

REGULATION AND POLICY MANAGEMENT BRANCH

P.O. Box 942883
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June 6, 2023

NOTICE OF CHANGE TO TEXT AS ORIGINALLY PROPOSED

Pursuant to the provisions of Government Code Section 11346.8(c) and Section 44 of Title 1 of the California Code of Regulations (CCR), the California Department of Corrections and Rehabilitation (CDCR or the department) hereby provides notice of proposed changes made to CCR Sections regarding the Condemned Inmate Transfer Program. The department proposes to amend sections 3023, 3075, 3097, 3122, 3161, 3375, 3375.2, 3375.3, 3375.4, 3375.5, 3376.1, and 3377.2 within the CCR, Title 15, Division 3, Chapter 1.

You are receiving this notice because you provided a comment regarding the proposed regulations or are directly affected by the regulations.

Notice of Change to Regulations 23-01 was published in the OAL Regulatory Notice Register on January 20, 2023. The department has determined that changes to the proposed regulations are necessary.

Amendments to the proposed text originally noticed to the public are indicated by **bold double underline** for newly added text and ~~**bold double strikethrough**~~ for text deleted from the original proposed text. The single underline formatting from the original proposed text noticed to the public has been retained in this amended text. These proposed changes are being made available for public comment. Only those comments relating directly to the amendments indicated by **bold double underline** or ~~**bold double strikethrough**~~ will be considered.

The attached regulation text contains the following changes:

Subsection 3023(f) is deleted in its entirety, as the references to Penal Code and local operating procedures are no longer accurate or relevant. Condemned inmates will now be subject to the same regulations as all inmates as it relates to Security Threat Group behavior.

Subsection 3075(j) is amended to correct an erroneous reference to a Penal Code section. This amendment does not change the meaning or effect of the proposed regulations.

Subsection 3097(c) is amended to add the phrase “and shall transfer those funds to the California Victim Compensation Board pursuant to Penal Code sections 2085.5 and 2717.8” to be consistent with newly adopted subsection 3097(d).

Subsection 3097(d) is amended to add language clarifying that the funds collected will be distributed to the California Victim Compensation Board pursuant to penal code. This language is necessary for clarity regarding the disposition of funds collected for restitution. Additionally, this subsection is amended to establish that only the collection of restitution fines ordered in the

condemned case shall be stayed unless ordered by the court, as condemned inmates may continue to owe restitution on non-capital cases that are not statutorily stayed.

Subsections 3097(e), 3097(f), and 3097(g) are amended to correct a reference to the Restitution Fund to match statutory language. These amendments do not change the meaning or effect of the proposed regulations. Additionally, subsection 3097(g) is amended to add the phrase “and shall transfer those funds to the California Victim Compensation Board pursuant to Penal Code sections 2085.5 and 2717.8” to be consistent with newly adopted subsection 3097(d).

Subsection 3097(k) is amended to add the phrase “deductions prohibited by state or federal law” to comply with the provisions of Penal Code section 2085.5, and to make clear that CDCR will similarly comply with any state laws governing deductions for restitution. This is an existing provision of the penal code that was not previously codified in subsection 3097(k), which lists types of funds that are exempt from direct orders of restitution.

Authority and Reference citations for subsection 3097 are amended to add two Penal Code sections and a reference to a relevant court case. Additionally, section 2700.1 was added as part of the initial changes made during this rulemaking action, however, this reference was not underlined as it should have been. This clerical error has been corrected.

Section 3375 is amended to change the revision date of the CDCR Forms 839, 840, and 841. These forms are being amended as part of this renounce, as described below under Documents Incorporated by Reference.

Section 3375.2 is amended to correct numbering of subsections only. These amendments do not change the meaning or effect of the proposed regulations.

Section 3375.3 is amended to change the revision date of the CDCR Forms 839 and 840, as described below under Documents Incorporated by Reference.

Section 3375.4 is amended to change the revision date of the CDCR Forms 839, 840, and 841, as described below under Documents Incorporated by Reference. This section is also amended to update the acronym of the department to “CDCR” to accurately reflect its current name.

Section 3375.5 is amended to change the revision date of the CDCR Forms 839, 840, and 841, as described below under Documents Incorporated by Reference, and to update the acronym of the department to “CDCR” to accurately reflect its current name.

The Note for section 3376.1 is amended to add two Penal Code references that are relevant to the provisions contained in this section.

Documents Incorporated by Reference contain the following changes:

CDCR Form 839 (Rev. 05/23), CDCR Classification Score Sheet; CDCR Form 840 (Rev. 05/23), CDCR Reclassification Score Sheet; and CDCR Form 841 (Rev. 05/23), Readmission Score Sheet, have been amended to establish a mandatory minimum classification score of 19 for both condemned inmates and inmates sentenced to life without the possibility of parole (LWOP). This amendment is supported by research cited within the 2011 Expert Panel study that LWOP inmates are less likely to engage in violent behavior than inmates sentenced to lengthy determinate prison terms. Therefore, this change will help to ensure Level III housing availability

for inmates who pose greater risks to the safety and security of the public, staff, and inmates relative to positively programming LWOP inmates.

Amending the mandatory minimum classification score will allow condemned inmates to be housed with the general population consistent with their specific case factors and security concerns and will provide enhanced opportunities for work, consistent with Proposition 66, and other rehabilitative programming.

Condemned inmates previously had a mandatory minimum classification score of 60 points, and LWOP inmates previously had a mandatory minimum classification score of 36 points.

Amending the mandatory minimum classification score will allow condemned inmates to be housed with the general population consistent with their specific case factors and security concerns and will provide enhanced opportunities for work, consistent with Proposition 66, and other rehabilitative programming.

Due to the institutional design of the condemned housing at San Quentin State Prison (SQSP), and availability of work assignments, CDCR is unable to meet the work mandate as noted in Penal Code 2700.1 within the confines of SQSP, thus necessitating the transfer of condemned inmates.

Notice of Proposed Regulations – Fiscal Impact Statement contains the following changes in bold double underline:

The Notice of Proposed Regulations included the following Fiscal Impact Statements. Amendments to these statements are shown below in bold double-underline.

FISCAL IMPACT STATEMENT

- Cost or savings to any state agency: *Savings of \$21,258,000 annually* **to CDCR. Based upon the department’s assessment of Government Code section 11346.5(a)(6), no other state agency will incur any costs in reasonable compliance with the proposed regulations, as these regulations solely govern CDCR’s housing and management as it specifically pertains to incarcerated individuals sentenced to death, within the confines of its institutions. The proposed regulations impose no new compliance mandates or obligations upon any other state agency.**
- Cost to any local agency or school district that is required to be reimbursed: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

Contact Person

Inquiries regarding this notice should be directed to Joshua Jugum, Regulation and Policy Management Branch, California Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (916) 445-2266, or e-mail at RPMB@cdcr.ca.gov. In the event the contact person is unavailable, inquiries should be directed to Ying Sun, Associate Director, RPMB, at (916) 445-2269.

Submission of Public Comments

The comment period for these revisions will close on **June 21, 2023**. Please submit comments by e-mail to RPMB@cdcr.ca.gov; in writing to Joshua Jugum, Regulation and Policy Management Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA, 94283-0001, before the close of the public comment period. Comments must be received or postmarked no later than June 21, 2023. Only those comments relating directly to the enclosed amendments indicated by **bold double underline** or ~~**bold double strikethrough**~~ will be considered.



YING SUN, Associate Director
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation

Attachments

TEXT OF PROPOSED REGULATIONS - RENOTICE

In the following text, **bold double underline** indicates newly adopted text since the text originally noticed to the public as part of Notice of Change to Regulations (NCR) 23-01, and ~~**bold double underline**~~ ~~strikethrough~~ indicates text deleted from the text originally noticed to the public. The original underline and strikethrough formatting from NCR 23-01 has been retained.

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

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

Chapter 1. Rules and Regulations of Adult Operations and Programs

Article 1. Behavior

3023. Security Threat Group (STG) Behavior

Subsections 3023(a) through 3023(e) are unchanged.

