

State of California Office of Administrative Law

In re:
Department of Corrections and
Rehabilitation

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections: 3335.2, 3335.3, 3335.4,
3337, 3339, 3341, 3343,
3345, 3346

Amend sections: 3000, 3043, 3044, 3044.1,
3045.1, 3091, 3095, 3139,
3164, 3170.1, 3176, 3177,
3190, 3261.5, 3269, 3269.1,
3269.4, 3287, 3312, 3314,
3315, 3317, 3322, 3327,
3329.5, 3332, 3335, 3335.5
(renumbered to 3335.1),
3336, 3337 (renumbered
to 3340), 3338
(renumbered to 3342),
3340 (renumbered to
3344), 3341.5 (renumbered
to 3338), 3342
(renumbered to 3347),
3343 (renumbered to
3348), 3344 (renumbered
to 3349), 3375, 3375.1,
3375.2, 3375.3, 3375.4,
3375.5, 3376, 3376.1,
3377.1, 3377.2, 3378.2,
3378.4, 3378.5, 3378.7,
3378.9, 3378.10, 3379

Repeal sections: 3339, 3341, 3341.1, 3341.2,
3341.3, 3341.4, 3341.6,
3341.7, 3341.8, 3341.9,
3345, 3378.3

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
11349.6, and Penal Code Section 5058.3**

OAL Matter Number: 2024-0321-01

**OAL Matter Type: Emergency Operational
Necessity (EON)**


This action significantly revises existing regulations related to inmate housing. Changes include consolidating the Administrative Segregation, Security Housing, and Psychiatric Services Units (ASU, SHU, and PSU) into the Restricted Housing Unit (RHU), reducing RHU terms by 50%, eliminating consecutive RHU terms, establishing set RHU terms and eliminating subjective mitigating and aggravating factors previously used to calculate terms, eliminating the Step Down Program (SDP), and increasing out-of-cell time for inmates assigned to RHU, and increasing and expanding types and amounts of

authorized privileges and personal property. This is a readoption of OAL action no. 2023-1004-01EON.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code, and section 5058.3 of the Penal Code.

This emergency regulatory action is effective on 4/11/2024 and will expire on 7/11/2024. The Certificate of Compliance for this action is due no later than 7/10/2024.

Date: April 8, 2024



Eric Partington
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Jeffrey Macomber, Secretary
Copy: Josh Jugum

**State of California
Office of Administrative Law**

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**Department of Corrections and
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3344), 3341.5 (renumbered
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3343 (renumbered to
3348), 3344 (renumbered
to 3349), 3375, 3375.1,
3375.2, 3375.3, 3375.4,
3375.5, 3376, 3376.1,
3377.1, 3377.2, 3378.2,
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3341.3, 3341.4, 3341.6,
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**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

**Government Code Sections 11346.1 and
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OAL Matter Number: 2023-1004-01

**OAL Matter Type: Emergency Operational
Necessity (EON)**

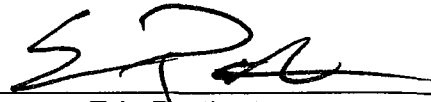
This action significantly revises existing regulations related to inmate housing. Changes include consolidating the Administrative Segregation, Security Housing, and Psychiatric Services Units (ASU, SHU, and PSU) into the Restricted Housing Unit (RHU), reducing RHU terms by 50%, eliminating consecutive RHU terms, establishing set RHU terms and eliminating subjective mitigating and aggravating factors previously used to calculate terms, eliminating the Step Down Program (SDP), and increasing out-of-cell

time for inmates assigned to RHU, and increasing and expanding types and amounts of authorized privileges and personal property.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code, and section 5058.3 of the Penal Code.

This emergency regulatory action is effective on 11/1/2023 and will expire on 4/10/2024. The Certificate of Compliance for this action is due no later than 4/9/2024.

Date: October 24, 2023



Eric Partington
Attorney IV

For: Kenneth J. Pogue
Director

Original: Jeffrey Macomber, Secretary
Copy: Josh Jugum

EMERGENCY

NOTICE PUBLICATION AND REGULATORY ACTION

STD. 400 (REV. 10/2019)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2021-1208-01
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For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

2024-0321-01 EON

OFFICE OF ADMIN. LAW
2024 MAR 21 AM 9:32

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

APR 08 2024
1:45 PM

AGENCY WITH RULEMAKING AUTHORITY California Department of Corrections and Rehabilitation	AGENCY FILE NUMBER (if any) 23-11
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

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

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Restricted Housing Units	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2023-1004-01
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ACTION ADOPT See attachment AMEND See attachment REPEAL See attachment
TITLE(S) 15	

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) <u>Emergency Readopt PC 5058.3</u>	

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

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input checked="" type="checkbox"/> Effective other (Specify) <u>April 11, 2024</u>

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

7. CONTACT PERSON Josh Jugum	TELEPHONE NUMBER 916 798-1484	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) joshua.jugum@cdcr.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE	DocuSigned by: Jeffrey Macomber	DATE 3/20/2024
TYPED NAME AND TITLE OF SIGNATORY JEFF MACOMBER, Secretary	5957F5D0C55F473...	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

APR 08 2024

Office of Administrative Law

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S)

Title: 15

SECTION(S) AFFECTED:

<u>ADOPT</u>	<u>AMEND</u>	<u>REPEAL</u>
3335.2	3000	3339
3335.3	3043	3341
3335.4	3044	3341.1
3337	3044.1	3341.2
3339	3045.1	3341.3
3341	3091	3341.4
3343	3095	3341.6
3345	3139	3341.7
3346	3164	3341.8
	3170.1	3341.9
	3176	3345
	3177	3378.3
	3190	
	3261.5	
	3269	
	3269.1	
	3269.4	
	3287	
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	3315	
	3317	
	3322	
	3327	
	3329.5	
	3332	
	3335	
	3335.5 (renumbered to 3335.1)	
	3336	
	3337 (renumbered to 3340)	
	3338 (renumbered to 3342)	
	3340 (renumbered to 3344)	
	3341.5 (renumbered to 3338)	
	3342 (renumbered to 3347)	
	3343 (renumbered to 3348)	
	3344 (renumbered to 3349)	
	3375	
	3375.1	
	3375.2	
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	3375.4	
	3375.5	
	3376	
	3376.1	
	3377.1	
	3377.2	
	3378.2	
	3378.4	
	3378.5	
	3378.7	
	3378.9	
	3378.10	
	3379	

EMERGENCY

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2023	EMERGENCY NUMBER -1004-01EON
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For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

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

OCT 24 2023
1:48 pm

OFFICE OF ADMIN. LAW
2023 OCT 4 PM 4:17

AGENCY WITH RULEMAKING AUTHORITY California Department of Corrections and Rehabilitation	AGENCY FILE NUMBER (If any) 23-11
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OAL USE ONLY ACTION ON PROPOSED NOTICE <input checked="" type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Restricted Housing Units	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ACTION
ADOPT See attachment	AMEND See attachment
TITLE(S) 15	REPEAL See attachment

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
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<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input checked="" type="checkbox"/> Other (Specify) <u>Operational Necessity PC5058.3</u>		

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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
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<input type="checkbox"/> Other (Specify) _____			

7. CONTACT PERSON Josh Jugum	TELEPHONE NUMBER 916 445-2269	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) joshua.jugum@cdcr.ca.gov
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SIGNATURE OF AGENCY HEAD OR DESIGNEE	DocuSigned by: Jeffrey Macomber	DATE 10/2/2023
TYPED NAME AND TITLE OF SIGNATORY JEFF MACOMBER, Secretary		

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 24 2023

Office of Administrative Law

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

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	3317	
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	3329.5	
	3332	
	3335	
	3335.5 (renumbered to 3335.1)	
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	3338 (renumbered to 3342)	
	3340 (renumbered to 3344)	
	3341.5 (renumbered to 3338)	
	3342 (renumbered to 3347)	
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	3379	

TEXT OF PROPOSED REGULATIONS

In the following, underline indicates additional text, and ~~strikethrough~~ indicates deleted text.

California Code of Regulations, Title 15: Crime Prevention and Corrections Division 3. Rules and Regulations of Adult Institutions, Programs and Parole

Chapter 1. Rules and Regulations of Adult Operations and Programs

Article 1. Behavior

§3000. Definitions.

Section 3000 is amended to alphabetically merge new definitions below with existing definitions in the section, delete existing definitions and amend existing definitions to read:

*
*

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

~~**Clean Conduct Credit** means a combination of months, followed by days which represent credits that shall be applied to the maximum determinate SHU term, as long as the inmate remains free of any subsequent serious misconduct through the MERD. Clean conduct credit is calculated as one-half or 50% of the assessed SHU term.~~

~~**Minimum Eligible Release Date (MERD)** means a combination of months, followed by days which represent the minimum amount of time that must pass before a determinate SHU term expires. The MERD initially represents 50% or one-half of the maximum SHU~~

term, as it incorporates 50% or one-half clean conduct credit, for eligible inmates. The MERD may be adjusted based upon subsequent serious misconduct.

Restricted Custody General Population (RCGP) living units will provide a general population housing alternative to offenders: 1) who have a substantial threat to their personal safety should they be released to the general population; or 2) who have refused to complete the Security Threat Group (STG) Step Down Program (SDP); or 3) who have been found guilty of repeated STG related Rules Violations Reports while in the SDP.

Restricted Housing Units (RHU) are specialized programming units with established placement criteria designated for inmates not suited for housing in the General Population (GP). RHU include Enhanced Outpatient Program RHU, Correctional Clinical Case Management System RHU, and General Population RHU. Restricted housing may be accomplished by confinement in a designated RHU or, in an emergency, to any single cell unit capable of providing secure housing.

Restricted Housing Unit Maximum Release Date (RHU MRD) means the date on which a Determinate RHU term, consisting of a combination of months followed by days, expires.

