into the following primary sections: Offender Record, Records Maintenance, Caseload Management, Reports, and Routine Processes. Available sections may change depending on the module selected. DAPO staff may also modify the Personal Favorites section to quickly access the SOMS functions they commonly use.

(c) All DAPO staff shall make every reasonable effort to ensure the timely and accurate entry of offender information into SOMS. It is critical that all available offender information be entered into the appropriate SOMS data fields as the information becomes available.

(d) The parole agent shall monitor and process all additional Offender Investigations, Agent Actions Due, and Forms Awaiting Review associated with their caseload in SOMS.

(e) All training and support for VIMO and associated SOMS functionality will be provided by the SOMS unit and/or designated VIMO master trainers.

**81090.7.1 Offender Residence Change Data Entry Procedures**

(a) An offender's residence of record information, as recorded in SOMS, is available to other DAPO staff and law enforcement agencies. Prompt updating of the offender's residence is imperative for officer and staff safety, as well as preserving the civil rights of people no longer residing with an offender.

(b) If an offender has claimed they are residing at an address that has not been verified by the parole agent, and the parole agent or staff then enters the unverified address in SOMS, the parole agent or staff designated to update the address in SOMS shall indicate this by adding "UNVERIFIED ADDRESS" to the Comments for External Agencies.

(c) When the parole agent verifies an offender has changed residence, the parole agent shall ensure the Residential History section of SOMS is updated as soon as operationally possible, but no later than three business days, either directly by the parole agent or by support staff at the direction of the unit supervisor or assistant unit supervisor.

(d) After the parole agent verifies the address, the parole agent or support staff shall change the address type, if necessary, and enter the date the residence was verified in the Residential History section and remove "UNVERIFIED ADDRESS" from the Comments for External Agencies. The staff updating the information in SOMS shall select the Residence Type based on the following definitions of each type:

- (1) Community Program: a residential treatment program.
- (2) Custody Program: an inpatient treatment program in a custody setting.
- (3) Federal Custody: an offender under DAPO's supervision currently in custody for federal charges in a federal facility or federal contract bed.
- (4) Local Jail: an offender incarcerated in a county jail within the state of California pending local or revocation charges, or serving a revocation sentence.
- (5) Mailing: an address where an offender receives mail.
- (6) Out-of-State Custody: an offender in custody in another state.
- (7) Physical (Home): an offender's residence.
- (8) Planned (after ISC [Interstate Compact] transfer): the address in California where an offender from another state proposes to reside, if the offender's interstate transfer request is granted.
- (9) Planned (after release): the proposed address from the RPS.
- (10) School/College: an offender residing on the grounds of a school or college.
- (11) Shelter Transient: an offender residing in a homeless shelter.
- (12) Transient-Homeless: an offender who is homeless or otherwise has no residence.

(e) Staffing conditions such as the geographic location of the parole agent, scheduled leave times, training, personal leave, staff shortages, arrest volume, or other factors may have an adverse impact on the ability of peace officer staff to complete timely SOMS data entry. Recognizing that this may impact the integrity of the data within SOMS, the unit supervisor has the discretion to

assign specific data entry duties, on a case-by-case basis, to the parole unit support staff in lieu of the parole agent.

(f) The unit supervisor or assistant unit supervisor shall be responsible for verifying the accuracy and timeliness of the updates entered into SOMS as standard review factors when conducting case reviews, containment team meetings, and discharge reviews. Verification of SOMS data entry accuracy and timeliness shall be conducted utilizing the management reports within SOMS.

**81090.7.2 Other Offender Information Change Procedures****(a) Face Sheet Information**

(1) All other changes in an offender's information that is contained on the Face Sheet shall be entered into SOMS within five working days, either by the parole agent directly or by support staff at the direction of the unit supervisor or assistant unit supervisor. This includes, but is not limited to, the following data fields:

- (A) Employment Record.
- (B) Telephone Numbers.
- (C) Offender General Comments.
- (D) Supervision Cautions.
- (E) Vehicle History.
- (F) Special Conditions.
- (G) Offender Personal Characteristics.
- (H) Supervision Level.

**(b) Changes in Agent of Record**

(1) The unit supervisor or assistant unit supervisor shall be responsible for entering changes in caseload assignments, which will appear on the SOMS Supervision History screen. The unit supervisor or assistant unit supervisor shall enter changes the same day the new Agent of Record is to begin responsibility for the case. All other changes in Supervision History shall be entered within five working days of the day of the event.

**(c) General Comments for External Agencies**

(1) This data field is limited to 70 characters. This field appears in LEADS and in the SRF return via the California Law Enforcement Telecommunication System. This field shall be used for important information that a law enforcement officer may need which is not shown elsewhere in the SRF return, e.g., a dog in an offender's residence, offender resides in the back of the residence, security gate, or gate entry codes.

**(d) General Comments for Internal CDCR Only**

(1) This data field shall be used for information needed for CDCR staff that is not contained anywhere else in SOMS.

**81090.7.3 Strategic Offender Management System Pre-Release Procedures**

(a) The following procedures identify staff roles, responsibilities, and timelines for entering the required offender information into the appropriate SOMS data fields

**(b) Regional Reentry Unit Staff**

(1) Upon receipt of the electronic RPS generated by SOMS and located within the Release Plan screen in SOMS, for each assigned offender from the Division of Adult Institutions, the Regional Reentry Unit shall:

(A) Enter the Intake New Case Supervision Event and open the RPS Offender Investigation, to include parole unit assignment, in SOMS.

(B) All other offender data, such as CDC Number, Name, Sex, and Legal Mandates shall normally be prepopulated in SOMS.

**(c) Parole Unit Support Staff**

(1) Upon receipt of the RPS, support staff shall enter or update in SOMS all of the available information including, but not limited to the following data fields:

- (A) Assigned Parole Unit.
- (B) Date of Birth.
- (C) Place of Birth.
- (D) Physical Identifying Information (ethnicity, gender, height, weight, hair color, eye color, facial hair, body build).
- (E) Social Security Number.
- (F) Federal Bureau of Investigation Number.
- (G) United States Immigration and Naturalization Service Number.
- (H) California Driver License or Identification Number.
- (I) State Identification Number.
- (J) Commitment County.

(K) County of Last Legal Residence.

(L) Residential History:

1. The address entered into SOMS shall be the address listed in the Proposed Residence section of the RPS. The address type selected in SOMS shall be "Planned" (after release).

2. The SOMS Residence Detail shall require the user to select a Begin Date and Type when entering a new or updated address.

3. If the offender is homeless, or residence information is unavailable, the user shall select "Transient – Homeless" as the Residence Detail Type with a Begin Date based upon the Parole Date. Under Address Search, the user is to select the appropriate City and Zip Code in which the offender is expected to reside or receive services.

4. Note: SOMS will attempt to validate the address entered by the user. Upon validation, SOMS will present the option to choose the validated address or the address submitted by the user.

(M) Registration Requirements, if applicable (e.g., gang, sex, narcotics, and/or arson offenders).

(N) Employment Record:

1. The Employment Detail data shall include the name of the employer, occupation, employment status, work telephone number, start date, end date (if applicable), employer aware of the offender being subject to parole supervision, street number and name, city, county, state, and zip code.

2. If no employment information is indicated on the RPS, the Employment Record shall reflect that the offender is Unemployed in the Employment Detail. If available, enter the date the offender became unemployed, or enter the Parole Date or Reinstatement Date in the Begin Date field. If the exact begin or end date is unknown, the approximate box may be checked.

3. Under no circumstance shall the Employment Detail data field in SOMS be left completely blank.

4. "To Be Announced" (TBA) or "To Be Determined" (TBD) shall not be valid entries for Employer Name.

5. Employment Status shall be required for all offenders and shall be entered into the SOMS database in the Nature of Job field within the Employment Detail screen.

#### **81090.8 Field File Disposition Policy**

(a) The unit supervisor shall determine a centralized location in the parole unit for the storage of discharged offender field files. Upon verification of discharge of the parole term or other discharge from DAPO supervision, all field files shall be retained intact in the parole unit for one year in an area designated by the unit supervisor. The outside front cover shall be marked with the discharge date.

(b) Each Regional Administrator, or designee, shall develop and disseminate a cost-effective plan for the shipment of field files to Parole Case Records. Multiple processes for each region may be warranted based on geographical locations of parole units and/or limited vendors/services for remote locations. Parole units shall not use an "overnight" or "express" shipping or mailing service to transfer field files to Parole Case Records.

(c) For parolees convicted of a crime requiring registration pursuant to PC 290, the entire contents of the field file shall remain intact. For parolees never convicted of a crime requiring registration pursuant to PC 290, after one year has passed from the discharge date, parole unit support staff shall retain the following documents in the original field file:

(1) All CDCR Form 1502s, including all attachments.

(2) All CDCR Form 1500s, including all attachments.

(3) All CDCR Form 1676s, including all attachments.

(d) After one year has passed from the discharge date, the field file shall be transferred to Parole Case Records. The unit supervisor shall ensure parole unit support staff complete the CDCR Form 2205, Parole Unit Field File Disposition and Tracking Log, for each box of field files transferred to Parole Case Records.

#### **81090.8.1 Procedures for Storage and Shipment of Discharged Offender Field Files to Parole Case Records**

##### **(a) Packaging**

(1) Field files ready for transfer to Parole Case Records are to be placed in a "Banker's Box." All loose documents in a field file must be correctly filed or removed prior to transfer. Place the field files in the box sideways with CDC numbers for all files facing in the same direction. Sex offender and non-sex offender field files may be shipped and stored together. Various discharge dates may also be packaged in the same box, provided the discharge dates are all within the same calendar year.

##### **(b) Shipping**

(1) When the box is at least 85 percent full, it may be shipped. Prior to sealing the box, complete the CDCR Form 2205 for all files in the box. Verify that the files in the box match the files listed on the CDCR Form 2205. Place a copy of the CDCR Form 2205 in the box, and provide the original to the unit supervisor.

##### **(c) Staff Request for Field File**

(1) If retrieval of a discharged offender's field file is needed after shipping to Parole Case Records, parole unit staff shall call Parole Case Records. Requests for discharged field files shall be initiated by staff at the level of Parole Administrator or above.

#### **81090.8.2 Parole Case Records Procedures for Discharged Offender Field Files**

After receiving the file boxes from parole units, Parole Case Records staff shall enter the items into the tracking system and assign a box number. These materials shall be organized by box number or CDC number to include a copy of the CDCR Form 2205, and shall be stored according to the DAPO Records Retention Schedule or until such time as the Department scans the files for electronic retention.

##### **81090.9 Revisions**

The DAPO Director or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

##### **References**

CCR, Title 15, Division 2, Section 2510 et seq.

DOM §§ 84100, 84110, 86050, and 86080.

##### **Revision History**

Revised: December 29, 2016

Revised: May 29, 2019

### **ARTICLE 10 — USE OF STATE VEHICLES**

*Revised September 23, 2019*

#### **82000.1 Policy**

It is the policy of the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) that all DAPO staff be familiar with the guidelines and procedures for use of State vehicles.

#### **82000.2 Purpose**

The purpose of this article is to address the assignment and use of a State vehicle, the State Voyager Card, monthly travel log, and vehicle maintenance and repair. This article will also address the caged vehicle management, Internal Revenue Services (IRS) reporting requirements, reporting procedures for accidents, and employee vehicle change requests.

#### **82000.3 Responsibilities**

All DAPO employees who use a State vehicle are responsible for reviewing and complying with the State vehicles fleet rules provided in the Department of General Services (DGS), Office of Fleet and Asset Management (OFAM) Handbook, the State Administrative Manual (SAM), the California Code of Regulations (CCR), the California Vehicle Code and the appropriate Memorandum of Understanding. DAPO shall also utilize the designated CDCR database to manage State vehicles. State vehicles shall only be used for conducting official State business.

#### **82000.4 Vehicle Assignment**

(a) Vehicle assignment is at the discretion of the Parole Administrator. The Parole Administrator or designee shall evaluate the parole unit needs and shall determine the assignment, distribution, and rotation of State vehicles. Parole Administrators shall endeavor when feasible and appropriate to keep currently assigned vehicles with the assigned parole agent upon movement within the same region.

(b) Employees shall not receive preference over the assignment of a State vehicle for any reason. A law enforcement placard shall be issued with each State vehicle, and the placard shall not be removed from the vehicle except when the vehicle is no longer in service.

(c) The regional vehicle coordinator shall oversee and be notified of any vehicle operator changes via Form OFA 50G, Monthly Leasing Agreement. The regional coordinator is responsible for ensuring that the Office of Business Services (OBS), Fleet Management Unit (FMU) receives all vehicle updates and copies of the Form OFA 50G. The Form OFA 50G shall be completed for the following reasons:

- (1) assignment of a CDCR-owned vehicle or DGS leased vehicle,
- (2) to update a driver's information,

- (3) new vehicle assignments,
- (4) new unit assignment,
- (5) billing code changes,
- (6) changes in the driver's last name.
- (d) Each time a vehicle assignment changes, a new home storage permit must be completed. For CDCR-owned vehicles and DGS leased vehicles, the supervisor shall ensure Form OFA 50G is completed and a copy sent via electronic mail to the regional vehicle coordinator. The original shall remain with the parole unit.

#### **82000.5 Use of a State Vehicle**

- (a) The use of a State vehicle shall provide for the transportation needs required by employees in the performance of their duties. When an employee is not using their assigned State vehicle beyond two weeks, for any reason, including a worker's compensation claim, extended sick leave, official military orders, or vacation, the Parole Administrator or supervisor shall notify the regional vehicle coordinator and ensure the vehicle is parked at the regional headquarters, parole unit, or another designated location. In the event the vehicle is required by another employee who might be able to return a rental or pool vehicle, the Parole Administrator or supervisor shall notify the regional vehicle coordinator of the change.
- (b) The law enforcement placard assigned to each State vehicle shall only be used when peace officers park in official law enforcement parking spaces, and when conducting official business. Official business means any task, assignment, or duty conducted on behalf of the Division of Adult Parole Operations. Placards shall not be used to circumvent other parking rules, arrangements, or utilized as a means to avoid paying for parking fees. Staff shall adhere to all traffic and parking codes while operating a State vehicle.
- (c) The use of a State vehicle for other than State business is prohibited. An employee shall not be allowed to operate a State vehicle except as authorized by DAPO, DGS, and in compliance with the California Code of Regulations (CCR) Title 2, section 599.800. A DAPO employee utilizing a State vehicle must comply with the following rules:
  - (1) Transporting any person in a State vehicle, other than persons directly involved in official State business, is prohibited unless permission is obtained in advance for each trip from the employee's Parole Administrator, via the chain of command.
  - (2) Properly report personal use of the State vehicle to the IRS and the Franchise Tax Board by completing the CDCR Form 1804, Personal Use of State Provided Vehicle Employee Certification.
  - (3) Smoking in State vehicles is prohibited.
  - (4) Periodic maintenance of the vehicle.
  - (5) Maintain the cleanliness of the vehicle.
- (d) Unauthorized Use of State Vehicle means the use of a State vehicle for any purpose when the employee is off-duty is considered personal use and is an unauthorized use of a State vehicle.

#### **82000.6 State Pool Vehicle Checkout and Return Procedures**

- (a) All employees shall notify the appropriate headquarters' pool coordinator as soon as practical to reserve a State pool vehicle if one is needed for State business. A State pool vehicle is a CDCR-owned vehicle or DGS leased vehicle that can be reserved for use on a short term basis from an appropriate headquarters' pool. State pool vehicles should not be assigned exclusively to an employee and should only be checked out for short periods of time as needed for intermittent State business. All State pool vehicle keys shall be maintained by the designated pool vehicle coordinator when not in use in order to allow other employees access to the vehicle if needed. All State pool vehicles must have a form STD. 273, Monthly Travel Log and a State Voyager Card assigned to it.
- (b) All employees who check out a State pool vehicle are required to complete form STD. 273 in its entirety by documenting miles, date(s) traveled, location where vehicle is stored, driver's name, and destination. The time and odometer readings shall be entered at the beginning and at the end of each use of the vehicle. Supervisors maintaining the travel logs must ensure they are completed correctly, that all Monthly Travel Logs for each vehicle are retained for the current and preceding fiscal years, and make the logs available for review upon request. This procedure shall be completed in addition to the process for requesting a State pool vehicle from regional or division headquarters. All State pool vehicles shall be returned clean and with a full tank of gas. Form STD. 273 is available at <http://www.dgs.ca.gov/ofam/Forms.aspx>.

#### **82000.7 Use of State-Issued Vehicles, Vehicle Home Storage Permit**

- (a) In accordance with CCR, Title 2, section 599.808, form STD. 377, Vehicle Home Storage Request/Permit, must be submitted and approved by the employee's Director or designee and the permit must be issued by the Office of Business Services (OBS) before a State vehicle can be frequently stored at or in the vicinity of an employee's home regardless of the reason. Upon the Director's or designee approval, Form STD. 377 shall be uploaded to the designated CDCR database. Form STD. 377 must be renewed annually per the OBS, Fleet Management Unit, Vehicle Home Storage Permit (VHSP) Renewal schedule. Form STD. 377 is available at <http://www.dgs.ca.gov/ofam/Forms.aspx>. In addition to the criteria established in CCR, Title 2, section 599.808, to be eligible for a VHSP, the employee must meet the criteria outlined below for either an Essential and/or a Cost-Effective permit.
- (b) Essential VHSP Criteria
  - (1) An essential VHSP is deemed necessary even though it may not be cost-effective. An essential VHSP must meet all the following criteria:
    - (A) The individual must respond to emergency events after hours as a primary responder.
    - (B) The emergency responder must respond to the field, rather than to a State facility where their vehicle could be stored.
    - (C) The emergency responder must be able reach the emergency event within 30 minutes to no more than 1 hour.
    - (D) The emergency response must require specialized equipment that is not transferrable to a personal vehicle or activity that is not reasonable for a personal vehicle (i.e., taking a felon into custody)
    - (E) The emergency response must be for health and safety purposes (i.e., responding to hazards or criminal activity).
    - (F) The individual only takes a vehicle home when needed as a primary responder.
    - (G) The individual must respond to a minimum of 24 emergency responses annually.
  - (2) Exemptions:
 

The DGS allows an exemption for an essential VHSP that does not meet the requirement of a minimum of 24 emergency responses annually if the program can demonstrate a significant health and safety risk to the public if a VHSP is not approved. A program shall provide an approved form STD. 377 and a narrative to substantiate the critical need for the VHSP to the OBS FMU. The OBS submits the exemption request package to the DGS for review and approval or denial and will notify the program of the DGS's decision.
- (c) Cost-Effective VHSP Criteria must meet at least one criteria each from both
- (d) Category A and Category B:
  - (1) Category A
    - (A) The employee has a CDCR approved home office separate from the CDCR's facilities. Generally, the employee's duty statement and personnel file will denote that their reporting office is their home, or
    - (B) The vehicle is essentially the employee's office (i.e. performing requisite duties in the field on a daily basis directly from his/her home). However, the employee may still be required to occasionally work from a state office, and
  - (2) Category B
    - (A) The employee's job (as reflected on the official duty statement) requires substantial field work (greater than 50 percent) and it is more efficient for the employee to travel directly to the field work location, or
    - (B) The employee drives directly to the field from home and/or has work related after-hour activities for 50 percent or more work days within a given month.
  - (3) Approvers must not approve a cost-effective VHSP for any employee who does not meet the above criteria. Program must document, report, and record information as necessary to support the issuance of a cost-effective VHSP. These general standards for cost effectiveness justify the use of a State vehicle versus reimbursement for the use of a personal vehicle or rental – it is not a justification for the State to pay for personal commute miles associated with taking a vehicle home. Providing for personal commuter transportation is not an obligation of the State.



- (d) The completed form STD. 377 shall be thoroughly reviewed by the Director or designee to ensure the justification meets the criteria for approval.
- (e) Employees cannot receive a VHSP if their physical residence is further than 65 miles from the employee's primary work site. This distance is measured as a straight line, which provides the actual distance between two points. The straight line distance is commonly referred to "as the crow flies." You may calculate the distance between two points described "as the crow flies" by using the following link: <http://tjpeiffer.com/crowflies.html>.
- (f) Employees who receive a State-issued vehicle shall sign the CDCR Form 2257, Vehicle Usage Requirements. The completed Form 2257 and a copy of the approved STD. 377 shall be maintained in the employee's file maintained by the supervisor. A current home address is required on all home storage permits. Employees without an approved VHSP will not be permitted to store/park the vehicle at their residence. Nothing in this section precludes a form STD. 377 from being submitted and approved for an out-of-state residence as the State Motor Vehicle Liability Self-Insurance Program provides coverage in the lower 48 continental United States. (The State Motor Vehicle Self-Insurance Program is discussed in SAM section 2420.)

#### 82000.8 Caged Vehicle Management

- (a) A law enforcement vehicle may include a safety cage for the driver's safety from parolee-passengers. A safety cage is a frame specifically engineered and constructed around the back seat of law enforcement vehicles. The use of a caged vehicle is not a substitute for parole agent vigilance where safety is of paramount importance. The placement and removal of a parolee from a vehicle is critical during transport. When transporting, parole agents should always exercise due caution. Planning should be made with the community and parole agents' safety at the forefront of the decision-making process as follows:
  - (1) The unit supervisor will formally assign a caged vehicle that is designated for an office location or parole unit to a specific Parole Agent II. This will be considered the assigned Parole Agent II's normal duty vehicle. As such, the caged vehicle will not be an "extra vehicle" parked at the office and available for random use.
  - (2) The unit supervisor may assign the caged vehicle to a parole agent other than the Parole Agent II if that assignment addresses the operational needs of the parole unit. The decision to assign the caged vehicle to a parole agent other than the Parole Agent II will require prior approval of the District Administrator.
  - (3) The parole agent who is assigned a caged vehicle will use the vehicle for state business.
  - (4) When there is a request from another parole agent from within the parole unit or office complex to use the caged vehicle for extra safety and security purposes while transporting a parolee to or from custody or other emergency situations, a reasonable effort shall be made to make the caged vehicle available to the parole agent.
  - (5) When the parole agent who is assigned a caged vehicle is away from the office for a period that exceeds two consecutive working days, the unit supervisor will ensure that the parole agent who is assigned the caged vehicle exchanges the vehicle with another parole agent.

#### 82000.9 Monthly Travel Log

- (a) State Administration Manual (SAM) section 4107 requires State agencies maintain a monthly travel log, Form STD. 273, on all CDCR-owned vehicles and DGS leased vehicles. Employees shall complete the Form STD. 273 in its entirety by documenting miles, date(s) traveled, location where vehicle is stored, driver's name, and destinations. The time of the odometer readings shall be entered at the beginning and end of each day. Employees must submit the monthly travel log to their supervisor by the 25th of each month for CDCR-owned or leased vehicles. For leased vehicles, the supervisor shall submit the monthly travel log information to the unit support staff and ensure they submit the data electronically to DGS via the online monthly travel log application at <https://www.dgsapps.dgs.ca.gov/OFA/MileageLog/> by the third working day of the subsequent month. The supervisor will also ensure the monthly travel log information is uploaded to the designated CDCR database by the third working day of the subsequent month. Late submission of the monthly travel log information to DGS by the sending unit may result in the assessment of a late fee.

- (b) In instances where it is absolutely impossible to enter the current mileage in any given month, the supervisor shall inform the regional vehicle coordinator the reason why the mileage cannot be updated and submitted to DGS.
- (c) Form STD. 273 shall continue to be the only authorized method to report the required monthly travel log information to DGS. Copies of Form STD. 273 shall be retained by the supervisor and be available for review by DGS upon request. Logs for the current and immediately preceding previous fiscal year shall be retained for a period of 12 months for each fiscal year. Each fiscal year, the logs shall be updated to include the log for that current fiscal year and for the previous year every year.

#### 82001 Use of the State Voyager Card

- (a) A State Voyager Card is assigned to each State-issued vehicle and shall remain with the vehicle to which it is assigned. Approved use of the State Voyager Card throughout the State of California includes the following:
  - (1) Purchase of regular grade (unleaded) fuel, alternative fuel, diesel fuel, or fuel specifically required by vehicle manufacturer; fluids; and lubricants.
  - (2) Two basic (low-cost) car washes per month. (During Statewide water conservation, it is recommended vehicles be washed only in cases where not doing so would impede safe operation of the vehicle).
  - (3) Emergency purchases such as windshield wiper blades, fan belts, or a replacement tire.
  - (4) Emergency roadside assistance through the National Automobile Club (800) 600-6065.
  - (5) Oil changes are not authorized.

#### 82001.1 Employee Vehicle Change Request

- (a) An employee may request to change their assigned vehicle for a larger or smaller vehicle, for a different type of vehicle, or for a reasonable accommodation due to a disability or medical condition which affects the employee's ability to drive the assigned vehicle.
  - (1) Disability or Medical Condition Reasonable Accommodation
    - (A) A request for a change in vehicle assignment that is based on a disability or medical condition shall be made via the CDCR Form 855, Request for Reasonable Accommodation. The employee shall complete sections A and B of the form, provide supporting medical documentation, and submit it to their supervisor.
    - (B) The supervisor shall discuss the essential functions and noted limitations with the employee. After the supervisor has discussed the essential functions and limitations with the employee, the supervisor shall complete the CDCR Form 855, section "Immediate Supervisor." The completed CDCR Form 855 shall be forwarded to the regional return to work coordinator (RTWC) for processing.
    - (C) The RTWC shall discuss the reasonable accommodation process with the employee to identify if an accommodation is possible. The reasonable accommodation process requires a list of the essential functions of the employee's classification be provided to the employee's designated physician. After reviewing the essential functions, the RTWC will request the physician to provide the RTWC with a written response as to whether the employee is able to perform the essential functions of the job and outline any and all limitations the employee may have. The RTWC is responsible for directing the reasonable accommodation process. To expedite this process, the employee should be responsive to information requests made by the RTWC.
    - (D) If the supervisor discovers that the request is due to an on-the-job injury or illness, the supervisor shall provide the employee with a State Compensation Insurance Fund, Workers' Compensation Claim Form e3301 within 24 hours of discovery and notify the Parole Administrator. The supervisor shall then contact the RTWC to coordinate the submission of all necessary workers' compensation forms. State Compensation Insurance Fund Workers' Compensation Claim Form e3301, can be accessed at <https://content.statefundca.com/pdf/e3301.pdf>.
  - (2) Other Requests: A request for a change in vehicle assignment that is not based on a verifiable disability and/or medical condition can be made by submitting a written request to the supervisor via the CDCR Form 1617, Memorandum. This request shall include:

- (A) An outline of the specific request being made.
- (B) An explanation or justification as to why the request should be granted.
- (C) The supervisor shall review and consider the request based on its merit. The supervisor shall approve or deny the request in writing and provide a response to the employee within 20 working days of receipt.
- (D) For any approved request for a different assigned vehicle, the supervisor shall notify the Parole Administrator and make the necessary arrangements with the regional vehicle coordinator or designee to determine if a vehicle is available to meet the needs of the employee.

#### **82001.2 Use of Personal Vehicles**

- (a) It is expected that assigned State vehicles shall provide for the transportation needs required by employees to perform their duties in the community. Should circumstances occur that preclude the use of the standard assigned State vehicle, the employee may request approval from the supervisor to use their personal vehicle and request mileage reimbursement. If approved to utilize a personal vehicle, the employee shall complete Form STD. 261, Authorization to Use Privately Owned Vehicles on State Business. This form is required to be updated annually. The personal vehicle must be used in compliance with California Vehicle Code (i.e., current registration and proof of insurance.)
- (b) The employee, with prior supervisor approval, can elect to drive their personal vehicle when scheduled for Officer of the Day (OD) duty or a prescheduled office day and will not be reporting to the field. Mileage will not be reimbursed, as these are considered "commute miles." The employee shall still maintain access to their State-issued safety equipment, (i.e., ballistic vest, baton, etc.) The referenced STD. form is available at <http://www.dgs.ca.gov/ofam/Forms.aspx>.

#### **82001.3 Rental Vehicles and Vehicles Larger Than Standard State Vehicles**

DAPO provides CDCR-owned vehicles or DGS leased vehicles for use by employees. The use of rental vehicles and/or larger vehicles requires an increased diligence by the Parole Administrator or the supervisor in reviewing and/or approving such requests. The regional vehicle coordinator shall oversee the use of a rental vehicle or assignment of vehicle larger than a standard State vehicle. Under no circumstances shall the request be approved based solely on the employee's personal preference. If an employee is using a rental vehicle, the supervisor and regional vehicle coordinator will track monthly and ensure the rental is returned immediately when a State vehicle is available for permanent assignment to the employee.

#### **82001.4 Reporting Personal Use of CDCR-Owned or Leased Vehicles**

- (a) The value of all personal use of State vehicles is taxable and must be reported to the State Controller's Office according to the IRS. Each calendar month, the employee must complete the CDCR Form 1804, Personal Use of State Provided Vehicle Employee Certification, reporting personal use miles. The CDCR Form 1804 shall be submitted to the supervisor along with the Form STD. 273 on a monthly basis whether or not personal use miles were logged in that month.
- (b) The supervisor shall ensure that a completed Form STD. 273 and CDCR Form 1804 are forwarded within three days following the end of each month to:
 

Accounting Services Branch – Sacramento  
Accounts Payable D  
PO Box 187021  
Sacramento, CA 95818-7021

#### **82001.5 Maintenance and Repair**

- (a) The assigned employee of the CDCR-owned or leased vehicles shall ensure bi-annual smog tests are conducted. Preventative maintenance, repairs, and safety inspections on the vehicle shall be made in accordance with the manufacturer's recommended intervals but at a minimum of every 6,000 miles or every six months whichever occurs first. The safety inspection shall be made in accordance with items outlined on the Form OFA 35, Preventative Maintenance Schedule/Safety Inspection Work Sheet. Once a safety issue is known, and not more than 48 hours thereafter, the assigned operator shall have the State vehicle delivered for repair through a State-approved automotive repair shop. The preventative maintenance and repair information shall be logged in the Automotive (Automobile) Maintenance Form STD. 271, which is to be

kept in the State vehicle's glove compartment. Maintenance receipts for the vehicle shall be maintained for three years. Forms OFA 35, Preventative Maintenance Schedule/Safety Inspection Work Sheet, and STD. 271 can be accessed at <http://www.dgs.ca.gov/ofam/Forms.aspx>.

- (b) Approved vendors for all oil changes, repairs, and routine maintenance require direct invoicing. OFAM preapproved vendors, can be found via: <https://www.dgs.ca.gov/OFAM/Resources/Page-Content/Office-of-Fleet-and-Asset-Management-Resources-List-Folder/Guide-to-Resolving-Mobile-Equipment-Problems>. The OFAM strongly encourages State drivers, where practical, to utilize authorized vendors offering re-refined oil for oil change services. Visit the OFAM website at: <https://www.dgs.ca.gov/OFAM> for facts on re-refined oil. The Parole Administrator shall inspect each assigned vehicle on a monthly basis to ensure the vehicle has not been damaged. Disciplinary action may be taken if it is determined the damage to the vehicle is due to the vehicle operator's neglect. The vehicle operator may be responsible for the repair costs of the vehicle.
- (c) In the event of vehicle damage due to the vehicle operator's neglect, the CDCR Form 1617, Memorandum shall be uploaded to the designated CDCR database and submitted to the Regional Headquarters Employee Relations Office and the Chief Deputy Regional Administrator for further review.

#### **82001.6 Emergency Roadside Service**

There is 24-hour emergency roadside service available by contacting the National Automobile Club at (800) 600-6065.

#### **82001.7 Reporting Procedures for Motor Vehicle Accidents**

- (a) State vehicles driven by staff are insured through the State Motor Vehicle Liability Self-Insurance Program. Personal vehicles approved for use on State business shall be insured through personal insurance.
- (b) All accidents involving DGS leased, CDCR-Owned, or privately-owned vehicles while on State business must be reported to the DGS Office of Risk and Insurance Management (ORIM) on the form STD. 270, Vehicle Accident Report within 48 hours of the occurrence. At the scene of the accident, the Form STD. 269, Accident Identification located in the glove compartment of State vehicles, must be completed and the tear-off portion provided to the other involved party or parties.
- (c) If the accident resulted in bodily injury to a non-State employee, or if there is significant damage to property, the accident must be reported immediately by telephone to the ORIM, followed by a faxed copy of the Form STD. 270. In all instances, the original Form STD. 270 must be sent to the ORIM within 48 hours. In addition, the driver's supervisor must review the circumstances of the accident, complete the Form STD. 274, State Driver Accident Review, and forward to the ORIM within five working days. The ORIM contact information is as follows:

Office of Risk and Insurance Management  
707 Third Street, First Floor  
West Sacramento, CA 95605  
(916) 376-5302, or via FAX at (916) 376-5277  
(916) 376-5295 (weekends/holidays-leave message)

- (d) When the accident involves a private vehicle of a State employee approved for use during State business, the employee should also contact their private insurance carrier. If reimbursement for the cost of repair is sought, the employee or their insurance company must provide receipts and file a claim with the Department of General Services Government Claims Program. Information and claim forms are available at <https://www.dgs.ca.gov/ORIM/Services/Page-Content/Office-of-Risk-and-Insurance-Management-Services-List-Folder/Report-a-Vehicle-Accident>.
- (e) A copy of both forms STD. 270 and STD. 274 must be forwarded to the Chief Deputy Regional Administrator, via the regional vehicle coordinator, the CDCR's ORIM, the Property and Liability Unit, and uploaded to the designated CDCR database. Copies shall also be retained by the Parole Administrator and the supervisor at the local level. The supervisor shall ensure that all assigned State vehicles are adequately stocked with Form STD. 269, Accident Identification and that Forms STD. 270 and 274 are readily available. The referenced STD. forms are available online at <http://www.dgs.ca.gov/ofam/Forms.aspx>.



## **82002 Citations and Toll Evasions Received While Operating a State Vehicle**

- (a) It is DAPO's expectation that all vehicle operators adhere to all applicable laws and rules regarding safe driving. The driver is responsible for any citations, parking tickets, moving violations, and/or bridge toll road evasion fines while operating a State or rental vehicle.
- (b) For leased vehicles, the driver shall notify OFAM as soon as operationally possible after being issued a citation while operating a State vehicle by calling the Fleet Services Call Center at (855) 611-OFAM (6326).

### **82002.1 Defensive Driver Training**

All DAPO employees who conduct official State business in a State vehicle shall successfully complete the Defensive Driver Training Program initially upon assignment of a State vehicle and every four years thereafter in accordance with the SAM, section 0751. Employees must maintain a valid defensive driver certificate whenever operating a State vehicle and shall produce this copy upon request. Supervisors shall ensure employees who drive on State business are current in their defensive driver training. A copy shall be placed in the employee's supervisory file. The supervisor shall ensure the defensive driving certificate along with the CDCR Form 844, Training Participation Sign-In Sheet, is uploaded to the designated CDCR database and a copy is forwarded to the regional training coordinator. Course scheduling information may be obtained by accessing the DGS website and completing the online course at: <https://ddt.dgs.ca.gov/>.

### **82002.2 Modifications to State Vehicles**

Any State vehicle modifications require prior approval from the Chief Deputy Regional Administrator. Requests for State vehicle modifications will be processed through the regional vehicle coordinator and a DGS inspector. The Form OFA 155, Equipment Modification Request will be required for approval along with the appropriate quotes from DGS-approved vendors. All approved and/or disapproved forms shall be uploaded to the designated CDCR database.

### **82002.3 Revisions**

The DAPO Director or designee shall ensure that this Article is current and accurate.

### **82002.4 References**

CCR (2) (1) §599.808.

SAM §§ 0751 and 4107.

VEH § 40200(A).

ACA Standards 4-APPFS-3H-01, 4-APPFS-3H-02 and 4-APPFS-3H-03.

Code of Federal Regulations, Title 26, Internal Revenue, Chapter I, Subchapter A, Part 1, Section 1.274-5, Substantiation Requirements.

### **Revision History**

Effective May 1, 2017

Revised: September 23, 2019.

## **ARTICLE 11 — PAROLE GRANT RELEASE PROCESS**

*Effective February 5, 2018*

### **82100 Policy**

At the conclusion of a Board of Parole Hearings (BPH) parole suitability hearing in which the BPH determines the inmate is suitable for parole, the inmate's release documents shall be prepared and processed according to procedures outlined in this policy.

#### **82100.1 Purpose**

The purpose of this policy is to ensure consistent release procedures and communication between BPH, Division of Adult Institutions (DAI), and the Division of Adult Parole Operations (DAPO).

#### **82101 Initial Parole Unit Assignment Responsibilities**

The address listed in "Parole Plan #1" on BPH Form 3005, Parole Verification Document, shall be used to determine the initial parole unit assignment.

#### **82101.1 Board of Parole Hearings Procedures**

When an incarcerated inmate is granted parole by BPH, a transcript of the hearing shall be provided to the BPH Offender Investigations and Screening Division (OISD) to conduct a preliminary review. OISD shall complete the BPH Form 3005 within 60 days of the BPH hearing. OISD shall document the following information on BPH Form 3005:

- Type of parole grant (lifer, elderly, youth, etc.).
- Proposed residences, in order of priority.

- County of Last Legal Residence (CLLR).
- Programs required by BPH.
- Inmate problem areas.
- Inmate support system.
- Residency restrictions and location concerns, such as a victim or witness residing in the same county as a proposed residence.
- BPH required conditions of parole, pending BPH approval.
- BPH recommended conditions of parole, pending BPH approval.

If a program is not proposed by BPH, OISD will note transitional housing to be determined by DAPO. OISD will forward the BPH Form 3005 to the DAPO Community Transition Program (CTP) via electronic mail to: [CTPCallCenter@cdcr.ca.gov](mailto:CTPCallCenter@cdcr.ca.gov).

### **82101.2 Community Transition Program Procedures**

Upon receipt of the BPH Form 3005, CTP staff shall forward the form to the appropriate Regional Reentry Unit for parole unit assignment based on the proposed address. If a proposed address is not listed on the form, CTP staff shall assign the inmate to a state-sponsored program based on the inmate's case factors, criminogenic needs, and any geographical restrictions imposed by BPH. CTP staff may make changes to an inmate's program placement at any time prior to the BPH Form 3005 being verified by the assigned parole unit. Within one business day of notification of parole unit assignment, CTP staff shall forward the BPH Form 3005 to the unit supervisor of the assigned parole unit.

CTP staff shall maintain a log containing the following information:

- Inmate's name and CDCR number.
- Hearing date at which BPH granted parole.
- Assigned BPH Investigator.
- BPH Form 3005 status as an initial or subsequent placement document.
- Date the BPH Form 3005 was received from BPH.
- BPH Form 3005 due date.
- CLLR.
- Assigned parole unit and name of unit supervisor.
- Name of proposed residential program, if any.
- Date the BPH Form 3005 was sent to assigned parole unit.
- Governor's reverse decision date, if applicable.

If the inmate has an active United States Immigration and Customs Enforcement hold, detainer, or warrant and does not have an address listed on the BPH Form 3005, CTP staff shall process the BPH Form 3005 according to this Article.

### **82101.3 Regional Reentry Unit Procedures**

Within one business day of receipt of BPH Form 3005, the Regional Reentry Unit shall assign the case to a parole unit and notify CTP staff of the parole unit assignment.

Normally, BPH Form 3005 will be received prior to the Regional Reentry Unit's receipt of the electronic Release Program Study (RPS), via routing through the Strategic Offender Management System (SOMS). The Regional Reentry Unit shall not wait for the RPS and shall assign the case based solely on the information on the BPH Form 3005. When a RPS is received first, it shall be retained pending receipt of the BPH Form 3005.

### **82101.4 Institutional Case Records Procedures**

If the Minimum Eligible Release Date (MERD), Youth Parole Eligibility Date (YPED), or Elderly Parole Eligibility Date (EPED) is within 210 days, the correctional counselor will be notified via the Classification Actions Due to initiate the RPS while Case Records staff continues to monitor the Case Records Action Due (CRAD). Staff shall not wait for the BPH Form 3005 to complete the RPS process. If the inmate is granted parole and due to be released in less than 210 days, upon notification from BPH, RPS will be electronically rerouted to the Regional Reentry Unit within SOMS. In the event the inmate's tentative release date is greater than 210 days, the RPS will be held until reaching the 210th day from the MERD, YPED, or EPED, and then processed.

The correctional counselor shall enter "see attached Parole Verification Document" in the proposed employment and residence sections of the RPS. The correctional counselor shall complete the remainder of the form according to current policy. Upon completion, the RPS will be electronically routed to the Regional Reentry Unit within SOMS. The Institution Classification and Parole Representative (C&PR) will receive a copy of the BPH Form 3005 PVD from CTP. The C&PR will allocate a Case Records Technician to then

scan the BPH Form 3005 PVD into the BPH section of the inmate's profile in the Electronic Records Management System (ERMS).

### **82101.5 Parole Unit Procedures**

Unless a shorter due date is requested by the CTP supervisor, the parole agent shall have five business days from assignment of the BPH Form 3005 to verify the proposed residence and employment. The purpose of the verification visit shall be to determine if the inmate's proposed residence and employment are viable. When making the assessment of viability, the cost of housing and/or length of time available to reside at the residence shall not be sufficient reasons to find the proposed residence not viable. The parole agent may note concerns about the potential for homelessness or short-term nature of the residence in the Comments section. The parole agent shall also complete the CDCR Form 1658, Parolee Residence/Employment Verification and submit this form with the BPH Form 3005.

#### **82101.5.1 Procedures for Not Viable Parole Plan**

The unit supervisor shall ensure the parole agent explains the reason for finding the proposed plan not viable on the BPH Form 3005, and that an alternate placement suggestion is included on the form. The form shall be submitted to CTP via electronic mail to: CTPCallCenter@cdcr.ca.gov.

CTP staff shall proceed as described in section 82101.6.

#### **82101.5.2 Procedures for Viable Parole Plan**

The unit supervisor shall ensure that a detailed description of the residence is included on the BPH Form 3005, and submit it and the CDCR Form 1658 via electronic mail to: CDCRLiferInvestigations@cdcr.ca.gov. The form must be submitted on or before the due date provided by CTP staff.

Within one business day of submission of the BPH Form 3005, the parole agent shall complete CDCR Form 611 and submit the form to the unit supervisor. The unit supervisor shall ensure the CDCR Form 611 and BPH Form 3005 are submitted to the institution where the inmate is currently housed.

### **82101.6 Subsequent Board of Parole Hearings Form 3005 Procedures**

If the inmate's primary address and any other addresses listed on the BPH Form 3005 are found not viable, CTP staff shall initiate a subsequent BPH Form 3005. CTP staff shall make an assignment to a State-sponsored program in the inmate's CLLR. If the inmate is not able to reside in their CLLR due to an approved CDCR Form 1707, Special Condition of Parole, or lack of program availability in the CLLR, CTP staff shall assign the inmate to a State-sponsored program outside of the CLLR. CTP staff will process the subsequent BPH Form 3005 according to the procedures described in this Article.

#### **82101.6.1 Regional Reentry Unit Procedures for Subsequent Board of Parole Hearings Form 3005**

Within one business day of receipt of a subsequent BPH Form 3005, the Regional Reentry Unit shall:

- Assign the case to a parole unit.
- Notify CTP of the parole unit assignment.
- Obtain a copy of the inmate's pre parole packet via ERMS, where it electronically will reside, and initiate a transfer in SOMS to the new parole unit.

#### **82101.6.2 Parole Unit Procedures for Subsequent Board of Parole Hearings Form 3005**

The unit supervisor shall ensure the case is assigned to a parole agent and the transfer is accepted from the previous unit within one business day of receipt. The parole agent shall process the subsequent BPH Form 3005 within five business days according to section 82101.5, unless the BPH Form 3005 is expedited by the CTP Supervisor.

### **82101.7 Parole Grant Vacated, Rescinded, or Reversed**

If an inmate's parole grant is vacated, rescinded, or reversed by BPH or the Governor, the BPH Legal Division will notify CTP via electronic mail to: CDCRLiferInvestigations@cdcr.ca.gov, and the Institutional Case Records staff at the institution where the inmate is housed. CTP staff shall notify the unit supervisor of the assigned parole unit and the Regional Reentry Unit via electronic mail. Upon notification the parole has been rescinded, vacated, or reversed the supervisor responsible for the current level of review will initiate the cancelling of the document in SOMS. If the form has already been finalized or passed the second review stage it can no longer be cancelled, the form is to stay as is in SOMS, and when the offender is within 210 days from release a new RPS will then be re-initiated. The unit supervisor shall then ensure that any field file created is destroyed.

#### **82101.7.1 Parole Granted-Inmate Serving a Consecutive Determinate Term**

An inmate may be granted parole on an indeterminate sentence and still must serve a determinate term if the court ordered it served consecutive to the indeterminate term. When this occurs, Institutional Case Records staff shall notify CTP via electronic mail to: CTPCallCenter@cdcr.ca.gov, according to current department procedures for determinate term releases. CTP staff shall verify the BPH Form 3005 submitted when parole was granted for the indeterminate term is still viable, or generate a subsequent BPH Form 3005 if the original is not viable.

If the release date is less than one year, the assigned parole unit shall send the CDCR Form 2202, Request for Discharge Review Date/Controlling Discharge Date Documentation via electronic mail to: CDCR PCR-DRD-CDD for the appropriate updates. The field file shall be maintained in the parole unit.

If the release date is more than one year, the BPH OISD will generate a new BPH Form 3005 prior to release.

### **82101.8 Revisions**

The DAPO Director or designee shall ensure that this section is current and accurate.

### **82101.9 References**

Penal Code §§ 3041.1 and 3041.2

California Code of Regulations Title 15, Sections 3075.2 and 3076.5.

**ARTICLE 12 — UNASSIGNED**

**ARTICLE 13 — UNASSIGNED**

**ARTICLE 14 — UNASSIGNED**

**ARTICLE 15 — UNASSIGNED**

## **ARTICLE 16 — COMMUNITY-BASED PROGRAM OVERVIEW**

*Revised October 11, 2018*

### **83010.1 Introduction**

Community-based programs provide the opportunity for transition from close confinement to less restrictive living for selected inmates. Placing inmates in these programs also reduces prison overcrowding. The Division of Adult Parole Operations (DAPO) administers the reentry program through policies and procedures designed to accomplish program objectives in a cost-effective manner.

California Department of Corrections and Rehabilitation (CDCR) staff monitor facility practices through a range of techniques intended to assess policy compliance and provide for corrective action. CDCR staff and contractors help inmates participating in community-based programs make the transition from prison to the community by providing a range of services. Additionally, they initiate the necessary action to interrupt any participant behavior that threatens the facility or the community. They also provide those services necessary to begin a successful transition to parole or post-release community supervision.

### **83010.2 Policy**

The Penal Code (PC) authorizes the Secretary to operate community correctional centers and to contract with public agencies and private vendors for the operation of re-entry facilities. Inmates who reside in community reentry facilities may participate in programs that are provided through these facilities. For the purposes of Chapter 8, Articles 16 through 25, when an inmate is participating in these programs, they shall be referred to as participants.

Community-based programs are composed of the following subprograms:

- **Work Furlough:** Selected inmates who are within 90 to 120 days of parole may reside in community re-entry facilities and participate in employment, vocational training, or educational programs in the community. The inmate is expected to establish employment, stable residence, and family ties.
- **Community Prisoner Mother Program (CPMP):** The CPMP allows eligible pregnant inmates and inmate mothers the opportunity to be housed with their children in a supervised facility away from the prison setting. The primary focus of the CPMP is to reunite mothers with their child(ren) and re-integrate them back into society as productive citizens by providing a safe, stable, wholesome and stimulating environment; establish stability in the parent-child relationship, and provide the

opportunity for inmate mothers to bond with their children and strengthen the family unit.

- **Alternative Custody Program (ACP):** The ACP is authorized by PC 1170.05. PC 1170.05 requires CDCR to operate a program that allows eligible inmates committed to State prison to serve their sentence in “a residential home, a residential drug or treatment program, or a transitional care facility.” Both male and female inmates are eligible for ACP participation. The inmate must apply for the program and meet eligibility criteria established by the Division of Adult Institutions (DAI). ACP participants shall be supervised on a parole agent’s caseload in the parole unit that serves the geographic area where the participant intends to reside.
- **Male Community Reentry Program (MCRP):** The MCRP is a collaborative effort between the Division of Rehabilitative Programs (DRP), DAI, and DAPO to successfully reintegrate offenders back into the community. Male inmates who meet eligibility criteria determined by DRP may serve a portion of their prison sentence in a MCRP facility in lieu of a State prison. The MCRP is a residential facility located in the community. The program focuses on providing community based programming relative to the participant’s criminogenic needs as identified through their Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) assessment and Case Plan. The programming is accomplished through certified instruction by contract staff at the facility, as well as community-based program referrals to established DAPO and county programs. DAPO staff assigned to the MCRP shall normally be at the level of a Parole Agent II (Specialist).
- **Custody to Community Transitional Reentry Program (CCTRP):** Female inmates who meet eligibility criteria determined by DAI may serve a portion of their prison sentence in a facility contracted with CDCR. DAPO staff assigned to the CCTRP shall normally be at the level of Parole Agent II (Specialist).

#### **83010.3 Facility Operations Manual**

Each community-based reentry program shall maintain an operations manual. The format for the manual is contained in contracts with the vendor.

#### **83010.4 Revisions**

The DAPO Director or designee shall ensure that this section is current and accurate.

#### **83010.5 References**

PC §§ 1170.05, 6250, and 6260.

### **ARTICLE 17 —ALTERNATIVE CUSTODY PROGRAM**

*Revised October 11, 2018*

#### **83020.1 Policy**

- The Alternative Custody Program (ACP) is authorized by Penal Code (PC) 1170.05, which requires that the California Department of Corrections and Rehabilitation (CDCR) operate programs for inmates to serve a portion of their sentence in a residential home, residential drug or treatment programs, or transitional care facilities. Male and female inmates are eligible for the ACP.
- The inmate must apply for the program and meet eligibility criteria established by the Division of Adult Institutions (DAI). Once approved and released to the program, the inmate shall be considered a participant in the program. In the ACP, determination and placement of participants into the County of Last Legal Residence pursuant to criteria in current Division of Adult Parole Operations (DAPO) policy does not apply. Participants shall receive any sentence reduction credits they would have received had they served their sentence in a state prison. Participants may be returned to an institution to serve the remainder of their prison term at any time, with or without cause. ACP participants shall be supervised on a parole agent’s caseload in the parole unit that serves the geographic area where the participant intends to reside.
- PC 5054.1 shall be used when arresting or placing a hold on a participant, or in the event of an escape. PC 3056, 3000.08, and 1203.2 shall not be used when arresting or placing a hold on a participant. Arrests of participants by DAPO staff shall be conducted in accordance with DAPO policy.
- PC 1170.05 requires CDCR to utilize continuous electronic monitoring to ensure participants abide by the requirement that they are restricted to their residence during designated hours. Electronic monitoring shall be used for all participants. The application of an electronic monitoring device for participants is not considered a penalty or sanction, but rather a statutorily mandated supervision tool. A curfew shall be established for all participants.

All participants must agree to all of the terms and conditions as set forth by the program, to include mandatory electronic monitoring.

#### **83020.2 Pre Release Procedures**

Division of Adult Institutions: After tentatively approving an inmate for ACP participation, the DAI Female Offenders Programs and Services (FOPS) ACP Program Manager shall fax or email a copy of the CDCR Form 2234, Alternative Custody Program (ACP) Application and Voluntary Agreement, and CDCR Form 611-A, Alternative Custody Program Information Sheet, to the appropriate Regional Reentry Unit. Within one business day, the Regional Reentry Unit shall assign the case to a parole unit and forward the CDCR Forms 611-A and 2234 to the assigned parole unit.

##### **83020.2.1 Community Transition Program Staff**

(a) The Classification and Parole Representative (C&PR) at the sending institution shall forward a copy of the CDCR Form 2234 to the DAPO Community Transition Program (CTP). Upon notification from the C&PR, CTP staff shall:

- Within five working days, complete the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) Reentry Assessment, and Case Plan.
- Notify the designated institutional social worker of the completion of the COMPAS tasks.
- The institutional social worker will complete the Individualized Treatment and Rehabilitation Plan (ITRP).

##### **83020.2.2 Parole Unit Support Staff**

(a) Upon receipt of the ACP packet, parole unit support staff shall:

- Immediately forward the ACP packet to the unit supervisor or designee for parole agent assignment.
- Ensure the Strategic Offender Management System (SOMS) contains updated identifying and demographic information for the inmate.
- Access the Electronic Records Management System (ERMS) to create a field file.
- Print the ITRP and COMPAS Case Plan for the field file.
- Print any applicable registration forms.
- After the parole agent and unit supervisor complete the CDCR Form 611-A and CDCR Form 2234, return the completed forms as instructed on the forms.

##### **83020.2.3 Parole Agent**

(a) Upon assignment, the parole agent shall:

- If the inmate proposes to reside in a private residence or non-State-sponsored program, conduct the residence verification as described in Section 83020.3.
- If the proposed residence is not approved, document the decision and justification for denial on the CDCR Form 2234, and submit to the unit supervisor.
- If the proposed residence is approved, proceed as follows:
  - Complete the CDCR Form 1516-ACP, Alternative Custody Program Requirements.
  - Complete Section I of the CDCR Form 2289, Notice And Request For Assistance During A Parole Proceeding.
  - Complete the Behavioral Health Reintegration (BHR) referral package (if applicable due to mental health needs).
  - Create an electronic monitoring profile utilizing the current software approved by DAPO.

##### **83020.2.4 Unit Supervisor**

Two weeks prior to the scheduled ACP release date, the unit supervisor shall notify the Electronic Monitoring Unit (EMU) Support Unit via electronic mail to [emusupport@cdcr.ca.gov](mailto:emusupport@cdcr.ca.gov) to report the participant’s scheduled release date and designated ACP location. The EMU Support Unit shall ensure that electronic monitoring equipment is available prior to the participant’s release.

#### **83020.3 Alternative Custody Program Residence Verification Policy**

- Upon receipt of the CDCR Form 2234 for an ACP placement, the unit supervisor shall assign a parole agent to conduct the residence verification. The parole agent shall complete the verification within five business days. If the ACP participant will be placed in a State-sponsored program (e.g., Parolee Service Center), residence verification is not required.
- The ACP participant is limited to one opportunity per application to provide a verifiable address. The parole agent shall make a good faith effort to verify the residence; however, if the private residence cannot be verified or is determined to be inappropriate, reasons for disapproving the residence shall

be noted on the CDCR Form 2234. The parole agent has the discretion to verify an alternate address based on any extenuating circumstances or information discovered.

(c) For ACP participants with a private residence in which they have documented ownership, and when no other person(s) currently resides at the residence, sufficient detail must be provided by the ACP participant on the CDCR Form 2234 to allow verification by the parole agent.

(d) The proposed residence must meet the following criteria:

(1) **Residence:** The residence must have an actual address and be structurally sound with working doors, windows, and utilities. DAPO and local law enforcement must have access to the primary entrance of the proposed residence. Apartments and multiplexes with a secured common entry door are permissible as long as the property manager or landlord is aware of the participant's status and the parole agent is provided a key, access card, or access code no later than the day after the participant reports to the parole unit. Make-shift rooms, out-buildings, sheds, and tents are not acceptable. The residence shall provide adequate living space for all of its current inhabitants, and the addition of the participant must not cause the conditions to become inadequate or substandard.

(2) **Meals:** ACP participants are responsible for their own meals. The residence must have a kitchen or area designated for meal preparation and proper food storage.

(3) **Weapons:** The entire residence shall be free of any weapons, simulated weapons, ammunition, or destructive devices. Knives used for cooking must be kept in the kitchen or meal preparation area, and not in the participant's bedroom or sleeping quarters.

(4) **Property Restrictions:** Current Federal Housing Authority criteria dictates that only qualified and approved individuals may reside in subsidized housing. ACP participants may not reside in publicly subsidized housing without prior written permission from the property owner or manager indicating that the participant's presence in the residence meets the guidelines and is in compliance with federal law and regulations.

#### **83020.4 Residence Verification Procedures**

(a) Upon assignment of the residence verification, the parole agent shall:

(1) Attempt to verify the proposed residence. Verification shall be done in person and documented on the CDCR Form 1658, Parolee Residence/Employment Verification. This shall be done in the same manner the pre-parole residence verification is normally conducted for parolees.

(2) After verifying the proposed residence, complete the CDCR Form 2234 and check the appropriate box for meeting or not meeting established criteria in this policy. If the residence does not meet criteria, note the reasons in the comments section.

(3) If the residence meets criteria, complete the CDCR Form 1649, Reporting Instructions.

(4) Submit the CDCR Form 1516-ACP, CDCR Form 2234, CDCR Form 1658, and CDCR Form 1649 (if residence is approved) to the unit supervisor.

(b) Upon receipt of the completed residence verification from the parole agent, the unit supervisor shall:

(1) Review the forms and documents relevant to the residence verification or attempt and either concur or not concur with the parole agent's findings. If the unit supervisor does not concur, the reason(s) shall be documented in the comments section on the CDCR Form 2234.

(2) Within one business day, forward the CDCR Form 2234 and CDCR Form 1649 (if applicable) to unit support staff for transmission to the C&PR at the sending institution.

(c) If the parole agent or unit supervisor later become aware that a previously approved residence is no longer viable, the parole agent or unit supervisor shall contact the FOPS ACP Program Manager.

#### **83020.5 Curfew Requirements for Alternative Custody Program Participants**

(a) A curfew range shall be established for all ACP participants.

(1) The curfew range shall normally be any uninterrupted 10-hour span every day, and under no circumstances shall the curfew range be less than any uninterrupted 8-hour span.

(2) The hours shall normally be from 8:00 p.m. to 6:00 a.m.

(b) The curfew range shall be stated on the CDCR Form 1516-ACP. The start and end time of the curfew range may be adjusted to accommodate the participant's verified hours of work, school, and training. All requests to temporarily modify the 8-hour curfew requirement shall require a case conference with the unit supervisor. Upon unit supervisor approval, document the approved curfew modification on the CDCR Form 1502, Activity Report, and forward to the FOPS ACP Program Manager.

(c) While it is the expectation that participants will be involved in programs, services, or employment, under no circumstances will the requirement for restriction to their residence for a specified period of time be completely waived. The parole agent may waive the requirement during a medical emergency for the period of time required for the care of the participant.

#### **(d) Curfew Violations**

The following will serve as a guideline when a participant has violated established curfew restrictions. If the duration of the curfew violation falls within the following parameters:

(1) Less than 20 minutes - the participant shall be verbally admonished;

(2) 21-120 minutes - the parole agent and unit supervisor shall conduct a case conference and recommend suitability for continuing participation to the FOPS ACP Program Manager;

(3) Greater than 120 minutes or a second offense greater than 20 minutes - the participant may be removed from the private residence or facility by initiating Return to Institution (RTI) procedures.

#### **83020.6 Individualized Treatment and Rehabilitation Plan**

(a) In addition to the requirements outlined on the CDCR Form 1516-ACP, participants shall agree to and fully comply with the prescribed objectives, goals, and tasks contained in their Individualized Treatment and Rehabilitation Plan (ITRP).

(b) As the participant completes objectives, goals, and tasks, the parole agent and unit supervisor will evaluate the participant's progress during the case conference review and identify the next prescribed objective. Additional consideration shall be given to the participant's California Static Risk Assessment score, criminogenic needs, treatment availability, the participant's ability, and participant's input.

#### **83020.7 Intake Procedures**

(a) ACP participants are instructed to report to the assigned parole unit within one business day of release. Upon arrival of the participant at the parole unit, the parole agent shall conduct an initial interview which shall include the following:

(1) Review the CDCR Form 2289 with the participant, noting any Americans with Disabilities Act accommodations needed and input the information into the Disability and Effective Communication System (DECS).

(2) Review the CDCR Form 1516-ACP, including curfew range and special requirements for participation with the participant.

(3) Install the electronic monitoring device and establish the electronic monitoring curfew inclusion range as well as any other applicable special requirements consistent with established procedures.

(4) Collect a urinalysis sample (if applicable).

(5) Update SOMS with the release date information and other case factors as necessary.

(6) Whenever possible, review the ITRP with participant. If this is not accomplished on the day of release, review the ITRP within 10 working days.

#### **83020.7.1 Alternative Custody Program Participant Failure to Report Procedures**

(a) The ACP participant shall report to the parole unit on the first business day following release, as directed on the CDCR Form 1649. If the participant fails to report, on the second business day following release, the parole agent shall investigate to ensure the participant was in fact released. If so, the participant is now considered an escapee.

(b) The parole agent shall conduct a case conference with the unit supervisor and then notify the FOPS ACP Program Manager of the escape. The parole agent shall document the failure to report, and any known information related to the failure to report, on a CDCR Form 1502 and fax the form to the FOPS ACP Program Manager prior to the close of business on the second day.

#### **83020.8 Supervision Requirements**

(a) In the participant's SOMS profile, the Supervision Level shall be "IM-In-Home Det. Monitor" and the Supervision Type shall be "Alternative Custody Program." The parole agent shall document on the Automated CDCR Form 1650-D, Record of Supervision (ROS), located in SOMS, the following minimum monthly specifications:

(1) One unannounced home contact.

(2) One face-to-face contact to discuss and monitor compliance with the ITRP (this may be done in conjunction with the home contact).

(3) One significant collateral contact or one resource collateral contact.

(4) One unscheduled and random urinalysis, if applicable.

(5) Assist the participant in community-based referrals, in an attempt to address criminogenic needs to facilitate a fluid transition from the program to parole.

(6) Review the daily status report received from the electronic monitoring vendor to determine program compliance or alerts each working day.

(7) Investigate alerts for any violations of electronic monitoring special conditions of parole. All investigations shall be documented on the ROS.

#### **83020.8.1 Case Conference Reviews**

(a) The case conference review shall be conducted no earlier than 60 days and no later than 90 days from the date of initial release and every six months thereafter. In conducting the case conference review, the parole agent and unit supervisor shall:

(1) Review the effectiveness of the current ITRP and determine if modifications are appropriate or necessary.

(2) Review the participant's behavior and compliance with their requirements of participation, curfew, ITRP, and whether any program milestones were achieved.

(3) Document results according to established procedures.

(4) Provide a copy of the documented results to the FOPS ACP Program Manager upon request.

#### **83020.8.2 Electronic Monitoring Procedures**

(a) PC 1170.05 states that an ACP program shall include the use of electronic monitoring, Global Positioning System (GPS), or other supervising devices for the purpose of helping to verify a participant's compliance with the rules and regulations of the program. The data collected from the electronic monitoring device is retained indefinitely and may be shared with other law enforcement agencies.

(b) The installation of the electronic monitoring device shall be accomplished the day the participant arrives at the parole unit. **Under no circumstances shall the participant be without electronic monitoring beyond the first business day after release.** If there are extenuating circumstances that result in any deviation from the statutory electronic monitoring requirement, the parole agent and unit supervisor shall conduct a case conference to determine if RTI is warranted.

(c) All electronic monitoring system alerts such as low battery, strap tampers, or other equipment alerts shall be investigated as directed in the DAPO Electronic In-Home Detention program policy. Alerts that are deemed to be program violations and all curfew violations shall be documented on the ROS and the CDCR Form 1502. A copy shall be forwarded to the FOPS ACP Program Manager within the established timelines.

(d) When immediate activation of the GPS on an electronic monitoring unit, also known as an Electronic In-Home Device (EID), is necessary due to exigent circumstances, the following shall apply:

(1) The agent of record shall conduct a case review with the unit supervisor or designee regarding the exigent circumstances, obtain approval to activate the GPS, and document the case review on the ROS.

(2) The unit supervisor, or designee, shall notify the appropriate Chief Deputy Regional Administrator to inform them of the need to activate the GPS.

(3) The unit supervisor, or designee, shall contact the EMU regional coordinator for activation and monitoring of GPS tracks.

(4) EMU shall document the approved requests for GPS tracking and all GPS activity on the ROS.

(5) EMU shall ensure that the GPS is activated, and deactivated, when appropriate.

(6) At no time shall EMU activate the GPS on an EID without prior approval.

#### **83020.8.3 Misconduct Return**

(a) If the participant has been involved in any type of misconduct or failure to abide by the requirements on the CDCR Form 1516-ACP, a CDCR Form 1502 shall be initiated describing the misconduct and identifying PC 5054.1 and 1170.05 as the authority for an RTI. Failure to abide by the provisions of the ITRP or the requirements are grounds for immediate removal from the program. Reporting program participant misconduct shall be documented on a CDCR Form 1502 and shall be forwarded to the FOPS ACP Program Manager within established time frames under the following conditions:

(1) When DAPO is notified or becomes aware that a participant has been involved in any form of misconduct, identified as a suspect or arrested by local law enforcement, a case conference shall be conducted by the parole agent and unit supervisor.

(2) If the case conference determines that the behavior warrants RTI, DAPO staff shall notify the FOPS ACP Program Manager immediately and coordinate the return of the participant to a designated institution via county

jail or direct admit. Relevant information, similar to information needed for parole violation reports, shall be documented on the CDCR Form 1502.

(b) The CDCR Form 1502 and any/all reports, e.g., police reports, urinalysis test results, witness testimony, etc., relevant to the behavior shall be forwarded to the FOPS ACP Program Manager.

#### **83020.8.4 Voluntary Returns**

(a) In the event a participant elects to voluntarily return to an institution, the parole agent will interview the participant in an attempt to resolve the issues concerning the participant's request to RTI. When appropriate, the parole agent shall case conference with the unit supervisor, FOPS ACP Program Manager, and participant to review the circumstances and attempt to resolve the participant's reason(s) for requesting the voluntary return. The following shall then occur:

(1) The participant shall be RTI via gate turn-in or detained and transported to the nearest county jail.

(2) The FOPS ACP Program Manager shall be notified of all voluntary returns.

(3) Voluntary returns shall be documented on a CDCR Form 1502 and a copy forwarded to the FOPS ACP Program Manager.

(4) After being returned to an institution, the inmate may submit a new request for program participation on a new CDCR Form 2234.

#### **83020.8.5 Transition from Alternative Custody Program to Parole or County Supervision**

(a) The Sacramento Control Office-Western Interstate Corrections Compact (SACCO-WICC) Records Office shall screen all participants for Post Release Community Supervision (PRCS) eligibility. Participants deemed eligible for PRCS will be processed consistent with current practice for inmates incarcerated in DAI facilities. The FOPS ACP Program Manager shall complete the parole documents and ensure they are submitted to the SACCO-WICC Records Office.

(b) For participants transitioning to parole, any remaining release funds shall be forwarded to the assigned parole unit. On the parole date, DAPO shall continue supervision of the participant, and EID equipment shall remain with the participant or may be removed according to current DAPO policy for EID.

(c) For participants transitioning to PRCS, EID equipment shall be removed on the final day of the prison term. However, if the final day of the prison term does not fall on a business day, the parole agent shall make arrangements with the probation officer and the participant to have the EID equipment removed and returned to DAPO no later than the third day of the PRCS term.

#### **83020.9 Escape Following Arrival to Private Residence**

(a) When DAPO is notified or has determined an ACP participant has escaped, the parole agent shall conduct a case conference with the unit supervisor and complete the CDCR Form 1502, documenting all known information regarding the circumstances of the escape. The unit supervisor shall contact the FOPS ACP Program Manager (916-322-8055) and ensure the CDCR Form 1502 is completed and forwarded to the FOPS ACP Program Manager. The following shall occur:

(1) If the escape occurs during normal business hours, the FOPS ACP Program Manager will initiate escape procedures consistent with current DAI policy and procedures. The unit supervisor shall also notify the Regional Parole Administrator via the chain of command.

(2) If the escape occurs or is discovered after normal business hours, the parole agent shall contact the DAI Administrative Officer of the Day (AOD) to request initiation of escape procedures. The DAPO AOD shall also be notified.

(3) When the participant is apprehended, the Warrant Unit shall notify the arresting agency and cancel the warrant.

(4) The parole agent shall notify the FOPS ACP Program Manager of the arrest and document all relevant information on CDCR Form 1502.

#### **83020.10 Revisions**

The DAPO Director or designee shall ensure that this section is current and accurate.

#### **83020.11 References**

PC §§ 1170.05, 1203.2, 3000.08, 5054.1, and 3056.

CCR (15) (3), §§ 3078 through 3078.6.

#### **Revision History**

Revised: October 11, 2018.

Revised: August 12, 2020.

## ARTICLE 18 — CUSTODY TO COMMUNITY TRANSITIONAL REENTRY PROGRAM

*Revised August 12, 2020*

### 83030.1 Policy

(a) Custody to Community Transitional Reentry Program (CCTRP) is a program for female inmates who are placed in a residential facility under contract with the California Department of Corrections and Rehabilitation (CDCR). The female inmate must apply for the program and meet eligibility criteria established by the Division of Adult Institutions (DAI). Once approved and released to the program, the inmate shall be considered a participant in the program. Participants shall receive any sentence reduction credits they would have received had they served their sentence in a State prison. Participants may be returned to an institution to serve the remainder of their prison term at any time, with or without cause.

(b) PC 5054.1 shall be used when arresting or placing a hold on a participant or in the event of an escape. PC 3056, 3000.08, and 1203.2 shall not be used when arresting or placing a hold on a participant. Arrests of participants by Division of Adult Parole Operations (DAPO) staff shall be conducted in accordance with DAPO policy.

(c) PC 1170.05 requires CDCR to utilize continuous electronic monitoring to ensure participants abide by the requirement that they are restricted to the CCTRP facility during designated hours. Electronic monitoring shall be used for all participants. The application of an electronic monitoring device for participants is not considered a penalty or sanction, but rather a statutorily mandated supervision tool. A curfew shall be established for all participants. Participants must agree to all terms and conditions, to include mandatory electronic monitoring.

(d) DAPO staff assigned to CCTRP facilities shall normally be a Parole Agent II (Specialist). The CCTRP will be staffed with a DAI Correctional Counselor (CC) III and contract vendor staff. The CC III is the on-site Program Manager. The Parole Agent II (Specialist) will be the Case Manager and maintain security by providing daily supervision of participants. Successful operation of the CCTRP requires DAI and DAPO staff to work collaboratively.

(e) The Parole Agent II (Specialist) assigned to the CCTRP shall fall under Chapter 8, Article 46 for the purposes of carrying a firearm at the CCTRP site. For the purposes of these staff, the CCTRP site shall be considered the field. Firearms, batons, and Oleoresin Capsicum (OC) shall not be stored at the facility overnight. Each CCTRP shall have additional OC and handcuffs stored in the CC III's office.

### 83030.2 Pre-Release Procedures for Custody To Community Transitional Reentry Program

After tentatively approving an inmate for CCTRP participation, the DAI Female Offenders Programs and Services (FOPS) ACP/CCTRP Program Manager shall fax or email a copy of the CDCR Form 2234-CCTRP, Custody to Community Transitional Reentry Application and Voluntary Agreement, and CDCR Form 611-A, Alternative Custody Program Information Sheet, to the Parole Agent II (Specialist) at the designated CCTRP facility. The Parole Agent II (Specialist) shall return the approved CDCR Forms 2234-CCTRP and 611-A to the FOPS CC III, who will create an ACP packet. The FOPS CC III will forward the packet to the Classification Staff Representative for endorsement to the CCTRP facility.

#### 83030.2.1 Parole Unit Support Staff

- (a) Upon receipt of the CCTRP file request, parole unit support staff shall:
- (1) Ensure the Strategic Offender Management System (SOMS) contains updated identifying and demographic information for the inmate.
  - (2) Access the Electronic Records Management System to create a field file.
  - (3) Print the Individualized Treatment and Rehabilitation Plan (ITRP) for the field file.
  - (4) Print any registration forms.

#### 83030.2.2 Parole Agent II (Specialist)

- (a) Upon assignment, the CCTRP Parole Agent II (Specialist) shall:
- (1) Submit a request to the parole unit for creation of a CCTRP participant case file.
  - (2) Complete the CDCR Form 1516-CCTRP, Requirements of the Custody to Community Transitional Reentry Program.
  - (3) Complete Section I of the CDCR Form 2289, Notice And Request For Assistance During A Parole Proceeding.
  - (4) Complete the Behavioral Health Reintegration (BHR) referral package (if applicable due to mental health needs).

(5) Create an electronic monitoring profile utilizing the current software approved by DAPO.

(6) Enter a Supervision History event in SOMS.

### 83030.2.3 Unit Supervisor

Upon receipt of the CCTRP packet, the unit supervisor shall:

- Notify the Electronic Monitoring Unit (EMU), Support Unit via electronic mail to [emusupport@cdcr.ca.gov](mailto:emusupport@cdcr.ca.gov) to report the participant's scheduled release date and designated CCTRP location. The EMU, Support Unit shall ensure that electronic monitoring equipment is available prior to the participant's release.
- Create a reservation in the electronic monitoring vendor's software.

### 83030.3 Curfew Requirements for the Custody to Community Transitional Reentry Program

Participants shall remain in the CCTRP facility between the hours of 10:00 p.m. and 6:00 a.m. Sunday through Thursday, and 11:00 p.m. and 6:00 a.m. Friday through Saturday. Participants shall be allowed to leave the facility for employment, when attending a verified school program, or employment search or interview. Participants are also allowed to go to medical or dental appointments as approved. Participants shall be escorted by program staff for other personal appointments or when going to a store.

### 83030.4 Curfew Violation Guidelines for the Custody to Community Transitional Reentry Program

(a) The following will serve as a guideline when a participant has violated established curfew restrictions. If the duration of the curfew violation falls within the following parameters:

- (1) Less than 20 minutes - the participant shall be verbally admonished;
- (2) 21-120 minutes - the Parole Agent II (Specialist), CC III, and Contract Program Director shall case conference the issue with FOPS Administration. FOPS Administrators shall determine the participant's suitability for continuing participation.
- (3) Greater than 120 minutes or a second offense greater than 20 minutes - the participant may be removed from the facility by initiating Return to Institution (RTI) procedures. The Parole Agent II (Specialist), CC III, and Contract Program Director shall case conference with FOPS Administration to determine the participant's suitability to remain in the community. FOPS Administrators shall make the final decision to initiate RTI procedures.

### 83030.5 Electronic Monitoring Procedures

(a) PC 1170.05 authorizes DAPO to utilize electronic monitoring, GPS, or other supervising devices for the purpose of helping to verify a participant's compliance with the rules and regulations of the program. The data collected from the electronic monitoring device is retained indefinitely and may be shared with other law enforcement agencies.

(b) The installation of the electronic monitoring device shall be accomplished the day the participant arrives at the facility. **Under no circumstances shall the participant be without electronic monitoring beyond the first business day after release to the CCTRP.** If there are extenuating circumstances that result in any deviation from the statutory electronic monitoring requirement, the Parole Agent II (Specialist), CC III, and Contract Program Director shall case conference with FOPS Administration to determine if RTI is warranted. FOPS Administrators shall make the final decision to initiate RTI procedures.

(c) All electronic monitoring system alerts such as low battery, strap tamper, or other equipment alerts shall be investigated and documented in accordance with the DAPO Confidential Memorandum on Electronic Monitoring Alerts. Alerts that are deemed to be Program Violations and all curfew violations shall be documented on the Automated CDCR Form 1650-D, Record of Supervision (ROS), located in SOMS and the CDCR Form 1502, Activity Report. A copy shall be forwarded to the CC III within the established timelines.

(d) The Parole Agent II (Specialist) shall create an inclusion zone in the electronic monitoring software that covers the facility. The zone shall be active for periods during which the participant is required to be on program grounds. The alert level of the zone shall require the electronic monitoring vendor to contact the Parole Agent II (Specialist) immediately by phone if the zone is violated. If the participant is granted leave, the zone schedule may be adjusted so that an alert is not generated when the participant is authorized to be away from the facility.

(e) The Parole Agent II (Specialist) shall create inclusion zones over any area where the participant has a required recurring activity. The Parole Agent II (Specialist) shall perform all necessary enrollment/unenrollment, activation/deactivation tasks, installing/uninstalling of the electronic monitoring device, or retrieving the electronic monitoring device.

**83030.6 Intake Procedures**

- (a) Participants are transported directly to the CCTRP facility from the institution by the Statewide Transportation Unit.
- (b) Upon arrival of the participant at the facility, the Parole Agent II (Specialist) shall conduct an initial interview, which shall include the following:
  - (1) Review the CDCR Form 2289 with the participant, noting any Americans with Disabilities Act accommodations needed and input the information into the Disability and Effective Communication System (DECS).
  - (2) Review the CDCR Form 1516-CCTRP, including curfew and special requirements for participation with the participant, and explain electronic monitoring equipment requirement.
  - (3) Install the electronic monitoring device and establish the electronic monitoring curfew inclusion range as well as any other applicable special requirements consistent with established procedures.
  - (4) Collect a urinalysis sample (if applicable).
  - (5) Update SOMS with other case factors as necessary.
  - (6) Follow up with BHR for an appointment if needed.
  - (7) Whenever possible, review the ITRP with the participant. If this is not accomplished on the day of release, review the ITRP within 10 working days.

**83030.7 Supervision Requirements and Lines of Responsibility**

- (a) Parole Agent II (Specialist)
  - (1) Contact Requirements
    - (A) The Parole Agent II (Specialist) shall document the following monthly specifications on the ROS:
      - 1. One face-to-face contact to discuss and monitor compliance with the ITRP.
      - 2. One significant collateral contact with the assigned counselor or contracted staff.
      - 3. Conduct one unscheduled and random urinalysis (if applicable).
      - 4. Assist the participant in community-based referrals, in an attempt to address criminogenic needs to facilitate a fluid transition from the program to parole.
      - 5. Verify employment status and conduct a collateral contact with the employer at least once per quarter (if applicable).
      - 6. Review the daily status report received from the electronic monitoring vendor to determine program compliance or alerts each working day.
      - 7. Investigate alerts for any violations of electronic monitoring special conditions of parole. All investigations shall be documented on the ROS.
    - (2) The Parole Agent II (Specialist) shall be responsible for the following additional duties:
      - (A) Within one working day of release, update the participant's photographs using the nearest parole unit photocapture workstation or State-issued cellular phone, and upload the photographs into SOMS.
      - (B) Update the participant's photographs as needed if the participant's appearance changes, using the nearest parole unit photocapture workstation or State-issued cellular phone, and upload the photographs into SOMS.
      - (C) Update and re-issue the COMPAS case plan, as necessary, to ensure it continues to be a current reflection of the program participant's needs and assessments.
      - (D) Contact the parole agent at the parole unit assigned to conduct the participant's pre-parole investigation to discuss parole plans prior to the participant's release from the program to the community.
      - (E) If the participant will be released to DAPO and agrees to a Direct Placement, and the program location will be in a county other than the County of Last Legal Residence, initiate a Transfer Investigation Request in SOMS.
      - (F) If the participant will not be released to DAPO supervision upon completion of the prison term, and is eligible for Post Release Community Supervision (PRCS), the Parole Agent II (Specialist) shall act as a liaison with the county probation department to ensure an effective and smooth transition from the program to county supervision.
      - (G) Provide transportation for program participants on an as-needed basis.
      - (H) Document all interactions with the program participant on the ROS.
      - (I) Provide additional security support to DAI staff as necessary.
      - (J) Act as an Escape Liaison with DAI staff as necessary.
      - (K) On the participant's last day in the program, unenroll the participant from the electronic monitoring database and remove the electronic monitoring equipment.

- (3) The Parole Agent II (Specialist) shall develop strong relationships with DAPO field staff and DAPO Community Transition Program (CTP) staff as well as develop relationships with DAPO and DAI stakeholders within the community and within the institution. The Parole Agent II (Specialist) shall maintain contact with community-based providers in an attempt to secure additional programming resources. The Parole Agent II (Specialist) shall also network with the local Adult Programs Unit parole agents and DAPO to further develop additional resources.

**(b) Parole Agent III Supervisor**

- (1) The Parole Agent III supervisor for the parole unit responsible for the geographic area where the CCTRP facility is located shall:
  - (A) Provide direct supervision to all parole agent classifications under their supervision.
  - (B) Ensure the CCTRP facility operates within policy and procedure.
  - (C) Liaison with DAI and the Division of Rehabilitative Programs.
  - (D) Assist in facilitating contract compliance with vendor and service providers.
  - (E) Ensure the parole unit and facility has sufficient supplies of all electronic monitoring equipment and that replacement equipment is ordered as needed to ensure device availability.
  - (F) Contact and inform the responsible District Administrator, or if unavailable the DAPO Administrative Officer of the Day, as necessary, of any reportable incidents occurring at the program.
  - (G) Other duties as assigned.

**83030.8 After Hours Electronic Monitoring Unenrollment Procedures**

- (a) Contracted program staff may remove electronic monitoring equipment if the participant's parole date is not Monday through Friday. When this occurs, the Parole Agent II (Specialist) shall:
  - (1) Notify the vendor monitoring center and the contracted program staff of the weekend releases that are approved for removal of electronic monitoring equipment via electronic mail no later than 3:00 p.m. on the Friday before the weekend or 3:00 p.m. on the business day before the holiday.
  - (2) Provide the vendor monitoring center with the participant's name, CDCR number, Offender Record Information number, and the date and time in which they should be unenrolled.
  - (3) Document approval of program staff's removal of the electronic monitoring equipment on the ROS.
- (b) Contracted program staff will cut the strap, print and sign their name on the program's log. Contracted program staff will place the electronic monitoring equipment in the facility's designated location for the Parole Agent II (Specialist) to pick up the next business day.

**83030.9 Individualized Treatment and Rehabilitation Plan**

- (a) In addition to the requirements outlined on the CDCR Form 1516-CCTRP, participants shall agree to and fully comply with the prescribed objectives, goals, and tasks contained in their ITRP.
- (b) As the participant completes objectives, goals, and tasks, the Parole Agent II (Specialist) and unit supervisor will evaluate the participant's progress during the case conference review and identify the next prescribed objective. Additional consideration shall be given to the participant's California Static Risk Assessment score, criminogenic needs, treatment availability, the participant's ability, and participant's input.

**83030.10 Case Conference Review**

- (a) The case conference review shall be conducted no earlier than 60 days and no later than 90 days from the date of initial release to the facility and every six months thereafter. In conducting the case conference review, the Parole Agent II (Specialist) and unit supervisor shall:
  - (1) Review the effectiveness of the current ITRP and determine if modifications are appropriate or necessary.
  - (2) Review the participant's behavior and compliance with their requirements of participation, curfew, ITRP, and whether any program milestones were achieved.
  - (3) Document results according to established procedures.
  - (4) Provide a copy of the documented results to the DAI CC III or the FOPS ACP/CCTRP Program Manager upon request.



**83030.11 Misconduct Returns**

(a) If the participant has been involved in any type of misconduct or failure to abide by the requirements on the CDCR Form 1516-CCTRP, a CDCR Form 1502 shall be initiated annotating the misconduct and identifying PC Sections 5054.1 and 1170.05 as the authority for a participant RTI. Failure to abide by the provisions of the ITRP or the requirements represented on the CDCR Form 1516-CCTRP are grounds for immediate removal from the program. The Parole Agent II (Specialist), CC III, and Contract Program Director shall case conference with FOPS Administration to review the alleged misconduct. FOPS Administrators shall make the final decision to initiate RTI procedures. The DAI Chief Deputy Warden, or designee, shall have final authority to authorize the RTI.

(b) Reporting program participant misconduct shall be documented on a CDCR Form 1502 and a copy shall be forwarded to the DAI CC III within established time frames under the following conditions:

(1) When DAPO is notified or becomes aware that a participant has been involved in any form of misconduct, identified as a suspect or arrested by local law enforcement, a case conference shall be conducted. The Parole Agent II (Specialist), DAI CC III (or designee if the CC III is unavailable), and Contract Program Director shall case conference with FOPS Administration to review the alleged misconduct and determine if RTI is warranted. FOPS Administrators shall make the final decision to initiate RTI procedures.

(2) If the case conference determines that the behavior warrants RTI, the DAI CC III shall notify the Program Manager immediately and coordinate the return of the participant to the nearest designated institution via direct admit. If the direct admit is not possible, return the participant to the nearest designated institution via county jail. Relevant information, similar to information needed for parole violation reports, shall be documented on the CDCR Form 1502.

(c) The CDCR Form 1502 and any/all reports, e.g., police reports, urinalysis test results, witness testimony, etc., relevant to the behavior shall be forwarded to the FOPS ACP/CCTRP Program Manager.

**83030.12 Voluntary Returns**

(a) In the event a participant elects to voluntarily return to an institution, the Parole Agent II (Specialist) will interview the participant in an attempt to resolve the issues concerning the participant's request to RTI. Where appropriate, the parole agent shall case conference with the unit supervisor, CC III, and participant to review the circumstances and attempt to resolve the participant's reason(s) for requesting the voluntary return. The following shall then occur:

(1) The participant shall be RTI via direct admit or detained and transported to the nearest designated institution via county jail.

(2) The FOPS ACP/CCTRP Program Manager shall be notified of all voluntary returns.

(3) Voluntary returns shall be documented on a CDCR Form 1502 and a copy forwarded to the FOPS ACP/CCTRP Program Manager.

(4) After being returned to an institution, the inmate may submit a new request for program participation on a new CDCR Form 2234-CCTRP.

**83030.13 Escape Following Arrival to the Program**

When DAPO is notified or has determined a participant has escaped, the Parole Agent II (Specialist) shall follow the procedures addressed in the DAPO Confidential Memorandum on Escape Procedures.

**83030.14 Electronic Release Program Study Procedures**

(a) The CTP Parole Service Associate (PSA) shall initiate the Release Program Study (RPS) in SOMS for all CCTRP participants. For participants deemed eligible for PRCS, the CTP PSA shall ensure a hard copy of the RPS is submitted to the Sacramento Control Office-Western Interstate Corrections Compact (SACCO-WICC) Records Office.

(b) SACCO-WICC shall monitor the release dates for all PRCS eligible participants and notify the assigned CCTRP Parole Agent II (Supervisor) when an offender is within 210 days of their Earliest Possible Release Date. In addition, SACCO-WICC shall process the hard copy RPS and any supporting documents (i.e., CDCR Form 1515-CS, Notice And Conditions Of Postrelease Community Supervision, etc.) and forward them to the CCTRP Parole Agent II (Specialist) for signature. The Parole Agent II (Specialist) shall complete Section VII of the RPS and provide a copy of the RPS and CDCR 1515-CS to the offender. The CCTRP Parole Agent II (Specialist) shall forward the signed RPS, CDCR 1515-CS, and any other supporting documents to SACCO-WICC. SACCO-WICC shall scan the finalized RPS and any other supporting documents for electronic filing in the Electronic Records Management System.

(c) SACCO-WICC shall also ensure that applicable notifications are made pursuant to PC Sections 3058.8 and 3058.61, and generate the Warden's Checkout Order.

(d) Upon notification that an offender who is being released to DAPO is within 210 days of their scheduled release date, the CTP PSA shall initiate the RPS in SOMS pursuant to the RPS procedures outlined in Section 81010.4.1.

(e) The CCTRP Parole Agent II (Specialist) shall complete Section VII of the RPS and provide the offender with a copy of the RPS as well as serve them with the automated CDCR Form 1515, Notice and Conditions of Parole, and automated Special Conditions of Parole located in SOMS.

(f) If an RPS was not previously initiated, the CTP PSA shall initiate the electronic RPS in SOMS for all offenders who are endorsed for CCTRP placement. In the event an offender is endorsed for CCTRP placement with a RPS already in process, the RPS and associated Release Plan may be cancelled in SOMS to expedite the CCTRP placement. In no instance shall completion of the RPS be allowed to impede transfer to a CCTRP facility.

**83030.15 Revisions**

The DAPO Director or designee shall ensure that this section is current and accurate.

**References**

PC §§ 1170.05, 1203.2, 3000.08, 3056, 5054.1.

CCR (15) (3) §§ 3078 – 3078.6.

**Revision History**

Revised: October 11, 2018.

Revised: August 12, 2020.

**ARTICLE 19 — MALE COMMUNITY REENTRY PROGRAM**

*Revised August 12, 2020*

**83040.1 Policy**

(a) The Male Community Reentry Program (MCRP) is a collaborative effort between the Division of Rehabilitative Programs (DRP), Division of Adult Institutions (DAI), and the Division of Adult Parole Operations (DAPO) to successfully reintegrate offenders back into the community. Male inmates who meet eligibility criteria determined by DAI may serve a portion of their prison sentence in a MCRP facility in lieu of a state prison. The MCRP is a residential facility located in the community. The program focuses on providing community-based programming relative to the participant's criminogenic needs as identified through their Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) assessment and case plans. The programming is accomplished through certified instruction by contract staff at the facility as well as community-based program referrals to established DAPO and county programs.

(b) While serving their sentence in the program, inmates are considered participants. Participants shall receive any sentence reduction credits they would have received had they served their sentence in a state prison, except for inmates in work group F, pursuant to California Code of Regulations (CCR), Title 15, Section 3044(b)(7)(F). Participants may be returned to an institution to serve the remainder of their prison term at any time, with or without cause. Participants must volunteer for the program and agree to abide by specific requirements. All participants must agree to all of the terms and conditions as set forth by the program, to include mandatory electronic monitoring.

(c) Penal Code (PC) 5054.1 shall be used when arresting or placing a hold on a participant, or in the event of an escape. PC 3056, 3000.08, and 1203.2 shall not be used when arresting or placing a hold on a participant. Arrests of participants by DAPO staff shall be conducted in accordance with DAPO policy.

(d) PC 1170.05 requires the California Department of Corrections and Rehabilitation (CDCR) to utilize continuous electronic monitoring to ensure participants abide by the requirement that they are restricted to their residence during designated hours. Electronic monitoring shall be used for all MCRP participants. The application of an electronic monitoring device for participants is not considered a penalty or sanction, but rather a statutorily mandated supervision tool.

**83040.1.1 Staffing and Equipment in the Male Community Reentry Program Facility**

(a) Each MCRP will generally be staffed with a Correctional Counselor (CC) III, Parole Agent II (Specialist), and DAI Correctional Officer(s) (CO). The on-site CC III has the responsibility for the operation of the program. The DAI COs will work under the direction of the CC III and assist with security functions and daily operations of the facility. The Parole Agent II (Specialist)



will be assigned as the Case Manager for participants and assist with other duties as outlined in this policy.

(b) The Parole Agent II (Specialist) assigned to the MCRP shall fall under Chapter 8, Article 46 for the purposes of carrying a firearm at the MCRP site. For the purposes of these staff, the MCRP site shall be considered the field. Firearms, batons, and Oleoresin Capsicum shall not be stored at the facility overnight.

#### **83040.1.2 Individualized Reintegration Plan**

The Individualized Reintegration Plan (IRP) will be developed by the participant and the contracted program staff. The IRP is a multidisciplinary plan that sets realistic short and long term goals for addressing the participant's risks and needs. The contractor will update the IRP during monthly multidisciplinary team sessions. These sessions will include, at a minimum, the CC III, Parole Agent II (Specialist), and contract program staff.

#### **83040.2 Pre-Release Procedures for the Male Community Reentry Program**

(a) After tentatively approving an inmate for MCRP participation, the CC III shall inform the Parole Agent II (Specialist) at the MCRP.

(b) An MCRP packet, consisting of CDCR Form 2234-MCRP and CDCR Form 611-A, shall be forwarded to the appropriate unit supervisor for processing by the parole unit support staff. Upon receipt of the MCRP packet, parole unit support staff shall:

- (1) Immediately forward the MCRP packet to the unit supervisor or designee for assignment to a Parole Agent II (Specialist).
- (2) Ensure a Strategic Offender Management System (SOMS) profile exists.
- (3) Access the Electronic Records Management System to create a field file.
- (4) Print the COMPAS assessment and Case Plan for the field file (if available).
- (5) Print any registration forms (e.g., H&S 11590).
- (6) Return the completed CDCR Form 2234-MCRP and CDCR Form 611-A to the DRP MCRP Program Manager.

#### **83040.2.2 Parole Agent II (Specialist)**

(a) Upon assignment and prior to the participant's arrival to the program facility, the Parole Agent II (Specialist) shall:

- (1) Complete the CDCR Form 1516-MCRP, Requirements of the Male Community Reentry Program.
- (2) Complete Section I of the CDCR Form 2289, Notice And Request For Assistance During A Parole Proceeding.
- (3) Create an electronic monitoring profile utilizing the current software approved by DAPO.
- (4) Enter a Supervision History event in the Strategic Offender Management System (SOMS).

#### **83040.3 Curfew Requirements**

(a) Participants in a MCRP shall have a curfew special requirement documented on the CDCR Form 1516-MCRP:

- (1) The curfew range shall normally be any uninterrupted 10-hour span every day, and under no circumstances shall the curfew range be less than any uninterrupted 8-hour span.
- (2) The hours shall normally be from 8:00 p.m. to 6:00 a.m.
- (b) The start and end time of the curfew range may be adjusted to accommodate the participant's verified hours of work, school, and training. All requests to modify the 8-hour curfew requirement for activities unrelated to work, school, or training shall require a case conference between the Parole Agent II (Specialist) and CC III. The case conference shall be documented on the Automated CDCR Form 1650-D, Record of Supervision (ROS), located in SOMS, and a CDCR Form 1502, Activity Report. In the event of a medical emergency, if the CC III is not available, the Parole Agent II (Specialist) may authorize a leave.

#### **83040.3.1 Curfew Violation Sanction Guidelines**

(a) The following will serve as a guideline when a participant has violated established curfew restrictions. If the duration of the curfew violation falls within the following parameters:

- (1) Less than 20 minutes - the participant shall be verbally admonished;
- (2) 21-120 minutes - the Parole Agent II (Specialist) and unit supervisor shall case conference the issue and recommend suitability for continuing participation to the CC III;
- (3) Greater than 120 minutes or a second offense greater than 20 minutes - the participant may be removed from the private residence or facility by initiating Return to Institution (RTI) procedures. The unit supervisor shall case

conference with the CC III to determine the participant's suitability to remain in the community.

#### **83040.4 Electronic Monitoring Procedures**

(a) PC 1170.05 authorizes DAPO to utilize electronic monitoring, GPS, or other supervising devices for the purpose of helping to verify a participant's compliance with the rules and regulations of the program. The data collected from the electronic monitoring device is retained indefinitely and may be shared with other law enforcement agencies.

(b) The installation of the electronic monitoring device shall be accomplished the day the participant arrives at the facility. **Under no circumstances shall the participant be without electronic monitoring beyond the first business day after release to the MCRP.** If there are extenuating circumstances that result in *any* deviation from the statutory electronic monitoring requirement, the Parole Agent II (Specialist) and unit supervisor shall case conference to determine if Return to Institution (RTI) is warranted.

(c) All electronic monitoring system alerts such as low battery, strap tampers, or other equipment alerts shall be investigated and documented in accordance with the DAPO Confidential Memorandum on Electronic Monitoring Alerts. Alerts that are deemed to be violations and all curfew violations shall be documented on the ROS, and the CDCR Form 1502. A copy shall be forwarded to the DRP MCRP Program Manager within the established timelines.

(d) For any program in which the participant is at a CDCR-contracted facility, on the same day of installation of the electronic monitor, the Parole Agent II (Specialist) shall create an inclusion zone in the electronic monitoring software that covers the facility. The zone shall be active for periods defined by the program requirements. The alert level of the zone shall require the electronic monitoring vendor to contact the Parole Agent II (Specialist) immediately by phone if the zone is violated. If the participant is granted leave, the zone schedule may be adjusted so that an alert is not generated when the participant is authorized to be away from the facility.

(e) The Parole Agent II (Specialist) shall create inclusion zones over any area where the participant has a required recurring activity. The Parole Agent II (Specialist) shall perform all necessary enrollment/unenrollment, activation/deactivation tasks, installing/uninstalling of the electronic monitoring device, or retrieving the electronic monitoring device.

#### **83040.5 Intake Procedures**

(a) Participants are transported directly to the MCRP facility from the institution by the Statewide Transportation Unit.

(b) Upon arrival of the participant at the facility, the Parole Agent II (Specialist) shall conduct an initial interview which shall include the following:

- (1) Review the CDCR Form 2289 with the participant, noting any Americans with Disabilities Act accommodations needed and input the information into the Disability and Effective Communication System (DECS).
- (2) Review the CDCR Form 1516-MCRP, including curfew and special requirements for participation with the participant.
- (3) Review the CDCR 128-B General Chrono, which includes an escape admonition, with the participant, and ensure that it is signed by the participant.
- (4) Install the electronic monitoring device and establish the electronic monitoring curfew inclusion range as well as any other applicable special requirements consistent with established procedures.
- (5) Collect a urinalysis sample (if applicable).
- (6) Update SOMS with the transport date and other case factors as necessary.
- (7) Follow up with Behavioral Health Reintegration (BHR) for an appointment if needed.
- (8) Review the COMPAS Case Plan (if available) with participant. If this is not accomplished on the day of release, review the COMPAS Case Plan within 10 working days.