Existing Subsection 3023(f) is deleted.

~~(f) Condemned inmates are subject to Security Threat Group identification, prevention, and management sections 3378.4(a), 3378.5, and 3378.6. All other provisions for the identification and management of Security Threat Group affiliates within the condemned population are governed by Penal Code section 3600(b)(1) and by local operating procedures.~~

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

Article 6.5. Intake, Release and Discharge of Inmates

3075. Initial Intake and County Reimbursements.

Subsections 3075(a) through 3075(h) are unchanged.

New subsections 3075(i) and 3075(j) are adopted.

(i) All condemned male inmates shall be delivered to San Quentin State Prison, pursuant to Penal Code section 3600.

(j) All condemned female inmates shall be delivered to the Central California Women's Facility, pursuant to Penal Code section 3601~~2~~.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 1202a, 1203.03, 1216, 1217, 2081.5, 2901, 3058.5, 3600, 3601, 3602, 4016.5(a), 4537, 4750, 4751 and 5054, Penal Code; and Section 19853, Government Code.

Subchapter 2.

Article 1.5. Inmate Wages and Deductions

3097. Inmate Restitution Fine and Direct Order Collections.

Existing subsections 3097(a) through 3097(c) are amended:

(a) When an inmate owes any obligation pursuant to a direct order of restitution imposed by a court, the department shall deduct 30 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits, regardless of the source of such income, subject to the exemptions enumerated in subsection (jk). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 33 percent. A maximum deduction of 33 percent shall remain in effect through December 31, 2004 at which time subsection (b) shall take effect.

(b) Effective January 1, 2005, when an inmate owes any obligation pursuant to a direct order of restitution imposed by a court, the department shall deduct 40 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income, subject to the exemptions enumerated in subsection (jk). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 44 percent. A maximum deduction of 44 percent shall remain in effect through December 31, 2006 at which time subsection (c) shall take effect.

(c) Effective January 1, 2007 and thereafter, when an inmate owes any obligation pursuant to a direct order of restitution imposed by a court, the department shall deduct 50 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income, subject to the exemptions enumerated in subsection (jk) **and shall transfer those funds to the California Victim Compensation Board pursuant to Penal Code sections 2085.5 and 2717.8.** ~~In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 55 percent.~~

New subsection 3097(d) is adopted to read:

(d) Effective October 25, 2017 and thereafter, when a condemned inmate owes any obligation pursuant to a direct order of restitution or to a restitution fine imposed by a court, the department shall deduct 70 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income, subject to the exemptions enumerated in subsection (k) **and shall transfer those funds to the California Victim Compensation Board pursuant to Penal Code sections 2085.5 and 2717.8.** The collection of restitution fines from condemned inmates, **on their condemned case only,** is stayed until their capital appeals are exhausted. Deductions for direct orders of restitution are not stayed, **unless otherwise ordered by the court.**

Existing subsection 3097(d) is renumbered to 3097(e) and is amended to read:

~~(d)~~ When an inmate owes any obligation pursuant to a restitution fine imposed by a court, the department shall deduct 30 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits, regardless of the source of such income, subject to the exemptions enumerated in subsection (jk). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a

maximum deduction of 33 percent. The amount deducted, less the administrative fee, shall be transferred to the California ~~Victim Compensation and Governing Claims Board~~ Victims Compensation Board for deposit in the ~~Crime Victims'~~ Restitution Fund ~~in the State Treasury~~. The inmate shall be credited for the amount deducted, less the administrative fee, against the amount owing on the fine. A maximum deduction of 33 percent shall remain in effect through December 31, 2004 at which time subsection (ef) shall take effect.

Existing subsection 3097(e) is renumbered to 3097(f) and is amended to read:

(ef) Effective January 1, 2005, when an inmate owes any obligation pursuant to a restitution fine imposed by a court, the department shall deduct 40 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income subject to the exemptions enumerated in subsection (jk). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 44 percent. The amount deducted, less the administrative fee, shall be transferred to the California ~~Victim Compensation and Government Claims Board~~ Victims Compensation Board for deposit in the ~~Crime Victims'~~ Restitution Fund ~~in the State Treasury~~. The inmate shall be credited for the amount deducted, less the administrative fee, against the amount owing on the fine. A maximum deduction of 44 percent shall remain in effect through December 31, 2006 at which time subsection (fg) shall take effect.

Existing subsection 3097(f) is renumbered to 3097(g) and is amended to read:

(fg) Effective January 1, 2007, and thereafter, when an inmate owes any obligation pursuant to a restitution fine imposed by a court, the department shall deduct 50 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income subject to the exemptions enumerated in subsection (jk) and shall transfer those funds to the California Victim Compensation Board pursuant to Penal Code sections 2085.5 and 2717.8. In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 55 percent. Effective January 1, 2022 and thereafter, the administrative fee shall no longer be deducted. The amount deducted, less the administrative fee if any, shall be transferred to the California ~~Victim Compensation and Government Claims Board~~ Victims Compensation Board for deposit in the ~~Crime Victims'~~ Restitution Fund ~~in the State Treasury~~. The inmate shall be credited for the amount deducted, less the administrative fee if any, against the amount owing on the fine.

Existing subsection 3097(g) is renumbered to 3097(h) and is unchanged.

(gh) When an inmate owes both a restitution fine and a direct order of restitution from a sentencing court, the department shall collect on the direct order(s) of restitution first. Upon satisfaction of the direct order(s) of restitution, collection of any unsatisfied restitution fine(s) shall commence until paid in full.

Existing subsection 3097(h) is renumbered to 3097(i) and amended to read:

(hi) Fines and direct orders of restitution shall be collected from inmates ~~or~~ or parolees who owe restitution while the inmate ~~or~~ or parole violator remains under the jurisdiction of the department, with certain exceptions, set out in subsection (jk).

Existing subsection 3097(i) is renumbered to 3097(j) and amended to read:

(~~h~~) Fines and direct orders of restitution may be collected from inmates and parole violators housed in a ~~Reception Center~~ any CDCR facility, Community Correctional Center, Community Correctional Facility, Community Correctional Reentry Center, Restitution Community Correctional Center or Return to Custody Substance Abuse Treatment Facility. Fines and direct orders of restitution may also be collected from inmates in the Community Prisoner Mother, Family Foundations Programs and the Alternative Custody Program.

Existing subsection 3097(j) is renumbered to 3097(k) and is amended to read:

(~~j~~) Joint Venture Program deposits, funds designated to pay the costs of a family visit (“family visit funds”), Temporary Community Leave funds, federal disability payments, veteran benefits, any reimbursement to an inmate as a result of a claim for lost or damaged property, deductions prohibited by state or federal law, or money reimbursed to an inmate due to a failed attempt to purchase merchandise are exempt from deductions for fines and direct orders of restitution enumerated in subsections (a), (b), (c), (d), (~~e~~), ~~and~~ (f), and (g).

Existing subsection 3097(k) is renumbered to 3097(l) and is amended to read:

(~~k~~) Family visit funds and Temporary Community Leave funds shall be so designated by the sender on Form 1839 (Rev. 5/97), Exemption of Family Visit/Temporary Community Leave Funds From Restitution Fines/Orders, to be completed in its entirety and returned to staff with the appropriate funds. Any funds received for either of these two purposes that are not accompanied by the prescribed form, properly completed, shall be deposited in the inmate's trust account and shall be subject to a deduction for restitution pursuant to subsections (a), (b), (c), (~~d~~), (~~e~~), and (~~f~~)(g).

Existing subsections 3097(l) through 3097(o) are renumbered to 3097(m) through 3097(p) respectively, and are amended to read:

(~~l~~) Existing funds from the inmate's trust account can be used to pay for a family visit or a Temporary Community Leave. Upon the inmate's request, a hold will be placed on a specified portion of these funds to pay for the upcoming family visit or Temporary Community Leave. The inmate shall not use these designated funds for any other purpose other than the planned family visit or Temporary Community Leave. Should the family visit or Temporary Community Leave not take place then the hold previously placed on the funds shall be removed and no restitution deduction shall be made.