Same and Similar Behavior means comparable serious misconduct warranting Security Housing Unit (SHU) term assessment or equivalent behavior from a verifiable incarcerated period, contained in subsection 3341.9(e), which may be used to aggravate or mitigate a SHU term. Specifically, any act of homicide, violence against another, threat to kill or assault another as listed in subsection 3341.9(e)(1), (2) & (3); or, any homicide, violence against another or threat to kill or assault another in conjunction with any other offense listed in subsection 3341.9(e), is considered same and similar to each other regardless of the victim. Any possession of a weapon, as listed in subsection 3341.9(e)(4), or any possession of a weapon in conjunction with any other offense listed in subsection 3341.9(e), is considered same and similar. Any distribution of a controlled substance, as listed in subsection 3341.9(e)(5) is considered same and similar to each other (possession of a controlled substance is not considered same and similar to distribution of a controlled substance). Any escape, as listed in subsection 3341.9(e)(6), is considered same and similar to each other. Any disturbance, riot or strike, as listed in subsection 3341.9(e)(7), is considered same and similar to each other. Any harassment, as listed in subsection 3341.9(e)(8), is considered same and similar to each other. Any Security Threat Group (STG) disruptive behavior, as listed in subsection 3341.9(e)(9) or any STG disruptive behavior in conjunction with any other offense listed in subsection 3341.9(e), is considered same and similar to each other regardless of the victim. Any theft or destruction of state property offense, as listed in subsection 3341.9(e)(10), or any theft or destruction of state property in conjunction with any other offense listed in subsection 3341.9(e), is considered same and similar to each other. Any extortion or bribery offense listed in subsection 3341.9(e)(11), is considered same and similar to each other regardless of the victim. Any sexual misconduct offense listed in subsection 3341.9(e)(12), is considered same and similar to each other regardless of the victim.

~~Step Down Program (SDP) shall be 24 months in duration and consist of four program steps that take place within a SHU or other housing units where indicated. Each step will normally be 6 months in duration. The SDP incorporates rehabilitative programming consisting of both required and elective components.~~

*

*

NOTE: Authority cited: Sections 243(f)(4), 2717.3, 3000.03, 5058, 5058.3 and 1170.05, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 600, 646.9, 653, 832.5, 1170.05, 1203(b)(1), 1203.8, 1389, 2080, 2081.5, 2084, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3007.05, 3020, 3450, 3550, 4570, 4576, 5005, 5009, 5050, 5054, 5068, 7000 et seq., 7286.5, 11180 and 11191, Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Sections 8550, 8567, 12838 and 12838.7, Government Code; Sections 11007, 11351, 11352, 11378 and 11379, Health and Safety Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *In re Bittaker*, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; *Madrid v. Cate* (USDC ND Cal. C90-3094 TEH); *Sassman v. Brown* (E.D. Cal. 2015) 99 F.Supp.3d 1223; *Mitchell v. Cate*, USDC ED 2:08-CV-01196-TLN-EFB; *In re Garcia* (2012) 202 Cal.App.4th 892; and *Quine v. Beard*, No. C 14-02726 JST.

Article 3.3. Credits

§3043. Credit Earning.

Subsection 3043(a) is amended to read:

(a) General. Inmates are expected to work or participate in rehabilitative programs and activities to prepare for their eventual return to society. Inmates who comply with the regulations and rules of the Department and perform the duties assigned to them shall be eligible to earn Good Conduct Credit as set forth in section 3043.2 of this article. Unless otherwise precluded by this article, all inmates who participate in approved rehabilitative programs and activities, including inmates housed in ~~administrative segregation~~ restricted housing units, ~~in security housing units, in psychiatric services units,~~ or in other ~~segregated~~ restricted housing placement units, shall be eligible to earn Milestone Completion Credit, Rehabilitative Achievement Credit, and Educational Merit Credit as set forth in sections 3043.3, 3043.4, and 3043.5 of this article. The award of these credits, as well as Extraordinary Conduct Credit as set forth in section 3043.6 of this article, shall advance an inmate's release date if sentenced to a determinate term subject to subdivision (c) of this section or advance an inmate's initial parole hearing date pursuant to subdivision (a)(2) of section 3041 of the Penal Code if sentenced to an indeterminate term with the possibility of parole. Inmates who do not comply with the regulations and rules of the Department or who do not perform the duties assigned to them shall be subject to credit forfeiture as provided in this article.

Subsections 3043(b) through 3043(f) are unchanged.

NOTE: Authority cited: Cal. Const., art. 1, sec 32(b); and Sections 5054 and 5058, Penal Code. Reference: Cal. Const., art. 1, sec. 32(a)(2); and Sections 3041, 3051, 3058.6 and 3058.9, Penal Code.

Article 3.4 Inmate Work and Privileges

§3044. Inmate Work Groups and Privilege Groups.

Subsections 3044(a) through 3044(b)(1) are unchanged.

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

(A) Any inmate assigned to a required Rehabilitative Program managed by DRP, as defined in section 3000, shall be assigned to Work Group A-1, except when the inmate qualifies for the assignment of Work Group M pursuant to section 3044(b)(8). ~~An inmate assigned to the Security Threat Group Step Down Program shall be assigned a work group in accordance with sections 3044(b)(5) and 3044(b)(6).~~

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

Subsection 3044(b)(5) is amended to read:

(5) Work Group D-1 (~~Lockup~~ Restricted Housing Status). An inmate assigned to a ~~segregated~~ Restricted Housing program Unit (RHU); ~~or other restricted housing~~ shall be assigned to Work Group D-1, unless the inmate qualifies for continued assignment to Work Group F or Work Group M or initial assignment to Work Group M in accordance with sections 3044(b)(7)(D), 3044(b)(7)(E), 3044(b)(8)(E), or 3044(b)(8)(F); ~~or the inmate meets criteria for Work Group D-2 pursuant to 3044(b)(6).~~ Inmates assigned to Steps 1 through 4 of the Security Threat Group Step Down Program and who are eligible to earn credit pursuant to section 2933 of the Penal Code, shall be awarded one day of credit for each day assigned to this work group. Inmates who are not eligible to earn credit pursuant to section 2933 of the Penal Code shall receive credits pursuant to their sentence. Segregated housing shall include, but not be limited to, the following:

Subsections 3044(b)(5)(A) through 3044(b)(5)(D) are deleted.

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

Subsection 3044(b)(6) is amended to read:

(6) Work Group D-2 (~~Lockup~~ Restricted Housing Status: Zero Credit).

Subsections 3044(b)(6)(A) through 3044(b)(6)(C) are amended to read:

(A) Unless the exceptional criteria specified in subsection 3044(b)(6)(B) are met, an inmate serving an imposed SRHU term pursuant to subsection 333741.9(eg) in ~~segregated~~ restricted housing shall be assigned to Work Group D-2, effective the date of the Rules Violation Report, for a period not to exceed the number of whole-day credits forfeited for the rule violation or 180 days, whichever is less, up to the ~~Minimum-Eligible~~ RHU Maximum Release Date or the date the Institution Classification Committee suspends the remainder of the SRHU term. Following completion of the period of assignment to Work Group D-2 of credit forfeiture, the inmate shall be reevaluated by a classification committee for assignment to another work group.

(B) An inmate serving an imposed SRHU term pursuant to subsection 333741.9(eg) in ~~segregated~~ restricted housing due to a guilty finding for a Division A-1 offense, as designated in subsection 3323(b), and which involved serious bodily injury on a non-prisoner, shall be assigned to Work Group D-2, effective the date of the Rules Violation Report, for a period not to exceed the number of whole-day credits forfeited for the rule violation or 360 days, whichever is less, up to the ~~Minimum-Eligible~~ RHU Maximum Release Date or the date the Institution Classification Committee suspends the remainder of the SRHU term. Following completion of the period of credit forfeiture, the inmate shall be re-evaluated by a classification committee for assignment to another work group.

(C) An inmate in RHU ASU, SHU, PSU, or other ~~segregated~~ restricted housing, who is deemed a program failure as defined in section 3000, may be assigned Work Group D-2 for ~~non-SHU assessable Rules Violation Report(s)~~ by a classification committee for a period not to exceed the number of credits forfeited for the rules violation(s) or 180 days, whichever is less. An inmate assigned to Work Group C at the time of placement in RHU ASU, SHU, PSU, or other ~~segregated~~ restricted housing, or who refuses to accept or perform work assignments, shall be assigned Work Group D-2. An inmate released from RHU ASU, SHU, PSU, or other ~~segregated~~ restricted housing, may be assigned Work Group C by a classification committee, not to exceed the remaining number of disciplinary credits forfeited due to the serious disciplinary infraction(s) or 180 days, whichever is less.

Subsections 3044(b)(6)(D) through 3044(b)(7)(C) are unchanged.

Subsections 3044(b)(7)(D) and 3044(b)(7)(E) are amended to read:

(D) An inmate assigned to Work Group F who is temporarily placed in an ~~ASRHU~~ or other ~~segregated~~ restricted housing placement unit; designated by the Institution Classification Committee as a ~~Non-d~~Disciplinary Restricted Housing (NDRH) segregation pursuant to subsection 3335(a**b**); and who otherwise remains eligible for continued assignment to Work Group F pursuant to subsections 3044(b)(7)(A) or 3044(b)(7)(B), shall continue to be assigned Work Group F for the duration of their ~~non-disciplinary segregation~~ NDRH placement.

(E) An inmate initially assigned to Work Group D-1 by the Institution Classification Committee due to placement in RHU ASU, SHU, PSU, or other ~~segregated~~ restricted

housing unit pursuant to subsection 3044(b)(5) and who was not designated for ~~non-disciplinary segregation~~ NDRH by the Institution Classification Committee; otherwise eligible for the assignment to Work Group F pursuant to subsections 3044(b)(7)(A) or 3044(b)(7)(B) during the period of ~~segregated~~ restricted housing; and was not found guilty of the serious rule violation which was the reason for ASRHU or other ~~segregated~~ restricted housing placement; shall be made whole by retroactive assignment to Work Group F beginning with the effective date that Work Group D-1 was originally imposed and for the same number of days that they were assigned to Work Group D-1.

Subsections 3044(b)(7)(F) through 3044(b)(8)(D) are unchanged.

Subsections 3044(b)(8)(E) and 3044(b)(8)(F) are amended to read:

(E) An inmate eligible for initial assignment to Work Group M or who is assigned to Work Group M who is temporarily placed in an ~~ASRHU~~ or other ~~segregated~~ restricted housing placement unit; designated by the Institution Classification Committee as ~~non-disciplinary segregation~~ NDRH pursuant to subsection 3335(~~ab~~); and who otherwise remains eligible for initial or continued assignment to Work Group M pursuant to subsections 3044(b)(8)(A) or 3044(b)(8)(B), shall be assigned Work Group M for the duration of their ~~non-disciplinary segregation~~ NDRH.

(F) An inmate initially assigned to Work Group D-1 by the Institution Classification Committee due to placement in RHU ASU, SHU, PSU, or other ~~segregated~~ restricted housing unit pursuant to subsection 3044(b)(5) and who was not designated for ~~non-disciplinary segregation~~ NDRH by the Institution Classification Committee; was otherwise eligible for the assignment to Work Group M pursuant to subsections 3044(b)(8)(A) or 3044(b)(8)(B) during the period of restricted ~~segregated~~ housing; and was not found guilty of the serious rule violation which was the reason for ASRHU or other ~~segregated~~ restricted housing placement; shall be made whole by retroactive assignment to Work Group M beginning with the effective date that Work Group D-1 was originally imposed and for the same number of days they were assigned to Work Group D-1.