#### **83040.6 Supervision Requirements and Lines of Responsibility (a) Parole Agent II (Specialist)**

(1) Contact Requirements

(A) The Parole Agent II (Specialist) shall document the following monthly specifications on the ROS:

1. One face-to-face contact to discuss and monitor compliance with the COMPAS Case Plan.
2. One significant collateral contact with the assigned counselor or contracted staff.
3. Conduct one unscheduled and random urinalysis (if applicable).

4. During each face-to-face contact with a participant, physically inspect the electronic monitoring device for evidence of tampering and document the inspection on the ROS.
5. Assist the participant in community-based referrals, in an attempt to address criminogenic needs to facilitate a fluid transition from the program to parole.
6. Verify employment status and conduct a collateral contact with the employer at least once per quarter (if applicable).
7. Review the daily status report received from the electronic monitoring vendor to determine program compliance or alerts each working day.
8. Investigate alerts for any violations of electronic monitoring special conditions of parole. All investigations shall be documented on the ROS.
9. In the event of removal of the electronic monitoring device, if the location of the device is known, retrieve the electronic monitoring device and return it to the unit supervisor. Record unsuccessful attempts to recover the device on the ROS.

(B) The Parole Agent II (Specialist) in an MCRP facility shall be responsible for the following additional duties:

1. Upon notification that an offender has been endorsed for MCRP placement, the Parole Agent II (Specialist) shall enter the "Intake New Case" Supervision Event in SOMS and assign the appropriate parole unit and themselves as the Agent of Record.
2. Within one working day of release, update the participant's photographs using the nearest parole unit photocapture workstation or State-issued cellular phone, and upload the photographs into SOMS.
3. Update the participant's photographs as needed if the participant's appearance changes using the nearest parole unit photocapture workstation or State-issued cellular phone, and upload the photographs into SOMS.
4. Update the COMPAS Reentry Assessment 30 days prior to the participant's Earliest Possible Release Date if the participant will be under DAPO supervision at the completion of the prison term.
5. Update and re-issue the COMPAS Case Plan, as necessary, to ensure it continues to be a current reflection of the program participant's needs and assessments.
6. Within 30 days from arrival to the facility complete CDCR Form 1661, Goals And Progress Report, and issue it to the participant with instructions on how to properly complete the form.
7. Refer the participant to BHR for mental health services, if needed, due to mental health concerns.
8. Contact the parole agent at the parole unit assigned to conduct the participant's pre-parole investigation to discuss parole plans prior to the participant's release from the program to the community.
9. If the participant will be released to DAPO and agrees to a Direct Placement, and the program location will be in a county other than the County of Last Legal Residence, initiate a Transfer Investigation Request in SOMS.
10. If the participant will not be released to DAPO, and the participant is eligible for Post Release Community Supervision (PRCS), the PA II (Specialist) shall act as a liaison with the county probation department to ensure an effective and smooth transition from the program to county supervision.
11. Provide transportation for program participants on an as-needed basis.
12. Document all interactions with the program participant on the ROS.
13. Make a reasonable attempt to identify and locate victim(s) of commitment offense(s). This information shall be used when applicable to notify victims in the event of an escape.
14. Provide additional security support to DAI staff as necessary.
15. Act as an Escape Liaison with DAI staff as necessary.
16. On the participant's last day in the program, unenroll the participant from the electronic monitoring database and remove the electronic monitoring equipment.

(C) The Parole Agent II (Specialist) shall develop strong relationships with DAPO field staff, program staff, and DAPO Community Transition Program (CTP) staff as well as develop community-based relationships with DAPO and DAI stakeholders within the community and within the institution. The Parole Agent II (Specialist) shall maintain contact with community-based providers in an attempt to secure additional programming resources. The Parole Agent II (Specialist) shall also network with the local Adult Programs Unit parole agents to further develop additional resources.

(b) Parole Agent III Supervisor

(1) The Parole Agent III supervisor shall perform the following functions:

- (A) Provide direct supervision to all parole agent classifications under their supervision.
- (B) Ensure the facility operates within policy and procedure.
- (C) Liaison with DAI and DRP.
- (D) Assist in facilitating contract compliance with vendor and service providers.
- (E) Ensure the parole unit and facility has sufficient supplies of all electronic monitoring equipment and that replacement equipment is ordered as needed to ensure device availability.
- (F) Contact and inform the responsible District Administrator, or if unavailable the DAPO Administrative Officer of the Day, as necessary, of any reportable incidents occurring at the program.
- (G) Other duties as assigned.

#### **83040.7 After Hours Electronic Monitoring Unenrollment Procedures**

(a) A correctional officer may remove electronic monitoring equipment if the participant's parole date is not Monday through Friday. When this occurs, and upon receipt of the Warden's Checkout Order, the Parole Agent II (Specialist) shall:

- (1) Notify the monitoring center, the contracted program staff, and the CC III of weekend releases that are approved for removal of electronic monitoring equipment. Contact shall be made via electronic mail and completed no later than 3:00 p.m. on the Friday before the weekend or 3:00 p.m. on the business day before a holiday.
- (2) Provide the monitoring center with the participant's name, CDCR number, Offender Record Information number, and the date and time in which they should be unenrolled.
- (3) Document approval of the correctional officer's removal of the electronic monitoring equipment on the ROS.
- (b) The correctional officer will cut the strap and print and sign their name on the program's log. Contracted program staff will place the electronic monitoring equipment in the facility's designated location for the Parole Agent II (Specialist) to pick up the next business day.

#### **83040.8 Case Conference Review**

(a) The Case Conference Review shall be conducted no earlier than 60 days and no later than 90 days from the date of initial release to the facility and every six months thereafter. In conducting the Case Conference Review, the parole agent and unit supervisor shall:

- (1) Review the effectiveness of the current IRP and case plan and determine if modifications are appropriate or necessary.
- (2) Review the participant's behavior and compliance with their requirements of participation, curfew, IRP and case plan, and whether any program milestones were achieved.
- (3) Document results according to established procedures.
- (4) Provide a copy of the documented results to the CC III upon request.

#### **83040.9 Misconduct Return**

(a) If the participant has been involved in any type of misconduct or failure to abide by the requirements on the CDCR Form 1516-MCRP, a CDCR Form 1502 shall be initiated annotating the misconduct and identifying PC 5054.1 and 1170.05 as the authority for a participant RTI. Failure to abide by the requirements represented on the CDCR Form 1516-MCRP are grounds for immediate removal from the program. Reporting program participant misconduct shall be documented on a CDCR Form 1502 and a copy shall be forwarded to the on-site CC III as soon as possible under the following conditions:

- (1) When DAPO is notified or becomes aware that a participant has been involved in any form of misconduct, identified as a suspect or arrested by local law enforcement, a case conference shall be conducted by the Parole Agent II (Specialist) and CC III (or designee if the CC III is unavailable) and unit supervisor to determine if RTI is warranted.
- (2) If the case conference determines that the behavior warrants RTI, DAPO staff shall notify the DRP MCRP Program Manager immediately and coordinate the return of the participant to a designated institution via county jail or direct admit. Relevant information, similar to information needed for parole violation reports, shall be documented on the CDCR Form 1502.

(b) The CDCR Form 1502, and any/all reports, e.g., police reports, urinalysis test results, witness testimony, etc., relevant to the behavior shall be forwarded to the CC III.

**83040.10 Voluntary Returns**

(a) In the event a participant elects to voluntarily return to an institution, the Parole Agent II (Specialist) will interview the participant in an attempt to resolve the issues concerning the participant's request to RTI. Where appropriate, the Parole Agent II (Specialist) shall case conference with the unit supervisor, the CC III, and the participant to review the circumstances and attempt to resolve the participant's reason(s) for requesting the voluntary return and the following shall occur:

- (1) The participant shall be RTI via gate turn-in or detained and transported to the nearest county jail.
- (2) The DRP MCRP Program Manager shall be notified of all voluntary returns.
- (3) Voluntary returns shall be documented on a CDCR Form 1502 and a copy forwarded to the DRP MCRP Program Manager.
- (4) After being returned to an institution, the inmate may submit a new request for program participation.

**83040.11 Escape Following Arrival to the Program**

When DAPO is notified or has determined a participant has escaped, the Parole Agent II (Specialist) shall follow the procedures addressed in the DAPO Confidential Memorandum on Escape Procedures.

**83040.12 Transition to Post Release Community Supervision or Parole**

(a) The Sacramento Control Office-Western Interstate Corrections Compact (SACCO-WICC) Records Office shall screen all participants for PRCS eligibility. Participants deemed eligible for PRCS will be processed consistent with current practice for inmates incarcerated in DAI facilities.

(b) For participants transitioning to parole, any remaining release funds shall be forwarded to the assigned parole unit. On the parole date, DAPO shall continue supervision of the participant according to current policy and procedures for parolee supervision.

**83040.12.1 Release Program Study Procedures**

(a) The CTP Parole Service Associate (PSA) shall initiate the Release Program Study (RPS) in SOMS for all MCRP participants. For participants deemed eligible for PRCS, the CTP PSA shall ensure a hard copy of the RPS is submitted to the SACCO-WICC Records Office.

(b) SACCO-WICC shall monitor the release dates for all PRCS eligible participants and notify the CTP PA II Supervisor when an offender is within 210 days of their Earliest Possible Release Date. The CTP shall process the hard copy RPS and any supporting documents (i.e., CDCR Form 1515-CS, Notice and Conditions of Postrelease Community Supervision, etc.) and forward them to the MCRP Parole Agent II (Specialist) for signature. The MCRP Parole Agent II (Specialist) shall complete Section VII of the RPS and provide a copy of the RPS and CDCR Form 1515-CS to the offender. The MCRP Parole Agent II (Specialist) shall forward the signed RPS, CDCR Form 1515-CS, and any other supporting documents to SACCO-WICC. SACCO-WICC shall scan the finalized RPS for electronic filing in the Electronic Records Management System.

(c) SACCO-WICC shall also ensure that applicable notifications are made pursuant to PC 3058.8 and 3058.61, and generate the Warden's Checkout Order.

(d) Upon notification that an offender who is being released to DAPO is within 210 days of their scheduled release date, the CTP PSA shall initiate the RPS in SOMS pursuant to the RPS procedures outlined in Section 81010.4.1.

(e) The Parole Agent II (Specialist) shall complete Section VII of the RPS and provide the offender with a copy as well as serve them with the automated CDCR Form 1515, Notice and Conditions of Parole, and automated Special Conditions of Parole located in SOMS.

(f) If an RPS was not previously initiated, the CTP PSA shall initiate the electronic RPS in SOMS for all offenders who are endorsed for MCRP placement. In the event an offender is endorsed for MCRP placement with a RPS already in process, the RPS and associated Release Plan may be cancelled in SOMS to expedite the MCRP placement. In no instance shall completion of the RPS be allowed to impede transfer to a MCRP facility.

**83040.12 Revisions**

The DAPO Director or designee shall ensure this section remains current and accurate.

**83040.13 References**

PC § 1170.05, 1203.2, 3000.08, 3056, 5054.1.

**Revision History**

Revised: October 11, 2018.

Revised: August 12, 2020.

**ARTICLE 20 — UNASSIGNED****ARTICLE 21 — UNASSIGNED****ARTICLE 22 — UNASSIGNED****ARTICLE 23 — UNASSIGNED****ARTICLE 24 — UNASSIGNED****ARTICLE 25 — PARTICIPANT OPERATION OF MOTOR VEHICLE**

*Revised October 11, 2018*

**83100.1 Inmate Operation of Motor Vehicle Policy**

A participant in any program described in Articles 18 through 24 shall not be permitted to operate a motor vehicle without the permission of the on-site Correctional Counselor (CC) III.

**83100.1.1 Inmate Operation of Motor Vehicle Procedures**

If approved by the CC III to operate a motor vehicle, the parole agent shall:

- Make a copy of the participant's valid driver's license, current vehicle registration, and current vehicle insurance card, and place copies in the field file.
- Enter vehicle information into the participant's Vehicle History section in the Strategic Offender Management System.

**83100.2 Revisions**

The DAPO Director or designee is responsible for the accuracy of this section.

**83100.3 References**

Not Applicable.

**ARTICLE 26 — PAROLE VIOLATIONS AND REVOCATIONS**

*Revised December 18, 2018*

**84010.1 Introduction**

The parole agent shall be responsible for reporting all arrests and/or violations of parole of which he or she should have knowledge of, or were discovered after the fact. All alleged violations of an offender's conditions of supervision shall be investigated and the results shall be documented in the case record by the parole agent. Violations that are substantiated by the parole agent shall be reviewed by the unit supervisor. Citizen complaints regarding an offender shall be investigated by the parole agent. A person making a complaint or an allegation shall be informed of the outcome of the investigation to the extent appropriate and in accordance with current Department policy.

The superior court within each of the 58 counties in the State of California has jurisdiction over the parole revocation and warrant process and is the authority for the adjudication of parole violations where petitions for revocation have been filed. The unit supervisor must consider remedial sanctions in lieu of filing a petition for revocation, except for violations listed in DOM Section 84070.1.1. The final decision to file a petition for revocation with the superior court for the county having jurisdiction over the violation or to make a disposition at the parole unit level shall be made by a Parole Administrator functioning as an Administrative Review Officer within the Division of Adult Parole Operations (DAPO).

**Board of Parole Hearings**

The Board of Parole Hearings (BPH) shall remain the parole authority for the release, parole revocation, and discharge of the following:

- Offenders who are certified as Mentally Disordered Offenders and who are being treated by the Department of State Hospitals.
- Lifer parolees, i.e., parolees who are identified as being on parole for life, or long-term parolees who are on parole for a commitment offense listed under Penal Code (PC) Sections 3000.1 and/or 3000(b)(4), and who are released to the community on parole under DAPO supervision.

**84010.2 Petitions for Revocation in Superior Court**

If, following the application of its assessment process, DAPO determines that intermediate sanctions are not appropriate, DAPO shall file a petition for revocation with the court in the county of supervision or the court in the county in which the alleged violation of supervision occurred.

If the parolee is arrested and placed in custody on a parole hold *only* and the court in the county in which the parolee is detained **does not** have jurisdiction to hear a petition for revocation, DAPO staff shall:

- Remove the PC 3056 hold and instruct the parolee to report to his or her county of residence/supervision.
- If remedial sanctions are not appropriate, submit a petition for revocation to the court in the county with jurisdiction upon the parolee's return to his or her county of residence/supervision. The parolee shall remain in the community pending any revocation proceedings.
- If the parolee fails to return to his or her county of residence/supervision, petition the court magistrate for a warrant.

The parole agent may voluntarily request to transport the parolee in custody from the facility where the parolee is detained to county jail in the county with jurisdiction to hear the petition. This request requires the approval of the unit supervisor, who shall consider the parole unit workload, distance of transportation, and availability of other parole agents to assist with the transportation. If the request is approved, the PC 3056 hold shall not be removed, the bulleted language above shall not apply, and the transportation shall be conducted in accordance with DOM, Chapter 8, Article 3.

#### **84010.2.1 Special Procedures for Petitions for Revocation or the Imposition of Remedial Sanctions When a Parolee is Arrested in a County Other Than the County of Residence/Supervision**

##### **Parole Agent**

- If a case is not already entered in PVDTS, initiate the case in PVDTS.
- Enter the charges in PVDTS and complete the CDCR Form 1502-B, Probable Cause Determination.
- If local charges are pending in the county of arrest:
- Complete the CDCR Form 1500, Parole Violation Decision Making Instrument (PVDMI) to defer the charges to the local jurisdiction and submit the form to the unit supervisor.
- If the parolee had an active absconding warrant, complete the Judicial Council of California (JCC) Form CR-302, Request and Order to Recall Warrant and submit the form to the unit supervisor for recall of the warrant.
- Monitor the case while the parolee is in local custody.
- Obtain the Minute Order or other judicial document if the court finds that a parole and/or law violation occurred.
- In the PVDTS "Custody History" tab, remove the PC 3056 hold and provide reporting instructions.
- If local charges are not pending, the parolee is being held on a PC 3056 hold only and will be transported back to the county of residence/supervision in custody:
- The transportation must be completed prior to the "AOR Due Date" in PVDTS.
- Contact the holding facility and arrange to pick up the parolee.
- Upon arrival at the holding facility, contact the Warrant Unit to release the hold with instructions for the parolee to be released to the custody of the parole agent.
- Transport and book the parolee into the appropriate facility in the county of residence/supervision.
- Update custody location and booking number information in PVDTS.
- Complete the violation disposition process, i.e., imposition of remedial sanctions or petition for revocation.

##### **Unit Supervisor**

- If the parolee will be released from the county jail with reporting instructions, idle the case in PVDTS and select "out of county with reporting instructions" from the dropdown menu. When the parolee reports to the parole unit, reactivate the case in PVDTS and initiate the disposition process.
- If the parolee remains in custody:
- Ensure transportation to the jail in the county with jurisdiction to hear the petition for revocation.
- Ensure that the transportation is completed prior to the "AOR Due Date" identified in PVDTS.
- Do not idle the case.

#### **84010.2.2 Lines of Responsibility for Petition for Revocation in Superior Court**

##### **Parole Agent**

When the parole agent determines that there is probable cause that a technical parole and/or law violation has taken place, the parole agent shall:

- Conduct a case conference with the unit supervisor immediately, but no later than, close of the first business day following the date of discovery of the alleged violation.
- If remedial sanctions are not being imposed, conduct a planned arrest pursuant to DOM Section 81030.6.
- Place a PC 3056 hold on the parolee via the Warrant Unit.
- If a parolee is being denied booking and DAPO is unable to place a parole hold, the parole agent shall:
- Contact his or her immediate supervisor and notify the supervisor that the parolee was denied booking.
- Instruct the parolee to report to his or her assigned parole office by the following business day.
- Document the denied booking and reporting instructions on the electronic Record of Supervision.
- If the parolee is released over the parole hold at any time prior to the filing of a petition for revocation and the parolee remains in the community, DAPO may consider pursuing remedial sanctions or filing the petition for revocation for the out-of-custody parolee.
- Immediately, but no later than close of the first business day from the date of the parole hold, enter the charges and initiate the case in PVDTS. Complete the CDCR Form 1502-B and submit the form to the unit supervisor for review.
- Prior to completing the revocation packet (see DOM Section 84010.3.2), determine whether criminal charges stemming from a technical parole and/or law violation have been filed by the District Attorney. If charges have been filed, complete the CDCR Form 1500 to defer the charges to local jurisdiction, submit the form to the unit supervisor for review, and complete the following:
- Remove the parole hold upon direction from the unit supervisor.
- Allow for local adjudication of the case.
- Monitor the case in accordance with DOM Section 81020.7.5.1.
- Obtain the Minute Order or other judicial document if the court makes a good cause finding that a violation occurred.
- Obtain the Minute Order or other judicial document if the parolee was found guilty of a misdemeanor or felony offense.
- If charges have not been filed and remedial sanctions are not being imposed, complete the CDCR Form 1500, the JCC Form CR-300, Petition for Revocation, and the CDCR Form 1676, Parole Violation Report prior to, but no later than, the mandatory due date as identified in PVDTS.
- If the arrest date and hold date do not match, enter the reason for the discrepancy in the "Case Comments" in PVDTS.
- On CDCR Form 1676, ensure that every fearful, confidential, or minor/juvenile witness and/or victim is not represented by name but is instead referred to as "witness 1 and/or victim 1" and so on in order to protect the identity of the witness and/or victim.
- In the "Evaluation" section of the CDCR Form 1676, document that remedial sanctions were considered and why they were deemed inappropriate at this time. Document prior types of remedial sanctions and the parolee's compliance and degree of participation as applicable. The reasons for overriding PVDMI must be clearly articulated in the body of the evaluation. The California Rules of Court require the Supervising Agency to clearly articulate what specific intermediate sanctions without court intervention as authorized by PC Sections 3000.08(f) or 3454(b) were considered for this violation and the reasons why intermediate sanctions are inappropriate responses to the alleged violation.
- Prepare the revocation packet to include all documents listed below and forward the packet to the unit supervisor for review prior to, but no later than, the close of business on the mandatory due date as identified in PVDTS. Ensure that the following forms are completed within PVDTS and electronically generated as attachments to the JCC Form CR-300 for unit supervisor review:

- **CDCR Form 1676.**
- **CDCR Form 1521-B, Criminal History.**
- **CDCR Form 1244, Parole Violation History.**
- CDCR Form 1515, Notice and Conditions of Parole (scanned) or a copy of the Notice of Conditions form generated in SOMS, signed by the parolee.
- CDCR Form 1515-Addendum, Special Conditions of Parole (scanned) or a copy of the Special Conditions of Parole form generated in SOMS, signed by the parolee.
- CDCR Form 2271, Notice and Request for Assistance While in a County Jail (scanned).
- Any other supporting evidence and/or evidentiary documents (scanned and/or uploaded).

Note: The forms in **bold** above are incorporated into the electronically generated revocation packet within PVDTS. Where “scanned” is indicated, the unit supervisor shall ensure that the documents are scanned into PVDTS.

- Upon being subpoenaed, appear in court to testify.
- Remove the parole hold upon the court’s decision to revoke parole and monitor the case pursuant to DOM Section 81020.7.5.1. If the county jail releases the parolee prior to the end of the scheduled release date, the revocation period shall be deemed to end on the date of release (unless the parolee is released to an alternative program in lieu of custody). Enter the new release date under the “RRD Tracking” tab in PVDTS within five business days of the date of discovery of the parolee’s release.

If the parole agent discovers additional technical parole and/or law violations that require the submission of additional information to the District Attorney, the parole agent shall record the additional information on the CDCR Form 1502-B and forward the form to the unit supervisor immediately, but no later than close of the first business day following the date of discovery. DAPO staff shall follow the process outlined in this policy for processing technical parole and/or law violations.

#### Unit Supervisor

When the unit supervisor determines that there is probable cause that a technical parole and/or law violation has occurred, the unit supervisor shall:

- Ensure that a case conference has been conducted within the first business day following the date of the discovery of the alleged violation.
- If remedial sanctions are not being imposed, ensure that a PC 3056 hold is placed via the Warrant Unit and that the case is initiated in PVDTS.
- Review and electronically sign the CDCR Form 1502-B, and complete the probable cause determination step in PVDTS. The unit supervisor must indicate whether probable cause exists for at least one charge and whether the parole hold must be maintained.
- When probable cause exists and a remedial sanction is the preferred decision, select the “Remedial Sanction” option in PVDTS and order the parole hold removed.
- When probable cause exists and a remedial sanction is not the preferred decision, continue to process the revocation packet.
- No later than close of the first business day from the date of the parole hold, forward the CDCR Form 1502-B with the field file to the Court Agent/Notice Agent (see DOM Section 84020.1) upon completion of the probable cause determination step in PVDTS.
- Ensure that all fields have been appropriately populated on the CDCR Form 1500.
- Ensure that the revocation packet is accurate and complete, including attachments.
- Complete the referral step in PVDTS.
- Electronically sign the revocation packet and input the unit supervisor’s decision into PVDTS no later than 12:00 p.m. on the mandatory due date as identified in PVDTS. This is a **shared date** between the unit supervisor and the Administrative Review Officer (ARO).
- Ensure that the parole hold is removed upon the court’s decision to revoke parole and that the case is monitored pursuant to DOM Section 81020.7.5.1.
- If the District Attorney files technical parole and/or law violation charges prior to the unit supervisor’s required review date, the unit supervisor shall close the case in PVDTS as a “Defer to Local Jurisdiction” and ensure that the parole hold is removed.

- Ensure that court hearings are attended by DAPO staff, if subpoenaed.
- Ensure that PVDTS is updated with the final disposition and that the case is closed in PVDTS.
- Ensure that Minute Orders are obtained, scanned into PVDTS, distributed to Parole Case Records, and placed in the field file upon completion of the court proceedings.
- Ensure that the new Revocation Release Date is entered in PVDTS.
- Ensure that the BPH Special Processing Unit is notified of criminal proceedings impacting a parolee pursuant to PC Section 3000.1 via electronic mail at BPH\_Executive\_Analysis\_Unit\_Group@cdcr.ca.gov, and provide the results of any good cause findings or criminal proceedings impacting a parolee pursuant to PC Section 3000.1.

#### Administrative Review Officer

The ARO shall:

- Review all petitions for revocation by the close of business on the mandatory due date as identified in PVDTS. This is a **shared date** between the unit supervisor and the ARO.
- Review PVDMI and the revocation packet.
- Determine an appropriate disposition option:
- Return the case to the unit supervisor to impose a remedial sanction(s). This makes the case available to the unit supervisor for disposition and closure at the parole unit level.
- Return the case to the parole unit for corrections.
- Concur with the unit supervisor’s decision to petition the court for revocation. This makes the case available to the Court Agent/Notice Agent (see DOM Section 84020.1) for processing.
- Close the case in PVDTS as a “Defer to Local Jurisdiction.”
- Dismiss the case and close it in PVDTS.

#### 84010.2.3 Mandatory Notifications for Sex Offense Revocations

Pursuant to PC Section 3060.6, when the court or BPH revokes the parole of a parolee for criminal conduct described in PC Section 290(c) and new criminal charges have not been filed against the parolee, the parole agent shall notify the District Attorney and the local law enforcement agency having jurisdiction over the location where the conduct occurred. The parole agent shall document the notifications on the electronic Record of Supervision noting the method of notification and the name and title of the person notified. The parole agent shall complete the notifications within seven business days of the day that the parolee is revoked.

#### 84010.2.4 Parole Agent Procedures for Holds Placed by Non-DAPO Peace Officers

Any peace officer may arrest a parolee and book the parolee into county jail under PC Section 3000.08(c). Upon discovery of a PC 3000.08(c) hold being placed on a parolee, the parole agent shall:

- Obtain the information of the arresting agency, the charge(s), the booking number, and any other relevant information.
- No later than the close of business on the first business day following the discovery of the PC 3000.08(c) hold, conduct a case conference with the unit supervisor to determine if a parole and/or law violation has occurred.
- If there is probable cause that a technical parole and/or law violation has occurred and the unit supervisor determines that the parolee would pose an imminent threat to the community if he or she was released, place a PC 3056 hold on the parolee and initiate the case in PVDTS.
- No later than the close of business on the first business day following the discovery of the PC 3000.08(c) hold, if the parolee had an active DAPO-initiated warrant that was not previously entered into SOMS, place a PC 3056 hold on the parolee and initiate the case in PVDTS.
- If there was no DAPO-initiated warrant and the unit supervisor elects not to pursue a petition for parole revocation, the parole agent shall not place a PC 3056 hold on the parolee. Instead, the parole agent shall do the following no later than the close of business on the first business day following the discovery of the violation:
- Initiate the case in PVDTS as a “No Hold/COP Remedial.”
- Complete the case according to the deadlines in PVDTS as a remedial sanction.
- Monitor the custody status of the parolee in accordance with DOM Section 81020.7.5.1.

**84010.3 Lifer or Long-Term Revocation Procedures**

Revocations for lifer and long-term parolees under PC Sections 3000.1 and/or 3000(b)(4) may be referred to the local court for a good cause in violation of terms and conditions of parole finding *only*. Authority to sentence lifer or long-term parolees, as stated in DOM Section 84010.1, rests with BPH.

- If the court does not make a good cause finding that a violation in terms and conditions of parole occurred, the revocation charges shall be dismissed and the parolee shall be released. The unit supervisor shall ensure that the parole agent immediately releases the parole hold by contacting the Warrant Unit as described in DOM Section 84040.6.
- If the court makes a good cause finding that a violation in terms and conditions of parole occurred, the parolee shall be remanded to the custody of the California Department of Corrections and Rehabilitation (CDCR). The Notice Agent/Court Agent (see DOM Section 84020.1) shall scan the Minute Order for the case into the Parole Violation Disposition Tracking System (PVDTS) and notify the unit supervisor that the parolee has been remanded to the custody of CDCR. The Minute Order must state that an evidentiary hearing was held, or that the evidentiary hearing was waived by the parolee.

Lifer parolees who are released on parole under DAPO supervision and whose commitment offenses do not fall under PC Sections 3000(b)(4) or 3000.1 shall be subject to the revocation process outlined in DOM Section 84010.3 when they commit violations of their conditions of supervision.

If the parole agent becomes aware that the District Attorney's Office has filed a petition for revocation or criminal charges against the lifer or long-term parolee at any point prior to DAPO's petition for revocation being filed, the parole agent shall:

- Defer charges upon confirmation that the case has been accepted by the District Attorney's Office.
- Remove the parole hold.
- Allow for local adjudication of the case.
- Monitor the case in accordance with DOM Section 81020.7.5.1.
- Obtain the Minute Order or other judicial document if the court makes a good cause finding that a violation occurred.
- Obtain the Minute Order or other judicial document if the lifer or long-term parolee is found guilty of a misdemeanor or felony offense.

Upon receipt of the Minute Order or other judicial document signifying a good cause finding or a new criminal conviction, the unit supervisor shall:

- Update the PVDTS "Final Case Disposition" screen with the court's disposition.
- Send the Minute Order, revocation packet (see DOM Section 84010.3.2), CDCR Form 1018, Notice of Return to Prison, and CDCR Form 1617, CDCR Memorandum to BPH via electronic mail to the Executive Analysis Unit at BPH\_Executive\_Analysis\_Unit\_Group@cdcr.ca.gov.

**84010.3.1 Life or Long-Term Parolee Transportation to Institution After Good Cause Finding or New Criminal Conviction**

After the court has found good cause in violation of the terms and conditions of parole or upon notification from the parole agent that a lifer or long-term parolee is in custody as a result of a new criminal conviction, the Notice Agent/Court Agent (see DOM Section 84020.1) shall contact the facility holding the lifer or long-term parolee to determine if the county will transport the parolee to a Reception Center. If the county will not provide transportation, the Notice Agent/Court Agent shall notify the unit supervisor. The unit supervisor shall ensure that the CDCR Form 1018 is completed and sent with the Minute Order to the DAI Statewide Transportation Unit via electronic mail at TransStatewideSched@cdcr.ca.gov. The parole agent shall monitor the case as an in-custody case in accordance with DOM Section 81020.7.5.1.

In the event that the parolee is not in custody and the new criminal charge is still pending, the Notice Agent/Court Agent shall inform the District Attorney to ensure that the court is aware of the parolee's status and of the need to remand the parolee into CDCR custody if the parolee is convicted.

**84010.3.2 Documents Required for Parole Reconsideration Hearings**

When a period of six months or more has passed from the date of a lifer or long-term parolee's release to parole and the court has found good cause in violation of the terms and conditions of parole, the parole agent shall document the parolee's activity for the purposes of a BPH Parole Reconsideration Hearing. When this circumstance occurs, the parole agent shall complete the CDCR Form 1617 and submit it to BPH within 30 days of the court's decision, or as otherwise directed by BPH, to include the following case factors:

- Background.

- Parole supervision.
- Residence history.
- Employment history.
- Community programs that the parolee was referred to prior to the violation.
- Summary of the parole adjustment.

The unit supervisor shall send the Minute Order, revocation packet (see DOM Section 84010.3.2), CDCR Form 1018, and CDCR Form 1617 to BPH via electronic mail to the Executive Analysis Unit at BPH\_Executive\_Analysis\_Unit\_Group@cdcr.ca.gov. The parole agent shall monitor the case as an in-custody case in accordance with DOM Section 81020.7.5.1.

BPH will schedule a Parole Reconsideration Hearing. At the Parole Reconsideration Hearing, the Commissioner and Deputy Commissioner of BPH may either grant a release or order a lifer parolee returned to lifer inmate status:

- If the lifer parolee is granted release, BPH shall expedite the decision review and Governor's review, usually completing both reviews within ten business days of the Parole Reconsideration Hearing. Once these reviews are completed and the Parole Reconsideration Hearing decision is confirmed, BPH shall issue a "Release Memo – Release to Parole" authorizing the lifer parolee's release. Per California Code of Regulations, Title 15, Division 2, Section 2041(h) and PC Section 3041.2, BPH and the Governor may take up to 150 days combined to complete their reviews, depending upon the circumstances of the case at hand.
- If the lifer parolee is denied release, he or she shall be remanded to the custody of CDCR and returned to lifer inmate status.
- If the lifer parolee is returned to lifer inmate status, BPH shall notify the DAPO Community Transition Program (CTP) of the status change via electronic mail at CDCRLiferInvestigations@cdcr.ca.gov. CTP shall notify the parole unit staff and the parolee's case shall be closed in accordance with DOM, Chapter 8, Article 8. The closure shall be documented on the CDCR Form 1502-DR, Discharge Review Report by the parole agent.
- The unit supervisor shall close interest in the case and enter the lifer parolee's return to prison as a supervision event in SOMS.
- DAPO shall retain and process all lifer parolee field files in accordance with DOM, Chapter 8, Article 9.

**84010.4 Revisions**

The DAPO Director or designee shall ensure that this article is current and accurate.

**84010.5 References**

CCR (15) (2) § 2041.

PC §§ 1168, 1170, 1203.2, 2962, 3000(b)(4), 3000.08, 3000.1, 3015, 3041.2, 3056, 3057, 3060.6, 3060.7, 4019(a)(5), 5054, and 5058.

ACA Standard 4-APPFS-1C-02.

**ARTICLE 27 — NOTICE AGENT AND COURT AGENT**

*Revised December 18, 2018*

**84020.1 Notice Agent and Court Agent Policy**

The District Court Compliance Unit (DCCU) is comprised of Parole Agent IIs (Supervisors) and Parole Agent Is (Notice Agents and Court Agents). The DCCU staff are DAPO's primary parole revocation and American with Disabilities Act (ADA) representatives to the Superior Courts, sheriff's departments, district attorneys, Public Defenders, and CDCR staff.

The primary function of the Notice Agent is to serve a Notice of Charges on a parolee who is housed in a county jail following the placement of a parole hold by DAPO staff, notify the county jail staff of any reasonable accommodation(s) that may be needed on behalf of the parolee or Armstrong class member out-to-court inmate, meaning an inmate who is serving a prison term but who is being held in county jail for a court proceeding, and ensure that the notification is appropriately documented. All Notice Agents may be cross-trained to perform Notice Agent duties as well as Court Agent duties as operational and/or logistical needs dictate.

The primary function of the Court Agent is to represent DAPO when interacting with the local courts and jails, District Attorneys, Public Defenders, and other CDCR/DAPO staff during the revocation process. All Court Agents may be cross-trained to perform Court Agent duties as well as Notice Agent duties as operational and/or logistical needs dictate.

The Court Agent shall process all warrant requests, warrant recalls, and petitions for revocation with the court in a timely manner, adhering to legal time frames, and attend parole arraignments as dictated by the court's local revocation process. CDCR must provide equal access to all parole proceedings for inmates/parolees with disabilities, consistent with the Americans with Disabilities Act (ADA), the *Armstrong Remedial Plan*, and court orders pertaining to parole proceedings.

#### **84020.2 Notice Agent Procedures**

The Notice Agent shall serve the Notice of Charges to parolees housed in county jails within three business days following the placement of the Penal Code (PC) 3056 parole hold. Prior to serving the parolee with any document(s), the Notice Agent shall:

- Review the Disability and Effective Communication System (DECS), which is the database used by CDCR to track all offenders' disabilities and accommodations, as well as the source documents contained in the field file or in the Electronic Records Management System to identify any disabilities and determine the need for effective communication(s) and/or reasonable accommodation(s) prior to serving the parolee with the Notice of Charges.
- The reviewing Notice Agent shall conduct the serve unless the parolee is out of the Notice Agent's assigned parole district. If the parolee is out of the reviewing Notice Agent's assigned geographic area, PVDTS will automatically notify the Notice Agent assigned to the geographic area where the parolee is located.
- DECS shall be reviewed by the Notice Agent responsible for conducting the serve regardless of the parolee's location.
- Complete Section I of the CDCR Form 2271, Notice and Request for Assistance While in a County Jail utilizing the triplicate carbonless copy form.
- Provide any reasonable accommodation(s) during the serve of the Notice of Charges, if needed. Conduct a face-to-face interview with the parolee to ensure that effective communication(s) and/or reasonable accommodation(s) are established as follows:
- Allow the parolee to self-identify any disabilities or request assistance for effective communications, accommodations, medical appliances, equipment, housing, and healthcare.
- Have the parolee read out loud the statement in Section II of the CDCR Form 2271 and articulate in his or her own words his or her understanding of his or her rights.
- If the parolee cannot read, the Notice Agent shall read and explain all of the documents and charges.
- Have the parolee write in his or her CDC number and sign and date Section II of the CDCR Form 2271.
- Explain the CDCR Form 2275-CJ, Request for Reasonable Modification or Accommodation for Access to Housing and/or Programs in a County Jail, and provide the form along with a pre-paid, pre-addressed reply envelope, to all *Armstrong* class members housed at county jails, and to any other parolees housed at a county jails who requests an accommodations related to a disability needs.
- Assist the parolee in completing the CDCR Form 2275-CJ and mailing the form, as needed.
- If the parolee's ADA accommodations are not being met, advise and encourage the parolee to also use the county jail grievance process.
- Determine whether the parolee appears to understand or has difficulty understanding the proceedings and check the appropriate box in Section III of the CDCR Form 2271.
- Check the appropriate boxes in Section III of the CDCR Form 2271 to identify any effective communication method(s) used.
- Note any relevant information in the "Additional Comments" in Section III of the CDCR Form 2271, such as discrepancies between observed disabilities and information in a source document or DECS.
- In the event that the parolee refuses to sign the CDCR Form 2271 or is unable to sign the CDCR Form 2271, document "Parolee refused to sign" or "Parolee unable to sign" and any relevant information about the signature in the "Additional Comments" section.
- If the parolee requests an accommodation, or the Notice Agent identifies a need for an accommodation based on observations while conducting the serve, the Notice Agent shall immediately inform the county jail staff and document the notification in Section III of the CDCR Form 2271.
- The Notice Agent shall document the date and his or her name, title, and signature in Section III of the CDCR Form 2271.

- Provide the canary-colored copy of the CDCR Form 2271 to the parolee. The Notice Agent shall provide the Notice of Charges to the parolee, providing any reasonable accommodation(s) during the serve of the Notice of Charges, if needed. The Notice Agent shall briefly explain each of the charge(s) as listed on CDCR Form 1502-B, Probable Cause Determination, which is electronically generated in the Parole Violation Disposition Tracking System (PVDTS), and provide a copy of the form to the parolee. The CDCR Form 2271 shall be used for both in-custody and not-in-custody serves conducted by the Notice Agent.

Following the completion of the Notice of Charges, the Notice Agent shall:

- Access DECS through PVDTS and update the CDCR Form 2271 in DECS with all of the information that was obtained from the face-to-face meeting with the parolee and documented on the paper copy of the CDCR Form 2271.
- Enter the results of the Notice of Charges service into PVDTS.
- Scan the signed CDCR Form 2271 into PVDTS.
- Return the completed Notice of Charges packet, which consists of CDCR Form 2271 and CDCR Form 1502-B, to the unit supervisor for placement into the field file.

##### **84020.2.1 Notice Agent Advance Serve Log Policy**

The CDCR Form 2017, Notice Agent Advance Serve Log shall be completed to ensure that reasonable efforts are made to serve parolees in accordance with DOM Section 84020.2. The CDCR Form 2017 shall list all parolees whose CDCR Form 1502-B has been completed and is ready for an attempted serve. Every working day, a Notice Agent conducting serves on parolees and out-to-court *Armstrong* class members shall submit the CDCR Form 2017 to the unit supervisor via electronic mail prior to leaving the parole unit for the locations where offenders will be served. Each Notice Agent shall review PVDTS every working day for offenders requiring service of the Notice of Charges when compiling the CDCR Form 2017. Each Notice Agent shall also review his or her electronic mail for the "Daily Delivery Report" (see DOM Section 84020.2.3) and for notifications from the unit supervisor regarding any out-to-court *Armstrong* class members in local custody.

##### **84020.2.2 Notice Agent Advance Serve Log Procedures**

After the Notice Agent has completed the serves and attempted serves for the working day, the Notice Agent shall update the CDCR Form 2017 and shall:

- Enter the date of each completed serve and attempted serve in the appropriate boxes for each parolee.
- Enter an "X" on the line next to "Completed Serves For" and enter the date on the line provided to indicate the serves that were completed and/or attempted on that date.
- Place all parolees who remain in custody after a parole hold on each day's log until the service of the Notice of Charges process is completed.
- Save the file name of the CDCR Form 2017 as "Completed Serve Log" when the completed and attempted serve dates have been entered.
- Submit the "Completed Service Log" to the unit supervisor via electronic mail.
- Track the information entered into the CDCR Form 2017 daily, ensuring that parolees pending service are transferred to subsequent spreadsheets until the parolee is served in the county of custody or until the parolee is transported back to the county of supervision.
- Enter parolees returned to California from another state in the designated section of the electronic Advance Serve Log.

If a Notice Agent's working day ends in the field, the "Completed Serve Log" shall be submitted to the unit supervisor via electronic mail on the following working day prior to the Notice Agent leaving the parole unit to conduct any serves. Any cases that require a second or third attempt to serve shall be transferred from the prior day's "Completed Serve Log" onto the current day's CDCR Form 2017.

##### **Unit Supervisor**

After all Notice Agents in a DCCU have submitted the CDCR Form 2017 to the unit supervisor, the unit supervisor shall reconcile the logs with PVDTS to ensure that no cases have been overlooked within the assigned district.

##### **84020.2.3 Daily Delivery Report Procedures**

Every unit supervisor and Notice Agent in the DCCU shall review the Daily Delivery Report, which is completed by the Transportation Unit, Extradition Bureau. The Daily Delivery report contains the names and CDC numbers of all of the offenders who have been extradited back to California.

When the Daily Delivery Report indicates that a parolee has been extradited back to California and is in local custody, the Notice Agent shall:

- Attempt to serve the parolee within three business days of the parolee's return to California.
- Record the completed serve or attempt(s) to serve as described in DOM Section 84020.2.1.

### 84020.3 Court Agent Procedures

#### Filing a Petition for Revocation

When the Court Agent receives the revocation packet (see DOM Section 84010.3.2) from the Administrative Review Officer via PVDTS to be submitted to the local court for adjudication, the Court Agent shall:

- Review the revocation packet for completeness and compliance with DOM, Chapter 8, Article 26.
- Provide the revocation packet to the local court via electronic filing. If the court does not have electronic filing capability, the packet shall be hand-delivered to the court clerk by 12:00 p.m. on the designated date as indicated in PVDTS.

The revocation packet that is submitted to the court shall include the following non-confidential documents:

- Judicial Council of California (JCC) Form CR-300, Petition for Revocation.
- CDCR Form 1676, Parole Violation Report.
- CDCR Form 1521-B, Criminal History.
- CDCR Form 1244, Parole Violation History.
- CDCR Form 1515, Notice and Conditions of Parole.
- CDCR Form 1515-Addendum, Special Conditions of Parole (if applicable).
- Ensure that both the District Attorney and the Public Defender are notified via electronic mail that the revocation packet is electronically available in the District Attorney/Public Defender PVDTS packet.

In addition to the non-confidential documents contained in the revocation packet that is submitted to the court, the following confidential documents shall be included in the revocation packet that is submitted to the District Attorney and the Public Defender:

- CDCR Form 2271, Notice and Request for Assistance While in a County Jail.
- Any other supporting evidence and/or evidentiary documents.
- If the District Attorney and/or the Public Defender do not have electronic mail capability, the packet should be hand delivered to the District Attorney and/or the Public Defender by 4 p.m. of the "no later than" the designated date as indicated in PVDTS.
- Obtain and enter the date, time, and location of the court hearing on the JCC Form CR-300, and scan or upload the form into the PVDTS "Initial" packet.
- Retain one additional copy of the JCC Form CR-300 with the hearing information included and forward the form with the hearing information included to the unit supervisor for placement in the field file.
- Track and make PVDTS entries of court proceedings including, but not limited to, court dates, case dispositions, and special instructions by the court.
- Obtain the Minute Order or similar judicial document reflecting the court's disposition. Scan or upload the document into PVDTS and forward it to the unit supervisor for updating of the appropriate database and placement in the field file.
- Contact the Board of Parole Hearings Special Processing Unit via electronic mail at [BPH\\_Executive\\_Analysis\\_Unit\\_Group@cdcr.ca.gov](mailto:BPH_Executive_Analysis_Unit_Group@cdcr.ca.gov), and provide the results of any good cause findings or criminal proceedings impacting a parolee pursuant to PC Section 3000.1.

#### 84020.3.1 Court Agent Warrant Processing Procedures

The sole authority to issue a warrant for any parolee rests with the court for the county having jurisdiction. After the Notice Agent/Court Agent receives notification from the unit supervisor that the JCC Form CR-301, Warrant Request and Order is available in PVDTS and is ready to be submitted to the court, the Notice Agent/Court Agent shall:

- File the JCC Form CR-301 with the court for review and signature by the judicial officer. If the warrant has already been entered into the California Law Enforcement Telecommunications System (CLETS) by the county, write "Warrant Entered in CLETS" across the top of the completed JCC Form CR-301.
- Scan or upload the signed JCC Form CR-301 into PVDTS.

- Provide a copy of the JCC Form CR-301 to the unit supervisor or designee for processing.
- If the warrant request is denied by the judicial officer, return the JCC Form CR-301 to the unit supervisor or designee for processing.

#### 84020.3.2 Court Agent Processing Procedures – Warrant Cancellation

Upon receiving a JCC Form CR-302, Request and Order to Recall Warrant signed by the unit supervisor, the Court Agent shall:

- File the JCC Form CR-302 with the court for the county having jurisdiction.
- Obtain the signed copy of the JCC Form CR-302 and the Minute Order containing the judicial officer's approval, and forward them to the unit supervisor or designee for processing.
- By close of the next business day following the judicial officer's approval, scan the signed JCC Form CR-302 into PVDTS, which will transmit and electronically send a copy of the form to Parole Case Records and the Warrant Unit.

If the judicial officer elects not to sign JCC Form CR-302 to recall a warrant or reinstate parole supervision, the Court Agent shall:

- Complete the CDCR Form 2259, No Court Action Daily Log.
- Forward the CDCR Form 2259 and the JCC Form CR-302 to the Court Agent's supervisor.

#### District Court Compliance Parole Agent II (Supervisor) if the Court Takes No Action

In the event there is no court action, the District Court Compliance Parole Agent II (Supervisor) shall review the JCC Form CR-302 and then do the following:

- Write across the form: "No court action, recall warrant and reinstate, no time tolled."
- Print his or her name on the form, and sign and date the form.
- Scan and upload the JCC Form CR-302 into PVDTS, which will transmit an electronic copy of the form to the Warrant Unit and Parole Case Records.

#### 84020.4 Revisions

The DAPO Director or designee shall ensure that this article is current and accurate.

#### 84020.5 References

*Armstrong v. Brown Court Ordered Remedial Plan II*, dated December 1, 2010.

*Armstrong v. Brown*, U.S.D.C. (N.D. Cal.), Case No. C 94-2307 CW; 2012 WL 1222928.

PC §§ 1168, 1170, 1203.2, 2962, 3000(b)(4), 3000.08, 3000.1, 3015, 3056, 3057, 3060.7, 4019(a)(5), 5054, and 5058.

United States Code, Title 42 § Section 12102.

## ARTICLE 28 — WARRANT REQUESTS

*Revised December 18, 2018*

#### 84030.1 Policy

Parolees who have absconded from parole supervision pose a risk to the community; therefore, it is incumbent upon the parole agent to maintain contact with parolees in accordance with DOM, Chapter 8, Article 2. If the parole agent finds probable cause that a parolee is unavailable for supervision and cannot be located, and all reasonable efforts to locate him or her have been exhausted, the parole agent shall submit the request to the unit supervisor no later than one working day.

If exigent circumstances are present, the parole agent shall request that a warrant be issued by the court. Exigent circumstances include, but are not limited to: serious and/or repetitive violations of the conditions of parole; committing a new offense; a risk to public safety that is posed by the offender's continued presence in the community; or a parolee who engages in and/or has exhibited behavior where there is reason to believe that he or she is a danger to himself or herself or that he or she poses a significant danger to persons within the community.

Warrants shall be requested from the superior court in the county in which the parolee is being supervised. Interstate Compact cases that are being supervised in California on behalf of other states and jurisdictions are excluded from this policy and warrant requests for these cases shall be processed in accordance with DOM, Chapter 8, Article 6.



Pursuant to Penal Code (PC) Section 3060.7 and CCR Section 3504.1, a warrant shall be requested within 24 hours of a parolee's failure to report to DAPO upon the parolee's release from custody if the parolee has a California Static Risk Assessment score of five or if the parolee is required to register pursuant to PC Section 290.

#### **84030.1.1 Procedures for Requesting a Warrant During Normal Business Hours**

When a parole agent determines that a parolee's behavior requires a warrant request, the following lines of responsibility shall apply:

##### **Parole Agent**

- Document all due diligence efforts to locate the parolee on the electronic Record of Supervision.
- Conduct a case conference with the unit supervisor to determine the need to request the warrant from the court magistrate document the results of the case conference on the electronic Record of Supervision.
- Initiate a case in the Parole Violation Disposition Tracking System (PVDTS), and select "Warrant Request/Parolee At Large" as the initiation type.
- Identify the parolee's California Static Risk Assessment (CSRA) score.
- Identify if the parolee was resentenced pursuant to PC Section 1170.18(d).
- For such a parolee, review the field file and the parolee's profile in the Electronic Records Management System to determine if there are non-controlling cases or special enhancements that will allow DAPO to retain jurisdiction beyond the MMP parole term. If so, ensure that the case numbers are listed on the Judicial Council of California (JCC) Form CR-301, Warrant Request and Order.
- Initiate the case in PVDTS and select "Warrant Request/Parolee at Large" as the case type.
- Complete the JCC Form CR-301 and the JCC Form MC-031, Attached Declaration within PVDTS, thoroughly documenting all evidence of absconding and of efforts taken to locate the parolee for consideration by the court magistrate; the JCC Form MC-031 is not needed if the parole agent can thoroughly document this information on the JCC Form CR-301.
- If PVDTS or the Strategic Offender Management System (SOMS) are not functioning, the forms may be completed manually and shall be available on the CDCR Intranet website.
- Under the "Warrant Request" heading on the JCC Form CR-301, check the "Other" box and type "Recommend no bail warrant."
- Check the appropriate boxes for the Wanted Persons System (WPS) and/or National Crime Information Center system.
- Sign and submit the JCC Form CR-301 and the JCC Form MC-031 (if needed) to the unit supervisor for review, approval, and processing.
- Document the submission of the request for the warrant on the electronic Record of Supervision.
- If the warrant request is approved by the court, supervise the parolee according to DOM, Chapter 8, Article 2. Arrests shall be made in accordance with DOM, Chapter 8, Article 3.
- If the warrant request is denied by the court, provide the JCC Form CR-301 to the unit supervisor and document the denial on the electronic Record of Supervision. If the circumstances for seeking the warrant remain, address the reason for denial and resubmit the request to the court for reconsideration.

##### **Unit Supervisor**

- Conduct a case conference with the parole agent to determine the need to request the warrant from the court magistrate.
- Review the warrant request and complete the CDCR Form 2207, Warrant Investigation Checklist. If an action listed on the form to be completed by the investigating parole agent is waived by the unit supervisor, enter the reason the action was waived in the "Comments" section.
- Place the offender into pending warrant status using the "Pending Warrant" Supervision Event in the Strategic Offender Management System (SOMS).
- If additional investigation is necessary, complete a CDCR Form 2207, indicating additional efforts required by the parole agent, and provide a copy of the form to the parole agent.

- If the warrant request is appropriate, approve, sign, and forward the JCC Form CR-301, CDCR Form 2207 and all attachments, if any, to the Notice Agent/Court Agent for processing.
- If the warrant request is approved by the court:
- Check the California Law Enforcement Telecommunications System (CLETS), WPS screen to confirm the status of the warrant and obtain the warrant number.
- Ensure that the JCC Form CR-301 is scanned into PVDTS to obtain a warrant number, if the county did not provide one, and to automatically transfer the record to the Warrant Unit and Parole Case Records (PCR).
- If PVDTS is not functioning, forward a copy of the signed JCC Form CR-301 to the Warrant Unit and PCR via fax or electronic mail by the next business day following the approval of the warrant request.
- If the warrant request is not approved by the court, conduct a case conference with the parole agent to address the reason for denial.

#### **84030.1.2 Procedures for Requesting a Warrant After Normal Business Hours**

When a parole agent determines that a parolee's behavior requires an immediate warrant request that cannot be delayed until the next business day, the following lines of responsibility shall apply:

##### **Parole Agent**

In order to request an after-hours warrant, the parole agent shall:

- Gather all necessary information regarding the violation/incident that requires immediate action.
- Contact the unit supervisor and provide the circumstances of the violation/incident and the justification for requesting an after-hours warrant via a case conference.
- If unable to contact the unit supervisor, contact the Administrative Officer of the Day (AOD) via the Warrant Unit and apprise the AOD of the circumstances and the need for an after-hours warrant via a case conference.
- Document the results of the case conference on the electronic Record of Supervision.
- If approval is obtained from the unit supervisor or the AOD pursuant to this section, process the warrant request on the JCC Form CR-301. If approval is not obtained from the unit supervisor or the AOD, the parole agent shall follow the process outlined later in this section.
- Having been instructed by the AOD to contact the Warrant Unit for local after-hours procedures, follow the Warrant Unit instructions and wait to be connected to the county on-call judge or magistrate in the county having jurisdiction over the warrant process. In the event that the parole agent is unable to make contact with a local on-call judge or magistrate for after-hours warrant approval, or if the county with jurisdiction to issue the warrant does not have an after-hours warrant request process, the parole agent shall attempt to obtain a warrant for the arrest of the parolee on the next business day pursuant to the process described in DOM Section 84030.1.1 for obtaining a warrant during normal business hours.
- If the local on-call judge or magistrate provides verbal authorization to issue the warrant, provide the Warrant Unit staff with the following information:
  - Name and title of the unit supervisor or AOD who approved the after-hours warrant request.
  - Name of local on-call judge or court magistrate who gave verbal authorization.
  - Parolee's CDC number.
  - Type of warrant (California-only or NCIC).
  - Cautions and/or warnings.
  - Parolee's last known address.
- If the local on-call judge or magistrate provides verbal authorization to issue the warrant, document the name of the on-call judge or magistrate who authorized the after-hours warrant on the JCC Form CR-301. On the business day following the request for the after-hours warrant, follow the process outlined later in this section.
- If local court procedures require the on-call judge to sign the JCC Form CR-301 after-hours, provide a copy of the signed JCC Form CR-301 and all attachments to the Warrant Unit and local county warrant unit, if the county enters the warrant in CLETS.

- Scan the JCC Form CR-301 into PVDTS to obtain a warrant number, if the county did not provide one, and to automatically transfer the record to the Warrant Unit and PCR.

On the business day following the request for the after-hours warrant, the parole agent shall:

- If the parole agent was able to secure the after-hours warrant, he or she shall provide the JCC Form CR-301 and all attachments to the unit supervisor for processing in accordance with the process described in DOM Section 84030.1.1 for obtaining a warrant during normal business hours.
- If the parole agent was unable to secure the after-hours warrant, and the circumstances necessitating the request still exist, he or she shall process the JCC Form CR-301 and all attachments in accordance with the process described in DOM Section 84030.1.1 for obtaining a warrant during normal business hours.

#### Unit Supervisor

Once contacted by the parole agent regarding the need to request an after-hours warrant, the unit supervisor shall conduct a case conference with the parole agent, determine if an after-hours warrant is necessary, and instruct the parole agent to proceed with a warrant request through the Warrant Unit.

On the business day following the request for an after-hours warrant, the unit supervisor shall:

- Ensure that the parole agent completed the JCC Form CR-301 and the JCC Form MC-031 (if needed).
- Upon receiving the approved warrant from the court magistrate, ensure that SOMS is updated with the suspend date.
- Check the CLETS, WPS screen to confirm the status of the warrant and obtain the warrant number.
- Open the case in PVDTS and enter the warrant number.
- Ensure that the JCC Form CR-301 is scanned into PVDTS to obtain a warrant number, if the county did not provide one, and to automatically transfer the record to the Warrant Unit and PCR.
- If PVDTS is not functioning, forward a copy of the signed JCC Form CR-301 (with the warrant number) to the Warrant Unit and PCR via fax or electronic mail by the next business day.

In the event that the parole agent is unable to make contact with a local on-call judge or magistrate for after-hours warrant approval, or if the county with jurisdiction to issue the warrant does not have an after-hours warrant request process, ensure that the parole agent attempts to obtain a warrant for the arrest of the parolee on the next business day.

#### Administrative Officer of the Day

Once contacted by a parole agent regarding the need to request an after-hours warrant, the AOD shall:

- Determine if the warrant request is appropriate.
- If the warrant request is appropriate, instruct the parole agent to contact the Warrant Unit for local after-hours procedures. Follow up the next business day with the appropriate unit supervisor regarding any action taken by himself or herself by completing the CDCR Form 1698, Administrative Officer of the Day Record of Contact, and submitting it to the unit supervisor.
- If the warrant request is not appropriate, inform the parole agent making the request.

#### 84030.1.3 Warrant Unit Procedures

When a unit supervisor or Notice Agent/Court Agent uploads a signed JCC Form CR-301 into PVDTS, PVDTS will automatically notify Warrant Unit staff. Warrant Unit staff shall:

- For after-hours warrants with a verbal authorization from a local on-call judge or magistrate:
- Enter the information provided by the parole agent on the CDCR Form 2274, After-Hours Warrant Tracking Form.
- Enter the warrant information into CLETS.
- Upon receiving notice of the cancellation of a warrant, enter the abstract of the warrant into CLETS as a hold only.
- Maintain the DAPO After-Hours County Warrant Request Log for all after-hours warrant requests.

#### 84030.2 Automated Notification Procedures

When the "Pending Warrant" Supervision Event is entered in SOMS by the unit supervisor, SOMS will trigger an alert in the corresponding parolee record in the Law Enforcement Automated Data System (LEADS). The intent is to

advise law enforcement that a warrant has been submitted for the parolee and is awaiting approval by the county court. Under the "Parole Status Notification" heading, an advisement will appear that states, "*Warrant is pending for this parolee, please use caution. Call ID Warrants at (916) 445-6713.*" Upon being contacted by law enforcement, Warrant Unit staff shall contact the parole agent, unit supervisor, or AOD to request a parole hold and forward the authorization to the arresting officer to place the offender into custody on a parole hold.

#### 84030.2.1 Public Notification of Sex Offenders with Absconding Warrants Policy

Sex offenders who are supervised by DAPO who remove or disable their Global Positioning System (GPS) monitors or who fail to report to DAPO upon release from custody pose a threat to public safety. CDCR must take additional steps to mitigate that threat through enhanced public and law enforcement notifications. These notifications are made via the CDCR Internet website and LEADS.

#### 84030.2.2 Public Notification of Sex Offender with Absconding Warrants Procedures

Upon receipt of a signed JCC Form CR-301, if the warrant was issued as a result of the sex offender parolee's removal or disabling of the GPS monitor or the sex offender parolee's failure to report to DAPO upon release from custody, the unit supervisor shall:

- Enter the "GPS Interrupted (notify Web Site)" Supervision Event in SOMS.
- Verify that the SOMS Legal Status Summary screen shows the "Registration Required-Sex Offender (PC290)" legal mandate with "Required" status. If the "Registration Required-Sex Offender (PC290)" legal mandate does not appear, notify PCR.

For a parolee who is required to register as a sex offender, after the "GPS Interrupted (notify Web Site)" Supervision Event is entered and after Warrant Unit staff enter the warrant in SOMS, SOMS will automatically create a listing for the sex offender parolee at large on the CDCR Internet website.

#### 84030.3 Warrant Cancellation Policy

The court that issued the warrant has the sole authority to cancel the warrant. The JCC Form CR-302, Request and Order to Recall Warrant is the primary judicial court document that DAPO staff shall utilize for recalling a warrant and reinstating a parolee on parole supervision; however, in some courts throughout the State, the JCC Form CR-302 may not be accepted. Should the JCC Form CR-302 not be accepted, the Minute Order that orders the warrant to be recalled and the parolee to be reinstated on parole supervision shall be utilized in lieu of the form. This process shall remain the same for warrants issued either by the Board of Parole Hearings or the court.

Upon the discovery that a parolee with an active warrant has been arrested, or in instances where the parolee has been located and the unit supervisor has made the determination to cancel the warrant, the unit supervisor shall ensure that the completed JCC Form CR-302 is forwarded to the Notice Agent/Court Agent in accordance with local procedures to petition the court magistrate, for warrant cancellation. The JCC Form CR-302 shall be submitted in accordance with DOM Section 84030.3.1 through 84030.3.6, depending on the circumstances causing the need for cancellation of the warrant.

#### 84030.3.1 Cancellation Procedure – Parolee's Arrest or Return to Supervision, No Absconding Charge

- Following the parolee's arrest, or if the parolee is brought back into compliance with the terms of parole supervision and the decision is made by the unit supervisor not to charge the parolee with absconding, the parole agent shall:
- Complete the JCC Form CR-302, and under the heading of "Request for Recall of Warrant," check the box that states, "The supervised person has been located and is currently in compliance with the terms of supervision."
- Check the box that states, "Other (specify)," and note the request to have the absconding charge dismissed.
- Check the box that states, "The supervising agency also requests that supervision be reinstated."

Note: In this circumstance, the time shall not be tolled and the charge shall be dismissed and removed from PVDTS.

#### 84030.3.2 Cancellation Procedure – Parolee Not Arrested, Continued on Parole with Time Tolled

- Following the parolee's being brought back into compliance with the terms of parole supervision and the decision by the unit supervisor to have parole supervision be reinstated with the time tolled, the parole agent shall:

- Complete the JCC Form CR-302, and under the heading “Request for Recall of Warrant,” check the box that states, “The supervised person has been located and is currently in compliance with the terms of supervision.”
- Check the box that states, “Other (specify),” and note the request to have the time tolled, including the date of suspend action and the date of reinstatement. Include, “The supervising agency declines to petition the court for a formal revocation because the supervising agency has determined that an intermediate sanction without court involvement is an appropriate response to the alleged violation.”
- Check the box that states, “The supervising agency also requests that supervision be reinstated.”

#### **84030.3.3 Cancellation Procedure – Parolee Arrested, Continued on Parole with Time Tolloed**

- Following the parolee’s arrest and the decision by the unit supervisor to have parole supervision be reinstated with the time tolled, the parole agent shall:
- Complete the JCC Form CR-302, and under the heading “Request for Recall of Warrant,” check the box that states: “The supervised person has been arrested. The supervising agency declines to petition the court for a formal revocation because the supervising agency has determined that an intermediate sanction without court involvement is an appropriate response to the alleged violation.”
- Check the box that states, “Other (specify),” and note the request to have the time tolled, including the date of suspend action and the date of arrest or reinstatement. Be sure to note “Release PC 3056/PC 3000.08 hold and release from custody.” Many jails will not release the parolee if this language is not included.
- Check the box that states, “The supervising agency also requests that supervision be reinstated.”

#### **84030.3.4 Cancellation Procedure – Parolee Arrested, Petition for Revocation or New Criminal Charges Filed**

- Following the parolee’s arrest, if the case is being deferred because the District Attorney has filed criminal charges or a motion to revoke parole, the parole agent shall:
- Complete the JCC Form CR-302, and under the heading “Request for Recall of Warrant,” check the box that states, “Other (specify),” and note the request to have the time tolled, including the date of suspend action and date of arrest.
- Check the box that states, “The supervising agency also requests that supervision be reinstated.”

#### **84030.3.5 Cancellation Procedure – Parolee Arrested in a County That Does Not Have Jurisdiction**

- Following the parolee’s arrest in a county that does not have jurisdiction to adjudicate the petition for revocation, and the parolee is being released from custody, the parole agent shall:
- Conduct a case conference with the unit supervisor.
- If it is determined during the case conference that remedial sanctions will be utilized, complete the JCC Form CR-302.
- If it is determined during the case conference that an out-of-custody petition for revocation is to be filed, do not complete the JCC Form CR-302. The parole agent shall complete the revocation packet (see DOM Section 84010.3.2).

#### **84030.3.6 Exceptions for Not Submitting the Judicial Council of California Form CR-302**

- Following the parolee’s arrest and the decision by the unit supervisor to petition the court for parole revocation, the JCC Form CR-300, Petition for Revocation, shall be the document used to petition the court for revocation. The parole agent shall:
- If the parolee is arrested in California, complete the JCC Form CR-300, Petition for Revocation, including all attachments, in accordance with DOM, Chapter 8, Article 26. The filing of the petition for revocation will cancel the warrant.
- If the parolee is arrested out-of-state, once the offender is extradited to the county of supervision, complete JCC Form CR-300. The warrant must remain active while the parolee is out-of-state to function as the detainer for that parolee.

### **84030.3.7 Warrant Cancellation Procedures**

#### **Parole Agent**

- Access the case in PVDTS. If the case does not appear in the “Open” section, access the case in the PVDTS “Idle” section and select the reason for activating the case from the dropdown menu. Note that when a parolee at large is arrested for an absconding warrant, PVDTS will automatically activate the case and the case will appear in the “Open” section.
- Generate the JCC Form CR-302 within PVDTS utilizing the following steps:
- Open the case in PVDTS.
- Select the “Warrant Requests/Tracking” option.
- Select the “Cancel” option for the warrant.
- Complete the remaining fields as required in PVDTS.
- Submit the completed JCC Form CR-302 to the unit supervisor.

#### **Unit Supervisor**

- Review and, if appropriate, approve, sign, and forward the JCC Form CR-302 to the Notice Agent/Court Agent for submittal to the court magistrate.
- Ensure that the signed JCC Form CR-302 (or Minute Order to recall warrant) is scanned into PVDTS.
- Ensure that a copy of the JCC Form CR-302 signed by court magistrate is forwarded to the Warrant Unit and PCR via fax or electronic mail by the close of the next business day after the JCC Form 302 is signed by the court magistrate.

### **84030.4 Warrant Requests for Parolees Arrested Out-of-State**

A parolee is considered to have absconded from parole supervision anytime he or she leaves California without permission or does not return to California on the date specified on a travel permit issued by DAPO. A California parole hold cannot be issued to arrest or detain a parolee until the court issues a warrant and orders the parolee returned to California for further court revocation proceedings.

When the parole agent becomes aware of a parolee meeting the above criteria, the parole agent shall:

- Complete the JCC Form CR-301, checking the “Other” box under the “Warrant Request” heading and noting “Out of State Detainer Request, Issue Code 2 Warrant as Detainer Only, Return to California for further proceedings.”
- List the name of the arresting agency and the jail facility where the parolee is being held.
- Request the warrant through the appropriate process as described in this article.

Upon receipt of the signed JCC Form CR-301, the unit supervisor shall ensure that a copy of the form is scanned into PVDTS and faxed to the Extradition Unit.

#### **84030.5 Revisions**

The DAPO Director or designee shall ensure that this article is current and accurate.

#### **84030.6 References**

PC §§ 3000.08, 3057, and 3060.7.  
CCR (15) (2) § 2637(7).

## **ARTICLE 29 — WARRANT UNIT CONTACT PROCEDURES**

*Revised December 18, 2018*

### **84040.1 Policy**

The Warrant Unit shall respond to all law enforcement calls in the order in which they are received. The Administrative Officer of the Day (AOD) shall be provided with a dedicated direct line to facilitate contact with the Warrant Unit.

When other law enforcement agencies request contact with a specific parole agent, Warrant Unit staff shall contact the parole agent using contact information in the NEWAGENT 2000 database, which contains DAPO staff contact information and shall be the primary source of information for Warrant Unit staff (the CDCR Form 1220, Employee Information that is completed by the parole agent is not a reference document; the Warrant Unit will only extract information from the CDCR Form 1220 in order to update the NEW AGENT 2000 database). If the parole agent is not available, the Warrant Unit shall follow the procedures outlined in DOM Section 84040.5.

**84040.2 Parole Agent Responsibilities**

The parole agent shall ensure that his or her current contact information is provided to the unit supervisor by completing and submitting a CDCR Form 1220. Changes shall be reported to the unit supervisor no later than the start of the next business day. Mandatory information shall include a home phone number (if the employee has a home phone), State-issued cellular phone number (if applicable), state identification number, badge number, and any legal name changes. The parole agent may also provide a personal cellular phone number.

When a parole agent is contacted by the Warrant Unit outside of the parole agent's work hours, this shall be considered work. Compensation for this time shall be governed by the Memorandum of Understanding for Bargaining Unit 6.

**84040.3 Unit Supervisor Responsibilities**

The unit supervisor shall verify the parole agent's contact information. The unit supervisor shall ensure the CDCR Form 1220 is complete and contains correct information. The unit supervisor shall send a copy of the completed form to the Warrant Unit via fax or electronic mail; the original shall be kept on file in the parole unit.

**84040.4 Administrative Officer of the Day Responsibilities**

- Be aware of his or her scheduled AOD assignment and ensure availability during that assignment.
- Notify the Warrant Unit, in writing, of any change of contact information or change to the regional AOD schedule.
- Answer all calls and respond to messages.
- Contact the Regional Parole Administrator, Deputy Director, or Director via the Warrant Unit if notified of a reportable incident.
- Submit a written synopsis of any action taken on the CDCR Form 1698, Administrative Officer of the Day Record of Contact and submit the form to the unit supervisor of the affected unit no later than the next working day.

**84040.5 Warrant Unit Staff Responsibilities**

- Upon receipt of a CDCR Form 1220, extract the information from the form and enter it into the NEW AGENT 2000 database.
- Upon receipt of a call from a law enforcement agency representative who is requesting contact with a parole agent, make every reasonable attempt to confirm the caller's identity. At no time shall a parole agent's contact information be provided.
- Attempt to contact the parole agent based on the contact information in the NEWAGENT 2000 database.
- If the parole agent is not available, the following persons shall be contacted in the order provided and in accordance with the procedures established below:
  1. Parole Agent II, Supervisor.
  2. Unit supervisor.
  3. AOD.
  4. District Administrator.
  5. Regional Parole Administrator.
- Attempt to contact the parole agent, unit supervisor, and AOD twice prior to contacting the District Administrator or Regional Parole Administrator. If unable to contact the AOD, and the AOD fails to respond within 15 minutes to any messages left by Warrant Unit staff, attempt again to contact the Parole Agent II, Supervisor, then the unit supervisor, and then AOD.
- If unable to contact the Parole Agent II, Supervisor, the unit supervisor, or AOD after the second attempt, wait 15 minutes and then contact the District Administrator. If unable to contact the District Administrator, contact the Regional Parole Administrator.
- Record contacts with and attempts to contact the AOD on the AOD Contact Log maintained in the Warrant Unit.

**84040.6 Warrant Unit Contact Information**

The Warrant Unit is primarily contacted by telephone first. The primary contact number is (916) 324-2891. The secondary contact number is (916) 358-4345.

**84040.7 Revisions**

The DAPO Director or designee shall ensure that this article is current and accurate.

**84040.8 References**

PC §§ 1168, 1170, 2962, 3000.08, 3056, 3057, 5054, and 5058.

**ARTICLE 30 — WITNESSES**

*Revised December 18, 2018*

**84050.1 Policy**

As a result of the 2011 Public Safety Realignment, as defined in Assembly Bill 109 and subsequent related legislation, the authority for the parole revocation and warrant process shifted from the Board of Parole Hearings to the superior court within each of the 58 counties in the State of California. The shift also included the responsibility for determining and locating witnesses.

**84050.2 Purpose**

The purpose of this article is to identify and protect the privacy of the witnesses and/or victims who may present facts about the alleged parole violation(s) during the revocation and warrant process.

**84050.3 Definitions****Confidential Witness**

An informant whose identity is unknown to the parolee and who could be subject to harm if the person's identity were known.

**Fearful Witness**

A person who has given adverse information about the parolee and is unwilling to testify due to fear of repercussions.

**Minor/Juvenile**

A person who is under 18 years of age.

**Victim**

A person who was harmed, injured, or killed as a result of a crime, accident, or other event or action.

**Witness**

A person whose expected testimony supports the violation charged. The primary witness (victim, on-the-scene police officer, complainant, etc.) should be present at the revocation hearing.

**84050.4 Privacy and Removal of Victim or Witness Information**

The CDCR Form 1676, Parole Violation Report shall be completed by the parole agent and included in the revocation packet in accordance with DOM Section 84010.3.2.

When completing CDCR Form 1676, the parole agent shall ensure that every fearful, confidential, or minor/juvenile witness and/or victim is not represented by name but is instead referred to as "witness 1 and/or victim 1" and so on in order to protect the identity of the witness and/or victim.

**84050.5 Revisions**

The DAPO Director or designee shall ensure that this article is current and accurate.

**84050.6 References**

Assembly Bill 109 (Committee on Budget, 2011).  
PC §§ 136.1, 679, and 1326.

**ARTICLE 31 — UNASSIGNED****ARTICLE 32 — REMEDIAL SANCTIONS AND PROGRAM REFERRALS**

*Revised December 18, 2018*

**84070.1 Remedial Sanction Policy**

When parole violations occur, alternatives to revocation and incarceration shall be considered and used to the extent that public safety allows. Remedial sanctions shall not be used to address violations that require the filing of a petition for revocation.

Remedial sanctions shall include a referral to a residential or outpatient treatment program that addresses the behavior that necessitated the remedial sanctions, reinforces pro-social activity, and addresses the offender's criminogenic needs. Criminogenic needs shall be addressed as a means of early intervention to assist in the prevention of further violations of supervision conditions and as an alternative to filing a petition for revocation. DAPO staff may also require an offender to perform community service as a remedial sanction. DAPO staff shall identify the most suitable program for each offender based on the offender's criminogenic needs and/or the circumstances of the violation. The use of a State-sponsored program shall be considered when determining appropriate program placement. However, this should not preclude the parolee from participating in a non-State sponsored program. Any use of a non-State sponsored program shall be justified pursuant to DOM Section 84070.2.

DAPO staff shall utilize PVDTS for both violation-based and non-violation-based referrals to programs. PVDTS will automatically generate the CDCR Form 1502, Activity Report for referring an offender to a program. For State-sponsored programs, PVDTS will automatically send the form via electronic mail. Parole unit support staff shall also provide the offender's Re-Entry Assessment upon request by the program to which the offender was referred.

When permitted by law, absconders who have not committed any new crimes and who do not pose an undue public safety risk may be continued on parole and remain under supervision in the community.

#### **84070.1.1 Violations Requiring Filing of a Revocation Petition**

- All parolees who are facing parole revocation proceedings that were initiated prior to
- July 1, 2013, i.e., who have parole hold/discovery dates prior to July 1, 2013.
- Any revocation proceedings that were conducted by the Board of Parole Hearings prior to July 1, 2013, or that were reopened on or after July 1, 2013.
- A parolee who is required to register pursuant to Penal Code (PC) Section 290 who fails to report to DAPO within one working day of release, or who fails to report upon release as otherwise instructed, and there is no evidence that the parolee's failure to report as instructed was caused by a medical or psychiatric emergency.
- A parolee who is required to register pursuant to PC Section 290 who removes, disables, renders inoperable, or knowingly circumvents the operation of, or permits another to remove, disable, render inoperable, or knowingly circumvent the operation of an electronic, Global Positioning System (GPS), or other monitoring device that is affixed to his or her person as a condition of parole when he or she knows that the device was affixed as a condition of parole. This shall not be a violation if the removal, disabling, rendering inoperable, or circumvention of the electronic, GPS, or other monitoring device is performed by a physician, emergency medical services technician, or by any other emergency response or medical personnel when doing so is necessary in the course of providing medical treatment to the person subject to the electronic, GPS, or other monitoring device.

#### **84070.2 Remedial Sanction Referral Procedures**

Within PVDTS, State-sponsored programs will be highlighted in yellow on the CDCR Form 1500, Parole Violation Decision Making Instrument. PVDTS will automatically enter the program name and location in the "Referral Comments" section if a State-sponsored program is selected. If a non-State-sponsored program is selected, the parole agent shall enter the program name and address in the "Referral Comments" section. PVDTS will automatically generate a CDCR Form 1502, Activity Report and forward it to the program.

After a violation of a supervision condition has been discovered and the unit supervisor makes the decision to have the parolee Continue on Parole (COP) and to utilize a remedial sanction, the following lines of responsibility shall apply:

##### **Parole Agent**

- Initiate the case in PVDTS as a "No Hold/COP Remedial."
- Complete the CDCR Form 1500 and the program referral screens within PVDTS.
- After the CDCR Form 1500 is approved by the unit supervisor, track and record the offender's progress and final outcome in the PVDTS "Sanction/Referral" section. Record the criminogenic need being addressed, start date, actual start date, expected end date, actual end date, status, new report date, and other required information in the "Sanction/Referral" section and subsequent screens for managing referrals.

##### **Unit Supervisor**

- Complete the supervisor's sections of the CDCR Form 1500 and the program referral screens within PVDTS.
- If a non-State-sponsored program is chosen, the unit supervisor shall select a reason from the dropdown menu in the unit supervisor's section of the "Sanction/Referral" screen.
- Ensure that the information in the "Sanction/Referral" screen and subsequent screens is up-to-date.

#### **84070.2.1 Exceptions for Remedial Sanction Referrals into Non-State-Sponsored Programs**

If a non-State-sponsored program is selected, the same procedures described in DOM Section 84070.2 shall be followed, with the following exceptions:

- The unit supervisor shall specify the program name and location in PVDTS.
- PVDTS will still automatically generate a CDCR Form 1502; however, the unit supervisor shall manually enter the electronic mailing address for the program in order for the program to receive the CDCR Form 1502 as the referral.

#### **84070.3 Court-Ordered Remedial Sanction Referrals**

A court may also address a petition for revocation with a remedial sanction. Upon receipt of a court-ordered remedial sanction, the following lines of responsibility shall apply:

##### **Notice Agent/Court Agent**

- Record the case disposition within the "Final Case Disposition" section of PVDTS, complete all required fields, and select "Return to Parole."
- If applicable, under the "Modifications" field, select "Other Evidence Based Program" or "Special Instructions."

##### **Unit Supervisor**

- Review the court order and any special instructions.
- Ensure that the parole agent is informed of the court order and determine the appropriate program referral.
- Generate the program referral in PVDTS.
- Ensure that the information in the "Sanction/Referral" screen and subsequent screens is up-to-date.

##### **Parole Agent**

- Enforce the court order.
- Record the offender's progress and the final outcome in the PVDTS "Sanction/Referral" section. Record the criminogenic need being addressed, start date, actual start date, expected end date, actual end date, status, new report date, and other required information in the "Sanction/Referral" section and subsequent screens for managing referrals.

#### **84070.4 Program Referrals for Non-Parole Violations**

All offenders are eligible to participate in either State-sponsored or non-State-sponsored programs based on their individual criminogenic needs at any time within their parole or supervision terms, even if violations of their supervision conditions have not occurred. When an offender is referred to a program for a reason other than a remedial sanction, the parole agent shall initiate a case in PVDTS using the "Non-Violation Program Referral" case type. The parole agent shall record and update information about the program referral in the PVDTS "Sanction/Referral" screen and subsequent screens in the same manner as a remedial sanction. The unit supervisor shall ensure that the information in the "Sanction/Referral" screen and subsequent screens is up to date.

##### **84070.4.1 Sex Offender Treatment Referrals**

PVDTS will automatically load offenders who are required to attend Sex Offender Treatment onto the "SO Referrals" screen 120 days prior to their parole dates. No sooner than an offender's parole date and no later than five business days after the parole date, the parolee shall be referred to sex offender treatment.

##### **Parole Agent**

The parole agent shall compile the Sex Offender Treatment referral packet in PVDTS as follows:

- Complete the referral.
- Select the Sex Offender Treatment provider and upload the Face Sheet (see DOM Section 81090.7.2), conditions of parole, any addendums to the conditions of parole, and the cumulative summary to the referral packet pursuant to DOM Section 81022.20
- Upon the unit supervisor's approval track and record the parolee's status, including the report date, actual start date, expected end date, actual end date, and other required information, in the "SO Referral" section and subsequent screens for managing Sex Offender Treatment referrals.
- Document and update any treatment provider changes, in the referral status by entering the end date of the previous treatment provider and manually initiating a referral to the new provider.
- Manually initiate a referral for an offender who has been ordered directly to parole by a sentencing court, also referred to as a "court walkover/direct release."

PVDTS will automatically enter the treatment provider's address and contact information in the "Referral Comments" section. PVDTS will automatically generate the CDCR Form 1502 and will forward the referral to the unit supervisor for review.

#### Unit Supervisor

The unit supervisor shall review the referral packet, in PVDTS:

- If the unit supervisor approves the referral, the referral packet will be automatically forwarded to the provider.
- If the unit supervisor does not approve the referral, the unit supervisor shall send the referral back to the parole agent for necessary corrections; once these corrections are made, the parole agent shall resubmit the referral to the unit supervisor for review.

#### 84070.5 Americans with Disabilities Act Accommodations Policy for Remedial Sanctions

CDCR shall provide reasonable accommodations or modifications for the known physical, developmental, or mental disabilities of qualified offenders. No qualified offenders with disabilities as defined in United States Code, Title 42, Sections 12101 through 12213 shall, because of those disabilities, be excluded from equal and effective participation, to the best of their abilities, in any CDCR programs. All State-sponsored programs shall provide reasonable accommodations in accordance with the Americans with Disabilities Act, *Armstrong v. Brown*, and the *Armstrong Remedial Plan*. Examples of reasonable accommodations include special equipment (such as sound readers, sound amplification devices, or Braille materials), bilingual or qualified sign language interpreters, modified work or program schedules, or grab bars installed to improve the mobility of impaired offenders who require assistance.

#### 84070.6 Adult Programs Unit Parole Agent II Responsibilities

The Adult Programs Unit (APU) Parole Agent II shall assist the parole agent and unit supervisor in verifying the report date, participation, and program departure date of the offender. The APU Parole Agent II shall also assist parole units by providing information to parole unit staff about new State-sponsored programs and State-sponsored programs that may be located near, though not in the same county as, the parole unit.

#### 84070.7 Revisions

The DAPO Director or designee shall ensure that this article is accurate and current.

#### 84070.8 References

ACA Standard 4-APPFS-2F-01.

Americans with Disabilities Act of 1990.

*Armstrong v. Brown Court Ordered Remedial Plan II*, dated December 1, 2010.

*Armstrong v. Brown*, U.S.D.C. (N.D. Cal.), Case No. C 94-2307 CW; 2012 WL 1222928.

Government Code § 71622.5.

PC §§ 290 and 3000.08(d).

United States Code, Title 42 §§ 12101 through 12213.

### ARTICLE 33 — UNASSIGNED

### ARTICLE 34 — MENTALLY DISORDERED OFFENDERS COMMITMENT AND TRANSPORTATION

*Revised March 6, 2017*

#### 84090.1 Policy

California Penal Code (PC) section 2962 requires that specific convicted felons who are severely mentally disordered be provided psychiatric treatment by the Department of State Hospitals (DSH) as a special condition of parole. Continued treatment may be required upon termination of parole.

#### 84090.2 Purpose

The purpose of this Article is to provide California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) staff with procedures for the Mentally Disordered Offender (MDO) commitment process and transportation.

#### 84090.3 Responsibility

DAPO Regional Parole Administrators shall ensure that all MDO parolees are supervised by parole agents assigned to cover DSH facilities. This shall include MDO parolees in DSH inpatient and outpatient treatment facilities.

#### 84090.4 Mentally Disordered Offenders Commitment

A parolee shall receive inpatient treatment, in a DSH facility, as a special condition of parole if all of the following criteria are met:

- The offender has a severe mental disorder as defined in PC 2962 which is not in remission or cannot be kept in remission without treatment;
- The severe mental disorder was a cause or an aggravating factor in the commission of a crime for which the offender was sentenced to prison;
- The offender has been in treatment for a severe mental disorder for 90 days or more within the year prior to release;
- A DSH psychiatrist or psychologist in charge of treating the offender and a CDCR, Division of Health Care Services (DHCS), Chief Psychiatrist has certified on DHCS Form JC8000, Certification of Mentally Disordered Offender to the Board of Parole Hearings (BPH) that the offender meets the all of the above-listed criteria, and that by reason of his or her severe mental disorder the prisoner represents a substantial danger of physical harm to others; and
- The crime for which the offender was sentenced to prison was a Determinate Sentence pursuant to PC 1170 and the offense falls under PC 2962(e)(2).

If BPH determines the inmate meets certification criteria as an MDO, it will complete BPH Form 1400, Certification Review, and order treatment provided by DSH as a special condition of parole. The inmate shall be served with the special condition of parole, informed in writing of the right to a Certification Hearing, and informed of the right to request an evaluation by two independent professionals, as defined in PC 2978, pursuant to California Code of Regulations 2576(b)(5).

#### Inpatient Psychiatric Treatment Ordered

If psychiatric treatment is ordered by BPH as a special condition of parole, the inmate shall undergo mental health treatment in a DSH facility. If applicable, the inmate shall be processed by the Division of Adult Institutions (DAI) for transfer to a designated DSH facility on or before the earliest possible release date.

#### MDO Packets and Hearing Packets consist of the following items:

- BPH Form 1400.
- Current medication orders and medical conditions.
- Medical and psychiatric history.
- All MDO evaluations.
- Legal Status Summary (LSS).
- Any probation officer reports or police officer reports.
- Abstract of Judgment (AOJ).
- Chronological history.
- Listing of all CDCR reports of rule violations.
- Notice of detainer, if transferred to a DSH facility prior to release to DAPO.
- Notice of right to certification hearing.
- CDCR Form 1515, Notice of Conditions of Parole.
- BPH Form 1073, Notice and Request for Assistance at Parole Proceeding.
- Case factor sheet for DSH placement consideration.
- Static-99R Assessment for Parolees Required to Register per PC 290.
- Independent evaluation reports, if applicable (included in Hearing Packet).
- DHCS Form JC8000 (included in Hearing Packet).

#### BPH Hearings:

##### Certification Hearing

The initial hearing, held upon the parolee's request, to determine if the parolee statutorily qualifies for MDO placement and inpatient treatment as a special condition of parole. If the parolee disagrees with the Certification Hearing results, the parolee has a right to file a petition in a court with appropriate jurisdiction. BPH shall provide the parolee with a petition form and instructions for filing the petition pursuant to PC 2966(a). If the Certification Hearing results in a decision that PC 2962 criteria is not met, the parolee shall parole to DAPO for supervision upon release from a DSH facility.

##### Annual Hearing

The Annual Hearing to determine whether the parolee continues to qualify for MDO placement and treatment. If the parolee disagrees with the Annual Hearing results, the parolee has a right to file a petition in a court with

appropriate jurisdiction. BPH shall provide the parolee with a petition form and instructions for filing the petition pursuant to PC 2966(a).

#### Placement Hearing

A separate hearing, held upon an MDO parolee's request, to determine whether outpatient treatment, rather than inpatient treatment, is appropriate.

This hearing is separate from the previously mentioned Certification and Annual Hearings and may occur any time after an MDO parolee has been in a DSH facility over 60 days.

At all hearings the following persons must be present:

- Parolee/inmate, unless appearance is waived.
- BPH administrative law judge/deputy commissioner.
- Parole agent assigned to the MDO Unit. .
- Attorney of parolee/inmate.
- Interpreter, if required.
- DSH police officer or jail custody staff.
- Escort staff.
- Any other person required by the parolee's attorney and approved by the BPH administrative law judge/deputy commissioner.

#### Outpatient Psychiatric Treatment Status

If BPH conducts a placement hearing and orders an MDO parolee treated on an outpatient basis, the parolee may be placed at an outpatient facility in the community.

If DSH determines that there is reasonable cause to believe an MDO parolee is able to be safely and effectively treated on an outpatient basis, the parolee may be placed by DSH at an outpatient facility in the community.

MDO parolees placed in outpatient treatment in the community will be provided Annual Hearings at State parole offices.

In the event BPH or DSH determines that an MDO parolee is to be placed at an outpatient facility, the MDO parole unit shall contact DAPO's Regional Re-Entry Unit to determine the parolee's county of parole no less than 45 days before the parolee is released to the outpatient facility. Upon the MDO parolee's arrival to the outpatient facility, the MDO parole unit shall transfer supervision of the case to the parole unit responsible for MDO parolees in the geographical area where the outpatient facility is located. DSH shall coordinate all outpatient planning with DAPO and the Forensic Conditional Release Program (CONREP), in accordance with Welfare and Institutions Code Section 4360(a) and (b). The sole psychiatric treatment provider for an MDO parolee shall be DSH or a provider authorized by DSH. DAPO may still require an MDO parolee be evaluated by the Parole Outpatient Clinic (POC), aside from the ongoing treatment, in order to carry out mandated parole functions.

Certification for mental health treatment does not alter DAPO's violation and other reporting requirements (including discharge review), regardless of whether an MDO parolee is on inpatient or outpatient treatment status. Additionally, if DSH determines that an MDO parolee is no longer able to be safely and effectively treated on an outpatient status, the parolee shall be placed in a secure mental health facility pursuant to PC 2964.

#### State Parole Unit/County Jail MDO Hearing

MDO parolees placed in outpatient treatment in the community will be provided with an Annual Hearing at the local parole unit. MDO parolees in local custody will be provided with Certification Hearings and Annual Hearings at local jail facilities. DAPO parole agents will serve the MDO parolee/inmate a BPH Form 1410, Notice of Mentally Disordered Offender Rights and Acknowledgement and BPH Form 1073. DAPO parole agents will serve as security during these hearings. DAPO parole agents will also provide a hard copy of the Hearing Packet to the BPH Deputy Commissioner at the Hearing location. DAPO parole agents will provide a copy of the Hearing decision to the MDO parolee/inmate.

#### 84090.5 Mentally Disordered Offenders Commitment Procedures

##### DHCS

Upon receipt of MDO evaluation reports from CDCR and DSH that an inmate meets MDO criteria, DHCS ensures:

- MDO evaluation reports are routed to the chief psychiatrist.
- Chief psychiatrist reviews the MDO evaluation reports to determine if MDO criteria are met.
- Chief psychiatrist certifies that the inmate meets MDO criteria on the DHCS Form JC8000.
- DHCS Form JC8000 is routed to BPH.

- MDO evaluation reports, LSS, AOJ and description of the MDO qualifying offense are forwarded to BPH, DSH, and DAPO prior to the inmate's release, if the DHCS's chief psychiatrist determines that the inmate meets MDO criteria. (Referral time-frames and contingencies shall be made in accordance with the current MDO Memorandum of Understanding (MOU) between BPH, CDCR, and DSH).
- Chief psychiatrist provides testimony at the MDO Certification Hearing.

#### BPH

Upon receipt of the DHCS Form JC8000, MDO evaluation, LSS, AOJ, and description of the MDO qualifying offense, BPH:

- Reviews the MDO evaluation reports prepared by CDCR and DSH.
- Orders independent evaluations as appropriate.
- Issues BPH Form 1400.
- Distributes BPH Form 1400 to DHCS, DAI, DAPO and DSH prior to the inmate's release. (Referral time-frames and contingencies shall be made in accordance with the current MDO MOU between BPH, CDCR, and DSH).
- Coordinates the scheduling of MDO hearings.
- Presides over MDO hearings pursuant to PC 2962.

#### DAI — Classification and Parole Representative

Upon receipt of a BPH Form 1400, which indicates the inmate meets the MDO criteria, DAI notifies the inmate of his or her rights and completes the following forms and tasks:

- BPH Form 1410.
- CDCR Form 1515.
- BPH Form 1073.
- BPH Form 1420, Mentally Disordered Offender Hearing Information.
- Department of Mental Health Form, Placement Screening Sheet.
- Enters BPH Form 1073 into the Disability and Effective Communication System.
- Arranges for transfer of the inmate to DSH.
- Forwards forms to DSH, BPH, and DAPO prior to the inmate's release. (Referral time-frames and contingencies shall be made in accordance with the current MDO MOU between BPH, CDCR, and DSH).

#### DAPO

Upon receipt of a BPH Form 1400 and an MDO/Hearing packet, the documents shall be sent to the appropriate MDO parole unit.

#### Unit Supervisor or Assistant Unit Supervisor (MDO Parole Unit)

Upon receipt, the Unit Supervisor or Assistant Unit Supervisor shall:

- Log receipt of MDO packet.
- Review MDO packet.
- Check MDO case in the Strategic Offender Management System for parole date/revocation release date.
- Confirm the inmate's arrival at a DSH facility under MDO status.
- Request the parole field file from the assigned parole unit of record.
- Assign the MDO parolee case to a parole agent in the MDO parole unit or forward the MDO parolee case to the parole agent assigned to cover the DSH facility.
- Each month identify parolees who need to be served Certification, Placement, or Annual Hearing notices.
- Each month ensure that Parole Case Records (PCR) receives a list of new arrivals.

#### Parole Agent (MDO Parole Unit)

The Parole Agent shall:

- Review MDO packet.
- Review/audit Electronic Records Management System (ERMS).
- Utilize BPH Information Technology System (BITS) to identify and complete cases requiring notification.
- Utilize BITS to complete BPH Form 1080, Hearing Notice and BPH Form 1073, in Certification, Placement and during Annual Hearings as required. Provide the MDO parolee with a copy of these forms.
- Serves MDO parolee with BPH Form 1410, BPH Form 1420, and BPH Form 1073 for Certification Hearings as soon as possible, if not previously served and prior to all placement and annual hearings.
- Assist MDO parolee with completing BPH Form 1410, BPH Form 1420, and BPH Form 1073, if needed.

- Enter BPH Form 1073 into the Disability and Effective Communication System.
- Review the BPH tab in ERMS for any additional MDO documents.
- Attend Certification, Placement, and Annual Hearings and provide security at all MDO hearings.
- Provide a hard copy of MDO hearing packet to Deputy Commissioner.
- Serves as security during MDO hearings held at the local parole unit and the local county jail.
- Upon completion of MDO hearing, provide a copy of BPH Form 1415, Summary of Mentally Disordered Offender Hearing and Decision, to the parolee and to PCR for inclusion in ERMS.
- Notify unit supervisor of hearing results.
- Advise the regional re-entry coordinator of hearing results if the parolee is not certified for inpatient treatment to confirm assigned parole unit.
- Serve MDO parolee with new conditions of parole, if needed.
- Submit a request for release funds, if not previously issued.
- Provide supervision of MDO parolees.
- Assist with the coordination of release from a DSH facility to the assigned parole unit.

#### **Department of State Hospitals**

DSH shall notify DAPO as soon as possible, no later than 72 hours after discovery, of any violation of any condition of parole committed by an MDO parolee. In the event an MDO parolee escapes or is Absent Without Leave (AWOL) from a DSH facility, the individual designated by the DSH facility medical director shall immediately notify the CDCR Warrant Unit of the escape or AWOL by telephone. The Warrant Unit is responsible for notifying the appropriate CDCR staff. The DSH facility may also directly contact any CDCR staff after notification to the Warrant Unit.

#### **Parole Case Records**

PCR shall notify DSH, as soon as possible, of any change to an MDO parolee's Controlling Discharge Date (CDD) to enable DSH to meet the time frames specified in PC 2970 for continuation of treatment beyond the CDD.

#### **84090.6 Decertification**

If BPH or a court with appropriate jurisdiction issues an order changing the certified MDO parolee's special conditions of parole to no longer require treatment through DSH as an MDO parolee, then the following shall occur:

- DSH shall coordinate the discharge from the DSH facility and release to DAPO.
- DSH shall provide a discharge summary to POC in the appropriate parole region no less than two working days prior to the parolee's release.
- DAPO shall take custody of the parolee and arrange transportation from the DSH facility to the assigned parole unit.

#### **84090.7 Criminal Charges**

If an MDO parolee is charged with new criminal acts that result in detention, the parolee shall be transferred to the law enforcement agency that detained the parolee. DSH shall notify DAPO and BPH of an MDO parolee's custodial transfer. DAPO shall address the criminal behavior in accordance with DAPO's current parole violation process.

#### **84090.8 Transportation**

Upon notification that an MDO parolee is to be released from a DSH facility, DAPO shall ensure arrangements are made to transport the parolee from the DSH facility to the assigned parole unit. Unless other arrangements can be made, and approved by the unit supervisor, all MDO parolees released from a DSH facility shall be picked up and transported to the assigned parole unit by DAPO staff.

#### **DSH Release Procedure**

When an MDO parolee is scheduled for release, the parole agent who covers the DSH facility will notify the assigned parole unit supervisor of the pending release date. Upon confirmation from the assigned parole unit of a pick-up date, the parole agent who covers the DSH facility shall complete the appropriate paperwork and transfer the parole field file to the assigned parole unit via overnight mail. The parole agent who covers the DSH facility shall continue to assist the assigned parole unit with the coordination of the parolee's release and pick-up until the parolee has left the DSH facility.