(~~m~~) If the family visit does not occur, then the funds provided by the family member and designated for the family visit on Form 1839 (Rev. 5/97), shall have a permanent hold placed on them in the inmate's trust account for a future family visit or until the inmate is released on parole. Should the inmate transfer to another institution, the hold shall be removed, the funds deposited into the inmate's trust account, and no restitution deduction shall be made.

(~~n~~) If the Temporary Community Leave does not occur, then the funds provided by the family member and designated for the leave on Form 1839 (Rev. 5/97), shall be refunded to the sender.

(~~o~~) Any remaining balance on the Temporary Community Leave fund provided by a family member for a Temporary Community Leave that took place shall be refunded to the sender.

Note: Authority cited: Sections 5058, 5058.3 and 1170.05, Penal Code. Reference: Sections 1170.05, 1243, 2085.5, 2700.1, 2717.8, and 5054, Penal Code, People v. Chhoun (2021) 11 Cal.5th 1.

Article 3. Library.

3122. Inmate Law Library.

Existing subsections 3122(a) through 3122(b)(7) are unchanged. Subsection 3122(b) is shown for reference.

(b) Inmates who have established court deadlines may apply for Priority Legal User (PLU) status to the prison law libraries. Inmates who are granted PLU status based on their application shall receive higher priority to prison law library resources than other inmates. All inmates who are not on PLU status are on General Legal User (GLU) status.

New subsection 3122(c) is adopted to read:

(c) Following initial classification and custody designation, condemned inmates shall automatically be granted PLU status to prepare appeal(s) of their capital conviction. When a condemned inmate either exhausts their capital appeal(s) or is resentenced by a court to a term other than a death sentence, then section 3122(b) shall apply.

Existing subsections 3122(c) and 3122(d) are renumbered to 3122(d) and 3122(e) respectively, and are unchanged.

(~~e~~) Inmates may not in any way trade, transfer, or delegate their PLU status to other inmates. An inmate who assists another inmate in the preparation of legal documents, as described in section 3163, may not use the PLU status of the inmate being assisted.

(~~e~~) An inmate in a facility without a law library and requesting access to such resources shall be transferred to a facility with a law library of departmental choosing for the period of time needed to complete legal work.

Article 6. Legal Documents.

Section 3161. Inmate-Owned Legal Materials.

Section 3161 is amended to read:

(a) Inmate-owned legal materials~~,_~~ documents, law books~~,_~~ and papers shall be limited to the availability of space authorized by section 3190(b) for personal property in the inmate's quarters~~/_~~ or living area~~,_~~ except as specified in this section. Inmates may possess up to one cubic foot of legal materials~~/_~~ or documents related to their active cases, in excess of the six cubic feet of allowable property in their assigned quarters~~/_~~ or living area. Legal materials~~,_~~ documents, law books~~,_~~ and papers in excess of this limitation shall be disposed of pursuant to section 3191(c). Inmates may request the institution~~/_~~ or facility store excess legal materials~~/_~~ or documents related to their active cases(s) when such materials/documents exceed this one cubic foot additional allowance. Non-condemned inmate-owned law books in excess of the additional allowance shall not be stored by the institution/_ or facility. Institutions or facilities shall provide for the storage of

excess legal materials, law books, or documents related to active commitment cases of condemned inmates.

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

Subchapter 4. General Institution Regulations.

Article 10. Classification.

3375. Classification Process

Subsections 3375(a) through 3375(i) are unchanged.

Subsection 3375(j) is amended to read:

(j) A CDCR Form 839, (Rev. ~~07/12~~ 05/23), CDCR Classification Score Sheet, shall be prepared pursuant to section 3375.3 on each newly received felon.

Subsection 3375(j)(1) through (j)(4) are amended to read:

Subsection 3375(k) is amended to read:

(k) A CDCR Form 840 (Rev. ~~07/12~~ 05/23), CDCR Reclassification Score Sheet shall be prepared pursuant to section 3375.4 as part of the regular, continuous classification process. If an inmate's recalculated placement score is not consistent with the institution/facility security level where the inmate is housed, the case shall be presented to a CSR for transfer consideration.

Subsections 3375(k)(1) through 3375(k)(1)(C) are unchanged.

Subsection 3375(k)(2) is amended to read:

(k)(2) A CDCR Form 841 (Rev. ~~07/12~~ 05/23), CDCR Readmission Score Sheet, shall be completed pursuant to section 3375.5 as part of the readmission process when a parolee is returned to prison.

Subsection 3375(l) is unchanged.

3375.2 Administrative Determinants.

Subsections 3375.2(a)(1) through 3375.2(a)(6) are unchanged.

New subsection 3375.2(a)(7) is adopted to read:

(7) Condemned inmates shall not be housed in a facility with a security level lower than that which is authorized to house LWOP inmates. A condemned inmate shall not be housed in a facility with a security level lower than Level II, except when authorized by the DRB. Additionally, a condemned inmate housed within a general population facility shall be housed in a facility with a lethal electrified fence as defined in section 3000. Female condemned inmates shall only be housed at the Central California Women's Facility.

Existing subsections 3375.2(a)(7) through 3375.2(a)(14) are renumbered to 3375.2(a)(8) through 3375.2(a)(15) respectively, to accommodate new subsection 3375.2(a)(7).

~~(78)~~ An inmate serving a life term with the possibility of parole shall not be housed in a non-secure facility as defined in section 3000 nor assigned to a program outside a security perimeter unless the exceptional criteria specified within this subsection have been met. Exceptions may only occur when Board of Parole Hearings (BPH) grants parole, the release date is within 3 years, and the Governor's Office has completed its review and either formally approved parole or taken no action. When all three conditions are met and the inmate is otherwise eligible for a custody reduction, the inmate shall be evaluated by an ICC for the custody reduction.

Subsection 3375.2(a)(9), formerly subsection 3375.2(a)(8), is amended to read:

~~(89)~~ An inmate serving a life term with the possibility of parole shall be housed in a facility with a security level of II or higher, unless the exceptional criteria specified within subsections 3375.2(a)~~(78)~~ or 3375.2(a)~~(910)~~~~(A)~~ through 3375.2(a)~~(910)~~~~(I)~~ have been met.

~~(910)~~ An inmate serving a life term with the possibility of parole may be housed in a secure Level I facility as defined in section 3000 when all of the following criteria are met:

Subsections 3375.2(a)(10)(A) through 3375.2(a)(10)(I) are unchanged.

~~(1011)~~ An inmate serving a life term whose placement score is not consistent with a Level I security level shall not be housed in a Level I facility except when approved by the Departmental Review Board.

~~(1112)~~ An inmate whose death sentence is commuted or modified shall be transferred to a reception center for processing after which an ICC action and subsequent endorsement by a CSR shall determine the inmate's initial facility placement.

~~(1213)~~ An inmate with a case factor described in subsections 3377.2(b)(2)(A), 3377.2(b)(2)(B) or 3377.2(b)(2)(C), shall be ineligible for minimum custody. An inmate with a history of one or more walkaways from nonsecure settings, not to include Drug Treatment Furlough, Community Correctional Reentry Centers, and Community Reentry Programs, shall not be placed in minimum custody settings for at least 10 years following the latest walkaway.

~~(1314)~~ A validated STG-I associate or member may be granted Minimum A or Minimum B Custody on a case-by-case basis. Designation of Minimum A or Minimum B Custody for a validated STG-I associate or member requires a review of the totality of the inmate's case factors by an ICC and a determination that their housing with such a level of custody would not pose a threat to the safety and security of the institution, inmates, staff, and public.

Subsections 3375.2(b) through 3375.2(b)(31) are unchanged.

Note: Authority cited: Sections 3600, 5058 and 5058.3, Penal Code. Reference: Sections 3450, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Wright v. Enomoto* (N.D. Cal. 1976) 462 F. Supp. 397; and *Stoneham v. Rushen* (1984) 156 Cal. App. 3d 302.