Subsections 3044(b)(8)(G) through 3044(c)(1) are unchanged.

Subsections 3044(c)(2) and 3044(c)(3) are amended to read:

(2) Privileges available to a work group may be denied, modified, or temporarily suspended by a hearing official at a disciplinary hearing upon a finding of an inmate's guilt for a disciplinary offense as described in sections 3314 and 3315 of these regulations, ~~or~~ by a classification committee action changing the inmate's custody classification, work group, privilege group, or institution placement, or pursuant to subsection 3044(f)(1)(B).

(3) Disciplinary action denying, modifying, or suspending a privilege for which an inmate would otherwise be eligible shall be for a specified period not to exceed 30 days for an administrative rule violation or 90 days for a serious rule violation. Loss of privileges shall not preclude an ~~general population~~ inmate from possessing a network capable tablet for CDCR approved and mandatory functional uses when there is no alternative to perform the function, including, but not limited to: approved educational programs, filing appeals

and grievances, and scheduling medical appointments. If the disciplinary sanctions provide for a temporary suspension of services, the Hearing Officer or Senior Hearing Officer may suspend or restrict specific discretionary features for the time specified in the disposition of the rules violation report.

Subsections 3044(c)(4) and 3044(c)(5) are unchanged.

Subsections 3044(c)(6) through 3044(c)(6)(A)1. are amended to read:

(6) Changes in privilege group status due to the inmate's placement in ~~lockup~~ RHU:
(A) An inmate housed in an RHU ASU, ~~SHU~~, or ~~PSU~~ shall be designated Privilege Group D with the exception of:
1. Inmates designated as NDRHS, who shall retain their privilege group prior to ~~ASR~~RHU placement;

Existing Subsection 3044(c)(6)(A)2. is deleted.

~~2. Inmates placed in the Security Threat Group (STG) Step Down Program (SDP) in accordance with section 3044(i);~~

Existing Subsection 3044(c)(6)(A)3. is renumbered to Subsection 3044(c)(6)(A)3. and text is unchanged.

~~3. Inmates who are assigned to the Debrief Processing Unit (DPU) in accordance with Section 3378.7; and~~

Existing Subsection 3044(c)(6)(A)4. is renumbered to Subsection 3044(c)(6)(A)3. and amended to read:

~~4. Inmates who are on Administrative SRHU status in accordance with section 3044(ji).~~

Subsections 3044(c)(7) through 3044(c)(10) are unchanged.

New Subsection 3044(c)(11) is adopted to read:

(11) Inmates may receive up to a maximum of four (4) packages per calendar year, (one (1) per quarter) in accordance with their assigned privilege group.

Subsection 3044(d) is unchanged but shown for reference.

(d) Privilege Group A:

Subsections 3044(d)(1) through 3044(d)(2)(A) are unchanged.

Subsection 3044(d)(2)(B) is amended to read:

(B) Visits during non-work/training hours, limited only by availability of space within facility visiting hours, or during work hours when extraordinary circumstances exist as defined in section 3045.2(d)(2). ~~NDRHS~~ inmates in Privilege Group A are restricted to non-contact visits consistent with those afforded to other inmates in ~~ASRHU~~.

Subsection 3044(d)(2)(C) is unchanged.

Subsection 3044(d)(2)(D) is amended to read:

(D) Telephone access during the inmate's non-work/training hours limited only by institution/facility telephone capabilities. ~~Inmates identified as NDS are permitted one personal telephone access per week under normal operating conditions.~~

Subsections 3044(d)(2)(E) through 3044(d)(2)(H) are unchanged.

Subsection 3044(d)(2)(I) is adopted to read:

(I) Tablet access during the inmate's non-work/training hours limited only by institution or vendor capabilities.

Subsections 3044(e) through 3044(e)(2)(A) are unchanged.

Subsection 3044(e)(2)(B) is amended to read:

(B) Visits during non-work/training hours, limited only by availability of space within facility visiting hours, or during work hours when extraordinary circumstances exist, as defined in section 3045.2(d)(2). ~~NDRHS~~ inmates in Privilege Group B are restricted to non-contact visits consistent with those afforded to other inmates in ~~ASRHU~~.

Subsection 3044(e)(2)(C) is unchanged.

Subsection 3044(e)(2)(D) is amended to read:

(D) ~~One personal telephone access period per month~~ Telephone access during the inmate's non-work/training hours limited only by institution/facility telephone capabilities under normal operating conditions.

Subsection 3044(e)(2)(E) is amended to read:

(E) ~~Four 30-minute kiosk access periods per month~~ Kiosk access during the inmate's non-work/training hours limited only by institution or vendor capabilities.

Subsections 3044(e)(2)(F) through 3044(e)(2)(H) are unchanged.

Subsection 3044(e)(2)(I) is adopted to read:

(l) Tablet access during the inmate's non-work/training hours limited only by institution or vendor capabilities.

Subsection 3044(f) is unchanged but shown for reference.

(f) Privilege Group C:

Subsections 3044(f)(1) and 3044(f)(1)(A) are unchanged.

Existing Subsections 3044(f)(1)(B) and 3044(f)(1)(C) are renumbered to 3044(f)(1)(C) and 3044(f)(1)(D) and the text is unchanged.

New Subsection 3044(f)(1)(B) is adopted to read:

(B) The inmate who commits a disciplinary offense for Indecent Exposure or two or more disciplinary offenses for Sexual Disorderly Conduct within a 12-month period from the initial disciplinary offense shall be temporarily placed in Privilege Group C prior to adjudication of the disciplinary offense for up to 90 days for each offense.

1. The effective date for placement in Privilege Group C shall be the violation date.

2. The authority to temporarily place the inmate in Privilege Group C prior to the adjudication of the disciplinary offense shall not be delegated to staff below the level of Correctional Lieutenant.

3. A staff member at the level of Captain or above may modify the number of days the inmate was placed in Privilege Group C prior to adjudication of the disciplinary offense.

4. Upon adjudication of the RVR, the temporary Privilege Group C no longer applies and the Senior Hearing Officer may determine appropriate Privilege Group placement pursuant to subsection 3315(f)(5)(C).

5. If the inmate is found not guilty or the charges are dismissed, the inmate's privilege group shall revert back to their prior assigned privilege group, effective the date of adjudication or dismissal.

Subsection 3044(f)(2) is unchanged but shown for reference.

(2) Privileges and non-privileges for Privilege Group C are as follows:

Subsections 3044(f)(2)(A) and 3044(f)(2)(B) are unchanged.

Subsection 3044(f)(2)(C) is amended to read:

(C) One personal telephone access per week during the inmate's non-work/training hours, limited only calls on an emergency basis only as determined by institution/ or facility staff telephone capabilities under normal operating conditions.

Subsections 3044(f)(2)(D) through 3044(f)(2)(G) are unchanged.

Subsection 3044(f)(2)(H) is amended to read:

(H) Participation in ~~one~~ self-help group(s) ~~per week~~.

Subsections 3044(f)(2)(I) and 3044(f)(2)(J) are unchanged.

Subsection 3044(f)(2)(K) is amended to read:

(K) Inmates assigned to Privilege Group C ~~as a result of a classification committee action or disciplinary action~~, who participate in the Mental Health Services Delivery System at the Enhanced Outpatient Program (EOP) level of care or higher, shall be referred to the Interdisciplinary Treatment Team (IDTT) via CDCR Form 128-MH5 (Rev. 05/14), Mental Health Referral Chrono, for program review. The IDTT may recommend certain privileges granted to the inmate on a case-by-case basis when it is determined suspension of privileges would cause decompensation or would be detrimental to the inmate's mental health status.

Subsection 3044(f)(2)(L) is adopted to read:

(L) Tablet possession is permitted, but all calling capabilities and paid services shall be restricted.

Subsection 3044(g) is unchanged and shown for reference.

(g) Privilege Group D:

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

(1) Criteria: Any inmate, with the exception of inmates ~~validated STG affiliates participating in the SDP~~, placed on Administrative SRHU status per section 333941.3, or designated NDRHS inmates, housed in a special segregation restricted housing unit, voluntarily or under the provisions of sections 3335-33495 of these regulations who is not assigned to either a full-time or half-time assignment. ~~Inmates assigned to Steps 1 through 4 of the SDP while completing the Pre-Debrief Intake Panel (DIP) portion of Phase One of the debrief process, as described in section 3378.5, are entitled to privileges and non-privileges commensurate with the SDP step to which the offender is currently assigned, in accordance with sections 3044(i) and 3378.7.~~

Subsection 3044(g)(2) is unchanged.

Subsection 3044(g)(3) is unchanged but shown for reference.

(3) Privileges and non-privileges for Privilege Group D, other than those listed above, are as follows:

Subsections 3044(g)(3)(A) and 3044(g)(3)(B) are unchanged.

Subsection 3044(g)(3)(C) is amended to read:

(C) One personal telephone access per week during the inmate's non-work/training hours, limited calls on an emergency basis only as determined by institution/ or facility staff telephone capabilities under normal operating conditions.

Subsections 3044(g)(3)(D) through 3044(g)(3)(F) are unchanged.

Subsection 3044(g)(3)(G) is adopted to read:

(G) Tablet possession is permitted, but all calling capabilities and paid services shall be restricted.

Subsection 3044(h) is unchanged but shown for reference.

(h) Privilege Group U:

Subsection 3044(h)(1) is unchanged.

Subsection 3044(h)(2) is unchanged but shown for reference.

(2) Privileges and non-privileges for Privilege Group U are:

Subsections 3044(h)(2)(A) and 3044(h)(2)(B) are unchanged.

Subsection 3044(h)(2)(C) is amended to read:

(C) One personal telephone access per week during the inmate's non-work/training hours, limited only calls on an emergency basis only as determined by institution/ or facility staff telephone capabilities under normal operating conditions.

Subsections 3044(h)(2)(D) through 3044(h)(2)(G) are unchanged.

Existing Subsections 3044(i) through 3044(i)(3)(D)12. are deleted.