#### **Unit Supervisor (Assigned Parole Unit)**

Upon receipt of information that a parolee will be released from a DSH facility, the unit supervisor shall assign the case to a parole agent. The unit supervisor shall ensure the assigned parole agent contacts the parole agent covering the DSH facility in order to facilitate the transportation of the parolee.

In the event the assigned parole agent is not available to facilitate the transport, the unit supervisor shall assign another parole agent to this task.

#### **Parole Agent (Assigned Parole Unit)**

Following notification that a parolee will be released, the assigned parole agent shall make arrangements to pick the parolee up from the DSH facility. This shall include ensuring the parolee is released with sufficient medications and, if available, release funds. The assigned parole agent shall also request any information that may be available relative to the parolee's housing needs/plans, medical/mental health issues, and any other related information. The assigned parole agent shall then advise the parole agent covering the DSH facility of the date and the anticipated time of pick-up.

#### **84090.9 Transfers**

An MDO parolee being released from a DSH inpatient facility may be transferred to a county other than the county of last legal residence (CLLR) pursuant to PC 3003(b)(5) for the purpose of receiving treatment in an outpatient treatment program that is not available in the CLLR. The out-of-county placement will be on a short-term basis and in conjunction with the parolee's Individual Treatment Plan as developed by DSH CONREP. Parole supervision shall be transferred to the parole agent designated to cover the outpatient treatment facility. Upon the parolee's completion of outpatient treatment, the parole unit in the CLLR shall assume supervision.

An MDO parolee may be transferred between inpatient treatment facilities as determined by DSH. Parole supervision shall be transferred to the parole agent covering the DSH facility.

#### **84090.10 Release of Discharged Parolees from DSH**

Under circumstances where the parolee is discharged from active supervision, the Agent of Record (AOR) shall work collaboratively with DSH staff to ensure:

- Transportation and housing needs are addressed to include providing DSH staff with relevant information that may be available from the AOR to enhance the final placement plan into the community.
- All applicable law enforcement notifications are made pursuant to the PC and Health and Safety Code.
- Effective communication, in accordance with the American Disability Act, is utilized to provide final release instructions and expectations to the discharged parolee upon his or her release from the DSH facility.

#### **84090.11 Revisions**

The DAPO Director or designee shall ensure that this article is current and accurate.

#### **84090.12 References**

PC §§ 1170, 2684, 2960 – 2980, and 3003.

WIC § 4360

### **ARTICLE 35 — SUPERVISOR RESPONSIBILITIES**

*Revised February 15, 2018*

#### **85010.1 Policy**

It is the policy of the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) that all work produced by unit staff is subject to supervisory review.

#### **85010.2 Purpose**

The purpose of this section is to specify the role, functions, and responsibilities of the unit supervisor and Parole Agent II (Supervisor).

#### **85010.3 Definitions**

##### **Parole Field File**

A file maintained by a parole unit office containing pertinent information regarding a parolee's criminal history, current commitment offense, and adjustment to parole.

##### **Parole Administrator**

The Department's administrator of a DAPO headquarters unit, district, program or geographic location.

##### **Parole Agent**

A departmental peace officer employee who is assigned to supervise those persons released from incarceration to serve a period of parole.

##### **Parole Agent II (Supervisor)**

A first line supervisor of case-carrying Parole Agent Is.

##### **Parolee**

An offender released from confinement in State prison to supervision in the community.



**Regional Parole Administrator**

The Department's administrator of a DAPO region.

**Unit Supervisor**

A Parole Agent III and a supervisor of case-carrying parole agents and ancillary staff in a DAPO parole unit.

**85010.4 Features**

The supervisor of a parole unit is one of the most critical and influential persons within DAPO. An effective supervisor:

- Ensures that parole agents accomplish the mission of community protection and the arrangement of casework services.
- Assists agents in developing the knowledge and skills needed to be effective in supervising parolees.

The effectiveness is measured by the work the agents produce and how well the parole mission of reintegrating parolees back into society is accomplished. All work is subject to supervisory review.

**85010.5 Responsibilities****Unit Supervisor**

Unit supervisors are responsible for all administrative duties associated with the management and operation of the parole unit, the supervision of ancillary staff, and the supervision of all parole agents within the parole unit. Unit supervisors are responsible for ensuring that staff comply with and adhere to all regulations, policies, and directives.

Unit supervisors are responsible for monitoring the quantity and quality of the work of parole agents and ancillary staff under their supervision and are expected to take appropriate actions when necessary to ensure that work conforms to DAPO policy and procedures.

In the absence of the unit supervisor, the Parole Agent II (Supervisor) will assume all associated duties and responsibilities of the unit supervisor.

Responsibilities that shall not be delegated below the level of a unit supervisor are:

- Employee grievances.

These responsibilities may be assumed by a Parole Administrator or another unit supervisor in the event of the unit supervisor's extended absence.

**Parole Agent II (Supervisor)**

Parole Agent IIs (Supervisor) are the first line supervisors of Parole Agent Is assigned to a parole unit within DAPO. The Parole Agent II (Supervisor) shall work in conjunction with the unit supervisor. The primary functions of the Parole Agent II (Supervisor) in a parole unit are to train, monitor, and provide accountability for Parole Agent Is.

Parole Agent IIs (Supervisor) will monitor field activities and all aspects of parole supervision of Parole Agent Is on a consistent basis including, but not limited to, the following:

- Home visits.
- Employment visits.
- Rehabilitative program visits.
- Field arrests.
- Officer safety awareness.
- Motivational interviewing
- Collateral contact efforts.
- Urinalysis collections.
- Report writing and documentation.
- Caseload management.

The Parole Agent II (Supervisor) shall document the Parole Agent I's performance for an annual or probationary appraisal. It is the responsibility of the unit supervisor and Parole Agent II (Supervisor) to track the due dates of these appraisals, ensuring the appraisals are completed and submitted in a timely manner. In the absence of the unit supervisor, the Parole Agent II (Supervisor) shall prepare and submit the annual or probationary appraisal.

The Parole Agent IIs (Supervisor) shall also be responsible for initiating disciplinary actions as needed to include documenting performance deficiencies or other corrective action.

The Parole Agent II (Supervisor) will assist the unit supervisor as needed in all administrative duties to include, but not limited to, the supervision and operations of the parole unit, the supervision of ancillary staff, and the management of the parole unit along with any associated functions to ensure compliance with and adherence to regulations, policies, and directives of the Department.

The Parole Agent II (Supervisor) shall be assigned 75 percent of their duties as supervisory and 25 percent of their duties shall be associated with carrying a caseload. The caseload shall be proportionate to the equitable breakdown of cases by category being supervised within the parole unit. Under no circumstances shall a Parole Agent II (Supervisor) be assigned a number of cases in any one category that are disproportionate to such assignments for the other Parole Agent Is in the parole unit. If the unit supervisor is absent for two weeks or longer, the Parole Agent II's (Supervisor) caseload may be transferred to the other Parole Agent Is in the parole unit at the direction of the parole district's Parole Administrator.

Parole Agent IIs (Supervisor) shall be responsible for the supervision of field operations in their jurisdiction including field arrests, parolee residential searches, and organized law enforcement operations. If the Parole Agent II (Supervisor) is unavailable, the unit supervisor or designee shall assume field supervision duties. The Parole Agent II (Supervisor) shall:

- Provide on-scene supervision for tactical operations and coordinate with local law enforcement.
- Ensure a field operational plan is completed and approved, if necessary, pursuant to current DAPO policy.

**85010.6 Electronic Control Device**

The Parole Agent II (Supervisor) and unit supervisor assigned to a parole unit may be authorized to carry an Electronic Control Device (ECD), also known as a Taser, after successfully completing training on such a device in accordance with the manufacturer's training criteria. Once certified and issued, the Parole Agent II (Supervisor) or unit supervisor shall carry the ECD for all planned field arrests, which may lower the risk of injury to both staff and parolees if the use of force becomes necessary. All procedures for the ECD are outlined in the CDCR Restricted Department Operations Manual, Chapter 5, Section 55055.

**85010.7 Training****On-The-Job Training**

The Parole Agent II (Supervisor), in conjunction with the unit supervisor, shall serve as the lead trainer responsible for on-the-job training of Parole Agent Is, including but not limited to:

- Training related to regulations, policies, and directives of the Department.
- Remedial training as it relates to casework or field operations.
- Report writing and documentation.
- Officer safety issues and field operations, including field arrests.
- Hand-held radio operations.
- Parolee supervision techniques, including all aspects of the California Parole Supervision Reintegration Model, the Sex Offender Management Program, and any other caseload specific work.

The Parole Agent II (Supervisor) shall also ensure that Parole Agent Is maintain compliance with quarterly/annual training, and that the Parole Agent Is have their required safety equipment and other standard issued equipment.

**Office Arrest Training**

The unit supervisor shall ensure that training regarding arrest procedures is provided to all parole agents. The unit supervisor shall ensure that a plan for anticipated arrests made in the office is formulated. The unit supervisor shall be present during all planned arrests made in the office. All staff present in the office, including ancillary staff, shall be advised of any anticipated arrest to be performed in the office. In the absence of the unit supervisor, the Parole Agent II (Supervisor) shall carry out office arrest procedures.

**85010.8 Employee Probationary Appraisal**

A report of the probationary employee's performance shall be completed on STD Form 636, Report of Performance for Probationary Employee, and given to the employee at sufficiently frequent intervals, in compliance with the employee's Bargaining Unit (BU) Memorandum of Understanding (MOU), to keep the employee adequately informed of progress on the job. Each report shall cover the period since the previous report.

While in the process of completing a probationary report, the employee's supervisor shall personally meet with the employee to review the report and any notes, documents, or audits utilized in preparing the report. In the event that improvement is needed, a corrective action plan will be developed, outlining specific deficiencies and expectations for progress.

The supervisor shall set goals and timelines relative to the measurement of improved future performance. A written copy of the corrective action plan shall be provided to the employee. Employees who correct their performance to a satisfactory level during the rating period shall receive a standard or better

rating. If the employee is rejected during the probationary period, a final report may be filed for the period not covered by previous reports.

A written notice of rejection shall be served prior to the conclusion of the prescribed probationary period. The report shall be treated as a confidential document.

#### **85010.9 Employee Probationary Appraisal Procedures**

##### **Unit Supervisor and Parole Agent II (Supervisor) (Within ten days after the end of each reviewing interval of the probationary period)**

- Prepares probationary performance report.
- Discusses report with employee.

##### **Before report is filed**

- Provides employee with a signed copy of the probationary report.
- Forwards signed report to the parole district's Parole Administrator.

##### **Parole Administrator**

- Reviews report for timeliness, content, consistency, and appropriateness.
- Interviews and discusses report with employee if requested.
- Treats report as a confidential document.
- Returns the signed report to the supervisor.

#### **85010.10 Annual Performance Appraisal Policy**

Pursuant to California Code of Regulations (CCR), Title 2, Division 1, Subsection 599.798(c) Performance Appraisal, each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each 12 calendar months following the end of the employee's probationary period. The appraisal shall evaluate the employee's quality of work, helping the employee recognize areas where performance could be improved and developing with the employee a plan for accomplishing such improvement.

Within DAPO, the annual performance appraisals will be completed on the STD Form 637, Individual Development Plan, for employees who have completed at least one year in non-probationary status with a report due based on the month of the employee's birthday and each year thereafter. If the annual report is due less than three months from completion of probation, the annual performance report will not need to be completed until the following calendar year, but will cover the entire period from the final probationary performance report.

While in the process of completing the annual performance report, the employee's supervisor shall personally meet with the employee to review the report and any notes, documents, or audits utilized in preparing the report. When preparing annual performance reports, supervisors shall develop corrective action plans addressing substandard performance. Supervisors shall set goals and timelines relative to the measurement of improved future performance. A written copy of the corrective action plan shall be provided to the employee. Employees who correct their performance to a satisfactory level during the rating period shall receive a standard or better rating. The performance report shall be treated as a confidential document.

Performance reports shall be completed and issued to the employee no later than 30 days after the due date of the report. At the time an employee signs his or her annual performance report, a copy will be provided to the employee. Performance reports shall be maintained in an employee's official personnel file in accordance with the Department's retention schedule, at which time they shall be removed and given to the employee unless he or she requests that they be destroyed.

#### **85010.11 Annual Performance Appraisal Procedures**

##### **Unit Supervisor and Parole Agent II, Supervisor (Once Every 12 Months)**

- Reviews employee training records.
- Prepares written performance appraisal on each employee.
- Forwards report to manager for review.
- Discusses report with employee.
- Provides a signed copy of the performance appraisal to the employee.
- Allows employee to discuss the report with the manager if requested.

#### **85010.12 Apprenticeship Program Policy**

All employees entering a rank and file peace officer job classification are apprentices unless they have already attained journey-level status in the same classification accepted by the Correctional Peace Officer Standards and Training (CPOST).

The apprenticeship program for all Parole Agent I rank-and-file apprentices requires the completion of a minimum of 3600 hours in the respective work processes and a minimum of two years on the job, unless qualifying credit is awarded by the local CPOST subcommittee pursuant to the CPOST

guidelines. These apprentices are required to complete the academy appropriate to their classification, but the time spent at the academy is not included in the 3600-hour work process requirement.

The unit supervisor and Parole Agent II (Supervisor) ensure apprentices over a two-year period have the opportunity and training to perform the following work processes:

- Supervision of parolees.
- Report writing and record keeping.
- Investigating.
- Arrests.
- Additional experience.

The unit supervisor and Parole Agent II (Supervisor) evaluate the apprentice's performance and takes corrective action when necessary as part of the evaluation process. The apprentice's DAS Form 103-A, Apprentice Daily Record, shall be reviewed and approved monthly and forwarded to the Regional Training Coordinator at the end of each month, and no later than the 10th of the following month. The DAS Form 103-A is available through the Regional Training Coordinators. In addition, the unit supervisor shall prepare a written performance appraisal on each employee's overall work performance once per quarter for the entire apprenticeship period.

#### **85010.13 Documentation of Union Leave**

Employees are expected to be at work performing their job duties unless they are authorized to be away from the job. This time off must be documented on their timesheet. Supervisors are responsible for verifying that staff's time away from work has been authorized by the appropriate source and documented appropriately before signing employee timesheets.

The following are types of union leave absences and the respective request/approval processes:

- Union Paid Leave (UPL) – an employee organization may request UPL for their respective members. This leave type would be used in place of an employee's own leave credits. The request process for UPL is as follows:
  - The employee's organization sends the UPL request to the Office of Labor Relations (OLR).
  - OLR sends the UPL request to the respective DAPO Region or headquarters labor liaison.
  - The DAPO labor liaison will document and send the UPL request to the employee's supervisor.
  - The supervisor will reasonably assess workload and staffing, approve or disapprove the request, and sign the UPL request and return to the respective DAPO labor liaison. The supervisor will also notify the employee.
  - The DAPO labor liaison will document the response and send the signed UPL request to OLR.
- State Release Time – an employee shall be entitled to reasonable time off without loss of compensation for the purposes of representation (Skelly Hearings, State Personnel Board Hearings, grievance conferences, etc.). There is no request form for State release time. This time is subject to approval by the employee's supervisor and shall be documented in the following manner:
  - The supervisor shall maintain a log to account for the job steward/employee representative State release time away from the worksite.
- Official Business (OB) – OB is for employees participating in the collective bargaining process on behalf of the State (contract negotiations, local negotiations, joint labor management committee meetings, arbitration hearings, etc.). The following is the procedure for OB time off requests:
  - OLR sends the OB request to the respective DAPO Region or headquarters labor liaison.
  - The DAPO labor liaison will document and send the OB request to the employee's supervisor.
  - The supervisor will reasonably assess workload and staffing, approve or disapprove the request, sign the OB request, and return to the respective DAPO labor liaison. The supervisor shall attach a copy of the OB request authorization to the employee's timesheet for submission to personnel.
  - The DAPO labor liaison will document the response and send the signed OB request to OLR.

- Release Time Bank (RTB) (BU6 rank and file members only) – is established by associated members' leave contributions. Members may donate any portion of their available leave balances, with the exception of sick leave. The California Correctional Peace Officers Association (CCPOA) shall initiate an RTB. The request procedure is outlined below:
  - CCPOA sends a RTB request to OLR.
  - OLR sends the RTB request to the DAPO Region or headquarters labor liaison.
  - The DAPO labor liaison will document and send the RTB request to the employee's supervisor.
  - The supervisor will reasonably assess workload and staffing, approve or disapprove the request, sign the RTB request, and return to the respective DAPO labor liaison. The supervisor shall attach a copy of the RTB request authorization to the employee's timesheet for submission to personnel.
  - The DAPO labor liaison will send the signed RTB request to OLR.
- Supervisory Release Time Bank (SRTB) (CCPOA—Supervisory members only) – is established by associated members' leave donations. The following will take place when making an SRTB request:
  - CCPOA – Supervisory sends the SRTB request to the DAPO Region or headquarters labor liaison.
  - OLR sends the SRTB request to the DAPO Region or headquarters labor liaison.
  - The DAPO labor liaison will document and send the SRTB request to the employee's supervisor.
  - The supervisor will reasonably assess workload and staffing, approve or disapprove the request, sign the SRTB request, and return to the respective DAPO labor liaison. The supervisor shall attach a copy of the SRTB request authorization to the employee's timesheet for submission to personnel.
  - The DAPO labor liaison will document the response and send the signed SRTB request to OLR.

Union leave of absences shall not be unreasonably denied. If operational need warrants a need to deny a union leave of absence, the supervisor shall contact the respective DAPO Region or headquarters labor liaison for guidance. A memorandum detailing the basis for denial will be required.

If this subsection is found in conflict with the provisions of the member's BU MOU, the MOU shall be the controlling document.

#### **85010.14 Revisions**

The DAPO Director, or designee is responsible for ensuring that this Article is kept current and accurate.

#### **85010.15 References**

CPOST Standards and Regulations Manual.

CCR 2 §599.798 (c).

Government Code Sections 19172 and 19173.

### **ARTICLE 36 — WORKLOAD**

*Revised November 8, 2016*

#### **85020.1 Policy**

Standard workload for a case-carrying parole agent shall be in accordance with the current Memorandum of Understanding (MOU) for Bargaining Unit 6 and DOM Chapter 8, Article 2 - Case Supervision.

#### **85020.2 Purpose**

The purpose of this article is to establish uniform guidelines for determining workloads.

#### **85020.3 Workload**

##### **Parole Agent**

Beginning the first working day of the month and no later than the third working day of the same month, the parole agent shall submit a reconciled caseload roster from the previous month to the unit supervisor. The parole agent shall reconcile the caseload roster with the CDCR Form 1650-D, Record of Supervision, with entries noting the date the supervision specifications were made.

#### **Unit Supervisor**

1st - 5th working day of the month:

The unit supervisor shall verify caseload roster reconciliation of the previous month beginning the first working day and no later than the fifth working day of the current month.

Initial caseload roster reconciliation for the new month shall begin on the first working day of the month to ensure parolees are appropriately classified. Caseload roster reconciliation is an on-going process and shall not be restricted to the 1st – 5th working days of the month.

No later than the 5th working day of the month:

The unit supervisor or assistant unit supervisor shall review all active and non-active cases on the roster, and reconcile the caseload roster by correcting the supervision status or making supervision category changes. The unit supervisor or assistant unit supervisor shall also review workload assigned to each parole agent on the unit workload summary report.

Weekly:

On a weekly basis, the unit supervisor or assistant unit supervisor shall be responsible for reviewing and maintaining a balanced and equitable workload between assigned staff, and shall use the unit workload summary report to review the assigned workload. Upon review, the unit supervisor shall attempt to balance the unit workload and maintain an equitable mix of categories on each caseload. The range in workload ratio (total number of cases assigned to each case carrying agent) should not exceed a five case disparity between parole agents. When the parole unit has excessive workload, excess cases shall be assigned equitably to all parole agents in the parole unit. The unit supervisor or assistant unit supervisor shall endeavor to distribute pre-parole and transfer investigation request cases equitably, taking into account geography and current workload.

Exceptions may be considered for caseloads assigned to parole agents meeting the following criteria or under the following circumstances:

- Rural caseloads that require excessive vehicle travel to complete supervision specifications.
- Urban caseloads in an area with heavy traffic congestion.
- Caseloads in areas where inclement weather conditions result in modified driving conditions, such as chain requirements.
- Parole agents currently participating in the apprenticeship program.
- Parole agents participating in a training program that assists newly appointed parole agents in transitioning from the parole agent academy to actual duties of a parole agent.
- Other circumstances deemed reasonable by the unit supervisor or assistant unit supervisor.

#### **85020.3.1 Workload Adjustments**

There should be on-going face-to-face communication between the case-carrying parole agents and the unit supervisor or assistant unit supervisor regarding workload modifications and adjustments. The unit supervisor or assistant unit supervisor and parole agent should discuss the current caseload relative to the parole agent effectively managing the caseload at its current level.

Workload adjustments may include correcting the status of a parolee after a court action or transferring cases between parole agents. If these workload adjustments still result in excess workload, additional adjustments such as modifying case supervision specifications or authorization of overtime may be required. When case supervision specifications are modified, the unit supervisor or assistant unit supervisor shall note which case specifications have been modified for the month on the CDCR Form 1650-D. When a unit supervisor or assistant unit supervisor makes an adjustment to a caseload to comply with this provision, they must document the remedy taken for each caseload that was adjusted. This documentation shall be made on the caseload roster/unit workload summary. The documentation can be handwritten directly on the unit workload summary or by attaching copies of the approved STD. Form 682, Authorization of Extra Hours, from each parole agent. At the end of the month, the documentation shall be entered into a binder that shall be maintained in each parole unit and shall remain accessible to the district administrator at any given time.

In order to mitigate excessive use of overtime to manage caseloads, the unit supervisor or assistant unit supervisor is granted authority to:

- Modify case supervision specifications.
- Authorize paid overtime.
- Utilize a combination of the above.

### 85020.3.2 Waiving or Modifying Case Contact Specifications

The waiving or modifying of case contact specifications or other workload is the sole responsibility of the unit supervisor or assistant unit supervisor. Each case must be considered on a case-by-case basis relative to the individual parolee's case factors and specific needs.

The unit supervisor or assistant unit supervisor shall consider the following factors when waiving or modifying case contact specifications for cases:

- The parolee is required to register as a sex offender per Penal Code 290.
- The parolee is designated as a validated security threat group member.
- The parolee is designated as a lifer, high notoriety, or public interest.

The unit supervisor shall not routinely waive or modify case contact specifications and the waiving or modification of contact specifications should be considered as an exception than the rule. Therefore, the unit supervisor shall consider the totality of case factors and public safety when considering waiving or modifying case contact specifications for the above cases.

When tasks are waived, the unit supervisor or assistant unit supervisor shall note this decision on the CDCR Form 1650-D. The unit supervisor or assistant unit supervisor may waive the following tasks:

- Home visits:
- Home visits shall not be waived for the same parolee during two consecutive months unless the parolee is homeless or the parolee resides in a geographically remote area. Under these circumstances, the unit supervisor or assistant unit supervisor, considering public safety, may waive this contact.
- The unit supervisor or assistant unit supervisor may waive the requirement of home visits being unannounced to allow the parole agent to notify the parolee in advance of the home visit. When this requirement is waived, the parole agent shall document the parolee's notification on the CDCR Form 1650-D.
- Additional face-to-face contacts.
- Urinalysis tests.
- Significant collateral contacts.
- Resource contacts.
- Pre-release residence verification – the residence verification subsequently must be completed during the initial home visit and documented on the CDCR Form 1658, Pre-Parolee Residence/Employment Verification.

The unit supervisor or assistant unit supervisor shall not routinely waive or modify caseload supervision specifications except as provided below:

- Initial interview.
- Initial home visit (the unit supervisor or assistant unit supervisor may, however, waive the time frame so that the parole agent has more time to complete this task).
- Comprehensive interview.
- Residence verification and completion of the CDCR Form 1658.
- Monthly goals and progress report and completion of the CDCR Form 1661, Monthly Goals/Progress Report.
- Case conference review and completion of the CDCR Form 1657, Case Conference Review/Discharge Consideration Committee, with the exception of transition phase cases where the parolee's participation is not required during the case conference review.
- Violation reports.
- Discharge review reports.

The regional parole administrator has the authority to waive any of the foregoing specifications, with the exception of violation reports and discharge review reports.

#### 85020.4 Revisions

The DAPO Director or designee is responsible for ensuring that the contents of this section are kept current and accurate.

#### 85020.5 References

The MOU for Bargaining Unit Six.

DOM, Chapter 8, Article 2 Case Supervision.

## ARTICLE 37 — WORK WEEK GROUPS AND WORK HOURS

*Revised April 12, 2017*

### 85030.1 Policy

It is the policy of the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) to abide by the California State Civil Service Rules and Regulations and the individual Bargaining Unit (BU) contracts governing the general duties and work hours of DAPO staff.

### 85030.2 Purpose

The purpose of this article is to establish the general duties and work hours for positions within DAPO.

### 85030.3 Disclaimer

If provisions in this article conflict with any statute(s) or Memorandum of Understanding (MOU), the statute(s) or MOU shall prevail as it relates to the specific represented group. Any exceptions to this policy will be considered at the DAPO Director level.

### 85030.4 Responsibilities

#### Director

DAPO is managed by a Director who reports to the Undersecretary, Operations and is responsible for establishing and maintaining CDCR's overall parole supervision efforts.

#### Deputy Director

The Deputy Director reports to the DAPO Director and is responsible for managing and overseeing statewide parole operations.

#### Regional Parole Administrator

A Regional Parole Administrator (RPA) is a CDCR parole administrator and Hiring Authority of a regional headquarters or of division headquarters. A RPA reports to the DAPO Deputy Director and is responsible for managing the overall parole supervision efforts in his or her parole region or for overseeing the division headquarters units and for the direct supervision of the Associate Directors. A RPA who is assigned to division headquarters and who is the Hiring Authority for division headquarters is referred to as an Assistant Deputy Director.

A RPA shall ensure that parole units establish procedures for staff to be available for off-hour response to parolees, law enforcement, and interested agencies.

#### Chief Deputy Regional Administrator

A Chief Deputy Regional Administrator is a CDCR parole administrator in a DAPO parole region. A Chief Deputy Regional Administrator reports to a Regional Parole Administrator and is responsible for managing specific parole supervision efforts within a parole region and for managing the units or programs of several parole districts and/or a regional headquarters. A Chief Deputy Regional Administrator who is assigned to division is referred to as an Associate Director.

#### Parole Administrator

A Parole Administrator is a CDCR administrator of a DAPO field program, a parole district, a geographical area, or multiple headquarters units. A Parole Administrator reports to a Chief Deputy Regional Administrator and is responsible for managing the overall parole supervision efforts in a DAPO field program, a parole district, a geographical area, or multiple headquarters units. A Parole Administrator who is assigned to oversee a parole district is referred to as a District Administrator.

#### Parole Agent III

A Parole Agent III is a CDCR supervisor of a DAPO parole unit. A Parole Agent III reports to a Parole Administrator and is responsible for the supervision of case-carrying parole agents and/or other staff or for the supervision of a headquarters unit, supervising subordinate staff within the unit. A Parole Agent III who is assigned to a DAPO parole unit is referred to as a unit supervisor.

The unit supervisor is responsible for establishing procedures and ensuring that staff is available for off-hour responses to parolees, law enforcement, and interested agencies.

#### Parole Agent II (Supervisor)

A Parole Agent II (Supervisor) is the first-line supervisor responsible for the supervision of Parole Agent Is who are assigned to a parole unit within DAPO. A Parole Agent II (Supervisor) reports to a Parole Agent III, otherwise known as a unit supervisor, and works in conjunction with the unit supervisor as the assistant unit supervisor. A Parole Agent II (Supervisor) is assigned staff supervisory duties, administrative duties, and a caseload of parolees to supervise. A Parole Agent II (Supervisor) can also be assigned to a division

or regional headquarters unit, and be responsible for the supervision of subordinate staff within the unit.

#### **Parole Agent II (Specialist)**

A Parole Agent II (Specialist) assigned to a parole unit field office is a case-carrying parole agent and the lead parole agent responsible for training Parole Agent Is; a Parole Agent II (Specialist) assigned to a division or regional headquarters unit is a non-case carrying parole agent who is responsible for a major program function. A Parole Agent II (Specialist) reports to a Parole Agent III, and works in conjunction with the unit supervisor to perform administrative duties. A Parole Agent II (Specialist) shall not be assigned staff supervisory duties that include preparing employee performance evaluations or employee disciplinary actions.

#### **Parole Agent I**

A Parole Agent I is a case-carrying parole agent who is assigned to a parole unit within DAPO. A Parole Agent I reports to a Parole Agent II (Supervisor), otherwise known as an assistant unit supervisor, and is responsible for the supervision of offenders in the community. A Parole Agent I who is assigned to a parole unit within DAPO is referred to as a parole agent.

A parole agent is responsible for reporting to work on the date and at the time indicated on his or her approved work schedule or when called for off-hour responses related to parolees, law enforcement, and/or interested agencies.

When a parole agent anticipates a deviation from the previously approved workweek schedule, the parole agent shall contact the unit supervisor or, in the absence of the unit supervisor, the assistant unit supervisor for approval of the change.

A parole agent is not precluded from responding to an emergency in a timely manner if neither the unit supervisor nor the Administrative Officer-of-the-Day (AOD) can be contacted. After becoming aware of an emergency request from an allied law enforcement agency, and being in the immediate proximity of that request, a parole agent shall:

- Immediately respond to the location of the request and render any and all support within the parole agent's training and capabilities.
- Notify the commanding officer at the scene of his or her presence and offer to provide support within his or her training and capabilities.
- Notify the unit supervisor of the situation once it becomes safe and practical to do so, detailing the events of the incident, and comply with any direction given by the unit supervisor.

#### **85030.5 Primary Responsibilities of Staff Assigned to a Parole Unit**

##### **Unit Supervisor**

The unit supervisor is a Parole Agent III and the second-line supervisor responsible for the overall operation of the parole unit. The unit supervisor is responsible for the supervision of the Parole Agent II (Supervisor), otherwise known as the assistant unit supervisor, and, by extension, for the parole agents and support staff assigned to the parole unit. In the absence of the assistant unit supervisor, the unit supervisor will become the first-line supervisor responsible for supervising the parole agents assigned to the parole unit. The unit supervisor's responsibilities include, but are not limited to:

- Ensuring that the Warrant Unit has a list of after-hours telephone numbers for the unit supervisor, the assistant unit supervisor, and each parole agent assigned to the parole unit.
- Monitoring and auditing program operations.
- Making changes to the operations of the parole unit as needed.
- Approving Conditions of Parole.
- Attending Discharge Consideration Committees.
- Providing training and mentoring to staff.
- Responding to citizen complaints.
- Ensuring that staff complies with departmental rules and policies.
- Interacting with supervisory and subordinate staff from other agencies.
- Supervising arrests.
- Reviewing proposed work schedules submitted by parole unit staff and denying or approving schedules based on the needs of the parole unit.
- Reviewing employee timesheets and mileage logs for accuracy.
- Initiating the corrective action and/or adverse action processes described in DOM, Chapter 3, Article 22, if necessary.
- Completing employee performance evaluations.
- Reviewing and authorizing reports, e.g., violation reports, discharge reviews, etc.
- Completing case reviews/case conference reviews.

- Providing assistance to the public regarding parolees who are being overseen by the parole unit.
- Providing assistance to law enforcement agencies.
- Assigning pre-parole investigation requests.
- Assigning transfer investigation requests.
- Balancing the workload summary.
- Providing on-scene supervision for tactical operations and coordination with local law enforcement during field operations.
- Ensuring that proper radio communication is adhered to when conducting field operations.

A unit supervisor assigned to a parole unit may be authorized to carry the Electronic Control Device (ECD), also known as the Taser, after successfully completing training on how to use the device in accordance with the manufacturer's training criteria. Once authorized to carry the ECD, the unit supervisor shall carry the ECD during all planned field arrest situations. All procedures for the ECD are outlined in Restricted DOM, Chapter 55000, Section 55050.

##### **Assistant Unit Supervisor**

The assistant unit supervisor is a Parole Agent II (Supervisor) and the first-line supervisor responsible for supervision of parole agents assigned to a parole unit. The assistant unit supervisor shall report to and work in conjunction with the unit supervisor. The primary function of the assistant unit supervisor is to train and monitor parole agents who are under his or her supervision. The assistant unit supervisor's duties shall be divided as follows: 75 percent shall be associated with staff supervision and 25 percent shall be associated with carrying a caseload. Relative to the cases being supervised by the parole unit, the caseload shall be proportionate to the equitable breakdown of cases by category. The assistant unit supervisor's responsibilities include, but are not limited to:

- Supervising the cases of parolees under the jurisdiction of DAPO.
- Reviewing and authorizing reports, e.g., violation reports, discharge reviews, etc.
- Completing case reviews/case conference reviews.
- Providing assistance to the public regarding parolees who are being overseen by the parole unit.
- Providing assistance to law enforcement agencies.
- Assigning pre-parole investigation requests.
- Assigning transfer investigation requests.
- Balancing the workload summary.
- Serving as a lead trainer for parole agents, including being responsible for on-the-job training on such subjects as: remedial training as it relates to casework or field operations, report writing and documentation, and parole agent safety issues and field operations, including arrests, handheld radio operations, and parolee supervision techniques.
- Assist the unit supervisor as needed in all administrative duties, including the supervision and operations of the parole unit, the supervision of support staff, and the management of the parole unit, along with any associated functions to ensure compliance and adherence to all regulations, policies, and directives.
- Assuming the duties associated with the unit supervisor in his or her absence.
- If the unit supervisor is absent for two weeks or longer, the assistant unit supervisor's caseload may be transferred to other parole agents in the parole unit at the direction of the District Administrator.
- Supervising parole agents and monitoring field activities on a continuous basis, including home visits, employment visits, rehabilitative program visits, and field arrest situations.
- Monitoring all aspects of parole supervision when parole agents are in the field, including parole agent safety, motivational interviewing, collateral contacts, urinalysis collection, report writing/documentation, and caseload management.
- Documenting the performance of parole agents for use in appraisals and probation reports.
- Initiating the corrective action and/or adverse action processes described in DOM, Chapter 3, Article 22, if necessary.
- Providing on-scene supervision for tactical operations and coordination with local law enforcement during field operations.
- Ensuring that proper radio communication is adhered to when conducting field operations.

An assistant unit supervisor assigned to a parole unit may be authorized to carry the ECD, also known as the Taser, after successfully completing training on how to use the device in accordance with the manufacturer's training criteria. Once authorized to carry the ECD, the assistant unit supervisor shall carry the ECD during all planned field arrest situations. All procedures for the ECD are outlined in Restricted DOM, Chapter 55000, Section 55050.

#### **Parole Agent**

The parole agent is a Parole Agent I who is responsible for supervising an assigned caseload of parolees and performing Officer of the Day coverage as directed by the unit supervisor. The parole agent's responsibilities include, but are not limited to:

- Providing assistance to the public regarding parolees who are assigned to his or her caseload or other caseloads assigned to the parole unit when he or she performing Officer of the Day duties.
- Providing assistance to law enforcement agencies.
- Addressing the needs of walk-in parolee's and performing Officer of the Day duties as directed by the Unit Supervisor.
- Assisting other parole agents with arrests, as directed by the unit supervisor.
- Addressing the needs of Department personnel when the agent-of-record is not available.
- Maintaining the security of and responding to emergencies within the parole unit.

#### **85030.6 Parole Unit Office Hours**

All parole units shall be kept open for business from 8:00 a.m. to 5:00 p.m., Monday through Friday, except on State holidays and unless otherwise approved by the RPA. Sub-unit and storefront office hours shall be established to meet area service needs as approved by the RPA.

Extended or reduced office hours may be established with the approval of the RPA.

#### **85030.7 Parole Unit Officer-of-the-Day**

Each parole unit shall be staffed during normal work hours by an assigned parole agent who is designated as the Officer-of-the-Day (OD). In complexes where more than one parole unit exists in the same building, the unit supervisors of each parole unit in the building and the appropriate Parole Administrator shall determine the number of parole agents needed to perform OD duties to handle the workload of the complex. In this situation, one parole agent may serve as the OD for multiple parole units. Division headquarters, northern region headquarters, southern region headquarters, and all parole units shall have an OD from 8:00 a.m. through 5:00 p.m. Sub-units and storefronts shall have an OD as scheduled based on the needs of the parole unit and subject to the approval of the RPA.

##### **85030.7.1 Officer-of-the-Day Duties and Restrictions**

The OD is responsible for the following:

- Maintaining office security when the office is open to the public.
- The OD will unlock the office's public entrance at 8:00 a.m. and will ensure that all doors are locked at 5:00 p.m.
- Responding to all in-office emergencies.
- Taking calls from law enforcement agencies and authorizing parole holds when necessary.
- In the absence of the unit supervisor, assistant unit supervisor, or designee, the OD shall be in charge of the office.
- Keeping support staff informed of his or her whereabouts at all times.
- When notified by parole unit support staff of a person waiting in the lobby, the OD shall report to the lobby as soon as possible and assist the person. If the OD is temporarily unable to report to the lobby, the OD shall notify support staff of the delay and provide an estimated amount of time as to when he or she will be available. If the OD is unavailable to report to the lobby for an extended time, the unit supervisor may assign another parole agent to serve as OD. Assisting people waiting in the lobby shall be a priority.
- In the absence of the Agent of Record, the OD will conduct the initial interview of a parolee, provide the parolee with a copy of his or her Conditions of Parole, and update the photographs of the parolee. This includes persons released directly from a court to DAPO without records.
- When the OD completes an initial interview of a parolee whose agent-of-record is on leave, the OD shall notify the unit supervisor so that case contact specifications can be assigned to a parole agent.

- When the OD removes a parole hold, the OD shall notify the unit supervisor and the agent-of-record.
- When a person who claims to be a representative of the media contacts the parole unit to request information, the OD shall notify the unit supervisor and refer the person to the Regional Public Information Officer.
- The OD shall not leave the parole unit unless directed to do so by the unit supervisor or assistant unit supervisor, and shall not leave unless he or she is relieved by the unit supervisor, assistant unit supervisor, or another parole agent.
- Upon the approval of the agent-of-record, the OD shall issue travel permits to parolees; if the agent-of-record cannot be contacted and an emergency necessitates the issuance of a travel permit, the OD shall conduct a case conference with the unit supervisor before approving or denying the request.

The OD shall not routinely instruct parolees on their caseload to report to the parole unit while the agent-of-record is the OD, nor shall parole agents routinely instruct parolees to report to the OD for urinalysis testing or other services.

The Parole Administrator, unit supervisor, or assistant unit supervisor may assign additional OD duties as needed to fulfill the functions of the parole unit or complex.

#### **85030.7.2 Officer-of-the-Day Schedule**

The unit supervisor or assistant unit supervisor shall prepare a monthly OD schedule for the parole unit. The schedule shall identify the business days of each month and the parole agent assigned to be OD each day. The unit supervisor shall be reasonable in assigning OD coverage and ensure that all parole agents in the parole unit or complex are assigned to a generally equitable number of OD shifts each month. The unit supervisor shall also schedule coverage for training requirements, pre-approved vacation, and other types of leave. Once the OD schedule is issued, a parole agent may cover another parole agent's scheduled OD time with the approval of the unit supervisor or assistant unit supervisor.

#### **85030.8 On-Duty Status**

A parole agent is on duty when the parole agent is conforming to a monthly work schedule that has been approved by the unit supervisor prior to the commencement of the calendar month. A parole agent who anticipates a deviation from the approved work schedule shall contact the unit supervisor for approval of the change.

#### **85030.9 Office Day**

A parole agent whose day begins and ends at a parole unit is on-duty upon arrival at the parole unit and off-duty upon leaving the unit for the day.

#### **85030.10 Field Day**

If a parole agent leaves his or her home and travels directly to a field contact location, the total hours of work shall start upon the arrival of the parole agent at the field contact location. If it takes the parole agent longer to travel from his or her home to the field contact location than it takes him or her to travel from his or her home to the office, then his or her work time shall start at the interval of time that he or she usually arrives at the office.

#### **85030.11 Unit Supervisor Approval of Work Schedule**

The unit supervisor or assistant unit supervisor shall have the authority to approve or deny proposed work schedules for staff under his or her supervision. The approval or denial of work schedules shall be done in accordance with the current MOU for BU 6.

#### **85030.12 Emergencies/Call-Back**

A parole agent is not precluded from responding to an emergency in a timely manner if neither the unit supervisor nor the AOD can be contacted. If this occurs, the parole agent is expected to respond to the emergency and report the circumstances to the appropriate person in his or her chain of command as soon as possible.

If the parole agent is requested to respond to an emergency or suffers any other work before arriving at the office, at the field contact location, or when traveling for the period of time that it usually takes him or her to get to the office, the parole agent's work day shall start at the moment that he or she suffers the work.

Additionally, while off-duty, should a parole agent need to respond in-person to an emergency or call from a local law enforcement agency, the parole agent shall receive a minimum of four hours of call-back time and shall be compensated in accordance with current provisions of the MOU for BU 6.

**85030.13 Travel**

When a parole agent must travel beyond the boundaries of the parole unit for training, to attend meetings, or for other official reasons, the parole agent will be on-duty until he or she arrives at the lodging. After that time, the parole agent will be considered on-duty only when attending scheduled activities or carrying out approved duties.

**85030.14 Off-Duty Status**

A parole agent is considered off-duty when he or she is not engaged in a work-related activity, at training, or on a special assignment.

**85030.15 Work Rules**

There will be a minimum of one parole agent in the office assigned as OD Monday through Friday, from 8:00 a.m. to 5:00 p.m. Additional modifications or staffing can be made in sub-units and storefronts at the discretion of the unit supervisor.

In working the expanded schedule (weekends and/or evenings) it is expected that a parole agent will spend his or her time in the field, in the office, or a combination of both with approval of the unit supervisor. For safety reasons, a parole agent working on a Saturday or Sunday shall a written general itinerary of planned field visits to the unit supervisor no later than the preceding Friday. If an arrest is required during this expanded schedule, a parole agent shall contact the unit supervisor or AOD and conduct a case conference. In arrests or investigations where there is potential danger, a parole agents shall utilize the assistance of law enforcement. Arrests shall be made in accordance with DOM, Chapter 8, Article 3.

**85030.16 Overtime Policy**

The RPA or designee shall delegate the authority to approve overtime to the unit supervisor or the assistant unit supervisor, unless compelling circumstances require the authority to be elevated. The authority shall be elevated to a classification no higher than a District Administrator, where appropriate, in order to manage excessive use of overtime for supervising caseloads.

Divisional staff shall not conduct State business outside of approved scheduled work hours or approved overtime, as articulated in this section.

**Caseload-Related Management Considerations**

The unit supervisor or assistant unit supervisor shall implement the following in order to reduce and/or eliminate the need for overtime during the normal workweek:

- Ensure adherence to the work schedule, keeping consistent with the current MOU for BU 6 as it relates to the administration of workload.
- Ensure that a parole agent is not scheduled to work more than 41 hours in a workweek.
- Ensure that a parole agent does not schedule a regular day off on a day when the parole agent has any other work commitments requiring his or her attendance, such as scheduled OD duties.
- Review caseload rosters for scheduled releases, mandatory pickups, and/or case contacts pursuant to Penal Code Section 3060.7.
- Upon the request of a parole agent, the unit supervisor or assistant unit supervisor shall review the parole agent's performance progress with the parole agent prior to the annual or probationary performance reviews.

Ongoing communication between the unit supervisor or assistant unit supervisor and staff regarding workload is encouraged and expected to be bilateral.

**Requesting Overtime**

If, at any time during the month, a parole agent believes that workload circumstances warrant overtime, he or she shall submit a request for overtime to the unit supervisor or assistant unit supervisor. Requests for overtime shall be made using STD Form 682, Authorization of Extra Hours and must be approved in advance of the parole agent working overtime.

Procedures for requesting and approving overtime shall be in accordance with the MOU for BU 6.

At the conclusion of the workweek, the parole agent shall submit the completed and signed STD Form 682 to confirm the actual hours worked. Case supervision specifications completed by the parole agent in the course of the authorized overtime hours shall be noted in the margins of the STD Form 682. Actual hours worked cannot exceed the hours authorized by the unit supervisor. The unit supervisor shall retain the STD Form 682 in the parole agent's supervisory file and review the CDCR Form 998-A, Employee Attendance Record at the end of the month to verify that the parole agent actually worked the hours claimed.

The parole agent may only claim actual hours worked for a specific date, not to exceed the total number of hours authorized for that date. If an emergency

arises which requires the parole agent to work in excess of the authorized overtime hours, the parole agent shall obtain supervisory approval for those hours on the next working day.

**Training Related Overtime**

Time spent in training shall be considered in determining whether overtime approval is necessary to allow parole agents to meet specifications of their caseloads, but overtime approval does not necessarily result from time spent in training.

**Tracking and Monitoring of the Use of Overtime**

The unit supervisor or assistant unit supervisor shall report all planned and unplanned uses of overtime to the Parole Administrator, who is responsible for overseeing and managing the overall parole supervision efforts at the parole unit level. At the end of each month, the unit supervisor or assistant unit supervisor shall submit the completed CDCR Form 2262, District Overtime Report and CDCR Form 3044, Monthly Modification of Case Supervision Specifications to the Parole Administrator. By the fifth of each month, the Parole Administrator shall electronically forward the CDCR Form 2262 for the preceding month to the Chief Deputy Regional Administrator; the CDCR Form 3044 shall be maintained by the Parole Administrator. By the tenth of each month, the Chief Deputy Regional Administrator or designee shall electronically forward one consolidated Regional Overtime Report, as documented on the CDCR Form 2263, Regional Overtime Report, to the DAPO Deputy Director or designee. The CDCR Form 2263 and related documents shall be reviewed by the DAPO Deputy Director or designee on a monthly basis.

**85030.17 Workweek**

The workweek shall start on Monday and end on Sunday.

The normal work schedule for parole agents shall be a four-day or five-day workweek, as dictated by the workload and approved by the unit supervisor in accordance with the MOU for BU 6. With the approval of the unit supervisor, a parole agent may schedule work hours outside the standard eight-hour or 10-hour workday.

**85030.18 Work Hours**

Work hours, subject to the approval of the unit supervisor, will be scheduled between 6:00 a.m. and 10:00 p.m., except as emergency and operational needs dictate. No work will be routinely scheduled between the hours of 10:00 p.m. and 6:00 a.m. Each work day will be a minimum of at least four work hours and a maximum of 12 work hours, except as emergency and operational needs dictate.

With the approval of the unit supervisor, parole agents may elect to have daily start and stop times that are specific to them, provided that they are not scheduled to be on OD duty and that the elected daily start and stop times are in alignment with emergency and operational needs.

Certain core hours between 7:00 a.m. and 6:00 p.m. may be established for parole agents in administrative assignments. A work schedule may be denied to fulfill the need to cover these core hours. The rejection of one or more schedules because of the need to cover core hours shall not be deemed a blanket denial. If there are no volunteers, the necessary core hour coverage in the administrative assignments shall be determined by inverse seniority.

**85030.19 Lunch Hours and Rest Periods**

The workday may include, at the employee's discretion, either no meal break or an optional one-hour or half hour meal break. This break shall occur approximately in the middle of the workday. Rest periods are governed by the MOU for BU 6.

**85030.20 Morning and Evening Work Hours**

Work schedules shall include a minimum of four evenings/early mornings per month (evening meaning until at least 7:00 p.m., and early morning meaning starting at 6:00 a.m.). At least two of the four shifts must be evenings. These mandated evenings/mornings shall be in the field, except if previously waived by the unit supervisor. This waiver shall be the exception rather than the norm. Nothing in this section shall prohibit parole agents from scheduling additional voluntary evenings.

**85030.21 Work Schedule**

Each parole agent shall submit a proposed work schedule for each month at least seven calendar days, but no more than 14 calendar days, prior to the beginning of the scheduled month to the unit supervisor for approval.

The State shall develop and standardize a work schedule to be utilized statewide.

The schedule shall represent all work hours, which shall include all workdays, weekend work, evening work, days off, OD duties, lunch or no lunch, and other special assignment responsibilities.

The unit supervisor shall ensure that all parole agents comply with the scheduling requirements of the MOU for BU 6 and the meeting of operational needs.

The unit supervisor shall approve the work schedule at least three days prior to the scheduled month, unless it can be documented that the scheduled work hours as submitted would be detrimental to the needs of the office or would hinder the parole agent in the performance of his or her duties and responsibilities. This documentation shall be provided to the parole agent upon request.

If the parole agent does not submit a monthly work schedule, the unit supervisor will assign the work schedule.

#### **85030.22 Adjustments to Work Schedule**

During the scheduled month, the unit supervisor may occasionally adjust scheduled work hours based on operational needs. Should such an adjustment be necessary, the unit supervisor shall provide written justification to the parole agent. This adjustment shall not be intended to avoid the assignment of overtime.

Parole agents requesting changes in their work schedules, excluding emergencies, will require prior supervisory approval. Parole agents will advise the unit supervisor of emergency changes no later than the next work day.

#### **85030.23 Revisions**

The DAPO Director or designee is responsible for ensuring that the contents of this article are kept current and accurate.

#### **85030.24 References**

MOU for BU 6.

Department of Personnel Administrative Rules.

### **ARTICLE 38 — HOSTAGES**

*Revised January 25, 2017*

#### **85040.1 Policy**

It is the policy of the Division to maintain hostage situation procedures and to interact with the Crisis Response Team (CRT) and other law enforcement agencies to safely resolve hostage situations.

#### **85040.1 Purpose**

The purpose of this policy is to establish the procedures for staff to follow for handling hostage situations.

#### **85040.2 Hostage Procedures**

The unit supervisor, or designee, shall ensure the following employee information is kept current and immediately available in each parole unit or headquarters office:

- Recent color photograph of each employee with physical description.
- Current list of vehicles assigned to personnel with diamond "E" and undercover license plate numbers, and description of each automobile, including year, make, model, type and color.
- Manufacturer's and CDCR serial numbers of firearms issued, or division-approved personal weapons carried by each employee, or a statement that no weapon was issued, or is carried by the employee.
- Emergency Contact and Medical Information Forms.

#### **DAPO Staff (During Contact by Hostage-Taker or Immediately Thereafter)**

In the event of a hostage situation, and a staff member is contacted or notified by the hostage-taker, the staff member notified shall attempt to engage him/her in conversation as long as possible. The staff member will attempt to obtain information regarding the incident; e.g., location, telephone number, persons involved, number of hostages and their physical condition, weapons involved. Any attempt to manage the situation or enter into negotiations will be the responsibility of the notified local law enforcement agency or the CRT. Every opportunity to encourage the release of the hostage(s) shall be made during this time. Staff shall not attempt to negotiate a release.

In the event a hostage-taker makes demands (e.g., weapons, additional hostages, freedom of a prisoner, clemency, or dismissal of criminal charges or parole violations, etc.), staff shall attempt to delay the hostage-taker by stating that someone with more authority will be in touch with him/her as soon as possible. Under no circumstances shall staff make any commitments when communicating with a hostage-taker. As soon as practical, staff shall notify the following:

- Local law enforcement (for hostage situations that occur outside a California State prison facility).

- Watch Commander (for hostage situations that occur inside a California State prison facility).
- Supervisor or designee (unless staff contacted is the supervisor).
- DAPO Deputy Director. The Deputy Director shall be kept apprised of the hostage situation.

Every opportunity to obtain information and encourage the release of the hostage(s) shall be made during this time. Staff shall not attempt to negotiate a release.

#### **85040.3 Notification by Another Law Enforcement Agency of Hostage Situation Policy**

In the event a staff member is notified by another law enforcement agency or CRT that an employee has been taken hostage, the supervisor, or designee, shall be notified immediately. The supervisor, or designee, shall be the primary contact person with the other law enforcement agency or CRT and will provide all requested information to assist in the management of the hostage situation.

#### **85040.4 Treatment for Released Employee Hostage**

When the hostage situation has been resolved, the employee taken hostage shall be referred to the Peer Support Program (PSP) of the Office of Employee Health and Wellness, for any immediate assistance that may be needed. The PSP will, when appropriate, offer to facilitate referrals for post-incident counseling by non-departmental licensed mental health professionals who are psychological first aid trained and other resources as needed. Continued psychological care is available to the employee on a voluntary basis through the Employee Assistance Program and through the employee's chosen health care provider.

#### **85040.5 Revisions**

The DAPO Director or designee shall ensure this Article remains current and accurate.

#### **85040.6 References**

PC §§ 5054 and 5058.

### **ARTICLE 39 — PAROLE AGENT EQUIPMENT AND LAW ENFORCEMENT IDENTIFYING CLOTHING**

*Revised August 7, 2019*

#### **85050.1 Policy**

##### **(a) Standard Equipment**

(1) Each parole agent is furnished with the following standard equipment:

- (A) Pair of handcuffs and keys.
- (B) Handcuff case.
- (C) "Ready bag."
- (D) Parole agent badge.
- (E) Identification Card.
- (F) Distinguishable clothing including but not limited to a parole agent windbreaker-type jacket and polo-style shirt that meet the standards set forth in Section 85050.6.
- (G) Protective vest.
- (H) Chemical agent (Oleoresin Capsicum Pepper spray).
- (I) Firearm, holster, and ammunition carrier, if requested by a parole agent hired prior to January 1, 1988. All parole agents hired after January 1, 1988 must be furnished these materials.
- (J) Department of Motor Vehicles Form INV 171, A Card.
- (K) Expandable baton.
- (L) Tactical flashlight equipped with a momentary switch.
- (M) Shooting trauma kit.
- (N) Cardiopulmonary resuscitation mask with a one-way valve.
- (O) Disposable protective clothing kit, inclusive of fluid-resistant coverall, eye-shield/goggles, latex gloves, disposable paper mask, respiratory protective mask, and any other protective equipment deemed appropriate by the Department.
- (P) Blood-borne pathogen clean-up kit.
- (Q) Cell phone.
- (R) Spit protection hood.
- (S) Nitrile gloves.

##### **(b) Safety Equipment**

- (1) Each parole agent assigned a State vehicle is furnished with the following safety equipment:
  - (A) Set of reflectors.
  - (B) Jumper cables.



- (C) Fire extinguisher.
- (D) First-Aid kit (contents should be inventoried annually).
- (c) **Optional Equipment**

(1) Each parole agent is issued the following equipment if there is a need related to climate or other special conditions:

- (A) Fog lights.
- (B) Studded snow tires.
- (C) Spotlight (plug-in type).
- (D) Automobile hood lock.
- (E) Locking gas cap.

(2) Parole agents requesting optional equipment may electronically mail the request to their unit supervisor for approval. If approved by the unit supervisor, the unit supervisor must forward the request to their regional headquarters via the chain of command.

(3) If the Department of General Services reassigns a vehicle, the unit supervisor must retain any optional equipment and assign it to another unit vehicle.

**(d) Parole Unit Equipment**

(1) The following items will be assigned to each parole unit and subunit:

- (A) Two sets of leg irons.
- (B) Two sets of waist chains with attached handcuffs, padlock, and keys.

(2) Each parole unit must establish an equipment log to track the usage of parole unit equipment. When using parole unit equipment for an arrest or transport, the parole agent must complete and sign the unit equipment log.

**85050.2 Parole Agent Attire Policy**

(a) No uniform is required to be worn by parole agents on a daily basis. However, they are required to carry and maintain DAPO approved equipment and clothing as outlined in this article. Government Code (GC) 19850(a) describes a uniform as "...outer garments, excluding shoes, which are required to be worn exclusively while carrying out the duties and responsibilities of the position and which are different from the design or fashion of the general population. This definition includes items that serve to identify the person, agency, functions performed, rank, or time in service."

(b) The Department shall furnish all protective equipment required to be worn. Protective equipment is described in GC 19850(d) as "...equipment or attire worn by law enforcement personnel for the purpose of protecting themselves or the public from overt actions of others or to assist in the carrying out of related duties..." When wearing law enforcement identifying clothing, staff shall comply with the standards defined within this article.

**(c) Basic Parole Agent Academy Students**

Basic Parole Agent Academy (BPAA) students are required to wear BPAA-approved and provided attire consisting of pants, a belt, and a polo shirt. If a BPAA student chooses to purchase their own academy attire, the attire must be approved by the BPAA Director, Commander, or coordinators. BPAA students are required to provide and wear their own athletic or boot style shoes during the BPAA. BPAA students must display their student ID at all times while on academy grounds.

**85050.3 Belt and Neck Badge Policy**

(a) Parole agents may, while assigned to the Division of Adult Parole Operations (DAPO), wear a belt badge and/or neck badge subject to the following requirements:

(1) Badge and badge holder must be purchased at the parole agent's expense. When the parole agent leaves DAPO, CDCR will purchase the badge and badge holder at current replacement costs. Parole agents who retire may keep the badge and holder so long as the word "Retired" is placed on the badge at employee's expense.

(2) If the parole agent leaves DAPO (other than through retirement), the supervisor must take the belt badge, neck badge, and Department-issued badge and note possession on the employee's equipment record. The parole agent must submit a non-travel expense claim via the California Automated Travel Expense Reimbursement System showing current replacement cost of the badge and holder. Before approving the expense claim, the supervisor must verify the current cost of the badge and holder with the vendor.

(3) The badge must meet the same specifications and have the same number as the one issued by CDCR except that the badge may be molded so it can be worn on a belt.

(4) A letter of authorization must be prepared and signed by the supervisor before the badge can be purchased.

(5) The badge must be inspected by the supervisor to ensure that it meets all requirements. The supervisor must also note on the employee equipment record that the parole agent has purchased a belt badge.

**85050.4 Retention of Equipment Policy**

Parole agents shall retain individually assigned equipment issued to them until separation from employment within DAPO or as otherwise instructed. In the event any individually assigned equipment is lost, stolen, or damaged, the assigned parole agent shall notify their immediate supervisor, utilizing a CDCR Form 1617, Memorandum describing the circumstances, no later than the close of business following the date of discovery; unless otherwise specified in DAPO policy.

**85050.5 Equipment Responsibility Policy**

(a) All equipment shall be maintained in good working order and replaced, as needed. Parole agents are required to complete the CDCR Form 160, Parole Agent Equipment Receipt, annually and submit it to their unit supervisor. The unit supervisor and/or Training Coordinator shall review needs for maintenance and replacement at least annually. Parole agents are responsible for all items assigned to them. If a parole agent separates from DAPO, the last paycheck will not be issued until all equipment has been returned. Optional equipment issued to a parole agent will be retained in the parole agent's vehicle and will be the parole agent's responsibility as long as the vehicle is assigned to that parole agent. If a parole agent is reassigned, optional equipment will be returned to the supervisor who will assume responsibility for it until reassigned to another vehicle.

(b) Parole agents should exercise due care and diligence for all equipment assigned to them. Parole agents may be required to reimburse the State for the cost of replacement equipment due to several acts (three or more) of negligence or a singular act of gross negligence. In cases of lost or stolen equipment, the parole agent shall immediately report the incident to their immediate supervisor and shall follow up with a written explanation prepared on a CDCR Form 1617, Memorandum within one business day. If equipment is stolen the parole agent shall also immediately report the theft to the California Highway Patrol (CHP) and obtain a copy of the report. The CDCR Form 1617 and the CHP report shall be forwarded to the regional training coordinator or other staff responsible for issuing equipment in order to obtain a replacement.

**85050.5.1 State-Issued Cell Phones**

(a) State-issued cell phones shall only be used for conducting official State business and while in use shall adhere to all Department policies contained within Chapter 4, Information Technology. DAPO prohibits the use of State-issued cell phones for personal business except in emergency circumstances.

(1) All DAPO staff issued a State-issued cell phone shall:

- (A) Have the cell phone readily accessible at all times while on-duty.
- (B) Ensure the cell phone is powered on and fully charged for use when starting shift.
- (C) Not alter the operating system or circumvent pre-set security features.
- (D) Not add additional features or functions without DAPO authorization.

**(b) Use of State-Issued Cell Phones for Investigative Purposes**

(1) When capturing audio or photographic evidence for investigative purposes, DAPO staff should primarily use other State-issued equipment (e.g., digital camera or video recorder) specifically designated and/or designed to capture these recordings or to document the incident. However, in circumstances, wherein evidence could be lost or destroyed, State-issued cell phones may be used to capture evidence for investigative purposes when Department resources are not immediately available. In these instances, staff shall notify their immediate supervisor when safe to do so.

(2) Note: The transferring of recordings shall not be done via electronic mail. Electronic mail does not maintain or provide a proper chain of custody. All transferring of recordings shall be uploaded via the Virtual Integrated Mobile Office application to the Strategic Offender Management System.

(3) Nothing in this section shall supersede Department policies mandating the use of selected State-issued electronic recording devices for specific circumstances.

(4) All recordings and images captured during the course and scope of official duties are confidential and property of the State, and shall not be used except as allowed by the Department, policy, or law. Additionally, State-issued cell phones shall not be used to capture photographs and/or audio recordings for monetary gain or private use.

**(c) State-Issued Cell Phone Privacy**

(1) DAPO staff shall exercise discretion to ensure that State-issued cell phones are used judiciously and shall also be responsible for complying with all laws related to the use of cell phones and the legal ramifications of discovery.

(2) Any DAPO staff member utilizing a State-issued cell phone or other wireless service provided by DAPO expressly acknowledges and agrees that the use of such service shall remove any expectation of privacy the employee, sender and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication.

DAPO also expressly reserves the right to access and audit any and all communications (including content) sent, received, and/or stored using such service.

(3) State-issued cell phones shall remain the sole property of DAPO and shall be subject to inspection or monitoring.

**(d) Use of State-Issued Cell Phones While Driving**

The use of a cell phone while driving is unlawful. Therefore, DAPO staff operating State vehicles shall not use cellular phones or other personal communication devices while driving unless the device is used in a hands-free mode or for emergency purposes.

**(e) State-Issued Cell Phones – Care and Responsibility**

DAPO staff who are issued cell phones shall exercise due care and diligence for their State-issued cell phones. Staff may be required to reimburse the State for the cost of replacement equipment for losses due to several acts (three or more) of negligence or a singular act of gross negligence. Staff issued a cell phone shall secure and safeguard their State-issued cell phone when off-duty.

**85050.6 Law Enforcement Identifying Clothing**

(a) Each parole agent, unit supervisor, and parole administrator will be issued law enforcement identifying clothing for safety and standardization in the form of a DAPO windbreaker-type jacket and a polo-style shirt that clearly identifies the wearer as law enforcement and shall only be worn by DAPO peace officers while on duty and by whom they are issued to. Parole agents, unit supervisors, and parole administrators may also choose to optionally wear a tactical ballistic vest carrier; additional field operations polo-style shirt (with 360 degree markings); an approved polo-style shirt (with an approved badge on the left upper chest) can be worn for administrative duties, training, meetings, or when representing the Division within the community in non-tactical situations; tactical T-shirt; Performance Dry-Fit shirt; and headwear that meet the standards set forth in this article. The DAPO parole agent tactical T-shirt and Performance Dry-Fit shirt shall only be worn in tactical operations and under an approved exterior tactical vest or vest carrier. If the parole agent chooses to wear any of the optional items they shall be purchased at the parole agent's expense and shall only be worn by sworn DAPO peace officers while on duty and as identified in this section.

(1) Department-issued and optionally-purchased law enforcement identifying clothing and headwear shall have DAPO identification placed on the front, back, and side profiles of the items, as specified in the following paragraphs and apparel matrices.

**(c) DAPO Parole Agent Clothing Matrix**

Clothing	Use	Purchase	Color	Lettering Type	Front Profile	Back Profile	Shoulder Profile
<b>Windbreaker-Type Jacket</b> •100% nylon taffeta windbreaker material Byron collar, raglan sleeves, elastic cuffs •Color-matched snap enclosure •Reinforced nylon pockets, drawstring bottom •Water repellant, machine washable	Field	DAPO	Black	Embroider or silk screen	Yes	Yes	Yes
<b>Field Polo-Style Short or Long Sleeve Shirt</b> •6.6 oz., 100% snag-proof polyester •3-button placket with dyed-to-match buttons •Mic clips at center placket and shoulders •Reinforced dual pen pockets on left sleeve	Field	DAPO	Black	Embroider or silk screen	Yes	Yes	Yes
<b>Adm. Polo-Style Short or Long Sleeve Shirt</b> •6.6 oz., 100% snag-proof polyester •3-button placket with dyed-to-match buttons •Mic clips at center placket and shoulders •Reinforced dual pen pockets on left sleeve •Raglan sleeves with long tail and side	Adm./ Field	Personal	Black	Embroider or silk screen	Yes	No	No
<b>T-Shirt - Short Sleeve</b> •Heavyweight, 6.1 oz., 100% soft spun cotton. •1×1 rib knit collar •Shoulder-to-shoulder taping •Cover seamed neck •Double-needle, sleeves and hem	Tactical	Personal	Black	Silk screen	Yes	Yes	Yes
<b>T-Shirt - Long Sleeve</b> •Heavyweight, 6.1 oz., 100% soft spun cotton. •1×1 rib knit collar •Shoulder-to-shoulder taping •Cover seamed neck •Double-needle, sleeves and hem	Tactical	Personal	Black	Silk screen	Yes	Yes	Yes
<b>Performance Dry-Fit Short or Long Sleeve Shirt</b> •4oz, 100% micro-polyester	Tactical	Personal	Black	Silk screen	Yes	Yes	Yes

**(b) DAPO Parole Agent Clothing and Profile Standards**

(1) The following clothing and profile standards apply to all DAPO parole agents:

**(A) Front Profile**

1. A black and gold 3" x 2.9" seven-point star cloth badge emblem with the words "STATE PAROLE AGENT CALIFORNIA" gold in color around the State seal shall be on the front above the upper left breast pocket area. On the upper right breast pocket area, the parole agent may place their first initial and last name in .5" athletic gold lettering.

**(B) Back Profile - Either of the following:**

1. "STATE OF CALIFORNIA" in 1.25" athletic gold lettering shall be centered on top of a .2" solid gold line separated by a .35" space. Underneath that, the word "POLICE" in 3.875" athletic gold lettering shall sit .4" below the solid gold line and .4" above a second .2" solid gold line. The word "PAROLE AGENT" in 1.6" athletic gold lettering shall be centered .35" below the second solid gold line.

2. An 11" x 6" black rectangle patch with the word "POLICE" in 3.15" athletic gold lettering shall be centered .2" from the top border of the patch. The words "PAROLE AGENT" in 1.3" athletic gold lettering shall be centered .45" below the word "POLICE" and .2" from the bottom border of the patch.

**(C) Side Profile**

1. The identifiers must have a 4" x 4.875" shoulder emblem in the shape of a shield attached on the outside of both sleeves. The shoulder emblem shall be black outer trim with gold inner trim for the edged border. It will include gold color lettering with the words "CALIFORNIA STATE PAROLE" in .4" athletic lettering.

"CALIFORNIA" will be written above "STATE PAROLE" in .4" athletic gold lettering centered just above the seven-point star containing the State seal. Between the lettering and seven-point star will be a black curved line consistent with the arch of the lettering. The top of the shoulder emblem is to be 1" below the sleeve head seam and in such a manner that a line bisecting the center of the emblem shall be perpendicular to the ground when the garment is worn. On approved Tactical/Field long sleeve clothing (T-shirts, Performance Dry-Fit shirts, polo shirts) the word "POLICE" may be written on each sleeve 1.5" below and centered of the approved shoulder patch shield emblem. The word "POLICE" shall be written in 2" athletic gold lettering reading from left to right.

Clothing	Use	Purchase	Color	Lettering Type	Front Profile	Back Profile	Shoulder Profile
<ul style="list-style-type: none"> <li>•Moisture wicking</li> <li>•Pill-resistant</li> <li>•Snag-resistant</li> <li>•UPF 30+ protection</li> <li>•Athletic fit</li> <li>•Neck tape ¼" topstitching</li> </ul>							

**(d) DAPO Parole Agent Headwear and Profile Standards****(1) Front Profile**

(A) A black 3" x 2.9" seven-point star cloth badge emblem trimmed in gold with the words "STATE PAROLE AGENT CALIFORNIA" in gold color

around the State seal. The seven-point star badge emblem shall be centered on the front profile of the cap worn in a bill-forward position.

**(2) Back Profile**

(A) The parole agent may leave it plain or place their first initial and last name in .5" athletic gold lettering or the acronym DAPO in .5" athletic gold lettering.

**(e) DAPO Parole Agent Headwear Matrix**

Headwear	Use	Purchase	Color	Material	Lettering Type	Front Profile	Back Profile	Side Profile
<b>Baseball Cap Style, Rounded Top, Flex Fit or Adjustable</b>	Field	Personal	Black	100% polyester/cotton blend or mesh material	Embroider	Yes	Optional	No

**(f) DAPO Parole Agent Vest Shell and Profile Standards****(1) Front Profile**

(A) A black and gold 3" x 2.9" seven-point star cloth badge emblem or dome badge with the words "STATE PAROLE AGENT CALIFORNIA" around the State seal shall be on the front above the upper left breast area. On the upper right breast area, the parole agent may place their first initial and last name in .5" athletic gold lettering.

**(2) Back Profile**

(A) Velcro or sewn an 11" x 6" black rectangle patch with the word "POLICE" in 3.15" athletic gold lettering shall be centered .2" from the top border of the patch.

The word "PAROLE AGENT" in 1.3" athletic gold lettering shall be centered .45" below the word "POLICE" and .2" from the bottom border of the patch.

**(3) Side Profile**

(A) DAPO parole agents shall wear the approved law enforcement clothing shoulder emblems (e.g., windbreaker, polo shirt, T-shirt, Performance Dry-Fit shirt) in conjunction with the tactical vest carrier or load bearing vest carrier. On approved Tactical/Field long sleeve clothing (T-shirts, Performance Dry-Fit shirts, polo shirts) the word "POLICE" may be written on each sleeve 1.5" below and centered of the approved shoulder patch shield emblem. The word "POLICE" shall be written in 2" athletic gold lettering reading from left to right.

**(g) DAPO Parole Agent Vest Shell Matrix**

Vest Shell	Use	Purchase	Color	Material	Lettering Type	Front Profile	Back Profile	Side Profile
<b>Tactical Vest Carrier</b>	Field	Personal	Black	600 denier syntex polyester fabric with stain & liquid repellency	Velcro or sewn	Yes	Yes	Yes
<b>Tactical Load Bearing Vest</b>	Field	Personal	Black	Stiffened mesh nylon	Velcro or sewn	Yes	Yes	Yes

**(h) DAPO California Parole Apprehension Team (CPAT) Clothing and Profile Standards**

(1) The following clothing and profile standards apply to all DAPO parole agents assigned to CPAT:

**(A) Front Profile**

1. A white 2.125" seven-point star embroidered badge emblem with the words "STATE PAROLE AGENT CALIFORNIA" white in color around the State seal and underneath the State seal the letters "CPAT" white in color within a white bordered green ribbon. The badge will be centered within a 3.25" circle. The words and symbols "CALIFORNIA PAROLE ☆ APPREHENSION TEAM ☆" white in color bordered by two white colored lines around a seven-point star. The badge shall be worn on the front above the upper left breast pocket area. On the upper right breast pocket area, the parole agent may place their first initial and last name in .5" athletic white lettering.

**(B) Back Profile – Either of the following:**

1. "CALIFORNIA PAROLE" in 1.25" athletic white lettering shall be centered on top of a .2" solid white line separated by a .35" space. Underneath that the word "POLICE" in 3.875" athletic white lettering shall sit .4" below the solid white line and .4" above a second .2" solid white line. The words "APPREHENSION TEAM" in 1.6" athletic white lettering shall be centered .35" below the second solid white line.

2. A 10" X 4" green rectangle patch bordered in white with the word "POLICE" in 1.75" athletic white lettering shall be centered 1" from the top and bottom border of the patch. Above the word "POLICE" the words "CALIFORNIA PAROLE" will be written in .5" athletic white lettering and shall be centered .25" above the word "POLICE." The words "APPREHENSION TEAM" will be written in .5" athletic white lettering and shall be centered .25" below the word "POLICE."

**(C) Side Profile**

1. The identifiers must have a 4" x 4.875" shoulder emblem in the shape of a shield attached on the outside of both sleeves. The shoulder emblem shall be green outer trim with white inner trim for the edged border. It will include white color lettering with the words "CALIFORNIA STATE PAROLE" in .4" athletic lettering. "CALIFORNIA" will be written above "STATE PAROLE" in .4" athletic white lettering centered just above the seven-point star containing the State seal. Between the lettering and seven-point star will be green curved line consistent with the arch of the lettering. The top of the shoulder emblem is to be 1" below the sleeve head seam and in such a manner that a line bisecting the center of the emblem shall be perpendicular to the ground when the garment is worn.

2. On approved Tactical Field long sleeve clothing (T-shirts, Performance Dry-Fit shirts, polo shirts) the word "POLICE" may be written on each sleeve 1.5" below and centered of the approved shoulder patch shield emblem. The word "POLICE" shall be written in 2" athletic white lettering reading from left to right.

## (i) DAPO CPAT Parole Agent Clothing Matrix

<b>Clothing</b>	<b>Use</b>	<b>Purchase</b>	<b>Color</b>	<b>Lettering Type</b>	<b>Front Profile</b>	<b>Back Profile</b>	<b>Shoulder/Sleeve Profile</b>
<b>Field Polo-Style Short or Long Sleeve Shirt</b> •6.6 oz., 100% snag-proof polyester •3-button placket with dyed-to-match buttons •Mic clips at center placket and shoulders •Reinforced dual pen pockets on left sleeve •Raglan sleeves with long tail and side vents	CPAT	DAPO	Green	Embroider or silk screen	Yes	Yes	Yes
<b>Adm. Polo-Style Short or Long Sleeve Shirt</b> •6.6 oz., 100% snag-proof polyester •3-button placket with dyed-to-match buttons •Mic clips at center placket and shoulders •Reinforced dual pen pockets on left sleeve •Raglan sleeves with long tail and side vents	CPAT	Personal	Green	Embroider or silk screen	Yes	No	No
<b>T-Shirt - Short Sleeve</b> •Heavyweight, 6.1 oz., 100% soft spun cotton. •1×1 rib knit collar •Shoulder-to-shoulder taping •Cover seamed neck •Double-needle, sleeves and hem	Tactical	Personal	Green	Silk screen	Yes	Yes	Yes
<b>T-Shirt - Long Sleeve</b> •Heavyweight, 6.1 oz., 100% soft spun cotton. •1×1 rib knit collar •Shoulder-to-shoulder taping •Cover seamed neck •Double-needle, sleeves and hem	Tactical	Personal	Green	Silk screen	Yes	Yes	Yes
<b>BDU Short or Long Sleeve Shirt</b> •65% polyester, 35% cotton	CPAT	Personal	Green	Embroider or silk screen	Yes	Yes	Yes
<b>Performance Dry-Fit Short or Long Sleeve Shirt</b> •4oz, 100% micro-polyester •Moisture wicking •Pill-resistant •Snag-resistant •UPF 30+ protection •Athletic fit •Neck tape ¼" topstitching	Tactical	Personal	Green	Silk screen	Yes	Yes	Yes

## (j) DAPO CPAT Parole Agents Headwear and Profile Standards

## (1) Front Profile

(A) A white 3" x 2.9" seven-point star cloth badge emblem with the words "STATE PAROLE AGENT CALIFORNIA" white in color around the State seal and underneath the State seal the letters "CPAT" white in color on a white

bordered green ribbon. The seven-point star badge emblem shall be centered on the front profile of the cap worn in a bill-forward position.

## (2) Back Profile

(A) The parole agent may leave it plain or place their first initial and last name in .5" athletic white lettering or the acronym "CPAT" in .5" athletic lettering.

## (k) DAPO CPAT Parole Agent Headwear Matrix

Headwear	Use	Purchase	Color	Material	Lettering Type	Front Profile	Back Profile	Side Profile
<b>Baseball Cap Style, Round Top, Flex Fit or Adjustable</b>	CPAT	Personal	Green	100% polyester/cotton blend or mesh material	Embroider	Yes	Optional	No

**(l) DAPO CPAT Parole Agent Vest Shell and Profile Standards****(1) Front Profile**

(A) A white 3" x 2.9" seven-point star cloth badge emblem with the words "STATE PAROLE AGENT CALIFORNIA" white in color around the State seal and underneath the State seal the letters "CPAT" white in color on a white bordered green ribbon, or a dome badge with the words "STATE PAROLE AGENT CALIFORNIA" around the State seal shall be on the front above the upper left breast area. On the upper right breast area, the parole agent may place their first initial and last name in .5" athletic white lettering.

**(2) Back Profile – Either of the following:**

(A) Velcro or sewn on the back an 11" x 6" green rectangle patch with the word "POLICE" in 3.15" athletic white lettering shall be centered .2" from the top border of the patch. The word "CPAT" in 1.3" athletic white lettering shall be centered .45" below the word "POLICE," and .2 inches from the bottom border of the patch.

(B) A 10" x 4" green rectangle patch bordered in white with the word "POLICE" in 1.75" athletic white lettering shall be centered 1" from the top and bottom border of the patch. Above the word "POLICE" the words "CALIFORNIA PAROLE" will be written in .5" athletic white lettering and shall be centered .25" above the word "POLICE". The words "APPREHENSION TEAM" will be written in .5" athletic white lettering and shall be centered .25" below the word "POLICE".

**(3) Side Profile**

(A) CPAT parole agents shall wear the approved law enforcement clothing shoulder emblem (e.g., windbreaker, polo shirt, T-shirt, Performance Dry-Fit shirt) in conjunction with the tactical vest carrier, tactical load bearing and hard plate tactical vest, or load bearing vest carrier. On approved Tactical Field long sleeve clothing (T-shirts, Performance Dry-Fit shirts, polo shirts) the word "POLICE" may be written on each sleeve 1.5" below and centered of the approved shoulder patch shield emblem. The word "POLICE" shall be written in white 2" athletic lettering reading from left to right.

**(m) DAPO CPAT Parole Agent Vest Shell Matrix**

Vest Shell	Use	Purchase	Color	Material	Lettering Type	Front Profile	Back Profile	Side Profile
<b>Tactical Vest Carrier</b>	CPAT	DAPO	Green	600 denier syntex polyester fabric with stain & liquid repellency	Velcro or sewn	Yes	Yes	Yes
<b>Tactical Load Bearing Vest</b>	CPAT	DAPO	Green	Stiffened mesh nylon	Velcro or sewn	Yes	Yes	Yes
<b>Hard Plate Tactical Vest</b>	CPAT	DAPO	Green	Hiring authority determines	Velcro or sewn 5" x 8" patch only	Yes	Yes	Yes

**(n) DAPO Rangemaster Clothing and Profile Standards****(1) Front Profile**

(A) A black 3" x 2.9" seven-point star cloth badge emblem with the words "STATE PAROLE AGENT CALIFORNIA" in black color around the State seal shall be on the front above the upper left breast pocket area. On the upper right breast pocket area, the parole agent may place their first initial, last name, and badge number in .5" athletic red lettering.

**(2) Back Profile**

(A) The back profile shall have the title "Rangemaster" or "Firearms Instructor."

- "RANGEMASTER" shall be top centered with 2.5" athletic black lettering.
- "FIREARMS" shall be written in .75" athletic black lettering within a 1.5" banner above the approved 10.25" badge. Underneath the badge the word

"INSTRUCTOR" within a 1.5" banner written in .75" athletic black lettering. The banners with the words "FIREARMS INSTRUCTOR" will be 10.75" from top to bottom.

**(3) Side Profile**

(A) DAPO Rangemasters shall wear the approved shoulder emblem (e.g., windbreaker, polo shirt, T-shirt, Performance Dry-Fit shirt, sweat-shirt) on all approved Rangemaster clothing. On approved long sleeve range clothing the word "RANGEMASTER" may be written on each sleeve 1.5" below and centered of the approved shoulder patch shield emblem. The word "RANGEMASTER" shall be written in 1.6" athletic black lettering reading from left to right.

**(o) DAPO Rangemaster Clothing Matrix**

Clothing	Use	Purchase	Color	Lettering Type	Front Profile	Back Profile	Shoulder Profile
<b>Windbreaker-Type Jacket</b> •100% nylon taffeta windbreaker material •Byron collar, raglan sleeves, elastic cuffs •Color-matched snap enclosure •Reinforced nylon pockets, drawstring bottom •Water repellant, machine washable	Range	DAPO	Red	Embroider or silk screen	Yes	Yes	Yes
<b>Polo-Style Shirt</b> •6.6 oz., 100% snag-proof polyester •3-button placket with dyed-to-match buttons •Mic clips at center placket and shoulders •Reinforced dual pen pockets on left sleeve •Raglan sleeves with long tail and side vents	Range	DAPO	Red	Embroider or silk screen	Yes	Yes	Yes

Clothing	Use	Purchase	Color	Lettering Type	Front Profile	Back Profile	Shoulder Profile
<b>T-Shirt - Long or Short Sleeve</b> •Heavyweight, 6.1 oz., 100% soft spun cotton. •1×1 rib knit collar •Shoulder-to-shoulder taping •Cover seamed neck •Double-needle, sleeves and hem	Range	Personal	Red	Silk screen	Yes	Yes	Yes
<b>Sweatshirt With or Without Hoodie</b> •100% soft spun cotton	Range	Personal	Red	Embroider or silk screen	Yes	Yes	Yes

**(p) DAPO Rangemaster Headwear and Profile Standards****(1) Front Profile**

(A) A black 3" x 2.9" seven-point star cloth badge emblem trimmed in gold with the words "STATE PAROLE AGENT CALIFORNIA" in gold color around the State seal. The seven-point star badge emblem shall be centered on the front profile of the cap worn in a bill-forward position or centered on the front profile of the beanie worn in a forward position.

**(2) Back Profile**

(A) The parole agent may leave it plain or place their first initial and last name in .5" athletic gold lettering or the acronym DAPO in .5" athletic gold lettering.

**(3) Side Profile**

(A) No badge emblem or lettering shall be placed on the side profile of Rangemaster headwear.

**(q) DAPO Rangemaster Headwear Matrix**

Headwear	Use	Purchase	Color	Material	Lettering Type	Front Profile	Back Profile	Side Profile
<b>Baseball Cap Style, Round Top, Flex Fit or Adjustable</b>	Range	Personal	Red	100% polyester/cotton blend or mesh material	Embroider	Yes	Optional	No
<b>Beanie</b>	Range	Personal	Red	100% acrylic hand washable	Embroider	Yes	Optional	No
<b>Beanie Hat</b>	Range	Personal	Red	Cotton or polyester or twill or canvas	Embroider	Yes	Optional	No

**(r) DAPO Range Safety Officer Clothing and Profile Standards****(1) Front Profile**

(A) A black 3" x 2.9" seven-point star cloth badge emblem with the words "STATE PAROLE AGENT CALIFORNIA" in black color around the State seal shall be on the front above the upper left breast pocket area. On the upper right breast pocket area, the parole agent may place their first initial, last name, and badge number in .5" athletic black lettering.

**(2) Back Profile**

(A) The word "RANGE" in 3" athletic black lettering shall be on top, the word "SAFETY" in 4" athletic black lettering shall be centered just below, and underneath that, the word "OFFICER" in 3" athletic black lettering.

**(3) Side Profile**

(A) The identifiers must have a 4" x 4.875" approved shoulder emblem in the shape of a shield attached on the outside of both sleeves. The shoulder emblem shall be all black with black lettering. The top of the shoulder emblem is to be 1" below the sleeve head seam and in such a manner that a line bisecting the center of the emblem shall be perpendicular to the ground when the garment is worn.

**(s) DAPO Range Safety Officer Clothing Matrix**

Clothing	Use	Purchase	Color	Lettering Type	Front Profile	Back Profile	Shoulder Profile
<b>Windbreaker-Type Jacket</b> •100% nylon taffeta windbreaker material •Byron collar, raglan sleeves, elastic cuffs •Color-matched snap enclosure •Reinforced nylon pockets, drawstring bottom •Water repellant, machine washable	Range	DAPO	Yellow	Embroider or silk screen	Yes	Yes	Yes
<b>Polo-Style Shirt</b> •6.6 oz., 100% snag-proof polyester •3-button placket with dyed-to-match buttons •Mic clips at center placket and shoulders •Reinforced dual pen pockets on left sleeve •Raglan sleeves with long tail and side vents	Range	DAPO	Yellow	Embroider or silk screen	Yes	Yes	Yes
<b>T-Shirt - Short Sleeve</b> •Heavyweight, 6.1 oz., 100% soft spun cotton. •1×1 rib knit collar •Shoulder-to-shoulder taping •Cover seamed neck •Double-needle, sleeves and hem	Range	Personal	Yellow	Silk screen	Yes	Yes	Yes

Clothing	Use	Purchase	Color	Lettering Type	Front Profile	Back Profile	Shoulder Profile
<b>T-Shirt - Long Sleeve</b> •Heavy-weight, 6.1 oz., 100% soft spun cotton. •1×1 rib knit collar •Shoulder-to-shoulder taping •Cover seamed neck •Double-needle, sleeves and hem	Range	Personal	Yellow	Silk screen	Yes	Yes	Yes
<b>Sweatshirt With or Without Hoodie</b> •100% soft spun cotton	Range	Personal	Yellow	Embroider or silk screen	Yes	Yes	No

**(t) DAPO Range Safety Officer Headwear and Profile Standards****(1) Front Profile**

(A) A black 3" x 2.9" seven-point star cloth badge emblem trimmed in gold with the words "STATE PAROLE AGENT CALIFORNIA" in gold color around the State seal. The seven-point star badge emblem shall be centered on the front profile of the cap worn in a bill-forward position or centered on the front profile of the beanie worn in a forward position.

**(2) Back Profile**

(A) The parole agent may leave it plain or place their first initial and last name in .5" athletic gold lettering or the acronym DAPO in .5" athletic gold lettering.

**(3) Side Profile**

(A) No badge emblem or lettering shall be placed on the side profile of Range Safety Officer headwear.

**(u) DAPO Range Safety Officer Headwear Matrix**

Headwear	Use	Purchase	Color	Material	Lettering Type	Front Profile	Back Profile	Side Profile
<b>Baseball Cap Style, Round Top, Flex Fit or Adjustable</b>	Range	Personal	Yellow	100% polyester/cotton blend or mesh material	Embroider	Yes	Optional	No
<b>Beanie</b>	Range	Personal	Yellow	100% acrylic hand washable	Embroider	Yes	Optional	No

**(v) DAPO Parole Agent Safety and Tactics Instructor (PAST) Clothing and Profile Standards****(1) Front Profile**

(A) A black 3" x 2.9" seven-point star cloth badge emblem trimmed in gold with the words "STATE PAROLE AGENT CALIFORNIA" in white color around the State seal shall be on the front above the upper left breast pocket area. On the upper right breast pocket area, the parole agent may place their first initial, last name and badge number in .5" athletic white lettering.

**(2) Back Profile**

(A) "TACTICAL" shall be on top, centered, in 4" athletic white lettering, and just underneath that, the word "INSTRUCTOR" in 3" athletic white lettering.

**(3) Side Profile**

(A) No badge emblem or lettering shall be placed on the side profile of PAST Clothing.

**(w) DAPO PAST Instructor Clothing Matrix**

Clothing	Use	Purchase	Color	Lettering Type	Front Profile	Back Profile	Shoulder Profile
<b>Polo-Style Short or Long Sleeve Shirt</b> •6.6 oz., 100% snag-proof polyester •3-button placket with dyed-to-match buttons •Mic clips at center placket and shoulders •Reinforced dual pen pockets on left sleeve •Raglan sleeves with long tail and side vents	PAST	DAPO	Black	Embroider or silk screen	Yes	Yes	No
<b>T-Shirt - Short Sleeve</b> •Heavyweight, 6.1 oz., 100% soft spun cotton. •1×1 rib knit collar •Shoulder-to-shoulder taping •Cover seamed neck •Double-needle, sleeves and hem	PAST	Personal	Black	Silk screen	Yes	Yes	No
<b>T-Shirt - Long Sleeve</b> •Heavyweight, 6.1 oz., 100% soft spun cotton. •1×1 rib knit collar •Shoulder-to-shoulder taping •Cover seamed neck •Double-needle, sleeves and hem	PAST	Personal	Black	Silk screen	Yes	Yes	No
<b>Sweatshirt - ¼ Zip with Collar</b> •100% soft spun cotton	PAST	Personal	Black	Embroider or silk screen	Yes	Yes	No

**(x) DAPO Emergency Vehicle Operator Course (EVOC) Instructor Clothing and Profile Standards****(1) Front Profile**

(A) A silver 3" x 2.9" seven-point star cloth badge emblem with the words "STATE PAROLE AGENT CALIFORNIA" in silver color around the State

seal above the upper left breast pocket area. On the upper right breast pocket area, the parole agent may place their first initial, last name, and badge number in .5" athletic silver lettering.

**(2) Back Profile**

(A) "DRIVING" shall be on top centered in 4" athletic silver lettering, and just underneath that, the word "INSTRUCTOR" in 3" athletic silver lettering.

## (3) Side Profile

(A) No badge emblem or lettering shall be placed on the side profile of driving instructor clothing.

**(y) DAPO EVOC Instructor Clothing Matrix**

Clothing	Use	Purchase	Color	Lettering Type	Front Profile	Back Profile	Shoulder Profile
<b>Windbreaker-Type Jacket</b> <ul style="list-style-type: none"> <li>•100% nylon taffeta windbreaker material</li> <li>•Byron Collar, raglan sleeves, elastic cuffs</li> <li>•Color-matched snap enclosure</li> <li>•Reinforced nylon pockets, drawstring bottom</li> <li>•Water repellant, machine</li> </ul>	EVOC	DAPO	Red	Embroider or silk screen	Yes	Yes	No
<b>Polo-Style Short or Long Shirt</b> <ul style="list-style-type: none"> <li>•6.6 oz., 100% snag-proof polyester</li> <li>•3-button placket with dyed-to-match buttons</li> <li>•Mic clips at center placket and shoulders</li> <li>•Reinforced dual pockets on left sleeve</li> <li>•Raglan sleeves with long tail and side vents</li> </ul>	EVOC	DAPO	Red	Embroider or silk screen	Yes	Yes	No
<b>T-Shirt - Short or Long Sleeve</b> <ul style="list-style-type: none"> <li>•Heavyweight, 6.1 oz., 100% soft spun cotton.</li> <li>•1×1 rib knit collar</li> <li>•Shoulder-to-shoulder taping</li> <li>•Cover seamed neck</li> <li>•Double-needle, sleeves and hem</li> </ul>	EVOC	Personal	Red	Silk screen	Yes	Yes	No
<b>Sweatshirt With or Without Hoodie</b> <ul style="list-style-type: none"> <li>•100% soft spun cotton</li> </ul>	EVOC	Personal	Red	Embroider or silk screen	Yes	Yes	No

**(z) DAPO Driving Instructor Headwear and Profile Standards**

## (1) Front Profile

(A) A black 3" x 2.9" seven-point star cloth badge emblem trimmed in silver with the words "STATE PAROLE AGENT CALIFORNIA" in silver color around the State seal. The seven-point star badge emblem shall be centered on the front profile of the cap worn in a bill-forward position or centered on the front profile of the beanie worn in a forward position.

## (2) Back Profile

(A) The parole agent may leave it plain or place their first initial and last name in .5" athletic silver lettering or the acronym DAPO in .5" athletic silver lettering.

## (3) Side Profile

(A) No badge emblem or lettering shall be placed on the side profile of the driving instructor headwear.

**(aa) DAPO Driving Instructor Headwear Matrix**

Headwear	Use	Purchase	Color	Material	Lettering Type	Front Profile	Back Profile	Side Profile
<b>Baseball Cap Style, Round Top, Flex Fit or Adjustable</b>	EVOC	Personal	Red	100% polyester/cotton blend or mesh material	Embroider or silk screen	Yes	Optional	No
<b>Beanie</b>	EVOC	Personal	Red	100% acrylic hand washable	Embroider	Yes	Optional	No

(ab) Parole agents shall exercise discretion whether to be visibly armed (exposed carry) in the community. In exercising this discretion, parole agents must clearly identify themselves as peace officers in the community in the interest of agent and public safety, as the need arises. Parole agents must wear a DAPO-approved field or administrative polo-style shirt or DAPO-approved tactical attire that meets the standards set forth in this article. If unplanned exigent circumstances arise or when responding to an emergency situation involving the potential for serious/life threatening circumstances, parole agents may be exempt from this subsection.

(1) The DAPO-approved administrative polo-style shirt may be worn at any time while on duty.

(2) Under no circumstances shall law enforcement identifying clothing be worn in off-duty situations.

**(ac) Storage**

(1) The windbreaker-type jacket and the polo-style shirt shall remain accessible to parole agents at all times while on duty. The windbreaker-type jacket and polo-style shirt must be stored in the parole unit, or in the trunk of a State or private vehicle authorized for use on State business. If carried in the trunk, the windbreaker-type jacket and polo-style shirt must be stored in such a way as to minimize soiling.

**(ad) Unit Supervisors and Parole Administrators**

(1) Unit supervisors and parole administrators are authorized to wear law enforcement identifying clothing as defined within the standards of this article.

**85050.7 Protective Vest**

(a) Protective vests are designated as safety equipment. Protective vest types include ballistic vests, combination vests, and stab-resistant vests. Parole service associates, parole agents, unit supervisors, and parole administrators shall wear State-issued protective vests or a protective vest that meets the minimum specifications required for a State-issued vest, and as approved by the DAPO Director. In addition, the DAPO Director determines the following:

(1) Wear requirements such as concealed or unconcealed.

(2) Storage requirements.

(3) Accountability and replacement requirements.

(4) Any additional DAPO staff that may be mandated to wear protective vests.

(b) All DAPO staff issued a State-issued protective vest shall ensure the vest, not the inserts, are laundered when required.

**85050.8 Property Control Policy**

One person in each parole unit or headquarters office shall be assigned responsibility for control and accountability of property.

**85050.9 Revisions**

The DAPO Director or designee shall ensure this section remains current and accurate.

**85050.10 References**

CCR §§ 3276, 3291.



**Revision History**

Revised: January 24, 2017.

Revised: August 7, 2019.

**ARTICLE 40 — EVIDENCE STORAGE AND DISPOSAL***Revised January 29, 2018***85060.1 Policy**

Evidence is “testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact.” To preserve the integrity of evidence in a court proceeding, the chain of custody must be clearly documented and due caution must be used to preserve the integrity of the evidence.

Each parole unit or complex shall have a secure evidence storage area to store seized evidence. The Regional Parole Administrator, or designee, shall approve the location of each parole unit’s evidence storage area. The evidence storage area shall not be located in an area of the parole unit to which parolees have access. The unit supervisor is responsible for security, control, and inventory of stored evidence. This function shall not be delegated below the level of Parole Agent II, Supervisor. Access to the evidence storage area shall be restricted to the purpose of placing evidence in it, retrieving evidence from it, or other procedures described in this article.

All evidence shall be maintained in secure storage. Items that are not evidence shall not be stored in the evidence storage area. Evidence packaging materials shall not be stored in the evidence storage area. The unit supervisor shall designate an area of the parole unit or complex outside of the secured evidence storage area for storage of evidence packaging materials.

Prior to seizing evidence that indicates a misdemeanor other than Health and Safety Code 11364, or a felony has occurred, the parole agent shall contact the law enforcement agency with jurisdiction over the location where the evidence was found to request that the agency seize and process the evidence. If the law enforcement agency declines to assist, the parole agent shall proceed according to this article. If the law enforcement agency does assist, the parole agent shall provide a supplemental report, in the format requested by the assisting agency, detailing the parole agent’s involvement in the discovery of the evidence and any other actions taken by the parole agent.

**85060.1.1 Purpose**

The purpose of this article is to establish uniform procedures for the documentation, seizure and packaging of evidence throughout DAPO. This will ensure the chain of custody is properly documented and the integrity of evidence seized by DAPO is maintained.

**85060.1.2 Requesting Assistance From Allied Agency**

When conducting a search without the assistance of another law enforcement agency, the parole agent shall secure the scene and request assistance of the law enforcement agency with jurisdiction when the following items or observations are made:

- Evidence of a major crime (e.g., items indicating drug trafficking, precursor chemicals, weapons, human trafficking, ammunition, shell casings).
- Firearms.
- Suspected explosives.
- Evidence that indicates criminal activity involving persons other than the offender under DAPO supervision.
- Large quantities of United States or foreign currency.
- Stolen merchandise.
- Evidence beyond the training and capability of the parole agent to seize.