3375.3. CDCR Classification Score Sheet, CDCR Form 839, Calculation.

Subsection 3375.3 is amended to read:

This section incorporates by reference CDCR Form 839 (Rev. ~~07/12~~ 05/23), Classification Score Sheet.

The factors and related numerical weights used to determine an inmate's preliminary score are listed below. Box numbers appear to the right, but refer to the first box on the left of each field.

(a) Background factors (Boxes 30-46):

(1) Age at first arrest (Boxes 30-31).

(A) Calculate the inmate's age at first arrest based on the date of the inmate's first arrest. If there is no record of arrests prior to the commitment offense, use the date of arrest for the commitment offense as the date of the inmate's first arrest on CDCR Form 839 (~~Rev. 07/12~~), CDCR Classification Score Sheet.

Subsections 3375.3(a)(1)(B) through 3375.3(a)(3)(B)4. are unchanged.

Subsection 3375.3(a)(3)(C) is amended.

(C) If, subsequent to endorsement of the CDCR Form 839, the inmate receives a new term, record the change in term points, if any, on a CDCR Form 840 (Rev. ~~07/12~~ 05/23), Reclassification Score Sheet, as a result of this new term. Do not correct the CDCR Form 839.

Subsections 3375.3(a)(4) through 3375.3(g)(2) are unchanged.

3375.4. CDCR Reclassification Score Sheet, CDCR Form 840, Calculation.

Subsection 3375.4 is amended to read:

This section incorporates by reference CDCR Form 840 (Rev. ~~07/12~~ 05/23), Reclassification Score Sheet.

The factors and their related numerical weights used to recalculate an inmate's preliminary score or new preliminary score are listed below. Box numbers appear to the right but refer to the first box on the left of each field.

Subsections 3375.4(a) through 3375.4(c)(2) are unchanged.

Subsections 3375.4(d) through 3375.4(d)(4) are amended.

(d) Prior Preliminary Score (Boxes 73-75):

(1) The prior preliminary score is the calculated score that appears on the most current classification score sheet. Enter that value in Boxes 73-75.

(2) When the most current score appears on the CDCR Classification Score Sheet, CDCR Form 839, (Rev. ~~07/02~~ 05/23) or later, enter the value from that score sheet that is the preliminary score.

(3) When the most current score appears on the CDCR Reclassification Score Sheet, CDCR Form 840, (Rev ~~07/02~~ 05/23) or later, enter the value from that score sheet that is the new preliminary score.

(4) When the most current score appears on the CDCR Readmission Score Sheet, CDCR Form 841, (Rev. ~~07/02~~ 05/23) or later, enter the value from that score sheet that is the new preliminary score.

Subsections 3375.4(e) through 3375.4(g)(2)(C) are unchanged.

Subsection 3375.4(g)(3) is amended.

(3) For parole violators: If a parole violator receives a new term after the CDCR Form 841 (Rev. ~~07/12~~ 05/23) has been endorsed, the prior term points shall be given a minus value and combined with new term points. The difference is the change in term points.

(4) Do not record a change in term points unless there is a change in the total term.

Subsections 3375.4(g)(4) through 3375.4(m) are unchanged.

3375.5. CDCR Readmission Score Sheet, CDCR Form 841, Calculation.

Subsection 3375.5 is amended to read:

This section incorporates by reference CDCR Form 841 (Rev. ~~07/12~~ 05/23), Readmission Score Sheet.

The factors and their related numerical weights used to recalculate an inmate's preliminary score upon readmission to the Department are listed below. Box numbers appear to the right, but refer to the first box on the left of each field.

Subsections 3375.5(a) through 3375.5(b)(8)(B) are unchanged.

Subsections 3375.5(c) through 3375.5(c)(4) are amended to read:

(c) Prior Preliminary Score (Boxes 75-77):

(1) The prior preliminary score is the calculated score that appears on the most current classification score sheet. Enter that value in Boxes 75-77.

(2) When the most current score appears on the CDCR Form 839 (Rev. ~~07/02~~ 05/23) or later, CDCR Classification Score Sheet, enter the value from that score sheet that is the preliminary score.

(3) When the most current score appears on the CDCR Form 840, (Rev. ~~07/02~~ 05/23) or later, CDCR Reclassification Score Sheet, enter the value from that score sheet that is the new preliminary score.

(4) When the most current score appears on the CDCR Form 841, (Rev. ~~07/02~~ 05/23) or later, CDCR Readmission Score Sheet, enter the value from that score sheet that is the new preliminary score.

Subsections 3375.5(d) through 3375.5(f)(1) are unchanged.

Subsection 3375.5(f)(2) is amended.

(2) If, subsequent to reception center processing, the parole violator receives a new term, record the change in term points, if any, on a CDCR Form 840 (Rev. ~~07/12~~ 05/23), Reclassification Score Sheet, as a result of this new term. Do not correct the CDCR Form 841.

Subsections 3375.5(f)(3) through 3375.5(k)(1)(B)3. are unchanged.

3376.1. Departmental Review Board.

Subsection 3376.1 initial paragraph is unchanged but is shown for reference.

The Departmental Review Board (DRB) provides the Secretary's final review of classification issues which are referred by an institution head for a resolution or decision at the headquarters

level. The DRB decision serves as the Secretary's level decision which is not appealable and concludes the inmate/parolee's departmental administrative remedy of such issues.

Subsections 3376.1(a) through 3376.1(c) are unchanged. Subsection 3376.1(d) is unchanged but is shown for reference.

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

Subsections 3376.1(d)(1) through 3376.1(d)(11) are unchanged. New subsection 3376.1(d)(12) and 3376.1(d)(13) are adopted to read:

(12) An institution classification committee recommends that a condemned inmate be housed in a facility with a security level lower than Level II.

(13) An institution classification committee recommends that an inmate serving a sentence of life without possibility of parole (LWOP) be housed in a facility with a security level lower than Level II.

Subsections 3376.1(e) through 3376.1(i) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections **3601, 3602**, 5054, 5068 and 11191, Penal Code; Sections 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *Sandin v. Connor* (1995) 515 U.S. 472; and *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146.

3377.2. Criteria for Assignment of Close Custody.

Subsections 3377.2(a)(1) through 3377.2(b)(5) are unchanged.

Subsection 3377.2(b)(6) is adopted to read:

(6) Condemned Inmate. A condemned inmate housed within the general population shall be designated Close Custody for at least five years.

Subsections 3377.2(c) through 3377.2(c)(5) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; *Americans With Disability Act (ADA)*, 42 U.S.C. § 12131, et seq.; and *Pennsylvania Department of Corrections v. Yeskey* (1998) 524 U.S. 206.

CDCR CLASSIFICATION SCORE SHEET

4. COUNTY OF LAST LEGAL RESIDENCE

18

5. FORM IDENTIFICATION (ENTER X in a, b or c)

a) NEW	b) CORRECTION	DATE CORRECTED	c) DELETE
21	22	MO DAY YR	23 29

B. BACKGROUND FACTORS

AGE AT FIRST ARREST MATRIX

POINTS	POINTS
0 TO 17 = 12	30 TO 35 = 4
18 TO 21 = 10	36 + = 0
22 TO 29 = 8	

FIRST ARREST DATE OR AGE

1. AGE AT FIRST ARREST _____ POINTS (See Matrix) = 30

AGE AT RECEPTION MATRIX

POINTS	POINTS
16 TO 20 = 8	27 TO 35 = 4
21 TO 26 = 6	36 + = 0

DATE OF BIRTH

2. AGE AT RECEPTION _____ POINTS (See Matrix) = 32

3. TERM POINTS (Term in Years) x 2 (MAX 50) = 33

4. STREET GANG/DISRUPTIVE GROUP + 6 = 35

a) Type Code _____ 36 b) Verification Code _____ 38

5. MENTAL ILLNESS

Do not make an entry in Box 43 during intake processing. This box is only used during the CDCR 839 Correction Process to remove previously-assessed Mental Health points. 43