~~(i) Privilege Group S1 through S4:~~

~~(1) Criteria: Participation in the STG SDP.~~

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

~~(3) Privileges and non-privileges for Privilege Groups S1 through S4 are:~~

~~(A) S1 for Step 1.~~

~~1. No Family Visits.~~

~~2. Non-contact visiting during non-work/training hours, limited by available space within facility non-contact visiting room.~~

~~3. Twenty-five percent (25%) of the maximum monthly canteen draw as authorized by the secretary.~~

- ~~4. Telephone calls on an emergency basis as determined by institution/facility staff.~~
- ~~5. One telephone call every 90 days if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period.~~
- ~~6. No kiosk access.~~
- ~~7. Yard access in accordance with Section 3343(h) which shall be a minimum of 10 hours per week.~~
- ~~8. The receipt of one inmate package, 30 pounds maximum weight, exclusive of special purchases as provided in Section 3190.~~
- ~~9. One photograph.~~
- ~~10. Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU inmates, as described in Section 3190(b)(4).~~

~~(B) S2 for Step 2.~~

- ~~1. No Family Visits.~~
- ~~2. Non-contact visiting during non-work/training hours, limited by available space within facility non-contact visiting room.~~
- ~~3. Thirty-five percent (35%) of the maximum monthly canteen draw as authorized by the secretary.~~
- ~~4. Telephone calls on an emergency basis as determined by institution/facility staff.~~
- ~~5. One telephone call every 60 days if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period.~~
- ~~6. No kiosk access.~~
- ~~7. Yard access in accordance with Section 3343(h) which shall be a minimum of 10 hours per week.~~
- ~~8. The receipt of one inmate package, 30 pounds maximum weight, exclusive of special purchases as provided in Section 3190.~~
- ~~9. Two photographs -- if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period, upon completion of Step 2.~~
- ~~10. Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU inmates, as described in Section 3190(b)(4).~~

~~(C) S3 for Step 3.~~

- ~~1. No Family Visits.~~
- ~~2. Non-contact visiting during non-work/training hours, limited by available space within facility non-contact visiting room.~~
- ~~3. Forty-five percent (45%) of the maximum monthly canteen draw as authorized by the secretary.~~
- ~~4. Telephone calls on an emergency basis as determined by institution/facility staff.~~
- ~~5. One telephone call every 45 days if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period.~~
- ~~6. No kiosk access.~~
- ~~7. Yard access in accordance with Section 3343(h) which shall be a minimum of 10 hours per week.~~
- ~~8. The receipt of one inmate packages, 30 pounds maximum weight, exclusive of special purchases as provided in Section 3190.~~
- ~~9. Three photographs if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period, upon completion of Step 3.~~

- ~~10. Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU inmates, as described in Section 3190(b)(4).~~
 - ~~11. Small Group Programs at least two hours per week.~~
 - ~~12. Access to appropriate educational programs.~~
- ~~(D) S4 for Step 4.~~
- ~~1. No Family Visits.~~
 - ~~2. Non-contact visiting during non-work/training hours, limited by available space within facility non-contact visiting room.~~
 - ~~3. Fifty percent (50%) of the maximum monthly canteen draw as authorized by the secretary.~~
 - ~~4. Telephone calls on an emergency basis as determined by institution/facility staff.~~
 - ~~5. One telephone call every 30 days if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period.~~
 - ~~6. No kiosk access.~~
 - ~~7. Yard access in accordance with Section 3343(h) which shall be a minimum of 10 hours per week. Participation on small group yards as determined by the Institution Classification Committee (ICC).~~
 - ~~8. The receipt of one inmate package, 30 pounds maximum weight each, exclusive of special purchases as provided in Section 3190. In addition, receipt of one inmate package, food only, 15 pounds maximum weight.~~
 - ~~9. Four photographs every 90 days if the inmate has met program expectations and has not been found guilty of serious disciplinary behavior in that time period.~~
 - ~~10. Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU inmates, as described in Section 3190(b)(4).~~
 - ~~11. Small group programs at least four hours per week.~~
 - ~~12. Access to appropriate educational programs.~~

Existing Subsection 3044(j) is renumbered to Subsection 3044(i) and the text is unchanged.

(ji) Privilege Group AS:

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

(1) Criteria: Any offender in SRHU serving an Administrative SRHU term as described in section 30003339.

Subsections 3044(i)(2) through 3044(i)(3)(C) are unchanged.

Existing Subsection 3044(i)(3)(D) is deleted.

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

New Subsection 3044(i)(3)(D) is adopted to read:

(D) Tablet possession is permitted, but all calling capabilities and paid services shall be restricted.

Subsection 3044(i)(3)(E) is amended to read:

(E) One personal telephone access per week under normal operating conditions ~~phone call at least every 90 days, and ICC may modify the call frequency up to one phone call every month.~~

Subsections 3044(i)(3)(F) through 3044(i)(3)(I) are unchanged.

Subsection 3044(i)(3)(J) is amended to read:

(J) Electrical appliances are allowed in accordance with the Authorized Personal Property Schedule for SHU/PSU RHU inmates, as described in Section 3190(b)(4) or 3190(b)(5).

Subsection 3044(i)(4) is amended to read:

(4) The local ~~Inter-Disciplinary~~ Interdisciplinary Treatment Team may further restrict or allow additional authorized personal property, in accordance with the Institution's EOP RHU Psychiatric Services Unit operational procedure, on a case-by-case basis above that allowed by the inmate's assigned Privilege Group.

New Subsection 3044(j) is adopted to read:

(j) Inmates housed in the Psychiatric Inpatient Program will be provided telephone access in accordance with the inmate's assigned privilege group, limited only by institution or facility telephone capabilities and under normal operating conditions, unless restricted by the Interdisciplinary Treatment Team with clinical justification documented in the health record.

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

Article 3.4. Inmate Work and Privileges

§3044.1. Special Assignments.

Subsections 3044.1(a) through 3044.1(b)(1) are unchanged.

Subsections 3044.1(b)(2) and 3044.1(b)(3) are amended to read:

(2) An inmate who is assigned to Work Group A-1, Work Group B, Work Group F, or Work Group M and placed in segregated a Restricted Housing Unit (RHU) shall be assigned

to Work Group D-1, effective the first day of placement into ~~Administrative Segregation a RHU~~, unless the inmate is assigned to Work Group D-2, Work Group F, or Work Group M in accordance with sections 3044(b)(6), 3044(b)(7)(D), 3044(b)(7)(E), 3044(b)(8)(E), or 3044(b)(8)(F).

(3) ~~Segregation~~ Restricted housing inmates assigned to Work Group D-1 or D-2 shall retain their work group status.

Subsections 3044.1(c) and 3044.1(c)(1) are unchanged.

Subsections 3044.1(c)(2) and 3044.1(c)(3) are amended to read:

(2) An inmate who is assigned to Work Group A-1, Work Group B, Work Group F, or Work Group M and placed in ~~segregated housing a RHU~~ shall be re-assigned to Work Group D-1, effective the first day of placement into ~~Administrative Segregation a RHU~~, unless the inmate is assigned to Work Group D-2, Work Group F, or Work Group M in accordance with sections 3044(b)(6), 3044(b)(7)(D), 3044(b)(7)(E), 3044(b)(8)(E), or 3044(b)(8)(F).

(3) An inmate in ~~segregated housing a RHU~~ who is assigned to Work Group D-1 or D-2 shall be retained in their respective work group.

Subsections 3044.1(d) through 3044.1(h) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933, 2933.05, 2933.3, 2933.6, 5054 and 5068, Penal Code.

Article 3.5. Inmate Work Timekeeping

§3045.1. Timekeeping for Inmates in Restricted Housing Units ~~Administrative Segregation~~.

Subsections 3045.1(a) through 3045.1(a)(2) are amended to read:

(a) A classification committee shall evaluate the reasons for an inmate's ~~administrative segregation~~ Restricted Housing Unit (ASRHU) placement to ensure appropriate credits are awarded the inmate. If the placement was for:

(1) A disciplinary infraction for which the finding was not guilty or pending an investigation where the inmate was released, the inmate shall retain their work group status at the time of their placement in a RHU ~~ASU~~ unless otherwise impacted by a classification or disciplinary action.

(2) A disciplinary infraction for misconduct ~~described in section 3044~~ for which the finding was guilty, and a RHU term was assessed, the inmate shall remain in Work Group D-2 in accordance with subsections 3044(b)(6)(A)-(B) ~~for the period of the credit loss assessment effective the date of their placement in ASU, whether or not a SHU term was assessed.~~

NOTE: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2933.05, 2933.6, 2935, 5005, 5054 and 5068, Penal Code; and *In re Monigold*, 205 Cal. App. 3d 1224.

Subchapter 2. Inmate Resources

Article 1. Canteens

§3091. Inmate Canteen Operation.

Subsections 3091(a) through 3091(c)(3) are unchanged.

Subsection 3091(c)(4) is amended to read:

(4) ~~Segregated~~ Restricted Housing Unit (RHU) inmates shall sign the approved canteen shopping list prior to submitting it to the ~~segregation-unit~~ RHU staff authorizing the Trust Account withdrawal, and upon receipt of the merchandise, shall sign the approved institution distribution forms to verify the amount purchased and received.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5005, 5006 and 5054, Penal Code.

Article 1. Canteens

§3095. Nonroutine Canteen Draws.

Subsections 3095(a) through 3095(c) are unchanged.

Subsection 3095(d) is amended to read:

(d) ~~Segregated~~ Restricted Housing Unit (RHU) inmates shall not be permitted to go to the canteen and shall submit their canteen shopping list to the ~~segregation-unit~~ RHU staff.

Subsection 3095(e) is unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5005 and 5054, Penal Code.

Article 4. Mail

§3139. Correspondence Between Inmates, Parolees, and Probationers.

Subsection 3139(a) is amended to read:

(a) Inmates shall obtain written authorization from the Warden/Regional Parole Administrator or their designee/assigned probation officer, person in charge of the County

Jail and/or other State Correctional Systems, at a level not less than ~~Correctional Captain~~ /~~Facility~~ Captain or Parole Agent III, to correspond with any of the following:

Subsections 3139(a)(1) through 3139(d) are unchanged.

Subsection 3139(e) is amended to read:

(e) Wardens at institutions where there are segregated Restricted Housing Units (RHU) such as, but not limited to, ~~Security Housing Units (SHU), Administrative Segregation Units (ASU), and Psychiatric Services Units (PSU)~~, shall outline in their local procedure any further restrictions on correspondence due to safety and security concerns, limited to those specific housing units.

Subsections 3139(f) and 3139(g) are unchanged.

Subsection 3139(h) is amended to read:

(h) If an inmate's transfer is based on case factors that create security concerns, such as, but not limited to, placement in a RHU ~~SHU, ASU, or PSU~~, a reexamination by committee of all approved correspondence shall be conducted. The CCI shall review and recommend to committee whether to continue approval of the correspondence.

Subsections 3139(i) and 3139(j) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 4570, Penal Code; Procnier v. Martinez, 416 U.S. 396; and Bell v. Wolfish, 99 S. Ct 1861.