**85060.1.3 Evidence Handling and Packaging Procedures**

Prior to handling any evidence, the parole agent shall don latex gloves, and any other protective equipment necessary to ensure safety and preserve the integrity of the evidence. When an object will be seized as evidence, the following lines of responsibility apply:

**Parole Agent**

- Determine item(s) to be seized, and transport them back to the parole unit.
- Document the item(s) seized by photographing the item in the place in which it was discovered.
- Complete the CDCR Form 1136, Evidence/Property Report and Inventory Receipt, and assign each seized item an item number. Write a thorough description of each item in the “Object Description” column and a description of where the item was seized in the “Item Removed From” column.

- Provide one copy of the CDCR Form 1136 to the parolee, another responsible adult at the scene, or leave a copy at the scene if no adults are available before departing with any seized items.

Upon returning to the parole unit:

- Retain the original CDCR Form 1136 (white copy) in the field file.
- Photograph and, if appropriate, measure each item seized in a manner sufficient to document each item.
- Obtain one CDCR Form 1136-E, Evidence Envelope, for each item seized. If the item will not fit in the CDCR Form 1136-E, obtain a suitable container and follow the procedures listed in section 85060.1.3 for the CDCR Form 1136-L, Evidence Container Label.
- Complete the CDCR Form 1136-E for each item. The item number for the item placed inside the CDCR Form 1136-E will be the same as the item’s designated number on the CDCR Form 1136.
- Seal the CDCR Form 1136-E: sign across the flap, and use transparent tape to completely seal the flap.
- When the item(s) seized have been individually packaged inside the CDCR Form 1136-E(s), notify the unit supervisor, and proceed as described in section 85060.3.
- Document the steps taken to seize and package evidence on CDCR Form 1650-D, and any other necessary reports.

**85060.1.4 Oversized Evidence Packaging Procedures**

If an item will not fit in the CDCR Form 1136-E, a non-standard container shall be used (e.g., cardboard box, paper bag, etc.). The container must completely enclose the seized item and be able to show evidence of tampering. Parole agents may utilize paper bags, boxes, or other containers. When selecting an appropriate container, the parole agent shall utilize the smallest possible container. The parole agent shall place the item in the container, complete the CDCR Form 1136-L, and affix the CDCR Form 1136-L to the container, in a manner that will allow personnel to make entries in the “Chain of Custody” section. The parole agent shall seal the container with transparent tape, and proceed as described in section 85060.3. If possible, the parole agent shall sign across a seal or lid.

**85060.2 Special Evidence Packaging Procedures**

Certain items require special procedures for safety and preservation of forensic evidence. Staff seizing items described in this section shall exercise due caution when handling these items to preserve safety and the integrity of the item.

**85060.2.1 Special Procedures for Firearms**

The parole agent shall always presume a firearm is loaded. The parole agent shall not handle or manipulate the firearm unless it becomes absolutely necessary to ensure the safety of the parole agent or others at the scene. When a firearm is discovered, the parole agent shall visually identify all potential evidence, ensure the integrity of the evidence is preserved by securing the scene, and contact the law enforcement agency with jurisdiction over the area or the Office of Correctional Safety for assistance.

If possible, the parole agent shall photograph the firearm in the state and location where it was found. Prior to handling the firearm, the parole agent shall use latex gloves to prevent contamination of any surface of the firearm. When the firearm is handled by a parole agent, the parole agent should handle the firearm on areas least likely to retain fingerprints, such as textured areas.

After the scene is secured, and if the Office of Correctional Safety or law enforcement agency will not provide assistance, the parole agent shall:

- Render the firearm safe without exceeding training and capability. If the firearm can be safely transported in a loaded condition, the parole agent may do so, keeping the firearm pointed in a safe direction at all times.
- While keeping the firearm pointed in a safe direction, visually inspect the firearm to determine the serial number, if any. Make note of the serial number.
- Render the firearm safe without exceeding training and capability. If the firearm can be safely transported in a loaded condition, the parole agent may do so, keeping the firearm pointed in a safe direction at all times.
- Collect all ammunition and shell casings found in the vicinity of the firearm.
- Return directly to the parole unit to package and store the firearm.

To package and store a firearm:

- Before unloading or securing any firearm as evidence, record the position, as found, of any safety, cocking indicator, hammer, loaded-chamber indicator, selector, or other controls and features.
- Obtain a container that will completely surround the firearm.
- If safe to do so, unload the firearm, and package each round of ammunition and the magazine separately, as described in section 85060.1.3. For revolvers, follow the procedures in section 85060.2.2.

- Prior to placing the firearm in the container, ensure that the serial number has been recorded and no other information still needs to be obtained from the firearm.
- Complete the CDCR 1136-L and place it on the container in a manner that prevents the container from being opened without damaging or removing the CDCR Form 1136-L. Seal sides of the container, if necessary, with transparent tape.
- If the firearm is packaged loaded, write "LOADED FIREARM" in large letters on the top of the container and draw a large arrow indicating the direction of the muzzle.
- Place the sealed container in the evidence storage area in accordance with 85060.3.

#### 85060.2.2 Special Unloading Procedures for Revolvers

- Prior to opening the cylinder, it should be marked to indicate its position as found. This can be done with a **short** pen or scribe mark on the cylinder, along each side of the frame top strap.
- When opening the cylinder to document and remove cartridges and/or casings, keep the muzzle pointed in a safe and downward direction to prevent the cartridges and/or casings from falling out.
- Before removing any cartridge or casing, document the chamber position of each cartridge and/or casing and any markings or calibers of each cartridge and/or casing. The chamber that falls between the two marks made above is chamber position #1, and each chamber thereafter is numbered sequentially in clockwise order.

#### 85060.2.3 Firearm Follow-up Procedures

- Conduct a records check of the firearm via the California Law Enforcement Telecommunications System.
- Contact the law enforcement agency with jurisdiction over the location the firearm was found and request the agency take custody of the firearm. Coordinate the transfer of the firearm to the law enforcement agency as needed.

#### 85060.2.4 Special Procedures for Controlled Substances

If a law enforcement agency will not assist, the parole agent shall:

- Photograph the controlled substance in the state and location where it was found, if possible.
- Photograph the controlled substance in the packaging in which it was found prior to packaging it as evidence.
- Collect the controlled substance in a safe manner and record the quantity, appearance, and packaging. Do not remove the controlled substance from any material in which it was packaged.
- Package the controlled substance according to 85060.1.3.
- Transport the substance to the local forensic laboratory for testing, if available. If not available, transport the substance to the nearest California Department of Justice (DOJ), Bureau of Forensic Services, regional laboratory.
- If the DOJ laboratory will not accept the controlled substance, or if the controlled substance must be stored in the parole unit until it can be transported to a local forensic laboratory or the DOJ laboratory, secure the controlled substance in the parole unit evidence storage area.

#### 85060.2.5 Storage of Evidence Photographs

Evidentiary photographs shall be stored utilizing the following mediums:

- CD-ROM
- DVD-ROM
- USB thumb drive
- Upload into the Parole Violation Disposition Tracking System (PVDTS), if the photographs are evidence of a parole violation and a case is initiated in PVDTS.

After photographs are transferred to a storage on a CD-ROM, DVD-ROM, or USB thumb drive, the media shall be packaged as evidence and secured in the evidence storage area. In the event CDCR computers are used to transfer photographs from a camera to storage media, no copies shall remain in any CDCR electronic storage database, with the exception of PVDTS.

#### 85060.2.6 Seizure of Electronic Devices Policy

An electronic device is a device that stores, generates, or transmits information in electronic form (e.g., cellular phone, computer, etc). These devices require special collection, packaging, transportation, and forensic search techniques. Examining the contents of a device without proper training and procedures may result in the unintentional alteration of the contents of the device, and thus damage the integrity of the evidence. Additionally, legal authority beyond the scope of a parole search may need to be obtained to search the device. Improper access of electronic devices may violate state and federal laws.

Searches of electronic devices shall be carried out in accordance with DOM Chapter 8, Article 3.

If it is anticipated during the planning of an arrest and/or search that electronic devices will be encountered and should be searched, the parole agent shall request the assistance of law enforcement personnel with a level of expertise capable of searching the devices.

If the parole agent has been trained on the use of a program(s) capable of conducting preliminary on-scene searches (e.g., *ImageScan*, *Field Search*) of electronic devices, the parole agent may utilize these programs to conduct an on-scene search.

If a preliminary on-scene search program is not available, and the parole agent still desires to search the device, the parole agent shall conduct a cursory search only, and refrain from opening individual files stored on the device. Opening individual files will change the date the file was last modified, thus reducing the integrity of the evidence.

If the on-scene search indicates that the device should be seized for further forensic examination conducted away from the scene, the parole agent shall:

- Identify all periphery device(s), screens, and cables connected to the device(s) being seized.
- Attempt to obtain device passwords by interviewing the parolee.
- Seize the device(s) and cables, if legal authority to do so exists.
- Submit the device to the Correctional Intelligence Task Force (CITF).

#### 85060.2.7 Submission of Devices to the Correctional Intelligence Task Force Policy

Forensic searches of electronic devices seized by DAPO staff shall be conducted by the Office of Correctional Safety, CITF. A forensic search that will likely result in the destruction of the device shall only be conducted when a cursory search or a lesser non-destructive forensic analysis shows probable cause that evidence of a crime listed in PC 667.5(c), 1192.7(c), or 311.11 through 311.12 exists on the device. A forensic search likely resulting in the destruction of the device must be approved in writing by the District Administrator prior to commencing with the destructive process.

In the event of a sustained claim against the State as a result of a destructive search requested by DAPO and conducted by CITF, DAPO shall be responsible for payment of the claim.

#### 85060.2.7.1 Submission of Devices to the Correctional Intelligence Task Force Procedures

Upon seizing an electronic device and the parole agent's determination of the need for a forensic search, the following lines of responsibility apply:

##### Parole Agent

- Package the device as evidence according to section 85060.1.3.
- If applicable, complete a CDCR Form 1617, Memorandum, documenting the probable cause that evidence of a crime listed in PC 667.5(c), 1192.7(c), or 311.11 through 311.12 exists. Include a recommendation for authorization of a destructive search. After a decision from the District Administrator, place the memorandum in the field file.
- If approved by the District Administrator, send an electronic mail to: [citfcentralintake@cdcr.ca.gov](mailto:citfcentralintake@cdcr.ca.gov).
- Follow instructions from CITF staff for shipment of the device to CITF.

The parole agent may submit the device to CITF prior to receiving authorization for a destructive search.

##### Unit Supervisor

- If applicable, within three business days, review the CDCR Form 1617, make a recommendation, and forward to the District Administrator.

##### District Administrator

- If applicable, within three business days, review the CDCR Form 1617 and make a decision to approve or deny a destructive search.

#### 85060.2.8 Special Procedures for Illegal Fireworks and/or Explosive Devices

Any suspected illegal fireworks, explosive devices, or other hazardous materials shall not be moved. The parole agent shall clear the scene and immediately contact the law enforcement agency with jurisdiction over the area for assistance.

#### 85060.2.9 Special Procedures for Sharp Objects

Sharp objects shall be placed in a syringe container before being placed in the CDCR Form 1136-E. If the item does not fit in a syringe container, the parole agent shall wrap the object in cardboard or another material that will prevent the item from puncturing the CDCR Form 1136-E. However, if the object appears to have forensic evidence (e.g., dried blood stain), the parole agent shall not wrap the object.

The parole agent shall write “SHARP OBJECT” in large letters on the outside flap of the CDCR Form 1136-E.

If the sharp object will not fit inside the CDCR Form 1136-E, the parole agent shall wrap the blade and/or sharp point with cardboard and transparent tape, and then attach a CDCR Form 1136-L in a manner that allows personnel to make entries on the “Chain of Custody” section.

#### **85060.2.10 Special Procedures for Currency**

Whenever possible, currency should be photographed in the location where it was found. If feasible, currency shall also be photocopied or photographed so that the serial number of each bill is recorded. To package currency, the following lines of responsibility apply:

##### **Parole Agent**

- In the “Object Description” column of the CDCR Form 1136-E, document the amount of currency, by denomination (e.g., 5 x \$20, 4 x \$1) and the total (e.g., \$104.00).
  - Document the total amount of currency, by denomination, on the CDCR Form 1650-D, Record of Supervision.
  - After confirmation of the amount by the unit supervisor or designee, place the currency in the CDCR Form 1136-E and seal the envelope.
- ##### **Unit Supervisor, or Designee**
- Count the currency and confirm the parole agent’s total.
  - Sign next to the parole agent’s signature on the CDCR Form 1650-D.

#### **85060.2.11 Special Procedures for Perishables**

Perishable items (e.g., produce, frozen foods, meat) shall not be seized as evidence according to the procedures in this article. If a law enforcement agency will not assist, the perishable item shall be photographed for evidentiary purposes. If the perishable item is evidence of poaching (e.g., animal carcass), the parole agent shall contact the California Department of Fish and Wildlife for assistance.

#### **85060.2.12 Special Procedures for Bicycles**

If there are no feasible alternatives and a bicycle must be seized as evidence, the parole agent shall seize it. The parole agent shall record the serial number, if visible, and photograph the bicycle and serial number and attach the photographs to the applicable report. The parole agent shall complete the CDCR Form 1136-E and affix it to the bicycle. The bicycle shall be stored in a locked room in the parole unit.

#### **85060.3 Evidence Storage Area Entry and Exit Procedures**

Every entry and exit into the evidence storage area shall be documented on the CDCR Form 1221-A, Evidence Area Entrance and Exit Log. Only the unit supervisor or Parole Agent II, Supervisor, shall enter the evidence storage area. The CDCR Form 1221-A shall be stored in close proximity to the evidence storage area. When a CDCR Form 1221-A is completely filled; it shall be retained in the parole unit by the unit supervisor for three years.

##### **85060.3.1 Evidence Storage and Retrieval Procedures**

When the unit supervisor receives an item to be stored in the evidence storage area, the unit supervisor shall make an entry on the CDCR Form 1221, DAPO Evidence Custodian Log. An entry shall be made on the log for each item of evidence. The unit supervisor shall place the item in the parole unit’s evidence storage area.

When an item is removed from the evidence storage area, the unit supervisor shall document the removal on the item’s line of entry on CDCR Form 1221. If an item is removed and later returned to the evidence storage area, a new line of entry shall be made.

The CDCR Form 1221 shall remain stored inside the evidence storage area.

##### **85060.4 Disposal of Evidence Policy**

All evidence in the evidence locker shall be inspected quarterly by the unit supervisor. Items determined not illegal and not needed for a revocation hearing or criminal proceedings shall be returned to the owner or destroyed if no legal owner can be identified. The disposition of all evidence shall be shown on the bottom of the CDCR Form 1136, and on the item’s line of entry on the CDCR Form 1221. A receipt shall be obtained and placed in the field file for any item turned over to another agency.

Illegal weapons and drugs shall be taken to law enforcement for disposal. If law enforcement will not accept the illegal weapons or drugs, they shall be taken to the nearest DOJ regional laboratory for disposal.

Controlled substances turned over to DOJ for disposal must be accompanied by the forms listed in section 85060.4.1. These forms are submitted to the court for issuance of an order authorizing destruction pursuant to Health and Safety Code 11474.

##### **85060.4.1 Destruction of Controlled Substances Procedures**

Six months after a controlled substance is no longer needed as evidence, the unit supervisor shall:

- Complete the following CDCR forms:
- CDCR Form 1754, Controlled Substances for Destruction
- CDCR Form 1755, Destruction of Controlled Substances Peace Officer’s Declaration
- CDCR Form 1756, Court Order-Destruction of Controlled Substances
- Submit the forms to the court for the county in which the controlled substance was found.
- After the court magistrate signs the CDCR Form 1756, contact the law enforcement agency having jurisdiction over the area where the controlled substance was found to participate in a scheduled date for the destruction of the controlled substances.
- Contact the DOJ, Bureau of Forensic services, if local law enforcement will not assist.
- Proceed as directed by DOJ or the local law enforcement agency.

##### **85060.5 Revisions**

The DAPO Director or designee shall ensure that this section is current and accurate.

##### **85060.6 References**

Health and Safety Code § 11474

Evidence Code §140

Penal Code §§ 311.11-311.12, 667.5, 1192.7, and 1546-1546.4.

## **ARTICLE 41 — LAW ENFORCEMENT AND INVESTIGATIONS**

*Revised June 8, 2017*

##### **85070.1 Policy**

It is the policy of the California Department of Corrections and Rehabilitation (CDCR) to interact with other law enforcement agencies in order to protect the community while supervising offenders.

##### **85070.2 Purpose**

The purpose of this Article is to clarify Division of Adult Parole Operations (DAPO) staff responsibilities regarding parolees under surveillance or investigation by the Office of Correctional Safety (OCS).

##### **85070.3 Definitions**

###### **Polygraph Examination**

The procedure by which a polygraph examiner renders an opinion as to the veracity of statements made by an examinee.

###### **Polygraph Examiner**

A person with expertise in operating a polygraph instrument for the purpose of determining the truthfulness of statements made by an examinee.

###### **Polygraph Instrument**

An instrument that simultaneously records changes in a person’s blood pressure, respiration, and pulse rate.

##### **85070.4 Office of Correctional Safety – Surveillance and Investigations**

OCS serves as a liaison for the exchange of information with other law enforcement agencies, the courts, and District Attorneys throughout California. OCS special agents and peace officers may also conduct surveillance on parolees at the request of other law enforcement agencies or DAPO unit supervisors.

OCS special agents and peace officers shall advise the appropriate DAPO unit supervisor of any surveillance or investigation of a parolee. In cases where the confidentiality of an investigation prevents notification at the unit supervisor level, the OCS Chief shall make the notification to the DAPO Director or designee.

DAPO parole agents shall, as soon as possible, share with OCS special agents and peace officers any lead or any change of status of a parolee if the parole agent is aware that the parolee is under OCS investigation or surveillance.

DAPO parole agents shall not arrest or release a parolee who is under OCS surveillance or investigation except when required by law. Should an arrest be effected, the parole agent shall immediately notify the DAPO unit supervisor and OCS special agent or peace officer. If possible, special agents and peace officers should always be notified prior to the arrest or release of a parolee under OCS investigation.

**85070.5 Polygraph Examination**

Polygraph examinations of parolees shall be employed when necessary, with the parolee's consent, if approved by a DAPO unit supervisor. Failure of a parolee to consent to an examination will not in itself constitute grounds to believe that the parolee has committed a parole violation. Polygraph examinations may be administered by either OCS or non-departmental examiners. Examinations by non-departmental personnel for law enforcement investigations will be given at no expense to DAPO and shall be administered in accordance with the conditions established in Department Operations Manual (DOM) Section 14030.9. Requests for polygraph examinations conducted by OCS shall be submitted by the Regional Parole Administrator to the OCS Chief in accordance with DOM Section 14030.6.

Pursuant to Penal Code (PC) Section 9003, polygraph examination for the treatment and management of PC 290 sex offenders shall be administered through the Sex Offender Management Program. For further information regarding polygraph examinations, see DOM, Chapter 1, Article 20, Polygraph.

**85070.6 Revisions**

The DAPO Director or designee is responsible for ensuring that the contents of this Article are kept current and accurate.

**85070.7 References**

California Code of Regulations, Title 15, Division 3, Section 3293.

DOM §§ 14030.6 and 14030.9.

PC §§ 290, 830.2, 830.5, and 9003.

**ARTICLE 42 — SUBPOENA**

*Revised November 15, 2016*

**85080.1 Policy**

It is the policy of the California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) to abide by all applicable laws relative to the serving of subpoenas on its employees and staff.

**85080.2 Purpose**

The purpose of this section is to establish guidelines and outline responsibilities for the handling of subpoenas.

**85080.3 Introduction**

Compliance with subpoenas is mandated by State and Federal law and can be compelled by court order. CDCR's duty to preserve the privacy of the records it maintains is also mandated by State and Federal law. The failure to comply with a subpoena can result in civil or criminal sanctions. CDCR has a further obligation to protect the confidentiality of some documents, the dissemination of which could compromise staff or public safety.

This article applies to employment related subpoenas. DAPO does not accept service of process on personal matters not related to State business.

**85080.4 Definitions**

To clarify terminology used in this section, the following definitions are included as a guide. These are not inclusive, and any definitions contained in statutes shall supersede those contained in this section.

**Affidavit**

A written declaration made under oath before a notary public or other authorized officer.

**Attorney General**

Represents CDCR and/or its employees in court when CDCR becomes involved in legal proceedings.

**Consumer**

Generally defined as the individual whose records are being requested.

**Court Order**

A direction issued by a court or a judge requiring that something be done or that there is prohibition against some act.

**Custodian of Record**

Generally defined as a person charged with custody and control of certain records as part of their duties.

**Defendant**

One against whom an action is brought.

**District Administrator**

A CDCR administrator of a DAPO unit, district, or geographical area.

**In Camera**

Refers to a hearing or discussions with the judge in the privacy of chambers (office rooms) or when spectators and jurors have been excluded from the court room.

**Litigation Coordinator**

A person designated to receive and process subpoenas as part of their job or assignment on behalf of CDCR. See Department Operations Manual (DOM) section 14010.17.

**Olsonization**

Generally defined as redaction of information.

**Parole Agent**

A CDCR employee who is assigned to supervise those persons released from incarceration to serve a period of parole.

**Parolee**

A felon released from confinement in State prison or county jail to DAPO supervision.

**Party**

Generally defined as any person or entity directly involved in litigation as the plaintiff or defendant.

**Parole Violation**

Conduct by a parolee which violates the conditions of parole or otherwise provides good cause for the modification or revocation of parole.

**Plaintiff**

The party that institutes a suit in court.

**Regional Parole Administrator**

A CDCR administrator of a DAPO region.

**Subpoena for Personal Appearance**

A legal document compelling a witness to appear in court at the time, date, and place specified.

**Subpoena Duces Tecum**

A legal document compelling the keeper of a record, document, or file to make the record, document, or file available for examination at the time, date, and place specified.

**Summons**

A legal document ordering a person to appear before a judge or magistrate.

**Third Party Subpoena**

A legal document issued in a case in which CDCR or its employees are not a party.

**Unit Supervisor**

A supervisor of case-carrying parole agents for DAPO.

**Writ**

A written order issued by a court, commanding the party to whom it is addressed to perform or cease performing some specified act. A party seeking a writ must file a petition in court.

**85080.5 Legal Documents**

When legal documents are delivered in person or by mail to the division's headquarters, regional headquarters, or a parole unit, staff shall immediately contact the Litigation Coordinator for appropriate handling. Subpoenas may require personal appearance and/or production of documents (subpoenas duces tecum) at a court proceeding. Subpoenas can be issued by attorneys, public defenders, district attorneys, clerks of the court, or judges. Subpoenas can also be issued by the Grand Jury, State and Federal administrative agencies, and the Federal Bureau of Investigations. Legal documents include, but are not limited to, the following:

- Subpoenas for personal appearance.
- Subpoenas duces tecum.
- Writ.
- Summons.
- Court Order.

If the Litigation Coordinator is not available, staff should contact the CDCR Office of Legal Affairs (OLA) and ask for guidance on the acceptance and handling of the particular legal document.

**85080.6 Service of Subpoenas**

Subpoenas for records of offenders who are currently incarcerated should be served to the institution where the offender is housed.

Generally, subpoenas for an active parolee's parole field file are served to the parole field office to which the parolee reports. Staff shall process the subpoena pursuant to DOM section 14010.6.9.

Subpoenas for records of an active parolee's Electronic Records Management System (ERMS) data and a discharged parolee parole field file should be served to Parole Case Records.

Subpoenas for records of a discharged parolee's ERMS data should be served to the CDCR, Division of Adult Institutions - Archives unit.

Subpoenas for medical records of offenders who have paroled or discharged from parole should be served to the CDCR, Division of Health Care Services - Health Records Center.

Subpoenas for workers' compensation matters should be served to the respective Return-to-Work Coordinator for appropriate handling.

Subpoenas for peace officer personnel records and employee civil cases should be served to the respective Litigation Coordinator.

#### **85080.7 Responding to Subpoenas**

Generally, subpoenas are made directly to the witness, parole agent, and a copy to the Unit Supervisor (US). A subpoena duces tecum, a declaration which shows good cause for production of documentary evidence and specifies precisely the documentary evidence to be produced, may be attached or part of the subpoena ad testificandum (subpoena for oral testimony). The declaration shall state the relevance of the evidence to the hearing, and state the requested witness has possession or control of the documentary evidence. If a subpoena requiring a parole agent's personal appearance or production of documents is received, the US shall forward a copy to the Litigation Coordinator. If the parole agent's appearance is not in the best interest of CDCR, OLA staff counsel shall be contacted by the Litigation Coordinator for further processing and possible referral to the appropriate deputy attorney general who will attempt to have the parole agent's attendance excused.

#### **Litigation Coordinator**

Writes and submits a follow-up letter to staff counsel of OLA requesting that the parole agent's attendance be excused. The letter shall include the following information:

- Title of the action.
- Court name and file number.
- Name of person subpoenaed.
- Date of appearance.

The Litigation Coordinator shall attach a copy of the subpoena to the letter. Refer to DOM section 14010, Legal Matters, for further processing and details.

#### **85080.8 Release of Case Information**

If a parole agent receives a request for case information from an attorney or other interested party, it must be determined that the person making the request has a legitimate right and compelling reason to have the requested information. Care shall be exercised to ensure that confidential information is not divulged under any circumstances.

When it has been established that the person making the request has a legitimate need to know the specific information requested, only that specified information shall be provided. When practical, requests for information shall be written on the requesting party's letterhead stationery. Requests by parolees shall be in writing, signed, and dated. It is important to note that disclosure of confidential information to persons outside CDCR or its counsel may constitute an involuntary relinquishment of the privilege outlined in the Evidence Code (EC).

If there is any question regarding release of information that appears to be of a confidential nature, OLA shall be contacted to provide advice on the release of the information.

See DOM section 13030, Information Practices, and DOM section 13040, Public Records, for additional information regarding the release of information.

#### **85080.9 Informal Contacts With Defense and Prosecution Attorneys and Other Interested Parties**

The release of information, absent a subpoena, to these persons is governed by the Information Practices Act, Civil Code (CC) 1798 et seq., specifically, CC 1798.24(e) and 1798.24(o). Information may only be released to certain categories of individuals when it is necessary for these individuals to perform their constitutional or statutory duties, or when it is necessary for an investigation of unlawful activity. These individuals are:

- Attorneys or their designated representative.
- Other law enforcement or regulatory agency personnel.

Under no circumstances may medical information be released pursuant to an informal request.

The EC requires the trial court to weigh public interest served by nondisclosure of relevant information. If a parole agent adheres to guidelines contained in the EC, confidential information will ordinarily be disclosed to the trial court

in an in camera, non-adversarial hearing. In order to qualify for the privilege, information must be:

- Acquired in confidence by a public employee.
- Acquired in the course of the public employee's duties.
- Not open or officially disclosed to public prior to the time the claim of privilege (in court) is made.

#### **85080.10 Official Information Privilege**

Parole agents may receive information that may be crucial in future criminal prosecutions. It is important that the Rules of Evidence concerning handling of confidential information be followed.

The EC requires the trial court to weigh public interest served by nondisclosure of relevant information. If a parole agent adheres to guidelines contained in the EC, confidential information will ordinarily be disclosed to the trial court in an in camera, non-adversarial hearing. In order to qualify for the privilege, information must be:

- Acquired in confidence by a public employee.
- Acquired in the course of the public employee's duties.
- Not open or officially disclosed to public prior to the time the claim of privilege (in court) is made.

Refer to EC 1040, et seq., for further details.

#### **85080.11 Revisions**

The Director, DAPO, or designee shall ensure that this section is current and accurate.

#### **85080.12 References**

CC § 1798 et seq.

PC § 1543.

EC § 1040, et seq.

DOM §§ 13030, 13040, 14010, 14010.17, and 14010.6.9.

### **ARTICLE 43 — EMERGENCY PROTECTION**

*Revised February 8, 2018*

#### **85090.1 Policy**

Emergency action and employee protection plans and procedures shall be developed and updated annually.

#### **85090.2 Purpose**

The purpose of this section is to establish duties and responsibilities for the California Department of Corrections and Rehabilitation (CDCR) Division of Adult Parole Operations (DAPO) emergency coordinators and to ensure comprehensive plans and procedures are developed and maintained to protect employees, contractors, volunteers, interns, guests, and State offices. This article also establishes procedures for the temporary relocation of the Warrant Unit during an emergency.

#### **85090.3 Division of Adult Parole Operations Headquarters Emergency Action and Employee Protection Plans**

The Emergency Planning and Management Unit (EPMU), Office of Correctional Safety (OCS), has oversight of CDCR headquarters emergency preparedness, response, recovery, and damage mitigation functions. EPMU/OCS serves as the single point of contact for CDCR headquarters related to emergency management issues and coordinates the department's interaction with allied agencies, such as city police and county sheriffs. The California Highway Patrol has jurisdiction over those matters related to the security of State offices, property, and occupants of State property pursuant to Government Code Section 14615(b). The DAPO headquarters emergency action and employee protection plans shall encompass the current CDCR headquarters Emergency Procedures Handbook maintained by EPMU/OCS.

#### **85090.4 Division Headquarters Floor Emergency Personnel Operations Emergency Coordinator**

The division's operations emergency coordinator shall be the Assistant Deputy Director or designee determined by the DAPO Director. The operations emergency coordinator shall:

- Designate the division headquarters floor warden for the CDCR headquarters – Emergency Evacuation Plan (EEP) – Safety Committee.
- Ensure the floor warden attends the EEP – Safety Committee meetings.
- Designate a backup to attend the EEP – Safety Committee meetings in the floor warden's absence.
- Ensure division headquarters' managers and supervisors annually update and maintain a unit supervisor's evacuation roster.

- Review and process the regional emergency action and employee protection plans.

#### **Floor Warden**

The division's floor warden is designated by the division's operations emergency coordinator and shall:

- Attend the headquarters EEP – Safety Committee meetings and update the division's operations emergency coordinator after each meeting.
- Annually post the current emergency plan poster and evacuation floor map on bulletin boards and other strategic locations.
- Identify and maintain a current roster of emergency team members for their assigned floor.
- Coordinate all emergency actions on an assigned floor upon notification from the Building Emergency Procedures Coordinator (BEPC).
- Direct the evacuation of employees during fires and other emergencies by stationing oneself in front of the floor elevators.
- Notify the BEPC and the operations emergency coordinator about emergency conditions.
- Release emergency team members once all monitors have reported total evacuation.
- Advise the BEPC if any disabled person(s) need assistance evacuating by trained personnel.
- Report completed floor evacuations to the BEPC after all persons have evacuated.
- Collect the supervisors' evacuation roster forms at the evacuation assembly area and assign a messenger to deliver them to the BEPC.
- Direct managers and supervisors on their floor to initiate a cursory search by employees of their immediate work area during bomb threats.
- Direct emergency team members to search all public areas on their assigned floor including lobbies, elevators, storage rooms, restrooms, stairwells, and evacuation routes.
- Report the results of the search to the BEPC.

#### **Offices and Units Administratively Assigned to Division Headquarters Located Remotely**

Offices and units administratively assigned to division headquarters and situated independently shall identify and comply with the procedures outlined in section 85090.9 for "other DAPO sites."

#### **85090.5 Regional Emergency Action and Employee Protection Plans**

The DAPO regional emergency action and employee protection plans shall follow the current Highway Patrol Handbook 100.3, California State Agency Emergency Action Plan Guide. The emergency action plan guide provides an outline for inclusions of the region's emergency information, facility overview, emergency organization structure, emergency incident response, evacuation procedures, and training.

#### **85090.6 Regional Emergency Coordinator's Duties**

The regional emergency coordinator shall be the Assistant Regional Parole Administrator or designee, no lower than a Parole Administrator, determined by the Regional Parole Administrator (RPA). The regional emergency coordinator shall:

- Operate as the emergency coordinator for the Parole Region headquarters.
- Develop and submit the Parole Region headquarters emergency action and employee protection plans as outlined in the Highway Patrol Handbook 100.3, California State Agency Emergency Action Plan Guide to the RPA.
- Ensure regional headquarters managers and supervisors maintain and annually update a unit supervisor's evacuation roster.
- Provide guidance to local emergency coordinators in the development of an emergency action and employee protection plans for parole complexes, offices, and other DAPO sites within the region.
- Ensure that relocated, new, or substantially modified parole complexes, offices, and other DAPO sites submit emergency action and employee protection plans within 60 days of relocation or opening.
- Ensure all parole complexes, offices, and other DAPO sites in the region maintain and annually update emergency action and employee protection plans.
- Review and submit the region's emergency action and employee protection plans annually to the division's operations emergency coordinator.

- Maintain a current copy of the Highway Patrol Handbook 100.3, California State Agency Emergency Action Plan Guide for assisting in the development of emergency action and employee protection plans within the region.
- Annually conduct parole complex, office, and other DAPO site inspections to ensure compliance with the emergency action and employee protection plan.

#### **85090.7 Emergency Action and Employee Protection Plans – Parole Complex, Office, and Other DAPO Sites**

Every parole complexes, offices, and other DAPO site's emergency action and employee protection plans shall follow the current Highway Patrol Handbook 100.3, California State Agency Emergency Action Plan Guide. The emergency action plan guide provides an outline for inclusion of the specific office's emergency information, facility overview, emergency organization structure, emergency incident response, evacuation, and training.

#### **85090.8 Parole Complex, Office, Other DAPO Sites Local Emergency Coordinator's Duties**

The office manager of the parole complexes, offices, and other DAPO sites shall serve as the local emergency coordinator. The local emergency coordinator shall:

- Develop the emergency action and employee protection plans as outlined in the Highway Patrol Handbook 100.3, California State Agency Emergency Action Plan Guide.
- Ensure parole complexes, offices, and other DAPO sites' supervisors maintain and annually update the unit supervisor's evacuation roster.
- Assign local emergency floor personnel.
- Direct and supervise activities of building occupants during an emergency.
- Schedule and facilitate quarterly safety meetings.
- Act as liaison with local law enforcement, fire, and related support agencies.
- Notify the regional emergency coordinator of any change of assignment or employment that precludes carrying out the required responsibilities of the emergency coordinator.
- Post the current emergency plan poster in a conspicuous place within the parole complex, office, and other DAPO sites following the annual inspection by regional emergency coordinator and upon approval of the plan.
- Make the emergency action and employee protection plans readily available for staff review by placing the plan in a folder identified "Emergency Action and Employee Protection Plans Procedures" in the support staff work area upon approval of the plan by the RPA.

#### **85090.9 Parole Complex, Office, and Other DAPO Sites Alternate Local Emergency Coordinator's Duties**

An additional Parole Agent III, Parole Agent II (Supervisor), or Case Records Manager of the parole complex, office, and other DAPO site shall serve as the primary assistant to the local emergency coordinator and acts for the local emergency coordinator in their absence.

The Officer-of-the-Day (OD) shall assume emergency coordination responsibilities in the absence of the local emergency coordinator and the alternate. In locations without an OD, the Case Records Manager on duty shall assume emergency coordination responsibilities.

#### **85090.10 Emergency Action and Employee Protection Plans Process**

The local emergency coordinator shall submit two copies of the emergency action and employee protection plans annually, but no later than March 1st (one in standard black print, and the second in standard black print with any new/updated information in blue print), to the regional emergency coordinator. The regional emergency coordinator shall review the emergency action and employee protection plans for completeness and submits to the RPA for approval. Incomplete emergency action and employee protection plans shall be returned to the local emergency coordinator for correcting. Emergency action and employee protection plans returned to the local emergency coordinator shall be completed and resubmitted to the regional emergency coordinator within 20 working days. Any subsequent corrections shall be completed and resubmitted within five working days from notification.

#### **Regional Parole Administrator**

The regional parole administrator shall review and approve regional emergency action and employee protection plans and shall forward the plans to DAPO headquarters Fidelity Assurance and Outcomes Unit (FAOU) and the operations emergency coordinator.

#### **Operations Emergency Coordinator**

The Operations Emergency Coordinator shall:

- Review regional emergency action and employee protection plans and shall forward to the DAPO director or designee for review.
- Ensure the FAOU keep copies of the approved regional emergency action and employee protection plan for two years in a department approved database.
- Ensure copies of the emergency action and employee protection plans are forwarded to EPMU/OCS annually.

#### **Emergency Planning and Management Unit, Office of Correctional Safety**

EPMU/OCS shall keep copies of the emergency action and employee protection plans, for every parole complex, offices, and other DAPO sites and each parole region headquarters.

#### **85090.11 Updating Personnel Information Procedures**

A confidential memorandum shall be submitted immediately each time a parole agent's identifying and/or contacting information changes and annually by the parole unit supervisor and forwarded to DAPO headquarters to update or confirm any changes in personnel, badge assignment, identification number, State-issued mobile telephone number and parole agent home/personal telephone number. The information is required for the Warrants Unit to update and maintain the confidential file used to identify field personnel who call the unit.

#### **85090.12 Updating Administrative Officer-of-the-Day Roster Procedures**

A confidential roster, indicating the regional Administrative Officer-of-the-Day (AOD), specifying the AOD for each week of the next quarter in calendar order, and each AOD's name, home telephone number, and cellular telephone number shall be forwarded to DAPO headquarters at least seven days prior to the start of each quarter. A copy shall be routed to the Warrants Unit. Each roster shall include the telephone number of the RPA in the event the AOD cannot be contacted and there is an event requiring an immediate response.

#### **85090.13 Warrant Unit Operation and Relocation During Disasters**

The Warrant Unit operates 24-hours-a-day and acts as a central dispatcher of information regarding warrants issued for parolees-at-large and for placement of parole holds. Additionally the Warrant Unit provides inmate or parolee history, location, and commitment information to law enforcement agencies and other authorized persons. As a natural disaster (earthquake, fire, and/or flood) or an act of terrorism can strike anywhere at any time with little or no warning, planning is necessary in order for the Warrant Unit to continue to function. DAPO has developed a contingency plan for relocating the Warrant Unit to minimize disruptions in service during these unforeseen events.

#### **Procedures**

During a natural disaster, terrorist attack, or any unforeseen event that affects or threatens the Warrant Unit's ability to function at the present location, the Warrant Unit shall temporarily relocate to the following locations, listed in chronological order of alternative, to resume normal operations:

1. Nearest parole unit not affected within Sacramento County
2. Northern Region parole headquarters
3. Nearest parole unit not affected within the Northern Region
4. Southern Region parole headquarters
5. Southern Region Parole Case Records
6. Nearest parole unit not affected within the Southern Region

Bi-annually (every odd year), the Warrant Unit Parole Administrator shall conduct an emergency relocation drill of the Warrant Unit to one of the alternative locations for a shift.

#### **Warrant Unit Supervisor**

It is the responsibility of the Warrant Unit supervisor on-duty to assess and determine the unit's ability to function at the present location due to the emergency and to initiate the contingency plan if necessary. Specifically, the Warrant Unit supervisor on-duty shall be responsible for ensuring:

- On-duty staff collects their laptop computers, if it is safe to do so.
- On-duty staff exit the building in accordance to the Headquarters Emergency Procedures handbook during a building evacuation.
- On-duty staff is assisted with transportation to the alternative location, if needed, and arrive at the alternative location to complete their shift.
- Off-duty staff is notified to report to the alternative work location for scheduled shifts.
- The Warrant Unit is secure upon exiting.

- The Warrant Unit Parole Administrator is briefed on the current situation.
- All incoming calls to the Warrant Unit are transferred to the alternative location or to the Warrant Unit's mobile telephone devices.
- Laptops are set-up to utilize all necessary network databases including the California Law Enforcement Telecommunications System.
- Contact the EPMU/OCS

#### **Warrant Unit Staff**

Upon notification from the supervisor that the Warrant Unit shall relocate due to the emergency, staff shall be responsible for:

- Collecting their State-issued laptop computer, if it is safe to do so.
- Exiting the building.
- Reporting to the alternative location.
- Resuming Warrant Unit duties.

#### **Parole Administrator**

Upon notification from the supervisor that the Warrant Unit shall relocate due to an emergency, the Warrant Unit Parole Administrator shall be responsible for:

- Contacting the parole unit's unit supervisor or District Administrator to advise of the Warrant Unit's plan to occupy the alternative parole unit location.
- Contacting the region's Assistant Regional Administrator to advise of the Warrant Unit's plan to occupy a Northern or Southern Region location.
- Contacting the Associate Director to inform them of the unit's emergency relocation plan.
- Monitoring the emergency to determine when it is safe to return to the primary location.
- Ensuring the Warrant Unit has the necessary items to resume and continue functioning during the relocation period.

#### **Equipment**

In order to achieve steps within the contingent plan, DAPO shall provide the Warrant Unit with the following State-issued equipment:

- Laptop computers with a desktop docking station.
- State-issued mobile phones for use during the relocation period.

The Warrant Unit supervisor shall ensure that the laptops are set up with the necessary network access including CLETS in order for the Warrant Unit staff to carryout it's duties.

#### **85090.14 Revisions**

The DAPO Director or designee is responsible for ensuring that the contents of this Article are kept current and accurate.

#### **85090.15 References**

Government Code Section 14615(b).

CCR Title 8 § 3220 Emergency Action Plan.

California Highway Patrol Handbook 100.3, California State Agency Emergency Action Plan.

CDCR Headquarters Emergency Procedures Handbook.

### **ARTICLE 44 — PAROLE POLICY REVISIONS AND DISTRIBUTION**

*Revised May 1, 2017*

#### **85091.1 Policy**

The most current versions of the official manuals and directives used by staff in the Division of Adult Parole Operations (DAPO) are available electronically on the California Department of Corrections and Rehabilitation (CDCR) internal website. The DAPO Director or designee shall review DAPO's policies at least annually and ensure recommended changes are submitted to the CDCR Regulation and Policy Management Branch or other outside stakeholder divisions or agencies. The DAPO Director or designee shall ensure that the preparation of a mission statement and long-range goals are also reviewed at least annually and updated if needed to meet DAPO's goals. The DAPO Director or designee, with input from staff, is responsible for the formation of goals, establishing policies and priorities related to them, and translating the goals into measureable objectives for accomplishment by field staff. The planning process for DAPO policies shall address the supervision and service needs of DAPO.

**85091.2 Purpose**

The purpose of this article is to establish guidelines for the revision and distribution of official DAPO manuals and directives.

**85091.3 Revising Parole Operations Policies**

A DAPO policy or procedure may be added, deleted or modified by revising the policy in accordance with Chapter 1, Article 6, Regulations and Policy Directives. The DAPO Policy and Procedures Unit will review departmental directives and publications (and those of other agencies), court decisions, and legislative bills for impact upon parole policies and procedures. If a DAPO policy or procedure is affected, the Policy and Procedures Unit shall initiate a revision and circulate the proposed policy change for field input and Regional Administrator review, route through the appropriate channels for DAPO headquarters review, and approval of the DAPO Director. DAPO shall encourage all levels of staff to participate in the development and review of policies, procedures, rules, and regulations.

A field initiated suggestion for a revision to the DOM may be submitted in writing and routed through channels to the Policy and Procedures Unit. The Policy and Procedures Unit will review and may recommend the field initiated suggestion as a policy change. Approved policy revisions will be issued electronically, and disseminated to CDCR staff via statewide electronic mail distribution.

A Notice of Change to DOM (NCDOM) will be disseminated by the Regulation and Policy Management Branch (RPMB) in accordance with Chapter 1, Article 6.

**85091.4 Requesting California Code of Regulations, Title 15, Annual Printed Version**

A printed version of the California Code of Regulations (CCR), Title 15, Division 3, is ordered annually by RPMB and shipped for distribution to the DAPO headquarters office, regional headquarters offices, and field parole units.

**Ordering Procedures:****Policy and Procedures Unit**

Completes the annual CCR, Title 15 order upon request from RPMB. Maintains the current distribution list for the DAPO headquarters office. Consolidates the DAPO annual statewide CCR, Title 15 order, and submits to RPMB in accordance with Chapter 1, Article 6.

**Regional Training Coordinator (As Changes Occur)**

Maintains the current distribution list for the regional parole headquarters offices and field parole units and forwards to the Policy and Procedures Unit annually, by the date requested.

**Distribution Procedures:****Regional Training Coordinator**

Verifies receipt and ensures proper distribution of the CCR Title 15 for the regional parole headquarters office and field parole units. Forwards copies of shipping receipts to the DAPO Policy and Procedures Unit.

**Policy and Procedures Unit**

Verifies receipt and ensures proper distribution of the CCR Title 15 for the DAPO headquarters office; reconciles orders and statewide distribution from DAPO headquarters and regional shipping receipts.

**85091.5 Annual Policy Review**

Regional Administrators will monitor their operations and organizational structure to determine the efficiency with which the goals and objectives of their parole region are being met. The monitoring process includes an annual review by administrators and functional managers to assure that the present structure and procedures are efficient means of accomplishing CDCR goals. Annually, DAPO executive staff will review the results of the annual regional reviews to evaluate progress.

**85091.6 Communication of Policies and Procedures**

All personnel should participate in staff meetings to facilitate a better understanding of policies, procedures, and progress for effective performance of their respective duties.

- Regional staff shall meet with administrators and supervisors at least monthly.
- Field administrators and supervisors shall meet at least monthly.
- Unit supervisors, parole agents, and other personnel in each unit shall meet at least monthly.
- Summary minutes of staff meetings shall be taken and distributed to appropriate staff members.
- Unit meeting minutes along with a completed CDCR Form 844, Training Participation Sign-In Sheet shall be forwarded to the divisional and regional training coordinators.
- Regional executive meeting minutes along with a completed CDCR Form 844 shall be forwarded to the regional training coordinator.

**85091.7 Revisions**

The DAPO Director or designee shall ensure that this section is current and accurate.

**85091.8 References**

American Correctional Association Standards 4-APPFS-3D-04, Policy and Goal Formulation; 4-APPFS-3D-05, Goals, Policies, and Priorities; 4-APPFS-3D-06, Annual Policy Review; and 4-APPFS-3D-07, Participation.

**ARTICLE 45 — ADMINISTRATIVE OFFICER-OF-THE-DAY**

*Revised July 3, 2018*

**85092.1 Policy**

The Regional Parole Administrator (RPA) shall be responsible for the implementation of the Division of Adult Parole Operations (DAPO) Administrative Officer-of-the-Day (AOD) procedures. An AOD shall be assigned at each parole region for issues that may arise during non-business hours. The AOD shall maintain the authority and responsibility for making administrative decisions and disseminating information regarding serious incidents throughout the region in the absence of the RPA during non-business hours. Additionally, the AOD shall be the point of contact regarding serious incidents when a unit supervisor is not reachable during non-business hours. All references to AOD in this article refer to the DAPO AOD.

**85092.2 Purpose**

To standardize the AOD's functions, authority, duties, and responsibilities.

**85092.3 Responsibility**

The AOD shall be a DAPO peace officer at the rank of Parole Agent III, possessing supervisory experience and authority to make decisions in the absence of the RPA. The AOD shall be responsible for ensuring administrative requirements are met and appropriate notifications are made relative to operational issues during other-than-normal duty hours.

**85092.4 Administrative-Officer-of-the-Day Duty Schedule**

RPAs are normally exempt from AOD duty; however, they may serve as AOD if needed. RPAs shall publish the AOD duty schedule in advance, every three months. The AOD schedule shall specify the name and period of time that each AOD shall be assigned the duties.

The Chief Deputy Regional Parole Administrator shall not normally be required to be assigned to the AOD rotation schedule, but may be added at the discretion of the RPA.

Parole Administrator Is shall not normally be required to be assigned to the AOD rotation schedule, but may be added at the discretion of the RPA.

Staff assigned to division or regional headquarters shall not normally be required to be assigned to the AOD rotation schedule, but may be added at the discretion of the DAPO Director, RPA, or designee.

Any anticipated change in the AOD duty schedule shall be approved in advance by the RPA or their designee.

AOD personnel are permitted to request a "trade" in assignment coverage. The "trade" arrangement between AODs shall be submitted by memorandum to the RPA for approval not less than 24 hours prior to assigned period of duty.

The AOD period of duty shall commence at 5:00 p.m. Friday and shall conclude at 5:00 p.m. the following Friday. The AOD shall call the Warrant Unit prior to the beginning of their first AOD shift and provide the Warrant Unit with their name and contact numbers.

Each designated AOD shall familiarize themselves with the duties and responsibilities unique and particular to their own regional instruction packet.

**85092.5 Training**

RPAs shall assure all new AODs are provided with the proper training and job orientation.

The AOD should be knowledgeable of the following procedures relative to their duties as the AOD:

- Staff death or serious injury.
- Parolee death.
- Field incident reports.
- Use of deadly force.
- Employee relations/grievances/discipline.
- Natural/man-made disaster plans.
- Mutual aid requests.
- Incidents involving high notoriety/public interest.
- Incidents involving negative contact with the public.
- Media contact or presence.
- Information Practices Act.
- Any other procedures unique to their region.

**85092.6 Instructional Packet**

Twice annually, RPAs shall communicate expectations and duty requirements to all staff designated as AODs.



An AOD instructional packet shall be developed for each parole region. The packet shall include a notification matrix for the AOD to utilize, and specific examples of:

- Situations and how they are handled.
- Departmental/institution/parole region changes.
- Current parole functions.
- Activities involving outside agencies.

The packet shall provide a list of business and after-hour contact telephone numbers for the following:

- Administrative staff.
- Appropriate outside agencies.
- Medical facilities.
- Police/sheriff departments.
- Institutional AODs.
- Departmental AODs.
- Parole agents.
- Unit supervisors.
- Assistant unit supervisors.
- District administrators.
- Judge/district attorney for after-hours warrant requests.

#### **85092.7 AOD Duties/Responsibility**

It is the responsibility of each AOD to keep the Warrant Unit informed of their contact information during their tour of duty.

The AOD shall become familiar with any special circumstances or existing situations occurring in the parole region prior to assuming the AOD duties.

In all circumstances or incidents of a serious nature where the AOD is contacted regarding a region incident, he/she shall immediately contact their RPA or designee telephonically and communicate the incident, action taken, and current status of the situation to the RPA, or their designee. A written report shall be prepared by the AOD and submitted to the RPA within 24 hours of the incident regarding AOD contact.

On the first working day following the incident, the unit supervisor of the responsible parole unit shall gather all of the field incident reports or notices of unusual occurrences that are completed by parole staff and submit to the RPA. The AOD shall maintain a daily call log detailing all phone calls received.

#### **85092.8 Administrative Officer-of-the-Day Unit Supervisor Relationship**

The parole region AOD shall be contacted when any unusual incident/situation occurs and when the unit supervisor is not available during non-business hours. From the information provided, the parole region AOD shall determine the necessary staff/resources, outside agencies, and other resources required to establish and maintain control of the situation.

#### **85092.9 Administrative Officer-of-the-Day Contact Responsibilities**

The unit supervisor shall contact the AOD on questions of policy, and all matters of unusual occurrences during non-business hours. Accurate information, details, and recommendations shall be provided by the unit supervisor to enable the AOD to make sound decisions and complete necessary reports.

The AOD shall be contacted in all incidents involving, but not limited to:

- Staff death or serious injury.
- Staff arrests.
- Parolee death.
- Use of deadly force or any use of force that could have caused death or great bodily injury.
- Any strike to the head of a person with a baton and/or impact munitions.
- Threats against public officials.
- Natural/man-made disasters.
- Mutual aid requests.
- Incidents involving high notoriety public interest.
- Incidents involving the public.
- Media contact or presence.
- Other items outlined in the instructional packet.

When the unit supervisor is unable to contact the AOD, notification of an incident shall be communicated to the RPA or their designee.

When a unit supervisor or the AOD receives information of an incident after hours, they shall immediately contact their RPA or designee telephonically. The RPA or designee shall then contact the DAPO Director or designee. All

telephonic contact will be followed up with a written summary of the incident provided to the RPA by no later than 8:50 a.m. the next working day.

The AOD shall also be responsible for contacting the Office of Inspector General (OIG) Disciplinary Monitoring Unit (DMU), and the Office of Internal Affairs (OIA) to report the following types of incidents:

- Any use of deadly force, regardless of result, including deadly force used against animals.
- Any use of non-lethal force that results in death or great bodily injury (one that creates a substantial risk of death).
- Any on-duty death or serious injury (one that creates a substantial risk of death) of a departmental staff member.
- Any off-duty death of a departmental staff member when the death has a nexus to the employee's duties within the department.
- Any death or serious injury of a parolee involved, or in contact with, DAPO staff.
- Any incident clearly involving major misconduct or negligence by a staff member.
- Incidents of high notoriety or significant interest to the public.

The OIG DMU and the OIA shall be notified as soon as possible, but no later than one hour from the time the incident is discovered. Notification to the OIG DMU shall be made by calling the OIG 24-hour critical incident notification telephone number at (916) 599-9647. Notification to the OIA shall be made by calling the OIA AOD at (916) 255-1691. If there is no answer, the caller will leave a voicemail message and a call-back number if additional information is required.

During non-business hours and in the absence of the Unit Supervisor, the AOD, upon notification shall also be responsible for contacting the nearest district California Occupational Safety and Health Administration (CAL-OSHA) office regarding any employee's serious workplace injury, illness, or death via telephone **within eight hours of knowledge of the injury/illness/death**.

CAL-OSHA considers the following conditions to be "serious injuries/illnesses":

- An injury/illness causing the need for inpatient hospitalization for **more than 24 hours**, for more than simple observation.
- Loss of any member of the body.
- Serious permanent disfigurement – scars, fractures, or burns that do not heal properly.

For incidents that occur during normal business hours, the respective RPA shall be responsible for making incident notification to appropriate executive staff, OIG, and OIA.

All OIG and OIA notifications shall be reported to DAPO Policy and Procedures Unit via the daily report process. In addition, information regarding OIG and OIA notifications must be included on a CDCR Form 1662-A, Field Incident Report: Part A – Cover Sheet, in the section titled "Description of Crime / Incident."

A notification matrix shall be used as a guide for the AOD to determine events to be reported and to whom they are to be reported.

#### **85092.10 Written Reports**

Incidents/events occurring during non-business hours and deemed serious in nature, which are of public or departmental interest, shall be reported to the AOD. Within 24 hours, the AOD shall prepare and submit a written report concerning the contact to the RPA.

#### **85092.11 CDCR Form 1662, Field Incident Report: Preliminary Incident Notification**

The CDCR Form 1662, Field Incident Report: Preliminary Incident Notification, is DAPO's initial report that an incident of departmental interest has occurred. This form shall be used by the AOD to provide written documentation of all reportable incidents. It is essential that all information available at the time of the incident be documented on this report, and completed in accordance with DOM Chapter 8, Articles 3, 4, and 5.

#### **85092.12 Revisions**

The DAPO Director or designee shall be responsible for ensuring the contents of this article are current and accurate.

#### **85092.13 References**

Title 15, CCR §§ 3276, 3291, 3380-3383, 3450.

Title 8, CCR § 342.

DOM, Chapter 5, Article 3, and Chapter 8, Articles 3, 4, and 5.

PC §§ 830, 832.2 (f), 830.5 (a) and (b).

ACA Standards 4-4206.

**ARTICLE 46 — FIREARMS AND SAFETY EQUIPMENT POLICY***Revised January 24, 2020***86010.1 Policy**

(a) While on duty, Division of Adult Parole Operations (DAPO) peace officers, Parole Agent I through the Director, shall only carry equipment that is either issued by the California Department of Corrections and Rehabilitation (CDCR), DAPO or meets the standards and conditions set forth by DAPO. While off-duty, parole agents shall exercise caution in storing all safety equipment, including firearms, to prevent loss or access by unauthorized persons. Additionally, all armed parole agents, or retired parole agents with a Carry Concealed Weapon (CCW) authorization, whether on or off-duty shall ensure qualifications are satisfied in accordance with this policy.

Great caution and sound judgment shall be exercised when carrying and using firearms; and, the preservation of public safety and the safety of staff involved are of primary importance.

**(b) Public Safety**

The need for the preservation of public safety compels staff to use extreme caution in the use of firearms. When firearms are used, the peril of injury or death to bystanders is always present. If there is no clear and present danger to another person or to the parole agent, other less lethal means, including later apprehension, shall be used. Situations may arise when it becomes necessary for a parole agent to use a firearm in a populated area. For example, a situation may exist where, if immediate action is not taken a parolee or other person could inflict great bodily harm upon a hostage, a bystander, or the parole agent. In those situations, it is the parole agent's duty to take measures necessary to prevent death or injury to a member of the public or to the parole agent.

**(c) Staff Safety**

(1) If there is a reasonable belief that clear and present danger to the life of the parole agent or another person exists, and if the parole agent feels that immediate action must be taken to dissipate that danger, it is the parole agent's responsibility to take that action. A parole agent is expected to use good judgment in evaluating situation and then to act in accordance with that evaluation. A decision made and action taken in response to field conditions is the responsibility of the parole agent involved. It is not expected that the parole agent will hesitate when hesitation would result in death or serious injury to the parole agent or to some other person.

(2) The fact that the parole agent is or is not armed will not be the primary determinant of whether the agent responds to a situation or whether the agent should remain at the scene of a potentially dangerous situation. These decisions, along with when and under what conditions a parole agent should become involved in cooperative efforts with another law enforcement agency, shall be based on safety and tactical judgments. A parole agent is not expected to engage in activities that are unreasonably hazardous simply because the parole agent is armed with a firearm.

**86010.2 Purpose**

This section establishes methods and procedures for the use, storage, and accountability of firearms, ammunition, expandable batons, chemical agents, and Electronic Control Devices (ECD) also known as a "Taser" for parole agents assigned to DAPO.

**86010.3 Parole Agent Firearm**

(a) All DAPO peace officers, hired after January 1, 1988, shall be mandatorily armed and supplied with a Division-issued firearm upon successful completion of the Basic Parole Agent Academy (BPAA) or DAPO-approved firearms training as approved by the Director, utilizing the Division-issued firearm. The parole agent shall be required to retain the same Division-issued firearm, absent the need for replacement, until separation from service or transition to a Division-approved personally owned firearm, hereinafter referred to as "Personal Firearm."

(b) The Division-issued firearm shall be the Glock 19 Generation 5 compact semi-automatic pistol. Parole agents may choose to transition to a Personal Firearm for on-duty use, upon successful completion of the BPAA and upon successful completion of qualification with the Personal Firearm. Upon the approval of a Personal Firearm for on-duty use, the parole agent shall immediately surrender their Division-issued firearm.

(c) Unless specifically revoked, all parole agents issued a Division-issued firearm are authorized to carry a Division-issued firearm while off-duty. Parole agents electing to carry a Division-issued firearm off-duty do so at their own risk and may be subject to the same liability as a legally armed citizen. The carrying of Division-issued firearms during the course of off-duty secondary employment is strictly prohibited.

(d) All parole agents appointed after January 1, 1988, are required to have a firearm issued to them, and be armed while engaged in field activities; i.e., conducting home visits, conducting collateral contacts, attempting to locate or

make contact with a parolee, or participating in any law enforcement activity. There is, however, no such authority with parole agents who are discretionally armed (appointed before January 1, 1988) to mandate that they be armed while on-duty.

**86010.4 Personal Firearms**

(a) All parole agents carrying a Personal Firearm on-duty must submit a CDCR Form 2282, Personal Firearm Authorization prior to their initial use during quarterly range qualification for authorization to carry the firearm on-duty. Thereafter, CDCR Form 2282 shall only be submitted each time a parole agent replaces their Personal Firearm with a different Personal Firearm. If the parole agent elects to carry a different Personal Firearm the parole agent shall qualify with the new Personal Firearm prior to on-duty use.

(b) The replaced Personal Firearm shall not be carried unless the parole agent elects to qualify at the next scheduled qualification. The parole agent shall submit a CDCR Form 2282 to the Rangemaster documenting the make, model, serial number, and caliber of their Personal Firearm. The Rangemaster shall inspect the Personal Firearm, noting the condition and cleanliness on the CDCR Form 1242, Firearm Requalification Verification.

(c) During the Personal Firearm qualification process, the parole agent shall demonstrate shooting proficiency by:

(1) Disassembling and assembling of the firearm (if qualifying with a new firearm).

(2) Deploying and manipulating the firearm in a safe manner.

(3) Clearing all malfunctions incurred while shooting.

(4) Obtaining a qualifying score with the approved course of fire.

(d) Upon signing and approving the CDCR Form 2282, a copy of the CDCR Form 2282 shall be issued to the parole agent and his or her supervisor. The original shall be routed to the Regional Training Coordinator (RTC) for entry of the firearm's information into the Centralized Armory Tracking System (CATS).

(e) If the parole agent fails to perform any of the steps outlined above, the request to carry a Personal Firearm shall be denied. If at any time, the Rangemaster determines the parole agent is unable to adequately manipulate their Personal Firearm or that the Personal Firearm is not functioning reliably for duty use, the request for authorization to carry the firearm shall be denied or revoked. The denial or revocation shall be documented on a completed CDCR Form 2282 and routed as noted above.

(f) If the authorization is revoked, the parole agent shall no longer be authorized to carry their Personal Firearm on-duty or off-duty until a qualifying score is achieved or until the parole agent secures written confirmation of repair by a qualified armorer or gunsmith and submits the repair verification to the Rangemaster for approval. It is the parole agent's responsibility to correct the deficiency prior to submitting a new authorization request.

(g) A parole agent may carry their Personal Firearm while off-duty if in compliance with the quarterly qualification requirements. The parole agent may not qualify with a personally owned non-duty firearm during work hours and shall sign a CDCR Form 2281-A, Range Liability Waiver for Off-Duty/Retiree. The CDCR Form 2281-A shall be forwarded to the RTC and retained in the employee's training file. If the parole agent is using a non-duty firearm it shall meet the following requirements for off-duty qualification and shall be:

(1) A .22 to .45 caliber (includes 9mm and 10mm); and

(2) A double action semi-automatic pistol; or

(3) A single action semi-automatic pistol with an external safety; or

(4) A double action revolver.

(h) The following firearms are not permitted:

(1) Single action revolver.

(2) Derringer type pistol.

(3) Shotgun.

(4) Rifle.

(5) Black powder guns.

(i) Prior to use, all firearms and ammunition shall be inspected by the Rangemaster. Any firearm deemed unacceptable or unsafe shall be removed from the range and not used.

**86010.5 Personal Firearm for On-Duty Use**

(a) All parole agents may elect to carry a Personal Firearm for on-duty use. The Personal Firearm, magazines, magazine carrier, and holster shall be purchased at the employee's expense and comply with existing DAPO policies regarding firearm and safety equipment.

(b) The following Personal Firearms are authorized for on-duty use:

(1) Glock Models

(A) Glock-series subcompact, compact (i.e. Glock 43x, Glock 48) or standard semi-automatic 9mm or .40 caliber firearm.

(B) Glock subcompact G43 semi-automatic 9mm (Parole Agent IIIs and above only).

(2) Prior authorized firearm models 2nd and 3rd generation Smith & Wesson (S&W) double action revolver, semi-automatic 9mm or .40 caliber, S&W M&P series 9mm or .40 caliber, and Heckler and Koch Universal Self-Loading Pistol (Variant 1 or Variant 2 with external safety) in 9mm or .40 caliber are no longer authorized unless the firearm was consistently used on-duty prior to the implementation of this Department Operations Manual (DOM) article. In the event a prior authorized firearm model needs repair and the firearm can be repaired in 60 days the firearm can still be used for on-duty use after the repair is completed and inspected by a Rangemaster.

#### **86010.6 Firearm Modifications**

(a) Parole agents may purchase and install, at their own expense, the following modifications to their Personal Firearm(s):

- (1) Night sights.
- (2) Grip sleeves/wraps.
- (3) Aftermarket sights.
- (4) Aftermarket grips.
- (5) Extended slide release/stop.
- (6) Magazine well/grip flare adapter.
- (7) Magazine adaptors.\*

\* Magazine adaptors either increase the capacity of a standard magazine, increase the grip length, or allow for the use of large magazines in compact pistols by the addition of a grip portion placed onto the magazine.

(b) The only approved modification to the Division-issued firearm is the installation of a grip sleeve or wrap, at the parole agent's expense. Modifications to the factory-set trigger pull shall **not** be permitted on any duty firearm.

(c) Any modifications to a firearm (personal or Division-issued) are subject to inspection by the designated Lead Rangemaster. The Lead Rangemaster has the discretion to have the modification removed or to prohibit the firearm from duty use if it is being used in a manner which compromises the safe operation of the firearm.

#### **86010.7 Pistol-Mounted Lights**

(a) This section applies only to parole agents assigned to California Parole Apprehension Team (CPAT). Parole agents may elect to use a pistol-mounted light while on duty. Pistol-mounted lights and associated equipment, including approved holsters, rail adapters, pressure switches, batteries, etc., shall be purchased at the parole agent's expense with no reimbursement by DAPO. Pistol-mounted lasers are **not** authorized for use.

(1) Pistol-mounted lights employing an ambidextrous push/toggle switch to provide single-finger operation for either momentary or constant-on operation and grip activated switches are approved for on-duty use.

(2) The following pistol-mounted lights meet DAPO-approved standards and are authorized for on-duty use:

- (A) Streamlight.
- (B) Insight Technologies.
- (C) Surefire.
- (D) Blackhawk.
- (E) TLR Series.
- (F) M or X Series.
- (G) X Series.
- (H) Xiphos Series.

(3) Pistol-mounted lights are considered part of the firearm weapon system and shall be carried in a DAPO-approved holster. All DAPO-approved holsters designed to carry pistol-mounted lights shall also meet the following requirements:

- (A) The parole agent shall use a DAPO-approved holster that allows the operator to carry the firearm with the pistol-mounted light attached.
- (B) The parole agent shall have the light securely attached to the firearm while in use and shall not require removal to holster the firearm.

#### **(b) Pistol-Mounted Light Approval Process**

(1) Prior to use, the CPAT parole agent shall successfully complete the DAPO-approved pistol-mounted light initial training course. During training, the parole agent shall have their firearm, pistol-mounted light, and holster inspected by a DAPO Rangemaster to ensure compliance with this policy. The parole agent shall demonstrate the following skills with their firearm, pistol-mounted light, and DAPO-approved holster prior to approval:

- (A) Obtaining a qualifying score utilizing the DAPO-approved diminished-light pistol qualification course and maintain qualification at least annually.
- (B) Safely deploying and manipulating the firearm with the pistol-mounted light.
- (2) Any parole agent who fails to achieve a passing score during the pistol-mounted light training or annual diminished-light pistol qualification course shall **not** be authorized to use a pistol-mounted light.
- (3) The completed training shall be documented on the CDCR Form 2283, Non Standard Weapon or Equipment Authorization, noting the make, model,

serial number, and caliber of the parole agent's firearm; and the make and model of the pistol-mounted light. A copy of the CDCR Form 2283 shall be forwarded to the RTC for recording in CATS and retention in accordance with current DAPO policy. The parole agent who completed the training shall ensure a copy of the approved CDCR Form 2283 is provided to their supervisor for placement into their supervisory and training files.

(4) The authorization to use pistol-mounted lights is conditional and may be suspended, revoked, or canceled with cause, as determined by the Regional Parole Administrator or designee.

#### **(c) Required Use of Handheld Flashlights**

Parole agents shall carry a handheld flashlight to use as a light source in accordance with current DAPO policy. Pistol-mounted lights are **not** authorized for on-duty use as a substitute for a handheld flashlight or in any circumstance where drawing a firearm is not warranted.

#### **86010.8 Approved Holsters**

(a) Approved holsters must be equipped with a covered trigger guard; employ a thumb break, thumb release, finger release or manual release retention strap; and be secured to the belt. Paddle type holsters shall not be authorized for on-duty use, unless assigned to a Division or Regional Headquarters office. Rangemasters shall inspect the parole agent's holster to ensure it is in compliance with this policy before approved for duty use.

(b) The following types of holsters are approved:

- (1) Outside-the-belt, hip holsters worn on the strong side.
- (2) Outside-the-belt, thigh holsters. (For tactical use only, must be wearing identifiable clothing that identifies the parole agent as a peace officer.)

(c) An approved holster may be used by a parole agent if they achieve a qualifying score while wearing the approved holster. If the parole agent chooses the option of an additional holster, a qualifying score must be obtained once per calendar year using that holster.

#### **86010.9 Ammunition and Ammunition Carriers**

##### **Ammunition**

##### **(a) Ammunition**

(1) Only Division-issued ammunition shall be utilized while the parole agent is on-duty. If the parole agent elects to carry their Personal Firearm while off-duty, Division-issued ammunition may be carried in the firearm; however, the ammunition may only be used in situations that would be consistent with approved uses while on-duty. Division-issued ammunition shall not be modified or altered.

(2) Unauthorized use of Division-issued ammunition while off-duty would include:

- (A) Any type of target or range practice.
- (B) Any discharge of a firearm where the use of deadly force would not be authorized.

##### **(b) Ammunition Carriers**

(1) Parole agents who carry a S&W Model 64 revolver shall carry, in addition to a fully loaded firearm, a fully loaded speed loader secured in a pouch that requires an overt action by the parole agent to remove the speed loader.

(2) Field parole agents who carry a Division-issued firearm or personal firearm shall carry the firearm fully loaded with at least one additional fully loaded magazine. Additional magazines are not mandatory unless the parole agent is participating in range qualification or planned arrests (two additional magazines required).

When carrying additional magazines, the parole agent shall carry the magazines in a carrier equipped with an over-the-top strap or friction retention, which relies upon drag tension to retain the magazine. The magazine carrier shall also be secured in such a manner that it will remain secure during a wide range of movements or vigorous activity. Additional magazines not carried by the parole agent shall remain accessible at all time while on-duty.

#### **86010.10 Back-up Firearm**

(a) Parole agents assigned to CPAT, or other specialized team, may carry on-duty a personally owned back-up firearm upon the approval of the Director or designee. To obtain approval the parole agent shall request approval through their Parole Administrator and successfully complete a DAPO-approved Back-Up Firearms Training Program. After completing the Back-Up Firearms Training Program the parole agent must complete a CDCR Form 2283, Non Standard Weapon or Equipment Authorization along with a CDCR Form 2282, Personal Firearm Authorization and submit the forms through the chain-of-command to the Director or designee. Only after approval by the Director or designee may the back-up firearm be carried on-duty.

(b) The back-up firearm may be carried concealed on the ankle or concealed/unconcealed on a ballistic or tactical vest, provided the holster is equipped with a trigger guard and employs a thumb break, thumb release, finger release, or manual retention strap that secures the firearm during

vigorous activity. The back-up firearm shall only be carried with a primary on-duty firearm and shall meet the following requirements:

- (1) Must utilize Division-issued ammunition that is 9mm or .40 caliber; and
- (2) Has a minimum capacity of five rounds; and
- (3) Must be a subcompact or subcompact (slim-line) semi-automatic pistol S&W M&P or Glock.
- (c) The back-up firearm may be used under the same circumstances as the primary on-duty firearm.
- (d) All parole agents utilizing a back-up firearm shall qualify with the back-up firearm a minimum of once every quarter.

#### **86010.11 Parole Agent Arming**

(a) All DAPO peace officers hired after January 1, 1988, shall be mandatorily armed with a DAPO-approved firearm for on-duty use. The firearm shall be carried when exercising duties that pose a risk to officer or public safety or if in the supervisor's judgement, the carrying of the firearm will enhance officer or public safety.

(b) All parole agents ineligible for a reduced arming level shall be mandatorily armed with the following safety equipment when exercising duties that pose a risk to officer or public safety:

- (1) Firearm with a chambered round, magazine loaded to maximum round capacity inserted, and safety on (if equipped).
- (2) At least one additional magazine loaded to maximum round capacity in an approved magazine carrier. All magazines shall be loaded to maximum round capacity.
- (3) Handcuffs in a holder.
- (4) State Identification Card.
- (5) CDCR Form 2229, Firearm Qualification Card.
- (6) Badge (neck badge or belt badge that is visibly displayed and worn on the strong side forward of the firearm, if unconcealed).
- (7) Oleoresin Capsicum (OC) spray or expandable baton.
- (8) Approved ballistic vest.
- (9) ECD (if issued).

(c) Firearm and safety equipment may be worn in an unconcealed manner while in the confines of DAPO parole units and administrative offices. Parole agents shall exercise discretion whether to be visibly armed (exposed carry) in the community. In exercising this discretion, and in the interest of public safety, parole agents shall clearly identify themselves as peace officers in the community as the need arises.—Parole agents shall wear a DAPO-approved field or administrative polo-style shirt or DAPO-approved tactical attire that meets the standards set forth in DOM Section 85050.6. If unplanned or exigent circumstances arise or when responding to an emergency situation involving the potential for serious/life threatening circumstances, parole agents may be exempt from this section.

(d) All other safety equipment (e.g., flashlight or one additional magazine in an approved magazine carrier) not mandated for on-duty use shall remain accessible to parole agents at all times while on-duty. Parole agents authorized for reduced arming shall not be required to maintain access to their non-mandated safety equipment while on duty, but are encouraged to do so.

#### **86010.12 Reduced Arming**

(a) Parole agents who are assigned to any of the following positions shall have the option of utilizing a reduced arming level:

- (1) A parole agent position in a Division or Regional Headquarters office.
- (2) Court Agent or Notice Agent including the Parole Agent II, Supervising Court Agent while performing their regularly assigned duties.
- (3) Parole Agent III assigned to a parole unit while not engaged field activities (defined in DOM Section 86010.25).
- (4) Parole Administrators or above.

(b) Reduced arming shall consist of:

- (1) Firearm worn in a concealed or unconcealed manner utilizing an inside or outside the waistband holster.
- (2) An approved holster as described in DOM Section 86010.8; a friction retention holster that securely retains the firearm during vigorous activity and a wide range of movements without hindering firearm access, retention, or deployment; or an inside-the-waistband holster.
- (3) Firearm with a chambered round, full magazine inserted, and safety engaged (if equipped).
- (4) State Identification Card.
- (5) Firearm Qualification Card.
- (6) Badge (neck badge or belt badge that is visibly displayed and worn on the strong side forward of the firearm).

#### **86010.13 Firearms Qualification**

(a) All parole agents armed with a DAPO-approved firearm for on-duty use shall be required to qualify quarterly during the normal quarterly qualification period, i.e., first quarter—January, February, March; second quarter—April, May, June; third quarter—July, August, September; and fourth quarter—

October, November, December. This qualification shall be at a DAPO-approved range and approved by a supervisor.

(b) The parole agent shall have the entire quarter in which to achieve a qualifying score of 75 percent on the DAPO-approved course of fire. If the parole agent fails to achieve a qualifying score of 75 percent during quarterly qualification, the parole agent shall be scheduled to complete and achieve a qualifying score of 70 percent utilizing the Peace Officer Standards and Training (POST) 36-round course of fire and may also be required to participate in a shooter's clinic. Firearms shall not be removed from the parole agent **within** the quarter unless the parole agent demonstrates unsafe handling of the firearm as determined by a Rangemaster or supervisor.

(c) Training schedules shall be made available to staff prior to each quarter, affording staff multiple opportunities to schedule firearms training. It is incumbent upon each parole agent that signs up for firearms training to report as scheduled and be prepared to complete the training. If the parole agent fails to achieve a qualifying score by the end of the quarter, they shall lose authorization to carry a firearm, and shall physically surrender their Division-issued firearm to their supervisor or RTC on the first working day of the new quarter.

(d) If the parole agent's duty firearm is a Personal Firearm, the supervisor shall advise the parole agent in writing that they are not authorized to carry the firearm on or off-duty until they have qualified with their Personal Firearm. A copy of the written notice shall be forwarded to the RTC and placed in the parole agent's training file. Under no circumstances shall the parole agent be allowed to carry a firearm on-duty, pending requalification. The parole agent shall remain on paid work status for up to 30 calendar days, following the end of the quarter. During this 30 calendar day period, the RTC shall provide the parole agent with reasonable opportunities to raise their competence level and to qualify on the DAPO-approved course of fire.

(e) If the parole agent still fails to achieve a qualifying score within 30 calendar days after the end of the quarter, the parole agent shall be placed on unpaid leave for up to 60 calendar days. During this 60 calendar day period, the burden to raise their skill level rests with the parole agent. DAPO will not expend resources during this period to raise the parole agent's skill to an acceptable level. It is the parole agent's responsibility to contact the region when they believe they are ready and able to achieve a qualifying score. The region shall then schedule a firearms training qualification for the parole agent at the earliest possible time based on range and Rangemaster availability. If the parole agent fails to achieve a qualifying score 90 days after the end of the non-qualifying quarter, the Parole Agent may be separated from state service pursuant to Government Code (GC) Section 19585 or other applicable GC sections.

#### **86010.14 Diminished Light Range Firearms Training**

All armed parole agents shall attend annual diminished light range firearms training for diminished light qualification. A qualifying score achieved during diminished light range firearms training shall satisfy the parole agent's quarterly firearms qualification requirement. If the parole agent fails to achieve a qualifying score during the diminished light range firearms training, the parole agent shall be scheduled to complete and achieve a qualifying score of 70 percent utilizing the POST 36-round course of fire and may also be required to participate in a shooter's clinic.

#### **86010.15 Required Equipment for Quarterly Firearms Training**

(a) All parole agents who report for quarterly firearms training shall ensure they wear all required safety equipment. This includes the following:

- (1) Division-approved firearm in an approved holster.
- (2) One primary and at least two additional full magazines in an approved ammunition carrier or one speed loader in an approved carrier (revolver shooters).
- (A) 50 rounds of Division-issued ammunition.
- (B) Handcuffs in a holder.
- (C) Oleoresin Capsicum (OC) spray.
- (D) Expandable baton.
- (E) Badge.
- (F) State Identification Card.
- (G) CDCR Form 2229, Firearm Qualification Card.
- (H) Ballistic vest.
- (I) Flashlight (required only during night range).
- (J) ECD (if issued).

(b) Rangemasters shall ensure each parole agent is wearing all the required equipment. Additionally, Rangemasters shall inspect the equipment to ensure it is serviceable. If the parole agent reports for firearms training and is not wearing all the required equipment, or the equipment is found to be unserviceable, the parole agent shall not be allowed to participate in the training and shall be instructed to reschedule for firearms training on a later date, within the same quarter.

**86010.16 Firearms Training Attire**

(a) During firearms training, parole agents shall wear range attire that is consistent with the requirement set by the Division and range facility. Therefore, the RTC shall establish attire standards for local ranges that may be more restrictive than the Division's standard.

(b) The Division's standard for range attire shall consist of attire typically worn by the parole agent while on-duty and shall, at a minimum, consist of a shirt or sweater with sleeves, pants, belt, and closed-toe shoes (no high heels). If wearing pants without pockets, the parole agent must wear a vest or jacket with pockets that allows for the carrying of ammunition. The attire must conceal the firearm and safety equipment.

(c) On institutional grounds, participants shall not wear attire which bears resemblance to inmate clothing or clothing that is unauthorized by the institution. This includes, but is not limited to, camouflage, blue chambray shirts, and blue denim clothing. Under no circumstances shall sleeveless shirts, shorts, or open-toe shoes be worn for range training or qualification. Participants who report in improper attire shall not be allowed to participate in range qualification.

**86010.17 Firearms Qualification Verification**

At the conclusion of the firearms qualification, the Rangemaster shall issue each parole agent a CDCR Form 1242, Firearm Requalification Verification for the parole agent's qualifying firearm. This document verifies the parole agent's participation in firearms training and notes whether or not qualification was achieved. It also documents the mechanical condition of the firearm and any safety or shooting concerns, including recommendations that the shooter attend the Shooters' Clinic.

**86010.18 Firearm Qualification Card**

(a) Upon achieving a qualifying score during firearms qualification and demonstrating proficiency with the approved firearm, the Rangemaster shall issue a CDCR Form 2229, Firearm Qualification Card to the parole agent for the firearm used during qualification. The CDCR Form 2229 shall be completed in blue or black ink and shall contain the following:

- (1) Parole agent's name and badge number.
- (2) Firearm model and serial number.
- (3) Qualification date and Rangemaster's signature.
- (b) The parole agent shall ensure they are in possession of the CDCR Form 2229 or Quarterly Qualification Certification at all times while on-duty and while carrying a firearm off-duty. If the parole agent qualifies with their off-duty firearm at a private range, they shall carry the qualification card issued by that Rangemaster.

**86010.19 Shooters' Clinic**

(a) While conducting range operations, Rangemasters shall observe and document the parole agent's overall performance. If a Rangemaster determines the parole agent needs additional training, they shall refer the parole agent to a Shooters' Clinic. The Rangemaster shall document the referral on CDCR Form 1242, Firearm Requalification Verification.

(b) The Lead Rangemaster shall notify the supervisor and the parole agent, via the RTC, of the next Shooters' Clinic. The parole agent shall attend the next Shooters' Clinic to address the identified deficiencies. Failure by the parole agent to cooperate may result in a recommendation of revocation to carry a firearm, progressive discipline, or both. Additionally, a parole agent who may not feel proficient with their firearm may request additional training. In these situations, the parole agent may request to attend a Shooters' Clinic. The parole agent shall contact the RTC for scheduling.

**86010.20 Parole Agent Absence for 90 Calendar Days or Longer**

(a) The supervisor shall recall the Division-issued firearm of any parole agent who will be absent or on leave for 90 calendar days or longer and shall deliver it to the RTC until the parole agent returns to duty.

(b) Any DAPO parole agent returning from an absence of six months or longer, must complete the DAPO Firearms Familiarization course prior to the reissuance of the Division-issued firearm or being authorized to carry a firearm on duty. If the absence was longer than 36 months the parole agent must attend Penal Code (PC) Section 832 weapons qualification training at the BPAA as outlined in DOM Section 32010.19.1.

**86010.21 Supervisor Compliance Review**

(a) At least semi-annually, the supervisor shall review the parole agent's compliance with the prerequisites for continued authorization to be armed. This review shall focus on the following areas:

- (1) Completion of Quarterly Firearms Qualification, as required by this article.
- (2) Attendance at annual firearms training, quarterly qualification, and achieving a passing score on any required exams.
- (3) Demonstrated ability to safely handle the firearm, as determined by the supervisor or a Rangemaster.

(4) Any incident where the individual parole agent may have unholstered the firearm (for compliance with policy).

(5) The wearing of required equipment when armed.

(b) If the parole agent is found to be deficient in any of the above-listed areas, the supervisor may, for cause, remove the parole agent's authorization to be armed. If the authorization to be armed is removed from a parole agent who is mandatorily required to be armed; and the problem is not resolved within 30 days, the supervisor shall take appropriate disciplinary action.

(c) In making the determination regarding criteria in this section, the supervisor shall consider information provided from the written training records by the Rangemaster and RTC. The firearm and/or authorization to be armed shall be reissued when the parole agent is in compliance with the DAPO firearms policy.

**86010.22 Revoking Authorization to be Armed**

(a) In addition to the Supervisor Compliance Review, the supervisor may, for cause, revoke the parole agent's authorization to be armed at any time.

(1) The following policy violations **shall** require the supervisor to withdraw the parole agent's authorization to be armed and to immediately take the parole agent's Division-issued firearm:

(A) Failure to achieve a minimum qualifying score within the quarter, or requalify in the required time frame.

(B) Demonstrated inability to safely handle the firearm either on the range or in a field situation.

(C) Serious violation of the Division firearms policy; e.g., improper drawing of the firearm, improper discharge of the firearm; and/or, the unauthorized carrying of the DAPO Division-issued firearm while off duty.

(D) Failure to attend required classroom training or range course.

(E) Minor violations of the DAPO firearms policy (e.g., failure to attend a mandated Shooters' Clinic, use of a non-approved holster; and failure to respond to corrective action).

(F) Administrative reassignment of a parole agent as a result of a certified stress related condition.

(2) The Hiring Authority may revoke the authorization to carry a concealed firearm off-duty for any employee, if the employee:

(A) Is found to lack the physical capability or mental stability to exercise this privilege.

(B) Is arrested for a felony.

(C) Is subject to adverse action.

(D) Is placed on Administrative Time Off during the processing of an adverse action.

(E) Abuses the privilege of carrying a concealed firearm off-duty (e.g., displaying a firearm in a threatening manner in an inappropriate situation).

**(b) Written Notice and Appeal Process**

(1) The reasons for revoking authorization to be armed on or off-duty shall be provided in writing to the parole agent by the revoking authority within 24 hours. The parole agent may appeal the revocation in accordance with the current Bargaining Unit 6 grievance process. Parole agents shall be expressly directed not to carry a concealed weapon off-duty during this appeal period.

(2) If the firearm is removed from a mandatorily armed parole agent for any reason other than failing to qualify, and the problem is not resolved within 30 calendar days, the parole agent shall be placed on unpaid leave for a maximum of 60 calendar days or until the problem is resolved. Failure to correct the deficiency within the 60 calendar days may result in separation from State service pursuant to applicable GC sections.

**86010.23 Approved Flashlights**

Handheld flashlights shall be equipped with a momentary switch. A momentary switch allows the operator to temporarily activate the flashlight by partially or fully pressing the activation switch. The flashlight shall automatically turn off when pressure is removed from the switch. For constant light, the operator must fully press the activation button until it clicks or turn the endcap, depending on the flashlight model. The approved flashlight shall be accessible to the parole agents at all times.

**86010.24 Expandable Baton**

(a) The Monadnock Auto Lock 18-inch expandable baton with a Power Safety Tip shall be provided as an additional piece of safety equipment to all parole agents and is authorized for use. All parole agents shall complete the four-hour expandable baton certification training prior to issuance and shall complete two hours of recertification training annually.

(b) All parole agents shall have the option to carry the expandable baton during routine duties, but shall ensure they have access to the expandable baton at all times while on-duty. While carried, the expandable baton shall be carried in a concealed manner except when it is being carried in an enforcement or tactical situation, e.g., multi-agency raids, arrests, anytime the raid jacket/vest is worn. The expandable baton shall be worn during enforcement or tactical situations, range qualification, and certification training.

(c) In situations where, in the judgment of the supervisor, the parole agent's safety and effectiveness will be enhanced by the carrying of the baton, all parole agents including non-mandatorily armed parole agents shall be required to carry the baton.

#### **86010.25 Ballistic Vests**

(a) All DAPO peace officers shall wear the Division-issued ballistic vest while on-duty in the following circumstances:

- (1) During range qualification.
- (2) While engaged in field activities, i.e., conducting home visits, conducting collateral contacts, attempting to locate or make contact with a parolee, or participating in any law enforcement activity.
- (3) When in the judgment of the supervisor, the parole agent's safety and effectiveness will be enhanced by wearing the ballistic vest.

#### **86010.26 Firearm and Safety Equipment Storage**

(a) While within the confines of the parole unit, the firearm, if not worn, shall be secured in a gun locker. Overnight storage of a firearm in an office gun locker shall require authorization from a supervisor.

(b) Safety equipment (if not worn), including ballistic vests, shall be stored in the office in a secured location that prevents unauthorized access or secured in the trunk of a vehicle.

(c) While on-duty, firearms may be stored for short periods of time in a vehicle when there are no other available means for securing the firearm. If stored in a vehicle, the firearm shall be secured in a vehicle trunk or DAPO-issued firearm lock box which is not in plain view. Care shall be exercised to ensure the parole agent is not observed by others when storing the firearm in the vehicle.

(d) Under no circumstances may a firearm, ammunition, chemical weapon, or other item of equipment that may threaten the security of a correctional facility be left in any unattended vehicle, including the vehicle trunk or DAPO-issued firearm lock box while parked on institution grounds. At such facilities, the weapons and attending equipment shall be checked into the specific area designated by facility staff for safekeeping and temporary storage.

(e) For non-CDCR correctional facilities:

- (1) Parole agents shall store all safety equipment prohibited from entering a non-CDCR correctional facility or any equipment that may threaten the security of a non-CDCR correctional facility in the area designated for the safekeeping and temporary storage of safety equipment.
- (2) If the facility does not have a designated area for safekeeping and temporary storage of safety equipment, the parole agent may temporarily store their safety equipment or any equipment that may threaten the security of a non-CDCR correctional facility in the locked trunk of a State vehicle or DAPO-approved lock box.

#### **86010.27 Safety Equipment Storage at the Residence**

The firearm shall be stored in a safe and secure location to prevent access to the firearm by unauthorized persons or children. It is recommended that all armed parole agents use a gun safe, cable/trigger lock, or any other device that will secure the firearm. Safety equipment other than a firearm may be stored in the State vehicle's trunk, DAPO-issued secured locked storage compartment, or secured inside the parole agent's residence overnight.

(a) Rangemasters shall conduct a function check of all firearms prior to each firearm training session and document the condition of the firearm on the CDCR Form 1242, Firearm Requalification Verification. Division-issued firearms which fail the function check shall be replaced. The malfunctioning firearm shall be repaired locally by a DAPO armorer or returned to the Division Training Unit for repair. DAPO armorers are authorized to conduct repairs in DAPO offices if it is safe to do so and the repairs are conducted in a closed room that is not accessible to parolees. The armorer shall forward the repair information to the RTC who shall ensure the repair information is entered in CATS.

(b) Personal Firearms that fail the function check shall not be allowed for duty use until the parole agent secures written confirmation of repair by a qualified armorer or gunsmith and submits the repair verification to the Rangemaster. The Rangemaster shall forward a copy of the repair verification to the RTC for entry in CATS. While the Personal Firearm is being repaired, the parole agent shall be issued a Division-issued firearm and shall be required to qualify after completing the transition course, if needed, or shall be allowed to qualify with another Personal Firearm.

(c) If the duty firearm is found to need repair and the Division-issued replacement firearm is the same model as the parole agent's duty firearm, the parole agent shall not be required to qualify prior to use if qualification has already been achieved for that quarter. If the Division-issued replacement firearm is not the same model as the parole agent's duty firearm, the parole agent shall be required to qualify with the replacement firearm after completing the transition course, if needed, prior to carrying it on-duty.

(d) The parole agent shall be responsible for ensuring the firearm is cleaned prior to each firearms qualification session. Parole agents reporting to the firearms qualification session with an unclean firearm shall not be allowed to qualify. The parole agent shall be allowed to clean the firearm and qualify on a subsequent firing line on the same day, if space is available. If space is not available, the parole agent shall be required to reschedule for training within the quarter. The unclean condition of the firearm shall be documented on the CDCR Form 1242. Firearm cleaning at the range may be completed as part of a parole agent's workday.

#### **86010.29 Retired Parole Agent**

(a) Prior to retirement, the parole agent may apply for a CCW identification card through the Department. Upon approval and issuance of the identification card, the retired parole agent shall refer to federal, state, and local laws related to carrying a concealed firearm for areas the retired parole agent resides and/or travels in.

##### **(b) Qualification**

Retired parole agents who have been issued a CCW endorsement, shall qualify prior to carrying a concealed weapon and shall qualify at least annually thereafter.

##### **(c) Scheduling**

Retired parole agent qualifications shall occur in conjunction with quarterly qualifications. The retired parole agent shall contact the RTC to obtain the range schedule and secure a range date. The RTC shall notify the local Rangemaster of the participant's request for qualification. Additional range days shall not be scheduled for the purpose of qualifying retired parole agents. Retired parole agents may be placed on existing range qualification lines, space permitting, to the far right or left of active parole agents.

##### **(d) Deployment**

During qualification, retired parole agents shall not be compelled to utilize DAPO's drawing and make ready procedures. Retired parole agents may use the stance and deployment method of their choice, as long as the firearm is handled in a safe manner.

##### **(e) Firearms**

Retired parole agents are allowed to qualify with firearms for concealed carry. Retired parole agents must comply with the following requirements.

(1) Firearms used for retired qualification shall be:

- (A) A double action semi-automatic pistol.
- (B) A single action semi-automatic pistol with an external safety.
- (C) A double action revolver.
- (D) A .22 to .45 caliber (includes 9mm and 10mm).

(2) The following firearms are not permitted:

- (A) Single action revolver.
- (B) Derringer type pistol.
- (C) Shotgun.
- (D) Rifle.
- (E) Black powder guns.

(3) Prior to use, all firearms and ammunition shall be inspected by the Rangemaster. Any firearm deemed unacceptable or unsafe shall be removed from the range and not used.

##### **(f) Ammunition**

The retired parole agent shall provide the rounds necessary for the qualification course, at their cost. Only factory loaded/reloaded ammunition shall be allowed. Snake shot, plastic loads, and loads which exceed industry standards shall not be permitted.

##### **(g) Safety**

(1) The retired parole agent shall follow DAPO range safety rules along with rules set by the range facility and sign a CDCR Form 2281-A, Range Liability Waiver for Off-Duty/Retiree prior to participating in range qualification. Severe or repeat violations of range safety rules shall be grounds for removal from the firing line. While on the range, each participant shall follow all instructions of the Rangemaster. The Rangemaster shall maintain full authority for range activities and may exclude or expel any participant from the range for good cause.

(2) The retired parole agent must demonstrate knowledge of how their firearm operates, including loading and rendering the firearm safe.

##### **(h) Qualification Standard**

The retired parole agent shall qualify utilizing a standard DAPO-approved course of fire and must achieve a qualifying score within the scoring area. If the retired parole agent is unable to obtain a qualifying score on the DAPO-approved course of fire, the retired parole agent may qualify with a passing score of 70 percent utilizing the POST 36-round course of fire.

**(i) Documentation**

The retired parole agent's qualification shall be documented on a separate CDCR Form 844, Training Participation Sign-In Sheet. The CDCR Form 844 shall be labeled, "Retiree/Off-Duty Range Qualification" in the class title and contain the date, time, and location of the qualification. The Rangemaster shall forward the CDCR Form 844 and signed CDCR Form 2281-A to the RTC. The CDCR Form 844 and CDCR Form 2281-A shall be maintained in accordance with the current DAPO records retention schedule. The Rangemaster shall sign the retired parole agent's qualification card noting the date, firearm make, model, and serial number.

**86010.30 Retired Annuitants Arming and Training**

(a) Retired Annuitants (RA) returning to State service in the parole agent series, who have separated from DAPO for one day or longer, are considered rehired employees and shall not have the option of being unarmed. RAs may elect to carry a Personal Firearm and shall be scheduled for firearms training at the earliest available range date to ensure they are in compliance with DAPO firearm training requirements as outlined below. RAs are required to qualify quarterly to maintain employment with DAPO. RAs working in the parole agent series must carry the required complement of DAPO-issued equipment pursuant to current DAPO policy. The equipment the RA elects or is required to carry daily shall vary depending on job assignment.

(b) RAs returning to DAPO employment shall:

- (1) Within one quarter, attend the next quarterly qualification.
- (2) Following an absence of six months or longer, attend the DAPO Firearms Familiarization Course.
- (3) Following an absence of any length, having carried a revolver, attend the DAPO Semi-Automatic Transition Course.
- (4) Following an absence of any length, having retired as an unarmed parole agent, attend the BPAA Firearms Training course.

**86010.31 Carrying A Firearm Off-Duty**

PC Section 830.5 provides that parole agents employed by CDCR may carry concealed firearms off-duty subject to certain terms and conditions. This PC section also authorizes the DAPO Director to revoke or deny for good cause a parole agent's authority to carry concealed firearms. Parole agents who choose to carry a Personal Firearm while off-duty do so at their own risk and in doing so, assume the same liability as any other armed citizen.

**86010.32 Personally Owned Firearms in State Vehicle or State Owned/Leased Facility**

(a) All firearms owned by non-sworn staff, including non-sworn staff in possession of a CCW, shall not be taken into any State office, State owned or leased facility, or parole office while on-duty.

(b) While on-duty, parole agents shall only carry Personal Firearms as defined in this policy. Firearms not approved for on-duty use shall not be carried or possessed by parole agents while on-duty or stored in a vehicle or State facility that is used for official State business; except under the following circumstances:

- (1) During the course of a regularly scheduled work day and on the day of range qualification, parole agents are in route to qualify with a Personal Firearm not approved for duty use at a DAPO-approved range (i.e., prior to start of shift, at the end of shift, or during a lunch break).
- (2) When parole agents are required to travel overnight on State business.
- (c) When transporting a personally owned firearm in a vehicle used for State business, the firearm must be transported in the trunk of the vehicle or DAPO-issued firearm lock box.

**86010.33 Flying Armed**

(a) On occasion and while on-duty, parole agents may carry a firearm on a commercial airplane provided that all Transportation Security Administration (TSA)/Federal Aviation Administration (FAA) requirements are met and the necessity to travel armed is approved by the parole agent's Chief Deputy Regional Administrator or Associate Director via the chain of command.

(b) Upon approval of the Chief Deputy Regional Administrator or Associate Director and prior to requesting to fly armed, the parole agent shall complete the TSA "Law Enforcement Officers Flying Armed" training course. This training program is mandatory for all Law Enforcement Officers (LEO) boarding aircraft while armed with a firearm under the Code of Federal Regulation (CFR) 1544.219, Carriage of Accessible Weapons.