6. PRIOR JAIL OR COUNTY JUVENILE SENTENCE OF 31+ DAYS (MAX 1) + 1 = 44

7. PRIOR INCARCERATION(S) (MAX 1) + 1 = 45

a) DJJ/CYA, Juvenile State/Federal Level

b) CDCR, CRC, Adult State/Federal Level (MAX 1) + 1 = 46

8. TOTAL BACKGROUND FACTORS SCORE = + _____

C. CORRECTION TO CDC 839 SCORE SHEET (Prior to Rev. 07/02)

1. Use this section to correct a CDC 839 score sheet with a form revision date prior to 07/02. TOTAL CORRECTION = (+ or -) 47

D. PRIOR INCARCERATION BEHAVIOR

1. LAST 12 MONTHS OF INCARCERATION

a) FAVORABLE - (No Serious Disciplinary) (MINUS) - 4 = 50

b) UNFAVORABLE (Serious Disciplinary) NUMBER OF _____ x 4 = 51
Dates: _____

2. SERIOUS DISCIPLINARY HISTORY

a) Battery or Attempted Battery on a Non-Prisoner _____ x 8 = 53
Dates: _____

b) Battery or Attempted Battery on an Inmate _____ x 4 = 55
Dates: _____

c) Distribution of Drugs _____ x 4 = 57
Dates: _____

d) Possession of a Deadly Weapon (Double-weight if within last 5 years) _____ x 4 = 59
Dates: _____

e) Inciting a Disturbance _____ x 4 = 61
Dates: _____

f) Battery Causing Serious Bodily Injury _____ x 16 = 63
Dates: _____

3. TOTAL PRIOR INCARCERATION BEHAVIOR SCORE (Combine D.1. and sum of D.2.) = + / - _____

E. PLACEMENT

MANDATORY MINIMUM SCORE FACTOR CODES AND SCORES

CODE	SCORE
[1] Condemned	60-19
[2] Life Without Possibility of Parole	66-19
[3] History of Escape	19
[4] Warrants "R" Suffix	19
[5] Violence Exclusion	19
[6] Other Life Sentence	19

1. PRELIMINARY SCORE (Not less than 0) (Combine Item B.8., Total Background Factors Score, and Item D.3., Total Prior Incarceration Behavior Score) _____ 65

2. MANDATORY MINIMUM SCORE FACTOR CODE (Assess First Applicable Factor) _____ 68

3. MANDATORY MINIMUM SCORE _____ 69

ENTER PRELIMINARY SCORE OR MANDATORY MINIMUM SCORE WHICHEVER IS GREATER

4. PLACEMENT SCORE _____ 71

F. SPECIAL CASE FACTORS

1. HOLDS, WARRANTS and DETAINERS (Enter A or P)

Felony _____ 74 USICE _____ 75

2. RESTRICTED CUSTODY SUFFIX (Enter R)

_____ 76

3. CURRENT INSTITUTION AND FACILITY

_____ 77

4. LEVEL IV DESIGN

a) 180 Status (Y/N) _____
b) Reason Code _____

5. US ARMED FORCES (Enter Y or N)

_____ 85

6. CASEWORKER'S NAME FI

_____ 86

G. CLASSIFICATION STAFF REPRESENTATIVE

1. LAST NAME _____ 95

2. DATE OF ACTION _____ 103
MO DAY YR

3. LEVEL IV DESIGN a) 180 Status (Enter Y to Apply) _____ 109 b) Reason Code _____ 110

4. MINIMUM CUSTODY a) Eligibility (Enter E, L or P) _____ 112 b) Reason Code _____ 113

5. DEVELOPMENTAL DISABILITY PROGRAM (DDP) CODE _____ 119

6. DISABILITY PLACEMENT PROGRAM (DPP) CODE(S) a) Primary (affects placement) _____ 122 b) _____ 125 c) _____ 128 d) _____ 131

7. ADMINISTRATIVE DETERMINANT CODE(S) a) _____ 134 b) _____ 137 c) _____ 140 d) _____ 143 e) _____ 146

8. MENTAL HEALTH LEVEL OF CARE (Enter C or E) CCCMS EOP _____ 149

9. INSTITUTION APPROVED _____ 150

10. REASON FOR ADMINISTRATIVE OR IRREGULAR PLACEMENT _____ 157

A. IDENTIFYING INFORMATION

1. CDCR NUMBER _____ 1

2. INMATE'S LAST NAME _____ 7

3. DATE RECEIVED CDCR _____ 12
MO DAY YR

CDCR RECLASSIFICATION SCORE SHEET

4. DATE OF LAST SCORE SHEET

MO	DAY	YR	18

5. FORM IDENTIFICATION (ENTER X in a, b or c) DATE CORRECTED

a) NEW	b) CORRECTION	MO	DAY	YR	c) DELETE	32

B. ANNUAL/ 6 MONTH REVIEW PERIOD DATES

1. REVIEW PERIOD BEGINNING DATE <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">MO</td> <td style="text-align: center;">DAY</td> <td style="text-align: center;">YR</td> <td style="text-align: right;">33</td> </tr> <tr> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> </tr> </table>	MO	DAY	YR	33					3. (Enter X) Annual <input type="checkbox"/> 39 <input type="checkbox"/> 33
MO	DAY	YR	33						
2. REVIEW PERIOD ENDING DATE <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">MO</td> <td style="text-align: center;">DAY</td> <td style="text-align: center;">YR</td> <td style="text-align: right;">40</td> </tr> <tr> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> </tr> </table>		MO	DAY	YR	40				
MO	DAY	YR	40						

E. CORRECTION TO CDC 840 SCORE SHEET (Prior to Rev. 07/02)

1. Use this section to correct a CDC 840 score sheet with a form revision date prior to 07/02. 70

TOTAL CORRECTION = (+ OR -)

F. COMPUTATION OF SCORE

1. PRIOR PRELIMINARY SCORE (Preliminary Score from 839/New Preliminary Score from 840 or 841) =	73
2. Net Change in Score (D. 8 minus C. 4) = (+ or -)	76
3. PRELIMINARY SCORE SUBTOTAL (Not less than 0) =	79
4. Change in Term Points (T/P) (x 2) - Old T/P _____ + New T/P _____ = (+ or -)	79
5. NEW PRELIMINARY SCORE (Not less than 0) =	82

C. FAVORABLE BEHAVIOR SINCE LAST REVIEW

1. Continuous Minimum Custody	_____	x 4 =	46
2. No Serious Disciplinary	_____	x 2 =	48
3. Average or Above Performance in Work, School or Vocational Program	_____	x 2 =	50
4. TOTAL FAVORABLE POINTS	=	-	_____

G. PLACEMENT

MANDATORY MINIMUM SCORE FACTOR CODES AND SCORES	SCORE	CODE	SCORE
[1] Condemned	60 19	[4] Warrants "R" Suffix	19
[2] Life Without Possibility of Parole	36 19	[5] Violence Exclusion	19
[3] History of Escape	19	[6] Other Life Sentence	19

1. SCORE FACTOR CODE (Assess First Applicable Factor)	85	
2. MANDATORY MINIMUM SCORE		86
3. PLACEMENT SCORE ENTER NEW PRELIMINARY SCORE OR MANDATORY MINIMUM SCORE WHICHEVER IS GREATER		88

D. UNFAVORABLE BEHAVIOR SINCE LAST REVIEW

SERIOUS DISCIPLINARIES	Number of	
1. Div. A-1/A-2 <u>Dates:</u>	_____	x 8 = 52
Div. B, C & D <u>Dates:</u>	_____	x 6 = 54
Div. E & F <u>Dates:</u>	_____	x 4 = 56
2. Battery or Attempted Battery on a Non-Prisoner <u>Dates:</u>	_____	x 8 = 58
3. Battery or Attempted Battery on an Inmate <u>Dates:</u>	_____	x 4 = 60
4. Distribution of Drugs <u>Dates:</u>	_____	x 4 = 62
5. Possession of a Deadly Weapon <u>Dates:</u>	_____	x 16 = 64
6. Inciting a Disturbance <u>Dates:</u>	_____	x 4 = 66
7. Battery Causing Serious Bodily Injury <u>Dates:</u>	_____	x 16 = 68
8. TOTAL UNFAVORABLE POINTS	=	+ _____