Article 6. Legal Documents

Section 3164 Title is amended to read:

§3164. Restricted Housing Unit Access ~~Administrative Segregation~~.

Subsection 3164(a) is amended to read:

(a) Inmates confined in a Restricted Housing Unit (RHU) ~~administrative segregation~~ for any reason will not be limited in their access to the courts.

Subsection 3164(b) is unchanged.

Subsection 3164(c) is amended to read:

(c) Inmates who are housed in any restricted unit and who are not serving a period of disciplinary detention may possess and have access to any legal resource material available to the general population and may assist each other in their legal work to the extent compatible with institution security. For the purpose of this subsection, restricted

units include reception centers, institution reception or orientation units, controlled housing and ~~security housing units~~ RHU as defined in section 3000.

Subsection 3164(d) is unchanged.

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

Article 7. Visiting

§3170.1. General Visiting Guidelines.

Subsections 3170.1(a) through 3170.1(e) are unchanged.

Subsection 3170.1(f) is amended to read:

(f) Inmates assigned to a Restricted Housing Unit (RHU) ~~Administrative Segregation and Security Housing Units~~ shall be eligible for non-contact visits only. On a case-by-case basis, the institution head or designee may allow contact visits for administratively ~~segregated~~ restricted inmates. Visitors who have made appointments in advance for non-contact RHU ~~Administrative Segregation and Security Housing Unit~~ visits shall be given priority. Non-contact visits shall be scheduled in one-hour increments and may be extended based on space availability. When overcrowding occurs, those who have visited at least ~~one hour~~ one hour and who have been visiting for the longest time may have their visits terminated as outlined in subsections 3176(a)(9) and (10).

Subsections 3170.1(g) and 3170.1(h) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601(c)(2), 4570, 4576 and 5054, Penal Code.

Article 7. Visiting

§3176. Denial, Restriction, Suspension, Termination or Revocation of Visits and Exclusion of a Person.

Section 3176 Initial paragraph through Subsection 3176(c)(3) are unchanged.

Subsection 3176(d) is amended to read:

(d) The ranking custody officer on duty or the official in charge of visiting may restrict visits, but may not deny visiting, as a temporary security measure when an inmate is scheduled for a hearing on a serious rules violation or for classification on an order for placement in a restricted housing unit ~~administrative segregation~~. Subsequent disciplinary or classification committee action will supersede any such temporary action.

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

Article 7. Visiting

§3177. Family Visiting (Overnight).

Section 3177 Initial paragraph through Subsection 3177(b)(2)(C) are unchanged.

Subsection 3177(b)(2)(D) is amended to read:

(D) Assigned to an ~~Administrative Segregation~~ Restricted Housing Unit;

Subsection 3177(b)(2)(E) is deleted.

~~(E) Assigned to a Security Housing Unit;~~

Existing Subsections 3177(b)(2)(F) through 3177(b)(2)(H) are renumbered to 3177(b)(2)(E) through 3177(b)(2)(G) and the text is unchanged.

~~(FE)~~ Designated "C" status;

~~(GE)~~ Guilty of one or more Division A or Division B offense(s) within the last 12 months;
or

~~(HG)~~ Guilty of distribution of a controlled substance while incarcerated in a state prison, under subsection 3016(d). Loss of family visiting (overnight) in accordance with subsection 3315(f)(5)(H).

Subsections 3177(b)(3) through 3177(g) are unchanged.

NOTE: Authority cited: Sections 5058 and 6404, Penal Code. Reference: Section 297.5, Family Code; and Section 5054, Penal Code.

Article 9. Personal Property and Religious Personal Property

§3190. General Policy.

Subsections 3190(a) and 3190(b) are unchanged.

Subsections 3190(b)(1) through 3190(b)(5) are amended to read:

(1) Authorized Personal Property Schedule -- Reception Center Male Inmates (Rev. 04/23/23 11/23). This personal property schedule applies to all facilities which operate Male Reception Center Housing.

(2) Authorized Personal Property Schedule -- General Population Levels I, II, and III, Male Inmates (Rev. 04/23/23 11/23). This personal property schedule applies to all facilities which operate Levels I, II, III Male Inmate Housing.

(3) Authorized Personal Property Schedule -- Level IV Male Inmates (Rev. ~~01/23/23~~ 11/23). This personal property schedule applies to all facilities which operate Level IV Male Inmate Housing.

(4) Authorized Personal Property Schedule -- ~~Administrative Segregation Units (ASU), Security Housing Units (SHU), or Psychiatric Services Units (PSU)~~ Restricted Housing Unit (RHU) Male Inmates (Rev. ~~01/23/23~~ 11/23). This personal property schedule applies to all facilities which operate ~~ASU, SHU, or PSU~~ RHU Male Inmate Housing.

(5) Authorized Personal Property Schedule -- Female Inmates (Rev. ~~01/23/23~~ 11/23). This personal property schedule applies to all facilities which operate Female Inmate Housing.

Subsection 3190(c) is amended to read:

(c) The Religious Personal Property Matrix (RPPM) (Rev. ~~1/1/23~~ 11/23) identifies a separate list of allowable personal religious property and is incorporated by reference. The RPPM shall be developed and updated by the Statewide Religious Review Committee (SRRC) no more frequently than twice yearly. Local exceptions to the RPPM shall also be identified.

Subsections 3190(c)(1) and 3190(c)(2) are unchanged.

Subsection 3190(d) is amended to read:

(d) The Non Disciplinary Restricted Housing Segregation (NDRHS) Personal Property Matrix (~~12/30/2015~~ Rev. 11/23) identifies a separate list of allowable personal property afforded to inmates housed in ~~ASU~~ RHU for non disciplinary reasons as affirmed by a classification committee, and is hereby incorporated by reference. The ~~NDRHS~~ Personal Property Matrix shall be updated by collaboration of all Division of Adult Institutions mission based programs no more frequently than twice yearly. All changes to the ~~NDRHS~~ Personal Property Matrix shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act (Government Code Sections 11340 through 11350.3) and, if applicable, Penal Code 5058.3.

Subsections 3190(e) through 3190(e)(2) are amended to read:

(e) The Transgender Inmates Authorized Personal Property Schedule (TIAPPS) (~~4/4/18~~ Rev. 11/23) identifies a separate list of allowable personal property afforded to transgender inmates and inmates with symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution, and is incorporated by reference. The TIAPPS shall be updated through the collaboration of all mission-based programs within the Division of Adult Institutions no more frequently than twice yearly. All changes to the TIAPPS shall be adopted in accordance with the rulemaking requirements of the Administrative Procedure Act (Government Code Sections 11340 through 11350.3) and, if applicable, Penal Code Section 5058.3.

The following two property lists are incorporated by reference:

(1) TIAPPS--Designated Male Institutions (~~4/4/18~~ Rev. 11/23). This personal property schedule applies to transgender inmates and inmates having symptoms of gender dysphoria who are housed at male institutions.

(2) TIAPPS--Designated Female Institutions (~~4/4/18~~ Rev. 11/23). This personal property schedule applies to transgender inmates and inmates having symptoms of gender dysphoria who are housed at female institutions.

Subsections 3190(f) through 3190(m)(2) are unchanged.

Subsection 3190(m)(3) is amended to read:

(3) Inmates assigned to a Administrative Segregation Unit/Security Housing Unit/Psychiatric Services Unit (ASU/SHU/PSU RHU) or other segregated restricted housing units may possess or acquire one television or one radio or one television/radio combination unit, through the Special Purchase process, facility physical plant limitations permitting, and shall not exceed the six cubic feet maximum limitation. ~~Inmates assigned to ASU are authorized one entertainment appliance.~~ Inmates assigned to SHU/PSU RHU are authorized two entertainment appliances. Eligibility to possess an entertainment appliance commences on the date of Privilege Group D assignment. An inmate who is deemed to be a program failure, as defined in section 3000, based on conduct prior to or while in the RHU ASU/SHU/PSU, or other segregated restricted housing units, shall have his or her entertainment appliance stored by the institution pending removal of program failure designation. Inmates deemed a program failure as defined in Section 3000 who receive one or more additional Administrative or Serious Rules Violation Reports while assigned to program failure status shall be required to mail out, return, donate or dispose of disallowed property in accordance with subsection 3191(c). An inmate who has not been deemed a program failure, but who is found guilty of any Rules Violation Report based on conduct while in the RHU ASU/SHU/PSU or other segregated restricted housing units, is subject to temporary loss of the entertainment appliance as follows: (1) thirty days for the first offense; (2) sixty days for the second offense; and (3) ninety days for the third and subsequent offenses. Inmates assigned to Privilege Group D shall not possess a musical instrument.

Subsections 3190(m)(4) and 3190(m)(5) are unchanged.

Subsection 3190(m)(6) is amended to read:

(6) An inmate deemed to be a program failure, based on conduct prior to or while in the RHU ASU,SHU,PSU, or other segregated restricted housing units, shall have his or her maximum monthly canteen draw items limited to stationery, stationery supplies, personal hygiene, vitamins and medications. Inmates may maintain their current canteen items, which must be verified with a current receipt. Any subsequent canteen purchases while deemed a program failure shall be limited to stationery, stationery supplies, personal hygiene, vitamins and medication.

Subsections 3190(n) through 3190(u) are unchanged.

Subsections 3190(v) and 3190(w) are amended to read:

(v) All allowable inmate property shall be inventoried, documented, and stored for inmates transferred Out-to-Medical or Out-to-Court, or placed in ~~segregated~~ restricted housing, a Correctional Treatment Center, or an Outpatient Housing Unit, until the inmate returns.

(w) Privilege Group A or B inmates placed in ~~administrative segregation (AD-SEG)~~ RHU shall have their property inventoried and stored pending the outcome of Initial Classification Committee review. If the inmate is released to general population and maintains their Privilege Group A or B assignment, all allowable property shall be returned. If the inmate is retained in ~~AD-SEG~~ RHU, all allowable property as determined by current departmental regulations shall be reissued to the inmate. If the inmate received a ~~SHU~~ RHU term, the inmate shall be required to dispose of unallowable property due to privilege group and/or security level and/or institution mission change in accordance with section 3191(c).

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 2086, 2601, 5006 and 5054, Penal Code; *In re Alcalá*, Marin County Superior Court, No. 117925, December 20, 1984; *Armstrong v. Davis* Court Ordered Remedial Plan, Amended January 3, 2001; *In re Armstrong*, N.D. Cal, No. C 94-02307, March 20, 1998; and *Quine v. Beard*, No. C 14-02726 JST, *Rhoades v. Montgomery*, No. EHC01917, *Taylor v. Hubbard*, No. CV-00404-BAM PC, *Rouser v. White Settlement Agreement*, No. CV-0767-LKK-GGH(PC); and Religious Land Use and Institutionalized Persons Act, 42 United States Code sections 2000cc et seq.