(c) A National Law Enforcement Telecommunications (NLETS) message or receipt generated by the California Law Enforcement Telecommunications System is required by FAA in order to fly armed. The DAPO Warrant Unit shall be the sole source of obtaining the NLETS message and shall log all NLETS requests in a confidential binder.

(d) Due to the sensitive security information that is controlled under the provisions of 49 CFR 1520, Protection of Sensitive Security, relative to LEOs, interested staff should contact the RTC within their respective regions for

information on the mandatory TSA training and specific requirements for parole agents when traveling by air while armed with a firearm. RTCs shall schedule training based upon the identified need within each Region.

(e) Parole agents flying armed must abide by all FAA regulations.

**86010.34 Stolen or Lost Firearm****Reports and Records**

Reports and Records: The loss or theft of a Division-issued or Personal Firearm shall be immediately reported to local law enforcement upon discovery. The parole agent shall then report the loss or theft to the immediate supervisor, who shall inform the DAPO Deputy Director through the chain of command. Within one working day after the discovery, the parole agent must submit a written report to the immediate supervisor, who shall forward it through the chain of command to the DAPO Deputy Director.

**86010.35 Chemical Agent Policy****(a) Approved Chemical Agent**

The approved chemical agent shall be designated by the DAPO Deputy Director, DAPO. While on duty, those parole agents authorized by policy to carry chemical agents shall only carry dispensers approved and issued by DAPO. While off-duty, the chemical agent shall be maintained in a secure location where it is not accessible to unauthorized persons. The improper or illegal use of the chemical agent may result in disciplinary action, criminal prosecution, or both.

**(b) Training Requirements**

All parole agents shall be required to complete an eight-hour course of instruction in chemical agents approved by POST and DAPO training in the use and effects of chemical agents, legal issues, and reporting procedures.

**(c) Parole Services Associates**

Permanent full-time DAPO employees working as Parole Services Associates may carry DAPO-issued chemical agents on duty provided they complete DAPO training on the legal, security, and ethical aspects of the use of these weapons.

**86010.36 Relinquishing Chemical Agent Policy**

(a) All DAPO staff issued a chemical agent who separate from DAPO through retirement, termination, or transfer, shall surrender their chemical agent to their supervisor. The supervisor shall deliver the chemical agent to the RTC.

(b) The supervisor shall recall the chemical agent of all DAPO staff (if issued), who will be on leave for 90 days or longer for safekeeping. Upon the return to active duty, the chemical agent shall be reissued.

(c) The chemical agent is only effective for a prescribed period of time (designated by the manufacturer). When this "shelf life" period has elapsed, DAPO staff issued chemical agents shall be required to relinquish the chemical agent weapon and shall be issued a replacement of the type and brand authorized for use by DAPO.

**86010.37 Electronic Control Device**

Parole Agent II (Supervisors) and Parole Agent IIIs assigned to a DAPO field parole unit, parole agents assigned to CPAT, and parole agents who supervise GPS gang offender specialized caseloads are authorized to carry the ECD. All authorized staff shall be issued an ECD after successfully completing the initial training in accordance with the manufacturer's training criteria. Parole agents shall be responsible for maintaining their ECD certification, in accordance with annual training requirements. The parole agent shall carry the ECD on their person during all field related activities (defined in DOM Section 86010.15), and shall comply with the policy regarding the use of ECDs as outlined in the Restricted DOM Section 55055.

**86010.38 Revisions**

The DAPO Director or designee shall be responsible for ensuring that the contents of this section are kept current and accurate.

**References**

PC § 830.5, 832, 22810, 25100, 25450 et seq., and 26300 et seq.

GC § 19585.

Federal Aviation Administration Regulations.

DOM § 32010.

BU6 MOU section 19.02.

**Revision History**

Revised: April 13, 2017

Revised: May 20, 2019

Revised: January 24, 2020

**ARTICLE 47 — CHARGE CODES**

*Revised May 11, 2021*

**86020.1 Violations of Parole, Definition**

A violation of parole exists when there is probable cause to believe that the supervised person is violating the terms of their parole supervision.

**86020.1.1 Parole Violation Disposition Tracking System Charge Codes**

009	Voluntarily admitted to use of alcohol	345	Oral copulation with minor or non-consenting adult
010	Failure to attend the Parole Outpatient Clinic	350	Oral copulation in jail or prison (consensual)
011	Use of alcohol	355	Sodomy (with minor or non-consenting adult)
012	Failure to participate in anti-narcotic testing	360	Sodomy in jail or prison (consensual)
013	Assoc. with prohibited or non-gang validated persons	365	Incest
014	Being present in prohibited area	372	Annoying children
019	Violation of Other Special Condition	373	Loitering - schools and play grounds
020	Failure to report to DAPO	375	Indecent exposure
021	Absconding parole supervision	380	Penetration by foreign object
022	Instructions: Changing residence w/o informing DAPO	383	Pimping/pandering
023	Instructions: Changing employment w/o informing DAPO	385	Sexual battery
024	Failure to follow instructions from DAPO	390	Failure to register per PC 290
025	Failure to inform DAPO of criminal arrests	391	Refusal to comply per PC 296
027	Instructions: Leaving county of residence beyond 48 hours w/o DAPO approval	395	Other non-aggressive sex offenses, not involving minors (specify statute & violated)
028	Instructions: Traveling beyond 50 mi. from residence w/o DAPO approval	397	Other sexual offenses involving non-consenting or vulnerable victims (specify statute & violated)
034	Unauthorized possession of knife with a blade exceeding 2 inches	400	Assault with deadly weapon
037	Access to a firearm	410	Assault with deadly weapon on a peace officer
038	Access to a deadly weapon (PC 12020)	413	Assault on peace officer
039	Possession of a simulated firearm	415	Assault with caustic substance
041	Access to a simulated firearm	420	Assault with intent to commit murder
042	Possession of ammunition for a firearm	423	Assault with great bodily injury
043	Access to ammunition for a firearm	430	Assault
044	Access to a stun gun/taser	435	Assault on spouse/child
045	Access to a tear gas gun/dispenser	440	Administer poison
046	Access to crossbow	445	Mayhem
047	Gang participation and/or assoc. (must be gang validated)	451	Battery (without serious injury)
050	Danger to self as a result of mental disorder	452	Battery on a peace officer
051	Danger to others as a result of mental disorder	453	Battery with great bodily injury
052	Inability to maintain self in the community because of mental disorder	455	Battery spouse/child
093	Removal of GPS Tracking Device - PC 290 Cases Only (PC 3010.10)	460	Cruelty to a child
094	Disable GPS Tracking Device - PC 290 Cases Only (PC 3010.10)	495	Other crime in which great bodily injury is inflicted (specify statute & violated)
095	Tampering with GPS Tracking Device	497	Other crime posing major personal risk to others (specify statute & violated)
100	Murder	498	Drive-by shooting
120	Voluntary manslaughter	499	Threat to Commissioner/Deputy Commissioner/Family
125	Involuntary manslaughter	505	Burglary 1st (includes inhabited dwelling, occupants present or not)
135	Attempted manslaughter	507	Attempted burglary 1st degree
150	Attempted murder	513	Burglary while armed with firearm/other weapons
170	Conspiracy to commit murder	515	Burglary 2nd (non-inhabited building)
175	Accessory to murder	517	Attempted burglary 2nd
180	Accessory to manslaughter	540	Burglary with use of explosives
205	Robbery (with weapon)	545	Burglary of an automobile
215	Robbery (with simulated weapon)	547	Attempted burglary of an automobile
225	Robbery (no weapon)	555	Possession of burglary tools
235	Attempted robbery (with weapon)	565	Tampering with an automobile
245	Attempted robbery (with simulated weapon)	600	Non-sufficient fund check
255	Attempted robbery (no weapon)	605	Credit card theft or illegal use of a credit card
265	Accessory to robbery	610	Possession of counterfeit dies and plates
270	Conspiracy to commit robbery	615	Embezzlement
275	Grand theft - person	620	Forgery
300	Rape	630	Fraud
325	Unlawful sexual intercourse (PC 261.5/statutory rape)	645	Grand theft
333	Assault with intent to commit rape, sodomy, oral copulation or mayhem	650	Attempted grand theft
335	Attempted rape	655	Grand theft auto
340	Lewd/lascivious acts with children under 14 years old	660	Misappropriation of public moneys
		665	Operating a motor vehicle without owner's permission
		669	Petty theft
		670	Petty theft with a prior
		672	Attempted petty theft



676	Receiving/possession of stolen property	793	Other violations of law relating to drug use (specify statute & violated)
685	Conspiracy to commit a property offense	795	Other controlled substance offenses (specify statute & violated)
686	Soliciting another to commit a property crime	797	Other controlled substance offenses (specify statute & violated)
690	Extortion	810	Possession/manufacture/sale of a deadly weapon (other than a firearm)
697	Other property crimes (specify statute & violated)	815	Possession of a deadly weapon (PC 12020)
700	Sale of heroin to a minor	822	Use of a deadly weapon
701	Possession of heroin for sale	823	Use of deadly weapon in the commission of a felony
702	Sale of heroin	825	Possession of a firearm
704	Possession of heroin for sale	827	Use of a firearm
706	Manufacture/sale of heroin	830	Bringing firearm or weapon into prison or jail
707	Possession of heroin	831	Possession of a concealable firearm (PC 12021)
708	Voluntarily admitted to use of heroin	832	Possession of any firearm w/ prior firearm use conviction (PC 12560)
709	Use of heroin	833	Possession of non-concealable firearm w/o prior firearm use conviction
710	Sale of cocaine to a minor	834	Armed with a firearm in the commission of a felony
711	Possession of cocaine for sale	835	Possession of a stun gun or taser
712	Sale of cocaine	836	Possession of cross bow
714	Possession of cocaine for sale	837	Use of stun gun or taser
716	Manufacture/sale of cocaine	840	Possession of a tear gas gun/dispenser
717	Possession of cocaine	843	Use of tear gas gun or dispenser
718	Voluntarily admitted to use of cocaine	845	Brandishing/displaying a weapon (other than a firearm)
719	Use of cocaine	847	Brandishing a firearm
720	Sale of marijuana to a minor	848	Other offenses involving the use/possession of firearm or deadly weapon (specify statute & violated)
721	Possession of marijuana for sale	849	Other weapon violations (specify statute & violated)
722	Sale of marijuana	850	Driving under the influence of alcohol/drugs
724	Possession of marijuana for sale	855	Driving under the influence of alcohol/drugs (with injury)
725	Voluntarily admitted to use of marijuana	865	Reckless driving w/no personal injury
726	Sale of marijuana	867	Reckless driving (situation posed extreme risk to others)
727	Possession of marijuana (1oz or 28.5 grams, or less)	869	Reckless driving (injury)
728	Possession of marijuana (more than 1oz or 28.5 grams)	873	Property hit and run
729	Use of marijuana	874	Driving with revoked or suspended license (previously 995)
730	Sale of PCP to a minor	875	Vehicular manslaughter
731	Possession of PCP for sale	880	Evading peace officer (CVC 2800.1)
732	Sale of PCP	899	Other driving violations (specify statute & violated)
734	Possession of PCP for sale	900	Child stealing
736	Manufacture/sale of PCP	907	Hostage taking
737	Possession of PCP	911	Kidnapping
738	Voluntarily admitted to use of PCP	915	Threaten/harass another (must be a law violation; specify statute & violated)
739	Use of PCP	922	Possession of alcohol/controlled substances in a detention facility
740	Sale of other illicit drugs to a minor	924	Bringing alcohol/controlled substances in a detention facility
741	Possession of other drugs for sale	926	Arson - inhabited dwelling
742	Sale of other drugs	928	Arson - other structure, property, forest lands
744	Possession of other drugs for sale	929	Bribery
746	Manufacture/sale of other illicit drugs	931	Contributing to the delinquency of a minor
747	Possession of any other illicit controlled substance	934	Destroying public property
748	Voluntarily admitted to use of any other illicit controlled substance	937	Disturbing the peace
749	Use of any other illicit controlled substance	938	Resisting arrest
750	Possession of drug paraphernalia (related to drug use)	939	Drunk in public
752	Possession of paraphernalia utilized in drug trafficking	940	Escape without force
753	Possession of a substance in lieu of a controlled substance for sale	943	Escape from jail/prison with force
755	Sale of a substance in lieu of a controlled substance	948	Failure to register - Arson (PC 457.1)
760	Forgery of a prescription	950	False identification to a police officer
770	Sale of amphetamine/methamphetamine to a minor	952	False information to peace officer (VC 31)
771	Possession of amphetamine/methamphetamine for sale	953	Illegal entry into the USA
773	Sale of amphetamine/methamphetamine	961	Prostitution
774	Voluntarily admitted to use amphetamine/methamphetamine	962	Soliciting for prostitution/sexual acts
775	Possession of amphetamine/methamphetamine for sale	963	Incite another to participate in a riot
776	Possession of amphetamine/methamphetamine	964	Failure to participate in or complete a batterer's program (PC 3053.2)
777	Manufacture/sale of amphetamine/methamphetamine		
778	Use of amphetamine/methamphetamine		
779	Loitering in area of drug-related activity		
780	Under the influence of a controlled substance		
790	Use of drugs in jail or prison		

- 965 Participation in a riot
- 967 Soliciting another to commit nonviolent crime
- 969 Trespassing
- 972 Vandalism/malicious mischief
- 976 Committing any non-violent felony not listed (specify statute & violated)
- 977 Conspiracy to commit any non-violent felony not listed (specify statute & violated)
- 978 Attempt to commit any non-violent felony not listed
- 979 Accessory to any non-violent felony not listed
- 985 Conspiracy to commit a violent crime
- 986 Attempt to commit a violent crime
- 987 Accessory to a violent crime
- 988 Soliciting another to commit a violent crime
- 990 Possession of caustic chemicals with intent to harm others
- 991 Carjacking
- 992 Criminal threats
- 993 Stalking
- 996 Refusal to sign forms required by law (Assessment up to 6 months per PC 3060.5)
- 997 Other misdemeanors not listed (specify statute & violated)
- 998 Other violent crimes not listed (specify statute & violated)
- 999 Other nonviolent crimes not listed (specify statute & violated)

#### **86020.2 Revisions**

The Director, DAPO, shall be responsible for ensuring that this section is up-to-date and accurate.

#### **References**

PC. H&SC. VC. W&I.

#### **Revision History**

Revised: December 7, 2015

Revised: May 11, 2021

### **ARTICLE 48 — GLOSSARY OF PAROLE TERMS**

*Revised May 9, 2016*

#### **86030.1 Policy**

The Division of Adult Parole Operations (DAPO) maintains a list of terms commonly used within DAPO.

#### **86030.2 Purpose**

The purpose of this Article is to provide an alphabetical collection of terms commonly used in DAPO and their meanings to ensure consistent and effective communication among staff.

#### **86030.3 Rules of Construction**

The terms “inmate,” “offender,” “prisoner,” and “parolee” apply to any person who is or has been committed to the custody of the Secretary of the California Department of Corrections and Rehabilitation (CDCR), regardless of the person’s present status.

Responsibilities specified for a particular level of supervision or administration may be delegated within any limits specified unless expressly prohibited.

“Shall” is mandatory; “should” is advisory; and “may” is permissive.

Unless otherwise indicated, reference to part or section refers to the DOM.

#### **86030.4 Glossary of Terms**

**ABSCONDER:** Any parolee, whose whereabouts are unknown (whether suspended by the Board of Parole Hearings (BPH) or the courts), or any parolee who is not available for supervision, whether whereabouts are known or not known. A parolee in custody in another jurisdiction who is not available for supervision falls into this category.

**ADVERSE WITNESS:** A person who has given or will give information against a prisoner or parolee. For the purpose of conducting parole revocation hearings, “adverse witness” means a person whose expected testimony supports the violation charged.

**BOARD OF PAROLE HEARINGS:** The board responsible for conducting parole consideration hearings for inmates sentenced to life terms with the possibility of parole and inmates sentenced to determinate terms but who have been deemed eligible for parole consideration hearings pursuant to statute or court order. The board also conducts parole reconsideration hearings for

inmates returned to CDCR custody pursuant to Penal Code (PC) 3000(b)(4) or PC 3000.1. In addition, the board conducts hearings pursuant to PC 3550 and screens Mentally Disordered Offenders and Sexually Violent Predators.

**CALIFORNIA ADULT COMPACT ADMINISTRATOR:** The Director, DAPO Headquarters.

**CALIFORNIA INTERSTATE PAROLEE:** A person convicted and sentenced to prison in California but under parole supervision in another state according to the provisions of the Interstate Compact.

**CALIFORNIA PAROLEE:** A person convicted and sentenced to prison in California under parole supervision in California.

**CASE CONFERENCE:** Documented communication between the parole agent and parole unit supervisor concerning a parolee (i.e., placing a parole hold).

**CASE CONFERENCE REVIEW:** Documented review of progress made in the case plan and effectiveness of the current plan to determine necessary modifications. It will also include a review to determine if the parole supervision/case management expectations have been met.

**CASE PLAN:** A written proposal of identified goals, tasks, and local service providers to address a parolee’s identified criminogenic needs.

**CASE SUMMARY:** Written summation of a case at specified points in the parole period.

**CENTRAL FILE:** Master file maintained by CDCR containing records regarding each person committed to its jurisdiction. This file is maintained by the institution or parole region via Electronic Records Management System (ERMS).

**COLLATERAL CONTACT:** Any communication between DAPO staff and another person concerning a parolee.

**CONCURRENT PAROLEE:** A person on parole for a California sentence and a sentence of another jurisdiction who is being supervised in a state other than California pursuant to the Uniform Act for Out-of-State Parole Supervision (PC 11175-11179).

**CONDITIONS OF PAROLE:** Specific terms and conditions regarding behavior required or prohibited during parole supervision.

**CONFIDENTIAL WITNESS:** An informant whose identity is unknown to the parolee and who could be subject to harm if the informant’s identity were known.

**CONFINEMENT PURSUANT TO REVOCATION:** Continuous time in custody, under a parole hold in local custody in the absence of a new commitment to prison. Limited to no more than 180 days to begin at the placement of a parole hold.

**CONTINUE ON PAROLE:** Final action in response to a parole violation that allows a parolee to remain in the community rather than be confined to custody. Once this action is taken the parolee may not be charged again with the same violation.

**CRIMINAL IDENTIFICATION AND INFORMATION:** The State Summary-Criminal History (SSCH) from Department of Justice (DOJ) containing the arrest and disposition information defined in PC 11105 or Federal Bureau of Investigation (FBI) report containing arrest history.

**CRIMINOGENIC NEED:** Traits and conditions that when present increase the likelihood that an offender will commit a crime.

**CUMULATIVE CASE SUMMARY:** Permanent and specific summary of portions of the record maintained by CDCR regarding each prisoner from reception to discharge.

**CUSTODY TO COMMUNITY TRANSITIONAL RE-ENTRY PROGRAM:** A voluntary program that allows eligible female offenders committed to state prison to serve a portion of their sentence in a departmentally approved facility in lieu of confinement in state prison.

**COUNSELOR:** Caseworker of the CDCR who is assigned to supervise and provide counseling for inmates, confined in a CDCR facility.

**DAYS:** Unless otherwise specified “days” refers to calendar days when used in specifying time limits. When due date falls on a weekend or holiday, report will be deemed due on next working day.

**DEPUTY DIRECTOR:** Reports to the Director of DAPO, and manages statewide parole administration.

**DETERMINATE SENTENCE LAW RELEASE DATE:** Date a prisoner sentenced under PC 1170 is released to parole or discharge; or, date a prisoner sentenced prior to July 1, 1977, (and whose sentence was recalculated by BPH under the provisions of PC 1170.2) is released to parole or discharge.

**DIFFERENCE OF OPINION:** Difference of opinion regarding a prisoner’s or parolee’s case.

**DIRECTOR:** DAPO's Executive/Administrative/Hiring Authority head of the Division, appointed by the Governor.

**DISCHARGE REVIEW:** A documented assessment and evaluation of a parolee's performance, over a specified period, for discharge consideration from DAPO supervision.

**ELECTRONIC IN-HOME DETENTION:** A tool that utilizes electronic monitoring equipment as a remedial sanction, or enhanced supervision restricting an offender to his or her residence during a specified time period.

**ELECTRONIC RECORDS MANAGEMENT SYSTEM:** The database of all offender's central records repository.

**EXPANDED MEDICAL PAROLE:** Supervision for inmates identified as permanently medically incapacitated, requiring 24-hour care in a licensed health care facility, does not require custody supervision or pose a risk to public safety, and found suitable for release by BPH.

**EXPIRATION OF PAROLE:** Date on which specified parole period expires.

**FACE-TO-FACE:** In person contact with a person under supervision of DAPO by a parole agent.

**FEARFUL WITNESS:** A person who has given adverse information against the parolee and, because of fear, is unwilling to appear personally at the hearing. Both identity of the fearful witness and adverse information are known by the parolee. However, the witness's fear and potential trauma due to facing the parolee outweigh the parolee's right to confrontation.

**FIELD CONTACT:** Face-to-face contact by DAPO staff with a parolee away from the parole unit or unit parking area.

**FIELD FILE:** Working file that is maintained in a parole unit which contains information about a parolee.

**FRIENDLY WITNESS:** A person whose expected testimony tends to support the parolee's arguments.

**GLOBAL POSITIONING SYSTEM:** A worldwide satellite navigation system DAPO utilizes to assist with supervising, monitoring, and tracking offenders.

**GOOD CAUSE:** Finding based upon a preponderance of the evidence that there is a factual basis and good reason for the decision made.

**GOOD TIME CREDITS:** Credits for PC 1170 prisoner's good behavior and participation in prison programs earned pursuant to PC 2930, et seq. Earned good time credits advance parole date of PC 1170 prisoners.

**GOOD TIME RELEASE DATE:** Determinate Sentence Law (DSL) release date as advanced by good behavior and participation credits.

**HEADQUARTERS (Central Office) CALENDAR:** The "Headquarters Calendar" is composed of BPH commissioners or deputy commissioners as designated by the Chairman of BPH. They are authorized to make decisions on matters reported to BPH.

**HEARING OFFICER:** Any neutral person who is authorized to conduct a hearing.

**HOLD:** To retain an inmate or parolee, who is under the Secretary's jurisdiction, in custody at an institution or a local detention facility in response to the legal request of a law enforcement or correctional agency representative. A parolee under a hold has no right to bail; the court may set bail or release on their own recognizance.

**HOME CONTACT:** Face-to-face contact with a parolee at the parolee's residence.

**INDETERMINATE SENTENCE LAW:** A person sentenced to prison for a crime committed on or before June 30, 1977, who would have been sentenced under PC 1170 if he/she had committed the crime on or after July 1, 1977.

**INDETERMINATE SENTENCE LAW RELEASE DATE:** Date on which an Indeterminate Sentence Law (ISL) prisoner may be released from confinement pursuant to the ISL. Release may be to parole or to discharge.

**INTERSTATE COMPACT:** Agreement by which all 50 states, District of Columbia, Virgin Islands, and Puerto Rico function cooperatively in supervision of probationers and parolees.

**INTERSTATE (COOPERATIVE) PAROLEE:** Person convicted and sentenced to prison in a state other than California but under parole supervision in California according to provisions of Interstate Compact.

**INTERSTATE COMPACT UNIT:** DAPO Headquarters Unit that is charged with overseeing the day-to-day operations of the Interstate Compact for Adult Offender Supervision, a formal agreement between member states that seeks to promote public safety by systematically controlling the interstate movement of certain adult offenders.

**LIFE PRISONER:** Prisoner serving sentence of life with possibility of parole. Parole date is determined by BPH.

**LIFE PRISONER (INDETERMINATE SENTENCE LAW) RELEASE DATE:** A prisoner, whose offense was committed prior to July 1, 1977,

serving a sentence of life with the possibility of parole. Parole date is determined by BPH under guidelines in effect prior to July 1, 1977.

**LOCATED:** A suspended parolee-at-large is "located" when parole staff have reestablished face-to-face contact with the parolee in the State of California, or know parolee's whereabouts in another state's jurisdiction, and verify parolee is available for supervision.

**OFFICE CONTACT:** Face-to-face contact with a parolee at a parole unit.

**OUR HOLD ONLY:** Parolee in custody under a PC 3056 parole hold who has no other charges or detainers pending.

**PAROLE ADMINISTRATOR:** Department's Administrator of a DAPO headquarters unit, district, program, or geographic location.

**PAROLE AGENT:** Each parolee will be assigned to a parole agent. The assigned parole agent shall be responsible for the delivery, or referral for delivery, of all services and controls contained in the parole plan, including legal requirements that may be unique to a parolee by operation of law or policy as specified by BPH or DAPO.

**PAROLE AGENT AUTHORITY:** A parole agent's authority to arrest extends to any person committed to CDCR and released to parole or being supervised under the Interstate Compact. A parole agent's peace officer status extends to enforcement of the conditions of parole, to apprehension of an escapee from a CDCR institution, to the transportation of inmates or parolees, and to any violation of law that arises or is discovered in the course of employment. A parole agent shall not preempt another law enforcement agency in enforcing the law.

**PAROLE HOLD:** Authorization by departmental employee to hold a parolee in custody pursuant to PC 3056.

**PAROLE UNIT:** A facility where a paroled offender reports upon release from custody, order from court, or instructions through the Interstate Compact for DAPO supervision.

**PAROLE VIOLATION:** Conduct by a parolee that violates the conditions of parole or otherwise provides good cause for the modification or revocation of parole.

**PAROLE VIOLATION DISPOSITION TRACKING SYSTEM:** An electronic database utilized by DAPO staff to track remedial sanctions, warrant requests, discharge reviews and petitions to the local court for revocation of parole.

**PAROLEE-AT-LARGE:** Legal status of a parolee whose parole time has been suspended by BPH action or the courts and a warrant is issued for arrest and detention.

**PEACE OFFICER STATUS:** Any parole agent employed by DAPO is a peace officer pursuant to the provisions of PC 830.5.

**PHONE CONTACT:** A telephone call to a parolee.

**PROBABLE CAUSE:** Statement of facts that would lead a person of ordinary caution and prudence to believe and conscientiously entertain a strong suspicion that the charges are true.

**RECEIVING STATE:** The state that supervises interstate (cooperative) or concurrent parolee.

**REGIONAL ADMINISTRATOR:** Administrator of a geographical region in DAPO.

**RELEASE ON PAROLE:** Released from custody to a term of parole supervision and includes: initial releases from custody; parolees released after having served a period of parole revocation; parole violators with a new term; parolees released from any other jurisdiction, for example, federal custody; and offenders ordered directly to parole by a sentencing court, also referred to as "court walkovers." Actual transfer of an inmate incarcerated in a CDCR institution, or a re-entry facility, or one housed temporarily in a county or city jail, to the supervision of DAPO on a date established by operation of law (PC 1170) or by BPH (PC 1168).

**RELEASE PROGRAM STUDY:** CDCR Form 611, Release Program Study. An informational document that describes inmate's proposed residence and employment, case factors, institutional adjustment, reporting instructions, and disability.

**RESIDENT:** Parolee who was an actual inhabitant of California continuously for a year or more before going to the sending state and who was not a resident of the sending state for six continuous months immediately preceding the current commitment offense.

**RESIDENTIAL FACILITY:** Property operated for the purpose of providing lodging and services to address criminogenic needs for two or more persons and approved by DAPO for use. Residential facilities include sober living facilities and transitional housing facilities that provide services such as money management, substance abuse prevention, relationship and self-esteem

workshops, skills for employment stability, job training, and referrals to local community, social, and health services.

**RESOURCE COLLATERAL:** A person, group, or organization which assists the parolee in addressing his or her criminogenic needs.

**REVOCATION HEARING:** Adversarial judicial proceedings conducted in the superior courts pursuant to PC 1203.2, to determine if there is good cause to believe that a parole violation has occurred. If it is determined that a parole violation has occurred, the courts will also make determination as to the penalty unless the parolee falls under the provisions of PC 3000(b)(4) or 3000.1.

**REVOCATION RELEASE DATE:** The date on which a parolee is to be released from custody as specified by BPH or the courts in an order of revocation.

**SECRETARY:** Secretary of the California Department of Corrections and Rehabilitation, who serves as the Chief Executive Officer, appointed by the Governor. (See PC 5050).

**SENDING STATE:** State in which an interstate (cooperative) or concurrent parolee was convicted.

**SIGNIFICANT COLLATERAL:** Significant collateral is a person who has significant knowledge of the parolee. An individual who makes up a parolee's support group, family, friends, neighbors, associates, church members, colleagues, members of social groups, etc. Individuals who play a consistent part in the parolee's life before, during, and after parole.

**SPECIAL CONDITION OF PAROLE:** Condition placed by BPH, DAPO, or the courts and restricted to the individual. Special conditions of parole can be imposed if the condition is reasonably related to the parolee's commitment offense and tailored to prevent criminal conduct and/or future criminality.

**STRATEGIC OFFENDER MANAGEMENT SYSTEM:** A fully automated real-time data system that stores all internal/external movements; adult, juvenile, and parole records; and replaces certain manual paper processes.

**UNIT SUPERVISOR:** The parole agent responsible for the parole unit and supervision of case-carrying agents within DAPO.

**SUBJECT TO PC 1168**

- All persons sentenced to prison for a life term or for a term of not more than "a year and a day" for a crime committed on or after July 1, 1977.
- All persons sentenced to prison for a crime committed on or before June 30, 1977, who are not released on a parole date recalculated by BPH under PC 1170.2.
- All persons released on parole prior to July 1, 1977.

**SUBJECT TO PC 1170**

- All persons sentenced to prison under PC 1170 for a crime committed on or after July 1, 1977, except for persons sentenced to a life term or to a term of less than "a year and a day".
- All persons sentenced to prison for a crime committed on or before June 30, 1977, who are released on a parole date recalculated by BPH under PC 1170.2.

### **86030.3 Revisions**

The Deputy Director, DAPO shall ensure that this section is kept accurate and current.

### **86030.4 References**

PC.

## **ARTICLE 49 — PRE-RELEASE REENTRY CASE PLANNING**

*Revised September 23, 2019*

### **86040.1 Policy**

The Department strives to reduce recidivism and the risk to the community after an offender is released from prison. Conducting evaluations using evidence-based assessment tools helps the Department to conclude what an offender needs to successfully reintegrate into society.

### **86040.2 Purpose**

The purpose of Reentry Case Planning is to identify the criminogenic needs or problems of inmates and provide goals, tasks, and resources to address those needs after release. This article establishes the guidelines, necessary tools, and staff responsibilities to evaluate and assess inmates prior to release.

### **86040.3 Definitions**

#### **(a) Adult Parole Offender Management Systems**

Adult Parole Offender Management Systems (APOMS) is a database tool that triggers notifications to Community Transition Program staff of inmates nearing their earliest possible release dates, and identifies and

tracks the completion of required pre-release planning tasks, assessments, and documents.

#### **(b) California Static Risk Assessment**

California Static Risk Assessment (CSRA) is a validated risk assessment tool that utilizes a set of risk factors that are most predictive of recidivism. The tool produces a risk number score (of one (1) through five (5)) that predicts the likelihood that an offender will incur a felony arrest within a three-year period after release to parole. The CSRA score is based on an offender's age, gender, history of criminal convictions, and history of parole and probation violations.

#### **(c) Community Transition Program**

Community Transition Program (CTP) is the unit within DAPO that obtains and utilizes information about offenders in order to develop and implement effective and specific reentry plans that maximize a parolee's opportunity to successfully reintegrate into the community.

#### **(d) Correctional Offender Management Profiling for Alternative Sanctions**

Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) is an automated needs assessment tool software program utilized by CDCR to document, store, analyze, and share risk and needs assessments, reentry case plans, and other functions. COMPAS questions and assessments are created from nationwide surveys and evidence-based practices and follow adult offenders from their intake at the reception centers through the completion of their parole supervision requirements.

#### **(e) Criminogenic Needs**

Dynamic risk factors: such as characteristics, traits, problems, or issues of an inmate that directly relate to criminal behavior and the likelihood to reoffend.

#### **(f) Female Sex Offender Risk Assessment**

Female Sex Offender Risk Assessment is a risk assessment of a female sex offender inmate's past to assess the likelihood that the inmate will commit another sex crime.

#### **(g) Static-99R**

A risk assessment of a male sex offender inmate's past to assess the likelihood that the inmate will commit another sex crime.

### **86040.4 Assessment**

- The pre-release process starts with an assessment of the parolee's criminogenic needs and probable risks to the community, which are used to assist the parolee with successful reintegration into the community and reduce the risk of recidivism.
- APOMS notifies CTP staff of an inmate's upcoming release 210 days prior to their Earliest Possible Release Date, or 270 days if the inmate is a sex offender.
- Upon notification from APOMS, CTP staff utilize the COMPAS system to document and archive the Reentry Assessment, Reentry Case Plan, Static-99R, FSORA, and manual CSRA.
- Case Records staff at each institution shall notify CTP staff of any change to an inmate's status that will result in an unanticipated release on short notice, of any inmate whose release supervision status changes from Post-Release Community Supervision to DAPO.
- CTP staff at each institution shall review inmates' records in the Strategic Offender Management System (SOMS) and the Electronic Records Management System (ERMS) to determine eligibility for assessment. Assessments are not conducted on inmates who are Mexican Nationals and have an Immigration and Customs Enforcement detainer in place.

#### **86040.4.1 Reentry Assessment**

- The Reentry Assessment is completed during a face-to-face interview with the inmate to determine criminogenic needs. The interview is generally conducted by CTP staff, however, a designated staff member who has been specifically trained by CTP may also serve as the interviewer.
- Prior to conducting an interview with an inmate or parolee, CTP staff shall review the inmate's or parolee's information in the Disability and Effective Communication System (DECS). CTP staff shall provide reasonable accommodations to ensure effective communication.

#### **86040.5 Criminogenic Needs**

The Reentry Assessment identifies the specific dynamic needs that can be impacted through programming designed to address the assessed needs of each inmate. The COMPAS system will quantify the criminogenic needs of the COMPAS Reentry Assessment in bar chart form and each need is scored on a (one (1) through ten (10)) scale. For male inmates, the needs shall be separated by category and identified as unlikely, probable, or highly probable. For female inmates, the needs shall be separated by category and identified as low, medium, and high. High or highly probable

scores are the criminogenic needs that are most likely to result in a parolee committing a new crime if not addressed.

#### **86040.5.1 Criminogenic Needs for Males**

- (a) Anti-Social Personality or Temperament: an overall lack of adherence to the social mores and standards that allow members of a society to peaceably coexist.
- (b) Anti-Social Cognitions: attitudes, values, beliefs, and rationalizations supportive of crime, with mental processes including emotional stages of anger, resentment, and defiance.
- (c) Substance Abuse: the abuse of drugs, alcohol or a combination of both. Highly probable inmates have a lengthier and more severe history of substance abuse.
- (d) Reentry Financial: the degree to which an inmate experienced poverty and financial problems.
- (e) Employment and Education: the degree of success or failure in the areas of work and education. Inmates with a highly probable score will need more support and assistance in finding work and education.
- (f) Reentry Residential Instability: the degree to which an inmate has long-term ties to the community.

#### **86040.5.2 Criminogenic Needs for Females**

- (a) Anti-Social Personality or Temperament: an overall lack of adherence to the social mores and standards that allow members of a society to peaceably coexist.
- (b) Anti-Social Cognitions: attitudes, values, beliefs, and rationalizations supportive of crime, with mental processes including emotional stages of anger, resentment, and defiance.
- (c) Substance Abuse: the abuse of drugs, alcohol or a combination of both. High score inmates have a lengthier and more severe history of substance abuse.
- (d) Reentry Financial: the degree to which an inmate experienced poverty and financial problems.
- (e) Employment and Education: the degree of success or failure in the areas of work and education. Inmates with a high score will need more support and assistance in finding work and education.
- (f) Reentry Residential Instability: the degree to which an inmate has long-term ties to the community.
- (g) History of Mental Illness: whether an inmate has ever attempted suicide, been involved in prior counseling, therapy or a combination of both, taken medication, seen things or heard voices, been hospitalized, or been diagnosed with a mental illness.
- (h) Experience of Abuse as a Child: the need to address physical and sexual abuse as a child and how the trauma of it affects an inmate's current state. Inmates with a high score indicate that the inmate experienced severe abuse.
- (i) Experience of Abuse as an Adult: the need to address physical and sexual abuse suffered as an adult. Inmates with a high score indicate that the inmate experienced severe abuse as an adult.
- (j) Mental Health-Current Symptoms of Depression or Anxiety: the level of depression or anxiety felt by the inmate at the time the assessment is conducted. A high score indicates that the inmate has a history of depression or anxiety.
- (k) Mental Health-Current Symptoms of Psychosis: the frequency, if any, that the inmate is experiencing auditory or visual hallucinations while incarcerated.
- (l) Employment and Finances: the degree of success or failure in the areas of work and education. Inmates with a high score will need more support and assistance in finding work and education.
- (m) Relationship Dysfunction: the degree to which the inmate experienced relationship difficulties resulting in a loss of personal power. This also measures whether an inmate had a greater tendency to commit crimes while in a relationship.
- (n) Parental Stress: the degree to which the inmate feels overwhelmed by parental responsibilities and the extent of support offered by family. A high score indicates that the woman has poor support from the child's father and feels overwhelmed.
- (o) Housing Safety: the level of violence and safety experienced within her residence prior to incarceration. A high score indicates that the inmate has a history of living in unsafe environments.

#### **86040.5.3 Strength Scales for Female Inmates**

- (a) Strength scales are scored low, medium, and high for female inmates. These strengths, when present, contribute to a lower risk of recidivism.
  - (1) Self-Efficacy: the degree to which the inmate feels they are capable of achieving their goals and handling problems.

- (2) Parental Involvement: the degree to which the inmate maintains contact with her children, and how involved she will be in her child's life upon release.

#### **86040.6 Reentry Case Plan**

The Reentry Case Plan is an interactive plan developed with the offender to address the criminogenic needs identified in the Reentry Assessment. The Reentry Case Plan shall suggest programs and services based on goals, tasks, and geographical considerations in the inmate's County of Last Legal Residence to help address a specific criminogenic need. CTP staff shall select the appropriate programs and services for each goal and task identified in the Reentry Case Plan. The resources generated are based on the interview, case factors, and those specifically requested by the offender and then reviewed by the offender with CTP staff. A copy of the Reentry Case Plan shall be provided to the offender prior to exiting the institution.

##### **86040.6.1 Reentry Case Plan Procedures**

- (a) Field unit support staff shall print the following documents from the COMPAS database and place them in the field file:
  - (1) COMPAS Reentry Bar Chart.
  - (2) COMPAS Reentry Case Notes.
  - (3) COMPAS Reentry Case Plan (two copies).
- (b) If the COMPAS system does not have a Reentry Case Plan and the inmate is due to parole within 60 days, the parole agent shall contact the CTP unit to request completion of the Reentry Case Plan.
- (c) The parole agent shall review the COMPAS documents in the field file.
- (d) After release, the parole agent shall review the Reentry Case Plan with the parolee and instruct the parolee to sign one copy of the Reentry Case Plan. The parole agent shall sign the same copy. If the parolee refuses to sign, the parole agent shall note that on the Reentry Case Plan.
- (e) The parole agent shall give one copy of the Reentry Case Plan to the parolee and file the signed copy in the field file.
- (f) The parole agent shall ensure the field file contains all of the documents listed above.

##### **86040.7 Static-99R and Female Sex Offender Risk Assessment**

- (a) The Static-99R is a risk assessment tool that identifies the likelihood of an adult male sex offender to commit another sex crime. Any adult male sex offender who is assessed with an above average risk or higher to commit a new sex offense shall be designated as a High Risk Sex Offender (HRSO).
- (b) The FSORA is an evaluation of the factors of a female sex offender's criminal history and behavior. A female inmate who is rated as "Moderate Risk" or "High Risk" is defined as a HRSO.
- (c) CTP staff, under the direction of the CTP Parole Administrator, are the sole entity within the CDCR responsible for completion of the Static-99R and the FSORA. Prior to conducting these assessments, CTP staff must complete training conducted by experts in the field of risk assessment and the use of actuarial instruments in predicting sex offender risk. This training shall occur at least every two years.
- (d) The Static-99R and FSORA risk scores determined by CTP staff shall be used by CDCR for supervision purposes, identifying HRSOs, and for reporting to the California Department of Justice.
- (e) CTP staff shall complete the Static-99R or the FSORA, and input the assessments into the COMPAS system. The parole agent shall review these assessments and provide them to the Sex Offender Treatment program when the parolee is referred for treatment.

##### **86040.8 Reentry Case Plans After Release Procedures**

- (a) There are several reasons why a pre-release Case Plan may not have been prepared for a parolee:
  - (1) A hold, warrant, or both was placed on the inmate and was cancelled just prior to release.
  - (2) The inmate's release date was adjusted at the last minute as a result of a court ordered resentencing.
  - (3) A parolee that has returned to an institution for a new prison term receives a new Case Plan.
- (b) Upon discovery of a parolee who does not have a completed Reentry Case Plan or Reentry Assessment, the following shall occur:
  - (1) Within 45 days of release, the parole agent shall contact the CTP Call Center via electronic mail at CTPCallCenter@cdcr.ca.gov. Include the parolee's name, CDCR number, current location, and the parole agent's contact information. The parole agent shall submit one electronic mail per offender.
  - (2) If the parolee has returned to custody (county jail, prison, detained in another state, Department of State Hospitals, etc.) and needs only the Reentry Assessment, the parole agent shall contact the CTP Call Center via electronic mail at ParoleCOMPASReEntry@cdcr.ca.gov, upon release. Include the

parolee's name, CDCR number, current location, and parole agent's contact information. The parole agent shall submit one electronic mail per offender.

- (c) The interview shall normally be conducted at the parole unit with the parole agent present. In the event a parolee resides in a remote geographical area or is physically unable to come into the parole unit for a phone interview, the parole agent may make arrangements with CTP staff to complete the interview and Reentry Case Plan via a different telephone.
  - (1) CTP staff shall conduct the interview and complete the questionnaire.
  - (2) CTP staff shall create a Reentry Case Plan in the COMPAS system.
  - (3) The parole agent shall complete the Reentry Case Plan with the parolee present. The parole agent shall address all highly probable and probable criminogenic needs with a minimum of one goal, one task, and one service provider for each need.
  - (4) The parole agent shall issue the parolee a copy of the Reentry Case Plan and have the parolee sign a copy as described in this article.

#### **86040.8.1 Risk Assessment After Release Procedures**

- (a) There are several reasons why a pre-release risk assessment may not have been prepared for a parolee:
  - (1) Direct release from county jail.
  - (2) A hold, warrant, or both was placed on the inmate and was cancelled just prior to release.
  - (3) The inmate's release date was adjusted at the last minute as a result of a court ordered resentencing.
- (b) Upon discovery of a parolee who does not have a completed CSRA, Static-99R or FSORA, the following shall occur:
  - (1) If a CSRA score is not available prior to release from a CDCR facility, a manual CSRA score may be requested if the score is used to determine program eligibility (e.g., Alternative Custody Program, Male Community Reentry Program, Custody to Community Transitional Reentry Program, etc.). If the CSRA score is required for purposes other than determining program eligibility, the person shall be assigned a risk score of 5 until a score is calculated.
  - (2) At the time of release or while on parole, if a CSRA score does not auto populate, a manual request may be submitted via electronic mail to [requestforcsra@cdcr.ca.gov](mailto:requestforcsra@cdcr.ca.gov). The request shall include the parolee's name, CDCR number, and the reason for the request. This request may take up to 45 to 60 days for a CSRA score to auto populate, until then the offender shall be assigned a risk value of 5. In the event a CSRA score is needed to complete a Parole Violation and Decision Tracking System (PVDTS) action, PVDTS will automatically send an electronic request for a manual CSRA score. CSRA scores shall not be required to process non-violation program referrals.
  - (3) If the offender has a conviction for a crime requiring registration pursuant to PC 290 through 294, regardless of whether or not the offender is required to register, request a Static-99R or FSORA by sending an electronic mail to: [static99request@cdcr.ca.gov](mailto:static99request@cdcr.ca.gov).

#### **86040.9 Revisions**

The DAPO Director, or designee shall ensure that this section is current and accurate.

#### **86040.10 References**

PC §§ 290, 290.04, 294, 3020, 3015(b)(1), 3008, and 9003.

#### **Revision History**

Revised: September 24, 2018

Revised: September 23, 2019

### **ARTICLE 50 — UNASSIGNED**

### **ARTICLE 51 — DISCLOSURE OF INFORMATION**

*Revised September 24, 2018*

#### **86060.1 General**

Information about a parolee is generally not public information. The California Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO) is the designated owner and custodian of all parolee records. DAPO is responsible for making the determination as to how each record, file, or database should be classified and protected. The contents and information found in any departmental data system, up to and including the Electronic Records Management System (ERMS), the Strategic Offender Management System (SOMS), the parolee field file, and the Parole Outpatient Clinic (POC) record are protected information. The procedures of in this Article govern disclosure of information about a parolee and the confidential section of a parole field file. It includes information on media; however, Title 15 of the California Code of Regulations (CCR) Sections 3260 through 3261.7

and DOM Chapter 1, Article 13 govern news media relations policies, regulations, and protocols.

#### **Parolee Records**

Parolee records maintained by CDCR include the following:

- ERMS.
- Parole Field File.
- SOMS.
- POC Record.
- Any departmental data system that contains parolee records.

#### **86060.2 Responsibilities for Disclosure Determination**

##### **Electronic Records Management System**

DAPO staff will disclose information only to persons permitted to have the information.

##### **Parole Field File**

DAPO staff will disclose information only to persons permitted to have the information.

##### **Strategic Offender Management System**

DAPO staff will disclose information only to persons permitted to have the information.

##### **Parole Outpatient Clinic Record**

Only the POC Chief Psychiatrist or designated POC employees are authorized to disclose information maintained in the POC record. POC employees shall follow Health Insurance Portability and Accountability Act guidelines in providing for the privacy and security of protected health information. External agency disclosure of information requires a signed CDCR Form 7385-A, Authorization For Release of Information-DAPO. Internal agency disclosure will not require an Authorization For Release of Information form. With the exception of designated POC employees, no other DAPO employee is authorized to release POC records to anyone not employed by CDCR.

##### **Departmental Data Systems**

DAPO staff will disclose information only to persons permitted to have the information.

#### **86060.3 Authorized Disclosures**

Parolee information may generally be accessed by court order or subpoena. The disclosure of a parolee record or file information by oral or written means shall be made subject to a need to know verification as well as the identity of the requester unequivocally verified. Only those departmental employees who have been trained and specifically designated are authorized to disclose information contained in any departmental parolee record. Disclosures of information may be made to:

##### **Departmental Employees**

- CDCR officials, employees, contractual employees, and authorized volunteers of CDCR if such disclosure is relevant and necessary in the ordinary course of the performance of their official duties and is related to the purpose for which the information was acquired. If the Office of Internal Affairs (OIA) is requesting the parolee records, verify if the request is pursuant to an administrative or criminal justice case. OIA has restricted access to parolee medical/mental health records when conducting criminal investigations pursuant to Penal Code (PC) 1543.

##### **Public Agencies**

- A person or agency where the transfer is necessary for CDCR to perform its constitutional or statutory duties, and such use is compatible with a purpose for which the information was collected.
- A governmental entity when required by State or federal law.
- A law enforcement agency when required for an investigation of unlawful activity, unless such disclosure is otherwise prohibited by law.
- A person or governmental organization when necessary to obtain information for an investigation by CDCR of a failure to comply with a specific State law which CDCR is responsible for enforcing.
- California State Archives as a record which has sufficient historical or other value to warrant its continued preservation by the State or for evaluation by the director of General Services or the archivist or designee to determine whether the record has such value.
- A committee or a member of the Legislature, or to a member of a legislator's staff when authorized in writing by the legislator, where the subject of information has given his or her permission for such disclosure, or where the legislator provides reasonable assurance that he or she is acting on behalf of the subject to whom the information pertains.

- Any person where the disclosure is in accordance with the California Public Records Act, Government Code (GC) 6250, et seq. and DOM Chapter 1, Article 16.

#### Statistical and Scientific Researchers

Pursuant to PC 13202, parolee information may be released to public agencies or bonafide research bodies who are immediately concerned with the prevention or the control of crime, the quality of criminal justice, or the custody or correction of offenders if it is required for the performance of their duties, provided that they do not identify specific individuals.

CDCR has a formal research review process pursuant to PC §§ 3500 – 3524, section 3369.5 of the Title 15, and DOM section 140205 and 14020.5.1, a person or educational institution conducting scientific research shall submit to the Chief of Research, Office of Research, a research proposal in the format described in DOM section 14020.8.

Upon receipt, review of research proposals shall be carried out by the Research Advisory Committee (RAC). For each proposal, the RAC shall recommend that it be approved, approved with qualifications, or disapproved. The recommendation shall be submitted to the Director for final approval/disapproval. In the event parole unit staff receives a research request, staff shall refer the individual to the CDCR Office of Research.

#### Persons Under Compelling Circumstances

Pursuant to a determination by CDCR that compelling circumstances exist that impacts the health or safety of an individual. Upon such disclosure notification shall be transmitted to the individual to whom the information pertains at his or her last known address. Disclosure will not be made if it is in conflict with other State or federal law.

#### Other Persons

With prior written voluntary consent of the individual to whom the record pertains, but only if such consent has been obtained not more than 30 days before the disclosure, or in the time limit specified by the individual in the written consent. The request shall be submitted on a CDCR Form 7385-A. The authorization for release of the information will expire on the date indicated on the form by the named parolee.

#### Courts

CDCR staff will not take parole field files to court. However, if a court orders disclosure of a file or issues an order to show cause why a file should not be disclosed, or pursuant to a subpoena or other compulsory legal process, a CDCR representative will contact departmental counsel before responding to the order. CDCR must reasonably attempt to notify the parolee, if such notification is not prohibited by law.

#### Persons Pursuant to an Olson Review

*In re Olson*, a 1974 Appellate Court decision, ruled that CDCR has an obligation to disclose to an inmate or an inmate's attorney most documents in files pertaining to the inmate, upon request. *In re Olson* also applies to parolees. Information or documents that need not be disclosed are those that would jeopardize the security of the institution, a parole operation, or the safety of an individual. This includes information provided to DAPO and classified as confidential by another government agency. These documents shall be kept in the confidential section of the parole field file or ERMS.

#### Release Information Under Megan's Law

Information regarding individuals required to register under PC 290-290.23 is available on the Department of Justice (DOJ) Megan's Law website located on the internet at <http://www.meganslaw.ca.gov/>. Pursuant to PC 290.45, CDCR is allowed to provide information to the public about a person required to register under PC 290. This information may be released by whatever means the entity deems appropriate, when necessary to ensure public safety based upon information available to the entity concerning that specific person. This disclosure must be accompanied by a statement that defines the purpose for the release of information is to allow members of the public to protect themselves and their children.

#### Additional Agencies

Request for parolee information may be received, specifically, from the Office of Inspector General (OIG), DOJ, and other verifiable law enforcement agencies. These specific requesters are allowed to view the confidential section of ERMS. However, depending upon the requester, they may need the Regional Parole Administrator's (RPA) approval before being allowed to receive confidential information. When a request for information is received staff shall follow these guidelines:

- Identify who is requesting the parolee records.
- Establish that the requester is investigating an incident or prosecuting a case.

- If OIG is requesting the parolee records, verify if the request is pursuant to an administrative or a criminal case.
- Clarify which records are being requested.
- Based on that information, use the matrix below to determine if the requester is permitted to have access to the parolee records and what limitations, if any, there are to the access of those records. The requester is permitted to have copies of the parolee records. Under no circumstances is the requester allowed to take the original files off CDCR premises or be allowed to remain alone with the file without the presence of a DAPO staff member.
- In their capacity of counsel for the Department, the assigned Deputy Attorney General contract counsel may access CDCR parolee records related to litigated cases.

#### RELEASE OF PAROLEE RECORDS BY REQUEST MATRIX

Records	OIG* Administrative Investigation	OIG* Criminal Investigation	Law Enforcement Agencies***
Non-Confidential Section in ERMS	View & Copy	View & Copy	View & Copy
Confidential Section in ERMS	View & Copy	View & Copy	OK to View; Copy only with RPA Approval **
Medical/ Mental Health Records	View & Copy	Access Restricted (PC § 1543)	Access Restricted (PC § 1543)

\* The OIG has access to all CDCR records for audit purposes.

\*\* The RPA may appoint a designee to approve/disapprove the request for a copy of the confidential section. Contact the Office of Correctional Safety (OCS) when the confidential section includes gang information. When the confidential section is located at Parole Case Records in lieu of the RPA (or designee's) approval, contact OCS for approval.

\*\*\* To include local law enforcement and other verifiable State and federal law enforcement agencies.

#### 86060.4 News Media Inquiries

The CDCR Press Office, located at CDCR headquarters in Sacramento, oversees all media outreach and articulates the Department's position on operations, policies, employees, offenders, programs, and issues. The Press Office manages crisis communications, solicits media coverage of departmental activities, serves as liaison to the media and releases public information to the public. The Press Office provides guidance and direction the public information officers in prisons, parole and the Division of Juvenile Justice. The office facilitates media access to institutions, programs, employees and offenders pursuant to state law and departmental policies. The Press Office either responds or coordinates a response with the Office of Legal Affairs staff to media requests made under the California Public Records Act (PRA).

All news media inquiries, routine media interviews, and requests for media access to parole facilities and programs will be reported through the immediate supervisor to the Office of Public and Employee Communication (OPEC) to coordinate responses and follow-ups with the appropriate RPA, Divisional Parole Public Information Officers (PIO) or their designee. The OPEC PIO will work with the RPA, Divisional Parole PIO or their designee to notify the Deputy Director, DAPO, of any occurrence or situation of unusual public interest that involves a parolee, parole operations, or staff and to gather information, develop messages, and coordinate a response.

#### 86060.5 Documents and Information that may be Released to the Public or News Media

The disclosure of public records is outlined in GC 6254 and DOM Chapter 1, Article 16. CDCR records and files pertaining to any individual are not public records and will not at any time or under any circumstances be made accessible to the general public or the public news media. Non-personal information obtained from such records and files may be disclosed to individual members of the general public and to representatives of the public news media. Information will be disclosed only by those departmental employees who have been trained and specifically designated to disclose this type of information. All records requests under the PRA shall be referred to the appropriate PRA Coordinator in the parole region or division headquarters where the request is received, pursuant to DOM Chapter 1, Article 16. The PRA Coordinator will

determine what public records may be released under the PRA. If the PRA request is from a news media outlet, DAPO will be the lead in contacting the respective PRA Coordinators, and will keep the RPA, Divisional Parole PIO or their designee informed on the response to the media.

#### **Public Information Officer**

DAPO Division headquarters, located at 1515 S Street in Sacramento, and each parole region shall maintain at least one PIO to respond to media inquiries and public information requests in coordination with OPEC. The Region PIO will be responsible for contacting the DAPO Division PIO about any media calls to collaboratively work with OPEC on information gathering, message development, and response to the news media, as well as informing the Division PIO or his or her designee for approval by the Deputy Director to release information. As news media calls related to parole and parolees are often cases that may impact public safety, OPEC and the DAPO Division PIOs will be responsible for:

- Gathering information, developing messages and issuing a response to the news media accurately and promptly regarding a regional incident or newsworthy event.
- Responding to all news media inquiries within their assigned area accurately and promptly.
- Approving and facilitating news media requests for access to facilities and routine interviews.
- Coordinating news media access to any planned public events.

#### **Media Inquiries**

News media inquiries shall be given high priority. Upon receipt of a news media inquiry by parole unit staff, the media representative's contact information shall be obtained, including their name, affiliation, telephone number and email address. The news media representative may be referred to OPEC for official contact. OPEC will then work with the DAPO Division PIO for response. Staff shall gather facts as quickly as possible and provide these facts to OPEC and the appropriate PIO to assist in their response. If the requested facts are not known or are otherwise not available, this information shall also be shared, along with the reasons as to why the information is not available.

#### **Routine Media Interviews**

The Division's Director or designee, in coordination with OPEC, may permit news media representatives random face-to-face interviews with parolees housed in facilities under the jurisdiction of the Department, and random or specific person face-to-face interviews with staff. Such interviews shall be conducted as stipulated by the PIO. Staff and parolees shall not be compelled to answer any questions by the media, nor shall their photograph be taken without their permission. The exception would be photographs taken of a facility and any staff or parolees entering or exiting the facility, if the photograph is taken from a public area.

#### **Public Events**

Facility openings, program recognitions, employee awards ceremonies, or any other event which may warrant media attention shall be coordinated with OPEC and the designated PIO. Parole unit staff shall inform the PIO of the event with as much advanced notice as possible who will then contact OPEC to discuss the event logistics and news media notifications. The notification to media should include the date, time, agenda, event participants, and a brief synopsis of the event. Upon notification, the PIO can delegate the coordination of this function to the District Administrator.

#### **Media Access to Parolees**

Pursuant to Section 3261.5(f) of Title 15 of the CCR, "News media and non-news media representatives may be permitted random face-to-face interviews with inmates or parolees housed in facilities under the jurisdiction of the department, and random or specific-person face-to-face interviews with staff. Such interviews shall be conducted as stipulated by the institution head, including restricting the time, place and duration of the interviews, and size of technical crews." A parolee cannot be revoked or punished, reclassified, disciplined or otherwise retaliated against solely for participating or communicating with a visit by the news media. (CCR, Title 15, Section 3261.5(b)(1).)

#### **Media Access to Facilities**

If representatives from the media request access to a State facility, the request will immediately be referred to OPEC and the designated DAPO PIO for processing and approval. The DA in charge of the facility shall inform the media representative making the request that their request has been forwarded to the appropriate PIO. The contact information for OPEC and the PIO shall be provided to the requesting agency. OPEC will work with the PIO to approve the request. Under no circumstances shall the District Administrator

allow news media access to the facility without prior written approval from the PIO.

If a request for access is authorized, the media representative(s) must submit the following information to verify their affiliation:

- Full name.
- Date of birth.
- Driver license number.

The PIO will advise the news media representative that he or she will be subject to security screening and must present credentials and valid photo identification prior to being allowed access into the State facility. The PIO will inform the news media representative of the appropriate date, time, and equipment allowed into the State facility and of any other pertinent information.

The PIO or designated staff will be present at all times during the visit to escort the news media representatives through the facility. Access to sensitive areas of the facility will not be permitted; however, exceptions may be made by the DAPO Director or designee on a case by case basis in consultation with the Assistant Secretary of OPEC or his or her designee, pursuant to Title 15 Section 3261.1. If, at any time before or during a media visit it is determined that a potential threat to safety or security exists, the visit will be suspended.

#### **Incidents or Events**

OPEC and the designated DAPO PIO shall be the primary sources of information regarding an incident or newsworthy event involving parole issues, parole operations, parole staff or a parolee. If a newsworthy incident or event occurs, and the parole unit is contacted by the news media, the inquiry shall be referred to OPEC and the designated DAPO PIO. PIOs shall immediately notify OPEC of any occurrence or situation of unusual, significant, potential and prolonged news media interest. Examples include:

- Critical incidents and incidents involving fatalities.
- Escapes, accidental release of an inmate.
- Incidents involving a high-profile offender, crisis or high-profile situation.
- Staff assaults causing serious bodily injury.
- Use of deadly force.

CDCR often receives requests from the news media for information about current and former inmates and parolees. Title 15 Section 3261.2(e), specifies what can be shared with the media about an offender. An offender's authorization is not needed. News media representative also often ask for photos of offenders. Offender photos are public documents and as provided for by section 3261.7(d), "unless there is a specified threat of imminent danger to an inmate or parolee by releasing their departmental identification photograph, news media representatives as defined in Title 15 Section 3261.5(a)(1) and non-news media representatives as defined in Title 15 Section 3261.5(a)(2) shall be permitted access to photographs without the inmate's or parolee's consent."

When receiving a request from the news media for a photo of or commitment offense information of an offender, the first point of contact is OPEC. OPEC will make a reasonable effort to determine whether the offender is the subject of a law-enforcement investigation or prosecution. If so, OPEC will advise that agency of the media's request and ask if sharing the offender information and/or photograph at that time might hamper the investigation. If the criminal justice agency specifically requests that the information and/or photograph be temporarily withheld, OPEC, will relay that decision to the news media, along with contact information for the agency for any needed follow up.

Pursuant to Title 15 Section 3261.2(g), any information endangering an employee or concerning an employee who is a crime victim shall not be released to the media.

DAPO staff shall successfully complete an annual Information Security Awareness training available through the Regional Training Coordinators.

#### **Criminal History**

As provided in PC 11105, information on the State Summary – Criminal History (SSCH) may not be used to furnish information concerning an inmate or parolee to an agency or person not authorized to receive it.

#### **Criminal Offender Information Released for Escape Notification**

PC Sections 4537(b) and 4537(c) direct CDCR to release certain descriptive information about any person who has escaped from custody. Information requests regarding escapees shall be referred to CDCR OPEC via electronic mail at [OPEC@cdcr.ca.gov](mailto:OPEC@cdcr.ca.gov).

#### **Adult Probation Report**

PC 1203.05 prohibits disclosure of this report to the general public.



**86060.6 Disclosure of Religious Information**

Pursuant to GC 8310.3, DAPO staff shall not:

- Provide or disclose to federal government authorities information regarding the religious beliefs, practices, or affiliation of any parolee for purposes of compiling a list, registry, or database based on the religious affiliation, national origin, or ethnicity of that person.
- Make information from DAPO databases available including any databases maintained by private vendors contracting with DAPO, to anyone or any entity for the purpose of investigation or enforcement under any federal government program compiling a list, registry, or database of parolees based on religious belief, practice, affiliation, national origin or ethnicity for law enforcement or immigration purposes.
- Collect information on the religious belief, practice, or affiliation of any parolee except as part of a targeted investigation based on reasonable suspicion that the parolee has engaged in, or has been the victim of, criminal activity, and when there is a clear nexus between the criminal activity and the specific information collected about religious belief, practice, affiliation, or where it is necessary to provide religious accommodations.
- Use DAPO resources to investigate, enforce, or assist in the investigation or enforcement of any criminal, civil, or administrative violation, or warrant for a violation, of any requirement that parolees register with the federal government or any federal agency based on religious belief, practice or affiliation.

Nothing in this section:

- Prohibits DAPO staff from sending to, or receiving from, any local, state, or federal agency, information regarding an individual's citizenship or immigration status.
- Is intended to prevent DAPO staff from compiling aggregate non-personal information about religious beliefs, practice, or affiliation, national origin, or ethnicity, or from exchanging it with other local, state, or federal agencies.
- Prevents DAPO staff from assisting, participating with, or requesting participation from federal authorities, so long DAPO as acts in accordance with this section and any other applicable law.

**86060.7 Accounting of Parolee Record Disclosure**

Except for those disclosures made to departmental personnel, every parole unit of DAPO that maintains records on parolees will also maintain, as part of each record, a CDC Form 819, IPA Personal Information Disclosure Log. Entry on the form will be made regarding any disclosure of information from the record.

The accounting will be retained in the record or file for at least three years after the disclosure is made or until the record is destroyed, whichever is shorter.

DAPO must inform any individual or agency to whom personal or confidential record information has been disclosed within the previous three years of any amendment, correction of error, or notation of dispute.

The exceptions to the previous requirement are as follows:

- An accounting (entry on log) is not required for copies routinely routed to the data subject; e.g., discharge review reports, etc.
- An accounting is not required when disclosures are made to agencies authorized by PC 11105 to receive SSCH information or when disclosures are made between law enforcement officers on field duty.

**86060.8 Collection of Information**

Personal and confidential information will be collected to the greatest extent possible directly from the individual who is the subject of the information rather than from other sources.

Exception: CDCR is required by PC 2081.5 to collect and maintain information on parolees obtained from any interested agencies or persons.

When information is collected from other than the parolee, the sources of the information shall be maintained in the information or clearly referenced to another section of the file/record.

All parolees from whom information is collected will be notified per departmental procedures meeting this requirement:

- Parolees will be notified through the issuance of the California Code of Regulations (CCR), Title 15, Division 3. Prior to issuance of the CCR written and/or verbal notification will be given. Upon issuance of the CCR, it will serve as continuing notification.
- Individuals other than personnel and parolees will be provided notification, with the CDCR Form or form letter used to collect the information.

- Notification requirements are met if the individual from whom information is collected received notice within one year of the last request.

**86060.9 Revisions**

The Deputy Director, DAPO, shall ensure that this article is current and accurate.

**86060.10 References**

DOM §§ 13010 and 13030.

GC §§ 6250, 6253, and 8310.3.

PC §§ 2081.5, 1203.05, 11105, 4537, 290.45, 13202, and 3000.1.

CCR (15) (3).

**ARTICLE 52 — ACCESS TO PAROLEE RECORDS**

*Revised June 12, 2018*

**86070.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) case record information is designated as confidential and is not accessible for general inspection. Case law (*In re Olson*) and Civil Code (CC) 1798.24 provide parolees and other specified individuals access to a parolee's non-confidential case records with written consent of the parolee. It is the policy of CDCR, Division of Adult Parole Operations (DAPO) to abide by all applicable laws to provide the parolee, and other specified individuals with written consent of the parolee, access to the parolee's non-confidential records for review. Except for private attorneys hired to represent CDCR, the Office of the Attorney General, the Inspector General, and as provided by applicable federal and State law, no copies of the parole field file, Electronic Records Management System (ERMS) data, Parole Outpatient Clinic (POC) record, or components thereof shall be released to any agency or person outside of CDCR without a court order. When a court order is received, DAPO staff shall immediately contact the Litigation Coordinator for appropriate handling as outlined in Department Operations Manual (DOM) section 85080.5.

**86070.2 Purpose**

The purpose of this article is to establish guidelines for uniform interpretation, application, and administration of providing a parolee and other specified individuals access to conduct an Olson review of the parolee's non-confidential case records, including parole field file, ERMS data, or POC record.

**86070.3 Levels of Decision****Parole Field File**

A written request to examine the parole field file of a parolee shall be referred to the unit supervisor or designee for approval.

**Electronic Records Management System**

A written request to examine the ERMS data of a parolee shall be referred to the Regional Parole Administrator (RPA) or designee for approval.

**Parole Outpatient Clinic Record**

A written request to examine the POC record of a parolee shall be referred to the Chief Psychiatrist or designee for approval.

If a request is submitted to review two or more of the records, the request shall be referred to each respective level of decision cited above for approval.

**Time Limits**

Within seven days of receiving a request to examine the parole field file, ERMS data, or POC record of a parolee, the person or designee specified in the above paragraphs shall notify the person requesting the examination whether the request is denied or approved.

**Scheduling an Examination of a Parole Field File, ERMS Data, or POC Record**

The parole field file, ERMS data, or POC record of a parolee, shall be made available as soon as possible for Olson review. The requester has no later than the following time limits from the date of request to review the parole field file, ERMS data, or POC record pursuant to CC 1798.34:

- Active records, 30 days.
- Inactive records, 60 days.

If the time expires the requester shall be required to resubmit a written request to view the parole field file, ERMS data, or POC record.

**86070.4 Persons Permitted Access****Department Staff**

All DAPO staff may have access to confidential and non-confidential information about a parolee to carry out assigned duties.

**Parolee**

A parolee has access only to information in the parolee's own parole field file, ERMS data, or POC record that is not classified as confidential.

**Attorney**

An attorney who represents the parolee has access to examine the parole field file, ERMS data, or POC record of that parolee pursuant to California Code of Regulations (CCR), Title 15, subsection 3640(e). Access is limited to information that is not classified as confidential.

**Designated Person**

An attorney or investigator for the attorney who is designated, hired, or appointed to represent a parolee may examine the parolee's records. A designated person may not be a parolee, or an inmate in any jail, prison, or similar institution. A designated person has access only to information that is not classified as confidential.

Additionally, information received from another agency that is classified as confidential by that agency shall not be disclosed to a designated person. The parolee, parolee's attorney, or designated person shall be referred to the agency that originated the document.

**Criminal Identification and Information Report**

Only a parolee and/or parolee's attorney may examine the parolee's Criminal Identification and Information (CI&I) report. If a copy of the CI&I report is needed, DAPO staff shall refer the parolee and/or parolee's attorney to the State Department of Justice, the local police department, or the sheriff's office to file an application to request a State Summary - Criminal History (SSCH) pursuant to Penal Code (PC) 11122 and DOM 13030.23.2.

**86070.5 Authorization for Attorneys or Designated Persons**

The attorney or designated person shall provide written and signed acknowledgement that the attorney is acting on the parolee's behalf to the person approving examination of a parole field file, ERMS data, or POC record before the examination begins.

**86070.6 Approved Request****ERMS Data**

If the RPA or designee approves a request to examine a parolee's ERMS data, the following shall be conducted:

Litigation Coordinator shall:

- Review the parolee's ERMS data and determine if any confidential information is to be exempt from review, may have been misfiled, filed in the wrong parolee's ERMS data, confidential documents filed in a non-confidential section or non-confidential documents filed in the wrong section.
- List any confidential documents withheld from the Olson review for the parolee's ERMS data on a CDCR Form 810, Confidential Information Listing (located in the confidential section of ERMS).
- Contact Parole Case Records to request an ERMS Olson review Compact Disc (ERMS-CD).
- Perform redaction and deletion of the advanced mashup generated by PCR using Adobe Acrobat Professional Document Format (PDF).
- Provide a copy of the completed CDCR Form 810 to the unit supervisor and/or the assigned parole agent.

Parole Case Records shall:

- Prepare a Strategic Offender Management Systems (SOMS)/ERMS advanced mashup PDF at the request of the litigation coordinator which shall be saved to a shared drive.
- Create a SOMS/ERMS advanced mashup encrypted and password protected ERMS-CD and mail to the designated parole unit as requested by the litigation coordinator.

Parole Unit:

- Upon receipt of the ERMS-CD and the CDCR Form 810 completed by the litigation coordinator, the unit supervisor shall assign a parole agent to review the ERMS-CD.
- The unit supervisor or the parole agent shall notify the person requesting the examination of the time and place scheduled for the ERMS data review.
- The unit supervisor or the parole agent shall provide a copy of the CDCR Form 810 to the parolee, parolee's attorney, or designated person requesting the examination immediately prior to the review. The parolee, parolee's attorney, or designated person shall sign a copy as proof of receipt.

- The unit supervisor or the parole agent shall place the ERMS-CD in the designated stand-alone computer for Olson reviews.
- The unit supervisor or the parole agent shall supervise the examination of the ERMS-CD pursuant to DOM section 86070.12.
- Upon completion of the Olson review, the ERMS-CD shall be returned to Parole Case Records for proper disposal.

**Parole Field File**

If the unit supervisor approves a request to examine a parolee's parole field file, the following shall be conducted:

Parole Unit:

- The unit supervisor shall designate a parole agent to review the parole field file for verification that all documents in the confidential section have been appropriately placed in this section and that all other sections of the parole field file do not contain items that need to be placed into the confidential information section. The parole agent shall print his or her name, sign and date the CDCR Form 2151, Parole Confidential Information Listing, in the "Individuals Reviewing the Field File" column. If documents have not been placed appropriately, the items in question need to be addressed using the procedures outlined in DOM section 86070.11 regarding the addition and removal of documents.
- The unit supervisor or the agent of record shall remove the confidential section from the field file prior to the review and place it into the designated slot where the parole field file is stored.
- The unit supervisor or the agent of record shall notify the person requesting the examination of the time and place scheduled for the parole field file examination.
- The unit supervisor or the parole agent shall provide a copy of the CDCR Form 2151 to the parolee, parolee's attorney, or designated person requesting the examination immediately prior to the review. Have the parolee, parolee's attorney, or designated person sign and date as indicated on the form.
- The unit supervisor or the parole agent shall supervise the examination of the parole field file pursuant to DOM section 86070.12.

**POC Record**

If the Chief Psychiatrist or designee approves a request to examine a parolee's POC record, the following shall be conducted:

Mental Health Program Supervisor shall:

- Review the POC record for confidential information.
- Any confidential information found shall be redacted.
- Ensure a copy of only the redacted POC record is forwarded to the parole unit POC staff for review with the requestor.
- Ensure the non-redacted version of the POC record remains with the Mental Health Program Supervisor.

Parole Unit POC Staff:

- Shall notify the person requesting the examination of the time and place scheduled for the POC record examination.
- Shall review the POC record with the requestor. The review shall take place at the parole unit in the presence of POC parole unit staff during regular business hours. Staff supervising the review of the POC record may answer questions about non-confidential information related to the record or refer the requester to the region's Mental Health Program Supervisor. Questions regarding any confidential information shall be referred to the region's Mental Health Program Supervisor. Staff shall not engage in debates, justification, or discussions regarding Departmental actions.

**86070.7 Denied Request**

The person denying a request to examine a parole field file, ERMS data, or POC record shall document the denial and the reasons in a letter to the person making the request. A copy of the letter shall be placed in the in the respective file. A parolee who is denied permission to review the parole field file, ERMS data, or POC record shall also be given written notification of the right to an appeal.

**86070.8 Location of Examination**

Examination of a parolee's parole field file, ERMS data, or POC record shall take place where the case record is usually maintained with the following exceptions:

- If a court orders a parole field file, ERMS data, or POC record to be examined at another location, the department shall comply with the order.

- If an attorney requests to examine a parole field file or ERMS data at a location near the attorney's office, the request may be granted provided the examination is supervised by a DAPO staff person.
- The person approving a request for examination may also approve an alternate site for the examination.

#### **86070.9 Screening a Parole Field File or ERMS Data**

The reviewer (e.g., the litigation coordinator, unit supervisor, parole agent) shall screen all material in the parole field file or ERMS data for confidential information. The existence of a confidential information section or a CDCR Form 2151 in a parole field file or a CDCR Form 810 in ERMS data shall not prevent a thorough screening of all material in the parolee's record. The purpose of the screening is:

- To evaluate material already classified as exempt or non-exempt to reaffirm the validity of the determination.
- To classify materials as exempt or non-exempt according to the CCR, Title 15, section 3321, and DOM section 13030.19.
- To prepare/update the CDCR Form 2151 or CDCR Form 810.
- To ensure that all confidential material, including information/reports provided to DAPO and classified as confidential by another agency, is placed in the confidential information section of a parole field file or ERMS data.

#### **86070.10 Preparation of Confidential Information**

If there is material in the parolee's record deemed confidential that is to be withheld from disclosure, it is required that the general nature of the withheld document(s) and the reason for non-disclosure is made known. The CDCR Forms 810 or 2151 are used to fulfill this requirement.

##### **ERMS Data**

The following items shall be withheld for an Olson review and identified as confidential on the CDCR Form 810:

- Any report (not limited to police reports) containing the addresses of fearful victims, fearful witnesses, and/or confidential informant information including any non-redacted versions of police reports containing this information.
- Information that, if known to the parolee, would endanger the safety of any person.
- CDCR Form 1707, Request for Victim Services.
- Information that would jeopardize the security of any institution, internal affairs investigation, or parole operation.
- Information provided to CDCR and classified as confidential by another government agency.

##### **Parole Field File**

The following items shall be placed in the Confidential Information Section of the parole field file and identified on the CDCR Form 2151:

- Any report (not limited to police reports) containing the addresses of fearful victims, fearful witnesses, and/or confidential informant information including any non-redacted versions of police reports containing this information.
- Information that, if known to the parolee, would endanger the safety of any person.
- CDCR Form 1707, Request for Victim Services.
- Information that would jeopardize the security of any institution, internal affairs investigation, or parole operation.
- Information provided to DAPO and classified as confidential by another government agency.

Any confidential information received by a parole agent shall be placed on a CDCR Form 1617, CDCR Memorandum, and then given to the unit supervisor for review and certification before placement into the confidential information section of the parole field file. Only a unit supervisor or the designee acting in the capacity of a unit supervisor shall certify a document for placement in, or removal from, the confidential information section of the parole field file.

Medical documents verifying a disability shall be placed in the Americans with Disabilities Act envelope in the parole field file. Any medical documents received by a parole agent that are not source documents or related to supervision shall be forwarded to Parole Case Records.

CDCR Form 2151 shall be maintained directly below the "CONFIDENTIAL" divider on the left side of the parole field file. The confidential documents in the parole field file shall be identified by a parole agent when an attorney contacts DAPO for the purposes of a parole field file review. A document is identified as needing to be deemed confidential by a parole agent or the unit

supervisor during the normal course of receiving and reviewing paperwork to be placed in a parole field file.

When placing confidential documents in the confidential information section, a parole agent shall do the following:

- Identify documents to be deemed as confidential.
- Forward the documents to the unit supervisor or the designee for verification of confidentiality.
- Place the confidential documents under the "CONFIDENTIAL" divider on the bottom left side of the parole field file after the unit supervisor or designee has verified the confidential documents and stamped each document at the top and bottom with the word "CONFIDENTIAL" in red ink.
- Complete CDCR Form 2151 after placing the identified confidential items into the confidential information section of the parole field file.

When completing CDCR Form 2151, a parole agent shall:

- Complete the section that has the parolee's name and CDC number in blue or black ink.
- If there are no confidential documents in the parole field file, write "none" in the "Type of Withheld Document" column and record the date reviewed in the "Date of Document" column.
- If there is one or more confidential documents in the confidential information section, list each confidential document chronologically by date of the document, starting with the oldest.
- Write the date of each document in the "Date of Document" column.
- In the "Type of Withheld Document" column, place the name of the document, source subject, and source date of the document withheld. This shall not include any information that will compromise the confidential content such as a confidential informant's name. The following are examples of acceptable entries, "Witness Statement of Battery dated January 2, 2004," and "Sacramento Police Report 04-0001 regarding Battery on January 2, 2004."
- In the "Reason for Confidentiality" column, place one of the following four identifying letters:
  - "A" – The document contains information that, if known to the parolee or others, would endanger the safety of any person.
  - "B" – The document contains information that would jeopardize the security of an institution or parole operation.
  - "C" – The document contains specific medical or psychological information that, if known to the parolee, would be medically or psychologically detrimental to the parolee.
  - "D" – The document contains information provided and classified confidential by another governmental agency.
- In the "Date Document Was Added or Removed From This Listing" column, when adding or declassifying confidential information from the confidential section of the parole field file, staff shall:
  - Check the appropriate box
  - Enter the date the document was added to or removed from the confidential section.
- In the "Signature" column, staff shall print and sign their name for each document listed.

Any document that is being considered for declassification and removal from the confidential section of the parole field file should be discussed with the person (if available) who originally classified the information as confidential. Any difference of opinion regarding the need for classification as confidential shall be referred to the district administrator or designee for a final decision.

#### **Handling of Confidential Documents During Court or Board of Parole Hearings**

During a revocation of parole court proceeding, if a confidential document is to be considered and is not on the SSCH and is not a general police report, then a CDCR Form 1030-P, Parole Confidential Information Disclosure, must be completed by the parole agent and included in the parole violation packet. A copy of the CDCR Form 1030-P shall be provided to the attorney representing the parolee or to the parolee if no attorney has been appointed. A CDCR Form 1030-P shall be completed as follows:

- Complete the section that has the parolee's name and CDCR number.
- Complete the "Use of Confidential Information" section.
- Complete the "Reliability of Source" section. If a police report was used, check "Other" and identify the reporting agency.

- Complete the “Disclosure of Information Received” section. Write a summary of the referenced confidential report. Give as much information as possible without jeopardizing the confidentiality of the document.
- Complete the “Type and Current Location of Documentation” section. This section refers to the name of the document used and the current location of this document (e.g., Drug Task Force Report dated 6/8/2004, in the confidential section of the parole field file).

During a PC 3000.1 parole consideration hearing, the Board of Parole Hearings (BPH) shall provide board-appointed counsel with a hearing packet 65 days prior to the hearing. The BPH’s regulations, Division 2 of Title 15, shall govern how the BPH handles confidential information in its hearing processes.

#### **86070.11 Examination of a Parole Field File or ERMS Data**

Examination of a parole field file or ERMS data shall occur during regular business hours for the office in which the examination shall take place.

##### **Supervision of Examination**

Generally, the person assigned by the unit supervisor to review the parole field file shall supervise the examination. However, the unit supervisor may supervise the examination of the parole field file or ERMS Olson review CD or assign this task to another parole agent.

##### **Purpose**

A DAPO staff person shall maintain the parole field file/ERMS Olson review CD under direct observation during the entire examination to prevent loss, destruction, mutilation or alteration of the contents and to ensure compliance with the examination procedures contained in this Article. The ERMS Olson review CD shall only be viewed on a Departmental non-network computer. At no time shall a reviewing party be unsupervised while reviewing parole field file/ERMS Olson review CD.

##### **Confidential**

The confidential information section shall be removed from the case record and not disclosed to the person examining the parole field file or ERMS data.

##### **List of Confidential Information**

A copy of the CDCR Form 2151 shall be given to the person examining a parole field file and a copy of the CDCR Form 810 shall be given to the person examining the ERMS data. The parolee, parolee’s attorney, or designated person shall acknowledge receipt of the form by signing a copy of the CDCR 810 or by signing in the designated area on the CDCR 2151. If the parolee, parolee’s attorney, or designated person refuses to sign, the person supervising the examination shall note the refusal on the form.

##### **Answering Questions**

An employee supervising the inspection of a parole field file or ERMS data may answer questions about non-confidential information contained in or related to the parole field file or ERMS data or refer the requester to the person who approved the record for inspection. Employees shall not engage in debates, justification, or discussions regarding Departmental actions. Employees shall make genuine, reasonable efforts, when requested, to assist the parolee, parolee’s attorney, or designated person in understanding the non-confidential information being inspected. This may include, but is not limited to, reading a document (if the requester cannot read), and explaining abbreviations and acronyms used by CDCR, DAPO. If an attorney has any challenge or concern regarding the confidentiality of any document in the confidential section of the parole field file or ERMS data, the attorney shall be directed to the Regional Litigation Coordinator.

##### **Note Taking**

At no time shall the parolee, parolee’s attorney, or designated person remove any documents from the parole field file, or be allowed to duplicate a copy of the ERMS Olson review CD. Notes may be taken during the inspection of a record. Notes shall be limited to brief references to specific documents the parolee, parolee’s attorney, or designated person intends to question or discuss after the completion of the review or to specific documents the parolee, parolee’s attorney, or designated person may decide to have copied. Verbatim copies of completed documents or copying lengthy portions of documents shall not be permitted during the inspection. Only pencils may be used for note-taking.

##### **Copies of Documents**

Photocopies of documents shall be made consistent with CC 1798.34(b) and DOM section 13030.26.3. The parole agent or unit supervisor shall ensure copies are properly redacted and do not contain any third party information which may include, but are not limited to, names, addresses, and social security numbers of anyone other than the parolee. If there are concerns about

providing a specific document, contact the Regional Litigation Coordinator before providing the document.

#### **86070.12 Requests to Amend Records**

Any person seeking to correct or amend a CDCR record obtained by DAPO from another agency shall be directed to make their request to the agency from which the record originated. Any person about whom DAPO maintains any record of personal information may request that the information be amended to correct inaccurate or incomplete information. Subsequent to examination of parole field file, ERMS data, or POC record information, the parolee shall be permitted to request, in writing, an amendment of the information contained in the parole field file, ERMS data or POC record. Such requests shall be directed to the originator of the contested information, if the originator is an official or employee of CDCR. Within 30 days of receipt of the request to amend, the departmental official or employee shall either:

- Make correction(s) as requested by the parolee, parolee’s attorney, or designated person of any portion of a record which the individual believes is not accurate, relevant, timely or complete.
- Inform the parolee, parolee’s attorney, or designated person, of the denial to amend the record and the reasons for the denial. Also to be included in the notification is the right to appeal and the procedures for filing an appeal.

#### **86070.13 Appeals Procedure**

A parolee who is denied permission to review or to amend the parole field file, ERMS data, or POC record information shall be given written notification of the right to appeal in accordance with CCR, Title 15, Article 8, Appeals and DOM Chapter 5, Article 53, Inmate/Parolee Appeals.

#### **86070.14 Statement of Disagreement**

If after the appeal process is completed, including the Director’s level review, and the individual’s request to amend the parole field file, ERMS data, or POC record is denied, the individual shall be permitted to submit a statement of disagreement setting forth the reasons for the individual’s disagreement. Specifically exempt from the provisions of this section are decisions, determinations and findings arrived at in judicial and administrative hearings relating to the disputed information, as well as other disputed information which includes and adequately reflects the individual’s views, beliefs or positions relative to the disputed information. When a statement of disagreement is submitted, a statement of CDCR’s reason(s) for not making the requested amendment(s) shall be prepared. Copies of both statements shall be placed in the parole field file, ERMS data, or POC record that contains the disputed information. The disputed information shall be annotated with a cross-reference to the individual’s statement of disagreement.

#### **86070.16 Revisions**

The DAPO Director shall ensure that this article is current and accurate.

#### **86070.17 References**

CC §1798 et. seq.

*In re Olson.*

PC § 11122.

15 CCR §§3640(e) and 3321.

DOM §§13030.26.4, and 85080.5.

### **ARTICLE 53 — UNASSIGNED**

### **ARTICLE 54 — CONFIDENTIAL MATERIAL**

*Revised December 27, 2017*

#### **86080.1 Responsibility and Occasions for Classifying Information as Confidential**

Departmental staff will ensure confidentiality of information, consistent with state and federal laws and regulations. Staff, contractors, interns, volunteers and others who work with offenders are trained in and agree, in writing, to abide by confidentiality requirements.

Classifying information in a parolee’s record as confidential will be done as follows:

##### **When a File is Reviewed Prior to Examination**

At any time a parolee, an attorney, or a designated person is given approval to examine a file, a reviewer will be designated to screen the field file and/or electronic file for all information meeting the criteria for confidential classification.

##### **When a Document is Written**

Departmental staff who write or review a document that is included in a parolee's field file and/or electronic file may classify the document as confidential.

#### **When a Document is Received**

The staff person who receives a document from a source outside the Department may classify it as confidential when placing it in a parolee's field file and/or scanning it into the Electronic Records Management System (ERMS).

#### **86080.2 Preparation of Confidential Information**

Any document(s) designated as containing confidential information, either in total or in part, shall be conspicuously stamped with the word "Confidential" in red ink on the top and bottom of each document. If the document consists of more than one page, each page shall be so marked. The responsibility for the preparation of the Confidential Section shall rest with the unit supervisor or designee that screens the file for information meeting the criteria for confidential classification. The unit supervisor or designee remains responsible to ensure the confidential designation is used appropriately on documents for inclusion of confidential documents into the Confidential Section of the field file and ERMS.

#### **86080.3 Basis for Classifying Information as Confidential**

Records will be classified as confidential according to the information they contain and not according to title, label, or origin. The following criteria will apply to classifying information as confidential:

##### **Confidential by Statute**

Access to state and federal criminal history records is restricted to the parolee, the parolee's attorney, and persons and agencies listed in PC 11105.

##### **Medical, Psychological, and Psychiatric Reports**

A report prepared by departmental medical or psychiatric staff will be classified as confidential only if it meets specified criteria. Possible disturbance to the parolee or impairment of the treatment relationship is not a valid reason for classifying information as confidential unless disclosure might result in suicide attempts by the parolee. A report classified as confidential will contain a statement of the reason for the classification.

##### **Victim/Witness Notification**

All requests by a victim, witness, next-of-kin, or immediate family member as defined in Section 3000 of Title 15 for notification/special condition of parole, and any responses to such requests shall be classified as confidential and filed in the confidential sections of the inmate's/parolee's field file and electronic file. (Refer to DOM 72060.1, Notices.)

##### **Threatens the Safety of a Person**

Information which, if disclosed, would endanger the health and/or safety of any person and/or might lead to retaliation against any person(s) will be classified as confidential.

##### **Another Person's State and/or Federal Criminal History**

Information regarding another person's criminal history, which is not a matter of public record (e.g., a crime partner's cumulative case summary), will be classified as confidential.

##### **Promise of Confidentiality**

Information should be classified as confidential only if it is judged to be highly sensitive and there was a promise of confidentiality.

##### **Threatens the Security of a Facility**

Information that, if disclosed, might threaten the security of any jail, prison, or similar facility will be classified as confidential.

##### **Information Classified as Confidential by Other Agencies**

If departmental staff retains a confidential classification imposed by the agency that originated the information, the parolee may be referred to that agency for disclosure.

##### **California Department of Public Health**

Information classified as confidential by the California Department of Public Health may only be declassified if the departmental staff physician determines that its content does not warrant classification as confidential. If it is decided that the confidential classification will remain, the physician will note the reason on the report.

##### **Division of Juvenile Justice (DJJ)**

Information classified as confidential by the DJJ (formerly the California Youth Authority) will be reviewed and classified by departmental staff according to its content. The reviewer should contact the originator of the document or the DJJ's Central Office before declassifying it.

##### **Reports from Other Law Enforcement Agencies**

Reports from other law enforcement agencies, which are classified as confidential by the originating agency, will retain that classification. The parolee, attorney, or designated person may be referred to the originating agency for those records.

#### **Departmental Staff Correspondence with Legal Counsel**

If a parolee's record contains correspondence between departmental staff and legal counsel, the correspondence will be classified as confidential if it discloses CDCR's position in potential or pending litigation. This criterion applies to writings that reflect an attorney's impressions, conclusions, opinions, legal research or theories; and correspondence that discusses the issue or facts of a case, requests an action that is not routine, suggests the outcome of a case, or recommends legal strategy.

#### **86080.4 List of Confidential Case Records**

The person designated to review a parolee's file will complete the CDCR Form 2151, Parole Confidential Information Listing. All material classified as confidential shall be identified on the applicable form(s). (Refer to DOM 86060.6, Confidential Information Section of the Parole Field File).

The list will include the following information:

- Parolee's name and CDCR number.
- Name of the person who requested to examine the file.
- Date(s) of the withheld confidential document(s).
- General nature of each document classified as confidential, stated in such a way as to prevent the examiner from deducing the confidential information.
- Reason(s) for the confidential classification.
- Signature of the reviewer.
- Date the file was reviewed.

The information will be completed in blue or black ink on the form, and a copy of the form placed in the Confidential Section of the field file and in ERMS. A copy of the form will also be given to the parolee, the parolee's attorney, or a designated person when examining the non-confidential portion of the file.

Prior to any examination, the field file and electronic file will be reviewed. A copy of the updated confidential information list will be scanned into the Confidential Section of the ERMS file and placed in the field file to ensure that information contained in both files will be classified as confidential.

#### **86080.5 Placement of Confidential Information**

All documents classified as confidential or that contain confidential information will be placed into the Confidential Section of the field file and the ERMS file.

The field file and ERMS will each contain a Confidential Section for information classified as confidential. The unit supervisor or designee will mark as confidential any information listed on the CDCR Form 2151, Parole Confidential Information Listing that is in the field or electronic file and place it in the appropriate Confidential Section of the file.

The unit supervisor or designee who classifies a document as confidential will place it in the Confidential Section of the field and electronic files with an updated CDCR Form 2151 as applicable.

A copy of the most recent CDCR Form 2151 will be placed in both the field file and ERMS.

The unit supervisor or designee who classifies a document as confidential will ensure that all copies of it are also classified as confidential and placed in the Confidential Section whether in the field file, ERMS, or any other file.

Staff without provisions for scanning documents into ERMS shall utilize the Parole Case Records manager or designee for inclusion of the confidential document into ERMS. The primary clearinghouse for confidential victim information and related documents shall be the CDCR's Office of Victim & Survivor Rights & Services (OVSRS). Although Parole Case Records may have the provisions to enter confidential victim information, those documents should be provided to the OVSRS for inclusion into the Confidential Section of ERMS and SOMS.

#### **86080.6 Declassification**

The person designated to review a file prior to its being examined may declassify information previously classified as confidential.

The reviewer should discuss the intended declassification with the person who originally classified the information as confidential.

A difference of opinion regarding the need for classification as confidential will be referred to the District Administrator or designee for a final decision. (Refer to DOM 86060.6, Confidential Information Section of the Parole Field File).

**86080.7 Correcting Information in a Parolee File**

The validity and accuracy of file information is the responsibility of all DAPO staff. The staff person discovering any erroneous or misleading information will mark it as such and attach a correction or explanation. If the record(s) originated from an external agency, any request to correct or amend will be directed to the originator.

Only the unit supervisor or designee may authorize removal of erroneous or misleading information from the Confidential Information Section of the field file or ERMS. Approval will be granted only under the following conditions:

- The information is clearly shown to be erroneous or misleading.
- The information has not been considered in any deliberation, determination, or action affecting the parolee.
- If the information has been considered as indicated above, the information may not be removed, but an explanation or correction will be attached.

**86080.8 Criminal History Records Limited Access**

PC 11105 lists the persons and agencies authorized access to criminal history records. DAPO staff will not provide copies of criminal history records and will not provide information directly from the criminal history records to any person or agency not specified in PC 11105. If DAPO staff believes a person or agency not listed in PC 11105 has a legitimate reason to know information about a parolee, that information must be derived from records other than the criminal history record or the Probation Officer's Report (POR).

**Access on the Basis of a Need-to-Know**

Access to the criminal history record by persons and agencies listed in PC 11105 is on the basis of their right-to-know and need-to-know related to the official function of that person or agency. These persons and agencies may obtain copies of the criminal history record through the parole agent.

**Other Agencies' CI&I**

Disclosure of criminal history records from agencies other than the State Department of Justice (DOJ) is not limited by statute. DAPO staff will observe the confidentiality policies of agencies from which information or documents are received, especially other law enforcement agencies.

**86080.9 Safekeeping and Storage of Confidential Parolee Material**

Confidential parolee record information will be kept in the Confidential Section of the field file and/or ERMS.

An authorized person reviewing confidential material is responsible for it while it is in that person's control.

Preliminary drafts, carbon sheets, stenographic notes, worksheets, etc., and any item containing confidential information will be destroyed by the individual(s) responsible for their preparation immediately after having served their purpose.

**86080.10 Revisions**

The DAPO Director is responsible for ensuring that the contents of this article are kept current and accurate.

**86080.11 References**

PC § 11105  
CCP § 2018.030  
CCR (15) § 3321  
ACA Standards 4-APPFS-3C-03  
DOM § 72060.1  
DOM § 86060.6

**ARTICLE 55 — DISCLOSURE TO AGENCY OR PERSONS**

*Effective August 31, 1989*

**86090.1 General Guidelines for Disclosure to Other Agencies and Persons****With Consent**

If the patient gives prior written consent, designated clinic staff may disclose necessary patient information, whether recorded or not, to the following persons:

- Medical personnel or to treatment or rehabilitation programs when the disclosure is needed to furnish services to the patient.
- Medical personnel able to provide continued methadone maintenance when the patient is traveling, incarcerated or hospitalized. Any such disclosure must be documented with the name of the patient, or assigned program case number, the date and time of the disclosure, the

information disclosed and the names of the individuals by whom and to whom it was disclosed; and the purpose for the disclosure.

- The patient's attorney.
- The patient's family or close personal relations, unless the person responsible for treatment believes the disclosure would be harmful to the patient.
- Employers and employment agencies, when it is believed that the information may assist in the patient's rehabilitation.
- A criminal justice agency which requires methadone maintenance as a condition of release, probation or parole, or as the disposition or status of any criminal proceedings against an individual, or pursuant to the execution or suspension of any sentence imposed upon him or her. Consent may not be revoked for 60 days or until the condition for which it was given has terminated, whichever is later.

**Without Consent**

Without the patient's written consent, designated clinic staff may disclose necessary information to the following persons:

- Medical personnel to the extent necessary to meet a bona fide medical emergency.
- To qualified persons conducting authorized scientific research, management audits, financial audits or program evaluation. The identity of individual patients may not be disclosed, either directly or indirectly, in any resulting report.
- Persons or agencies authorized by a court order to receive such information.

**86090.2 Revisions**

The Deputy Director, P&CSD shall ensure that this section is current and accurate.

**86090.3 References**

DOM § 13030.

**ARTICLE 56 — RESERVED (REHABILITATION & PARDON)****ARTICLE 57 — WORK SCHEDULES**

*Effective October 20, 2006*

**87210.1 Policy**

It is the policy of the California Department of Corrections and Rehabilitation (CDCR) that work schedules shall be accomplished in a uniform manner consistent with applicable laws, policies, and sound personnel practices.

**87210.2 Purpose**

This Section outlines the procedures and requirements that shall be followed for work schedules.

**87210.3 Responsibilities****Unit Supervisor**

The Unit Supervisor reports to the District Administrator and is responsible for managing and maintaining CDCR's overall parole supervision efforts at the field parole unit level.

The Unit Supervisor is responsible for ensuring that all Parole Agents comply with the scheduling requirements of the contract and the meeting of operational needs.