H. SPECIAL CASE FACTORS

1. HOLDS, WARRANTS and DETAINERS (Enter A, P or *) Felony <input style="width: 30px;" type="text"/> 91 USICE <input style="width: 30px;" type="text"/> 92	2. RESTRICTED CUSTODY SUFFIX (Enter R or *) <input style="width: 30px;" type="text"/> 93
3. LEVEL IV DESIGN a. 180 Status (Y/N) _____ b. Reason Code _____	4. US ARMED FORCES (Enter Y or N) <input style="width: 30px;" type="text"/> 95
5. CURRENT INSTITUTION AND FACILITY <input style="width: 40px;" type="text"/> - <input style="width: 40px;" type="text"/> 96	6. COUNTY OF LAST LEGAL RESIDENCE <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 103
7. CASEWORKER'S NAME <input style="width: 60px;" type="text"/> <input style="width: 30px;" type="text"/> FI 106	

I. CLASSIFICATION STAFF REPRESENTATIVE

1. LAST NAME <input style="width: 100px;" type="text"/> 115	2. DATE OF ACTION <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">MO</td> <td style="text-align: center;">DAY</td> <td style="text-align: center;">YR</td> <td style="text-align: right;">123</td> </tr> <tr> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> </tr> </table>	MO	DAY	YR	123				
MO	DAY	YR	123						
3. LEVEL IV DESIGN a) 180 Status (Enter Y or *) <input style="width: 30px;" type="text"/> 129 b) Reason Code <input style="width: 30px;" type="text"/> 130	4. MINIMUM CUSTODY a) Eligibility (Enter E, L or P) <input style="width: 30px;" type="text"/> 132 b) Reason Code <input style="width: 30px;" type="text"/> 133								
5. DEVELOPMENTAL DISABILITY PROGRAM (DDP) CODE <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 139	6. DISABILITY PLACEMENT PROGRAM (DPP) CODE(S) a) (*) Primary (affects placement) <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 142 b) (*) <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 146 c) (*) <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 150 d) (*) <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 154								
7. ADMINISTRATIVE DETERMINANT CODE(S) a) (*) <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 158 b) (*) <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 162 c) (*) <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 166 d) (*) <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 170 e) (*) <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 174									
8. MENTAL HEALTH LEVEL OF CARE (Enter C or E) CCCMS EOP <input style="width: 30px;" type="text"/> 178	9. INSTITUTION APPROVED <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 179								
	10. REASON FOR ADMINISTRATIVE OR IRREGULAR PLACEMENT <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> <input style="width: 30px;" type="text"/> 186								

A. IDENTIFYING INFORMATION

1. CDCR NUMBER <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> <input style="width: 20px;" type="text"/> 1	2. INMATE'S LAST NAME <input style="width: 100px;" type="text"/> 7	3. DATE COMPLETED <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">MO</td> <td style="text-align: center;">DAY</td> <td style="text-align: center;">YR</td> <td style="text-align: right;">12</td> </tr> <tr> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> <td style="border: 1px solid black; width: 20px; height: 20px;"></td> </tr> </table>	MO	DAY	YR	12				
MO	DAY	YR	12							

Original - Central File Canary - OIS Green - Inmate

CDCR READMISSION SCORE SHEET

4. DATE OF LAST SCORE SHEET			5. COUNTY OF LAST LEGAL RESIDENCE			6. FORM IDENTIFICATION (ENTER X in a, b or c)					
MO	DAY	YR	LEGAL RESIDENCE			a) NEW	b) CORRECTION	MO	DATE CORRECTED DAY	YR	c) DELETE
18			24			27	28			29	35

B. READMISSION REVIEW PERIOD CALCULATION

1. DATE PAROLED			2. REVIEW PERIOD BEGINNING DATE		
MO	DAY	YR	MO	DAY	YR
36			42		
3. Total Review Periods Not Previously Addressed					
MONTHS		DAYS		YEARS	
4. Number of _____					
6 Month Review Periods					
5. Partial Review Period (Less Than 6 Months)					
MONTHS		DAYS			

E. COMPUTATION OF SCORE

1. PRIOR PRELIMINARY SCORE (Preliminary Score from 839/New Preliminary Score from 840 or 841)			=				75
2. Net Change in Score (D. 8 minus C. 4)			=	(+ or -)			78
3. PRELIMINARY SCORE SUBTOTAL (Not less than 0)			=				
4. Change in Term Points (T/P) (x 2) - Old T/P _____ + New T/P _____			=	(+ or -)			81
5. NEW PRELIMINARY SCORE (Not less than 0)			=				84

C. FAVORABLE BEHAVIOR SINCE LAST REVIEW

Number Of Review Periods
Apply points for each Review Period of 6 Months at full value
Apply points for Review Period less than 6 Months at half value

1. Continuous Minimum Custody	_____ x 4 =			48
2. No Serious Disciplinary	_____ x 2 =			50
3. Average or Above Performance in Work, School or Vocational Program	_____ x 2 =			52
4. TOTAL FAVORABLE POINTS	=	-		

D. UNFAVORABLE BEHAVIOR SINCE LAST REVIEW

SERIOUS DISCIPLINARIES		<u>Number of</u>			
1. Div. A-1/A-2	_____ x 8 =			54	
Dates:					
Div. B, C & D	_____ x 6 =			56	
Dates:					
Div. E & F	_____ x 4 =			58	
Dates:					
2. Battery or Attempted Battery on a Non-Prisoner	_____ x 8 =			60	
Dates:					
3. Battery or Attempted Battery on an Inmate	_____ x 4 =			62	
Dates:					
4. Distribution of Drugs	_____ x 4 =			64	
Dates:					
5. Possession of a Deadly Weapon	_____ x 16 =			66	
Dates:					
6. Inciting a Disturbance	_____ x 4 =			68	
Dates:					
7. Battery Causing Serious Bodily Injury	_____ x 16 =			70	
Dates:					
8. TOTAL UNFAVORABLE POINTS	=	+			

F. PLACEMENT

MANDATORY MINIMUM SCORE FACTOR CODES AND SCORES			
CODE	SCORE	CODE	SCORE
[1] Condemned	60 19	[4] Warrants "R" Suffix	19
[2] Life Without Possibility of Parole	36 19	[5] Violence Exclusion	19
[3] History of Escape	19	[6] Other Life Sentence	19
1. SCORE FACTOR CODE (Assess First Applicable Factor) 87			
2. MANDATORY MINIMUM SCORE 88			
3. PLACEMENT SCORE ENTER NEW PRELIMINARY SCORE OR MANDATORY MINIMUM SCORE WHICHEVER IS GREATER 90			

G. SPECIAL CASE FACTORS

1. HOLDS, WARRANTS and DETAINERS (Enter A or P)		2. RESTRICTED CUSTODY SUFFIX (Enter R)	
Felony 93	USICE 94	95	
3. LEVEL IV DESIGN		4. US ARMED FORCES (Enter Y or N)	
a) 180 Status (Y/N) _____		b) Reason Code 97	
5. CURRENT INSTITUTION AND FACILITY 98			
6. RETURN STATUS (Enter RTC or WNT) 105			
7. CASEWORKER'S NAME 108			

H. CLASSIFICATION STAFF REPRESENTATIVE

1. LAST NAME 117				2. DATE OF ACTION 125			
MO DAY YR				MO DAY YR			
3. LEVEL IV DESIGN		4. MINIMUM CUSTODY					
a) 180 Status (Enter Y to apply) 131	b) Reason Code 132	a) Eligibility (Enter E, L or P) 134	b) Reason Code 135				
5. DEVELOPMENTAL DISABILITY PROGRAM (DDP) CODE 141				6. DISABILITY PLACEMENT PROGRAM (DPP) CODE(S)			
		a) Primary (affects placement) 144	b) 147	c) 150	d) 153		
7. ADMINISTRATIVE DETERMINANT CODE(S)							
a) 156	b) 159	c) 162	d) 165	e) 168			
8. MENTAL HEALTH LEVEL OF CARE (Enter C or E) CCCMS EOP 171		9. INSTITUTION APPROVED 172			10. REASON FOR ADMINISTRATIVE OR IRREGULAR PLACEMENT 179		

A. IDENTIFYING INFORMATION

1. CDCR NUMBER 1				2. INMATE'S LAST NAME 7				3. DATE RECEIVED THIS INCARCERATION 12			
MO DAY YR				MO DAY YR				MO DAY YR			

Original - Central File Canary - OIS Green - Inmate

Notice of Change to Regulations 23-01

Addendum to the Initial Statement of Reasons

The California Department of Corrections and Rehabilitation (CDCR or the department) has determined that amendments to the proposed regulations contained in Notice of Change to Regulations 23-01 are necessary. Changes to the proposed regulation text are shown in the Text of Proposed Regulations – Renotice. The necessity for these amendments is explained in the Notice of Change to Text as Originally Proposed.