Subchapter 4. General Institution Regulations

Article 1. Public Information and Community Relations

§3261.5. Routine Media interviews.

Subsections 3261.5(a) through 3261.5(d)(3) are unchanged.

Subsection 3261.5(e) is amended to read:

(e) News media and non-news media representatives may be allowed access to a restricted housing unit ~~security housing units and administrative segregation~~ with the prior approval of the institution head.

Subsections 3261.5(e)(1) through 3261.5(l) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601 and 5054, Penal Code; and *Pell v. Procunier*, 94 S.Ct. 2800 (1974).

Article 1.6. Inmate Housing

§3269. Inmate Housing Assignments.

Subsections 3269(a) is amended to read:

(a) Inmates shall accept Inmate Housing Assignments (IHAs) as directed by staff. All inmates shall be assigned to double-cell housing, except as provided in section 3269(e), whether being housed in a Reception Center, General Population (GP), Sensitive Needs Yard (SNY), Non-Designated Programming Facility (NDPF), ~~Administrative Segregation Unit (ASU), Security Housing Unit (SHU)~~ Restricted Housing Unit (RHU), or specialty housing unit. If staff determines an inmate is suitable for double-cell housing, based on the criteria as set forth in this section, the inmate shall accept the housing assignment or be subject to disciplinary action. IHAs shall be made based on available documentation and individual case factors. Although inmates may request a housing assignment, they are not entitled to single-cell housing, a housing location of choice, or a cellmate of their choice.

Subsections 3269(b) through 3269(b)(9) are unchanged.

Subsection 3269(b)(10) is amended to read:

(10) Reason(s) for prior ~~segregation~~ restricted housing.

Subsections 3269(b)(11) through 3269(c) are unchanged.

Subsection 3269(c)(1) is amended to read:

(1) Security issues including ~~ASRHU, and Restricted Custody General Population, and SHU~~ ASRHU, and Restricted Custody General Population, placement.

Subsections 3269(c)(2) through 3269(c)(6) are unchanged.

Subsections 3269(d) through 3269(d)(2) are amended to read:

(d) Upon placement in an ~~ASRHU or SHU~~ ASRHU, inmates shall be screened for an appropriate cell assignment using the same criteria as inmates being screened for housing in the general population.

(1) The reason for ~~ASRHU or SHU~~ ASRHU placement shall be taken into consideration.

(2) Based on available information and the inmate interview, the screening authority shall determine if the inmate is suitable for single or double-celled housing and shall complete a CDC Form 114-A1 (~~Rev. 10/98~~ 11/23), Inmate ~~Segregation~~ Restricted Housing Profile. Unless approved for single cell assignment, an inmate in ~~ASRHU or SHU~~ ASRHU is expected to share a cell with another inmate.

Subsections 3269(e) through 3269(i) are unchanged.

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

Article 1.6. Inmate Housing

§3269.1. Integrated Housing.

Subsections 3269.1(a) through 3269.1(f) are unchanged.

Subsection 3269.1(f)(1) is amended to read:

(1) Security issues including ~~Administrative Segregation Unit (ASU)~~ Restricted Housing Unit (RHU) placement.

Subsection 3269.1(f)(2) is deleted.

~~(2) Security Housing Unit (SHU) placement.~~

Existing Subsections 3269.1(f)(3) through 3269.1(f)(8) are renumbered to 3269.1(f)(2) through 3269.1(f)(7) and the text is unchanged.

~~(3)~~ Request for Protective Custody.

~~(4)~~ Request for Sensitive Needs Yard Designation.

~~(5)~~ Security Threat Group affiliation.

~~(6)~~ Medical, developmental or cognitive impairment, or mental health concerns.

~~(7)~~ Length of term.

~~(8)~~ Height, weight, and age.

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

Subsections 3269.1(g) through 3269.1(i) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; *Johnson v. California* (2005) 543 U.S. 499 [125 S. Ct. 1141], remand of *Johnson v. California*, (9th Cir. 2007) [Dock. No. CV 95-1192 CBM(BQR)].

Article 1.6. Inmate Housing

§3269.4. Non-Designated Programming Facility.

Subsection 3269.4(a) is unchanged.

Subsection 3269.4(b) is unchanged but shown for reference.

(b) An inmate shall be excluded or removed from NDPF placement in accordance with either of the following criteria:

Subsections 3269.4(b)(1) and 3269.4(b)(1)(A) are amended to read:

(1) The inmate was found guilty and assessed a Security Restricted Housing Unit (SRHU) term pursuant to subsection 333741.9(eg) (1)-(3) or (9), or any SRHU-related offense pursuant to subsection 333741.9(eg) with an STG nexus.

(A) An inmate shall be evaluated or re-evaluated for NDPF twelve months after the Minimum-Eligible Restricted Housing Unit Maximum Release Date (RHU MERD), or the date the Institution Classification Committee (ICC) elected to suspend the remainder of the RHU MERD, during the inmate's first annual classification committee review, and annually thereafter.

Subsections 3269.4(b)(2) and 3269.4(b)(2)(A) are unchanged.

Subsection 3269.4(c) is amended to read:

(c) A classification committee may temporarily exclude or remove an inmate from NDPF for twelve months from the date the projected SRHU term expires or the date ICC elected to release the inmate from ~~segregated~~ restricted housing, when the inmate has elected to postpone the disciplinary hearing of a RVR that qualifies as exclusionary criteria as delineated in subsection 3269.4(b)(1).

Subsections 3269.4(d) through 3269.4(d)(2) are unchanged.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 5054 and 5068, Penal Code.

Article 2. Security

§3287. Cell, Property, and Body Inspections.

Subsection 3287(a) is amended to read:

(a) Insofar as possible, a cell, room, or dormitory bed area and locker will be thoroughly inspected immediately upon its vacancy and again, if there is a significant time lapse, before another inmate is assigned to the same cell, room or dormitory bed and locker. Such inspections are required and must be recorded for ~~segregation~~ restricted housing unit, and isolation and ~~security housing unit~~ cells. The purpose of such inspections is to fix responsibility or the absence of responsibility for security and safety hazards and serious contraband found in the cell, room or dormitory area.

Subsections 3287(a)(1) through 3287(e) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 6402, Penal Code; *Jordan v. Gardner*, 986 F.2d 1521; and Title 28, Subsection 115.15, Code of Federal Regulations.

Article 5. Inmate Discipline

§3312. Disciplinary Methods.

Subsections 3312(a) through 3312(a)(3) are unchanged.

Subsections 3312(a)(3)(A) and 3312(a)(3)(B) are amended to read:

(A) Unless an inmate charged with serious misconduct requires temporary ~~administrative segregation~~ restricted housing pursuant to section 3335(~~b~~c) pending adjudication of the disciplinary charges, the inmate may be retained in regularly assigned housing, work, and program assignments.

(B) If the inmate is placed in ~~segregated~~ a restricted housing unit pending the disciplinary proceedings, the official making the housing decision shall ensure compliance with the provisions of article 7 of this subchapter.

Subsections 3312(b) through 3312(b)(2) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2932 and 5054, Penal Code.

Article 5. Inmate Discipline

§3314. Administrative Rule Violations.

Subsections 3314(a) through 3314(e)(9) are unchanged.

Subsection 3314(e)(10) is amended to read:

(10) Inmates placed in a Restricted Housing Unit ~~ASU, SHU, PSU~~, Privilege Group D, who are found guilty of any RVR deemed administrative per this section are subject to temporary loss of entertainment appliances as follows:

Subsections 3314(e)(10)(A) through 3314(k) are unchanged.

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

Article 5. Inmate Discipline

§3315. Serious Rule Violations.

Subsections 3315(a) through 3315(a)(3)(A) are unchanged.

Subsection 3315 (b) is amended to read:

(b) In addition to the disciplinary hearing, the inmate may be subject to ~~segregation~~ restricted housing placement from the general population pursuant to sections 3312 and 3335 through 3349~~5~~; and referral for prosecution when the misconduct is a criminal offense.

Subsection 3315(c) is amended to read:

(c) Hearing. Serious rule violations shall be heard at the Senior Hearing Officer (SHO) or higher level. A SHO shall not be below the level of a ~~facility captain, correctional captain,~~ correctional counselor III, parole agent III, or an experienced correctional lieutenant, correctional counselor II, or parole agent II.

Subsections 3315(d) through 3315(f)(5)(K)2. are unchanged.

Subsection 3315(f)(5)(L) is amended to read:

(L) Inmates placed in ASU, SHU, PSU Restricted Housing Unit (RHU) or other ~~segregated~~ restricted housing units on Privilege Group D, who are deemed to be program failures, as defined in section 3000, based on conduct while in the ASU/SHU/PSU RHU; or other ~~segregated~~ restricted housing units, shall not possess personal entertainment appliances. An inmate who is deemed a program failure by a classification committee is subject to having their personal property appliances stored by the institution pending removal of program failure designation. Inmates deemed a program failure who receive one or more additional Administrative or Serious Rules Violation Reports while assigned to program failure status shall be required to mail out, return, donate or dispose of disallowed property in accordance with Subsection 3191(c). Inmates who are not deemed to be program failures, but who are found guilty of any RVR per this section based on their conduct while in the ASU/SHU/PSU RHU or other ~~segregated~~ restricted housing units, are subject to temporary loss of their entertainment appliances as follows:

Subsections 3315(f)(5)(L)1. through 3315(i) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 295, 295.1, 295.2, 296, 296.1, 296.2, 297, 298, 298.1, 298.2, 298.3, 299, 299.5, 299.6, 299.7, 300, 300.1, 300.2, 300.3, 314, 530, 532, 646.9, 647, 653, 2931, 2932, 2933, 4501.1, 4573.6, 4576, 5054 and 5068, Penal Code.

Article 5. Inmate Discipline

§3317. Mental Health Assessments for Disciplinary Proceedings.

Subsection 3317(a) is unchanged.

Subsection 3317(b) is unchanged but shown for reference.

(b) Inmates who are alleged to have committed a Rules Violation shall receive a Mental Health Assessment, via completion of CDCR Form 115-MH-A (12/15), Rules Violation Report: Mental Health Assessment, which is incorporated by reference, for any of the following reasons:

Subsections 3317(b)(1) through 3317(b)(3) are unchanged.