The Unit Supervisor shall approve the work schedule at least three (3) days prior to the scheduled month, unless it can be documented that the scheduled work hours as submitted would be detrimental to the needs of the office or would hinder the Parole Agent in the performance of his/her duties and responsibilities.

The Unit Supervisor shall provide the Parole Agent with the written documentation if requested by the employee.

The Unit Supervisor may assign the work schedule if the Parole Agent does not submit a monthly work schedule.

**Parole Agent**

The Parole Agent reports to the Unit Supervisor and is responsible for supervising parolees on their caseload.

The Parole Agent is responsible for submitting a proposed work schedule to the Unit Supervisor for each month at least seven (7) calendar days, but no more than fourteen (14) calendar days, prior to the beginning of the scheduled work month.

The Parole Agent is responsible for complying with the scheduled work hours once they are approved by the Unit Supervisor.

Parole Agent requested changes in the work schedule, excluding emergencies, will require prior Unit Supervisor approval.

Parole Agents will advise their Unit Supervisor of emergency changes in their approved work schedule no later than the next working day.

#### **87210.4 Work Rules**

Case carriers will not be scheduled for work on holidays, whether weekdays or weekends, except to handle emergency situations, as specified in the current Memorandum of Understanding (MOU) for Bargaining Unit Six.

#### **87210.5 Work Week**

The work hours for the Officer-of-the-Day (OD) are from 8:00 a.m. to 5:00 p.m., unless otherwise specifically identified.

The MOU states that Parole Agents with the Unit Supervisor's approval may elect the daily start and stop time, with the exception of the OD duty.

The normal work schedule for Parole Agents shall be a four (4) or five (5) day work week, as dictated by the workload, and approved by the Unit Supervisor in accordance with the MOU for Bargaining Unit Six.

The Parole Agent may schedule other than an eight (8) or ten (10) hour work day, with supervisory approval.

The work week shall start on Monday and end on Sunday, as specified in the current MOU for Bargaining Unit Six.

#### **87210.6 Work Hours**

Work hours, subject to Unit Supervisor approval, will be scheduled between 6:00 a.m. and 10:00 p.m., except as emergency and operational needs dictate.

No work will be routinely scheduled between the hours of 10:00 p.m. and 6:00 a.m.

Each work day will be a minimum of at least four (4) work hours and a maximum not to exceed twelve (12) work hours, except as emergency and operational needs dictate.

#### **87210.7 Lunch Periods**

The workday may include, at the employee's discretion, no meal break, or an optional one (1) hour, or one-half (1/2) hour meal break.

The lunch period, if authorized, is from 12:00 p.m. to 1:00 p.m., unless otherwise specifically identified, as specified in the current MOU for Bargaining Unit Six.

#### **87210.8 Evening Hours**

Work schedules shall include a minimum of four (4) evenings per month.

These mandated evenings shall be in the field, except if previously waived by the Unit Supervisor. The waiver will be the exception rather than the rule.

These mandated evenings will be worked until at least 7:00 p.m.

Nothing in this Section shall prohibit Parole Agents from scheduling additional voluntary evenings, as specified in the current MOU for Bargaining Unit Six.

#### **87210.9 Work Schedule**

Each Parole Agent shall submit a proposed work schedule to the Unit Supervisor for each month at least seven (7) calendar days, but no more than fourteen (14) calendar days, prior to the beginning of the scheduled month for supervisory approval.

The schedule will represent all work hours, which shall include all workdays, weekend work, evening work, days off, OD duties, lunch or no lunch, training, and any other special assignment responsibilities, as specified in the current MOU for Bargaining Unit Six.

#### **87210.10 Work Schedule Approvals**

The Unit Supervisor shall approve the work schedule at least three (3) days prior to the scheduled month, unless it can be documented that the scheduled work hours as submitted would be detrimental to the needs of the office or would hinder the Parole Agent in the performance of his/her duties and responsibilities. This documentation shall be provided if requested by the Parole Agent.

If a Parole Agent does not submit a monthly work schedule, the Unit Supervisor will assign the work schedule, as specified in the current MOU for Bargaining Unit Six.

#### **87210.11 Work Schedule Adjustments**

During the scheduled month, the Unit Supervisor may occasionally adjust the work hours based upon operational needs with written justification to the Parole Agent.

This adjustment shall not be intended to avoid the assignment of overtime.

Parole Agent requested changes in the work schedules, excluding emergencies, will require prior supervisory approval.

Parole Agents will advise the Unit Supervisor of emergency changes no later than the next work day, as specified in the current MOU for Bargaining Unit Six.

#### **87210.12 Revisions**

The Director, DAPO, or designee, is responsible for ensuring that the contents of this Article are kept current and accurate.

#### **87210.13 References**

Department of Personnel and Administration Rules and Regulations.

Department Operations Manual Section 85030.

MOU for Bargaining Unit Six.

## CHAPTER 9 — HEALTH CARE SERVICES

*Effective June 16, 1995*

### ARTICLE 1 — UNASSIGNED

### ARTICLE 2 — MENTAL HEALTH SERVICES

*Revised July 11, 1995*

*Updated March 9, 2015*

#### 91020.1 Policy

The Department shall receive, evaluate, house, treat, and/or refer all psychiatrically disturbed inmates who by virtue of their mental illness are unable to appropriately function within the constraints of the usual correctional processing or program assignments.

#### 91020.2 Purpose

To provide for the detection, diagnosis, treatment, and referral of inmates with mental health problems and to assist each facility's Warden during all stages of each inmate's period of incarceration.

#### 91020.3 Plan for Mental Health Programs

The Deputy Director, HCSD, shall maintain the delivery of mental health services and programs to inmates and parolees. Such services and programs shall include the following:

- Provisions for mental health care to all inmates and parolees with emphasis on identification of need while in reception and prerelease processing.
- Provision for diagnosis and treatment of voluntary patients.
- Provision for involuntary diagnostic and treatment services with appropriate safeguards against abuse and means for appeal and relief.
- POCs shall provide mental health services to parolees, reporting administratively to P&CSD, and reporting professionally to the Deputy Director, HCSD.
- An ongoing program to assess the needs of current departmental population.
- Priorities for the use of limited resources and plans for improving existing programs or initiating new programs.
- Criteria for referring for services within the Department and to other agencies.
- A program review and evaluation activity.

#### 91020.4 Services

Each institution shall provide staff, space, equipment, and supplies for the treatment and/or referral of inmates with mental disorders requiring care. Each institution shall provide 24-hour emergency service.

- All departmental staff, by their supervisors, shall apprise institutional management when this procedure and/or professional standards are not being followed or met.

#### 91020.5 How Services are Obtained

Departmental employees may refer an inmate to an institution's mental health services or the inmate may submit a request for such services.

#### 91020.6 On-Site Services

Inpatient psychiatric services shall be provided at the:

- CMF.
- CIM.

Outpatient services or arrangements for appropriate referrals shall be provided at all institutions.

#### 91020.7 Routine Referrals

The treating physician at any facility may initiate a referral to any psychiatric resource by contacting the designated facility Chief Psychiatrist (CP) or equivalent. The referring facility shall arrange transportation. The receiving facility may request further evaluation prior to transfer.

Placement and assignment procedures for psychiatric treatment categories, including documentation and CSR endorsement, shall be as outlined in the DOM 62050 and 62080.

#### 91020.8 Category "I"

A classification of Category "I" for males and "I" or "Psychotic" for females is assigned to inmates who are believed to be:

- Acutely psychotic, severely depressed, or suicidal.

- Mentally ill inmates who are management problems, providing the psychosis warrants treatment in a hospital setting.

#### 91020.8.1 Category "I" Transfers

Category "I" care is provided at CMF or at the CIW. Category "I" designation shall only be made by CMF or CIW staff. Other institutions with inmates who appear to meet Category "I" criteria shall transfer such cases to CMF or CIW for psychiatric observation.

When an inmate believed to be mentally ill is transferred to a psychiatric program and later found not to be mentally ill, they shall be returned to the sending institution without CSR review.

The DMH provides inpatient services for inmates transferred from the Department in accordance with PC 2684 and at CMF by interdepartmental contract.

#### 91020.8.2 Mental Health Evaluations

When an inmate is transferred for a comprehensive mental health evaluation by a multiple disciplinary mental health team, it shall take place within 14 days after the date of transfer. The evaluation shall include at least the following:

- Review of mental health screening and appraisal data.
- Collection and review of additional data from staff observation.
- Individual diagnostic interviews and tests assessing intellect and coping abilities.
- Compilation of individual's mental health history.
- Development and overall treatment/management plan with referrals.

#### 91020.9 Off-Site Services

The Department maintains interdepartmental agreements to transfer mentally ill or mentally deficient inmates or parolees to DMH or the Department of Developmental Services for treatment.

#### 91020.10 Records

Records for each inmate housed by DMH shall be maintained by the respective "hub" institution (refer to DOM 62030). The "hub" institution and P&CSD staff shall make all contacts with the designated DMH facility to secure reports, schedule BPT hearings, and to process an inmate's parole or discharge. Any report needed for BPT hearings, Superior Court, or other such proceeding shall be requested of DMH to prepare the report or send the departmental staff person to the hospital to complete the report.

#### 91020.11 Inpatient Facility

The psychiatric inpatient unit shall treat mentally disordered patients with any psychiatric illness or disease, whether functional or of organic origin, requiring inpatient-level care.

#### 91020.11.1 Inpatient Facilities Requirements

The CP shall:

- Administer medical care and services for the unit, including all acts of diagnosis, treatment, prescribing, and ordering of drugs.
- Develop a plan for treating and/or referral of patients with emergency medical problems.
- Chair a committee to identify and recommend to administration necessary equipment and supplies.

#### 91020.11.2 Psychiatrists

The psychiatrist shall:

- Prepare the diagnostic formulation for each inmate.
- Develop and implement individual treatment plans.
- Determine frequency of medical examinations.

Reports of all medical examinations shall be placed in the inmate's medical record file.

Only medical staff shall order an inmate removed from general housing status for medical or psychiatric reasons.

#### 91020.11.3 Clinical Psychologists

Psychological services shall be provided by clinical psychologists. Clinical psychologists are members of the medical staff and shall have admitting privileges within departmental medical facilities.

#### 91020.11.4 Social Worker Services

A social worker shall be used for the rendering of social services:

- At the request of the patient's attending physician.
- At the request of management staff.

#### 91020.11.5 Psychiatric Nursing

A nurse with at least two years experience in psychiatric nursing shall provide the nursing management of the psychiatric unit.



There shall be an RN with training and experience in psychiatric nursing on duty at all times in an institution having a psychiatric unit.

There shall be sufficient nursing staff including RNs, MTAs, Licensed Vocational Nurses (LVN), and mental health workers to meet the needs of inmates. Nursing activity documentation shall be forwarded to the unit CP.

#### **91020.12 Therapeutic Programs**

Every inpatient unit shall:

- Provide and conduct organized programs of therapeutic activities in accordance with the interests, abilities, and personal and custodial needs of the inmate.
- Develop and record an individual evaluation and treatment plan which is correlated with the total therapeutic program.

Qualified therapists shall be employed to conduct the therapeutic activity program that may include:

- Occupational.
- Music.
- Art.
- Dance.
- Recreation.

#### **91020.13 Inmate Patient Rights**

Each inmate patient shall have the same rights as all other inmates unless the physician has good cause to deny an inmate any of the rights specified. The denial and reasons shall be entered in the inmate's medical record.

#### **91020.14 Due Process for Psychiatric Patient Transfers to CMF**

Due process for inmates transferred to CMF for psychiatric reasons shall be accomplished by CMF staff.

The inmate shall:

- Be given written notice indicating a hearing shall be held within seven days after arrival at CMF.
- Be assisted by his caseworker for and at the hearing which includes available documentation relating to the transfer.
- Have the information and/or justification for ordering the transfer disclosed at the hearing.
- Have the opportunity to present either oral or written testimony of witnesses.
- Be informed in writing of the decision.

The chairperson shall:

- Be an independent decision maker.
- Not be the treating psychiatrist at the referring or treating facility.
- Have the discretion to limit witnesses.
- Have the discretion to continue the hearing if additional information is needed.

#### **91020.14.1 Appeal**

The inmate may appeal the decision within 30 days using CDC Form 602, Inmate/Parolee Appeal Form.

*Note:* DOM 54060.15 through 54060.34 are now incorporated into DOM 91090.

#### **91020.15 Control of Inmate**

*Revised August 17, 2011*

Refer to the CCR, Title 15, Section 3268, Use of Force policy.

#### **91020.15.1 Contained Situation**

Contained or controlled situations (such as a recalcitrant inmate in a locked cell or room) with no apparent likelihood of immediate danger or injury to any person shall be evaluated and alternatives to the use of force, considered. In such controlled non-emergency situations, the use of force may be authorized only by personnel at the level of lieutenant or above. On psychiatric wards, the approval of a psychiatrist shall be required.

#### **91020.16 Staff Responsibility**

Staff persons shall:

- Orally report to the immediate supervisor all incidents where physical force is used to subdue, contain, or control an inmate.
- Fully document the incident prior to leaving the facility.

#### **91020.16.1 Supervisor's Responsibility**

Supervisors shall:

- Provide supervision of the incident, when possible, to ensure only minimum amount of force is used to control the situation.

- Not become actively involved in the use of force unless absolutely necessary.
- Report incident verbally and in writing to the immediate supervisor.

Supervisor in charge shall:

- Ensure medical attention and care is provided.
- Have personnel evaluated by medical staff and first-aid administered if required.
- Have injured inmates treated by medical staff and documented on a CDCR Form 7219.
- Have photographs taken of all persons involved and verify photographs are true depictions.
- Log and maintain negatives and pictures for two years before obliteration.

#### **91020.17 Restraint and/or Seclusion**

Application of mechanical equipment and/or seclusion for psychiatric reasons shall be:

- Used only to protect the inmate and others from injury.
- To prevent property damage.

#### **Mechanical Equipment**

An inmate shall:

- Be placed in restraint only by written order of a physician.
- Be placed in restraint at the discretion of a RN, MTA, or LVN and an oral order obtained, recorded, and signed by a physician.
- Be observed every 15 minutes by medical staff.
- Be easily removable in the event of fire or other emergencies.

A record of type of restraint, application, and removal shall be in the inmate's medical record.

#### **Seclusion**

An inmate placed in seclusion requires the same orders as mechanical equipment restraint.

#### **91020.18 Electronic Control Device**

*Revised August 17, 2011*

Procedures for the use of an Electronic Control Device (ECD) are contained in the Restricted Volume (55000 Series) of the DOM.

#### **91020.18.1 Review of Medical/Psychiatric Records**

##### **Custodial Staff**

A taser shall not be utilized until the following occurs:

- Custodial staff shall notify the CMO or designee that use of the taser is being considered on a particular inmate. Custodial staff shall identify the inmate to medical staff by name, CDC number, and housing location.

##### **CMO**

- The CMO or designee is responsible to review the medical and psychiatric sections of the inmate's health record to ascertain whether there are any medical conditions that preclude the use of the taser. **Use of the taser is prohibited if the inmate received any psychotropic medication in the prior six weeks, is being treated for a cardiac arrhythmia, or has a pacemaker.**
- If no prohibitive medical or psychiatric condition exists, medical staff shall inform the appropriate custodial authority that there are no medical/psychiatric factors which preclude the use of the taser on the inmate at this time.

#### **91020.18.2 Documenting Review of Medical/Psychiatric Records**

##### **CMO**

- The CMO or designee is responsible to document their findings in the general medical and psychiatric sections of the inmate's health record.

##### **Facility Administrative Staff**

- The facility administrative staff is responsible to document compliance with these procedures within the CDCR Form 837 series, Crime/Incident Report, which is submitted to the Institutions Division at headquarters.

See DOM 32010, Taser Certification/Recertification Requirements; 51030, Reportable Incidents; and 55050, Authorization/Use/Limitations and Storage, for additional information on the taser.

#### **91020.19 Inmate in AD-SEG**

When an inmate remains in AD-SEG beyond 30 days, a personal interview shall be conducted and a written report, CDC Form 128-C, shall be prepared by a psychologist or psychiatrist to evaluate any psychological sequel, need for medications, and/or reassurance about external circumstances. If the

inmate confinement continues beyond three months, a psychological assessment shall be made every three months.

#### **91020.20 Clinical Evaluation by Counselors**

There may be occasions when large numbers of psychiatric referrals and limited psychiatric staff may require that qualified CC-IIs prepare clinical records in lieu of psychiatric evaluations for selected cases and under supervision of a psychologist or a psychiatrist. A psychiatric council shall be established to review such evaluations prepared by counselors. The council shall be comprised of:

- Chairperson: facility's chief or program psychiatrist/consulting psychiatrist.
- Clinical psychologist.
- PA, CC-III, or CC-II who prepared the evaluation.

#### **91020.21 Inmates With Death Sentences**

Three appointed psychiatrists shall:

- Conduct a psychiatric examination and submit a written report to the Warden in time for the report to be transmitted to the Governor at least 20 days prior to the scheduled execution date.
- Have all information available pertinent to the inmate's sanity.
- Prepare a report at least 20 days prior to scheduled execution to be submitted in triplicate to the Director.
- Evaluate the electroencephalogram examination with an interpretation of the results in lay wording.

#### **91020.22 Psychiatric Serious Disciplinary Hearings**

For serious disciplinary hearings in a psychiatric unit, a subcommittee shall include a psychiatrist or psychologist. A full disciplinary committee shall include a psychiatrist and a psychologist.

#### **91020.23 Psychiatric/Psychological Evaluations--General Instructions**

For efficient use of evaluations for BPT, Superior Court, etc., the psychiatric/psychological portion of the cumulative case summary shall:

- Be brief and concise.
- Use lay terminology and explanations.
- Avoid detailed recapitulation of material available elsewhere in the cumulative summary.
  - If the previous report is virtually identical to the current evaluation, do not rewrite the entire report.
  - Indicate the case has been reviewed, the previous report is still applicable, and there is no significant change.

##### **91020.23.1 Content**

The evaluation shall also indicate:

- Whether this is the first, second, etc., report to the authority.
- Length of time since the last report.
- What was the nature of author's contact with the inmate.
- If first report, note pertinent previous psychiatric history with a short digest of essential conclusions and treatment.
- Summarize current essential development and progress.
- Delineate the psychopathology present which supports the diagnosis and prognosis.
- Reevaluate previously reported psychiatric conclusions.
- Comments on causative factors, self-understanding, attitudes, motivation for change, emotional stability, social identification, sincerity, and rehabilitation.
- A neurological appraisal (or reference to prior appraisal or note that such appraisal is needed) if organicity is present.
- The observed effect of medication or note if not on medication.

##### **91020.23.2 Conclusions**

All evaluations shall list the reasons for general conclusions. The diagnosed psychopathology is related to criminal behavior:

- Directly, the offense or offenses were largely a function of the psychopathological state.
- Indirectly, the psychopathology directly and clearly predisposed to the offenses but did not determine them.
- No significant relationship, criminal behavior, and psychopathology have been unrelated. Continuation of the psychopathology does not substantially increase the likelihood of criminal behavior.

#### **Observation in the Facility**

During observation in the facility, the inmate has:

- Psychiatrically improved slightly, moderately, greatly, or entirely.
- Psychiatrically deteriorated slightly, moderately, or greatly.
- Psychiatrically has shown no significant change.
- No conclusions may be drawn because of insufficient time and observation by evaluation.

#### **Return to Community**

In a less controlled setting such as return to the community, the inmate is:

- Considered likely to continue improvement.
- Considered likely to hold present gains.
- Considered in all probability to deteriorate because of (list reasons).

#### **91020.23.3 Suggested Actions**

From a psychiatric standpoint, the inmate should:

- Remain in present rehabilitation program as continued benefit is likely. State recommended specific treatment.
- Be removed from special (psychiatric evaluation) calendar because:
  - Psychopathology is not significantly related to future criminal behavior and psychiatric opinion will not contribute to release decision.
  - Two or more favorable psychiatric reports (having conclusions favorable for release) have been written within the last three years. The two favorable reports shall have been written by more than one examiner or had psychiatric council review.
  - There have been repeated psychiatric reports describing chronic mental pathology which cannot be expected to change. The conditions under which parole would be possible or become possible shall be spelled out with this recommendation.
- Be considered for transfer to DMH as needing treatment not available in the Department. Recommendations shall state whether it is anticipated that such treatment may result in the inmate being able to be returned to society.

#### **91020.23.4 Parole and Release**

If the inmate is to be paroled or released, consideration shall be given to the following:

- Violence potential outside a controlled setting in the past considered to have been serious (specify) and at present estimated to increase, decrease, or be comparable. In this context, violence is equated with inflicting physical harm on others or great emotional harm, as by creating fear.
- Conditions of parole such as outpatient clinic (parole or local), halfway house, no alcohol, and other special attention or special supervision needs. Indicate whether evaluator recommends:
  - Mandatory for parole from facility.
  - Necessary after release to parole.
  - Desirable.
- Continuation of medication on parole. Specify name of medication, dosage, frequency, and route of administration.

#### **91020.23.5 Contingency Recommendations**

Indicate recommendations to the classification committee if parole is denied. If a parole date is set, give pertinent information for the period in the facility prior to parole (e.g., whether further psychiatric evaluation should be made prior to release). Indicate basis for all recommendations.

#### **91020.24 Progress Reports**

After the report is written, new psychiatric developments in the case shall be reported on CDC Form 128-C and sent to the C&PR for inclusion in the report.

#### **91020.25 Psychiatric Evaluations—Life Prisoners**

A full psychiatric evaluation on life prisoners shall be prepared for all initial and subsequent parole hearings. An evaluation shall be prepared for any rescission hearing based on psychiatric problems or assaultive/sexual behavior. Inmates shall be retained on psychiatric referral status unless specifically removed by a BPT panel and the reasons specified in the hearing decision.

##### **91020.25.1 Category X**

Inmate cases ordered to category X shall be calendared to appear in one year, unless the panel specifically instructs that the inmate be calendared upon completion of the evaluation. Inmates who refuse to cooperate with a

requested evaluation shall also be retained on psychiatric referral status and calendared on the one-year schedule.

#### **91020.25.2 Distribution**

Psychiatric evaluation reports shall be completed and copies distributed to the inmate, their attorney, and the DA at least 15 days before the hearing.

#### **91020.26 PC 1170(d) Evaluations**

When a request for a PC 1170(d) is received, staff shall prepare a diagnostic study and recommendation. This report, together with the current psychological evaluation if indicated, and a transmittal letter shall be reviewed by the program's Associate Warden. If any staff recommendations are in conflict, the method by which this conflict was resolved shall be described in the transmittal letter to the court. Excluding reception centers and emergencies, inmates shall not be transferred until the PC 1170(d) report is completed.

#### **91020.27 PC 273(a)(d) and 1203.03 Evaluations**

Reception center staff shall prepare a psychiatric/psychological evaluation for each PC 1203.03 case and each inmate who, after observation or based on the information from the county, appears to have a psychiatric problem that may affect facility placement. Prisoners convicted of PC 273(a) (willful cruelty toward child/endangering life, limb, or health) and/or PC 273(d) (inflicting corporal punishment upon a child resulting in traumatic injury) shall undergo a psychiatric/psychological evaluation to determine whether counseling may be recommended as a condition of parole.

#### **91020.28 Work/Training Incentive Program**

An inmate with documented long-term medical/psychiatric work limitations shall be processed in the following manner:

- The inmate shall receive a psychiatric or psychological evaluation to determine the extent of the inmate's disability and to delineate the inmate's capacity to perform work and/or training programs for either a full or partial work day. If the inmate is deemed capable of working only a partial work program, they shall be awarded full-time credit for participation in such a program.
- The psychiatric or psychological evaluation shall be reviewed by the facility's classification committee.

#### **91020.29 Revisions**

The Director, DHCS, or designee is responsible for ensuring that the contents of this article are kept current and accurate.

#### **91020.30 References**

*Revised May 6, 2015*

PC §§ 273, 1170, 1203.03, 2600, 2602, 2684, 2685, 2690, 3002, 3501, 5068, and 5068.5.

CCR (15) (3) §§ 3342, 3362, 3364, 3364.1, and 3364.2.

CCR (22) §§ 70577 and 70579.

W&I §§ 5000 et seq., and 7301.

H&SC § 1316.5.

B&PC §§ 2900 - 2912.

*Youngberg v. Romero.*

DOM §§ 32010, 51030, 55050, 62030, 62050, and 62080.

**ARTICLE 3 — UNASSIGNED**

**ARTICLE 4 — UNASSIGNED**

**ARTICLE 5 — UNASSIGNED**

**ARTICLE 6 — UNASSIGNED**

**ARTICLE 7 — UNASSIGNED**

### **ARTICLE 8 — INMATE TUBERCULOSIS ALERT SYSTEM**

*Effective April 21, 1993*

#### **91080.1 Policy**

The Inmate Tuberculosis (TB) Alert System is a critical component of the Department overall efforts to identify an inmate's TB status and to control TB within CDC.

#### **91080.2 Purpose**

The Inmate TB Alert System will ensure that inmates with unknown or questionable TB status are moved appropriately, and those on treatment regimes do not have interruptions in the treatment.

The Inmate TB Alert System is designed to address several major problems in controlling TB among inmates. The system will:

- Provide a rapid method for Medical Care Services, Classification Services, Case Records, and CDC Transportation staff to determine the most current TB status of an inmate.
- Provide a rapid method for Medical Care Services staff to identify inmates that require ongoing TB treatment at the receiving facility.
- Allow CDC Transportation, C&PR, and/or the CC-III to schedule transportation by the most appropriate method given the inmate's TB status.
- Provide reports that will assist facilities in the tracking and control of TB.

#### **91080.3 Definition**

TB is an infectious airborne disease that is a serious public health problem in correctional facilities around the country. The control of TB requires a program that emphasizes testing, treatment, and tracking.

#### **Testing**

CDC facilities have established TB testing programs to ensure that inmates are tested on an annual basis, as well as when circumstances warrant additional testing. The testing program ensures that inmates with TB are identified as quickly as possible.

#### **Treatment**

Control of TB requires aggressive and continuous treatment for extended periods of time. TB can be broadly divided into two stages: TB Infection and TB Disease. Unlike the sound of its name, TB Infection is not infectious. During this early stage of TB, the individual has been infected but has no symptoms. Without treatment, 10 percent of the individuals infected with TB will develop the more severe stage-TB Disease.

With treatment, only 2 to 5 percent will develop TB Disease. It is extremely important in TB control that individuals with TB Infection undergo a full course of treatment. Treatment for TB Infection requires regularly administered oral medications for up to 12 months. Interruptions in therapy can cause a multiple drug resistant strain of TB requiring more aggressive and expensive therapy. Inmates with TB Infection can be moved; however, the Medical Care Services staff at the receiving facility shall be notified that an inmate requiring continuous TB treatment has been transferred to the facility.

TB Disease is initially infectious. After diagnosis and initial treatment, it becomes noninfectious but requires aggressive treatment for up to 24 months. Inmates with TB Disease cannot be moved without respiratory precautions until the disease is noninfectious. Medical staff at the receiving facility must be notified prior to the inmate with TB Disease being transferred to the facility.

#### **Tracking**

Controlling movement of the inmate population is critical to TB control. The Inmate TB Alert System addresses the need to control this movement. No inmate shall move on regular CDC transportation until it is determined that the inmate's TB status allows movement without respiratory precautions. When an inmate is moved without knowledge of TB status, there is increased potential for the spread of TB Infection. This could result in unnecessary exposure to the staff and inmate population, and require extensive testing of all exposed inmates and staff.

#### **91080.4 Inmate Tuberculosis (TB) Alert System Major Components**

- The Inmate TB Alert System will implement the following major components:

#### **TB Alert Code**

- The Department's DDPS and Automatic Transfer System (ATS) shall contain a TB Alert Code for every inmate. This code shall be accessible to designated Medical Care Services, Classification, Case Records, and CDC Transportation staff. The code shall alert Classification, Case Records, and CDC Transportation of movement limitations and special transportation requirements. It shall alert Medical Care Services staff of the need to follow-up on inmates with unknown status, and shall alert Medical Care Services staff when an inmate on therapy is transferred to their facility.

**CSR Endorsements**

- CSR endorsements for movement shall require the inmate's C-File contain the inmate's TB Alert Code in order to complete the endorsement. This policy requires that the CDC Form 128-C, Medical/Psychiatric/Dental Chrono, or CDC Form 128-C-1, Reception Center Medical Clearance/Restriction Information Chrono, documenting the inmate's TB Alert Code be filed in the inmate's C-File at the time of endorsement. The inmate shall not be endorsed for movement if the C-File lacks a CDC Form 128-C or CDC Form 128-C-1 documenting the inmate's TB Alert Code.

**Special Transportation Requirements**

- Inmates with special transportation restrictions shall not be moved on regular CDC transportation. Inmates that have an unknown TB status shall not be transported on regular CDC transportation. These inmates, as well as infectious inmates, require special transportation using respiratory precautions. Special transportation is other than regularly scheduled CDC bus transportation which is normally arranged by the sending facility and provides medical respiratory precautions where required by the referring physician. Respiratory precautions require that masks are worn by those who come close to the patient, hands are washed after touching the patient or potentially contaminated articles and before taking care of another patient, and articles contaminated with infective material be discarded or bagged and labeled before being sent for decontamination and reprocessing.

**Medical Advance Transfer Notice**

- The CDC Form 7343, Medical Advance Transfer Notice, shall contain the most current TB Alert Code and TB Alert Transportation Instruction for each inmate. The TB status of all inmates scheduled for movement shall be reviewed by the facility's Medical Care Services staff prior to movement. This is to ensure that changes in TB status have not occurred since endorsement.

**Transfer Record**

- The CDC Form 135, Transfer Record, shall contain the most current TB Alert Code and TB Alert Transportation Instruction for each inmate. CDC Transportation Sergeants shall be required to review the TB Alert Transportation Instruction of each inmate. Any inmate without a Clear for Transportation Instruction shall not be allowed to board the bus.

**Telephone Alert System**

- Each facility shall be required to implement a telephone alert system that allows Medical Care Services staff to quickly alert Classification and Custody staff of the need to schedule an inmate for special transportation. When Medical Care Services staff determine that an inmate is going to be moved inappropriately, a medical hold process shall be in place to allow the scheduled movement to be delayed or postponed. Since inmates can move at odd hours, a telephone alert procedure shall be rapid and responsive to the need in stopping inappropriate inmate movement.

The reports associated with the Inmate TB Alert System shall provide Medical Care Services staff with information necessary for immediate follow-up on inmates with unknown TB status. Medical Care Services staff's access to DDPS bed assignments should make reading TB tests more efficient. The transfer endorsement policy and the inclusion of the TB Alert Transportation Instruction for each inmate on the CDC Form 135 and the CDC Form 7343 shall provide additional security in stopping the transmission of TB through inappropriate inmate movement.

**91080.5 The TB Alert Code**

The current DDPS and ATS are used to collect information, transfer data, and track inmates throughout the CDC system. The DDPS is updated every day and selected information is downloaded to the ATS as required. When an inmate transfers to another facility, the DDPS information follows the inmate within 24 hours. The Inmate TB Alert System is an enhancement to the DDPS and ATS.

The Inmate TB Alert Code is a two-digit code that shall be entered in the Inmate TB Alert System daily by Medical Care Services staff. The code shall then be printed on the CDC Form 7343 and the CDC Form 135, along with the TB Alert Transportation Instruction for each inmate. DDPS shall also generate two reports that will be useful to Medical Care Services staff in monitoring testing activities and tracking inmates with TB Infection and TB Disease.

**91080.6 Determining the TB Alert Code**

Every inmate at any CDC facility shall be assigned a TB Alert Code to identify their TB status. When an initial TB Alert Code is established and every time

the code changes, it shall be documented on a CDC Form 128-C or CDC Form 128-C-1.

**91080.7 TB Alert Code Descriptions**

*Revised January 18, 1994*

The TB Alert Codes are described below:

**Code \_\_**

Status Unknown

No entry has been made into the Inmate TB Alert System. This code indicates the TB status of an inmate is unknown. Blank codes require immediate action of the Medical Care Services staff designated as the facility's Inmate TB Alert System Coordinator.

Inmates arriving at CDC reception centers can remain Code \_\_ (blank) until the initial Mantoux Purified Protein Derivative (PPD) skin test has been read. The Code \_\_ (blank) remains until the skin test has been read/interpreted. After test interpretation, the Code \_\_ (blank) becomes either a Code 21 or Code 22. An inmate's TB Alert Code should not remain blank for over 72 hours.

Since an inmate entering the reception center shall be a Code \_\_ (blank) until the PPD is read, it is imperative that designated Medical Care Services staff administer and interpret the Mantoux PPD skin test within 72 hours of inmate arrival. Failure to promptly administer, read, and document the PPD result could result in serious inmate movement problems.

**TB Alert Transportation Instruction:** Transfer and endorsement shall be deferred. Please refer to DOM 91080.16.

**Code 11**

Status Unknown/PPD Test Performed.

Code 11 denotes that the PPD skin test has been administered, but not yet read and/or interpreted. The inmate's TB status is unknown. Inmates should remain a Code 11 no more than 72 hours. This code is used when an inmate with an already established TB Alert Code has a subsequent skin test. The inmate must be coded as a Code 11 after the skin test is administered to assure that the inmate is not moved and to document the change in TB Alert status. After the PPD is read/interpreted, the inmate shall be assigned one of the appropriate TB Alert Codes: 21 or 22.

Code 11 is used when:

- Inmates with a Code 22 receive their annual PPD skin test.
- When an inmate is given a PPD skin test as part of a case contact investigation.
- Any time an inmate with an existing TB Alert Code is given a skin test or becomes unknown status.

As specified under Code \_\_ (blank) above, mandatory use of Code 11 in newly arriving reception center inmates is no longer required.

**TB Alert Transportation Instruction:** Inmates with unknown TB status shall be transported/moved by special transportation using respiratory precautions.

**Code 21**

TB Screening Test Result Significant--Inmate Under Diagnosis.

A Code 21 is used when the clinician has determined that an inmate requires diagnostic TB testing. While this is generally done in response to a significant PPD skin test, any time a clinician considers an inmate "under diagnosis" for TB, the inmate should be coded as a Code 21.

A Code 21 is used when:

- An inmate has a PPD skin test induration of 10 mm or more.
- An inmate has a PPD skin test induration of 5 mm or more and risk factors specified in the CDC TB Guidelines exist.
- An immunosuppressed inmate is determined skin test positive (without regard to the mm induration) based on anergy testing.
- An inmate with a previously significant PPD (prior history of TB Disease or TB Infection) is undergoing annual or other periodic TB evaluation. Inmates with a prior history of TB Disease or TB Infection should be evaluated once a year. At the time the inmate is scheduled for evaluation, the inmate's TB Alert Code should be changed to Code 21. It should remain a Code 21 until the medical evaluation is completed and the inmate is determined free from the disease.

A Code 21 is used only until appropriate diagnostic procedures establish a subsequent TB Alert Code.

After diagnostic procedures, the inmate shall be assigned one of the appropriate TB Alert Codes: either 31, 32, or 33.

Movement from Code 21 to Code 31:

Inmates should be coded 31 any time a clinician suspects infectious TB Disease, based on either symptoms, sputum smears, x-rays, or any combination. The inmate should be changed from Code 21 to Code 31 as soon as the clinician suspects that the inmate could be infectious. For example, if a sputum smear for Acid Fast Bacilli (AFB) returns as positive and the inmate is considered a suspect for infectious TB Disease, they should be immediately coded as a Code 31. It is not appropriate for the inmate to remain a Code 21 while awaiting confirmatory results of the culture and sensitivity.

Movement from Code 21 to Code 32:

Inmates should be moved from a Code 21 to a Code 32 when:

- Written documentation establishes that the positive skin test is the result of a prior exposure and the inmate does not require current prophylactic treatment.
- A clinician determines that a new exposure will not receive prophylactic treatment due to medical contraindications.

Movement from Code 21 to Code 33:

Inmates should be moved from a Code 21 to a Code 33 after the initiation of TB Infection prophylactic medication or upon a signed refusal by the inmate to take prescribed medications. Inmates with a negative chest X-ray must remain a Code 21 until the medical evaluation is complete and the medication initiated or refused.

**TB Alert Transportation Instruction:** Inmates with a Code 21 shall be transported/moved by special transportation using respiratory precautions.

#### Code 22

PPD Test Result Non-significant.

Code 22 is used when the PPD skin test is not significant and no follow-up treatment is required. Inmates with a Code 22 require annual PPD skin testing or testing upon exposure.

**TB Alert Transportation Instruction:** Inmates with a Code 22 shall be transported/moved by regular CDC transportation.

#### Code 31

Infectious TB Disease Suspected.

Code 31 is used when an inmate is suspected of having infectious TB Disease. An inmate should be made a Code 31 as soon as the clinician suspects infectious TB Disease. The inmate shall remain a Code 31 until they have received appropriate treatment and are no longer considered infectious.

Inmates that are considered a Class V TB case would immediately be coded as a Code 31. The inmate would remain a Code 31 until the clinician determines they are no longer infectious. After the inmate has been placed on TB Disease treatment and is no longer considered infectious, the inmate should be coded as a Code 43. (Please note that the inmate is still a Class V TB case until culture confirms the diagnosis. In most cases, however, the inmate's TB code would change to a Code 43 several weeks before obtaining the culture results.) The inmate should not remain a Code 31 until culture confirmation of the case. They should be coded as a Code 43 (TB Disease-On Medication) as soon as the inmate is no longer considered infectious.

Should an inmate initially considered infectious (and Coded 31) and later have TB Disease ruled out, the inmate would be coded to the appropriate TB Alert Code.

**TB Alert Transportation Instruction:** Inmates with a Code 31 shall be transported/moved by special transportation using respiratory precautions.

#### Code 32

PPD Test Result Significant From Prior Infection/Disease--Noninfectious.

Code 32 is used when:

- An inmate has a significant PPD reaction from prior exposure to TB that has already been prophylactically treated.
- An inmate has a significant PPD reaction from a prior case of TB Disease and the inmate has completed the required treatment.
- An inmate has a diagnosis of TB Infection, but after medical evaluation, is not receiving prophylactic treatment due to medical contraindications.

**TB Alert Transportation Instruction:** Inmates with a Code 32 shall be transported/moved by regular CDC transportation.

#### Code 33

TB Infection--Noninfectious, On Medication.

Code 33 is used when:

- An inmate has a diagnosis of TB Infection and is receiving prophylactic treatment.
- TB medication has been prescribed but the inmate refused the medication.

- TB medication has been prescribed but the inmate is only intermittently or partially compliant with the treatment regime.
- HIV inmates receiving multiple medication as prophylactic treatment for TB Infection.

When an inmate completes the course of prophylactic treatment for TB Infection, the inmate's TB Alert Code should be changed to Code 32.

**TB Alert Transportation Instruction:** Inmates with a Code 33 shall be transported/moved by regular CDC transportation. Medication shall be transported on the bus or Medical Care Services staff shall ensure the medication is available at the receiving facility.

#### Code 43

TB Disease, Not Infectious.

Code 43 is used for inmates currently under treatment for TB Disease when the inmate is no longer considered infectious. Inmates shall remain Code 43 through the entire treatment period for this episode of TB Disease. Upon completion of TB curative treatment, the inmates shall be coded Code 32.

Inmates receiving curative treatment for TB Disease should be coded Code 43 while the result of the culture is pending. If the culture result confirms TB Disease, the inmate will remain a Code 43 throughout the treatment period. If the culture rules out TB Disease, the inmate should, at that time, be coded Code 33 to reflect the inmate's TB Infection status. If the inmate is diagnosed with atypical Mycobacterium infection, the code should be changed to either Code 32 if the PPD status is positive or Code 22 if the PPD status is negative.

Code 43 is used for:

- Confirmed cases of TB Disease currently receiving curative treatment.
- Suspected cases of TB Disease (awaiting culture confirmation) currently receiving curative treatment and not infectious.
- Extrapulmonary TB Disease (confirmed Mycobacterium TB in other than a pulmonary site).

Upon completion of treatment for TB Disease, the inmate shall be coded as Code 32.

**TB Alert Transportation Instruction:** Inmates with a Code 33 shall be transported/moved by regular CDC transportation. Medication shall be transported on the bus or Medical Care Services staff shall ensure the medication is available at the receiving facility.

#### 91080.8 Documenting the TB Alert Code and Entering the TB Alert Code in the DDPS

Every time an inmate's TB Alert Code changes, Medical Care Services staff shall complete a CDC Form 128-C or CDC Form 128-C-1. This shall be done within 24 hours of reading the PPD skin test results and diagnosing the inmate's TB status.

**If the TB Alert Code is 31,** the TB Alert Code shall be documented on the CDC Form 128-C or CDC Form 128-C-1 by the **end of the shift** in which the diagnosis was made.

The TB Alert Code shall be identified on the CDC Form 128-C or CDC Form 128-C-1.

Medical Care Services staff shall input the inmate's TB Alert Code into the DDPS file within **24 hours** of reading the PPD skin test results, diagnosis, or any change in the TB Alert Code.

**If the TB Alert Code is 31,** the TB Alert Code shall be entered into the DDPS by the **end of the shift** in which the diagnosis was made.

#### 91080.9 Routing and Filing the CDC Forms 128-C and 128-C-1,

Mainline Facilities:

- Medical Care Services staff in mainline facilities shall route the CDC Form 128-C documenting the TB Alert Code to Medical Records by the end of the shift in which the PPD skin test result was read, diagnosis made, or any change to the TB Alert Code.
- Medical Records in mainline facilities shall file the CDC Form 128-C in the inmate's Medical Record within 24 hours of receipt (or by the end of the next business day if received on a weekend or holiday) from Medical Care Services staff.
- Medical Records in mainline facilities shall route the CDC Form 128-C to Case Records within 24 hours of receipt (or by the end of the next business day if received on a weekend or holiday) from Medical Care Services staff.
- Case Records in mainline facilities shall file the CDC Form 128-C in the inmate's C-File as soon as possible. The CDC Form 128-C must be filed prior to transfer endorsement.

## Reception Centers:

- Medical Care Services staff in reception centers shall route the CDC Form 128-C or CDC Form 128-C-1 documenting the TB Alert Code to Medical Records after reading the PPD skin test result, diagnosis, or any change in the TB Alert Code.
- Medical Records in reception centers shall file the CDC Form 128-C or CDC Form 128-C-1 in the inmate's Medical Record within five days of reading the PPD skin test, diagnosis, or any change in the TB Alert Code.
- Medical Records in reception centers shall route the CDC Form 128-C or CDC Form 128-C-1 to Case Records before the transfer endorsement can be completed.
- Case Records in reception centers shall file the CDC Form 128-C or CDC Form 128-C-1 in the inmate's C-File before the transfer endorsement can be completed.

### 91080.10 Reviewing Scheduled Inmate Movement on the CDC Form 7343, Medical Advance Transfer Notice

#### General Requirements

A CDC Form 7343 generated at each facility shall contain the TB Alert Transportation Instruction for every inmate listed.

The facility's Associate Information System Analyst (AISA) routinely extracts (downloads) information from the DDPS and enables the ATS access to this information during the generation of the CDC Form 7343. ATS reads each inmate's TB Alert Code from the extracted information, generates the appropriate TB Alert Transportation Instruction based on the TB Alert Code, and prints the TB Alert Transportation Instruction on the CDC Form 7343.

Medical Care Services staff shall review the CDC Form 7343 to ensure the appropriate TB Alert Transportation Instructions have been identified and medications are prepared for transfer if appropriate.

#### CDC Form 7343 Medical Advance Transfer Notice Distribution Instructions

The Inmate TB Alert Coordinator shall walk to Case Records and obtain a copy of the CDC Form 7343 as soon as it is printed and as subsequent changes occur.

#### CDC Form 7343 Review Instructions

Medical Care Services staff shall review the CDC Form 7343. It is **not necessary** to compare the TB Alert Transportation Instruction with the DDPS TB Alert Code or documentation in the medical record. A visual check of the names and TB Alert Transportation Instructions printed on the CDC Form 7343 along with Medical Care Services staff's knowledge of inmates who are in the infirmary, quarantine, etc., shall be sufficient. This review is intended to ensure all inmates have a Clear For Transportation status and to identify that any recent change in the TB Alert Code not yet entered in DDPS can be identified and arrange transportation arrangements, if necessary.

Medical Care Services staff shall follow instructions for placing Special Transportation Requirements, as described in DOM 91080.11, for any inmate who is TB Alert Code 31, Infectious TB Disease.

Medical Care Services staff shall be responsible for securing medications for inmates who are TB Alert Code 33, TB Infection, Noninfectious, On Medication; or TB Alert Code 43, Diagnosis of Noninfectious TB Disease, On Multiple Medication.

Medical Care Services staff shall be responsible for ensuring transfer medications are at Receiving and Release (R&R) at the time of inmate transfer. If medications are not transferred on the bus, Medical Care Services staff shall telephone Medical Care Services staff at the receiving facility that medications did not transfer with the inmate.

If a TB Alert Code requires change, Medical Care Services staff shall contact Case Records before the end of the shift and document the name of the person contacted and the date of the contact next to the inmate's name on the CDC Form 7343.

Upon completion of review, Medical Care Services staff shall sign the CDC Form 7343 denoting approval and route the CDC Form 7343 to Case Records. If Medical Care Services staff does not have 24 hours to review the CDC Form 7343, changes and approvals shall immediately be communicated with the appropriate staff by telephone.

### 91080.11 Special Transportation Requirements

#### General Requirements

Every inmate who has been diagnosed as Code 31, TB Disease, Infectious, shall be moved only by special transportation using respiratory precautions.

Each facility shall identify Medical Care Services staff who may issue and remove telephone medical holds pending special transportation arrangements. The facility shall also identify Classification and Custody staff who may

receive special transportation instructions. The names and telephone numbers of all staff identified in this process shall be documented and distributed.

Medical Care Services staff shall place medical holds pending special transportation arrangements by the end of the shift in which the status was diagnosed. Once an inmate's TB status has changed, a release of special transportation arrangements shall be placed by the end of the shift in which the status was diagnosed.

#### Placing A Medical Hold Pending Special Transportation Arrangements

Every inmate who has been coded with a TB Alert Code 31, TB Disease, Infectious, shall have a medical hold pending special transportation arrangements. Medical Care Services staff shall place a telephone call to the C&PR, the CC-III, or their designee during regular business hours (the Administrator on Duty [AOD] or their designee during non-business hours) and:

- Identify the inmate as currently infectious.
- Require that the inmate be transferred using special transportation and using respiratory precautions until further notice.

Document the TB Alert Code as described in the DOM 91080.8.

Enter the TB Alert Code as described in DOM 91080.8.

Route and file the documentation as described in DOM 91080.9.

#### Removing a Medical Hold Pending Special Transportation Arrangements

When an inmate is no longer Code 31, TB Disease, Infectious, the special transportation requirement shall be removed. Medical Care Services staff shall place a telephone call to the C&PR, the CC-III, or their designee during regular business hours (the AOD or their designee during non-business hours) and:

- Identify the inmate as no longer infectious.
- Remove the special transportation requirement.
- Discuss any additional special transport requirements if appropriate.

Document the TB Alert Code as described in DOM 91080.8.

Enter the TB Alert Code as described in DOM 91080.8

Route and file the documentation as described in DOM 91080.9.

### 91080.12 Inmate TB Alert System Reports

The Inmate Alert System provides two reports, 1) Medical Alert List by Arrival Date and 2) Medical Alert List by Medical Code and two screens 1) Medical Information Screen History--Diagnosis and 2) Medical Information Screen History--Movement. The reports and screens are useful in monitoring an inmate's TB status.

#### Medical Alert List by Arrival Date

The user of the Inmate TB Alert System selects the desired inmate arrival date. The selected date may be either one single day or a sequence of many days.

The **Medical Alert List by Arrival Date Report** provides the following data elements for every inmate in the facility by date of arrival:

- Bed/Cell--Most current housing status.
- CDC Number.
- Inmate Name.
- Birth Date.
- Age.
- Medical Code.

The **Medical Alert List by Arrival Date Report** may be generated daily and used for:

- Inmate Tracking--Immediate action shall be taken if the inmate's TB Alert Code remains 11 after 72 hours.
- Case contact investigation information.
- Identification of inmates with TB Alert Code 22 who require annual PPD skin testing.
- Identification of inmates with TB Alert Code 31, 32, 33, or 43 who require yearly evaluations for symptoms of coughing, night sweats, fever, and weight loss.
- Assistance with identifying inmates who require Directly Observed Therapy.
- Assistance in Confidential Morbidity Report and Verified Case Report card generation.

#### Medical Alert List by Medical Code

The **Medical Alert List by Medical Code Report** provides a list of every inmate grouped by TB Alert Codes. The report may be generated by selecting one or a combination of TB Alert Codes.

This report, sorted by medical alert code and description of code, provides the following data elements for every inmate in the facility:

- Bed/Cell--Most current housing status.
- CDC Number.
- Inmate Name.
- Birth Date.
- Age.
- Arrival.

The **Medical Alert List by Medical Code Report** may be generated daily and used for:

- Follow-up of inmates with a TB Alert Code 11 that should have progressed into another code.
- Data surveillance on a daily, weekly, monthly, and annual basis.
- Expediting follow-up care on inmates with TB Alert Code 21, 31, or 32.

### Screens

The Medical Information Screen History--Diagnosis.

#### Medical Information Screen History Diagnosis

The user will read information regarding the inmate's TB history provided on the **Medical Information Screen History--Diagnosis** screen. Refer to the [Medical Alert System User's Manual](#) for detailed instructions.

This screen provides the following data elements for every inmate in the facility:

- CDC Number.
- Inmate Name.
- Bed/Cell--Most current housing status.
- Current TB Alert Code.
- Previous medical diagnosis and date of entry.

Uses of the Medical Information Screen History--Diagnosis screen include:

- Current TB Alert Code and date entry.
- Previous medical diagnosis history.

Once this screen is displayed on the DDPS terminal, a screen print may be executed on the printer. Refer to the [Medical Alert System User's Manual](#) for detailed instructions.

#### Medical Information Screen History Movement

The user will read information regarding an inmate's movement history provided on the **Medical Information Screen History--Movement** screen. Refer to the [Medical Alert System User's Manual](#) for detailed instructions.

This screen provides the following data elements for every inmate in the facility:

- CDC Number.
- Inmate's Name.
- Bed/Cell--Most current housing status.
- Current TB Alert Code.
- Transaction Message.
- Facility.
- Cell.
- Location.
- Date.
- Previous CDC Number.

Uses of the Medical Information Screen History--Movement include:

- Assistance with case contact investigations.

Once this screen is displayed on the DDPS terminal, a screen print may be executed on the printer. Refer to the [Medical Alert System User's Manual](#) for detailed instructions.

### 91080.13 Weekly Code Review

#### General Requirements

Medical Care Services staff shall conduct a weekly review of inmates with a TB Alert Code of \_\_\_ (blank), 11, 21, or 31. This review shall provide Medical Care Services staff with the ability to ensure that coding and medical follow-up is properly maintained.

Each facility shall identify the Medical Care Services staff who will generate, review, and follow-up on those inmates who are identified with TB Alert Codes 11, 21, or 31.

### Weekly Code Review Instructions

Medical Care Services staff shall generate the **Medical Alert List by Arrival Date Report** on the DDPS each Monday morning using the arrival date for the Monday of the previous week and selecting TB Alert Codes of 11, 21, and 31. Refer to [Medical Alert System User's Manual](#) for details.

Medical Care Services staff shall review medical records for each inmate who reports a TB Alert Code of 11, 21, or 31.

If the TB Alert Code is 11, the Mantoux PPD skin test shall be read and interpreted or re-administered as appropriate.

If the TB Alert Code is 21, the reviewing Medical Care Services staff shall determine if the diagnosis has been confirmed.

If the TB Alert Code is 31, the reviewing Medical Care Services staff shall determine if the diagnosis can be updated.

If the TB Alert Code is updated to Code 31, Medical Care Services staff shall issue a medical hold pending special transportation arrangements as defined in DOM 91080.11.

Any TB Alert Code changes shall be documented and entered in the DDPS as described in DOM 91080.8.

Route and file the documentation as described in DOM 91080.9.

### 91080.14 Monthly Reporting

#### General Requirements

Each facility shall generate the **Medical Alert List By Medical Code Report** at the month's end and use the data to complete the **Interim Tuberculosis Case Report**. This report shall be submitted to the Infectious Disease Control Unit in headquarters.

#### Monthly Report Instructions

On the morning of the first day of each month, Medical Care Services staff shall generate the **Medical Alert List by Medical Code Report**. Refer to the [Medical Alert System User's Manual](#) for details for report generation.

Medical Care Services staff shall complete the **Interim Tuberculosis Case Report** using the information contained in the [Medical Alert List by Medical Code Report](#).

Medical Care Services staff shall submit the **Interim Tuberculosis Case Report** to the Infectious Disease Control Unit in headquarters by the close of business on the 5th of the month.

### 91080.15 Case Contact Investigation

#### General Instructions

As soon as a diagnosis of Infectious TB Disease is reasonably established on laboratory, clinical and/or radiographic basis, investigation of contacts shall begin. The TB Alert System can assist facilities to manage case contact investigations.

- The **Medical Alert List by Arrival Dates Report** from the Inmate TB Alert System can assist in verifying all inmates (close contact) who were in the facility during the "period of infectivity."
- The **Medical Alert List by Medical Codes Report** from the Inmate TB Alert System can assist in identifying the TB status of all identified close contacts.

All inmates who have been identified as a close contact to the source inmate should immediately be coded TB Alert Code 11 with the appropriate documentation on the CDC Form 128-C or 128-C-1.

Documentation, coding, routing, and filing for this and subsequent TB Alert Code changes follows the procedures specified in DOM 91080.8 and 91080.9.

### 91080.16 TB Documentation for Transfer Endorsement

#### General Requirements

An inmate's transfer endorsement shall be deferred if the TB Alert Code is not documented on a CDC Form 128-C or CDC Form 128-C-1, Medical/Psychiatric/Dental Chorine, and filed in their C-File at the time of endorsement. The CSR or CC-III (for DPU cases) shall be responsible for deferring endorsement of any case with incomplete TB status information. The inmate's C-File shall have a documented TB Alert Code of 21, 22, 31, 32, 33, or 43. The C&PR or CC-III shall notify Medical Care Services staff of any missing documentation.

Medical Care Services staff is responsible for reviewing the inmate's Medical File, completing or providing the appropriate copy of the CDC Form 128-C or CDC Form 128-C-1 and forwarding it to Case Records within 24 hours from the date of notice by the C&PR or CC-III. Case Records shall file the CDC Form 128-C or CDC Form 128-C-1 in the inmate's C-File within 24 hours.

### Classification Referral Instructions

As is current practice, the C&PR, CC-III, or their designee shall audit all files prepared for CSR review and endorsement to ensure proper casework. No case shall be presented for CSR action without a valid TB Alert Code of 21, 22, 31, 32, 33, or 43 documented on a CDC Form 128-C or CDC Form 128-C-1 in the inmate's C-File.

The C&PR, CC-III, or their designee shall notify the Inmate TB Alert System Coordinator in Medical Care Services of the missing CDC Form 128-C or CDC Form 128-C-1 within 24 hours of review. The Inmate TB Alert System Coordinator shall provide the CDC Form 128-C or CDC Form 128-C-1 within 24 hours of notification.

Should a case inadvertently be presented to a CSR for transfer endorsement and lack a valid TB Alert Code of 21, 22, 31, 32, 33, or 43 documented on a CDC Form 128-C or CDC Form 128-C-1, the case shall be deferred. The CSR shall notify the C&PR, CC-III, or their designee of the missing information that same day. The C&PR, CC-III, or their designee shall follow step two above.

### Special Transportation Instructions

If an inmate with a TB Alert Code of 11, 21, or 31 requires movement, special transportation arrangements are required. A CDC Form 128-C or CDC Form 128-C-1 shall document a doctor-to-doctor agreement for appropriate housing, type of transportation, and any medical concerns and restrictions per DOM 62080.16. Following transfer endorsement by a CSR, transportation arrangements shall be coordinated by the C&PR, CC-III, or their designee.

The C&PR or CC-III shall refer to DOM 91080.19 for specific guidelines.

If an emergency transfer of an inmate is required for other than medical reasons and the TB Alert Code does not authorize a normal move, the C&PR, CC-III, or their designee shall contact Medical Care Services staff during regular business hours (the Medical Officer on Duty [MOD] during non-business hours) and receive verbal TB Alert Code verification for inclusion on the CDC Form 135, Warden's Check-out Order. If the transfer takes place after regular working hours, arrangements shall be made through the Watch Commander, AOD, MOD, and Supervising RN (SRN) if applicable. Transportation precautions shall be taken accordingly. Within 24 hours of verbal verification, Medical Care Services staff shall provide appropriate documentation on a CDC Form 128-C or CDC Form 128-C-1 to Case Records for inclusion in the inmate's C-File and update the TB Alert Code in DDPS if required. They will also contact the receiving facility's Medical Care Services staff with any relevant medical information pertaining to the transferred inmate.

### 91080.17 Distribution and Review of the CDC Form 7343

A CDC Form 7343 generated at each facility shall contain the TB Alert Transportation Instruction for every inmate listed.

The facility's AISA routinely extracts (downloads) information from DDPS and enables the ATS access to this information during the generation of the CDC Form 7343. The ATS reads each inmate's TB Alert Code from the extracted information, generates the appropriate TB Alert Transportation Instruction based on the TB Alert Code, and prints the TB Alert Transportation Instruction on the CDC Form 7343.

Medical Care Services staff shall review the CDC Form 7343 to ensure the appropriate TB Alert Transportation Instructions have been identified and medications are prepared for transfer if appropriate.

A description of the TB Alert Transportation Instructions can be found in DOM 91080.19.

### CDC Form 7343 Using ATS

AISA shall download DDPS to ATS before the CDC Form 7343 is generated.

Follow the normal process to generate the CDC Form 7343.

### CDC Form 7343 Distribution Instructions

The Inmate TB Alert System Coordinator shall walk to Case Records and obtain a copy of the CDC Form 7343 as soon as it is printed and as subsequent changes occur.

### CDC Form 7343 Review Instructions

Medical Care Services staff shall immediately notify Case Records of any TB Alert Transportation Instruction changes by telephone.

Upon completion of review, Medical Care Services staff shall sign the CDC Form 7343 denoting approval and route the CDC Form 7343 to Case Records. If Medical Care Services staff do not have 24 hours to review the CDC Form 7343, changes and approvals shall immediately be communicated with the appropriate staff by telephone.

### 91080.18 Deletion of Inmates From the CDC Form 7343

Medical Care Services staff shall notify Case Records if an inmate's TB Alert Code has changed.

Inmates remaining on the CDC Form 7343 with a TB Alert Code of 11, 21, or 31 shall not be moved on regular CDC transportation. The inmate's name shall be deleted from the CDC Form 7343 by telephone request. See DOM 91080.4 for additional information.

If it is necessary to move the inmate, a CDC Form 128-C or CDC Form 128-C-1, documenting the special transportation instructions, shall be requested from Medical Care Services staff.

### 91080.19 TB Alert Transportation Instructions

The TB Alert Transportation Instructions shall be found on the CDC Form 135. A description of each TB Alert Transportation Instructions is as follows:

TB Alert Transportation Instruction: Med Alert Sp Trans 11.

**Meaning:** TB status unknown.

**Action:** Inmates with Code 11 have an unknown TB status, either because their screening test has not yet been performed or has not been read and interpreted. These inmates pose a high risk of transporting TB Infection and cannot be put on regular CDC transportation, including buses and transportation used to move inmates from CDC facilities to CCFs. These inmates shall be transferred by special transportation using respiratory precautions.

TB Alert Transportation Instruction: Med Alert Sp Trans 21.

**Meaning:** The inmate's PPD was significant and the inmate is being diagnosed for suspected TB Disease.

**Action:** Inmates with Code 21 had a significant PPD and remain under diagnosis. These inmates pose a high risk of transporting TB Infection and cannot be put on regular CDC transportation, including buses and transportation used to move inmates from CDC facilities to CCFs. These inmates shall be transferred by special transportation using respiratory precautions.

TB Alert Transportation Instruction: Clear For Transportation 22.

**Meaning:** The inmate's PPD was non-significant and the inmate is cleared for transportation.

**Action:** Inmates with Code 22 had a non-significant PPD and are not infectious. These inmates shall be transferred by regular CDC transportation.

TB Alert Transportation Instruction: Med Alert Sp Trans 31.

**Meaning:** The inmate has been diagnosed with infectious TB Disease. Transfer should be done only under the approval and direction of Medical Care Services.

**Action:** Inmates with Code 31 have TB Disease and are currently infectious. These inmates pose a high risk of transmitting TB Infection and cannot be put on regular CDC transportation, including buses and transportation used to move inmates from CDC facilities to CCFs. These inmates shall be transferred by special transportation using respiratory precautions.

TB Alert Transportation Instruction: Clear For Transportation 32.

**Meaning:** The inmate's PPD was significant due to prior infection. The inmate is cleared for transport.

**Action:** Inmates with Code 32 had a significant PPD from prior TB Infection and are not currently infectious. These inmates shall be transferred by regular CDC transportation.

TB Alert Transportation Instruction: INH Medication 33.

**Meaning:** The inmate has TB Infection but is not infectious. The inmate is on INH medication.

**Action:** Inmates with Code 33 have TB Infection but are not infectious. Medications shall be transferred with the inmate or Medical Care Services staff shall arrange for medications with the receiving facility. These inmates shall be transferred by regular CDC transportation.

TB Alert Transportation Instruction: Multiple TB Medication 43.

**Meaning:** The inmate has TB Disease but is not infectious. The inmate is on medication.

**Action:** Inmates with Code 43 have TB Disease but are not infectious. Medications shall be transferred with the inmate. These inmates shall be transferred by regular CDC transportation.



### **91080.20 Review of Inmate TB Alert Transportation Instructions by the Transportation Sergeant**

The CDC Transportation Sergeant shall be required to review the TB Alert Transportation Instructions of each inmate before boarding the bus. Inmates with TB Alert Codes of 11, 21, or 31 shall not be put on regular CDC transportation, which includes movement from CDC facilities to CCFs. These inmates shall be transferred by special transportation using respiratory precautions.

### **91080.21 Review of Inmate TB Alert Transportation Instructions by the Receiving and Release Staff**

If an inmate arrives at the receiving facility with a TB Alert Code 11, 21, or 31, R&R staff shall immediately notify Medical Care Services staff. The inmate shall be placed in a separate cell until Medical Care Services staff move the inmate to the facility's infirmary.

### **91080.22 Coordinating With Medical Services-Special Circumstance Moves**

If an emergency transfer of an inmate is required for other than medical reasons and the TB Alert Code does not authorize a normal move, the C&PR, CC-III, or their designee shall contact Medical Care Services staff during regular business hours and receive verbal TB Alert Code verification for inclusion on the CDC Form 135 or Warden's Check-out Order. If the transfer takes place after regular working hours, arrangements shall be made through the Watch Commander, AOD, MOD, and SRN if applicable. Transportation precautions shall be taken accordingly. Within 24 hours of verbal verification, Medical Care Services staff shall provide appropriate documentation on a CDC Form 128-C or CDC Form 128-C-1 to Case Records for inclusion in the inmate's C-File and update the TB Alert Code in DDPS if required. They will also contact the receiving facility's Medical Care Services staff with any relevant medical information pertaining to the transferred inmate.

### **91080.23 Revisions**

The Deputy Director, HCSD, or designee shall be responsible for ensuring that the contents of this article are kept current and accurate.

### **91080.24 References**

PC §§ 3053, 5054, 5058, 6006, 6007, and 6008.

Medical Alert System User's Manual.

W&I § 1768.10

## **ARTICLE 9 — INVOLUNTARY PSYCHIATRIC MEDICATIONS**

*Revised May 6, 2015*

### **91090.1 Policy**

The Department may administer involuntary psychiatric medication to an inmate only if the procedures in Penal Code (PC) Section 2602 are followed.

### **91090.2 Purpose**

The purpose of this article is to set forth CDCR's operational procedures and expectations of its employees concerning all aspects of involuntary psychiatric medication, including proper pre-court and post-court documentation, criteria for initiation, criteria for renewal, scheduling, initiation, renewal, non-renewal, interface with the inmate's attorney, interface with the Office of Legal Affairs (OLA), interface with the Office of Administrative Hearings (OAH), inmate post-hearing remedies, and proper use of electronic charting resources to document assessments, both what is observed and court results.

### **91090.3 General Provisions**

Involuntary psychiatric medication should not be used in a psychiatric context:

- To control behavior that is not related to a diagnosable psychiatric disorder.
- When an inmate is capable of giving informed consent and objects to such medication, unless the inmate is a danger to self or others.
- Unless called for in a medical emergency as defined in CCR, Title 15, Section 3351, (a).
- In doses other than that for which the drug is approved by the Food and Drug Administration (FDA) or by community standards of professional practice or by nationally recognized guidelines or by legitimate scientific and medical opinion.
- In doses that diverge widely from appropriate dose recommendations, as defined by CCHCS care guidelines, nationally recognized guidelines, legitimate scientific and medical opinion, and by parameters provided by the FDA. Formulary decisions should conform to the CCHCS statewide formulary.

### **91090.4 Long-Acting Medication**

When filing a non-emergency initial petition, clinical staff may not administer involuntary medication beyond the initial 72-hour emergency period.

When filing an emergency initial petition, clinical staff should administer no medications involuntarily that have substantial, clinically relevant actions due to the fact that they stay in the bloodstream longer than 10 calendar days, including the initial 72-hour emergency period. The medication or medications that cause the least restrictive effects yet accomplishes their purpose should be chosen. After the conclusion of the administrative hearing, if the court order is granted, clinical staff may administer long-acting medication.

### **91090.5 Medication Supervision and Observation**

A physician, psychiatrist, licensed vocational nurse, registered nurse, licensed psychiatric technician, or psychiatric nurse practitioner should be physically present to observe the emergency administration of involuntary medication. That person should create a note in a health record, which should include:

- Personnel administering medication.
- Observation.
- Physical room or setting in institution where medication was administered.
- Resistance.
- Reason for medication.
- Time.
- Date.
- Form of medication (tablet, liquid, injection) and dosage.
- Injury.
- Force.
- Reaction.

If the inmate is not already in an inpatient setting, the inmate should be observed twice per day by a health care staff to monitor for side effects until the inmate is deemed at low risk for side effects by a psychiatric physician, medical physician, or nurse practitioner. Observations will be noted in appropriate health records.

Anytime force is observed or used by health care staff, the procedures and documentation requirements referenced in DOM Chapter 5, Article 2, Section 51020.17.6 must be followed.

### **91090.6 Documenting Evidentiary Factors**

#### **Danger to Self**

Clinical and custody staff has an obligation to observe inmates and to note, document, and promptly report to their superiors, behavior that could be classified as a danger to self. Danger to self means the inmate has made a credible threat or has attempted to engage in an act of self-harm and the threat is ongoing; or has threatened, attempted, or inflicted serious physical injury to self, and, as a result of a serious mental disorder, the dangerous behavior is expected to likely reoccur given the limits of what can reasonably be predicted. Demonstrated danger to self may be based on an assessment of the inmate's present mental condition, including consideration of the inmate's historical course of serious mental disorder to determine if the inmate currently presents an elevated chronic risk or an imminent risk to his or her own safety. If these signs or symptoms of dangerousness to self are observed by any employee at any time, an immediate mental health referral should be made and the patient should be observed until a clinician makes an assessment. If a licensed clinician evaluates the inmate and believes there is an emergency, elevated chronic risk, or an imminent risk, psychiatry personnel should be contacted, psychiatric medication should be considered, and if it is thought that medication will help but the patient refuses these medications and is expected to continue to refuse medications, a CDCR MH-7363, Involuntary Medication Notice, or CDCR MH-7368, Renewal of Involuntary Medication Notice, should be started with inputs from any staff member familiar with, or observing, the inmate's behaviors. Referral to the crisis bed should be considered.

#### **Danger to Others**

Clinical and custody staff has an obligation to observe inmates and to note, document, and promptly report to their superiors, behavior that could be classified as a danger to others. Danger to others means the inmate has inflicted, attempted to inflict, or made a credible threat of inflicting physical harm upon the person of another, and as a result of a serious mental disorder, the inmate presents a demonstrated danger of inflicting physical harm upon others. Demonstrated danger may be based on an assessment of the inmate's present mental condition, including consideration of the inmate's historical course of serious mental disorder, to determine if the inmate currently presents an elevated chronic risk or an imminent risk of harming another person. If these signs or symptoms are observed by any employee at any time, an immediate mental health referral should be made. If a licensed clinician

evaluates the inmate and believes there is an emergency, elevated chronic risk, or an imminent risk, psychiatry personnel should be contacted, psychiatric medication should be considered, and if it is thought that medication will help but the patient refuses these medications and is expected to continue to refuse medications, a CDCR MH-7363 or CDCR MH-7368 should be started with inputs from any staff member familiar with, or observing, the inmate's behaviors.

### **Grave Disability**

Clinical and custody staff has an obligation to observe inmates and to note, document, and promptly report to their superiors, behavior that could be classified as gravely disabled. Photographs of trash in the cell, organic material on walls or windows, flooding of the cell, or unflushed toilets should be taken, if there is suspicion of grave disability. If a psychiatrist, medical physician, psychologist and/or social worker suspects that a patient is gravely disabled he or she must order relevant recording of information which may include: logs of missed showers, records of weights and weight loss, documentation of catatonic behavior, documentation of the patient being taken advantage of by others, and/or other recording of relevant behavior or speech that corroborates grave disability. If the inmate is being victimized, or subject to being victimized, due to diminished cognitive capacity or due to mental health issues that diminish appropriate responses, being Developmentally Disabled (DD) or due to other diminished mental capacity, the circumstances demonstrating the lack of capacity and the ensuing dangerous victimization should be documented and steps should be taken to prevent victimization. Gravely Disabled means there is a substantial probability, due to a serious mental disorder and incapacity to accept or refuse psychiatric medication, that serious harm to the physical or mental health of the inmate will result. Serious harm means significant psychiatric deterioration, debilitation, or serious illness as a consequence of his or her inability to function in a correctional setting without the supervision or assistance of others, inability to satisfy his or her need for nourishment, and/or inability to attend to needed personal or medical care, seek shelter, and/or attend to self-protection or personal safety. The probability of harm to the physical or mental health of the inmate requires evidence that the inmate is presently suffering adverse effects to his or her physical or mental health, or evidence that the inmate has previously suffered these effects in the historical course of his or her mental disorder and that his or her psychiatric condition is again deteriorating. The fact that an inmate has a diagnosis of a mental disorder does not alone establish probability of serious harm to the physical or mental health of the inmate. If these signs or symptoms are observed by any employee at any time, an immediate mental health referral should be made. If a licensed clinician evaluates the inmate and believes there is an emergency, elevated chronic risk, or an imminent risk, psychiatry personnel should be contacted, psychiatric medication should be considered, and if it is thought that medication will help but the patient refuses these medications and is expected to continue to refuse medications, a CDCR MH-7363 or CDCR MH-7368 should be started with inputs from any staff member familiar with, or observing, the inmate's behaviors. Consideration should be given to referring the patient to a crisis bed.

### **Elevated Chronic Risk**

Elevated chronic risk means the serious and persistent presentation of clinical factors that suggests an inability to adequately navigate within society or inability to effectively navigate within a structured environment such that, based on historical course of mental disorder, there is a reasonably foreseeable elevated risk of self-harm, violence, or grave disability.

### **Imminent Risk**

Imminent risk means the presence of clinical and situational factors that suggest a significant risk of violence toward others, self, or grave disability and requires immediate intervention.

### **Determination of Capacity or Lack of Capacity**

Clinicians must make a good faith attempt to engage the inmate to determine the inmate's capacity to voluntarily consent to medication, which requires capacity, other than in an emergency situation. Capacity should be evaluated by reviewing the inmate's (a) ability to communicate a choice; (b) ability to understand relevant information; (c) ability to appreciate the nature of the situation and its likely consequences; and (d) ability to use the information rationally.

### **Reporting Serious Mental Illness**

Clinical and custody staff has an ethical obligation to observe inmates in all treatment and custody settings and to note, document, and promptly report to their superiors, behavior that aligns with the description of a serious mental disorder, danger to self, danger to others, or grave disability, as defined above.

A serious mental disorder means an illness or disease or condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates

evidence of an acute brain syndrome for which prompt remission, in the absence of treatment, is unlikely. Qualifying behaviors include, but are not limited to, clinical and custody staff observation of delusional behavior, catatonia, responding to internal stimuli, auditory or visual hallucinations, and paranoia.

When an inmate exhibits the above symptoms, an immediate mental health referral should be made. If a medical emergency, elevated chronic risk, or imminent risk exists, psychiatric medication should be considered if there are no less restrictive alternatives, and if it is thought that medication will help but the patient refuses these medications and is expected to continue to refuse medications a CDCR MH-7363 should be started with inputs from anyone familiar with the inmate's behaviors.

### **Consent and Refusal**

Involuntary psychiatric medication should not be given to an inmate who has the capacity to consent to medication. Clinical staff should document the offer of medication and an inmate's refusal to consent to medication before proceeding to the involuntary medication process under PC 2602, except in the case of a medical and/or psychiatric emergency.

#### **91090.7 Initiation Proceedings**

Initiation of involuntary medication is accomplished by completing a CDCR MH-7363 (initial petition) and CDCR MH-7366, Inmate Rights Notice – Involuntary Medication, and serving the inmate, the inmate's attorney, the OLA, and the OAH via electronic transmission.

The OLA will maintain a master calendar of the available inmate calendar for PC 2602 hearings and the attorney rotation for the various high-volume institutions. Institutions that have only an occasional need for hearings should coordinate with the OLA first to arrange for attorney coverage to avoid calendar conflicts.

#### **91090.7.1 Staff Disclosure of Prior Case Activity within Past 60 Days**

If an institution is re-filing on a specific inmate who was the subject of a court proceeding in the immediately preceding 60 calendar days (court denial, withdrawal, request for dismissal), either the doctor filling out the CDCR MH-7363 or the OLA shall disclose this in one of the pleadings so that all parties are aware of the history of the case.

#### **91090.7.2 Alert of Ex Parte Request and Medication Order in Health Records**

If the institution submits an emergency initial petition asking for authority to administer involuntary medication pending the administrative hearing, the Medication Court Administrator (MCA) must scan the CDCR MH-7363 and Ex Parte Request (included in CDCR MH-7363) into the health records the same day it is filed so that physicians and pharmacists are aware of the pending request.

The MCA must then follow-up within ten calendar days and scan in the resulting order from the OAH either granting, or denying, interim medication authority, so that physicians and pharmacists will know the status of the case.

#### **91090.7.3 Supplemental Petitions**

The OLA will prepare a Supplemental Initial Petition for each case submitted by an institution, and may add or drop cases based upon legal review of the health records. This document should be served on the OAH and upon the inmate's attorney no later than three business days prior to the scheduled hearing, but optimally ten business days before the hearing.

#### **91090.7.4 Ending A Case**

Every case currently pending or filed in the future should terminate with either (1) a court order signed by an Administrative Law Judge (ALJ), (2) a Withdrawal Notice prepared by the OLA, (3) a Request for Dismissal prepared by the OLA, or (4) a CDCR MH-7370, Notice of Non-Renewal of Involuntary Psychiatric Medication form completed at the institution and submitted to the OLA documenting the reasons the case was not renewed.

Institutions who know an inmate is paroling or moving to Mentally Disordered Offender (MDO) status should complete the necessary forms documenting why a case is not being renewed before the inmate departs.

#### **91090.8 Renewal Proceedings**

No later than 90 calendar days before an order authorizing the administration of involuntary medication is due to expire, the clinical staff of the facility where the inmate is currently housed should assign the matter to a psychiatrist to interview the inmate and determine if the filing of a CDCR MH-7368 is warranted. Renewal is appropriate if the inmate, even after administration of psychiatric medication, has documented insufficient insight regarding his/her mental illness, refuses to accept that he or she has a mental illness, states that he or she knows that a court order is required to ensure medication compliance, or if it is clear from documented behaviors or statements over the past twelve

months that the inmate, but for the medication, would become a danger to self or others, or gravely disabled and lacking capacity to accept or refuse psychiatric medication.

If a determination is made to renew involuntary medication, a CDCR MH-7368 and CDCR MH-7366 should be prepared and served on the inmate, the attorney for the inmate, the OAH, and the OLA no later than 30 calendar days before the current order expires.

If an individual psychiatrist does not want to renew the involuntary medication order, the institution should convene an Interdisciplinary Treatment Team (IDTT) and pursue the process described in DOM Section 91090.9, below.

#### **91090.8.1 Supplemental Petitions**

The OLA will prepare a Supplemental Renewal Petition for each case submitted by an institution, and may add or drop cases based upon legal review of the health records. This document should be served on the OAH and upon the inmate's attorney no later than three business days prior to the scheduled hearing, but optimally ten business days before the hearing.

#### **91090.9 Non-Renewal Process**

Every case currently pending needs to either to be renewed or not-renewed. Legitimate reasons not to renew a case include, but are not limited to, that the inmate has gained insight that he or she has a mental illness and is willing to reliably take medication, or that the inmate is transferring to another program that will take over the court order, such as an MDO program.

The starting point for a non-renewal is the treating psychiatrist, if available, who must fill out a CDCR MH-7370 documenting the reasons that non-renewal is being considered. The treating psychiatrist can recommend the non-renewal take effect immediately or upon the natural expiration of the existing court order. If the inmate transfers to a new institution prior to the effective date of the CDCR MH-7370, the receiving institution may independently review the case factors and may elect to rescind it based on the inmate's psychiatric case factors and presentation.

#### **91090.9.1 IDTT Review**

If an individual psychiatrist does not believe that renewal of an involuntary medication order is beneficial to the overall health of the patient, he or she should consult with treatment team members.

If there is disagreement amongst treatment team members, additional consultation from mental health statewide leadership can be sought, but ultimately the final decision about renewal or non-renewal lies with the evaluating psychiatrist.

#### **91090.9.2 Health Records**

The non-renewal shall be recorded in the electronic health record. This is accomplished using one of two methods A CDCR MH-7370 is considered local to the institution that adopted it. That institution can make the non-renewal effective immediately, in which case the CDCR MH-7370 must be scanned into the health records and central file within 24 hours. Alternately, an institution can make the non-renewal effective at the natural end date of the PC 2602 court date. In such cases, the CDCR MH-7370 shall be filed as of the effective date of the expiration.

#### **91090.9.3 Office of Legal Affairs**

If an institution's IDTT approves a CDCR MH-7370, and deems it active and ready to be scanned into the health records and central file, a copy should immediately be sent to the OLA. This form is not to be sent to the OAH.

#### **91090.10 Hearings**

##### **Attendance and Timing**

Every inmate scheduled for a hearing will be contacted by a sworn correctional officer or sworn MCA on the day of the hearing to determine if the inmate wishes to attend the hearing, refuses to attend, or to meet with their attorney. The inmate's capacity to engage in the conversation should be documented by the custody officer going to the cell on the OLA PC 2602 Refusal form or an institution equivalent refusal form. An inmate's request to meet with his/her attorney on the day of the hearing will be honored by facilitating an attorney client meeting. An attorney's request to force or impose a visit upon an inmate who has already waived the right to a hearing on the day set for the hearing will be evaluated by the ALJ, who will take into account the data pertaining to the inmate's waiver or refusal, as well as institutional security and operation. If the need arises and the ALJ agrees, the hearing may be conducted at cell side.

If an inmate lacks capacity to attend, the hearing should be conducted cell side or continued due to the inmate's medical inability to participate, and the reasons for the continuance should be documented on the record by a doctor or psychiatrist familiar with the inmate's condition.

The attorney for the inmate should meet with the clients in advance of the date set for the hearing so that hearings start at the scheduled time.

Institutions must permit attorneys to meet with clients in advance of the PC 2602 hearing. This is a due process requirement for the inmate and must be accommodated separate and apart from any legal visiting program. Attorney-client meetings should be handled according to local institution operating protocol, generally in a legal visiting room and not at cell side. If an inmate refuses to meet with the attorney, it will be documented and can be reviewed by the ALJ on the day of the hearing. If an inmate appears to be unable to communicate or attend to activities of daily living on the day of the attorney's visit, or on the day of the hearing, the attorney should be informed.

##### **Recording**

The attorney from the OLA should bring the necessary equipment into the institution and record each proceeding. Those recordings should be maintained in digital archives by CDCR for a minimum period of five years, provided to the OAH annually, or individually upon request.

##### **Copies of Filings**

Legal filings with the OAH are deemed public documents and are not filed under seal.

##### **Transcripts**

Paper transcripts of administrative hearings are not prepared. Inmates may purchase paper transcripts from the OAH with funds from their inmate trust account or request alternative accommodation upon proof of indigence. Other parties may obtain copies of transcripts under the policies and pricing structure the OAH prescribes upon request.

##### **Facilities**

Each institution should provide a room, or rooms, on the day of the hearing that can accommodate an administrative hearing with seven to ten persons, including correctional officer escorts, with adequate room to maneuver and adequate space to provide security for the judge and attorneys.

##### **Custody Escorts**

Each institution should provide at least two correctional officers to bring inmates to and from the hearing room, or to and from the holding cells outside the hearing room. At least one correctional officer should stay in the room with the inmate during the hearing.

##### **Telepsychiatry Declarants and Testimony**

If an inmate's psychiatric care has been primarily assigned to a telepsychiatrist for delivery of care, and specifically if a telepsychiatrist is the declarant on a CDCR MH-7363 or CDCR MH-7368, then the Department should coordinate any hearing for the inmate so that said telepsychiatrist is available to present the involuntary medication case. This presentation occurs via remote video or telephone connection into the hearing room on the day set for the hearing. The telepsychiatrist shall be available and prepared for cross-examination. The institution shall make every attempt to schedule on a day when the presenting witness is available. If the assigned telepsychiatrist is not able to appear, the ALJ has the discretion to grant up to one continuance not to exceed 14 calendar days to allow a new clinician at the inmate's institution to review the inmate's central file, health records, meet with the inmate, and prepare to present the case.

##### **Notification of Next-of-Kin**

The inmate's next-of-kin will not be notified of the hearing unless the inmate requests to have the specified individuals audit the hearing. The inmate will submit the request in writing and complete a waiver of confidentiality. The inmate will be responsible for supplying an address where the next-of-kin in the first-degree or second-degree can be contacted. The MCA will send a notice to the identified next-of-kin stating the type of hearing, date and time of hearing. Any questions regarding the upcoming hearing will be referred to the inmate's appointed attorney.

Requests by an inmate to have next-of-kin attend the hearing will be contingent upon those individuals completing a gate clearance packet and the subsequent approval of the gate clearance by the Chief Deputy Warden's office. Only the identified next-of-kin in the first or second-degree will be considered for approval. These individuals will be escorted directly to the hearing room by the MCA (or designee) when their relative's case is ready to begin. The next-of-kin will not be allowed to speak during the hearing unless directed by the ALJ to give sworn testimony. The inmate and next-of-kin will not be allowed to exchange any property. If these conditions are breached, the next-of-kin will be removed from the hearing by a custody escort. Upon completion of the hearing, the next-of-kin will be escorted out of the institution.

### Appointment of Attorney

For every scheduled hearing, the MCA should assign an inmate attorney from the rotation calendar available from the OLA and the OAH, unless one of the following situations occurs:

If the inmate desires to retain an attorney or has retained an outside attorney, the MCA will verify that the outside attorney is in fact taking the case, and then serve the paperwork accordingly on the outside attorney.

If the inmate desires to appear in propria persona (as their own representation), the MCA should assign an inmate attorney from the rotation calendar available from the OLA and the OAH, and the matter of the inmate's capacity to engage in self-representation will be brought up at the first hearing with the ALJ.

### 91090.11 Documentation of Legal Paperwork

#### Pre-Hearing

Institutions should provide supporting documentation to independently verify what is alleged in either the CDCR MH-7363 or CDCR MH-7368. The CDCR MH-7363 and CDCR MH-7368 are not evidence, and must be independently supported by health records, chronos, photographs, or other documentary evidence of the criteria alleged.

Such supporting documentation should be securely uploaded as a PDF to a secure Sharepoint or other secure site within three business days of the filing of either an initial or renewal petition, unless there is a justifiable business reason for not doing so. If the discovery cannot be provided to headquarters staff and to the inmate attorney within three business days of the filing of the CDCR MH-7363 or CDCR MH-7368, the institution should make a workstation available to the inmate's attorney to review the discovery on site, unless other arrangements are made with the inmate attorney for delayed electronic discovery.

Discovery will include six months of CDCR 7230 Interdisciplinary Progress Notes, any recent discharge summaries from the Department of State Hospitals, six months of psychiatrist progress notes, six months of primary clinician progress notes, recent suicide risk assessments, six months of relevant nursing notes documenting observations of behavior that could be classified as danger to self, danger to others or grave disability, any relevant Triage and Treatment Area or Mental Health Crisis Bed admission notes, and any relevant refusals of medication, food, showers, etc. Additionally, as relevant to the case(s) alleged, items from the central file may include a probation officer's report, Rules Violation Reports, CDC 128-G, Classification Chrono, or CDC-114A, and Isolation Log. Photographs will be provided, where relevant.

Institutions may supply discovery to the inmate attorney on CD-R media, or via secure electronic transmission media.

#### Post-Hearing

All court orders resulting from a hearing before an ALJ should be forwarded to the OLA either electronically as individual PDF files or by overnight mail within 24 hours of the conclusion of the hearing.

All court orders resulting from a hearing before an ALJ should be scanned into both the health records and the central file within 24 hours, with the appropriate alert sheet. This includes the ex-parte interim court ruling from the OAH, as well as continuance orders.

If the court has denied a case, the order for involuntary medication must be discontinued from the electronic record as soon as possible and the order for discontinuation added to all available charting resources and health records within 24 hours.

### 91090.12 Medication Court Administrator

The MCA is the liaison between the institution and headquarters OLA, the inmate attorney, and the OAH for all matters pertaining to involuntary administration of psychiatric medications to inmates pursuant to PC 2602. Each institution shall maintain a local operating procedure or duty statement setting forth the duties and responsibilities of the Medication Court Administrator to ensure that Penal Code section 2602 matters are timely served and filed pursuant to statutory mandate and in conjunction with the requirements set forth by the OLA and the OAH.

#### Pre-Hearing

Prior to the day of hearings, the MCA is responsible for completing or monitoring the following:

- Knowing which inmates at the institution need renewal notices started (assign renewal to psychiatrist 90 days before expiration of current order).
- Giving assignments to psychiatrists and tracking progress.
- Helping psychiatrists initiate new proceedings.
- Tracking whether an emergency petition has been submitted within the 72-hour deadline with ex parte request properly filled out.

- Checking that fillable CDCR MH-7363/CDCR MH-7366/CDCR MH-7368 forms are filled out correctly and completely.
- Helping obtain and print declarations created through central dictation as part of the CDCR MH-7363/CDCR MH-7368; service of papers on inmates.
- Determining if an inmate needs assistance responding to CDCR MH-7363 within two business days of being served.
- Determining if Ex Parte Request for Interim Medication Order has been granted or denied within three business days after the inmate's time period has run and promptly notifying pharmacy whether or not emergency medication can be continued.
- Filing all needed paperwork with OAH.
- Selecting inmate counsel based on master calendar sent by headquarters; properly using the statewide list created by OLA.
- Using the Sharepoint site maintained by OLA.
- Supplying timely copies of all petitions to headquarters staff the same day they are sent to OAH and inmate counsel.
- Supplying health records and ERMS information noted in DOM Section 91090.11 (Documentation of Legal Paperwork, Pre-Hearing), to inmate counsel and to headquarters staff, with available copy to testifying psychiatrist.
- Arranging for inmate counsel to meet confidentially with the inmate before the hearing.
- Ensuring, in cases where the inmate has private counsel, that private counsel sees the inmate, receives all discovery, and integrates seamlessly into the PC 2602 process.
- Tracking which CDCR MH-7363 and CDCR MH-7368 were sent to OAH (and the date), and knowing which have been completed by OLA (Supplemental Petition) and which have had Notice Setting Hearing (NSH) issued by OAH.
- Monitoring arrivals and departures from the institution, per the Strategic Offenders Management System (SOMS) Daily Movement Report, for any inmate on PC 2602 order. If an inmate departs, it is the responsibility of the sending institution's MCA to notify the receiving institution of the PC 2602 inmate and forward the most recent CDCR MH-7368 and order.
- Contacting headquarters and arranging to move up the PC 2602 hearing, if an inmate on emergency interim medication is deteriorating and needs to go to a higher level of care, rather than transfer the inmate.
- Placing a "hold" on an inmate, if the inmate is stable and is scheduled to move before a hearing date, unless medical conditions, or *Coleman* considerations, justify moving the inmate elsewhere.
- Notifying an institution of any inmate transfers if an inmate, with a case in process, transfers to another institution, and sending all supporting documentation to the receiving institution.
- Taking the lead and immediately gathering required material if an ALJ orders document production.
- Processing change orders timely when a hearing date or location needs to be changed.
- Monitoring psychiatry assignments to ensure psychiatric consults are completed on time and submitted to OAH/OLA within specified timelines to avoid a procedural default. Contacting, if necessary, the Chief of Psychiatry or a Senior Psychiatrist at the institution.
- Maintaining a current weekly log of all PC 2602 inmates for psychiatric staff, and monitoring as needed, to generate information necessary for *Coleman* reports.
- Responding to headquarter requests for information for copies of a missing order or other documents.
- Assisting with Probate 3200 service of documents and collection of medical documentation on patients as needed.
- Arranging for esoteric hearings, such as cell side hearings or hearings at a local hospital.
- Monitoring inmate's medical and dental appointments to ensure the inmate is present on the date scheduled for a hearing. Consulting with psychiatry and primary care providers to ensure the inmate is not subject to side-effects of other medications.

#### Day of Hearing

On the day of the administrative hearing, the MCA is responsible for monitoring or completing the following:

- Arranging for proper entry and clearance for the judge and inmate attorney (including requisite number of copies for gate passes).
- Arranging for proper and timely queuing of inmates.
- Checking accuracy of hearing results on the written court order, both on the day of hearing and subsequently on the statewide list, ensuring the results are properly recorded.

- Arranging to have necessary and late-developing documentation present.
- Filling out alert sheets correctly after a hearing and properly placing alert sheets in the electronic medical record health records and electronic ERMS promptly after the hearing.
- Inputting data and the scanning of records as needed.
- Updating the inmate's Unit Health Record (UHR) immediately and accurately to properly reflect PC 2602 status (i.e. emergency petition filed, non-emergency petition filed/do not medicate/do not extract, hearing date, ex parte order granted, ex parte order denied, etc, ALJ order granted, ALJ order denied).
- Preparing packets for psychiatrists to use for testifying in court.
- Arranging schedules and assignments to ensure psychiatrists are present in court for the hearing at the appointed time.
- Investigating, if an inmate is not attending a hearing, the reason for not attending, via inmate interview, and preparing a statement of reasons for the judge.
- Testifying as a special investigator for all refusals and non-attending inmates with detailed information on the inmate's medical, verbal, and behavioral responses as to capacity.
- Obtaining physician prescription orders sent to pharmacy/UHR for renewal of psychiatric medications on granted petitions and stop orders for denied hearings from psychiatrists.
- Ensuring Notice Setting Hearing and Proposed Order is printed for ALJ to sign for each case.
- Facilitating patient consent forms on dropped petitions.
- Notifying pharmacy and yard staff on the day of hearings when petitions are dropped or denied to ensure an inmate is not involuntarily medicated when there is no involuntary medication order.
- Scanning all court orders to PDF, filling out alert sheets and emailing to headquarters, and delivering to health records personnel.
- Sending all court orders to headquarters staff within 24 hours as PDF files.

#### **91090.13 Inmate Review and Appeal of PC 2602 Proceedings**

Inmates seeking superior court review of a PC 2602 order should be directed to file a petition for habeas corpus or petition for writ of mandate in their local superior court. Inmates seeking to have the same ALJ take another look at the case should be provided a form CDCR MH-7369 Penal Code 2602 Reconsideration form. The inmate is responsible for filling out the form and returning the form to OAH.

#### **91090.14 Revisions**

The Division of Health Care Services, and the Office of Legal Affairs, or designee is responsible for ensuring that the contents of this article are kept current and accurate.

#### **91090.15 References**

PC §§ 2600 and 2602

CCR (15) (3) §§ 3364, 3364.1, and 3364.2

### **ARTICLE 10 — UNASSIGNED**

## CHAPTER 10 — ADULT PROGRAMS

### ARTICLE 1 — EDUCATION SERVICES

*Revised May 26, 2021*

#### 101010.1 Policy

(a) The California Department of Corrections and Rehabilitation (CDCR) provides quality academic and Career and Technical Education (CTE) training courses that have a research-base which demonstrates and predicts positive learning outcomes for adults, that meet the needs and interests of the inmate population consistent with the operational and security priorities of individual adult institutions.

(b) Each adult institution shall provide academic education, CTE training courses, library services, recreation, physical education, Student Support Services (SSS), and a Transitions course. The goal is to provide inmates with needed education and career training as part of a broader CDCR effort to increase public safety and reduce recidivism. These programs shall be standardized and coordinated statewide through the Division of Rehabilitative Programs (DRP) and Office of Correctional Education (OCE). They shall also be made accessible to inmates, be consistent in quality and content, and be in compliance with the California Code of Regulations (CCR) and state and federal laws.

#### 101010.2 Purpose

The purpose of this policy is to provide standards and directives for education services.

#### 101010.3 Programs

(a) Education programs includes academic, Career and Technical Education (CTE) training courses, SSS, and Transition courses to prepare inmates for release.

(1) Enrollment in courses shall be open-entry and open-exit, unless specifically approved by the Superintendent of Education so that students may be assigned and unassigned at any time throughout the year.

(2) Education programs are aligned with an OCE-adopted competency-based curriculum and the College and Career Readiness Standards (CCRS). Educational programs shall implement the department's adopted instructional materials, curriculum, and assessments.

(3) Programs provide rigorous and engaging education courses that maximize instructional minutes, incorporate research-based instructional practices, and prepare inmates for a career path.

(4) Schools utilize the Professional Learning Communities (PLC) process, in a culture of collaboration, to improve instruction, increase student outcomes, and focus on meeting OCE and school goals.

(5) Education staff shall administer state-adopted assessments to inmates, in accordance with OCE Test Materials Security and Reporting.

(6) Students may use state-purchased hardbound (hardback) textbooks in the classrooms and in the housing units during lockdowns/modified programs utilizing the trust account withdrawal system.

(7) Interactive whiteboards connected to a workstation on the Inmate Ward Secured Network or to staff computers, are authorized under the direct supervision of a classroom teacher or education administrator for specific and valid educational purposes.

(b) Lockdowns and Modified Education Programs.

(1) During lockdowns and modified programs which impact students' ability to attend courses physically, or as noted on the Program Status Report (PSR), individualized student learning shall be provided via independent study, online learning, blended learning, distance learning, etc. as approved by the Warden. Students are expected to complete assignments as instructed by the teacher. Teachers shall provide regular feedback to students on their progress and participation.

(2) Reasonable accommodations shall continue to be provided to students, in accordance with the Individually Tailored Education Plan (ITEP).

(3) Formative and summative assessments shall determine student learning goals, objectives, and proficiency. Standardized assessments shall be provided in a secured classroom setting to ensure the integrity of the test environment with Warden approval as indicated in the PSR.

(4) In addition to independent study packets, CTE training courses shall be provided via a traditional shop environment with Warden approval as indicated in the PSR, so as to ensure that students are able to complete performance based assignments and activities to demonstrate proficiency.

#### 101010.3.1 Responsibility

(a) Headquarters.

(1) The Superintendent of Education shall provide faculty and administrator training, professional development, funding, education staffing, policies and procedures, and consultative services to the adult institutions for education programs. These services shall include an Assistant Chief of Education over curriculum and instruction who shall provide the needed expertise in implementing and maintaining research-based instructional practices utilizing the California Department of Education (CDE), CCRS, English Language Proficiency (ELP) standards for adult learners and the competency-based curriculum for CTE training and other approved courses.

(2) The Superintendent of Education shall audit, evaluate, and report to the Director of DRP on the education programs at each adult institution.

(3) The Superintendent of Education shall be a member of the Secretary and DRP's executive staff.

(4) The Superintendent of Education, through the adult institution's Supervisors of Correctional Education Programs (Principals), shall coordinate efforts in obtaining accreditation from the Western Association of Schools and Colleges for each adult institution's school.