As part of these changes, the department has determined that statements made in the original Initial Statement of Reasons (ISOR) under Significant Adverse Economic Impact on Business should be amended. The following amendments have been made to the original ISOR noticed to the public as part of this rulemaking action. New text is shown below in double-underline.

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR or the department) proposes to amend the California Code of Regulations (CCR), Title 15, Division 3, Chapter 1, sections 3075, 3097, 3122, 3161, 3375.2, 3376.1, and 3377.2.

On November 8, 2016, the people of the State of California voted in support of the passage of Proposition 66 known as the Death Penalty Reform and Savings Act of 2016 (Prop. 66). As a result, sections of the California Penal Code (PC) governing how the California Department of Corrections and Rehabilitation (CDCR) manages the condemned population were adopted or amended. Section 3600 of the PC was amended to reflect that CDCR may transfer male condemned inmates to alternate institutions which it has determined can provide a level of security sufficient for that inmate. Previously, PC section 3600 mandated that male condemned inmates be housed at the prison designated by CDCR for the execution of the death penalty, which is San Quentin State Prison (SQSP).

Proposition 66 also resulted in the adoption of PC section 2700.1 which requires that inmates sentenced to death, and in the custody of CDCR, be required to work as prescribed by the rules and regulations of CDCR. This statute also requires that when a condemned inmate owes a restitution fine or order, CDCR deducts 70% or the balance owing, whichever is less, from the condemned inmate's trust account deposits, regardless of the source of the income. CDCR is then required to transfer those funds to the California Victim Compensation Board (formerly known as the California Victims Compensation and Government Claims Board).

On January 29, 2020, CDCR received approval from the Office of Administrative Law to implement the Condemned Inmate Transfer Pilot Program (CITPP) pursuant to PC section 5058.1. The two-year CITPP pilot authority expired on January 28, 2022. As of November 2021, 99 male inmates and 4 female inmates are participating in the CITPP and housed in the general population.

The proposed regulatory changes permanently implement and make specific the statutory authority to move male condemned inmates from SQSP to other institutions throughout the state commensurate with their case factors and security needs. Female condemned inmates will continue to be housed solely at Central California Women's Facility (CCWF) in compliance with PC sections 3601 and 3602, but transitioned to general population housing or other housing consistent with their case factors and security needs. SQSP and CCWF will continue to serve as the reception centers for male and female condemned inmates, respectively.

The result of the passage of Proposition 66 and the corresponding changes to the PC necessitate the proposed changes to the California Code of Regulations (CCR), Title 15. The changes will address the management of the condemned population in compliance with current PC requirements.

Specifically, the PC now mandates that condemned inmates shall be required to work and pay larger amounts of trust account balances towards restitution fines and direct restitution orders. CDCR recognizes that the institutional design of the condemned housing at SQSP and CCWF limits the availability of work assignments, which impacts CDCR's ability to fully implement the work mandate as noted in PC Section 2700.1 for all condemned inmates within the confines of SQSP and CCWF's designated condemned housing. The proposed regulatory changes will facilitate greater compliance with PC section 2700.1; therefore, CDCR has elected to move male condemned inmates to other institutions and re-house female condemned inmates in the general population at CCWF, consistent with their custody and security levels.

The inmate classification score system (ICSS) assigns a numerical preliminary score and placement score to each inmate. Preliminary scores are determined by a review of an inmate's case factors, including but not limited to: age at first arrest, age at reception to CDCR, length of prison term, and prior incarceration behavior. A mandatory minimum score is a classification score that is applied when an inmate has a case factor that requires that they be housed no lower than a specific security level. A mandatory minimum score, if greater than the preliminary score, supersedes the preliminary score and becomes the inmate's placement score. If a mandatory minimum score is less than the preliminary score, the preliminary score is the inmate's placement score. A lower placement score indicates lesser security control needs and a higher placement score indicates greater security control needs. Currently condemned inmates have a mandatory minimum placement score of 60 points, making their housing level placement no lower than that of a Level IV facility without a behavioral override. The proposed mandatory minimum placement score of 19 points would allow placement no lower than a Level II facility, except when authorized by the Departmental Review Board (DRB). This change to the mandatory minimum would more accurately reflect the current demographic of the preliminary scores of the condemned population, of which over 50% reflect preliminary scores consistent with Level III and Level IV security levels.

Custody level is another term used to define a level of security assigned to each inmate. CDCR's inmate custody designation determines where an inmate is housed, the jobs that the inmate is eligible to be considered for, and the level of staff supervision that is required to ensure institutional security and public safety. Currently, CDCR houses condemned inmates as MAXIMUM custody at SQSP and CCWF. This designation is due to the fact that the condemned population is segregated from the rest of the inmate population at each of these facilities in a more restrictive housing unit. Under the proposed regulatory change, CDCR will assign condemned inmates to a Close Custody designation for at least five years. This custody level designation (Close) will afford CDCR the highest custody level for an inmate in a non-segregated environment, while still allowing for the integration of the condemned population into the general population.

CONSIDERATION OF ALTERNATIVES:

CDCR must determine that no reasonable alternatives considered, or that have otherwise been identified and brought to the attention of CDCR, would be more effective in carrying out the purpose for which this action is proposed, would be as effective and less burdensome to affected private persons than the action proposed, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Currently, no reasonable alternatives have been brought to the attention of the department that would alter CDCR's initial determination.

ECONOMIC IMPACT ASSESSMENT:

In accordance with Government Code section 11346.3(b), the CDCR has made the following assessments regarding the proposed regulations:

Significant Adverse Economic Impact on Business

The department has made an initial determination the proposed regulations will not have a significant adverse economic impact on business. The department has determined the proposed regulations are more cost-effective at achieving the purpose of the Death Penalty Reform and Savings Act of 2016 (Prop. 66). CDCR currently transfers incarcerated individuals between institutions as a matter of routine based on that individual's case factors and needs as well as a wide variety of operational factors. Those transfers do not have a significant adverse economic impact on business. Therefore, the transfer of the condemned population in compliance with these proposed regulations and the subsequent application of existing regulations to that population is similarly not expected to have a significant adverse impact on business. Any determination that there would be a significant adverse impact on business would be highly speculative. The proposed regulations affect the internal management of CDCR only, and place no requirements or restrictions on businesses.

Creation of New, or Expansion or the Elimination of Jobs within the State of California

The department has determined that the proposed regulations will not have an impact on the creation of new or elimination of existing jobs within California as the proposed regulations affect the internal management of prisons only.

Creation of New, or Expansion or Elimination of Existing Businesses Currently Doing Business within the State of California

The department has determined that the proposed regulations will not have an impact on the creation of new or the elimination of existing businesses within California, or affect the expansion of businesses currently doing business in California as the proposed regulations affect the internal management of prisons only.

Local Mandates

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

BENEFITS OF THE REGULATIONS:

The proposed regulations implement and make specific the statutory changes to the PC enacted as part of Prop 66. The proposed regulations will also permit lower level placements and lower custody designations for positively programming condemned inmates, consistent with evidence-based research studies that indicate that preliminary placement scores and an offender's age are the most accurate indicators of an offender's likelihood to commit criminal acts while incarcerated.