Subsection 3317(b)(4) is amended to read:

(4) Inmate is a participant in the MHSDS at the Correctional Clinical Case Management System (CCCMS) level of care and has been charged with a Division A, B or C offense or any other rules violation which may result in the assessment of a ~~Security~~ Restricted Housing Unit term as defined in Section ~~333741.9~~, subsection (eg).

Subsections 3317(b)(5) through 3317(g) are unchanged.

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

Article 5. Inmate Discipline

§3322. Length of Confinement.

Subsections 3322(a) and 3322(b) are amended to read:

(a) No inmate shall be kept in disciplinary detention or confined to quarters more than ten days. The chief disciplinary officer may shorten time spent in disciplinary detention or confined to quarters if the inmate appears ready to conform and the facility disciplinary process will benefit by such an action. When the disciplinary detention or confined to quarters disposition has expired and continued ~~segregation~~ restricted housing is deemed necessary, the inmate shall be processed pursuant to section 3335.

(b) Time spent in ~~segregation~~ restricted housing pending a disciplinary hearing shall normally be credited toward any disciplinary detention or confined to quarters sentence imposed. Reasons for not granting such credit shall be explained in the disposition section of the RVR.

Subsection 3322(c) is unchanged.

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

Article 5.5 Restoration of Forfeited Credits

§3327. Restoration of Forfeited Credits.

Subsections 3327(a) through 3327(a)(4)(D) are unchanged.

New Subsection 3327(a)(5) is adopted to read:

(5) No credit shall be restored pursuant to subsections 3329.5(a)(1) and 3329.5(a)(2).

Subsections 3327(b) through 3327(d) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 273a, 273ab, 273d, 667.5, 2932, 2932.5, 2933, 3058.6, 3058.9 and 5054, Penal Code.

Article 5.5 Restoration of Forfeited Credits

§3329.5. Automatic Restoration of Forfeited Credits.

Subsection 3329.5(a) is amended to read:

(a) Notwithstanding sections 3327, 3328, and 3329, Good Conduct Credit shall be restored for a Division “D,” “E,” or “F” offense discovered by department staff on or after May 1, 2017, if an inmate remains disciplinary-free for a period of 90 calendar days- with the following exceptions:

New Subsection 3329.5(a)(1) is relocated and renumbered from existing Subsection 3329.5(d) and amended to read:

(1) Credit loss resulting from rules violations for unauthorized possession or constructive possession of a cellular telephone or wireless communications device capable of making or receiving wireless communications shall not be restorable.

New Subsection 3329.5(a)(2) is adopted to read:

(2) Credit loss resulting from rules violations for Indecent Exposure, which occurred on or after November 1, 2023, shall not be restorable.

Subsections 3329.5(b) and 3329.5(c) are unchanged.

Subsection 3329.5(d) is relocated and renumbered to new Subsection 3329.5(a)(1).

~~(d) This section is not applicable to inmates found guilty of a rules violation for unauthorized possession or constructive possession of a cellular telephone or wireless communication device capable of making or receiving wireless communications.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 3058.6, 3058.9 and 5054, Penal Code.

Article 6. Disciplinary Detention

§3332. Administration and Supervision of Detention Units.

Subsection 3332(a) is unchanged.

Subsection 3332(b) is amended to read:

(b) Administration and Supervision. The administration of disciplinary detention units may be delegated to a staff member at not less than the level of ~~correctional~~ captain. The supervision of disciplinary detention units may be assigned to a staff member at not less than the level of correctional sergeant.

Subsections 3332(c) through 3332(f) are unchanged.

Subsections 3332(f)(1) and 3332(f)(2) are amended to read:

(1) A Disciplinary Detention Log, CDC Form 114, will be maintained in each designated disciplinary detention unit. Specific information required in this log will be kept current on a daily and shift or watch basis. A completed log book will be retained in the unit for as long as any inmate recorded on the last page of that log remains in the unit. Storage and purging of log books will be in accordance with department schedules. One disciplinary detention/~~segregation~~ restricted housing log may serve a disciplinary detention unit and other ~~special purpose segregation~~ restricted housing units which are combined and are administered and supervised by the same staff members.

(2) A separate record will be maintained on each inmate undergoing disciplinary detention. This record will be compiled on ~~CDC Form 114-A, Detention/Segregation~~ automated Restricted Housing Record (Rev. 11/23), which is incorporated by reference. In addition to the identifying information required on the form, all significant information relating to the inmate during the course of detention, from reception to release, will be entered on the form in chronological order.

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

Article 7. ~~Segregated~~ Restricted Housing

Section 3335 is renamed and amended to read:

§3335. ~~Administrative Segregation~~ Restricted Housing Unit Placement.

Section 3335 Initial paragraph is renumbered to Subsection 3335(a) and amended to read:

(a) When an inmate's presence in an institution's General Population (GP)₁ inclusive of the Restricted Custody General Population (RCGP) facility₁ presents an immediate threat to the safety of the inmate or others, endangers institution security₁ or jeopardizes the integrity of an investigation of an alleged serious misconduct, criminal activity, or the safety of any person, the inmate shall be immediately removed from the GP and placed in a Restricted Housing Unit (RHU) pursuant to subsection 3335(c) ~~administrative segregation. Administrative segregation may be accomplished by confinement in a designated Administrative Segregation Unit (ASU) or, in an emergency, to any single cell unit capable of providing secure segregation.~~ Initial placement into these units requires

issuance of an automated Restricted Housing Unit Placement Notice (RHUPN) (11/23), which is incorporated by reference, and approval by an Administrative Reviewer as described in subsection 3336(b). If an Institution Classification Committee (ICC) determines continued placement in a RHU is appropriate, approval by the Classification Staff Representative (CSR) for extension or an assessed Determinate RHU term, or by the Departmental Review Board (DRB) if the inmate is being assessed an Administrative RHU term, on the basis of classification committee recommendations and referrals is required. CDCR staff shall not place inmates into a SHU, ASU, or the SDP RHU solely on the basis of their validation status.

Subsections 3335(b) through 3335(b)(1)(A) are renumbered from existing 3335(a) through 3335(a)(1)(A) and amended to read:

~~(a)~~ Non-Disciplinary Restricted Housing Segregation.

(1) Non-Disciplinary Restricted Housing Segregation (NDRHS) means temporary restricted segregated housing placement for administrative reasons to include including, but are not limited to:

(A) ASU RHU placement for investigation of safety concerns not resulting from the inmate's own misconduct warranting a Rules Violation Report.

New Subsection 3335(b)(1)(A)1. is adopted to read:

1. Inmates whose safety concerns result from the inmate's own misconduct or the inmate's failure to cooperate with the investigation into their safety concerns may be denied NDRH designation by an ICC. In these cases, the ICC shall document the information detailing the misconduct and reasoning for denial of NDRH within the automated Classification Committee Chrono (05/19).

Subsections 3335(b)(1)(B) and 3335(b)(1)(C) are renumbered from existing 3335(a)(1)(B) and 3335(a)(1)(C) and text is unchanged.

(B) Investigation not related to misconduct or criminal activity.

(C) Being a relative or an associate of a prison staff member.

Subsection 3335(b)(1)(D) is renumbered from existing 3335(a)(1)(D) and text is unchanged but shown for reference.

(D) Investigation related to being the victim of a Prison Rape Elimination Act (PREA) incident.

Subsections 3335(b)(1)(D)1. through 3335(b)(1)(D)3. are renumbered from existing 3335(a)(1)(D)1. through 3335(a)(1)(D)3. and amended to read:

1. If the placement in NDRHS is related to being the victim of a PREA incident, the inmate will be afforded all programs, privileges, and education in accordance with section 3044 and subsection 3190(b)(5)(C), of Title 15 of the CCR. If these are restricted, assigned

staff shall document: 1) the opportunities that have been limited; 2) the duration of the limitation; and 3) the reasons for such limitations.

2. The facility shall assign such inmates to ~~NDRHS~~ only until an alternative means of separation from likely abusers can be arranged, and such an assignment shall not ordinarily exceed a period of 30 days. If the period of restricted housing segregation exceeds 30 days, reasoning shall be documented on an automated Classification Committee Chrono (05/19), which is incorporated by reference.

3. Every 30 days, the facility shall afford each such inmate ~~with~~ a review by the assigned custody supervisor to determine whether there is a continuing need for restricted housing segregation ~~from the general population~~. The review shall be documented on the CDC Form 128-B (Rev. 4/74), General Chrono. If the custody supervisor determines the need for continued restricted housing segregation no longer exists, the inmate shall be referred to the ~~Institution Classification Committee~~ ICC for a program review.

New Subsections 3335(b)(1)(E) through 3335(b)(1)(G) are adopted to read:

(E) Post Restricted Housing Unit Maximum Release Date (RHU MRD) pending transfer to the GP.

(F) Lack of appropriate bed space.

(G) Out-to-court and return for non-criminal proceedings with case factors precluding release to the GP.

Subsections 3335(b)(2) and 3335(b)(2)(A) are renumbered from existing 3335(a)(2) and 3335(a)(2)(A) amended to read:

(2) Designation as ~~NDRHS~~ shall be made by ICC.

(A) Any case designated as ~~NDRHS~~, pursuant to subsections 3335(b)(1)(A) through 3335(b)(1)(C), and included in the MHSDS, shall be transferred to an appropriate institution within 72 hours of initial designation.

Subsections 3335(c) through 3335(c)(4) are renumbered from existing 3335(b) through 3335(b)(4) and amended to read:

~~(b)~~ The reasons for ordering an inmate's placement in restricted housing ~~administrative segregation~~ shall be clearly articulated on an automated ~~Administrative Segregation Unit Placement Notice RHUPN (05/19 11/23)~~, which is incorporated by reference, by the initial authority who ordered placement in restricted housing segregation ~~segregating authority~~.

(1) The automated RHUPN (11/23) Administrative Segregation Unit Placement Notice shall include sufficient information and detail to allow the inmate to present a written or verbal defense to the stated reason(s) and circumstances for restricted housing segregation during the classification hearing.

(2) The authority to order an inmate's initial placement in restricted segregated housing shall not be delegated below the staff level of Correctional Lieutenant or Correctional Counselor II (CCII) Supervisor, except when a lower level staff member is the highest ranking official on duty.

(3) A printed copy of the automated RHUPN (11/23) Administrative Segregation Unit

~~Placement Notice~~ shall be issued to the inmate at the time of placement in restricted housing ~~administrative segregation~~ by the official ordering placement or by staff at the level of Correctional Lieutenant, CCII Supervisor, or higher.