(b) Adult Institution Schools.

(1) As the hiring authority, the Warden is administratively responsible for the education programs at their adult institution.

(2) The Warden shall regularly consult with the Regional Associate Superintendent, to ensure instructional quality and program integrity to meet the program completion and recidivism reduction goals of CDCR.

(3) The priority of the Warden is to ensure that the adult institution's educational programs are preparing inmates for college or a career.

(4) The Principal shall be a member of each Warden's executive staff.

(5) As an instructional leader, the Principal is directly responsible for the education programs at the adult institution, and shall develop, implement, operate, and evaluate inmate educational programs with integrity.

(6) The Principal or their designee shall conduct weekly classroom walkthroughs and provide feedback to teachers on the use and effectiveness of research based instructional practices, classroom management, and test administration.

(7) Student learning shall be demonstrated with 70% or above proficiency in the standards and competencies.

(8) For the purpose of earning Milestone Completion Credits (MCC), students shall attend class, complete coursework, and pass assessments at 70% or above.

(9) Movies and television media clips may be used to augment curriculum in the classroom as approved by the Principal.

(c) Educational Advisory Committee.

(1) Each Principal shall establish an educational advisory committee, known as Student Council, for education programs comprised of students. The Supervisor of Academic Instruction (Assistant Principals) shall schedule meetings with the committee on a regular basis (at least once monthly).

(2) The objective of Student Council is to provide a means to establish and maintain positive relationships and two-way communication with the students. Through effective use of Student Council it shall be possible to maximize students' contributions to the school programs and enhance the quality and participation in the classes.

#### 101010.3.2 Credentialed Personnel

(a) Personnel who teach or administer inmate education programs shall possess an appropriate California teaching or service credential, and maintain current status while employed. Any lapse in credentials is cause for immediate removal from assignment, and non-punitive termination shall be initiated.

(b) Academic teachers, shall maintain a single or multiple subject credential; CTE teachers shall maintain a designated subject credential, in accordance with the CalHR minimum qualification of the position for which they are hired. At designated Developmental Disabled Program (DDP) schools, at least one teacher shall have an Education Specialist credential or equivalent. School administrators shall possess and maintain the appropriate administrative services credential in accordance with the California Commission on Teacher Credentialing and CalHR Minimum Qualifications.

#### 101010.3.3 Contracts

OCE may negotiate contracts with local school districts, county boards of education, and consultants.

**101010.3.4 Classification of Inmates**

(a) Education staff shall review inmate education records upon inmate arrival. If inmates do not have a reading grade level established in the Strategic Offender Management System (SOMS), education staff shall administer a reading assessment prior to Classification Committee to assist in determining effective communication and appropriate education course(s) placement.

(1) Prior to classification, education staff (registrar) shall provide inmates a release form that authorizes the registrar to request education transcripts and special education records from the prior school(s) the inmate attended. Inmates shall authorize the school to obtain educational records to determine education needs.

(2) Education staff shall update an inmate's educational history in the SOMS to ensure records are available to Classification Committees for proper placement on appropriate waiting lists, based on their educational needs.

(3) Classification Committees shall place inmates on waiting lists for education programs. An education administrator shall provide input and training to the Correctional Counselors to assist in determining inmate education needs.

(4) Recommendations for assignments to education programs shall be made on the basis of reading grade levels, the department's needs assessment instrument, educational history, assessment records, inmate career goals, the inmate's rehabilitation case plan, and medical and mental health factors and recommendations.

(5) Inmates who do not have a High School Diploma (HSD) or High School Equivalency (HSE) shall be placed on a waiting list for Adult Basic Education (ABE) or Adult Secondary Education (ASE), based on their most current reading grade level.

(6) Inmates who are within two years of release shall be placed on a waiting list for the Transitions course.

(7) Inmates with a medium to high need for employment based on the department's needs assessment tool shall be placed on a waiting list of their choice for a CTE training course, and one alternate CTE training course based on the Education Administrator recommendation. An inmate shall not be screened out for participation in CTE training courses based on the inmate's reading grade level. Inmates must meet the safety and eligibility criteria to perform the requirements of the CTE training course, based upon the course description and the ability to read the coursework, with accommodations.

(8) Institutional safety and security needs shall also be considered when making education assignments within established policy guidelines.

**101010.3.5 Enrollment of Inmates**

(a) The Inmate Assignment Office (IAO) staff shall assign inmates to the appropriate education courses based on CDCR policy, and Classification Committee action.

(1) Inmates shall be assigned to education programs in the order in which they appear on the waiting list.

(2) Inmates under the age of 22 shall receive priority enrollment in education programs.

(3) Priority assignments for ABE and ASE courses are for inmates who are within 3-48 months of release or of a parole consideration hearing.

(4) Priority assignments for Transition courses are for inmates who are within two years of release.

(5) Inmates who are within 6-48 months of release, or of a parole consideration hearing, shall receive priority placement into a CTE training course. Inmates who have a low need for employment and inmates who are not within 6-48 months of release shall receive secondary priority for assignment to a CTE training course. Up to 10% of each CTE training course may consist of inmates serving life sentences with the possibility of release.

(6) Inmates who are enrolled in a Computer and Related Technologies (CRT) Digital Literacy training course and who are determined by the instructor to be digitally literate may request to be unassigned from CRT Digital Literacy training courses with approval from the Principal.

(7) After inmates are enrolled in a course, attendance shall be considered contractual on their part until completion of the course, or removal by the IAO or by a Classification Committee.

(8) In the event that a student has difficulties being successful in a course, the student may be referred to an ABE, ASE, or after school tutoring for additional support with contextualized learning.

(9) The Principal may initiate students to be reassigned to alternate education courses or a work assignment based on institutional need, course completion, assessments, course prerequisites, or medical and mental health professional recommendations via a CDC 128-B General Chrono.

(10) English Learners (EL) and students with disabilities shall be mainstreamed with their peers in education courses, and shall be provided equal access to the curriculum.

(11) Students with disabilities shall be provided reasonable accommodations based on their individual learning needs. Tutoring is available for students who have learning disabilities or difficulties.

**101010.3.6 Occupational Licensing**

The department may provide an opportunity for students to obtain licenses in occupations that require licensure.

**101010.3.7 Termination of Assignments**

A student may be unassigned from a course with the recommendation of the teacher and the approval of the Principal, on a case-by-case basis via a CDC 128-B General Chrono, based on course matriculation and assessments, completion of the course, diploma or degree, and continual failure or refusal to attend class. Students may also be unassigned from class due to safety and security, transfer, and release.

**101010.4 Career and Technical Education**

(a) CTE training courses shall provide students with technical and occupational knowledge of a career pathway that results in national certification for jobs in high demand industries where inmates are able to make a livable wage upon release from prison.

(1) CTE training courses relate to the following industry sectors: building and construction; business and finance; energy, environment and utilities; fashion and interior design; information and communication technology; manufacturing and product development; public services; and, transportation.

(2) CTE teachers shall teach the following: collaboration with people from different cultures and life experiences, patience, positive communication strategies, critical thinking, problem solving, digital literacy, flexibility and adaptability, initiative, punctuality, productivity, and accountability.

(3) The IAO shall assign inmates to CTE training courses in the order they appear on the waiting list, per Classification Committee action, in accordance with the California Code of Regulations, title 15, section 3040.3, Education Assignments.

**101010.4.1 Standards for Career and Technical Education Training Courses**

(a) CTE training courses shall maintain the following minimum standards:

(1) CTE training courses shall be conducted within OCE standards and policies.

(2) CTE training courses shall be aligned with industry certification, state license, or apprenticeship programs.

(3) Unless otherwise approved by the Superintendent of Education, each CTE teacher shall conduct and document six hours of approved training each day.

(4) Each CTE teacher shall present a minimum of one hour of safety instruction per month.

(A) This instruction shall be appropriately documented and available for inspection.

(B) A safety committee comprised of students shall conduct weekly safety inspections of equipment and facilities.

(C) Records of the safety inspections shall be maintained for one year.

(5) CTE training courses shall be designed to be completed by students within 18 months.

**101010.4.2 Career and Technical Education Procedures for Continuing Existing Training Courses**

(a) CTE training courses shall be continued at an adult institution on the basis of identifiable space, number of inmates who have an unmet need for employment, predictable employment availability based on trade information and labor statistics, Trade Advisory Committee (TAC) recommendations, and student access to and attendance in the CTE training courses.

(b) The Superintendent of Education shall review and approve all CTE training courses to be continued at the adult institution schools.

**101010.4.3 Procedures for Addition/Change of Career and Technical Education Training Courses**

(a) An adult institution requesting to add or change a CTE training course shall submit a program change request to the Superintendent of Education.

(1) The request will include the current and requested course(s), yard(s), teacher to student ratio, potential fiscal impact, and needs related to: structural or classroom modifications, custody coverage, and procurement or movement of consumables, tools, and equipment.

#### **101010.4.4 Career and Technical Education Procedures for Conducting a Job Market Analysis**

(a) Every five years, the administrator over CTE training courses at OCE, shall conduct a job market analysis for existing courses.

(1) The job market analysis shall contain each of the following:

(A) A summary of the latest projections of employment for the State of California referencing resources such as the State Employment Development Department (EDD) in coordination with the Department of Industrial Relations, the California Workforce Development Board and Occupational Information Network (O\*NET).

(B) A summary of current and projected employment availability by region, salary range, number of workers employed, and licenses or certifications required for each trade.

(C) Recommendations for continuing or discontinuing CTE training courses shall be based on workforce employment needs, institutional safety and security concerns, unmet employment needs of inmates in the institutions, available space, funding considerations, and job market analysis.

(D) General information about each CTE training course shall include a brief description of the training course, existing locations, major equipment necessary, length of training necessary to complete the course, and training space required.

#### **101010.4.5 Career and Technical Education Trade Advisory Committee**

(a) OCE shall establish a Trade Advisory Committee (TAC) to include industry stakeholders from regions where the majority of CTE students are released. The membership shall be evaluated annually by OCE-CTE administration to discuss industry employment trends, skill gaps and industry standard methods to include tools and equipment. Consultation with industry leaders and employers may be accomplished through surveys, web-based or conference calls, as well as membership to industry associations and organized labor organizations. OCE shall consider institutional TAC outcome reports and OCE-TAC consultation as part of the California EDD labor market data and as a part of the continuous improvement model for CTE training courses.

(b) The Superintendent of Education shall ensure the Principal establishes a TAC for each CTE training course at the institution. The TAC membership shall be composed of industry business owner(s) and journey level craft or trade people.

(c) Each CTE teacher shall submit to the Principal a list with a minimum of three TAC members to include the name of the business, address of business, website of business, phone number of member and contact name. This list shall be updated quarterly. The Principal shall ensure the TAC membership business or journey level experience is in alignment with the CTE training course employment pathway.

(d) TAC members will be encouraged to meet with instructors, students, and institutional administration to provide insight into employment trends and skill gaps seen in the industry. When possible the TAC should be invited to Inmate Education Advisory Committee meetings to share employment needs and concerns.

(e) Principals shall review requests from teachers to participate in a TAC. CTE teacher participation may be in person or virtual through technology options, and shall occur during non-student contact time, when possible.

(f) Requests for TAC participation must include:

(1) The name of the business, address of business, website of business, phone number of member, and contact name.

(2) TAC meeting location and time.

(3) Meeting agenda or justification for participation.

(A) The Principal shall ensure that the meeting agenda outcome or report is completed, reviewed, and submitted to OCE.

(g) The objectives of the TAC shall be to provide advice and consultation on:

(1) Establishing standards for inmate training relevant to current methods and industry standards.

(2) Vocational guidance.

(3) Evaluation of students.

(4) Employment opportunities for students upon release.

(h) The Assistant Principal shall ensure that each CTE teacher organizes and maintains an active TAC for their CTE training course.

(i) CTE teachers shall work closely with representatives of the TAC to ensure CTE training courses meet the changing employment needs and training trends in the industry.

(j) The TAC shall meet quarterly on staff development, training days, or both. Exemptions to the quarterly meetings shall be requested from the Associate Superintendent, due to the feasibility of conducting meetings in certain geographic locations.

#### **101010.4.6 Review of Career and Technical Education Training Courses**

(a) The Superintendent of Education shall annually review each adult institution CTE training course.

(b) CTE training courses shall be reviewed according to the following criteria:

(1) Student length of time in assignment, and progress toward completion of the training course.

(2) Program integrity, including the utilization of instructional best practices, appropriate use and maintenance of all equipment prescribed for training, and implementation of evaluation protocols as established by OCE.

(3) Documented evidence at the prison that students are engaged in small group learning activities. Eighty percent of the small group instruction shall include projects using tools of the trade identified by the approved OCE curriculum. Twenty percent of the small group learning activities shall be direct instruction and cooperative learning activities relating to concepts and theories related to the trade, literacy, and numeracy.

(4) Current record keeping in SOMS and related training certification websites of training partners or licensing agencies.

(5) Test integrity.

(6) Education records, including completions, number of student certifications, student attendance, percentages of students passing tests on the first attempt, and timelines.

(7) Student satisfaction surveys.

(8) Use of CTE training course students for special projects within the institution, including those requested by the Warden.

(9) Adequacy of facilities.

(10) TAC participation.

#### **101010.4.7 Career and Technical Education Employee Services for Automobile Repair**

(a) The minimum standards for Employee Services related to automobile repair are detailed below, and shall be incorporated into the institution's Operational Procedures (OP). The institution may add additional restrictions or limitations, but the institution may not lessen the standards. The minimum standards are as follows, and shall not be circumvented:

(1) Funds generated by employee services will be used to supplement, purchase, repair, or upgrade equipment needs of the vocational programs.

(2) Restoration, customization, and conversion projects are not approved as employee service projects. All restoration and conversion projects are limited to institution or community service projects.

(3) No vehicle over 15 years of age will be repaired. NO EXCEPTIONS.

(4) Employee services available are limited to the standard type of repairs offered in the average auto repair shop.

(5) Employees must have a current operating Department of Motor Vehicles (DMV) registration, indicating proof of ownership.

(6) Charges for repairs are based on the time required for the job as listed in the flat rate manual for warranty repairs for specific makes and models. The employee will be charged a per hour labor rate as prescribed in the OP for CTE training courses, but no less than \$60.00 per hour. OCE will review the labor rate annually.

(7) A Safety Data Sheet must accompany all liquids, chemicals, paints, etc., that are brought into the institution.

(8) A vehicle cannot be transferred from course to course. One request, per vehicle. When a request is completed, the vehicle will be removed from the course. The employee can initiate another request for the same vehicle.

(9) Employees have a maximum of five days to bring in the vehicle when notified. If an employee cannot bring in the vehicle within the required time frame, their name will be placed at the bottom of the list, and the next person will be contacted.

(10) Once the vehicle is delivered to the course, the instructor will provide the employee with an estimated cost for repairs, and a material and parts list. The employee will have a maximum of five days to pay the estimated project cost, as well as provide all parts and materials. If an employee cannot provide all the parts, materials, or pay the estimated project cost, the employee will then have three days to remove the vehicle from the course.



(11) Upon notification of project completion, the employee has three working days to remove the vehicle from the course.

(12) Failure to remove a vehicle from a course within the specified time frame will result in the vehicle being towed at the owner's expense.

(13) Employees will be charged for the disposal of any hazardous materials such as coolant, oil, and transmission fluid.

#### **101010.5 Academic Education Programs**

(a) Academic education programs include English Language Development (ELD), ABE, ASE, and Post-Secondary and Continuing Education (PSCE). ELD, ABE, and ASE shall include the teaching of the CDE, CCRS and ELP standards.

(b) Utilizing textbooks adopted by OCE, research-based instructional practices, and maximizing instructional time, instruction shall enable the student to:

- (1) Increase literacy and numeracy skills.
- (2) Demonstrate proficiency in the adopted academic standards.
- (3) Complete prerequisites for academic success in PSCE, CTE training courses, and continuing education.

(c) The Warden shall make every effort to ensure that inmates who do not have a United States-recognized accredited high school diploma or its equivalency or a certificate of completion (for inmates with developmental disabilities) are enrolled in ABE or ASE courses, in accordance with the most current reading grade level as follows:

<u>Adult Basic Education</u>	<u>Adult Secondary Education</u>
Adult Basic Education I 0 - 3.9	Adult Basic Education III 7 - 8.9
Adult Basic Education II 4 - 6.9	High School Diploma 9+
	GED 9+

(d) Academic education may be provided via alternative education to inmates housed in Secured Housing Units (SHU), Administrative Segregation, Condemned Row, on orientation status, at Conservation (Fire) Camps, and for inmates with medical and mental health preclusions.

#### **101010.5.1 Scope of Academic Education**

(a) Academic education includes:

- (1) ELD.
- (2) ABE.
- (3) ASE.
- (4) Literacy Tutoring (LT).
- (5) PSCE.

#### **101010.5.2 English Language Development**

(a) An English Learner (EL) is a student whose native (or home) language is a language other than English, who is unable to communicate fluently or learn effectively in English, who may come from a non-English speaking home and background, and who typically requires specialized or modified instruction in both the English language and in academic courses.

(b) The overall goal of ELD is:

To improve the English language skills as rapidly and effectively as possible and attain parity with native speakers of English, and to ensure that ELs, within a reasonable period of time, achieve the same rigorous grade-level academic standards that are expected of other students.

(c) Students may self-identify as a potential EL. Teachers may recommend students to the EL identification process based on objective observations of language production and comprehension.

(d) Teachers will administer the Student Language Survey (SLS) to:

(1) Students whom the teacher has a reasonable idea may be an EL, students who self-identify as EL, or students who are identified through objective data such as reading level, native language, etc.

(e) Students whose SLS indicates a language other than English in their early language development and a reading score under 4<sup>th</sup> Grade Equivalency (GE) will be tested for ELP.

(f) Students scoring at intermediate proficiency or below will be identified as EL.

(g) ELs who reach a reading GE of four or higher will be exited from EL status.

(h) Instruction:

(1) Identified ELs placed in ABE I will receive instruction in ELD based on the ELP standards using instructional materials adopted for such instruction.

(2) ELs will receive research-based, differentiated instruction in literacy and numeracy that addresses their language and academic needs.

#### **101010.5.3 Adult Basic Education**

(a) Inmates who do not have a high school diploma, equivalency, or certificate of completion and who are achieving below seventh grade level are to be enrolled in ABE. The subjects shall include English, Language Arts, and Mathematics.

(b) Upon student demonstration of proficiency in the CCRS, and as evidenced by a standardized assessment based on the most current reading grade levels, students shall receive a program completion in SOMS, and shall be enrolled in ASE.

#### **101010.5.4 Adult Secondary Education**

(a) Inmates who do not currently possess a verified HSD or HSE and who read at or above the 7.0 grade reading level shall be eligible for enrollment in ASE.

(b) Inmates with a 7-8.9 reading grade level shall be placed into ABE III; inmates with a 9-12.9 shall be placed into a General Education Development (GED) or HSD course. Placement in a HSD course requires sufficient time remaining prior to one's release date to complete the requirements for a HSD.

(c) Students must earn 180 units to be recommended for earning a HSD, in accordance with the CDE graduation requirements and OCE policy. Students shall earn 70% or above on a HSD course curriculum, to receive credits for the HSD course.

(d) ASE subjects include English Language Arts, Mathematics, Science, and Social Sciences.

(e) Students shall demonstrate readiness to take the HSE test based on OCE policy and criteria.

(f) Upon successful completion of the HSD or HSE course, a certificate of HSD or HSE shall be awarded.

(g) Graduation ceremonies shall be scheduled for graduates. Schools may provide HSD, HSE, and college graduates, one photograph in their cap and gown as approved by the Principal.

#### **101010.5.4.1 Literacy Tutoring**

Literacy Tutoring (LT) is available to students, and focuses on providing individualized instruction to support students who need additional assistance with learning. LT is also available for those students who may be assigned to work or CTE training courses during the day and desire to increase literacy and work towards earning a HSE or HSD outside of work and course hours.

#### **101010.5.5 Post-Secondary and Continuing Education**

(a) Post-secondary education via college correspondence, in-person courses, and courses via electronic devices may be offered based upon available staff and funding.

(b) Students with a U.S.-recognized accredited HSD or GED certificate are eligible to apply for admission into college, and enroll in college level courses that lead to certificates, degrees, or both, from nationally recognized and accredited agencies, as approved by the Principal. Inmates may not enroll in college level courses that duplicate courses provided by the department.

(c) Students who have Associate of Arts or Science degrees from accredited colleges, or who have completed 60 units of lower division course work, are eligible to enroll in upper division college credit courses leading to the Bachelor of Arts or Science degree where feasible.

(d) College students are required to pay for college tuition, fees, supplies, and textbooks. State and federal grants may be available from colleges and universities.

#### **101010.5.6 Continuing Education**

(a) Continuing Education is available via blended learning environment including face-to-face teaching and independent study.

(b) Courses provide educational opportunities to inmates seeking to further educational knowledge.

(c) Interested inmates may request assignment through Education staff to participate in an e-learning course.

(1) E-learning courses include video lessons, a student handbook or coursework, and teacher-proctored exams.

(2) Students must demonstrate 70% proficiency in attendance, coursework, and the exams, in order to receive credit.

#### **101010.6 Transitions Course**

(a) The Transitions course is designed for inmates who are nearing release.

(b) The Transitions course is designed to bridge the gap from dependent facility living to successful, self-directed community adjustment through employment and workforce readiness and financial literacy.

**101010.6.1 Responsibility**

- (a) Each facility shall provide a Transitions course for inmates.
- (b) The Transitions course shall be under the direction of the Principal.
- (c) The Transitions course shall include input from the Department of Adult Parole Operations (DAPO), probation offices, and the Office of Victim and Survivor Rights and Services.

**101010.6.2 Requirements**

- (a) The Transitions course shall be open entry, open exit, and provided five days a week.
- (b) Inmates who are within two years of release, or of a board hearing, are eligible to participate in a Transitions course.

**101010.6.3 Curriculum**

- (a) The Transitions curriculum shall be standardized and adopted for statewide use by the OCE and shall include:
  - (1) Employability skills.
  - (2) Financial literacy skills.
  - (3) Community resources.
  - (4) Restitution information.

**101010.6.4 Course Completion**

- (a) At the conclusion of the Transitions course each participant shall have:
  - (1) Transitions plan.
  - (2) Cover letter and resume.
  - (3) Job search goals.
  - (4) The names and addresses of three or more public or private agencies available to assist the inmate in their county of release.
  - (5) Master job application.
  - (6) Spending plan.
  - (7) Educational records.
  - (8) Participated in at least one mock job interview.
  - (9) A California identification card or procedures to obtain one.
  - (10) Address of parole or probation office.
  - (11) Job application.

**101010.7 Student Support Services**

- (a) Student Support Services (SSS) provide students with disabilities, and students who are under 22 years of age, with supplementary assistance with learning.
- (b) Reasonable accommodation shall be made for those students who have documented physical, mental, psychiatric, or learning difficulties or disabilities, to ensure students are provided access to educational programs and access to the curriculum.
- (c) For students who are classified as Enhanced Outpatient (EOP) mental health level of care, the presumption shall be they will attend traditional academic education courses.
  - (1) If the Classification Committee determines the student would be more successful through blended learning, the EOP teacher shall provide instructional services.
  - (2) The EOP teacher shall administer standardized assessments and develop an Individually Tailored Education Plan (ITEP) for students.
  - (3) The ITEP shall be reviewed quarterly with a Student Study Team (SST).
  - (4) SST members include the EOP teacher, the EOP student, and school administrator.
  - (5) EOP teachers shall record student progress in the quarterly Education Progress Reports.
- (d) Students designated as Developmental Disabled Program (DDP) who are enrolled in education programs are eligible to receive additional support with learning from the DDP teacher.
  - (1) The DDP teacher shall develop an ITEP for DDP students.
  - (2) SST members include the DDP teacher, the DDP student, assigned classroom teacher, and school administrator.
  - (3) Student progress will be provided to the assigned classroom teacher for inclusion in the Education Progress Reports.
  - (4) Students with developmental disabilities may be eligible to participate in an alternative high school completion course called Certificate of Attendance and Participation (CAP).
  - (e) Students in the Disabilities Placement Program (DPP) who are enrolled in education may receive additional support with learning from the DPP teacher.
    - (1) The DPP teacher shall develop an ITEP for DPP students.

(2) SST members include the DPP teacher, the DPP student, assigned classroom teacher and school administrator.

(3) Student progress shall be provided to the assigned classroom teacher for inclusion in the Education Progress Reports.

(4) Students with disabilities shall be provided reasonable accommodations based on their individual learning needs.

(A) If the primary language is American Sign Language (ASL), sign language interpreting services will be provided in accordance with department policy.

(5) Every Student Succeeds Act (ESSA).

(A) Students under 22 who are enrolled in education programs shall receive supplemental assistance and support with learning from the ESSA teacher at designated adult institutions.

(B) Instructional hours shall be no less than 15 hours per week.

(C) ESSA teachers shall enter attendance into SOMs.

(D) ESSA teachers shall provide student learning objectives and achievement information to the traditional classroom teacher for quarterly report cards.

**101010.8 Records**

(a) Upon an inmate entering the adult institution, the school registrar shall review SOMs and provide a Transcript Request Form to each inmate who does not have a verified HSD or HSE. The registrar shall request transcripts and special education records from the last school of reported attendance and update SOMs upon receipt.

(b) The Principal shall be responsible for the accuracy and completeness of educational records when inmates are received, transferred, or released.

(c) The Principal shall maintain accurate records of all educational achievements, completions, degrees, and certifications and record these in SOMs.

**101010.8.1 Records to be Maintained and Data to be Reported**

(a) The following data shall be reported with accuracy, in SOMs: enrollment, attendance, education progress reports, curriculum progress records, transcripts, course completions, diplomas, degrees, certifications, accommodations, student study team meetings, ITEPs, ELs, and credit earnings.

(b) Education Progress Reports are to be completed quarterly by teachers for all assigned students. As students demonstrate proficiency in curriculum, learning shall be recorded on curriculum progress records. Lesson plans and tool inventories shall be provided to the Assistant Principal.

**101010.9 Education Records**

(a) The following records shall be updated daily:

- (1) Student attendance (XSEA).
- (2) Curriculum progress records.
- (3) Education Merit Credits (EMC) and Milestone Completion Credits (MCC).
- (4) Tool and test inventories.
- (5) National Center for Construction Education & Research (NCCER).
- (6) Lesson plans.
- (7) Class walk through observations.

(b) The following records shall be reported quarterly:

- (1) Education Progress Report.
- (2) Trade Advisory Committee agenda and minutes.
- (3) Site Council agenda and minutes.
- (4) Library report.
- (5) Tool and equipment inventories.

**101010.10 Education Reports**

The Principal shall prepare education reports as requested by the Superintendent of Education.

**101010.11 Regulations, Credentialing, and Work Schedule Pertaining to Staff**

(a) State civil service rules provide for a minimum workweek of 40 hours, and eight core hours of work daily.

(b) Preparation Time.

(1) The Principal, shall determine the time of day set aside for lesson preparation to be utilized for educational purposes. This shall include, but not be limited to:

- (A) Development of lesson plans.
- (B) Student attendance records.
- (C) Curriculum progress reports.
- (D) Education progress reports.

(E) Inmate or student disciplinary report writing.

(F) Tool control and inventories.

(G) Other, as approved by the Principal.

(c) Teacher Assignments.

(1) The Principal shall assign teachers to educational courses.

(d) Credentialing.

(1) Academic teachers shall have a single or multiple subject teaching credential. Courses for students with developmental disabilities shall be taught by appropriately credentialed teachers who possess an Education Specialist Credential or equivalent, issued by the California Commission on Teacher Credentialing (CCTC).

(e) CTE Teachers shall:

(1) Meet the requirements for the designated subject's CTE credential specific to their trade.

(2) Have five years of verified journey-level experience in the specific trade that they are teaching.

(3) Maintain the credentials and certifications necessary in order to assess student progress and issue appropriate credits and certifications to students.

(f) Teachers shall attend professional development, trainings, Professional Learning Communities (PLC), and conferences as directed by the Principal or Assistant Principal(s).

(g) Teachers shall be provided duty statements and work expectations.

#### **101010.11.1 Incentive Salary Increase**

(a) Teachers shall be considered eligible for an incentive salary increase if they:

(1) Receive less than Range F under the regular pay plan.

(2) Receive less than Range P under the 10-12 pay plan (see Unit 3 contract).

(3) Complete 12 semester or 18 quarter units of college level courses approved by their department, taken after appointment.

(b) An employee shall receive only one incentive increase in any calendar year.

##### **101010.11.1.1 Criteria for Course Selection for Salary Increase**

(a) The teacher shall secure approval from the Principal and OCE before enrolling in the college course(s) for the purpose of salary advancement.

(b) College courses shall be selected to ensure direct contribution to the improvement and advancement of the teacher in their work assignment as a correctional educator.

(c) Courses taken for salary advancement must be taken on the employee's own time, and at their own expense.

(d) The teacher shall submit a request to take additional courses for the purpose of salary advancement and route it to the Principal for review to ensure courses meet the established criteria. The Principal shall forward the request to OCE for final approval.

(e) The OCE Administrator over Human Resources shall determine that the course(s) will contribute to the improvement and upgrading of the teacher as it relates to their job classification, teaching assignment, course curriculum and professional development. Acceptable courses will be from accredited colleges, universities, or other California Commission on Teacher Credentialing (CTC) approved programs where college semester units are provided upon completion. Transcripts should be official transcripts or digital equivalents from an authorized third party vendor, before forwarding the request to OCE for approval. College units and Continuing Education credits from industry cannot be a repetition of previously acquired credits or work experience.

(f) Conferences and courses paid for by the institution are not eligible for salary advancement.

#### **101010.11.2 Uniformed Personnel for Searches**

The department shall make efforts to provide uniformed personnel to perform required inmate searches. The Warden may require education staff to perform searches of their students on a temporary basis because of unavailability of uniformed personnel. In such cases, the facility shall provide instruction to the education staff.

#### **101010.11.3 Adult Institution Emergencies**

(a) During a declared emergency, teachers may be assigned as required to custodial or other duties for which they have received instructions.

(b) During an emergency or lockdown, teachers may be required to perform other duties as needed, consistent with their professional skills or for which they have received instructions.

#### **101010.11.4 Student to Teacher Ratios**

Refer to Unit 3 Contract.

#### **101010.11.5 Use of Teachers for other than Instructional Purposes**

(a) CDCR credentialed teachers and staff assigned to the Education Department are not to be used for non-school related functions without prior written approval of the Superintendent of Education (except during an emergency). The Principal shall prepare such a request for the Warden's signature and submit it to the Associate Superintendent. The request shall contain:

(1) A clear and concise justification for the request.

(2) A description of the duties to be performed.

(3) The length of the assignment.

(4) An explanation of how the inmates currently assigned to the teacher will receive instruction.

#### **101010.12 Budgetary Procedures**

(a) The Principal shall, submit to the Superintendent of Education, projected budgetary needs via a spending plan for the fiscal year for each of the following areas:

(1) Law library.

(2) Inmate recreation library.

(3) Academic operating expense.

(4) CTE operating expense.

(5) Administrative expense.

(6) Technology, training, travel and equipment.

(b) Spending plans shall be for adult institution school needs directly related to student learning and OCE goals and objectives and shall be reviewed and approved by the Associate Superintendent prior to allocation distribution.

(c) Funding, equipment and materials designated for specific programs shall remain with the designated program unless the Principal of the adult institution has been given express permission in writing to reassign the assets to another OCE program by an administrator at the OCE and Division of Rehabilitative Programs.

#### **101010.13 Revisions**

The Superintendent of Education shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### **References**

Penal Code §§ 2053 and 2690.

California Code of Regulations, title 15, division 3, section 3040, 3043, and 3043.3.

Senate Bill 1391 (2014).

Bargaining Unit 3 SEIU Contract.

Department Operations Manual § 62070.

California Commission on Teacher Credentialing.

California Department of Education, College and Career Readiness Standards.

Western Association of Schools and Colleges.

#### **Revision History**

Revised: January 7, 1993.

Revised: May 26, 2021.

## **ARTICLE 2 — DIVISION OF ADDICTION AND RECOVERY SERVICES**

*Revised June 26, 1998*

*Updated April 5, 2007*

#### **101020.1 Policy**

The Division of Addiction and Recovery Services (DARS) is established within the Department to serve as the centralized point of substance abuse program development, management, coordination, and administration of all program funds.

#### **101020.2 Purpose**

This Section describes the substance abuse program design, administration, goals, objectives, programs, and responsibilities of DARS.

#### **101020.3 Responsibilities**

##### **Director**

The DARS is managed by a Director who reports to the Chief Deputy Secretary, Adult Programs, and is responsible for establishing and maintaining CDCR's overall substance abuse program effort.

### Primary Responsibilities

The DARS is the primary unit in CDCR with the following responsibilities:

- Develop CDCR standards for substance abuse programs to insure that inmates housed within CDCR's institutions/facilities and parolees supervised within the community receive consistent, quality programs likely to impact the drug use and crime continuum.
- Develop new and innovative programs and create pilot substance abuse programs in CDCR institutions/facilities and community settings.
- Monitor program implementation and audit program operation.
- Develop regulations implementing the operation of substance abuse programs in order to assure consistent program development.
- Serve as the centralized point of grant management for substance abuse related grant projects. In this role, DARS will seek and review potential grant sources that may provide assistance in furthering CDCR's plan.
- Establish a strategic plan to address offender need for substance abuse program services, strategic plan progress, and the status and delivery of program services to CDCR's offender population.

### Resources

The DARS is responsible for maximizing the use of available resources to serve this critical population.

### Linkages and Consults

The DARS establishes linkages and consults with other agencies and entities involved in associated activities, such as, the Department of Alcohol and Drug Programs (DADP), DMH, Department of Rehabilitation (DOR), and the Department of Social Services (DSS). Federal agencies, including the Center for Substance Abuse Treatment, Bureau of Justice Assistance, National Institute of Corrections, and the Department of Education, are also sought to consult in the expansion of CDCR's substance abuse effort.

### New Programs

At the onset of the implementation of each new substance abuse program or effort:

Institutions/facilities and Parole Regions shall coordinate all new substance abuse program planning and implementation with DARS.

All programs shall include a plan, approved by DARS, to collect basic data that describes the inputs and outputs of the program. Program data are basic to determining the effectiveness of substance abuse programs for inmates and parolees, and to obtain and maintain public funding.

### Annual Report

By December 31 of each year, DARS prepares an annual report describing and analyzing overall substance abuse efforts, including progress on the strategic plan and all available statistics. The report includes data for the fiscal year ending June 30.

#### 101020.4 Substance Abuse Program Philosophy

Many factors influence the program philosophy of substance abuse program services in the correctional setting. The individual characteristics of program participants, expectations of correctional staff, demand for public safety, availability of funds, program content, program intensity, and cost-effectiveness of programs are principal elements influencing program philosophy and the utilization of services. The most effective strategy for addressing challenges posed by these diverse variables is the establishment of a comprehensive continuum of programs and services that are made available to inmates and parolees at various stages of their recovery from alcohol and other drugs.

The Department's comprehensive correctional substance abuse strategy provides a balanced distribution of services to both inmates and parolees by acknowledging that the participants represent the most severe segment of the substance abusing population. Extended exposure to a full array of substance abuse program services during periods of incarceration and parole provides the most favorable opportunity for reducing recidivism and criminal activity.

The program authorized by CDCR establishes an in-prison substance abuse service system that is fully integrated with a community-based service model. In addition, CDCR also agrees to administer and manage programs as described in cooperation with selected state and local government agencies.

#### 101020.5 Substance Abuse Program Goals and Objectives

The primary goals of the substance abuse program are to reduce the incidence of relapse and recidivism among substance abuse program participants, promote pro-social behavior that will enable the participants to exhibit satisfactory conduct within the facility, and to successfully reintegrate back into the community.

The objectives of the substance abuse program are that services shall be made available to inmates and parolees addicted to alcohol and other drugs for their condition and its underlying causes.

#### 101020.6 Program Administration

Program administration consists of the elements of interagency cooperation and program management.

#### Interagency Cooperation

In order to make effective use of existing community services and to accomplish the program design, CDCR works in cooperation with DADP, DOR, DMH, and DSS for the purpose of designing and funding programs and providing substance abuse program services.

The CDCR may disburse funds to local substance abuse service providers through an interagency agreement with DADP. DADP contracts with local government agencies to provide substance abuse program services through private and public providers.

#### Program Management

The DARS retains administrative responsibility for CDCR's substance abuse program contracts and serves as the primary liaison between private contractors and participating government agencies and representatives. DARS staff are responsible for coordinating private contractor access to institutions/facilities, parole field units, and offender records (when necessary/appropriate).

The DARS reviews and approves program content and operation to maintain a program structure within contract parameters and substance abuse program standards.

The DARS reviews and approves invoices submitted by contract agencies related to work performed on DARS managed programs.

The DARS monitors the collection of program and participant data and maintains records in cooperation with substance abuse program providers and participating government agencies. All programs funded through CDCR require the development, maintenance, and reporting of program management information as determined by DARS.

#### 101020.7 Revisions

The Director, DARS, or designee, shall be responsible for ensuring that the contents of this article are kept current and accurate.

#### 101020.8 References

CCR (15) (3) § 3901.9.4(e).

### ARTICLE 3 — INMATE ACTIVITY GROUPS

*Revised September 26, 1991*

*Updated April 5, 2007*

#### 101030.1 Policy

The facilities shall initiate leisure time inmate activity groups which promote educational, social, cultural, and recreational interests of inmates.

Group and individual activities which violate the law or rules and regulations of the Secretary shall not be permitted.

Inmate clubs, activity groups, associations, or other organizations within the facility are permissible only when specifically approved by the Warden and are in compliance with this Section. When reasonable cause exists, including but not limited to noncompliance with CCR, facility approved by-laws for the group, etc., the Warden has the authority to disband any previously approved club, activity group, association, or organization operating within the facility.

#### 101030.2 Purpose

This Section provides standards for organization and proper administration of inmate activity groups.

#### 101030.3 Approval of Activity Groups

Authority to approve the formation of inmate activity groups is restricted to the Warden.

#### 101030.4 Group Plan of Operation

Any group of inmates desiring to organize and function as an activity group shall submit a plan of operation to the Warden for approval by the chain of command.

The group plan of operation shall conform to facility guidelines and include the following:

- The group's proposed name shall reflect the general nature and interest of the group.

- The purpose of the group, membership, frequency and type of meetings, size limitations, outside affiliation, and delineation of group's governing body.
- By-laws shall be reviewed at least annually by the Warden, or designee, and updated when changes are approved.
- The Warden can terminate an activity group for reasonable cause.

#### **101030.5 Activity Group Criteria**

Each activity group's plan of operation shall include and be consistent with the following criteria:

- Establishment and operation of any activity group requires agreement of a permanent full-time employee to serve as the group sponsor.
- One or more co-sponsors may also be required depending on the complexity of group activities.
- The activity group's purpose and activities shall not violate or conflict with laws, rules, and regulations of the Secretary, or the Department's procedures.
- The group members, or individuals representing the group, shall not advocate or support disruption of order or hinder lawful authority.
- Membership shall not be denied because of the inmate's race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation, age, or sexual orientation.
- Membership fees, dues, or donations to the group shall not be a condition of membership or for participation in the group's activities.
- Any funds or property collected by the activity group shall be administered in accordance with DOM 101080, Charitable Fund Raising Campaigns.
- Group meetings and correspondence shall be conducted in a language readily understandable by the group's sponsor, co-sponsor, or other employee supervising the activity.
- A group shall be permitted only if it provides a benefit to the participants justifying the use of state staff time, materials and facilities. Determination of benefit shall consider the following:
  - Whether the group is unnecessary because the benefits are available through existing facility programs or activity groups.
  - Space is available for meetings and activities.
  - Participant's ability to repay state costs and meet future financial obligations.
  - Whether the group shall benefit or disrupt general facility operations and nonparticipating inmates.
  - Whether participation shall assist the inmate to return to a normal life upon release.
  - Whether the group shall interfere with normal programs established to meet the needs of the inmate work/training incentive program.

#### **101030.6 Group Administrator**

The Warden shall designate an associate Warden as Group Administrator to supervise the activities of all local inmate activity groups.

##### **Responsibilities**

The Group Administrator shall:

- Review proposed inmate activity group plan of operation and recommend in favor of or against approval by the Warden.
- Make personal contact with inmates, staff and outside participants to ensure that everyone concerned understands the plans of operation.
- Audit inmate group activities to ensure that plans of operation are followed.
- Select and train group coordinators and sponsors.
- Maintain a current list of approved inmate activity groups, including a list of members and officers of the groups, and a copy of their plans of operation.
- Review and approve or deny requests for outside participants to attend inmate group activities.
- Arrange for temporary supervision of groups when the sponsor cannot attend a scheduled meeting.

#### **101030.7 Group Coordinator Responsibilities**

The Group Administrator shall designate one or more staff members at not less than Lieutenant or CC-II level to function as Inmate Activity Group Coordinators.

The Group Coordinator shall:

- Schedule group meeting times and places.
- Assist in audit of group activities by frequent attendance of each group's meetings at least once each quarter.
- Screen requests for outside participant attendance at group meetings or special activities.
- Recruit and train personnel to act as Inmate Activity Group Sponsors and Co-Sponsors.
- Audit annually all group funds and expenditures.

#### **101030.8 Group Sponsors and Co-Sponsors**

Group sponsors and co-sponsors shall be full-time permanent employees who have completed probation.

Sponsors and Co-Sponsors shall:

- Submit a request to sponsor an inmate activity group to the group coordinator for approval.
- Learn their responsibilities as defined in this procedure.
- Review the group's constitution and by-laws to familiarize themselves with the group's philosophy, goals, and approved operating parameters.
- Review and approve all correspondence to and from the group.
- Assist inmates with preparation of proposed plans of operation which shall meet the criteria for approval by the Warden.
- Assist the group coordinator, the group administrator, and the Warden as necessary in their review and understanding of the proposed plan of operation.
- Ensure that constitution and by-laws are reviewed annually, updated when necessary, and submitted through the group administrator for approval by the Warden.
- Assist the group coordinator in scheduling meeting times and places.
- Attend all meetings held by the group or, if unable to attend, arrange for attendance and supervision by a co-sponsor or other authorized employee.
- Cancel any meeting for which proper supervision cannot be provided.
- Audit group's activities, attitudes and inclinations as reflected in the verbal and written matter of the group and its members.
- Report any deviation or diversion of the group's interest that are beyond acceptable limits or require the attention of other facility staff.
- Review requests for outside participation in group meetings or activities. Assist in identifying proposed guests and evaluate the impact of their presence on the group and security of the facility.
- Submit lists of proposed outside participants in advance of the meetings/activities to the group coordinator for approval.
- Require that outside participants receive orientation regarding participation in group activities.
- Supervise orientation of new group members on policies and procedures of the group.
- Maintain attendance records of outside participants and group members.
- Prepare and submit monthly activity report.
- Propose that publicity or promotional material shall not be distributed until approved and signed by the sponsor, who shall present it to the group coordinator before posting or distribution.
- Evaluate requests for copying or printing of group material. If a document is approved for reproduction, the sponsor shall sign each page and attach a signed note to the document indicating the number of copies authorized. Paper shall be provided by the group. The request shall be forwarded to the group coordinator for approval prior to duplication.
- Screen any written material, books, pamphlets, tracts or lesson plans, etc., including photographs, pictures, drawings or posters donated by outside participants as well as video cassettes, movies or other visual aids. Document approval or disapproval.
- Approve/disapprove and sign all group trust withdrawal requests.
- Submit pay vouchers to the group coordinator.
- Inform the group coordinator if no longer interested in sponsoring a group.

#### **101030.9 Outside Participation in Inmate Activity Groups**

The participation of outside guests in group meetings and activities shall be by the invitation of the group sponsor.

All guests shall be processed as described in DOM 101090, Volunteers.

The number of guests at any regular meeting or special event shall be approved by the Warden.

#### **Annual Banquets**

Each approved activity group may be allowed one banquet per year.

Charges for meals will be in accordance with DOM 54080, Food Services.

#### **101030.10 Revisions**

The Deputy Director, Facility Support, Division of Adult Institutions, or designee, shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **101030.11 References**

CCR (15) §§ 3020, 3233, 3235, 3237, and 3263.

ACA Standards 2-4456, 2-3359 and 2-4455.

### **ARTICLE 4 — RECREATION AND PHYSICAL EDUCATION PROGRAMS**

*Revised May 26, 2021*

#### **101040.1 Policy**

(a) Each Warden shall provide a recreation and physical education program that will maximize inmate participation under conditions that are safe and secure. Inmates may be afforded an opportunity to engage in a variety of activities consistent with their custody classification, privilege groups, security requirements, health status, and any documented or demonstrated special need.

(b) Recreation and physical education programs are founded on six broad goals providing inmates opportunities for achievement through participation in a range of programs that promote the following:

- (1) Physical activity.
- (2) Physical fitness and wellness.
- (3) Movement skills and movement knowledge.
- (4) Social development and interaction.
- (5) Self-image and self-realization.
- (6) Individual excellence.

#### **101040.2 Purpose**

This Article provides staff responsibilities and criteria for the administration of adult institution and facility recreation and physical education programs.

#### **101040.3 Responsibility Recreation and Physical Education Programs.**

(a) The Principal shall provide overall supervision and coordination of recreation and physical education activities at their respective institutions and facilities. The Principal shall:

- (1) Coordinate all recreation and physical education activities.
- (2) Supervise the selection, assignment, and training of inmate clerks and recreation assistant aides.
- (3) Evaluate and utilize community resources.
- (4) Maintain appropriate records of activities, inventories, and student participation and attendance.
- (5) Ensure the security and control of the areas and scheduled activities.
- (6) Maintain effective control and utilization of equipment.
- (b) Arts-in-Corrections

(1) The Arts-in-Corrections program provides inmate activity groups administered by the California Arts Council (CAC) via an interagency agreement with CDCR, Division of Rehabilitative Programs (DRP). The CAC Staff Services Manager I and Associate Governmental Program Analyst provide overall supervision for the institutional Artist Facilitators or Lead Artists who are the designated program contacts. The Artist Facilitators and Lead Artists are under the supervision of the Community Resource Manager (CRM) at each institution.

(c) Art activities may consist of, but are not limited to, the following artistic disciplines:

- (1) Folk & Traditional Arts.
- (2) Literary Arts.
- (3) Media Arts.
- (4) Multidisciplinary Arts.
- (5) Performing Arts.
- (6) Visual Arts.
- (7) Handicraft Program.

(d) Administrative oversight of each institution's handicraft program is the responsibility of the Correctional Administrator, Business Services. Direct supervision of the program is delegated to an institutional handicraft manager.

#### **101040.4 Recreational Activities**

(a) Inmate participation in recreational activities shall be voluntary, non-credit, accomplished during non-assignment hours, and be dependent on privilege level. Activities may include, but are not limited to, the following:

- (1) Audiovisual programs.
- (2) Individual sports, such as track and field, jogging, and gymnastics.
- (3) Dual sports, such as handball, horseshoes, table tennis, badminton, and shuffleboard.
- (4) Team sports, such as baseball, basketball, soccer, softball, touch football, and volleyball.
- (5) Social games, such as checkers, puzzles, dominoes, chess, and card games.
- (b) Precaution shall be taken to prevent injury during recreational activities. Activities involving unusual danger or risk shall not be permitted.
- (c) Gymnasium, field, and yard schedules shall be established to provide reasonable access for all eligible inmates. Recreational activities may be available seven days per week.
- (d) The Warden may approve special events which feature visual and performing arts activities.

#### **101040.4.1 Intramural Sports**

(a) Intramural sports may be offered for all eligible general population inmates.

(b) Each institution shall establish guidelines to discourage inappropriate domination by any one inmate group. A designated staff person shall select and assemble individual teams.

(c) Intramural sports may include handball, racquetball, basketball, softball, horseshoes, and similar group sports.

#### **101040.4.2 Table Games**

Table game leagues and tournaments may be organized institutionally. All eligible inmates may participate in such tournaments.

#### **101040.4.3 Tournaments**

(a) Tournaments may be organized institutionally. The variety of competitive activities shall be rotated according to different interests, skills, and cultural considerations.

(b) Announcements of upcoming special events shall be posted in designated areas accessible to all eligible inmates.

(c) Awards and certificates of participation or accomplishment may be purchased with Inmate Welfare Fund monies and offered as awards to inmates participating in tournament activities.

(d) Approved awards shall be delivered to the recipient inmate as soon as possible, but no later than 45 days following approval by the activity or contest coordinator.

#### **101040.4.4 Handicraft**

Refer to Department Operations Manual chapter 10, article 5.

#### **101040.4.5 Music Program**

(a) Musical activities are encouraged in those institutions with the appropriate facilities and equipment.

(b) Under the supervision of designated staff, inmates may schedule practice sessions in designated areas.

#### **101040.4.6 Entertainment Movies**

(a) Entertainment movies may be selected and scheduled for viewing, in advance, on a quarterly basis. This schedule shall be submitted through the established chain of command for approval by the institution head or their designee prior to the beginning of each quarter, and the approved schedule shall constitute the institutional discretionary viewing list.

(b) Only entertainment movies with a Motion Picture Association of America (MPAA) rating of General Audiences (G), Parental Guidance Suggested (PG), or Parents Strongly Cautioned (PG-13) may be considered for general viewing by the inmate population. Entertainment movies with Edited Down (R-ED) rating may be viewed in accordance with the provisions of this section.

(c) An entertainment movie not originally rated G, PG, or PG-13, but through editing has been "reduced" to the content equivalent of a G, PG, PG-13, or R-ED rating shall not require previewing.

(d) All suitability issues shall be determined by the Warden. Entertainment movies identified as "unacceptable" shall not be approved for general inmate viewing.

(e) Regardless of a film's MPAA rating, those glorifying violence or considered inflammatory to the climate of the institution shall not be approved for viewing.

(f) Inmate Advisory Council (IAC) may be used to make recommendations for the selection of specific entertainment movies.

(g) Only entertainment movies that have Public Performance Rights (PPR) may be shown.

(h) The Warden shall approve entertainment movies prior to inmate viewing.

(i) Copyright Permission.

(1) All entertainment movies shown in the CDCR are a Public Performance. All entertainment movies shown in CDCR institutions must be accompanied by appropriate license and copyright PPR. Movies without explicit PPR shall not be shown. All contract movie vendors shall provide PPR for each movie.

(j) Accessibility.

(1) Institutional Wardens shall require that movies be shown in "Open Caption" or Descriptive Audio (AD) when the feature is available through the movie vendor. All living unit or dayroom televisions shall display captions at all times.

(2) Caption services may not be available on R-ED rated movies.

(3) Inmate access to approved movies will be displayed on dayroom or living unit televisions. Custody staff shall facilitate the showing of movies on institutional TVs in housing units.

(4) Inmates are responsible for turning on Americans with Disabilities Act (ADA) accessibility features for their personal television and movies in the cells, if available.

#### **101040.4.7 Television**

(a) The Institution Television (ITV) system provides inmate access to basic broadcast television, information programs, official messaging, education, mandated content, and Division of Rehabilitative Programs Television (DRP-TV). ITV is administered by local Television Specialist staff. ITV content is approved by the institutional Warden. ITV equipment is maintained and supported at the institutional level. Inmate owned televisions are not maintained by institutional staff.

(b) The DRP-TV system consists of multiple channels which provide access to rehabilitation-centered television programming to all adult institutions within the CDCR. DRP-TV provides access to official messaging, education, and mandated content. The DRP Office of Program Support (DRP-OPS), Media Section, administers DRP-TV. The DRP Director approves content provided through DRP-TV. DRP-OPS staff maintain and support DRP-TV equipment, with assistance from the local institution Television Specialist.

(c) State-owned television sets may be provided in dayrooms or other areas accessible to general population inmates. Televisions placed in these areas shall not be moved for service, repair, or replacement except by an authorized staff person.

(d) Program schedules shall be decided by majority vote of the inmates in attendance in the dayrooms or other areas used for general population viewing at the time of the vote.

(e) DRP-TV educational programs shall receive priority over other program content.

(f) Any tampering with the television shall be cause for disciplinary action.

#### **101040.4.8 Activity Groups**

Refer to Department Operations Manual chapter 10, article 3 for educational, social, cultural, and community interaction-based activities.

#### **101040.4.9 Arts-in-Corrections**

(a) The Arts-In-Corrections Program provides leisure time activities administered by the Division of Rehabilitative Programs (DRP) headquarters Arts Program Administrator (APA). This headquarters APA provides overall supervision for the institutional Artist-Facilitators or Lead Artists who are the designated program contact persons. The APA shall provide support, assistance, and ensure activity compliance.

(b) The Community Resource Manager (CRM) at each institution shall be designated as the immediate supervisor for the Artist Facilitators and Lead Artists.

(c) Art activities may consist of, but are not limited to, the following:

(1) Literary arts, including poetry, creative writing, playwriting, and book arts.

(2) Visual arts, including painting, drawing, printmaking, calligraphy, and graphic arts.

(3) Performing arts, including music, theater, and dance.

#### **101040.4.10 Weight Lifting**

Inmate recreational weight lifting activities shall not be permitted at California Department of Corrections and Rehabilitation institutions or facilities.

#### **101040.5 Recreation and Physical Education Programs**

(a) The institution's education department shall make available to eligible inmates a recreation and physical education program that consists of the Office of Correctional Education (OCE) adopted standards for physical education to prepare inmates for a lifetime of physical activity, health, and well-being. To achieve these goals, inmates shall:

(1) Develop proficiency in combining movement and motor skills.

(2) Understand how movement and motor skills should be performed based on biomechanics principles.

(3) Understand how to improve their movement and motor skills.

(4) Understand game tactics and demonstrate their use in game settings.

(5) Develop a healthy level of flexibility, muscular strength and endurance, body composition, and cardiorespiratory endurance.

(6) Participate regularly in physical activity.

(7) Understand the benefits of regular physical activity.

(8) Understand how to create a personal fitness plan.

(9) Demonstrate appropriate social skills and personal responsibility in a physical activity setting.

(b) A Physical Education Teacher, with a single subject credential in Physical Education issued by the California Commission on Teacher Credentialing (CCTC), shall coordinate and provide direct supervision of the recreation and physical education program.

(c) Inmate participation in recreation activities shall be voluntary, non-credit, accomplished during non-assignment hours, and be dependent on privilege level.

(d) Participation in Physical Fitness Training (PFT) shall be based upon Classification Committee action, and is considered a credit earning program.

(e) Several components of the recreation and physical education program require specialized instruction and training. These components include, but are not limited to, the following:

(1) Physical education (non-credit earning).

(2) Physical Fitness Training, (credit earning).

(3) Health (non-credit earning unless offered as part of full time education assignment).

(f) Funding for recreation is provided by the DRP and Inmate Welfare Funds; PFT funding is provided by the Division of Adult Institutions (DAI).

(g) These education program components shall meet the OCE adopted teacher to student ratio.

(h) Whenever possible, instructional resources for these program components shall be compiled on a standard list and placed on contract.

#### **101040.5.1 Physical Fitness Training**

(a) This training course is designed to evaluate, prepare, and test the physical preparedness of inmates for admission into a California Department of Forestry and Fire Protection (CAL FIRE) Training and eventual assignment to a California State Conservation Camp (fire camp) as a firefighter, emergency transport vehicle attendant, or for support services.

(b) Inmates shall possess clearance authorizing their participation in emergency firefighting activities.

(c) The Principal or designee shall provide supervision of Physical Fitness Training (PFT) courses. The bargaining unit contract designates specific PFT instructional days.

(d) A Physical Education Teacher, shall teach this course at each applicable institution. The assigned teacher shall be responsible for recording and reporting all training time and absences of inmates assigned under their supervision.

(e) The PFT involves proficiency testing in activities measured by specific count, time frame, or strength demonstration. These measured activities shall be specified in the OCE adopted curriculum framework.

(f) Unless waived by the Warden, an inmate must successfully complete PFT prior to being admitted into the forestry training.

#### **101040.6 Recreation and Physical Education Equipment**

Each institution/facility shall provide the clothing, equipment, and supplies necessary for PFT. Institution adult schools shall provide a variety of recreational and physical education activities. Strict accountability of items issued to inmates shall be maintained by utilizing a staff-supervised checkout system.

**101040.7 Conservation Camps**

Conservation camps (fire camps) shall provide recreation and physical education opportunities for their respective inmate populations. These opportunities shall be compatible with camp operations, staffing, and the geographic location of the camp, and will be funded by the Division of Adult Institution's budget.

**101040.8 Inmate Clerks and Recreation Assistant Aides**

(a) Inmate clerks and recreation assistant aides are valuable resources when trained and properly supervised. Inmate clerks and recreation assistant aides shall be selected on the basis of their relationships with other inmates, previous work record, attitude toward staff, and desire to work.

(b) These aides may serve as program assistants, activity leaders, and sports officials performing the following functions:

- (1) Supply clerks, issuing supplies under the supervision of designated staff.
- (2) Record keeping of equipment and supplies under the supervision of designated staff.
- (3) Preparation and distribution of announcements and flyers.
- (4) Cleaning and maintenance of the adult institution or facility, and equipment.

**101040.9 Recreation Committee**

(a) A recreation committee may be established at each institution. Composition should include staff and inmates. This committee may be used to provide input and offer recommendations on recreational and physical education programming.

(b) Inmate participants shall be composed of a cross-section of inmates eligible to participate in the program.

**101040.10 Community Interaction**

Community participation in institutional recreation and physical education activities shall be encouraged. Community volunteers may be utilized in accordance with institution or facility's Operational Procedures.

**101040.11 Revisions**

The Superintendent of Education shall ensure the contents of this Article are current and accurate.

**References**

California Code of Regulations, title 15, sections 3220, 3233, and 3234.

**Revision History**

Revised: July 1, 2003.

Revised: May 26, 2021.

**ARTICLE 5 — HANDICRAFT PROGRAMS**

*Effective January 2, 1990*

*Updated April 5, 2007*

**101050.1 Policy**

The Department permits inmates' constructive use of their leisure time activities. A handicraft program is established to provide a controlled means for obtaining the necessary materials and equipment and for the release of manufactured articles.

**101050.2 Purpose**

The handicraft program allows constructive use of the inmates' leisure time by affording them a program in which they may expand their creative potential. The program provides a means for the inmates to earn money to help supplement their financial resources. This Section provides for proper organization and administration of the handicraft program.

**101050.3 Responsibility**

*Revised July 20, 1992*

The inmate handicraft program is to be operated under the administration of the Associate Warden, Business Services. The handicraft manager provides direct supervision and implementation of the program.

**101050.4 Inmate Eligibility**

Inmates assigned Work/Training Group A or B, by a classification committee, are eligible to participate in the handicraft program. Any inmate who abuses their handicraft privileges shall be subject to loss of eligibility to participate. Inmates assigned to AD-SEG are not eligible to participate in the handicraft program.

**101050.4.1 Approval of Inmate Applicants**

*Revised July 20, 1992*

The handicraft manager, after interviewing applicants, shall approve/disapprove the CDC Form 165, Application for Handicraft Privilege. The handicraft manager shall grant approval only after he/she is satisfied that the applicant:

- Possesses the manipulative potential required in the craft.
- Intends serious participation in the program.

If the application is disapproved, it is returned with an explanation to the inmate. If approval is granted, the handicraft manager shall forward the application to the captain for approval/disapproval.

**101050.4.2 Revocation of Privilege**

Inmates in violation of handicraft program policies shall be suspended from the program. Such suspension through disciplinary action shall be for a specific period of time in keeping with the seriousness of the specific violation. Participation in any handicraft program or project may be terminated or suspended as a result of classification committee action.

- Upon suspension or termination of handicraft participation through disciplinary action, classification committee action, or upon the inmate's voluntary termination, all personally owned handicraft tools and materials shall be shipped to any person in the community designated by the inmate at the inmate's expense. Tools and materials shall not be retained in long-term storage within any facility.
- The handicraft manager shall remove from the rolls those participants who have become inactive by:
  - Failing to place an order for three months; and/or
  - Failure to offer an item for sale for a three-month period.

**101050.4.3 Number of Inmates Allowed to Participate**

Inmate participation is limited by the available handicraft space in each facility. Fifty percent of the inmates participating in handicraft may be involved in in-cell hobby only. No waiting lists shall be maintained. When inmate participation drops, open enrollment periods shall become available on a first come/first serve basis.

**101050.4.4 Indigent Inmate Loan Requests**

Loan requests may be submitted to the handicraft manager and if approved, the manager shall sign the request and forward the request to the trust office for verification of indigent status. After verification the trust office shall sign and forward the request to Business Services for final disposition. If approved, the handicraft manager shall submit the request with a copy of the CDC Form 167, Handicraft Order, to the Inmate Welfare Fund accounting office. The loan shall be posted on the inmate's trust account as an obligation for the hobby order until the loan is paid in full. The amount of the loan will reduce the available budget for the institution's hobby program.

- When the loan is made, the inmate shall complete a CDC Form 193, Trust Account Withdrawal Order.
- If the inmate is transferred, paroled, escapes or expresses a desire to withdraw from the program prior to repayment of the loan, all raw materials shall be retained by the handicraft manager.
- A loan will only be deemed uncollectible if/when the borrowing inmate has either paroled or discharged from the CDCR.

**101050.5 Handicraft Activity**

All activities in the manufacture of finished handicraft articles shall occur only during leisure hours. Inmates shall not participate in handicraft during their normal work assignments.

**Shop Activity**

- The handicraft manager shall publish a schedule of operations for the handicraft shop/classroom that allows maximum access by inmates during their off-duty hours.
- The area shall be cleaned daily prior to closing. Failure of any inmate to participate or assist in the shop clean-up shall result in suspension of their handicraft privileges.

**Living Area Activity**

Handicraft work done in-cell shall abide by the following guidelines:

- Shall have a handicraft inventory sheet listing all material authorized:
  - One copy shall be taped to the storage locker.
  - One filed in the participant's handicraft folder in the hobby shop.
  - One filed with the captain.
  - One in the inmate's possession when transferring material between in-cell area and the handicraft shop.



Inventory sheets require the following signatures:

- Handicraft Manager.
- Captain.

Only those items authorized and listed on the inventory sheets shall be allowed. All other handicraft items shall be confiscated. The volume of handicraft in the cell shall conform to CCR 3191.

#### **101050.5.1 Handicraft Activity Card**

All inmates approved for the handicraft program shall be issued a CDC Form 133, Inmate Activity Card. All CDC Form 133's shall have an expiration date of six months and it shall state the type of handicraft the inmate is authorized to perform. Requests for renewal shall be reviewed by the handicraft manager. Inmates who have not completed any finished articles shall be deemed disinterested and shall not be eligible for renewal for the next six months.

#### **101050.6 Items to be Manufactured**

Items to be manufactured shall be limited to those approved by the handicraft manager. Criteria for approval shall be the ability of the inmate, cost of the materials, size, tools, and availability of the finished items. Specific articles that may be manufactured are as follows:

- Leather craft: Wallets, purses, belts, change purses, key cases and holders, dog collars, moccasins, sandals, photo albums, bowling bags, brief cases, watchbands, pouches and whistle snaps.
- Woodcrafts: Picture frames, jewelry boxes, inlay and overlay work, lamps, chess sets and checker boards.
- Jewelry: Earrings, Necklaces, bracelets, pins, tie clasps, belt buckles, rings, broaches, pendants and key chains.
- Art: Painting (Oils, pastels, water colors, and charcoals), drawings, engravings, and black prints.
- Knitting and weaving: Caps, scarfs, purses, sweaters, afghans, pictures, mittens, doilies, bookmarks, glass cases, rugs, and baby items.
- Ceramics: Mosaics, cups, mugs, bowls, plates, wall plaques, statuary, lamps, figurines, ash trays, and jewelry boxes.
- Cellophane: Jewelry boxes, photo albums, and picture frames.
- Macramé: Wall hangings, plate hangers, belts, bags, mats, and curtains.
- Models: Cars, trucks, boats, and planes.

Any article not listed above shall be approved by the handicraft manager before the ordering of supplies and materials.

#### **Handicraft File**

A handicraft file shall be initiated for each inmate in the program. This file shall contain all documents pertaining to:

- Special orders.
- Agreements signed.
- Loan applications (if applicable).
- CDC Form 166.

Inventory sheet listing all material authorized for handicraft work done in-cell.

#### **101050.7 Handicraft Tools and Materials**

Approved tools and materials for the handicraft program shall be purchased through approved vendors only. Items received from other sources shall be returned to sender or donated to the Inmate Welfare Program. All orders for purchases of handicraft tools and material shall be submitted to the handicraft manager (see CDC Form 167, Handicraft Order, and CDC Form 167-A, Trust Account-Special Purchase Order Only). The handicraft manager and Associate Warden of Business Services shall determine the minimum dollar value for initial handicraft purchases.

**Note:** The manufacture or alterations of tools shall be prohibited.

#### **101050.7.1 Surcharges**

A ten percent charge shall be added to the cost of handicraft tools and materials for handling expenses and shall be deposited into the IWF. An additional charge determined by the handicraft manager shall be added to cover the vendor's handling, tax, insurance and postage. A "hold" to cover all costs shall be placed on the inmate's trust account while the order is being processed. All money left over after payment shall be refunded to the inmates account. Inmates submitting orders with non-sufficient funds shall not be allowed to reorder for 60 days.

#### **101050.7.2 Funds of Inmates Transferred While Awaiting a Handicraft Order(s)**

When an inmate transfers after placing an order, the merchandise upon arrival shall be inventoried by the handicraft manager and then forwarded to the institution of transfer. The funds to cover the cost of the purchase shall be retained at the sending institution's trust office until the vendor has been paid.

Any money left over after payment shall be forwarded to the trust office at the new institution and accredited to the inmate's account.

- No orders shall be cancelled after submission to the vendor.
- To avoid possible complications and delays in preparing accurate release budgets, handicraft orders shall be submitted and ordered no later than 90 days prior to the inmate's release date.

#### **101050.7.3 Handicraft Items from Other Institutions**

The handicraft manager shall approve and inventory all handicraft items received from other institutions. He/she shall store the items until the inmate has been approved for the handicraft program. When the inmate receives the activity card, he/she shall be given the items and shall be permitted to keep them per institutional procedure. Approved tools that are not permitted outside of the handicraft shop shall be stored in appropriate lockers provided. Any tool with a cutting edge or sharp point in excess of 1-1/2" in length shall not be permitted to be in the possession of the inmate outside the hobby shop. No tools shall exceed 4-1/2" overall in length. Any item(s) not approved shall be disposed as follows:

- May be donated to the handicraft program.
- May be mailed to an approved correspondent at inmate's expense.

#### **101050.7.4 Institutional Handicraft Equipment**

Handicraft equipment supplied by the institution shall be operated only by inmates specifically authorized by the handicraft manager.

Tools and equipment shall be allotted to the handicraft participants on a first come, first serve basis, with a sign-up list kept by the handicraft manager. The Manager shall monitor the time spent on the machines and ensure that they are not monopolized for an unreasonable length of time by one person.

#### **101050.7.4.1 Handicraft Equipment Safety Policy**

Failure to safely operate the equipment with reasonable care and proficiency shall be reason for suspension of privileges for further use. All machines shall have safety devices in place when being operated. Safety goggles shall be worn at all times when operating equipment.

- No repairs shall be made by inmates on any of the equipment other than minor adjustments which shall be performed under the supervision of the handicraft manager.
- Misuse of equipment shall also be reason for suspension of privileges and could result in the inmate being charged for necessary repairs.

#### **101050.7.5 Unauthorized Materials**

Any handicraft materials, tools or projects in the possession of an inmate, who is not assigned to the handicraft program, shall be deemed contraband and shall be confiscated. Inmates who loan or give their handicraft items to another inmate without prior specific approval in writing by the handicraft manager shall be subject to removal from the program, and the items confiscated.

- All correctional employees have the authority to confiscate unauthorized handicraft materials, tools, or projects. The confiscated items shall be tagged with the inmate's name and number and then placed in receiving and release for disposition by the handicraft manager.
- Items confiscated shall be disposed of in a manner which includes, but is not limited to the following:
  - Sale in the handicraft store with proceeds to IWF.
  - Donation to a charitable organization.

#### **101050.7.6 Volatile Substances**

No handicraft volatile liquids or substances shall be stored in any inmate's living quarters. All volatile substances shall be stored in the handicraft shop, adhering to the controls as set forth in DOM 52030.

#### **101050.7.7 Tool Control**

Tool control of state owned tools or inmate owned tools are subject to the provisions as stated in DOM 52040.

#### **101050.7.8 Volume of Handicraft Items**

An inmate's handicraft articles, tools, and materials shall not exceed the amount that can be stored in designated storage areas of the facility.

Handicraft materials and equipment when combined with other personal and state property shall not exceed six cubic feet in the inmate living area.

#### **101050.8 Inventory Requirement Handicraft Ledger Card (CDC Form 166)**

All handicraft tools and materials received for inmates (purchased or donated) shall be itemized on a CDC Form 166, Handicraft Ledger Card. Upon completion of a handicraft item, an entry shall be made on the CDC Form 166 stating what was completed, cost, and date of completion. The disposition of the item shall also be entered on the form, i.e., donated, sold, mailed out or

transferred to individual's personal property. If the item is sold, the receipt number from the bill of sale shall be posted on the form.

If an inmate is authorized to have handicraft work in the cell, all handicraft tools and materials received shall be itemized on a CDC Form 166-A, In Cell Handicraft Ledger. The CDC Form 166-A shall be completed in the same manner as described above for the CDC Form 166.

#### **101050.9 Paroled or Discharged Inmates**

Inmates paroled or discharged shall ship, at their own expense, personal handicraft materials prior to their release date or may carry the materials with them upon release. All handicraft materials shall be inventoried and packed by the handicraft manager then delivered to the receiving and release officer. A copy of the list of inventoried materials shall be placed in the inmate's handicraft file and forwarded to the records office for further disposition.

#### **101050.10 Transferred Inmates**

Upon receiving notice that an inmate is to be transferred, the handicraft manager shall gather and inventory all the inmate's tools, and raw materials for packing. A copy of the inventory list shall be placed in the handicraft package, a copy in the inmate handicraft files and a copy forwarded to the records officer to be sent to the institution of transfer. Inmates, at their own expense, shall either ship materials to the institution of transfer or to an approved correspondent. They may also donate them to the inmate handicraft program. The handicraft manager shall make arrangements for the packages to be shipped.

Paroled, discharged or transferred inmates shall have thirty days prior to and thirty days after departure to contact the handicraft manager to determine disposition of their hobby materials and tools. If the handicraft manager is not contacted within the time limits, the inmate's hobby possessions shall be considered abandoned property and shall be turned over to the IWF.

#### **101050.11 Inmate Death**

Upon notification of the death of an inmate who was involved in the handicraft program, the handicraft manager shall gather, inventory and pack all of the tools, raw materials, finished and partially finished articles belonging to the deceased. The package(s) shall be forwarded to the institution property room. A copy of the inventory sheet shall be attached to the package and a second copy shall be forwarded to the institution's records office with the inmate's handicraft file.

#### **101050.12 Stolen Articles**

Stolen or lost handicraft materials, tools, and articles shall be reported immediately by the inmate to the handicraft manager. He/she shall record the missing items and route a memorandum to the unit/division administrator listing the description and other information concerning the theft or missing articles.

#### **101050.13 Repairs**

Articles purchased in the handicraft store which are discovered to be defective may be returned with receipt within 60 days of purchase for necessary repair, alteration or renovation.

- Other repairs or alterations of purchased items may be done at a fair charge to the inmate. Sale slips shall accompany all items returned for repair.

#### **101050.14 Donations Citizen**

Only the Warden, delegated representative, or the institutional CRM may accept a gift/donation from private, local contributors. When a gift/donation is deemed appropriate for acceptance, the CRM shall complete the CDC Form 922, Authorization to Accept Gift/Donations, following the procedures set forth in DOM 101110.

#### **Inmates**

Inmates may also donate handicraft materials and tools to the institution handicraft program. Such articles shall be controlled by the handicraft manager, become the property of the State, and shall be utilized in the same manner as other state owned tools and materials.

#### **101050.15 Gifts**

##### **Correspondent/Visitor**

Inmates may give gifts of handicraft items produced by themselves to any correspondent or visitor by "gate pickups and mail outs" within the following limits:

- Gate pickups: No limit on gate pickups. Packages remaining at the entrance gate/reception desk for more than two weeks shall be returned to the inmate.
- Mail outs: No limit on mail outs, but all shipping and wrapping charges shall be prepaid by the inmate by signing a CDC Form 193, Trust Withdrawal Slip.

- All gifts shall be searched and sealed by the handicraft manager prior to mailing or gate pickups. All gate pickups and mail outs shall be at the inmate's risk.

#### **Inmates**

Inmates, with prior approval of the handicraft manager, may give, donate, or loan handicraft tools and materials to other inmates who are properly enrolled in an approved handicraft program. The recording of transactions shall be made by the handicraft manager.

No gift may be given to or be accepted by an employee of the Department.

#### **101050.16 Inmate Personal Possession**

Inmates in the handicraft program may transfer completed articles to their personal possession if such articles conform to DOM 54030. A personal property receipt shall be initiated by the handicraft manager and sent to the property room/Receiving and Release per institutional procedures. Stockpiling of finished products shall not be allowed.

#### **101050.17 Handicraft Sales**

Items to be placed on sale in the handicraft store shall be submitted to the handicraft manager for approval. The selling price shall be established jointly by the inmate and Manager. The maximum number of articles allowed to be placed in the handicraft store shall be determined by the handicraft manager based on available space and size of item.

- Inmates, 30 days prior to parole/transfer, shall notify the handicraft manager as to the disposal of such articles. Inmates shall not leave articles for sale after their departure.

##### **101050.17.1 Handicraft Inventory Card**

The CDC Form 168, Handicraft Inventory Card shall be filled out for each item placed for sale. Items shall be logged on the inmate's card, and shall be initialed by the inmate and the handicraft manager.

Sale items shall be issued an inventory number. The inventory card is a three-part form and all sections shall be completed by the manager when an item is placed in the handicraft store for sale.

The card shall be distributed as follows:

- Part one of the card with the item description and approved price shall be completed and forwarded to the trust office where it shall be retained.
- Part two shall be attached to the article showing sale price when it is placed for sale in the handicraft store. When the item is sold, a copy shall be attached to a copy of the sales receipt and forwarded to the trust office. The sale price shall be verified to correspond with the amount shown on part one of the inventory card prior to posting the income on the inmate's account. If a discrepancy exists, it shall be resolved at that time by the trust office and the handicraft manager.
- Part three, the inmate's receipt, shall be given to the inmate when the item is placed in the handicraft store. The inmate shall retain this receipt in his/her possession and shall turn it in to the handicraft manager at the time the item is sold or removed from the store.

A proper balance and relationship shall exist between inventoried articles and mail out, sales, and purchases. If such a balance does not exist, an investigation shall be initiated per institutional procedures and directed by the handicraft manager.

##### **101050.17.2 Sales of Displayed Handicraft (CDC Form 168)**

Sales of handicraft items shall be limited to those items on display in the Handicraft Store, annual institutional arts and crafts shows, shows in public buildings, fairs or on property operated by a non-profit organization. All proceeds from handicraft sales shall be returned to the institution. No person or organization sponsoring a show shall receive a commission or profit from the sale of handicraft items directly or indirectly.

- A ten percent surcharge shall be added to the established purchase price on all articles placed on sale. When the article is sold this surcharge shall be deposited to the IWF.
- At the time of sale, a sales receipt shall be completed and include the following information:
  - Date.
  - Customer's name.
  - Inventory number.
  - Quantity and brief description of the item.
  - Net price.
  - Sales tax and total price.

Paintings shall include different types of pictures, drawings, sketches and etchings with any frames that are attached.

The following procedures and rules shall apply:

- Purchase of handicraft articles shall be paid for with cash, money order, or cashier checks.
- The IWF shall not be used to compensate any losses in the sales store operation.
- Handicraft articles on display for 3 months may be deemed as unsalable by the handicraft manager and returned to the inmate for approved disposition. Appropriate remarks shall be placed in the inmate's handicraft ledger at the time of disposition.
- The net money received by an inmate for the sale of handicraft articles shall be placed in the individual's trust account.
- All sales shall be recorded in the log book in the handicraft store at time of sale and the handicraft manager shall keep a duplicate log of sales receipts for inventory purposes.

#### **101050.17.3 Special Orders**

Special orders between employees and inmates shall first be approved by the handicraft manager and the Warden, or delegated representative, prior to the inmate commencing work on the item. Any contracts an inmate wants to enter into with other than an employee shall first be approved by the Warden or delegated representative. The following shall apply:

- Inmates shall use only material purchased from their own funds to manufacture items specified in the contract.
- The CDC Form 1230, Special Handicraft Contract, shall be assigned an inventory number and filled out in quadruplicate by the handicraft manager who shall obtain the signature of both the contracting employee and the inmate. The price of the item(s) being produced shall be agreed upon and stated on the contract before signing. Prices shall not be changed once they have been established.
- The handicraft manager shall sign the contract and submit it to the Warden or their delegated representative for approval. After acquiring the required signature, the handicraft manager shall distribute copies as follows:
  - Original: Associate Warden, Business Services.
  - Copies: Handicraft office, employee, and inmate.
- The inmate shall purchase materials and commence work on the contracted item(s).
- The handicraft manager shall notify the employee when the contracted items are completed and shall deliver them to the Handicraft Store where the employee shall pick up and pay for the items. No items shall be given to an employee until payment is made in full. The receipt shall be completed and distributed accordingly with the original copy going to the employee.
- All contracted items must be picked up and paid for within thirty days of notification.
- The handicraft manager shall monitor the contracts and insure that they are completed within the time specified.

#### **101050.18 Inmates' Sub-Contracting**

Inmates shall not employ any other inmate(s) in the manufacturing of any handicraft article(s). Inmates may collaborate in the manufacturing of handicraft articles only with prior approval of the institution handicraft manager. All inmates involved in the production or creation shall share in any profit as determined by the institution handicraft manager.

#### **101050.19 Handicraft Store**

Completed handicraft articles shall be sold through the handicraft store. The sales shall be recorded on a CDC Form 169, Handicraft Daily Sales Report which shall be prepared in triplicate by the handicraft manager.

Distribution shall be as follows:

- Original to IWF, accounting officer.
- Duplicate to Trust Officer.
- Triplicate to handicraft file.

#### **101050.19.1 Proceeds from Sales**

The net amount of monies received by an inmate for the sale of handicraft articles after deductions for handling costs shall be considered as proceeds. Proceeds shall be placed in the inmate's trust account with the exception of those items manufactured from state owned material. Proceeds from these articles shall be deposited to the IWF.

#### **101050.19.2 Sales Tax**

Completed handicraft items when sold are subject to sales tax, which shall be collected and remitted to the BOE. Since there will be a duplicate payment of tax on the materials that go into handicraft items that are sold, an adjustment for this duplicate tax may be made when reporting to the BOE.

Materials purchased for handicraft items are also subject to sales tax. If the vendor does not operate under a sales tax permit, the "use tax" is to be accrued and reported to the BOE at the end of the fiscal year. If the handicraft item is not sold, no additional sales tax will be collected.

#### **101050.19.3 Cash Shortages**

The IWF shall not be used to reimburse cash or the value of handicraft items lost or stolen from handicraft stores or for checks received from handicraft sales that become uncollectible.

#### **101050.19.4 Store Inventory**

The store shall be inventoried at least quarterly by the handicraft manager and annually by the Accounting Officer of the specific institution.

#### **101050.20 Arts and Crafts Shows and Exhibits**

Institutions shall hold no more than two arts and crafts shows annually. All of the proceeds from handicraft sales shall go to the institution for disbursement per this Section. No individual or organization shall receive a commission or profit from the sale of handicraft, directly or indirectly.

Each institution or facility may hold one trade fair or art exhibit each year at the institution or facility, in addition to the approved arts and crafts shows, in public buildings, at fairs, or on property operated by nonprofit associations at which no sales are made.

#### **101050.20.1 Length of Shows and Exhibits**

Shows and exhibits at institutions shall be limited to four consecutive days, including Saturday and Sunday, outside exhibits may be extended to coincide with the normal period of the particular event, such as a state or county fair. It is desirable that institutions in the same general locale coordinate their plans for shows and exhibits in order to avoid conflict in dates.

#### **101050.20.2 Number of Displayed Articles**

In order that the maximum number of inmates have an opportunity to display handicraft items at art shows or public displays, the number of items which any one inmate shall be permitted to display, shall be limited to ten regardless of value.

#### **101050.20.3 Sponsorship**

The handicraft manager shall organize the exhibits/shows under the general supervision and sponsorship of the Associate Warden, Business Services.

#### **101050.20.4 Participants**

The exhibits/shows shall be restricted to inmate participants only.

- Each item offered for sale shall have the price established at the time it is submitted for entry. The price must be realistic and controlled by the handicraft manager. No price changes will be permitted. Ten percent is added to the inmate's asking price for deposit in the IWF.
- Sales shall be handled as described in DOM 101050.20.

#### **101050.20.5 Publicity**

Newspapers and TV stations are usually interested in the handicraft shows. Their staff is invited to review the entries and interview the inmate artists, if appropriate.

#### **101050.20.6 Judges**

The Associate Warden, Business Services and handicraft manager may select a panel of outside judges from the local community. Judging shall be prior to the public showing. The number of awards shall be based on entries.

#### **101050.21 Revisions**

The Deputy Director, Division of Support Services, or designee shall ensure that the content of this Section is accurate and current.

#### **101050.22 References**

PC §§ 2601(a), 2813, and 5006.

CCR (15) (3), §§ 3100-3109, 3190 and 3265.

ACA Standards 2-4392, 2-4452, 2-4453, 2-4458, 2-4459, 2-4461.

### **ARTICLE 6 — RELIGIOUS PROGRAMS**

*Revised July 20, 1992*

*Updated April 5, 2007*

#### **101060.1 Policy**

The Department shall make a reasonable effort to provide for the religious and spiritual welfare of all interested inmates.

#### **101060.2 Purpose**

The purpose of this Section is to provide guidelines for the religious program.

**101060.3 Responsibility**

Wardens are responsible for the religious programs in the institution and conservation camps. They shall meet quarterly with staff chaplains and Native American Spiritual Leaders.

The Chief Deputy Warden or an AW, shall provide supervision of the staff chaplains, intermittent chaplains, and part-time chaplains.

Staff chaplains shall develop, supervise, and operate their assigned religious programs.

**101060.4 Chaplain and Native American Spiritual Leaders' Duties**

The pastoral duties of a chaplain and Native American Spiritual Leader shall consist of the following:

- Conducting worship:
  - Regular daily and/or weekly worship services, special religious services on religious and national holidays, interfaith services, memorial services, and funeral services.
- Administering Sacraments:
  - Baptism, Confession, Communion, Confirmation, Sacrament of the Sick and Marriage.
- Pastoral visiting:
  - Hospital, work programs, visiting areas, housing units, camps, group activities, and families of inmates.
- Religious education:
  - Scripture studies, liturgy, history, comparative religion, religious values, contemporary issues, and sacred music.
- Counseling:
  - Individual, family, marital, prerelease planning, and other pertinent counseling issues.

**101060.4.1 Duties of Chaplain in Case of an Inmate Death**

See DOM 51070, Death, for procedures.

**101060.4.2 Privileged Communication**

Clergy have the right to privileged communication in the performance of their duties to the extent that the information in no way threatens or hinders inmate lives, staff lives, or in any way breaches the security of the facility.

**101060.4.3 Ecclesiastical Responsibilities**

The staff chaplain is responsible in his ministry to the source of his ecclesiastical endorsement and to the Wardens. This dual role shall not impose upon the institution a program in conflict with good correctional management.

**101060.4.4 Pastoral Duties—Officiating at Marriages**

Staff chaplains may officiate at the marriage of inmates. However, the staff chaplain, by virtue of religious affiliation, shall establish the criteria consistent with the provisions of DOM 101070, which shall be met by the candidates, if the staff chaplain is to officiate. Staff chaplains shall provide their supervisors with these criteria.

See DOM 101070 for procedures.

**101060.4.5 Funerals and Memorial Services**

Chaplains and Native American Spiritual Leaders may, with authorization of the Warden, conduct or coordinate funerals and/or memorial services for deceased inmates and/or their families.

**101060.4.6 Pastoral Services to Parolees**

Staff chaplains and Native American Spiritual Leaders may minister to parolees and their families with the approval of the Warden and the RPA of the P&CSD.

**101060.4.7 Pastoral Services to Employees**

Staff chaplains and Native American Spiritual Leaders may minister to employees who make personal requests.

**101060.4.8 Pastoral Administrative Functions**

Staff chaplains and Native American Spiritual Leaders shall be responsible for management of their offices, preparing and submitting reports, incoming and outgoing correspondence, and record keeping.

Staff chaplains and Native American Spiritual Leaders shall:

**Budget**

Be required to submit their budgetary requests in writing through their supervisors.

**Facility Emergencies**

Be available to assist as required in institutional emergencies as far as the dignity of their office and conscience will permit.

**Serve on Various Committees**

Staff chaplains and Native American Spiritual Leaders may be called upon to serve on the institution classification committee, be a member of various institution committees, attend institutional staff meetings, and serve on departmental committees or task forces.

**Working Hours and Training**

They may be required to work irregular hours due to the nature of their profession, attend religious retreats and conferences to maintain ordination and certification status, develop training opportunities for clergy, theological students, and religious volunteers where such programs provide a helpful service to the religious activities of the institution.

They are not required to participate in firearm or physical training.

**101060.5 Religious Program Activities**

The religious programs shall include activities that will encourage inmate participation. The activities may include the following:

- Regular and special religious worship services.
- Special religious observances of the faith group.
- Religious education.
- National commemorative services.
- Interfaith services.
- Meditation services.
- Religious literature distribution.
- Outside religious group participation.
- Self study religious courses.
- Speech forums.
- Service projects.
- Religious interest groups.
- Religious societies and organizations.
- Participation in community betterment programs.

To implement the religious activities program, the Wardens may obtain the following qualified persons:

- Muslim, Jewish, Catholic, Protestant chaplains and a Native American Spiritual Leader on a full-time, part-time, or intermittent basis.
- Volunteer non-paid community clergy and/or religious or spiritual leader representatives.
- Inmates.

**101060.6 Worship Services**

Chaplains and Native American Spiritual Leaders shall be responsible for:

- Organizing, scheduling, and conducting the worship services and religious programs appropriate to their faith.
- Approving the scheduling and conducting of worship services and religious programs by volunteer community clergy and volunteer religious representatives.

**101060.6.1 Scheduling of Worship Services**

Reasonable time for religious services, in keeping with institution security and other normal and necessary operations and activities within the institution, shall be allowed.

Insofar as possible, other institutional activities shall not be planned which will conflict with or disrupt scheduled religious services.

**101060.6.2 Inmate Assistant**

Inmates may assist in conducting worship services and in the religious programs or as "Sweat Leaders."

**101060.6.3 Use of Inmate Ministers**

In the event an officially ordained chaplain of a particular faith cannot be obtained to conduct services within the institution for that faith, the Warden may at his/her discretion, and subject to such controls as are reasonably required for institution security, designate a qualified inmate to minister to the religious needs of that particular faith.

In determining the qualifications of an inmate to conduct such services, the Warden shall, wherever possible, seek the advice and counsel of outside religious leaders of that faith.

No inmate shall be assigned as a minister or as a religious counselor on a full-time basis in lieu of regular institution work and program assignment, nor shall any inmate who is approved to minister to the religious needs or interests of other inmates be considered as a state employee or be paid by the state for his or her services.

**101060.6.4 Inmate Attendance**

Revised October 14, 2009

Inmate attendance in the religious program shall be voluntary. Institution heads shall make every reasonable effort to provide for the religious and spiritual welfare of all interested inmates, including, but not limited to, affording inmates a reasonable accommodation to attend a scheduled Religious Service if they are unable to do so due to conflicting work/education assignments. Reasonable accommodation may include, but is not limited to, modified work schedule, use of accrued time or allowable breaks, granting of a job/assignment change, changes of regular days off, etc. Use of regular accommodation shall in no way adversely impact an inmate's credit earning status. The use of excused time off (ETO) for routine religious services shall be limited to instances where it is not possible to change the conflicting work/education assignment.

For inmates with work assignments outside prison grounds, a reasonable accommodation to attend religious programs shall be limited to an assignment change. Certain assignments may only permit the granting of a job/assignment change as a means of providing reasonable accommodation. This would apply when permitting an inmate to leave the job site is not practical and is unduly burdensome to program operations. Examples include, but are not limited to the following assignments:

- Conservation Camps during the course of firefighting efforts.
- Community Work Crews.
- Other Off-Site Work Details.

**101060.7 Special Religious Services/Programs**

Religious services/programs may be conducted in special areas of the institution when an individual or a group of inmates cannot participate or attend the regular institution religious services/programs.

The staff chaplain and Native American Spiritual Leader shall be responsible for establishing religious services and instruction for individual inmates housed in a special housing unit. These services shall be coordinated through the unit captain and approved by the associate Warden.

**101060.8 Location and Use of Chapel**

Chapel facilities are designated for daily religious uses and programs. Use of the chapels for other than religious activities shall require the approval of the Warden.

Wherever feasible, multi-faith chapels or individual chapels for faith groups represented by a substantial number of inmates shall be provided at each facility.

Where only one chapel is available, a schedule for the use of the chapel shall be prepared by the staff chaplains and approved by the Warden or designee.

Where chapels are not available, the Warden shall designate a suitable area for the religious services and approve the scheduling of services in such temporary facilities.

**101060.9 Location and Use of Sweat Lodge**

The designated area in which the American Indian Sweat Lodge is situated is to be considered sacred. The sanctity must be observed and preserved, not only by inmates, but staff as well.

**101060.9.1 Sweat Lodge Ceremonies**

The designated pipe holder, volunteer spiritual persons or the leader of the religious group are responsible for organizing and conducting the sweat ceremonies.

A sacred pipe is used during sweat ceremonies and prayer offerings. It shall be retained by a designated pipe holder, who shall be responsible for the protection of the pipe and pipe bag.

All sacred items used in the sweat lodge ceremony may be acquired from the Native American community or from an approved vendor of Native American supplies. Only those items approved by the Warden or his/her designee shall be permitted.

The Sweat Lodge ceremonies consist of, but are not limited to, the use of the following sacred items.

- Sacred pipe and pipe bag.
- Kinnikinnick.
  - Mixture of red willow bark, cedar, tobacco, bear berries, yellow willow bark, and herbs.
- Eagle feathers.
- Sage.
- Sweet grass.
- Buffalo or deer skull.
- Antler.

- Lava or river rocks.
- Water.
- Non-metallic dipper and non-metallic bucket.

**101060.10 Sacramental Wine and Religious Artifacts**

Wine and religious artifacts approved by the Warden for sacramental and worship purposes may be brought into the institution.

Chaplains shall have prior written approval to purchase and bring into the institution the sacramental wine.

The approval, signed by the Warden or designee, shall accompany the wine through the normal security processing of each given facility.

The sacramental wine shall be maintained in a specified secured location inaccessible to inmates. The applicable chaplain shall remove the wine on the day of use and maintain control of the wine until the religious ceremony is concluded. The applicable chaplain will then return the unused portion and/or the empty container to the designated secured location.

Religious artifacts are those items which American Indians wear on religious/ceremonial occasions and include their tribal designations, personal and religious totems and items which have spiritual significance in their lives. The items may be distinguished by tribal colors and tribal totems.

These items include, but are not limited to, the following:

- Choker.
- Eagle feathers.
- Headband.
- Wristband.
- Medicine bag.
  - Medicine bags shall be small, constructed of soft leather or other natural material without lining, and shall not exceed 1 1/2 inches in diameter. They are usually worn around the neck or hung from the belt.
  - After inclusion of the individual's medicine in the bag, it may be either sewn shut or closed with a drawstring in the presence of staff. The medicine bag must be closed in such a manner that will allow for subsequent inspection of its contents.

The religious artifacts are not to be confused with items worn strictly for ornamental reasons. The religious leader from the community, the group chairman and the pipe carrier shall submit, in writing to the Warden for approval, the religious artifacts worn by their group.

Wearing of the artifacts at times other than during religious occasions, sweat days, and special ceremonies requires approval of the Warden or his/her designee.

**101060.11 Chapel, Sweat Lodge, and Sacred Items Search by Custody Staff**

Searches shall be conducted with dignity and due respect to the sanctuary and sweat lodge. When practical, the chaplain or Native American Spiritual Leader will be present.

Staff chaplains shall arrange through their supervisor for certain criteria to be met by custodial staff when conducting searches of the chapel facilities or sweat lodge.

Handling of a medicine bag, sacred items, sacred pipe, and pipe bag by staff is limited to those occasions when there is reasonable cause to believe it may contain unauthorized or dangerous items or substances.

**Medicine Bag Search**

Any routine search of the medicine bag shall be accomplished by having the owner turn the bag inside out in the presence of staff.

Spiritual leaders, volunteers, and visitors entering an institution, are subject to searches of their personal medicine bag in the same manner as described above.

**Sacred Pipe and Pipe Bag Search**

Handling of the sacred pipe and pipe bag will be limited to the designated pipe holder unless there is reason to believe they may contain unauthorized items or substances.

When a pipe bag search is necessary, the designated pipe holder shall remove the contents of the bag and spread it out for staff to visually inspect.

**101060.12 Special Foods for Religious Ceremonies**

See DOM 54080.10 for information.

**101060.13 Revisions**

The Deputy Director, Division of Community Partnerships, or designee shall ensure that the content of this Section is accurate and current.

**101060.14 References**

CCR §§ 3210-3213.

Public Act 95-341, American Indian Religious Freedom Act.

ACA Standards 2-4466, 2-4463, and 2-4468.

DOM §§ 51070, 53010, and 54080.

**ARTICLE 7 — MARRIAGES**

*Revised February 10, 1999*

*Updated April 5, 2007*

**101070.1 Policy**

*Revised September 25, 2007*

PC 2601 provides that all persons sentenced to the Department have the right to marry.

Unless legitimate penological interest would dictate otherwise, inmates shall be permitted to marry when they meet all legal and departmental requirements. This Article does not apply to registered domestic partnerships, which are legally distinct from marriages. The CDCR does not assist inmates to establish registered domestic partnerships because inmates, while they are incarcerated, cannot meet the common residency requirement of the California Domestic Partners Rights and Responsibilities Act.

**101070.2 Purpose**

The purpose of this procedure is to provide guidelines for the processing of inmate marriage requests and the solemnization of marriages.

**101070.3 Definition of Marriage**

"Marriage" is defined in California Family Code (FC) 300, as follows:

"Marriage is a personal relation arising out of a civil contract between a man and a woman, to which the consent of the parties capable of making that contract is necessary. Consent alone does not constitute marriage. Consent must be followed by the issuance of a license and solemnization as authorized by (other provisions of this code)."

**101070.4 Roles and Responsibilities**

The FC sections relating to the issuance of marriage licenses and the solemnization and registration of marriages vary from county to county. In each county, the County Clerk is designated as a Commissioner of Civil Marriages and the County Recorder is the local registrar of marriages. These county officials may choose to deputize others to perform these functions. (Thus references in this Section to County Clerk, County Recorder, or Commissioner of Civil Marriages include any deputies they may have designated or appointed.)

The institution head (or designee) shall be responsible for ensuring that the facility adheres to the county's marital guidelines as set forth by the Office of the County Clerk and the County Recorder within their respective jurisdiction.

**101070.5 Legal Requirements for the Issuance of a Marriage License**

Before marrying, the FC requires that a license be obtained from the County Clerk. Marriage licenses expire 90 days after issuance and must show the identity of the parties, their full names, places of residence, and ages. The County Clerk may issue a marriage license when all legal requirements have been met by the applicants, including payment of license fees. Marriage license applications require information regarding the parties State of birth, number of previous marriages and the manner and date of termination of the last marriage, usual occupation, years of education completed, and each party's parents' name and State of birth. This additional information is required by statute for the State's Registrar of Vital Statistics, which registers marriages in this State.

Both parties must appear together before the County Clerk with appropriate identification, including proof of age. The County Clerk may examine the applicants for a marriage license under oath to ascertain whether they meet the legal requirements. The County Clerk may send a Deputy Commissioner to a CDCR facility, or deputize an employee of a CDCR facility as a Deputy Commissioner to collect this information from an inmate, and ascertain if the inmate meets the legal requirements to obtain a marriage license.

The FC prohibits granting of a marriage license if either applicant lacks the capacity to enter a valid marriage or is, at the time of making application for the license, under the influence of an intoxicating liquor or narcotic drug. A person lacks the capacity to marry if:

He/she is under age 18, unless that applicant has both the consent of his/her parent(s) and a court order granting him/her permission to marry.