DOCUMENTS RELIED UPON:

CDCR, in proposing amendments to these regulations, relied in part upon the following document:

2011 Office of Research publication titled "Expert Panel Study of the Inmate Classification Score System":

<https://cpb-us-e2.wpmucdn.com/sites.uci.edu/dist/0/1149/files/2013/06/Expert-Panel-Study-of-the-Inmate-Classification-Score-System.pdf>.

SPECIFIC PURPOSE AND RATIONALE FOR EACH SECTION, PER GOVERNMENT CODE SECTION 11346.2(b)(1):

3075. Initial Intake and County Reimbursements.

New subsections 3075(i) and 3075(j) are adopted to make clear that all condemned male inmates shall be delivered to San Quentin State Prison, consistent with California Penal Code 3600, and condemned female inmates shall be delivered to the Central California Women's Facility, consistent with California Penal Code 3601. These provisions are necessary to ensure that, while condemned male inmates may now be housed at institutions other than San Quentin, the female condemned inmates may be transferred to the general population within CCWF. Condemned inmates shall continue to be initially received by the institutions required by statute.

3097. Inmate Restitution Fine and Direct Order Collections.

Existing subsections 3097(a) through 3097(c) are amended to reflect the renumbering of subsections (e)-(l) by correcting the reference in subsections (a) and (b) from 3097(j) to 3097(k).

New subsection 3097(d) is adopted to reflect changes to California Penal Code, Section 2700.1 as it pertains to trust accounts for condemned inmates. This adoption is necessary to reflect the requirement that the lesser of 70% or the balance owing be deducted from condemned inmate wages and trust account deposits, regardless of the source of income pursuant to a direct order of restitution or restitution fine imposed by the court.

Existing subsection 3097(d) is renumbered to 3097(e) to ensure appropriate numbering of the remaining subsections and amended to reflect the changing of the name of the California Victim Compensation and Government Claims Board to that of the California Victim Compensation Board.

Existing subsection 3097(e) is renumbered to 3097(f) to ensure appropriate numbering of the remaining subsections and amended to reflect the changing of the name of the California Victim Compensation and Government Claims Board to that of the California Victim Compensation Board.

Existing subsection 3097(f) is renumbered to 3097(g) to ensure appropriate numbering of the remaining subsections and amended to reflect the changing of the name of the California Victim Compensation and Government Claims Board to that of the California Victim Compensation Board. Furthermore, the administrative fee of 10% shall no longer be deducted.

Existing subsection 3097(g) is renumbered to 3097(h) to ensure appropriate numbering of the remaining subsections.

Existing subsection 3097(h) is renumbered to 3097(i) to ensure appropriate numbering of the remaining subsections.

Existing subsection 3097(i) is renumbered to 3097(j) to ensure appropriate numbering of the remaining subsections and to amend that inmates at any CDCR facility can be affected.

Existing subsection 3097(j) is renumbered to 3097(k) and amended to ensure appropriate numbering of the remaining subsections and to amend referenced subsections.

Existing subsection 3097(k) is renumbered to 3097(l) and amended to ensure appropriate numbering of the remaining subsections and to amend referenced subsections.

Existing subsection 3097(l) is renumbered to 3097(m) to ensure appropriate numbering of the remaining subsections.

Existing subsection 3097(m) is renumbered to 3097(n) to ensure appropriate numbering of the remaining subsections.

Existing subsection 3097(n) is renumbered to 3097(o) to ensure appropriate numbering of the remaining subsections.

Existing subsection 3097(o) is renumbered to 3097(p) to ensure appropriate numbering of the remaining subsections and amended to state that if the Temporary Community Leave does not occur, that funds provided by the family member shall be refunded to the sender.

3122. Inmate Law Library.

Existing subsections 3122(a) through 3122(b)(7) are unchanged but shown as reference.

New subsection 3122(c) is adopted to ensure automatic Priority Legal User (PLU) status for condemned inmates appealing their capital conviction. PLU status is granted to those inmates with active court cases in which there is either a court-imposed deadline or statutory deadline. Those inmates granted PLU status will have higher priority access to the prison law library resources than those of other inmates. By automatically granting condemned inmates PLU status while their appeals are pending, CDCR will ensure that the condemned inmate population has been afforded the highest level of access to the prison law library so as to prepare appeals related to their capital conviction.

Existing subsection 3122(c) is renumbered to 3122(d) to reflect the adoption of new subsection (c) and ensure appropriate numbering of the remaining subsections.

Existing subsection 3122(d) is renumbered to 3122(e) to ensure appropriate numbering of the remaining subsections.

3161. Inmate-Owned Legal Materials.

Existing section 3161 is amended to ensure that all institutions that house condemned inmates provide for the storage of excess legal material and documents owned by condemned inmates relative to active appeals for current commitment offenses. Currently, SQSP and the CCWF condemned housing units store excess legal materials for condemned inmates. The proposed amendment will ensure that the storage of, and

access to, these materials continue regardless of the institution in which the condemned inmate is housed.

3375.2 Administrative Determinants.

Existing subsections 3375.2(a)(1) through 3375.2(a)(6) remain unchanged.

Existing subsection 3375.2(a)(7) is adopted to reflect that condemned inmates shall not be housed in a facility with a security level lower than that which is authorized to house inmates sentenced to life without the possibility of parole (LWOP). A condemned inmate shall not be housed in a facility with a security level lower than Level II containing a lethal electrified fence, unless authorized by the Departmental Review Board (DRB). The current demographics of the condemned population support the conclusion that the majority of the condemned population's preliminary placement scores warrant housing options other than Level IV placement. By allowing the condemned population to be placed at institutions with a security level no lower than Level II (unless approved by DRB) and with an electrified fence, CDCR can house the condemned population in an institution that is commensurate with the condemned inmate's case factors as indicated by their placement score while ensuring an adequate level of security for staff, inmates and the public; while enhancing the department's ability to assign condemned inmates to jobs consistent with PC 2700.1.

Existing subsection 3375.2(a)(8) is renumbered 3375.2(a)(9).

Existing subsection 3375.2(a)(9) is renumbered 3375.2(a)(10) and amended for corrections on referencing other sections.

Existing subsection 3375.2(a)(10) is renumbered 3375.2(a)(11) and amended for corrections on referencing other sections.

Existing subsection 3375.2(a)(14) is renumbered 3375.2(a)(15).

Existing subsections 3375.2(b) through 3375.2(b)(30) remain unchanged.

3376.1 Departmental Review Board.

Existing subsections 3376.1(a) through 3376.1(d)(11) remain unchanged.

Subsections 3376.1(d)(12) and 3376.1(d)(13) are adopted to establish that if any condemned inmate or inmate serving a sentence of life without possibility of parole is recommended by an institution classification committee for a security level lower than Level II, a referral shall be made to the Departmental Review Board. This will ensure that the inmate's case is reviewed further and at the highest level of review prior to endorsement of the inmate to any facility with a security level lower than Level II. This is necessary to ensure an adequate level of security for staff, inmates and the public.

Subsections 3376.1(e) through 3376.1(i) are unchanged.

3377.2. Criteria for Assignment of Close Custody.

Existing subsections 3377.2(a)(1) through 3377.2(b)(5) remain unchanged.

Subsection 3377.2(b)(6) is adopted to establish that a condemned inmate who is housed in the general population must be designated as Close Custody for at least five years. By placing a Close Custody designation on condemned inmates, CDCR will ensure these inmates are closely monitored, affording the highest level of direct supervision available for inmates housed in a general population setting, and allow for the integration of the condemned population into the general population. Inmates designated as Close Custody require direct and constant supervision, are counted more frequently than other inmates, and are housed in a celled environment. This custody level will ensure that the condemned population is appropriately housed at appropriate institutions.

Existing subsections 3377.2(c) through 3377.2(c)(5) remain unchanged.