He/she is already married to the other applicant. (A marriage license may not be issued to applicants who are already validly married either in California or in another State.)

He/she is already married to another person and no final dissolution has been entered. Such a marriage would be considered to be bigamous.

**Note:** The PC sets forth criminal penalties for persons who solemnize incestuous or other marriages forbidden by law.

**Requirements for Confidential Marriages**

The requirements for a confidential marriage are set forth in FC 500, which reads:

"When an unmarried man and an unmarried woman, not minors, have been living together as husband and wife, they may be married by a person authorized to solemnize a marriage..."

**Procedures for Obtaining Confidential Marriage Licenses**

The procedures for obtaining marriage licenses for confidential marriages are somewhat different. If either or both of the parties to be married is physically unable to appear in person before the County Clerk, the FC requires the County Clerk to issue a confidential marriage license to the person solemnizing the marriage upon that person's presenting an affidavit to the County Clerk, signed by the person and the parties to be married, explaining the reason for the inability to appear. The FC also requires County Clerks to issue confidential marriage licenses to approved notaries public who pay the license fees and who are reimbursed by the applicants for these fees.

**Note:** The County Clerk has the authority to approve, for a limited term, a notary public to authorize confidential marriages. This person may be an employee of the CDCR facility. The notary public is required to attend a specified course of instruction, and pay a fee. This approval is subject to suspension in specified situations. (Refer to FC 530 through 536 for other applicable provisions.)

- Since confidential marriages are permissible only when the applicants have been living together as husband and wife, the applicants must understand they are stating under penalty of perjury that they have been living together as husband and wife.

As with other marriage licenses, a confidential marriage license issued by the County Clerk is valid only for a period of 90 days after its issuance, but unlike other licenses, a confidential marriage license may only be used in the county in which it was issued.

The form for the confidential marriage license is different from a conventional marriage license and includes a certificate of marriage that is used in solemnizing the marriage.

There is a statutory fee for filing of confidential marriage certificates that must be paid when the license is issued.

**101070.6 Solemnization of Marriages**

Marriages, whether conventional or confidential, may be solemnized at a CDCR facility by any of the following:

- A priest, minister, or rabbi of any religious denomination. This may include a facility chaplain, or a person not employed by CDCR who is chosen by the parties and who is able to obtain gate clearance.
- Staff may contact the inmate's religious denomination to determine whether the non- CDCR clergy is ordained to solemnize marriages. The denomination's decision shall be accepted. During contact with representatives of the inmate's religious denomination, staff shall be cautious to avoid making any statements or implications regarding the inmate's religious or secular qualification or responsibilities.
- A current or former State or federal justice, judge, or magistrate.
- A current or retired Commissioner of Civil Marriages.
- County Clerk or deputized designee.
- An official of a nonprofit religious institution, whose articles of incorporation are registered with the Secretary of State, and who has been licensed by the county to solemnize the marriages of persons affiliated with, or members of that religious institution. The official must possess the Degree of Doctor of Philosophy and must perform religious services or rites for that religious institution on a regular basis. These marriages shall be performed without fee to the parties.
- The FC provides that the requirements for solemnization do not apply to members of religious societies or denominations that do not have clergy to solemnize marriages. However, the FC requires that members of such groups make, sign, and attach to the marriage license, a statement showing:
  - The religious society or denomination of the parties and that the marriage was entered into in accordance with the rules and customs of that society or denomination.

- The fact, time, and place of entering into the marriage.
- The signatures and residential addresses of two witnesses to the ceremony.

#### **Presentation of License**

Statutes mandate that the person solemnizing the marriage require the presentation of the marriage license before solemnizing the marriage. Not to do so subjects that person to criminal penalties. The license is part of the certificate of registry given to marriage license applicants by the County Clerk.

#### **Form of Ceremony**

The FC does not require any particular form for the marriage ceremony, although it does require that the parties declare, in the presence of the person solemnizing the marriage and witnesses, that they take each other as husband and wife.

#### **Witnesses**

The FC requires, for conventional but not for confidential marriages, at least one witness other than the person solemnizing the marriage. There are no specific qualifications for witnesses. Those religious groups who do not have clergy to solemnize marriages (see above) must have two witnesses.

#### **101070.7 Authentication of Marriages**

When a couple obtains a marriage license, they also receive a certificate of registry of marriage. The purpose of registering a marriage is to provide a permanent record of the marriage for the State Registrar of Vital Statistics. This certificate must be presented to the person solemnizing the marriage along with the license. That person completes the certificate, signs it, and has at least one witness (for conventional marriages) sign it and record his or her address.

For confidential marriages, the confidential marriage license (including certificate) obtained from the county clerk is filled out by the parties to the marriage and authenticated by the person solemnizing the marriage. The form is printed in duplicate and a copy is required to be given to the parties at the time of the ceremony. The person solemnizing the marriage is also required to give the parties an application to obtain a certified copy of the certificate, which shall be filled out and returned to the county clerk by the person solemnizing the marriage.

The person who solemnized the marriage is required by statute to return the marriage license and the completed certificate of registry to the county recorder in the county in which the license was issued within 30 days after the ceremony. The statutory fee for filing confidential marriage certificates should have been paid at the time the license was issued by the county clerk. Failure to file the license and certificate within this time frame may subject that person to criminal penalties. The original certificate is forwarded to the State Registrar of Vital Statistics.

If a copy of the marriage certificate is requested by the couple, the person solemnizing the marriage shall issue a ceremonial marriage certificate showing the fact, date, place of the marriage, names and residences of witnesses, and the name and official position of the person solemnizing the marriage. Such certificate has no official significance, but serves primarily as a memento.

#### **101070.8 Processing the Marriage Request**

The inmate's caseworker or a staff member designated by the facility head shall process the marriage request.

Processing the marriage request shall include:

Checking all available data on the inmate's current marital status.

Notifying the inmate of the legal requirements and assistance available in gathering documents and developing marriage plans. When necessary, this shall include verifying the recognized standing of a requested clergy.

Obtaining approval from the facility administrator for:

- The date and location of wedding.
- The allowance of up to two inmates and ten non-inmates, not including the officiant, bride and groom. Inmate guests may attend only if their Inmate Work Incentive Program is not interrupted.

Furnishing necessary information to the County Clerk or clergy. At the request of the County Clerk, the staff member facilitating the marriage may arrange for an evaluation by a CDCR psychiatrist to determine the inmate's mental competency.

Coordinating staff efforts necessary to perform the marriage when the wedding plan is approved by the institution head or designee for:

- Gate clearance of outside guests.
- Gate clearance of outside clergy.
- Arrangements for wedding photographs.

#### **101070.9 Pastoral Duties/Officiating at Marriages**

Facility chaplains may officiate the marriage. However, the facility chaplain, by virtue of their religious affiliation, shall establish the criteria which shall be met by the applicants if the facility chaplain is to officiate. Facility chaplains shall provide the criteria to their supervisors.

#### **101070.10 Revisions**

The Director, Division of Adult Institutions, shall ensure that the content of this Section is accurate and current.

#### **101070.11 References**

PC §§ 359, 360, and 2601.

CCR (15) § 3216.

EC § 663.

FC §§ 301 et seq., 400, 402, and 500.

H&SC §§ 102100 et seq., 102285, and 103125 et. seq.

GC § 26840 et seq.

### **ARTICLE 8 — CHARITABLE FUND RAISING CAMPAIGNS**

*Revised March 25, 1992*

*Updated April 5, 2007*

#### **101080.1 Policy**

A Warden or RPA may grant authorization for inmate participation in campaigns for recognized charitable causes, (e.g., United Fund, Heart Fund, Cancer Fund, common local charities, etc.). Inmates may be authorized annual participation in a maximum of three campaigns for recognized charitable causes per inmate activity group.

#### **101080.2 Purpose**

This procedure implements policy for inmate donations and fund raising campaigns in accordance with the CCR and the designation of authority and responsibilities in conducting such fund drives.

#### **101080.3 Warden's Responsibilities**

Wardens shall designate an Associate Warden or community resources manager to review and recommend action on all requests for withdrawal and transmittal of inmate funds for charitable causes.

##### **101080.3.1 Associate Warden's Responsibility**

The Associate Warden, CRM, or designee should be sufficiently aware of illicit activities, within the facility, to detect trust withdrawal and transmittal of inmate(s) funds to support such activities. On the Associate Warden's or community resources manager's recommendation and approval of the Warden, the inmate trust office personnel shall process the transmittal of funds for charitable contributions.

#### **101080.4 Individual Inmate's Responsibilities**

An inmate may at any time request the Warden's permission to make a voluntary donation to a charitable cause. Approval shall be subject to the following conditions:

- There is no evidence of coercion.
- The amount is not disproportionate to the inmate's trust account balance.
- The inmate is not incompetent.
- The amount is \$1.00 or more.
- The cause in no way advocates any actions that could jeopardize the safety and security of the facility.

#### **101080.5 Inmate Charitable Group Fund Drives**

Inmate charitable group fund drives may be conducted through solicitation of inmate population or the sale of products, commodities, or services to the general population, as specifically approved by the facility head.

##### **101080.5.1 Deductions for IWF**

A ten- percent deduction shall be made from funds derived from the general population for deposit in the IWF to offset the cost of necessary trust office transactions. Wardens or RPAs may exempt any fund fee for the IWF when all proceeds of the group's fund drive are to be dispersed to an approved charity. Monies collected from sales of products, commodities, or services shall be subject to the deduction on gross sales.

##### **101080.5.2 Procedures for Inmate Participation**

Applications for participation in a charitable fund drive shall be submitted in writing to the designated Associate Warden or community resources manager by the staff sponsor of the inmate group. Applications shall be submitted two months in advance of the proposed fund drive. Also:

- Fund drives conducted by activity groups shall not compete with approved or recognized inmate charitable fund raising drives.

**101080.5.3 Trust Withdrawal Approval Levels**

Trust transactions may be approved in writing by the following personnel:

- \$25.00 or less by the group's principal staff sponsor.
- \$25.00 to \$300.00 by the designated Associate Warden or community resources manager.
- Above \$300.00 by the Warden or RPA.

**101080.6 Procedures for the Sale of Product or Commodity**

Charitable fund raising activities which involve the sale of a product or commodity shall be thoroughly screened prior to approval to prevent the introduction of contraband into the facility.

- The activity group's staff sponsor shall provide and arrange for supervision regarding all phases of the charitable fund raising activity and collecting of cash funds.
- Sales made to employees shall be paid in cash, either to the staff sponsor or the accounting office. Food sales shall be limited to \$50.00 per employee.

**101080.7 Procedures for Accepting a Group Donation**

Charitable donations shall require not less than two-thirds approval of the active membership of the inmate activity group and approval shall be determined by secret ballot vote under the supervision of the staff sponsor. A group representative shall be selected by the membership to assist the staff sponsor in tabulating and verifying the membership votes.

**101080.8 Soliciting Contributions**

Inmate solicitation for contribution to an approved charitable fund raising campaign shall be confined to the inmate population.

**101080.9 Inmate Participation**

Inmates are not obligated and shall not be coerced to participate in any charitable fund raising campaign or to make any donations, other than on a voluntary basis.

**101080.10 Restrictions on Inmate Participation**

All activity relating to a charitable fund raising campaign shall be conducted during the inmates' off-duty time and the staff sponsor's off-duty time.

**101080.11 Revisions**

The Director, Division of Adult Institutions, or designee shall ensure that the contents of this article are kept current and accurate.

**101080.12 References**

PC §§ 2079, 5054, and 5058.

CCR (15) (3) §§ 3020, 3240, and 3241.

ACA Standards 2-4028, 2-4048, 2-4053, and 2-4459.

**ARTICLE 9 — VOLUNTEERS**

*Revised 12/23/2020*

**101090.1 Policy**

The Department's public safety mission is furthered by rehabilitating the inmate population while preparing them to successfully re-enter society. The Department shall maximize the interaction of varied cultural and socioeconomic members of the community through their use as volunteers. Volunteer programs provide education, life-skills, self-help, anger management, parenting, recreation, and release preparation programs to inmates in a constructive and facilitated manner. Staff shall maintain positive relationships with volunteers to meet the inmate rehabilitative mission of the Department.

**101090.2 Purpose**

This Article establishes objectives, standards, and operational procedures for the participation of program supervisors, Self-Help Sponsors, contractors, volunteers, volunteer mentors, and other departmentally approved outside guests.

**101090.3 Definitions**

The following terms are included throughout this article and are defined as they relate to the volunteer policy:

**(a) California Law Enforcement Telecommunications System**

California Law Enforcement Telecommunications System means a statewide telecommunications system that reports arrest, conviction, release, and the collection of court ordered biometrics information, in a database used by law enforcement agencies, and is maintained by the California Department of Justice.

**(b) Community Resources Manager**

The Community Resources Manager is responsible for planning, organizing and directing the Community Partnership program between the correctional institution, local community and special interest groups.

**(c) COMPSTAT**

COMPSTAT is a Department-wide collaborative database for collecting, analyzing, and reporting strategic and operational performance data.

**(d) Department**

Department means the California Department of Corrections and Rehabilitation.

**(e) Facility**

Facility means any institution, community-access facility or community correctional facility, or any camp or other sub-facility of an institution under the jurisdiction of the Department.

**(f) Family Reunification**

Family-centered services for incarcerated parents, their children, and families which focus on parenting programs, family strengthening activities, nurturing of family relationships, and community support for families during incarceration and post release.

**(g) Formerly Incarcerated**

Formerly incarcerated means a person who has had criminal justice contact to include a prior conviction, has received a sentence of imprisonment, and was released on parole or discharged from their sentence.

**(h) Hiring Authority**

Hiring Authority means the official with overall responsibility for a departmental division, region, or facility housing inmates. The term Hiring Authority includes division heads, Wardens, Community Correctional Facility heads and Regional Parole Administrators.

**(i) Live Scan**

Live Scan means both the technique and the technology used by law enforcement agencies and private facilities to capture fingerprints and palm prints electronically. Live Scan is used for criminal booking, sexual offender registration, civil applicant and background security clearance.

**(j) Over-familiarity**

(1) Over-familiarity occurs when a contractor, volunteer, or outside guest engages in a personal relationship with an inmate outside of what is required to carry out their professional duties and services.

(2) Over-familiar acts may occur in a correctional facility or via inappropriate correspondence or telephone call between an inmate, contractor, volunteer, or outside guest.

Examples include but are not limited to the following:

- (A) Engaging in sexual conduct or romantic involvement,
- (B) Trading, bartering, lending or otherwise engaging in personal transactions,
- (C) Providing or receiving personal favors,
- (D) Giving or receiving tips or gifts,
- (E) Inconsistently enforcing facility rules to favor an inmate or group of inmates or,
- (F) Discussing facility operations or other confidential information with an inmate, which may jeopardize the safety and security of the facility.

**(k) Program Supervisor**

A program supervisor means a full-time permanent state employee who is tasked with facilitating or providing oversight of approved rehabilitative inmate programs as part of the employee's regular assignment.

**(l) Self-Help Sponsor**

A Self-Help Sponsor is a full-time permanent state employee who has been voluntarily appointed into a secondary position separate and apart from those responsibilities required in their full-time position. Self-Help Sponsors assist the Department's rehabilitative mission by providing supervision of volunteers and other approved inmate programs.

**(m) Volunteers**

(A) Volunteers are individuals who provide a service or program to the Department without expectation of remuneration. Under general authority of the Division of Adult Institutions, the Community Partnerships Unit works with professional program organizations to provide program opportunities to incarcerated individuals. The program topics may include, but shall not be limited to, education, information technology, religion, health and wellness, or post release services.



(1) **Outside guests** means those who have been approved by the Department to perform a service on a temporary or infrequent basis, such as guest speakers associated with community based organizations, and those who volunteer their talents for entertainment purposes or to participate in an athletic event. Outside guests also include those who have been approved to observe or monitor such events.

(2) **Provisional volunteers** means those who provide their services under escort as determined by the Community Resources Manager, and whose performance and programs are subject to review of performance evaluation requirements. Volunteers may have provisional status at one institution and regular status at another per each Warden's discretion.

(3) **Regular volunteers** means those who provide services on an ongoing basis and have completed a minimum of six months of evaluation as provisional volunteers at an institution. Services provided by regular volunteers are generally performed under indirect supervision and are subject to performance requirements and evaluations. Regular volunteers may be allowed unescorted access to their programming area with the use of volunteer identification cards in accordance with Department Operations Manual, Chapter 3, Article 7. A volunteer seeking regular volunteer status who provides services at multiple institutions shall complete a six month evaluation period at each institution, unless otherwise approved by the Warden at the specific institution.

(n) **Volunteer Mentors**

Volunteer mentors are approved regular volunteers that have been approved by the Warden to provide ongoing rehabilitative guidance and support to one or more inmates by assisting their successful re-entry into the community through personal communication.

**101090.4 Objectives**

The objectives of the volunteer program are to:

- (a) Increase inmate programming opportunities.
- (b) Actively encourage inmate interest and participation in available programs.
- (c) Contribute toward the public's accurate knowledge of the Department's operations.
- (d) Provide a needed interchange between the community and the Department.
- (e) Ensure the public is informed about the Department's rehabilitation efforts through volunteers.
- (f) Create a more positive work environment for staff.
- (g) Foster reconciliation with family.
- (h) Create a more positive environment for inmates and an attitude of hope.
- (i) Provide direct interaction, a model for success, and to prepare inmates for their rehabilitation and successful return to society.
- (j) Reduce recidivism.
- (k) Identify potential resources for inmates.

**101090.5 Responsibility**

(a) **Hiring Authority**

(1) The Director, Division of Adult Institutions, and Wardens are responsible for the administration of volunteer programs consistent with this Article. The Hiring Authority or designee:

(A) Provides appropriate and sufficient numbers of employees for the effective development, coordination, and supervision of volunteer activities and programs.

(B) Directly solicits citizen volunteers and community programs to meet needs of the location coordinating such activity with the Community Resources Manager or their designee.

(C) Participates in screening, interviews, orientation, evaluation, and approval of volunteers when requested.

(D) Delegates overall responsibility for the volunteer program as follows:

1. Institutions: to the Community Resources Manager or other designated manager.

2. Headquarters: to the Deputy Director, Division of Adult Institutions, the Chief, Office of Policy Standardization, or their designee.

(b) **Community Resources Manager**

(1) Develops policy governing job descriptions, recruitment, screening, training responsibility, and the use and supervision of volunteers in conjunction with division heads, In-Service Training, managers, and sponsors, including regular volunteers acting as escorts for provisional volunteers or outside guests.

(2) Encourages volunteers to participate in In-Service Training programs and staff meetings.

(3) Monitors the volunteer programs on a regular basis to ensure:

(A) Volunteer efforts complement the institution need, inmate activities, and activities of staff.

(B) Selected volunteers are physically, mentally, and emotionally able to provide the desired service.

(4) Identifies the Self-Help Sponsor or designee to implement a community program.

(5) Upon approval of the position and selection of a potential volunteer, escorts the individual to the local human resources office for completion of required documents and initiation of the screening process.

(6) Ensures all volunteers receive an orientation to the Department if new to state volunteer service or to the assigned location.

(7) Coordinates the screening and clearance of prospective volunteers.

(8) Ensures volunteers have approved volunteer identification cards and gate clearances, renews these items when necessary, and retains them upon expiration.

(9) Provides volunteers with an institutional volunteer identification card upon approval and ensure the volunteer identification card is secured at the institution's main entrance when the volunteer is not on grounds.

(10) Reviews and approves the use of volunteers or outside resources in any local program when consistent with the goals and objectives of the Department.

(11) Supervises the recruitment of volunteers.

(12) Develops volunteer and community programs in accordance with identified and prioritized needs of the institution.

(13) Provides volunteers with the approved training schedule and training materials as noted in Department Operations Manual Sections 101090.7 and 101090.7.1 at the onset of service and annually thereafter.

(14) Ensures the institution ingress and egress locations are provided a current roster of volunteers scheduled to enter the institution.

(15) Records all tracking information regarding volunteers and volunteer mentors in the volunteer tracking system.

(16) Ensures Captains and other parties identified by the Hiring Authority are provided with an updated list of all active volunteer mentors who may to communicate with inmate mentees via the Inmate Telephone System and via written correspondence.

(17) Ensures the appropriate Captain or Watch Commander has access to emergency, gate clearance, and scheduling information via the volunteer tracking system or printed report.

(18) Maintains procedures and measures to facilitate the safety and security of volunteers.

(19) Verifies certificates or licenses if professional services are offered.

(20) Requests by memorandum the issuance of Department volunteer identification cards.

(21) Maintains and ensures all volunteer information is recorded in the volunteer tracking system, and ensures a volunteer file is maintained to include:

(A) Job description.

(B) Personal identification and contact information.

(C) Scheduled work hours.

(D) Telephone number.

(E) Designated assigned area.

(F) Program description.

(G) Emergency contact information.

(H) Clearance and approval information.

(22) Oversees the completion of new volunteer orientation and required annual training.

(23) Ensures tuberculosis clearance screening is completed for all regular and provisional volunteers at the onset of State service, and annually thereafter following the guidelines for employees in California Penal Code Section 6007(j).

(24) Provides additional prescribed information as determined by the Warden or designee.

(25) Identifies the community program volunteer coordinator who will work with the Community Resources Manager and staff supervisor or sponsor to implement the institution community program.

(26) Monitors annual evaluation of volunteers.

(27) Ensures incoming inmates are informed of and encouraged to participate in inmate activity groups and self-help program activities during their initial orientation.

(28) Posts information regarding volunteer and community programs in conspicuous and accessible areas. This information shall include a current schedule of volunteer services, where available, and a contact person. This information shall be updated when changes occur.

(29) Submits a monthly report regarding volunteers via COMPSTAT to the Community Partnerships Unit, as directed by the Office of Policy Standardization. The report shall include:

- (A) Number of volunteers per program.
- (B) Number of inmates participating.
- (C) Number of hours of volunteer activity.
- (D) Summary of continuous, new, and discontinued programs and special events.

(30) Reviews of administrative policies and procedures.

(31) Coordinates and issues all terminations or separations of volunteers according to Department Operations Manual Sections 101090.9 and 101090.10, and notifies the Community Partnerships Unit in writing within 24 hours of the decision to deny access or termination of a volunteer's services.

(32) Notifies volunteers in writing within 72 hours of the decision to deny access or termination of their volunteer services. If a volunteer is dissatisfied with the decision, the volunteer may appeal the decision in writing to the Hiring Authority, the Director, Division of Adult Institutions, or the Secretary of the Department, in that order. Additionally, Community Resources Managers shall inform the volunteers of their right to appeal per DOM Sections 101090.9 and 101090.10.

(33) Submits a CDCR Form 1797, No Longer Interested Notification to the Office of Peace Officer Selection Live Scan Unit when a volunteer separates from the Department, regardless of the circumstances.

(34) Collects volunteer identification cards when the volunteer service agreement has expired or upon termination of volunteer's services.

**(c) Community Partnerships Unit, Office of Policy Standardization**

(1) Identifies program areas where volunteers and community resources are needed on a statewide level.

(2) Submits applications for statewide volunteer clearance to the Director, Division of Adult Institutions or designee for approval.

(3) Maintains statewide volunteer information in the volunteer tracking system.

(4) Acts as system administrator for the volunteer tracking system.

(5) Pre-approves, volunteer duty statements or community program agreements operating within the headquarters program area.

**(d) Office of Human Resources**

(1) Schedules fingerprint roll appointment for the volunteer.

(2) Completes the CDCR Form 3056, Request for Live Scan Service.

(3) Submits fingerprints electronically to the Department of Justice.

(4) When a response is received, completes a CDCR Form 2164, Live Scan Response and places it in the volunteer file.

(5) Arranges for volunteer photograph for volunteer identification card.

(6) Maintains personnel files for volunteers who receive volunteer identification cards.

(7) Ensures Hiring Authority approval is secured prior to issuance of volunteer identification cards.

**(e) Local Training Officer**

(1) Provides access to approved volunteer orientation at the onset of service at the institution, and at minimum, the required annual training for regular and provisional volunteers as identified in Department Operations Manual Sections 101090.7 and 101090.7.1.

(2) Outside guests may be oriented by their supervisor or Self-Help Sponsor with the approval of the Hiring Authority or designee.

**(f) Program Supervisor and Self-Help Sponsor**

(1) Program supervisors and Self-Help Sponsors are full-time state employees who provide primary oversight for approved inmate programs. Approved volunteers may act as co-sponsors under the supervision of full-time state employees. Retired department staff may be used if they retired under medical or longevity conditions. Other department retirees shall be reviewed and approved by the Hiring Authority prior to acceptance.

(2) Under the direction of the Hiring Authority or Community Resources Manager, the supervisor or Self-Help Sponsor:

- (A) Provides specific program service and information to the volunteer.
- (B) Takes action, as necessary, to ensure that volunteers understand their duties and responsibilities.

(C) Coordinates or conducts any necessary on-the-job training to ensure the volunteer is familiar with the California Code of Regulations, Title 15, and the Department Operations Manual, and is able to fulfill the requirements of the position.

(D) Notifies the volunteer of any changes in rules or procedures or in their duties or responsibilities.

(E) Reviews with the volunteer the CDCR Form 181, Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates, ensuring understanding of the material and answering any questions.

(F) Supervises all volunteers in the supervisor's program area on a daily basis.

(G) Maintains reports on the number of hours and days worked by volunteers each month and submits to the Community Resources Manager.

(H) Records the number of inmates participating in each volunteer activity involving direct service to inmates.

**(g) Volunteers**

(1) Perform the agreed upon service(s) adequately, carefully, and diligently without the expectation of pay or allowances.

(2) Ask supervisors to explain duties.

(3) Seek clarification if duties are unclear.

(4) Agree in writing to abide by Department rules and regulations, including those pertaining to employee conduct (California Code of Regulations, Title 15 sections 3391-3416 et al.).

(5) Are subject to an annual evaluation.

(6) Complete satisfactorily:

(A) Screening requirements.

(B) Required forms in accordance with this Article.

(C) Orientation and annual training, as required.

(D) Provide verification of possession of credentials or licenses if a professional service is offered.

(E) Shall be photographed when receiving a volunteer identification card.

(7) Immediately report to a state employee supervisor any information which may affect the safety and welfare of volunteers, employees, inmates, the program, or the community.

(8) Report to the Community Resources Manager or designee to coordinate any media contact or communications regarding institutional programming.

**(h) Volunteer Mentors**

(1) Volunteer mentors provide inmates with an enhanced support system outside of their participation in rehabilitative programs. A volunteer mentor may maintain contact with an inmate throughout their incarceration as coordinated through the Community Resources Manager.

(2) Contact shall be limited to what is necessary to assist in the inmate's rehabilitation and successful reentry into the community. Examples of appropriate contact include but are not limited to the following:

(A) Providing ongoing rehabilitative counseling.

(B) Educating the mentee regarding accessible in-custody and post-release resources.

(C) Coordinating program services when contact between the inmate, the inmate's family, or associates of the inmate is required.

(3) A volunteer mentor may be authorized by the Hiring Authority to communicate with an inmate via the Inmate Telephone System and via written correspondence. Written communication shall be in accordance with the Department Operations Manual, Chapter 5, Article 41 – Inmate Mail.

(4) To obtain approval, a volunteer mentor shall submit a CDCR Form 2037, Request for Volunteer Contact with Inmate, to the Community Resources Manager for review and approval by the Hiring Authority. The Hiring Authority's final decision shall be maintained in the Volunteer's file and a copy shall be provided to the volunteer mentor applicant.

(5) Parolee and probationer volunteers shall obtain correspondence approval in accordance with California Code of Regulations, Title 15, Section 3139, Correspondence Between Inmates, Parolees, and Probationers prior to submitting a request to provide volunteer mentor services.

(6) If the inmate is transferred to a different facility, a new CDCR Form 2037 shall be completed.

(7) If a volunteer mentor provides services to inmates at five (5) or more institutions, a CDCR Form 2037 shall be submitted to the Director, Division of Adult Institutions for review and approval.

(8) A volunteer mentor shall submit an updated CDCR Form 2037 when the volunteer mentor's contact information changes.

(9) Approved volunteer mentors may terminate mentorship to an inmate at their discretion. Under these circumstances, a volunteer mentor shall submit a CDCR Form 2037 to the Community Resources Manager as official notification of their request to terminate services.

#### **101090.6 Appointment Standards**

(a) Approval for a volunteer position or a new community program shall be based on the following factors:

- (1) Need for services offered.
  - (2) Qualifications of individuals offering service.
  - (3) Criminal history background clearance of participating individuals.
  - (4) Department of Justice and Federal Bureau of Investigations clearance.
  - (5) Time and frequency of service(s) offered.
  - (6) Space availability, and employees needed for proper supervision.
- (b) New volunteer positions or programs require the review and approval of the Hiring Authority before implementation.

(c) Citizens may request a Volunteer Application Packet from the Hiring Authority and shall return the completed packet to the Hiring Authority for processing.

#### **101090.6.1 Screening**

The same general practices, methods, and procedures used to select state employees shall be used in screening volunteers. The processing and screening of volunteer applications shall be completed within 30 business days of receipt of the volunteer application packets.

- (a) Basic educational background and work experience information shall be obtained.
- (b) An interview shall be conducted.
- (c) Credentials and certificate status of volunteers performing professional services shall be verified. Tutoring or sponsorship of a craft or hobby program is not considered a professional service.

#### **101090.6.1.1 Relatives, Associates, Visitors, Volunteers, and Personal Contact**

- (a) Inmate relatives, associates, and approved inmate visitors shall not be authorized to volunteer at the same institution in which the inmate is housed, but may serve as a volunteer or volunteer mentor at another institution.
- (b) Volunteers shall be eligible to apply for visiting privileges at other institutions in which they do not provide volunteer services.
- (c) Wardens may approve a volunteer or volunteer mentor to meet with an inmate during regular visiting hours for the purpose of facilitating specific program services or providing ongoing mentorship.
- (d) The Department recognizes there are situations where personal contact between a volunteer and an inmate, or the relatives and associates of an inmate may be appropriate:

- (1) Departmentally approved programs that require personal contact to carry out the functions and mission of the program.
- (2) Departmentally approved volunteer mentors who have been authorized to personally communicate with an inmate as part of the mentorship program.

#### **101090.6.2 Volunteer Application Packet and Files**

(a) A file similar to the state employee official personnel file shall be maintained on each volunteer in the Human Resources Office, the Community Resources Manager's Office, or designee office and stored in a locked cabinet. Volunteer records shall be recorded in the volunteer tracking system, which may be made available to the Watch Office.

(b) The volunteer application packet shall include:

- (1) CDCR Form 181, Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates.
- (2) CDCR Form 894, Emergency Notification Information, which shall be updated annually.
- (3) CDCR Form 966, Volunteer Application and Service Agreement, with the signed statement acknowledging receipt of a copy of Title 15 of the California Code of Regulations and Information Practices Act.
- (4) STD Form 910, Essential Functions Health Questionnaire.
- (5) CDCR Form 7336, Employee Tuberculin Skin Test and Evaluation, and CDCR Form 7354, TB Infectious Free Staff Certification, which shall be updated annually.

(c) The volunteer file shall include signed copies of the above mentioned forms as well as:

- (1) CDCR Form 1049, Certification of Volunteer Participation.
- (2) CDCR Form 8019, Nepotism and Fraternization Policy Acknowledgement.

(3) All documentation of completed orientation and annual training.

(4) CDCR Form 2301, PREA Policy Information for Volunteers and Contractors.

(5) CDCR Form 1887, Parent Consent for Participation, if the volunteer is under the age of 18.

#### **(d) Renewal of Applications**

Volunteers shall be required to annually submit a CDCR Form 7336, Employee Tuberculin Skin Test (TST) and Evaluation, CDCR Form 7354, TB Infectious Free Staff Certification; and documentation of completed annual training. All other forms in the volunteer application packet shall be updated as necessary.

#### **(e) Retention of Records**

(1) A separate record of each volunteer's name, address of record, and telephone number shall be kept in one of the following:

- (A) Index card file.
  - (B) Register page (volunteer tracking system printout is acceptable).
- (2) Unless litigation is pending, these records shall be destroyed in accordance with the Department's record retention schedule as follows:

#### **(A) Index Cards**

Six months after the last date on which a service was provided by the volunteer.

#### **(B) Register Pages**

Six months after the last date on which a service was provided by any volunteer whose name appears on the page.

#### **101090.6.3 Security Clearance**

(a) Prior to service, every volunteer shall satisfactorily complete the following security clearance procedures:

(1) For outside guests issued gate clearances only:

(A) Criminal Identification and Information clearances by California Law Enforcement Telecommunication System may be performed to provide immediate access.

(B) Security clearances shall be renewed and updated annually.

(2) For provisional or regular volunteers:

(A) Fingerprints shall be taken and processed through the California Department of Justice via Live Scan for a security clearance.

(B) Confirmation the volunteer is not a relative, associate, or approved visitor of any inmates in the institution (as reported by the volunteer on CDCR Form 966, Volunteer Application and Service Agreement).

(C) Volunteer identification cards shall be renewed every 60 months. Other required departmental forms and training, as noted above in Department Operations Manual Section 101090.6.2, shall be provided and submitted annually.

#### **(b) Formerly Incarcerated Persons, Parolees, and Probationers**

(1) Wardens may approve formerly incarcerated persons, parolees, and those on probation to serve as volunteers. Programs may often be enriched by the contributions of these individuals who share their experiences and personal progress.

(2) In addition to the guidelines for training and background investigations, the following information shall be reviewed on a case-by-case basis by the Hiring Authority before a formerly incarcerated person may serve as a volunteer:

(A) Written approval of the Warden or designee prior to admittance for participation in activities or programs.

(B) If the volunteer is on parole, the written approval of the Regional Parole Administrator or designee is required prior to Warden or designee approval.

(C) If the volunteer is on supervised probation, the written approval of the Chief Probation Officer or designee is required.

(D) If the volunteer is on informal probation, the written approval of the court or representative of the court is required.

(E) The volunteer shall be verified to have at least six months free of any illegal activity post-release. The volunteer may be approved if the individual is verified to have at least 90 days free of any illegal activity post-release with written justification and approval of the Associate Director.

(F) Documentation which verifies at least one of the following:

1. Current employment
2. Participation in the community
3. Academic status
4. Volunteer status at another departmental institution.
5. If discharged, evidence of discharge from parole.

(G) If the Warden denies a volunteer application of a formerly incarcerated person who is actively approved to serve as a volunteer at another departmental institution, the application packet shall be forwarded to the Director, Division of Adult Institutions for additional review along with documentation supporting the justification for denial.

(H) The volunteer shall have no family or person within the institution with whom the volunteer has had either a personal or business relationship.

(I) Formerly incarcerated persons, parolees, and those on probation shall disclose to the Warden, in writing, if they become aware that a relative or person with whom they have, or have had, a personal or business relationship, has been transferred or committed to the institution where they volunteer. This written disclosure shall be provided to the Warden prior to the volunteer returning to the institution.

(J) The Warden shall be given at least 30 days to investigate the nature of the relationship of the volunteer with the inmate in order to determine if the volunteer should be allowed to continue services at the institution or if restrictions should be placed on the volunteer's access to inmates.

(K) If approved to serve as a volunteer, formerly incarcerated persons may be granted a volunteer identification card at the discretion of the Warden or Director, Division of Adult Institutions.

#### (c) Gate Clearances

(1) For individuals or groups providing provisional volunteer or intermittent services, such as outside sports teams, visiting religious groups, and entertainment groups, single use gate clearances shall be forwarded to the Hiring Authority or designee for consideration. (See DOM Section 31070, Personnel Identification Cards.)

(2) Regular volunteers not issued a volunteer identification card, provisional volunteers, and outside guests shall be escorted at all times and shall remain in the designated areas. The entrance gate officer shall be provided with a written gate clearance for regular volunteers not issued a volunteer identification card, provisional volunteers, and outside guests. The gate clearance shall specify the following:

(A) Services the volunteer will provide or the specific event for the guest attendance.

(B) Access areas.

(C) Any approved materials or supplies as authorized by the Hiring Authority or designee.

(D) For provisional volunteers or outside guests:

1. Specify the assigned work location.
2. Days and hours of assignment.
3. Authorization, if any, to access institution keys.

#### (d) Volunteer Identification Cards

(1) Regular volunteers issued a volunteer identification card shall be processed into the institution in accordance with current policy. Local volunteer identification cards are stored at the designated entrance of each institution and may not be removed from the premises. The volunteer shall exchange a state or federal form of identification for the local volunteer identification card upon entry and shall return the volunteer identification card upon exiting the institution.

(2) If a statewide volunteer identification card is issued to the volunteer, the statewide volunteer identification card shall be retained by the volunteer, and it shall be provided along with a state or federal form of identification to the officer upon entering or exiting the institution.

(3) Regular volunteers who request to provide programming or services to multiple institutions are required to apply at each individual institution, and may be required to serve for an evaluation period prior to obtaining an institutional volunteer identification card. Evaluation periods shall not exceed six months of service.

(4) Volunteers issued a volunteer identification card at an institution shall be allowed limited unescorted access to the program or service location or as directed by the Hiring Authority. Exceptions to obtaining a volunteer identification card shall result in a provisional status, as defined in Department Operations Manual Section 101090.3. Exceptions include, but are not limited to:

(A) The Hiring Authority has determined, through the screening process, the volunteer shall be escorted to programs or services.

(B) The program or service does not meet at least once a month.

(C) The volunteer has requested to have an escort for the program or service.

(5) Regular volunteers who are involved in programs or functions at five or more institutions may request a statewide volunteer identification card with approval of the Director, Division of Adult Institutions or designee at headquarters. The volunteer shall provide a completed volunteer application

packet and a written justification for the request. Statewide regular volunteers shall be required to secure appointments with individual institutions through the Community Resources Manager and shall attend any required orientation and annual training.

#### (e) Authorized Access within the Institution

(1) An approved volunteer under the age of 18 years shall be accompanied by California Department of Corrections and Rehabilitation staff and the minor's parent(s) or guardian(s) at all times while inside the institution. The CDCR Form 1887, Parent Consent for Participation, shall be signed by a parent or guardian and notarized. The form shall be on file prior to participation. The parent(s) or guardian(s) shall also provide an original or certified copy of the minor volunteer's birth certificate to the gate officer upon entrance to the institution.

(2) Regular volunteers not issued a volunteer identification card, provisional volunteers, and outside guests with an approved gate clearance shall be escorted in the institution as directed by the Hiring Authority, Community Resources Manager, or designee.

(3) Regular volunteers with an approved volunteer identification card may be required to escort regular volunteers, provisional volunteers or guests as directed by the Hiring Authority, Community Resources Manager, or designee.

(4) All volunteers, regardless of escort status, and outside guests shall have an identification document with a photograph, such as a valid driver's license; Department of Motor Vehicles identification card; or other official, valid, positive identification.

(5) Volunteers shall not, without written approval from the Warden or Director, Division of Adult Institutions, be admitted to special housing units, such as Administrative Segregation, Security Housing, and Protective Housing.

(6) Volunteers shall not, without written approval from the Warden or Director, Division of Adult Institutions, be assigned to areas which enable them to access employee records or inmate personal or medical information.

(7) When volunteer access is denied or delayed, the entrance or gate officer shall contact the Watch Commander prior to denying entry. The Watch Commander shall work to resolve and discuss the reasons for denial, such as failure to adhere to Department rules or regulations with the Community Resources Manager or Administrative Officer-of-the-Day. The same process shall apply when inmates are not released, or are delayed from being released, for self-help programming. A report explaining the occurrence and outcome shall be routed to the Hiring Authority with a copy to the Community Resources Manager or designated manager.

#### 101090.7 Volunteer Orientation

(a) Orientation shall be completed prior to assignment as a volunteer. Outside guests may be oriented by their supervisor or escort with the approval of the Hiring Authority or designee.

(1) At the onset of service, regular and provisional volunteers shall complete the required available training modality available for four hours of orientation to include:

(A) Staff /Inmate Relations

(B) Equal Employment Opportunities and Sexual Harassment Prevention

(C) Emergency Procedures

(D) Communicable and Infectious Diseases

(2) Volunteers shall be provided a code of ethics that prohibits using their positions to secure privileges for themselves or others, engaging in activities that constitute a conflict of interest, accepting gift or gratuity from or engaging in personal business transactions that would provide a benefit not available to the general public, or sexual relations with an inmate or an inmate's family.

(3) Volunteers shall be provided a tour of the institution in order to identify their program or service location and other necessary institution features. The Community Resources Manager or designee may provide additional orientation on key control, alarms, institution protocols, and other necessary information.

(4) Regular volunteers shall be issued a whistle upon orientation, and may be issued chits, keys, or personal alarms. Provisional volunteers shall receive a whistle upon orientation.

(5) In addition to orientation, volunteers shall receive a copy of the Volunteer Handbook, which includes history and policies of the Department and the service location.

(6) Additionally, the Community Resources Manager shall provide the following on-the-job training courses for self-study:

(A) The Prison Rape Elimination Act.

- (B) Information Practices Act.
- (C) Fire Prevention and Life Safety.
- (D) Tuberculosis Testing Self-Education.

**(b) Duties**

- (1) Description of the volunteer duties, lines of communication, supervision, and accountability.
- (2) Public safety shall take precedence over all other considerations in the operation of the programs and activities of the Department.

**(c) Service Population**

Review in general terms the needs, attitudes, and lifestyles of the inmate population.

**(d) Rules**

- (1) Notification that volunteers are subject to the rules and regulations established by the Hiring Authority and the Secretary.
- (2) Information on the pertinent rules affecting the security of the institution and the safety of volunteers, employees, and inmates.

**(e) Confidential Information**

(1) Confidentiality of records and other privileged information shall be maintained (see Information Practices in Section 13030 of this manual). A copy of the Information Practices Act shall be provided to the volunteer.

(2) Inform volunteers they may be required to divulge information told in confidence by an inmate. Explain that only certain confidential relationships are legally recognized, such as patient-physician, lawyer-client, priest-parishioner, and marital. A volunteer may be compelled in a court of law to testify about relevant conversations with inmates.

**101090.7.1 Volunteer Annual Training**

(a) Annual training for regular and provisional volunteers shall be provided via the required training modality available and completed prior to the volunteer's training expiration date as documented in the volunteer tracking system. Annual training shall consist of the four hours of training outlined in Section 101090.7.

(b) Volunteers shall complete the on-the-job self-education curriculum.

(c) The Volunteer Handbook shall be revised by the Community Partnerships Unit as needed.

**101090.8 Volunteer Evaluation**

(a) The term of service by volunteers shall be contingent upon satisfactory evaluation by management. The Hiring Authority shall evaluate their volunteer programs annually to ensure:

- (1) The volunteer activity complements the activities of employees.
- (2) Volunteers are physically, mentally, and emotionally capable of providing the desired service.
- (3) Duties are performed in a satisfactory manner with appropriate staff to supervise.
- (4) Activities are consistent with departmental goals and objectives.

**101090.8.1 Volunteer Recognition**

(a) Supervisors of volunteers shall periodically recognize exemplary volunteer services and programs in the following ways:

- (1) Submission of a request for a certificate of recognition signed by the Director.
- (2) Preparation of a letter of appreciation for the Hiring Authority's signature.
- (b) Letters and justification for the recognition shall be submitted to the Community Resources Manager, Parole Agent, or division head before submission to the Hiring Authority.

(c) Wardens, Regional Parole Administrators, and division heads are encouraged to prepare press releases in coordination with the Community Resources Manager for exemplary activities of a volunteer or volunteer program.

**101090.9 Rejection and Termination**

(a) The Hiring Authority may limit or discontinue activities of any volunteer or volunteer group which may impede the security or orderly operation of the institution or region. A report explaining the occurrence and outcome shall be routed to the Hiring Authority with a copy to the Community Resources Manager or designated manager.

**(b) Criteria**

- (1) A volunteer or community program shall be terminated if:
  - (A) The activity threatens the order or security of the program or facility.
  - (B) The activity threatens the safety of the volunteer, employees, public, or inmates.

(C) There is low inmate attendance.

(D) The activity is not consistent with the mission and objectives of the institution.

(E) There is no appropriate staff supervisor available.

(F) Formal evaluation is unsatisfactory.

(G) The volunteer is physically unable to safely perform required duties.

(H) There is evidence of volunteer misconduct.

(I) For the purpose of this Article, misconduct shall mean behavior of an improper or unacceptable nature including, but not limited to, the following:

1. Acts of over-familiarity with inmates or the family and friends of inmates.
2. Inexcusable neglect of specified duties.
3. Willful act(s) of insubordination or disobedience.
4. Willful and malicious act(s) of discourteous treatment toward other volunteers, employees, inmates, parolees, or members of the general public.
5. Act(s) involving the misuse of State property.
6. Threat(s) of retaliation against other volunteers, employees, inmates, parolees, or members of the general public.
7. Reporting for duty while under the influence of alcohol, an intoxicating drug, or illegal substance.
8. Participating in behavior either on or off duty that is of such a nature it may cause discredit to the Department or to the services being provided by volunteers under the volunteer service programs.

(2) Volunteers or community group members shall receive written notification of their rejection or termination within 72 hours. The headquarters Community Partnerships Unit shall be notified in writing within 24 hours of the decision to deny access or termination of a volunteer's services. The volunteer tracking system shall be updated by the next business day of the decision to deny access or termination of a volunteer's services. The volunteer identification card shall be collected when the volunteer service agreement has expired or upon termination of the volunteer's services.

(3) A CDCR Form 1797, No Longer Interested Notification shall be submitted to the Office of Peace Officer Selection Live Scan Unit when a volunteer separates from any Department Hiring Authority regardless of the circumstance.

**101090.9.1 Resignation**

(a) A program sponsor, contractor, volunteer, or volunteer mentor may discontinue providing services for one or more groups at any departmental institution at a time of their choosing. In such circumstances, the following shall occur:

- (1) The individual shall provide written notification to the Hiring Authority via the Community Resources Manager of the decision to discontinue providing services.
- (2) The individual shall relinquish any department issued equipment to the Community Resources Manager.
- (3) The Community Resources Manager shall ensure gate clearances are updated to reflect that a volunteer or volunteer mentor shall no longer be authorized to access institutional or facility grounds upon resignation.

**(b) Volunteer Participation Certification**

The Hiring Authority or designee shall provide a completed CDCR Form 1049 Certification of Volunteer Participation to each volunteer annually or upon termination along with a copy to file.

**101090.10 Volunteer Rights and Privileges**

**(a) Appeal**

Volunteers whose programs have been terminated or who have been denied access to an institution or facility, may appeal the decision in writing to the Hiring Authority.

- (1) If dissatisfied with the decision of the Hiring Authority, the volunteer or program organization may write to the Director, Division of Adult Institutions.
- (2) If dissatisfied with the decision of the Director, Division of Adult Institutions, the volunteer or program organization may write to the Secretary.

**101090.11 Advisory Committees**

(a) Advisory committees provide positive benefits to the Department in the following areas:

- (1) Public information.
- (2) Community relations.
- (3) Parole placement.
- (4) Development of trade and industrial training programs.

**(b) Consultants**

Joint conferences of institutional and parole employees, other state agencies, and advisory committees shall be held periodically to promote understanding of the overall program.

**(c) Effectiveness Factors**

The effectiveness of trade and parole advisory committees is enhanced by the following:

- (1) Establishment of the committee as an affiliate of a larger community organization such as a service club or other established, reputable body.
- (2) Membership in the advisory committees of an ideal cross-section of the community; i.e., ethnic groups, judiciary, clergy, law enforcement, business, labor unions, and community service groups.
- (3) Tours of institutions and camps and committee attendance at pre-parole classes, parole board hearings, and other activities contingent upon Warden or Regional Parole Administrator approval.
- (4) Regular service of the membership account and demonstration of a personal interest in the activities of the group.
- (5) Regional Parole Administrators' supervision and coordination of the planning and organization of committees in their regions.
- (6) Understanding by employees of the purpose and goals of advisory groups so that better communication and public relations result.

**101090.11.1 Trade Advisory Committees**

(a) The Warden, where possible, shall establish Trade Advisory Committees for vocational training programs in the areas of vocational education, industries, maintenance, or food service. Trade Advisory Committees shall be composed as closely as possible of an equal number of persons nominated by representatives of management and labor. Committee members shall be appointed by hiring authorities from recommendations submitted by the groups represented.

**(b) Functions**

Trade Advisory Committees shall provide:

- (1) Consultation on space and equipment requirements, training procedure, and instructor qualifications and selection.
- (2) Standards for inmate selection and training which are relevant to current methods and industry standards.
- (3) Vocational guidance and evaluation of inmate trainees.
- (4) Advice on employment opportunities upon release.
- (5) A medium for better understanding between labor, private industry management, and the Department.

**(c) Organization**

Trade Advisory Committees shall be organized on the basis of one of the following:

- (1) A master committee representing all vocational training areas within the institution with subcommittees for each trade or occupation.
- (2) Individual Trade Advisory Committees for each trade or occupation within the institution.

**(d) Institutional Coordinator**

(1) Each Warden shall nominate, for the approval of the Secretary, an employee as the Institutional Coordinator, who shall:

- (A) Obtain Criminal Identification and Investigation State Summary-Criminal History.
- (B) Coordinate the organization and programs of the Trade Advisory Committees within that institution.
- (C) Maintain and circulate minutes of meetings to all participants and appropriate departmental staff.
- (D) Ensure compliance with the Department's Operations Manual.

(2) This coordinator shall be assisted by employees representing education, plant operations, industries, and other institutional services.

**101090.11.2 Parole Advisory Committees**

(a) Regional Parole Administrators and their subordinate employees are encouraged to establish parole advisory committees.

(b) These committees develop community interest and promote community support for parolees and correctional programs.

**(c) Functions**

Parole advisory committees shall provide:

- (1) A counseling and advisory resource to the Parole Agent.
- (2) Knowledge of the community to assist newly released parolees in securing jobs or residency as follows:

(A) Acting as voluntary consultants on release employment opportunities.

(B) Giving practical assistance, vocational guidance, and evaluation of parolees.

(C) Acting as consultants in vocational training of parolees.

(D) Interpreting parole to the community leadership.

**101090.11.3 Citizens Advisory Committees****(a) Functions**

(1) Each Warden shall establish a Citizens Advisory Committee, which shall be used to:

- (A) Improve the public's understanding of correctional programs.
- (B) Influence correctional directions.
- (C) Suggest means to improve and participate in inmate programming.
- (D) The role of the committees is to:

1. Provide an important opportunity for the Department to gain the support of interested and concerned citizens. Wardens shall extend an invitation to committee members to acquaint themselves with the institution's facilities and programs.

2. Voice their concerns and make suggestions for facility and program enhancements as well as to support the institution or facility and its programs.

3. Play a key role in furthering the Department's mission. Wardens shall regularly attend meetings and shall feel free to share information with the committee on problems, progress, and resolutions.

4. Encourage community service projects, open houses, public education efforts, and any other appropriate activities aimed at strengthening the institution's partnership with the community.

**(b) Composition**

(1) Each Warden shall appoint a 12 member Citizens Advisory Committee from a list of nominations submitted as follows:

- (A) Two persons from nominations submitted by the Assembly Member in whose district the prison is located.
- (B) Two persons from nominations submitted by the Senator in whose district the prison is located.
- (C) Two persons from nominations submitted by the City Council of the city containing or nearest to the institution.
- (D) Two persons from nominations submitted by the County Board of Supervisors of the county containing the institution.
- (E) One person from nominations submitted by the Chief of Police of the city containing or nearest to the institution and the County Sheriff of the county containing the institution.
- (F) Three persons selected by the Warden including one who is a victim of a crime or a representative of a victim's organization.

**(c) Selection**

- (1) Nominators shall submit biographical data for each nominee.
- (2) The Department's Equal Employment Opportunity policies shall be considered in the selection of nominees.

**(d) Orientation**

(1) Appointed committee members shall complete an orientation, which shall include:

- (A) A meeting with the Warden.
- (B) Inmate, employee, and community safety procedures.
- (C) A tour of the institution.

**(e) Committee Member Files**

(1) A file shall be maintained on each committee member, which shall include:

- (A) Oath of Allegiance.
- (B) CDCR Form 181, Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates.
- (C) Statement acknowledging receipt of a copy of the California Code of Regulations and the Information Practices Act.

**(f) Operation**

(1) Each committee shall select a chairperson by majority vote who shall:

- (A) Call meetings.
- (B) Prepare meeting agendas.
- (C) Preside over meetings.

**(g) Term of Members**

(1) The term of office of all members shall be two years. Members shall not serve more than two years unless nominated and re-appointed.

(2) The Warden shall solicit a listing of five nominees from designated nominators 90 days prior to the expiration of any member's terms.

(3) Committee member resignations shall be submitted in writing to the chairperson.

**(h) Vacancies**

(1) Vacancies may result from a member's death, written resignation, expiration of term, removal for cause, an emergency, or unexcused absence from three consecutive meetings. The Warden shall fill any vacancy upon receipt of written notification that a vacancy exists.

(2) The Warden may fill a vacancy with a person selected from, but not limited to, the list of nominees originally submitted by nominators. Additional names may be requested from the nominators by the Warden.

(3) Appointments to fill a vacancy shall be for the remainder of the unexpired term.

**(i) Meetings and Minutes**

(1) The committee shall meet at least once every two months or as necessary to carry out the purposes and duties of the committee.

(2) The Warden shall meet with the committee at least four times per year. If the Warden is unable to attend, the Chief Deputy Warden shall attend. Attendance shall not be further delegated.

(3) Committee meetings shall be open to the public. The date, time, and place of each meeting shall be published in a local newspaper at least one week prior to the meeting.

(4) Meetings shall be held outside the prison security area. Meetings may be held in public buildings away from the institution. If held on institution property, the meeting shall be accessible to the public without compromising security.

(5) Minutes of each committee meeting shall be kept and a copy forwarded to the Director, Division of Adult Institutions.

**(j) Visitation**

(1) Advisory committees shall have access to visit prison facilities and personnel in furtherance of committee objectives except in situations where security would be jeopardized.

(2) The Warden shall schedule all visits, and shall personally escort the visitor(s). Scheduled visit agenda shall be subject to change based upon institutional operations at the time of the visit.

(3) Visits to other departmental facilities shall be authorized if, in the opinion of the chairperson and the Warden, such visiting will enhance the work of the committee.

(4) Visits to other departmental facilities shall be only by advance arrangement between the affected Wardens.

(5) The size of the visiting committee shall be determined by the committee itself and the Warden.

(6) The head of the visited institution shall meet with the visiting committee delegation.

**(k) Travel Expenses**

Travel expenses of the committee members shall be paid as authorized by Department Operations Manual, Article 11, Travel. Expenses shall be borne by the parent institutions.

**101090.11.4 Statewide Volunteer Advisory Task Force**

(a) The purpose of the Secretary's Statewide Volunteer Advisory Task Force is to form a statewide collaboration between the Department and community stakeholders.

**(b) Functions**

(1) Assists the Department in the most effective utilization of community volunteers for inmate activity groups, educational, and other volunteer programs in order to meet inmate program needs.

(2) Discusses areas of concern, changes to existing policy, and develops positive support for Self-Help Sponsors, volunteers, and rehabilitative programs statewide.

**(c) Composition**

(1) The Secretary or designee shall appoint members from:

(A) Volunteer executives or representatives from non-profit organizations and religious communities.

(B) Department executive staff.

(C) Community Resources Managers as designated by the Community Partnerships Unit, Office of Policy Standardization.

**(d) Meetings and Minutes**

(1) The Statewide Volunteer Advisory Task Force shall meet no less than twice annually or as deemed necessary by the Secretary or Director, Division of Adult Institutions to carry out the purposes and duties of the committee.

(A) This task force shall be coordinated by the Director, Division of Adult Institutions or designee as directed by the Secretary.

(B) The date, time, and place of each meeting shall be determined by Department headquarters staff. If held on institution property, the meeting shall be accessible to the members without compromising security. Members shall be provided a copy of the agenda and meeting information in advance.

(C) Minutes of each committee meeting shall be recorded, and a copy distributed to members as directed.

**101090.11.5 Institution Volunteer Advisory Committees**

**(a) Functions**

(1) Each Warden shall establish a Volunteer Advisory Committee which shall be used to:

(A) Increase communication and partnerships with national, state, and community-based organizations.

(B) Increase rehabilitative programming opportunities for inmates.

(C) Work proactively at the institution level providing support within the community, such as, volunteer organizations, law enforcement agencies, schools, universities, corporations, and various other agencies to increase volunteer programming and services to inmates.

(D) Support programs that unify and strengthen inmates' ties with family and other community support systems.

(E) Create opportunities to increase volunteer participation and monitor the effective delivery of services to inmates.

(F) Increase communication and collaboration between the various stakeholders, with the goal of improving the effectiveness and efficiency of systems available to meet the rehabilitative needs of inmates.

**(b) Role**

(1) The role of the committee is to:

(A) Ensure the Department's policies are enforced regarding volunteers as well as to ensure consistency regarding volunteer access to the institution.

(B) Foster a continued partnership with volunteers in an effort to bring rehabilitative programs to inmates.

(C) Promote the expansion and implementation of volunteer programs within the institution.

(D) Increase volunteer opportunities and community outreach.

**(c) Composition**

(1) Each Warden or designee shall appoint a Volunteer Advisory Committee from a list of nominations submitted, to include the following:

(A) Volunteer Leads from local organizations and religious communities including, but not limited to:

1. Substance abuse recovery organizations.

2. Victim awareness and impact programs.

3. Reentry support groups.

4. Anger management organizations.

5. Service providers that fall within voluntary self-help programs.

6. Associate Warden.

7. Captain, Adult Institutions.

8. Public Information Officer.

9. Chaplain.

10. Self-Help Sponsors as determined by the Community Resources Manager.

11. Interested community members.

**(d) Selection**

Nominees shall be selected based on experience and length of service.

**(e) Orientation**

(1) Appointed community committee members shall complete an orientation which shall include:

(A) A meeting with the Warden or designee.

(B) Inmate, employee, and community safety procedures.

(C) A tour of the institution.

**(f) Committee Member Files**

(1) The Community Resources Manager shall maintain a file for committee members as follows:

(A) For volunteer members – copies of the volunteer application packet including all required documentation outlined in Section 101090.6.2.

(B) For community members – CDCR Form 181, Primary Laws, Rules, and Regulations Regarding Conduct and Association with State Prison Inmates and statement acknowledging receipt of a copy of the Information Practices Act.

**(g) Term of Members**

(1) The minimum term of office of all members shall be two years. Members shall not serve more than two consecutive years unless approved by the Warden or designee.

(2) Committee member resignations shall be submitted in writing to the chairperson.

**(h) Replacing VAC Members**

(1) Vacancies may result from a member's death, written resignation, expiration of term, removal for cause, or an emergency.

(2) Every attempt shall be made to fill vacancies within 60 days after notice is received from the vacating member or designee.

(3) Appointments to fill a vacancy shall be made for a new two-year term or for the remainder of the vacated term at the Warden's discretion.

**(i) Meetings and Minutes**

(1) The committee shall meet quarterly, or as deemed necessary by the Warden or Chair to carry out the purposes and duties of the committee.

(2) The date, time, and place of each meeting shall be distributed to members at least five business days prior to a scheduled meeting.

(3) Meetings shall be held outside the prison security area. Meetings may be held in public buildings away from the institution. If held on institution property, the meeting shall be accessible to the public without compromising security.

(4) The Community Resources Manager shall ensure minutes of each committee meeting are taken, records are maintained, and copies are provided to the Community Partnerships Unit.

**101090.12 Revisions**

The Director, Division of Adult Institutions, or designee shall ensure the content of this Article are accurate and current.

**References**

CCR (2) §§ 599-624.

CCR (15) §§ 3139, 3260-3265, 3285, and 3415.

**Revision History**

Revised: July 23, 2018.

Revised: December 23, 2020.

**ARTICLE 10 — GRANTS**

*Effective December 4, 1989*

*Updated April 5, 2007*

**101100.1 Policy**

The Department shall participate in grant projects when the Director, Division of Community Partnerships (DCP), in conjunction with the appropriate Chief Deputy Director, Warden, or RPA, determines the project is in the best interests of the Department and is consistent with current Department policy.

**101100.2 Purpose**

This Section clarifies provisions as set forth in the SAM 900, as they relate to departmental policy and procedures in the solicitation and awarding of grants.

**101100.3 Definitions**

To clarify terminology used in the grant process, the following definitions are included as a guide. These are not inclusive, and any definitions contained in statutes shall supersede those contained in this Section.

**Grants**

Grants are funds from sources other than the GF for operational and demonstration programs which involve the Department's facilities, employees, inmates, or parolees. These funding sources include, but are not limited to, the federal government, other state departments, local agencies, and other public and private organizations.

**Service Project Proposals**

Service project proposals are defined as technical assistance provided by public or private agencies.

**101100.4 Responsibility**

The Director, DCP, shall:

- Review and recommend to the Director the acceptance or rejection of all grant or services project proposals.
- Authorize submission of grant application/proposals and acceptance of grant awards for the Department.
- Monitor grant projects for program and fiscal compliance with granting agency.
- Assure specific requirements of departmental procedures are met.

**Budget Management Branch**

The Budget Management Branch and the Office Contract Service Unit of the Office of DCP shall coordinate all grant applications and projects for the Department. The Budget Management Branch shall:

- Assist in the preparation of grant application, contracts and other necessary documents.
- Identify potential funding sources and assure compliance with granting agency's requirements.
- Ensure that the following actions are completed:
  - Flow of grant application through Department's approval process.
  - Notification of award.
  - Establishment of guidelines for fiscal and programmatic report requirement.
  - Provision of technical assistance to project directors.
  - Receipts, review, and distribution of project reports and requests for reimbursement.
  - Coordination between grantee (institution/division) and Headquarters.
  - Coordination between grantee and grantor (granting agency).
- Ensure that the activities outlined in the DOM 101100.4 are performed in an efficient and timely manner by creating and maintaining a master file and register to control the processing, implementation and report cycles of grant projects.
- Review all reports required under DOM 101100.10 for compliance with program objectives, timeliness, and fiscal constraints. Recommendations and/or ongoing technical assistance shall be provided to project director as required.
- Conduct on-site review providing technical assistance on each grant project within four months of the project start-up. The on-site review shall include, but not be limited to, the following:
  - Initial interview with project director and staff.
  - Review of staffing and organizational structure.
  - Review of accounting system.
  - Review of reporting requirements and formats.
  - Review of program objectives and time lines.
  - Review of property management and procedures.
  - Review of evaluation plan to include data collection procedures.
  - Conduct an "exit interview" with the project director to discuss review findings, possible problem area and recommendation

**Deputy/Assistant Directors, Wardens, RPAs**

The appropriate deputy/assistant director, Warden or RPA shall:

- Review and approve initial concepts for grant projects that fall within their respective jurisdictions.
- Provide overall programmatic direction for each grant project.
- Designate a project director.

**Project Director**

The project director shall be responsible for the implementation and the daily management and supervision of the grant proposal/contract and the mandates of this chapter. The project director shall coordinate the implementation phase with the business manager/fiscal officer.

**Business Manager/Fiscal Officer**

The appropriate business manager/fiscal officer shall:

- Coordinate support activities such as procurement matters for grant projects.



- Review and approve appropriate grant expenditure report requests for funds and grant award modification requests that shall be submitted to the Budget Management Branch for action.

#### **Accounting Officer**

The accounting officer shall:

- Keep separate accounts for the expenditures and reimbursements related to the grant.
- Display this grant on a separate page on quarterly budget reports.
- Obtain budgetary approval from the budget section through the Budget Management Branch.
- Submit reports as described in DOM 101100.10.

#### **Personnel Representative**

The personnel representative shall:

- Establish the necessary project staff positions.
- Process appointments and other personnel transactions for project staff.

#### **Procurement and Services Officer/Business Service Officer**

The procurement and services officer/business service officer shall initiate and execute the necessary grant contracts/agreement.

#### **101100.5 Grant Proposal Concept**

When management staff identify a program need for which departmental funds are not available, a grant proposal concept that includes the following information may be prepared:

- Introduction. Clearly and concisely summarizes the request and describes the current situation.
- Program statement. Documents the needs to be met or the problems to be resolved by the proposed funding.
- Objectives. Establishes the benefits of the funding in measurable terms.
- Methods. Establishes the means of achieving the results desired and presents a timetable for accomplishing these results.
- Evaluation. Describes a plan to prove that the grant project was a success and that the objectives were reached.
- Budget. Presents an estimate of project costs in detail.

#### **Submit To**

The grant proposal concept shall be submitted to the Division for Community Partnership and Budget Management Branch for departmental review and approval. The two factors upon which approval shall be based are the following:

- Possible contribution of the grant project to departmental goals and objectives.
- Probable acceptance by a grantor.

#### **Costs**

Depending on grantor requirement and limitations, the following costs may or may not be included:

- Administrative costs.
- Personnel services costs.
- Budget administrative costs.
- Leasing costs.

#### **101100.5.1 Impact Statement**

In conjunction with the preparation of a grant proposal concept, a program impact statement shall be submitted with the proposal concept to the Budget Management Branch.

#### **101100.5.2 Department Review**

Upon receipt of a grant proposal concept and impact statement, the Budget Management Branch shall forward these documents to the appropriate deputy/assistant director for review and approval. Written notification of approval/disapproval shall be submitted by the appropriate deputy/assistant director to the Budget Management Branch no later than 14 days from receipt of the grant proposal concept and impact statement.

#### **101100.6 Grant Application**

The Budget Management Branch in conjunction with the sponsoring division shall develop a grant proposal based on the grant proposal concept after receipt of written notification of approval from the appropriate deputy/assistant director. The proposal shall follow the specific requirements and guidelines of the granting agency selected by the Budget Management Branch. The required grant application forms shall be completed and submitted to the Director, DCP, for signature and distribution.

#### **101100.7 Governor's Review**

All applications for federal funds shall be submitted through the Budget Management Branch to the Governor's Review Committee. The Budget Management Branch shall monitor all federal grant applications through the Governor's review process. Forty-five days shall be allowed for completion of this process.

#### **101100.8 Grant Award Notification**

Upon notification of a grant award, the Budget Management Branch shall notify the following departmental authorities:

- The affected deputy/assistant director.
- The affected Warden or RPA.
- The Deputy Director, Financial Management.
- The business manager of the affected institution.
- The specific project director.

Within 20 days of the notification of a grant award, the Budget Management Branch shall issue specific instructions for project implementation and fiscal requirement to all affected departmental units.

#### **101100.9 Contracts Interagency Agreement**

All contracts and/or interagency agreements for grant projects shall conform to the requirement of DOM 22040 and shall be submitted to the Budget Management Branch for review to assure compliance with granting agency requirements and program objectives.

#### **101100.10 Reporting Requirement**

Programmatic and financial reports and equipment inventory records are required for all grants awarded to the Department. When a granting agency provides specific reporting requirements, such requirements shall supersede this Section's provisions.

All reports shall be submitted directly to the Budget Management Branch for review and submission to the granting agency.

- Programmatic and financial reports for a calendar quarter shall be prepared and submitted within 15 working days following the end of the quarter.
- Grant award modifications shall be requested when necessary to achieve project objectives and shall include proper justification.
- Equipment inventory records shall be prepared when the equipment is received. Two copies shall be attached to the financial report for the quarter during which the equipment is received.
- All grant project records and supporting documents shall be complete, current, and available for audit during the grant period and for a period of five years from the date of the project's completion.
- Failure to submit required reports on time could result in the withholding of grant funds and/or the termination of the grant.

#### **101100.10.1 Programmatic Reports**

Programmatic reports shall:

- Describe activities and accomplishments during the reporting period, emphasizing project phases which have been completed (e.g., initial planning stage, completion of initial survey effort, purchases of required equipment, etc.).
- Cover major administrative development such as changes in personnel, project design, etc.
- Mention and discuss problem areas and critical observations, as well as project success.

Copies of any special reports, evaluation studies, publications, or articles prepared as a result of the project's operation shall be attached to the report.

#### **101100.10.2 Financial Reports**

The financial report shall provide a summary of the actual expenditures and anticipated expenditures (encumbrances) to date for each of the following categories:

- Personal services.
- Employee benefits.
- Consulting services.
- Operating expenses.
- Travel.
- Equipment.
- Minor capital outlay.
- Other (for any unusual items which do not fit into one of the other categories).

Budget Management Branches instructions for the particular grant project or the granting agency requirements provide directions for the types of expenses that are in each category.

If a grant award modification was made affecting the approved budget, then the financial report shall identify the modification by number and type.

The financial report shall be prepared using CDC Form 904, Financial Report for Grant Projects Summary.

A final financial report that includes all actual expenditures and no encumbrances shall be submitted within 90 days after the project termination.

#### **101100.11 Budget Revision**

A budget revision is required for a change within the approved budget that does not change the project scope, the total grant award amount, or the grant project period.

All budget revisions require Budget Management Branches prior approval. The granting agency's prior approval for budget revisions shall be required when:

- Transferring funds in or out of the equipment or minor capital outlay categories.
- Transferring funds into a category which has no funds budgeted.
- Transferring funds from one category to another in excess of the amount permitted by the granting agency.

Even though changes may not be requested in all categories, the current amounts of all categories shall be shown. Current category amounts refer to the amounts which were approved either originally with the grant award or subsequently as a result of a budget revision and/or grant award amendment. Parenthesis shall be used to indicate a decrease and the addition symbol "+" to indicate an increase of the category amounts in the proposed change column (3) of CDC Form 905, Grant Award Modification Request for Grant Projects.

#### **101100.12 Grant Award Amendment**

Grant award amendments are changes in the grant which affect the project scope, the total amount of the project budget, the date by which the project shall be completed, and the date by which all project debts shall be paid.

All grant award amendments require prior approval from both the Budget Management Branch and the granting agency.

When requesting additional funding, budget change column 4 of CDC Form 905 shall be used to indicate amount.

Substantial justification shall be provided for changes that require a grant award amendment.

CDC Form 905 shall be completed and submitted to the Budget Management Branch for grant award modification request.

#### **101100.13 Equipment Inventory Records**

All equipment purchases with grant funds for the project shall be inventoried and tagged in accordance with current departmental/institutional procedures and SAM 8630 through 8660.

Existing departmental/institutional inventory record form may be used. This form shall include:

- Grant project title.
- Grant award number.
- Grant contract number.
- A complete description of the equipment.
- Total cost of the equipment.

Two copies shall be submitted to the Budget Management Branch.

An equipment inventory record file shall be maintained for the life of the grant.

All subsequent changes to the equipment inventory, (e.g., changes in location, disposition, loss, etc.) shall also be submitted to the Budget Management Branch for updating purposes.

All equipment purchased with grant funds shall become departmental property at the end of the project period unless granting agency specifies otherwise.

#### **101100.14 Project Evaluation**

Each contract for a grant project shall contain a section that specifies an evaluation plan that shall, at a minimum, contain the following:

- The method by which each of the objectives shall be measured.
- The method that shall be used to determine the project's success in achieving its stated objectives; identification of the measures of success.
- Description of the method and type of data collection to include program participants and workload data.
- Description of any research techniques or methods which shall be used such as pre/post tests, control groups, and experimental groups, etc.

A completed evaluation report shall be presented to the Budget Management Branch no later than 90 days following the termination of the grant project.

The Budget Management Branch shall distribute the evaluation results to the appropriate deputy director, Warden, or RPA.

#### **101100.15 Revisions**

The Director, DCP, or designee, shall ensure the content of this Section is accurate and current.

#### **101100.16 References**

SAM § 900.

### **ARTICLE 11 — GIFTS AND DONATIONS**

*Revised March 11, 2003*

*Updated April 5, 2007*

#### **101110.1 Policy**

The California Department of Corrections and Rehabilitation (CDCR) shall accept gifts or donations if it is in the best interest of the CDCR and is consistent with current statutes, laws, regulations, etc. Only those gifts or donations that supplement the CDCR budgets or provide cost avoidance to the taxpayer without incurring any future expenditure related to the gift or donation shall be accepted.

Property acquired through gifts or donations shall become property of the State. Gifts and donations should be used exclusively for the purpose for which they were originally donated.

No officer or employee of the CDCR may, for private gain, accept or receive money or other compensation from anyone other than the State for the performance of his or her State duties. Nor may any officer or employee of the CDCR solicit, accept, or receive any gift or donation from anyone doing or seeking to do business with the State.

#### **101110.2 Purpose**

This Article establishes the requirements for the acceptance of gifts or donations in the best interest of the CDCR.

#### **101110.3 Responsibility, Headquarters**

##### **Secretary**

The Secretary of the CDCR may accept gifts or donations of goods or services not involving new expenditures of State funds.

##### **Office of Fiscal Services**

Acceptance of gifts or donations that generate a new expenditure of State funds is subject to approval of the Department of Finance (DOF). The Director or designee, Office of Fiscal Services (OFS) shall:

- Review and forward to DOF a CDC Form 922, Authorization to Accept Gifts or Donations, that has been approved and processed by Division of Community Partnerships (DCP).

##### **Other Divisions/Offices**

When a person or entity contacts a headquarters' unit with an offer of a gift/donation, the appropriate manager shall designate a staff person who shall:

- Complete the CDC Form 922.
- Obtain the signature of the appropriate Director/Deputy Director.
- Submit the signed authorization form to the DCP.

##### **Division of Community Partnerships**

The Director or designee, DCP, shall:

- Receive a quarterly report from each institution for the purpose of maintaining a statewide database on gifts and donations.
- Approve and process all gifts and donations that require DOF review.
- An assigned Manager in the DCP shall:
- Forward CDC Form 922 to the OFS, and monitor the approval process if the gift/donation has an impact on CDCR budgets.
- Approve all CDC Form 922s provided by the Division of Adult Parole Operations (DAPO) and headquarters.
- Maintain records of all approved gifts and donations to include donations identified on institutions quarterly reports.
- Provide technical assistance as needed.

#### **101110.4 Institutions**

##### **Warden**

The Warden of each institution shall authorize the acceptance of gifts and donations not impacting the CDCR budgets.

If the gift or donation has an impact on CDCR budgets, the Warden shall forward CDC Form 922 to the CRM in the OCR for processing through the OFS.

#### **Community Resources Managers, Division of Community Partnerships**

The Community Resource Managers (CRM) shall:

- Identify the equipment, supply, or material needs of the institution that can be met by solicitations of gifts or donations.
- When feasible, solicit contributions from public agencies and private enterprise that meet the identifiable needs of the institutions.
- When notified of the availability of a gift and/or donation, contact any program or administrative staff who may be affected by the gift and/or donation to determine if the gift and/or donation shall be accepted.
- Process the gift and/or donation items for necessary approvals in compliance with the provisions of this Article.
- Place all cash donations in a special purpose trust account.
- Obtain the Warden's signature on a CDC Form 922 when a gift and/or donation is appropriate for acceptance by the institution.
- Forward the CDC Form 922 to the DCP for approval by OFS for donations impacting the CDCR budgets.
- Notify appropriate institution staff when CDC Form 922 is approved by the Warden or DOF, as appropriate.
- Arrange for the efficient receipt of the gift and/or donation, delivery to the appropriate location, and the addition of the gift and/or donation to the institution property inventory (if applicable).
- Acknowledge appreciation to the donor(s) through written communication from the Warden and provide a copy of CDC Form 922 upon request (for tax purposes).
- Verify donated vehicle(s) has been approved by Department of General Services (DGS), Fleet Administration Representative. Attach the inspected approval document to CDC Form 922.
- Maintain a copy of the approved CDC Form 922 for a minimum of five years.

#### **Procurement Officer**

The institution Procurement Officer shall keep inventory records for all non-disposable property received as a gift or donation, in accordance with the inventory control guidelines as set forth in the Correctional Business and Administrative Support Systems.

#### **Food Manager**

The Food Manager shall monitor food donations to ensure compliance with the CDCR regulations for food safety, and DGS procurement standards.

#### **Associate Information Systems Analyst**

The Institution's Associate Information Systems Analyst will review all computer-related equipment, materials, and applications to ensure compliance with institution requirements.

#### **Staff**

Institution staff, as authorized by the Warden, may maintain direct communication with persons or entities wishing to provide a gift and/or donation. Upon offer of a gift and/or donation to a specific facility, staff in contact with the donor shall:

- Notify the facility CRM of the offer.
- Complete and submit to the facility CRM a CDC Form 922.

#### **101110.5 Division of Adult Parole Operations Field Units**

When a gift and/or donation is offered to any field unit or institution in the DAPO, the appropriate manager or unit supervisor shall appoint a staff person who shall:

- Complete CDC Form 922.
- Ensure that the authorization form is forwarded through the unit supervisor and Regional Parole Administrator to the Director, DAPO, for signature prior to submission. Submit the signed CDC Form 922 to the OCR.

Verify donated vehicles have been approved by the DGS, Fleet Administration Representative.

#### **101110.6 Revisions**

The Director, DCP, or designee shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **101110.7 References**

Government Code §§ 11005, 11005.2, 14660, and 19990.

PC § 5057.5.

SAM §§ 1376, 1377, 8602, 8614, 8634, and 8650.

American Correctional Association Standards §§ 2-4037, 2-4045, and 2-4437.

California Code of Regulations, Title 15, Sections 3413 and 3409.

### **ARTICLE 12 — LIBRARY AND LAW LIBRARY**

*Revised May 26, 2021*

#### **101120.1 Policy**

An inmate library shall be maintained by each facility, reception center, and camp; and, the inmate library shall operate according to an operation schedule approved by the Warden. The schedule shall be widely distributed to the inmate body, and posted throughout the facilities, reception centers, and camps. The library program shall allow for maximum inmate access and participation.

#### **101120.2 Purpose**

There shall be a general library and at least one law library in each facility with space to provide service to all segments of the facility population. Such areas shall contain space to accommodate State-owned books and non-print materials and to allow individual study of the available materials. Access to each library shall take into consideration the needs of general population inmates and inmates assigned to security, segregation, and other restricted housing units. The program shall include opportunity for independent study and research, general library services, legal library service, and circulation legal library services.

#### **101120.3 Responsibility**

(a) The Director, Division of Rehabilitative Programs, shall be responsible for the inmate library program.

(1) Superintendent of Education.

(A) The Superintendent of Education shall develop and monitor departmental inmate library policy.

(2) Senior Librarian.

(A) The Senior Librarian shall implement the facility library program and shall report to the Principal.

(3) Librarian.

(A) The Librarian is an entry level professional who can operate a smaller correctional library, undertake law library functions or act as a lead on or perform more complex library tasks.

(4) Library Technical Assistant (LTA).

(A) LTAs are paraprofessionals who perform basic library services such as photocopying, orientation, copy cataloging, circulation, overdue book notifications, book repairs, library inventories, or train and direct inmate library workers in those tasks. The Librarian and LTA may also operate small libraries under the technical direction of a Senior Librarian or Principal designee. The LTA provides reasonable accommodations and access to assistive devices as needed.

#### **101120.4 Library Services Criteria**

(a) On-Site Staff.

(1) Facility library staff (includes Senior Librarians, Librarians, and LTAs) shall provide library services and materials.

(b) Access.

(2) Library services shall be scheduled to provide adequate inmate access, while maintaining institutional security and operational needs.

(c) Collection Development.

(1) Library materials shall be selected and provided to meet the needs and interests of the entire inmate population. Materials provided shall encompass the American Correctional Association's and the American Library Association's recommended standards and shall be augmented by reference materials necessary to meet the needs of the facility's education programs. Suggestions and requests from inmates shall be solicited both informally by suggestion box and formally by an inmate library committee meeting with library staff on a scheduled basis.

#### **101120.5 Inmate Welfare Fund**

(a) Inmate Welfare Fund appropriations will be used to purchase:

(1) Publications such as: Newspaper and magazine subscriptions for library and entertainment purposes, and to supplement or support appropriation purchases.

(2) Fiction books, especially paperbacks, to supplement or support appropriation purchases.

### **101120.6 Establishing and Maintaining a General Library Collection**

(a) Required Reference Materials-Minimum Collection Facility.

(1) Each institution shall maintain at least one library that is accessible to inmates that contains the following reference materials in print or electronic formats:

- (A) An encyclopedia purchased within the last 10 years.
- (B) An unabridged dictionary purchased within the last 5 years.
- (C) A sign language dictionary purchased within the last 10 years.
- (D) A world almanac purchased within the last 5 years.
- (E) A world atlas purchased within the last 5 years. A road atlas shall not be included within the library collection.
- (F) A primary dictionary purchased within the last 5 years.
- (G) A visual dictionary purchased within the last 5 years.
- (H) A Spanish to English-English to Spanish dictionary purchased within the last 5 years.

### **101120.7 Required Material to be Included in the General Library Collection**

(a) Multi-cultural Material.

(1) The general library collection must contain a selection of ethnically diverse titles.

(b) Literacy Material.

(1) The general library collection must contain titles representing high interest and low level reading material.

(c) Education Support Materials.

(1) The general library collection must contain textbooks representing Career and Technical Education (CTE), academic, and reentry programs.

(d) Life Skills Materials.

(1) The general library collection must contain a selection of life skills materials, including, but not limited to:

- (A) Anger management.
- (B) Emotional health and wellbeing.
- (C) Substance abuse and disorders.
- (D) Career development.
- (E) Family relations.
- (F) Material related to living successfully inside and outside of prison.
- (e) Accommodations.

(1) The general library collection must contain library materials that meet the needs of inmates with disabilities.

### **101120.7.1 Donations to the General Library Collection**

(a) Library donations for the general library collection are encouraged at the institution level:

- (1) Inmates as well as staff and the general public shall be allowed to donate materials to the library.
- (2) Periodicals, hard back books, paperback books, pamphlets and non-print materials are acceptable. The covers of hard back books do not have to be stripped in order to be acceptable unless local written policy specifically addresses the issue.
- (3) Senior Librarians shall coordinate library donations.
- (4) Documentation of any donations is required. CDCR Form 922 is the standard form of donation authorization.
- (5) All donated library materials shall be inspected for safety, security, appropriateness, and usefulness before being placed in the collection.
- (6) The facility is under no obligation to accept all donations for placement in the library. Those items deemed unsuitable shall be officially discarded.

### **101120.7.2 Material Excluded From Inmate Libraries**

Printed material which describes the making of any weapons, explosive, poison, destructive device, or which in the Secretary's sole discretion depicts, portrays, or describes a sexual assault upon a correctional employee shall be excluded from publications furnished to facility inmate libraries. Obscene material and other forms of contraband, as described in California Code of Regulations, title 15, section 3006, shall be excluded from inmate libraries.

### **101120.8 Circulation of General Library Materials**

(a) To check out books and other library materials, inmates shall:

- (1) Present their identification or privilege card to the Librarian.
- (2) Sign a trust account withdrawal order before any books are checked out to them.

(3) Display books or other materials to correctional staff upon exiting the library.

(b) The standard check-out period will be two weeks. A library item can be renewed for an additional two weeks if there are no requests for the item. Check-out of materials can be performed either manually or via a computer. Inmates should review any item they plan to check out to ensure that there is no unnoted damage already present.

(c) Inmates who lose or damage books or library materials shall pay for them.

(d) Inmates shall not loan books to other inmates.

### **101120.8.1 Overdue, Damaged, or Lost Materials**

(a) An inmate's check-out privileges are temporarily suspended when an inmate has an overdue, damaged, or lost book until the issue has been resolved.

(b) Overdue Materials.

One standardized overdue notice will be sent to the inmate no sooner than two weeks after the due date. If the inmate does not respond within two weeks of their overdue notice, the inmate will be charged with a non-refundable fee that is the newest list price available in a reputable trade publication. Payment of the fee does not constitute payment for the book.

(c) Damaged Materials.

Damaged material will be inspected by library staff to determine if the material remains usable in its damaged state. A note will be placed in the body of the material noting observed damage, date and the initials of the library staff making the damage determination. If the damaged material requires repairs to continue to be usable, a non-refundable repair fee of five dollars will be charged to the inmate's trust account and a record of the repair will be maintained under the inmate's name. If the damaged material is not repairable, the replacement cost will be charged to the inmate. Payment of this fee does not allow the inmate to maintain possession of the damaged item. Library staff will determine how to dispose of the damaged item and whether the damaged item will be repurchased for the collection.

(d) Lost Materials.

Inmates who lose books or library materials shall pay for them. Library staff will use the newest list price available in a reputable trade publication and a record of the loss will be maintained under the inmate's name. Payment of the non-refundable cost does not transfer ownership of the book to the inmate.

### **101120.9 The Law Library**

(a) The inmate law library collection is intended to provide inmates with meaningful access to the courts.

(b) Abuse of Law Library.

(1) Disciplinary action for an inmate who is found to be guilty of a serious rule violation pertaining to law library resources, facilities, or staff may include a suspension of all access to the law library for up to 90 calendar days. This action does not preclude an inmate from pursuing legal research through the reasonable use of law library paging, beginning three calendar days after the date of suspension, and continuing until the suspension period ends.

### **101120.10 Inmate Access to Law Libraries**

(a) All inmates, regardless of their classification status, shall be entitled to law library access that is sufficient to provide meaningful access to the courts. Law library access includes use of the law library collection in print or electronic format, including remote access via kiosk, tablet, or other device, if available. Inmates on Priority Legal User (PLU) status may receive a minimum of 4 hours per calendar week of requested access, as resources are available, and shall be given higher priority to the law library resources. Inmates on General Legal User (GLU) status may receive a minimum of 2 hours per calendar week of law library access, as resources are available.

(b) Operational Schedule.

(1) Each facility head shall formulate an operational schedule for the inmate law library. This schedule shall include:

- (A) Daily hours of library operation.
- (B) Consideration to needs of inmates assigned to day work, training, or education.
- (C) Consideration to needs of inmates assigned to security, segregated, and other restricted housing units.
- (c) General Population Inmates.

(1) All inmates in the general population shall have access to the law library collection, consistent with this section. General population inmates who have received PLU status shall be given priority to the inmate law library collection.

(d) Restricted Housing Unit Access.

(1) All inmates confined in restricted housing units shall have access to the law library, consistent with this section. Inmates in restricted housing who

have received PLU status shall be given priority for escort by correctional officers to the inmate law library collection.

(e) Return-to-Custody and Conservation Camp Inmate Access.

(1) Return-to-Custody (RTC) inmates who request access to law library materials shall be transferred to the nearest facility for the period of time needed to complete their legal work. Conservation camp inmates requesting access to the law library shall be returned to their "hub" facility for the period of time needed to complete their legal research.

(f) Inmates Identified as Disabled.

(1) Inmates with visual or hearing impairments shall be afforded reasonable accommodations as necessary to facilitate their access to law library resources.

(2) Inmates in the Developmental Disability Program (DDP) shall also be afforded reasonable law library accommodations. DDP accommodations may include, but are not limited to, identification of legal research materials, and assistance in reading and scribing forms. Designated institutions shall have Library Technical Assistants (LTA) who are assigned to assist DDP inmates in their use of the law and general libraries. DDP LTAs and all other library staff shall not function as paralegals, nor provide any type of legal advice, explanation, opinion, or recommendation to an inmate about possible legal rights, remedies, defenses, options, selection of forms, or strategies.

(g) Paging.

(1) When unable to access the law library, an inmate may request access to legal material through delivery of those materials to the inmate by library staff. This process is referred to as law library paging. An inmate shall not be limited to law library paging for access to legal materials except under extraordinary circumstances including, but not limited to, the following:

(A) The inmate is directly under a prison lockdown or modified program.

(B) The inmate is under restricted movement due to their medical status.

(C) The inmate has been suspended from access to the law library pending investigation of a serious rule violation.

(h) When GLU inmates are limited to law library paging for any reason, law library staff must send the requested legal materials to their cells as soon as possible, but no later than 16 calendar days from the date of the paging request. Law library staff must send the requested materials to PLU inmates no later than 5 scheduled working days from the date of the paging request.

(i) Lockdown and Modified Program Access to the Law Library by Inmates.

(1) GLU inmates who are limited to law library paging due to a lockdown or modified program shall, whenever possible, have their law library collection access restored within 16 calendar days unless a high security risk continues to exist to prohibit law library collection access. PLU inmates limited to law library paging due to a lockdown or modified program shall have their law library collection access restored within 5 working days unless a high security risk continues to exist to prohibit law library collection access.

**101120.10.1 Access to the Law Library by Inmates with Established Court Deadlines**

(a) Inmates who have established court deadlines may apply for PLU status to the prison law libraries. Inmates who are granted PLU status shall receive higher priority to prison law library resources than other inmates. All inmates who are not on PLU status are on GLU status, unless otherwise restricted as set forth in Department Operations Manual (DOM) section 101120.10.

(b) An established court deadline may be either a court imposed deadline for an active case or a deadline that is established by a statute or court order. Inmates who apply for PLU status based on a court imposed deadline must show documentation from the court to verify that deadline.

(c) An inmate who is represented by an attorney for a case shall not be eligible for PLU status for any established court deadline pertaining to that case. An inmate with attorney representation for the established court deadline shall be entitled to GLU status only.

(d) Inmates shall complete and sign a CDCR Form 2171, Priority Legal User (PLU) Request and Declaration, to apply for PLU status. Except under extraordinary circumstances, law library staff shall have seven calendar days after receipt of the completed and signed CDCR Form 2171 to process an inmate's application. Staff members who disapprove an inmate's application shall provide the reasons for their disapproval on the form and shall provide a copy of that document to the inmate.

(e) An inmate who is found to have provided false information on their application for PLU status shall be guilty of an administrative rule violation and shall not be able to obtain PLU status based on that application.

(f) An inmate's PLU status shall begin no earlier than 30 calendar days before the established court deadline unless the inmate can demonstrate need for a longer period of PLU status based on extraordinary circumstances beyond the inmate's control.

(g) PLU status is intended to assist inmates to do legal work in a quiet law library setting. An inmate on PLU status who, while in the law library, is observed by staff to act in an unreasonably disruptive manner or to engage in non-legal work, shall be removed from the PLU list and shall be dismissed from the library for that day. Inmates who are removed from the PLU list for these reasons shall be ineligible to reapply for PLU status for 30 calendar days, but may continue to use the law library on GLU status.

(h) Inmates may not trade, transfer, or delegate their PLU status to other inmates. An inmate who assists another inmate in the preparation of legal documents may not use the PLU status of the inmate being assisted.

**101120.11 Establishment of the Law Collection and Description**

(a) Each institution shall maintain at least one law library collection for the use of inmates. Except for items that are no longer published, the law library collection shall include, but shall not be limited to the following legal materials, latest edition or update, or their equivalent from other publishers:

(b) Codes.

(1) Deering's California Codes Annotated.

(2) Michie, United States Code Service.

(c) Reporters.

(1) Michie, California Official Reports.

(2) Matthew Bender, California Criminal Defense Practice.

(3) All Federal Appeals Court Cases.

(4) All Federal District Court Cases.

(5) All United States Supreme Court Cases.

(d) Shepards.

(1) United States Citations.

(2) Federal Citations.

(3) California Citations.

(e) Secondary Sources.

(1) A recognized law dictionary, such as Black's or Ballentine's.

(2) Matthew Bender, California Evidence Courtroom Manual.

(3) Matthew Bender, California Forms of Pleading and Practice.

(4) The Daily Journal.

(5) Matthew Bender, California Criminal Discovery.

(6) Matthew Bender, Standard California Codes: Rules of Court.

(7) Michie, Federal Habeas Corpus Practice and Procedure.

(8) California Code of Regulations.

(9) California Family Law Litigation Guide.

(10) California Family Law Practice and Procedure.

(11) Civil Rights Actions.

(12) Cotchett, California Courtroom Evidence.

(13) California Juvenile Courts Practice and Procedure.

(14) California Superior Court Local Rules.

(15) Judicial Council of California Civil and Criminal Jury Instructions.

(16) Matthew Bender, Moore's Federal Practice.

(17) Anderson, Constitutional Rights of Prisoners.

(f) Electronic Collection.

An institution may have as many copies of the Law Library Electronic Delivery System (LLEDs) of legal titles placed in their general population libraries as needed. Each computer loaded with a copy must be licensed.

**101120.12 Maintaining a Current Law Library Collection**

(a) Print Law Library.

(1) Law books not listed in DOM section 101120.11, but currently existing at various facilities, may be retained in facility law libraries if they are not out of date, but need not be replaced in case of loss, theft, or mutilation.

(b) Electronic Formats.

(1) Electronic collections shall be kept current. A continuing subscription to electronic law library material shall be maintained to ensure accuracy.

(2) Desktop LLEDs computers shall be updated by institutions' information systems staff within 10 business days of receipt. Touch screen kiosks shall be updated by local library staff within 10 business days of receipt.

**101120.13 Law Library Budget and Legal Material Replacement Procedures**

(a) Purchasing procedures for replacement of lost or damaged legal materials, updating the collections, obtaining supplements, revisions, and subscriptions include:

(1) Purchases of the annual subscriptions required to keep each inmate law library collection current, and materials to replace items lost or damaged shall be made by headquarters procurement staff. Such purchases are to be made from inmate law library funds, not regular library funds.

(2) Purchases of mandated law materials lost, damaged, stolen, or missing from the facility law library shall be coordinated by headquarters library staff. The Senior Librarian or designated library staff shall complete an annual inventory of the inmate law library and report to the Principal Librarian any lost, stolen, or missing print or electronic items or items damaged beyond use.

(3) Purchases of law books and other legal materials not on the required list shall be the responsibility of the facility.

#### **101120.14 The Circulating Law Library**

(a) As determined by the Superintendent of Education or their designee, the following supplemental legal materials or their equivalent from other publishers in electronic format, except for items that are no longer published, shall be available by means of the Law Library Electronic Delivery System (LLEDs):

(1) California Jurisprudence (latest edition).

(b) Function.

(1) The function of the circulating law library shall be to transfer digital and electronic materials to facility law libraries for the temporary use of the inmates in those facilities.

(c) Method.

(1) No inmate may request law library materials directly from the circulating law library. All requests must be processed through the library staff member designated to request materials from the circulating law library.

(2) Upon receiving a request from an inmate for a particular citation from the circulating law library, a facility Librarian shall immediately order that material from the Librarian of the circulation law library. The Librarian of the circulating law library shall dispatch the citation to the requesting facility Librarian immediately upon receipt of the request, or notify the requesting Librarian that the requested item is unavailable. When the material is received at the facility library, the Librarian shall immediately notify the requesting inmate.

(3) No inmate shall request more than five citations from the circulating law library during any one-week period.

(4) The circulating law library shall be operated in such a manner as to ensure all inmates have maximum access to the citations contained in said library.

(5) CDCR may contract the actual operation of the circulating law library to another agency providing that the required standards of service are retained.

#### **101120.15 Photocopying and Computer Print-outs**

(a) Legal duplication services may be provided to inmates for the purposes of initiating or maintaining a court action. The printed forms required by state and federal courts shall be made available to inmates. An inmate shall be required to pay for the duplication of printed forms and other written or typed materials, and for any special paper and envelopes required for mailing to the courts so long as the inmate has more than \$1.00 in their trust account or the inmate has attorney representation for the court action. An inmate who is indigent, and is without attorney representation for the court action, shall receive legal duplicating services without charge.

(b) A legal document to be duplicated for any inmate, including all exhibits and attachments, shall be limited to the maximum number of pages needed for the filing, not to exceed 50 pages in total length. Inmates requesting copy services must clearly identify the pages to be copied. Requests by an inmate to duplicate a legal document exceeding 50 pages in length shall be granted when accompanied by a reasonable written explanation of the need. All inmate requests for duplication services must comply with applicable regulations and with DOM chapter 1, article 18, sections 14010.21 through 14010.21.4.

(c) All documents submitted for copying must be complete and ready for mailing.

(d) Copies of law book pages, law review articles, and other documents listed in DOM section 14010.21.3 shall not be duplicated without charge to the inmate.

#### **101120.16 Reporting Library Statistics and Activities**

(a) A Quarterly Library Operations Report shall be completed and submitted no later than the fifteenth day of the first month of each quarter for the preceding quarter, and shall be sent to the Principal Librarian.

(b) At the end of the fiscal year, an annual report shall be completed and submitted no later than the last working day of the first month in the new fiscal year. The Annual Report should include a brief narrative, no longer than one

page, describing the achievements and challenges of the library program during the preceding year.

#### **101120.17 Revisions**

The Director, Division of Rehabilitative Programs shall be responsible for ensuring that the contents of this Article are kept current and accurate.

#### **References**

Penal Code §§ 2600 and 5058.

California Code of Regulations, title 15, division 3 §§ 3006, 3120, 3121, 3122, 3123, 3124, 3161, 3162, 3164, 3331(i), 3331(j), 3343(i), and 3405.

#### **Revision History**

Revised: November 4, 2015.

Revised: May 26, 2021.