(A) When necessary, the official ordering restricted housing ~~administrative segregation~~ placement shall accurately document whether the inmate has Limited English Proficiency (LEP), or has a disability or communication need requiring effective communication, whether there is a need for an accommodation or assistance to ensure effective communication as defined in Section 3000, and if necessary, document the provision of any assistance provided that is consistent with the inmate's communication need, and document the method staff used to determine the inmate understood.

(4) Restricted housing ~~Administratively segregated~~ inmate's returning to their endorsed institution from out-to-court or out-to-medical shall not require an updated automated RHUPN (11/23) ~~Administrative Segregation Unit Placement Notice~~ unless the inmate's next scheduled ICC hearing was missed or the circumstances for ~~segregation~~ restricted housing have changed.

Subsections 3335(d) through 3335(f) are renumbered from existing 3335(c) through 3335(e) and amended to read:

(~~ed~~) In addition to the automated RHUPN (11/23) ~~Administrative Segregation Unit Placement Notice~~, the initial ~~segregation~~ authority who ordered placement in restricted housing or designee shall prepare a CDC Form 114-A1 (~~40/98~~11/23), Inmate Restricted Housing Segregation Profile, which is hereby incorporated by reference, for each inmate being placed on restricted housing ~~administrative segregation~~ status.

(~~de~~) A staff member at the rank of Captain, Correctional Counselor III (CCIII) or higher may rescind the placement and order the release of an inmate in restricted housing ~~administrative segregation~~ at any time prior to the initial ~~Institution Classification Committee (ICC)~~.

(~~ef~~) All classification committee actions shall be documented, including a specific record of the inmate's participation, an explanation of the reason(s), and the information and evidence relied upon for the action taken. The inmate shall be provided a copy of the automated Classification Committee Chrono (05/19) and copies of the completed forms relied upon in making the decisions affecting the inmate.

New subsection 3335(g) is adopted to read:

(g) Special circumstances or exceptions to the placement criteria for RHU must be referred to and decided by the DRB in accordance with section 3376.1.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; 28 CFR Sections 115.42 and 115.43; *Wright v. Enomoto*, (1976) 462 F.Supp. 397; ~~and~~ *Toussaint v. McCarthy* (9th Cir. 1986) 801 F.2d 1080, cert. denied, 481 U.S. 1069.; *Sandin v. Connor* (1995) 515 U.S. 472; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; and *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490

New Section 3335.1 is relocated and renumbered from existing Section 3335.5.

§3335.51. Exclusions.

New Section 3335.1(a) Initial paragraph through Subsection 3335.1(d) are relocated and renumbered from existing 3335.5 Initial paragraph through Subsection 3335.5(c) and amended to read:

(a) Removal of an inmate from the General Population (GP) for the reasons described in this section is not considered placement in restricted housing ~~administrative segregation~~ and is specifically excluded from the other provisions of this article.

(~~ab~~) Medical. When an inmate is removed from the GP for medical or psychiatric reasons by order of healthcare staff and the inmate's placement is in a medical setting or in other housing as a medical quarantine, the inmate will not be deemed as ~~segregated~~ restricted housing for the purpose of this article. ~~Administratively segregated~~ Restricted Housing inmates with healthcare concerns shall remain on restricted housing ~~administrative segregation~~ status, regardless of housing.

(~~bc~~) Lay-Over. Newly received inmates in transit or lay-over status may be restricted to assigned quarters for that purpose. Such restrictions should not be more confining than is required for institution security and the safety of persons, nor for a period longer than the minimum time required to evaluate the safety and security factors and reassignment to more appropriate housing. If restricted housing ~~administrative segregation~~ is used for this purpose, such placement shall be in accordance with the provisions of Subchapter 4, Article 7.

(~~ed~~) Orientation. Newly received inmates may be restricted to assigned quarters for that purpose. Such restrictions should not be more confining than is required for institution security and the safety of persons, nor for a period longer than the minimum time required to evaluate the safety and security factors and reassignment to more appropriate housing. If restricted housing ~~administrative segregation~~ is used for this purpose, such placement shall be in accordance with the provisions of Subchapter 4, Article 7.

New Subsections 3335.1(e) and 3335.1(f) are relocated and renumbered from existing Subsections 3335.5(d) and 3335.5(e) and the text is unchanged but shown for reference.

(~~de~~) Disciplinary Detention. Placement in disciplinary detention as an ordered action of a disciplinary hearing is not subject to the provisions of this article.

(~~ef~~) Confinement to Quarters. Confinement to quarters as an ordered action of a disciplinary hearing is not subject to the provisions of this article.

New Subsections 3335.1(g) through 3335.1(g)(3) are adopted to read:

(g) Protective Housing Unit (PHU). A PHU houses inmates whose safety would be endangered by general population inmates, and provides secure housing and care for inmates with safety concerns of such magnitude that no other viable housing options are available, subject to approval by the Departmental Review Board (DRB).

(1) An inmate meeting all of the following criteria may be placed in PHU:

(A) The inmate does not require restricted housing placement for reasons other than protection.

(B) The inmate is not documented as an affiliate of an STG-I.

(C) An Institution Classification Committee has determined that the inmate does not pose a threat to the safety or security of other inmates similarly housed in the PHU.

(D) The inmate has specific, documented and verified safety and/or enemy concerns, capable of causing and likely to cause the inmate great bodily injury if placed in the general population.

(E) The inmate has notoriety likely to result in great bodily injury to the inmate if placed in the general population.

(F) There is no alternative placement available that can both ensure the inmate's safety and provide the level of custody required for the appropriate control of the inmate's movement.

(2) The inmate's uncorroborated personal report, the nature of their commitment offense or a record of prior protective custody shall not be the sole basis for PHU placement.

(3) The Departmental Review Board (DRB) shall retain sole authority for inmate placement in and removal from PHU.

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

New Section 3335.2 is adopted to read:

§3335.2. Enhanced Outpatient Program Restricted Housing Unit.

(a) The Enhanced Outpatient Program Restricted Housing Unit (EOP RHU) provides secure housing and care for inmates with diagnosed psychiatric disorders who are not able to function in the general population and do not require inpatient hospital care, but who require placement in restricted housing.

(b) An inmate shall be housed in an EOP RHU if they are included in the Mental Health Services Delivery System (MHSDS) at the EOP level of care and meet criteria pursuant to section 3335.

(c) Inmates assigned to an EOP RHU shall be classified pursuant to section 3340. Inmates assigned to an EOP RHU with an imposed RHU term shall be classified pursuant to section 3341.

(d) An inmate included in the MHSDS at the EOP level of care and retained in RHU by an Institution Classification Committee shall be transferred to a designated EOP RHU within 30 days of RHU placement. If the inmate's inclusion in the MHSDS at the EOP level of care occurs after RHU placement, the inmate shall be transferred within 30 days from the date of the inclusion at the EOP level of care.

(1) An exception to the 30-day requirement is allowed, and time constraints suspended, in the following circumstances:

(A) Healthcare staff determines, based on medical necessity, that a transfer cannot occur and places a medical hold.

(B) During a delay resulting from the inmate's refusal to transfer.

(C) The inmate is out-to-court.

- (D) The inmate is placed in a Mental Health Crisis Bed or higher level of care.
(2) Upon resolution of the exception, the time constraints will resume.

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

New Section 3335.3 is adopted to read:

§3335.3. Correctional Clinical Case Management System Restricted Housing Unit.

(a) The Correctional Clinical Case Management System Restricted Housing Unit (CCCMS RHU) provides secure housing and enhanced care for inmates with diagnosed psychiatric disorders who do not require Enhanced Outpatient Program (EOP), crisis, or inpatient levels of care, but who require placement in restricted housing.

(b) An inmate shall be housed in a CCCMS RHU if they are included in the Mental Health Services Delivery System (MHSDS) at the CCCMS level of care and meet criteria pursuant to section 3335.

(c) Inmates assigned to a CCCMS RHU shall be classified pursuant to section 3340. Inmates assigned to a CCCMS RHU with an imposed RHU term shall be classified pursuant to section 3341.

(d) An inmate included in the MHSDS at the CCCMS level of care and retained in RHU by an Institution Classification Committee shall be transferred to a designated CCCMS RHU within 30 days of RHU placement. If the inmate's inclusion in the MHSDS at the CCCMS level of care occurs after RHU placement, the inmate shall be transferred within 30 days from the date of the inclusion at the CCCMS level of care.

(1) An exception to the 30-day requirement is allowed, and time constraints suspended, in the following circumstances:

(A) Healthcare staff determines, based on medical necessity, that a transfer cannot occur and places a medical hold.

(B) During a delay resulting from the inmate's refusal to transfer.

(C) The inmate is out-to-court.

(D) The inmate is placed in a Mental Health Crisis Bed or higher level of care.

(2) Upon resolution of the exception, the time constraints will resume.

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

New Section 3335.4 is adopted to read:

§3335.4. General Population Restricted Housing Unit.

(a) The General Population Restricted Housing Unit (GP RHU) provides secure housing

and care for inmates who are not included in the Mental Health Services Delivery System, but who require placement in restricted housing pursuant to section 3335.

(b) Inmates assigned to a GP RHU shall be classified pursuant to section 3340. Inmates assigned to a GP RHU with an imposed RHU term shall be classified pursuant to section 3341.

(c) Inmates housed at Calipatria State Prison, Centinela State Prison, Chuckawalla Valley State Prison, or Ironwood State Prison, whose Mental Health Level of Care (MHLOC) changes require inclusion in the MHSDS at the CCCMS or EOP level of care, shall be transferred to an appropriate MHSDS RHU within 14 calendar days of the date their MHLOC change was reflected in the electronic health records system. If the inmate was included in the MHSDS at the time of their arrival at one of the above institutions, the inmate shall be transferred within 72 hours from the date of arrival.

(1) An exception to the 14-day or 72-hour requirement is allowed, and time constraints suspended, in the following circumstances:

(A) Healthcare staff determines, based on medical necessity, that a transfer cannot occur and places a medical hold.

(B) During a delay resulting from the inmate's refusal to transfer.

(C) The inmate is out-to-court.

(D) The inmate is placed in a Mental Health Crisis Bed or higher level of care.

(2) Upon resolution of the exception, the time constraints will resume.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933.6, 5054 and 5068, Penal Code; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146, 1278; *Coleman v. Wilson* 912 F.Supp. 1282 (E.D. Cal. 1995); *Clark v. California* 123 F.3d 1267 (9th Cir. 1997); *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; and *Castillo v. Alameida, et al.*, (N.D. Cal., No. C94-2847).

Existing Section 3335.5 is relocated and renumbered to new Section 3335.1.

Section 3336 is amended to read:

§3336. Administrative Review of Restricted Housing ~~Administrative Segregation~~ Unit Placement.

Subsection 3336(a) is amended to read:

(a) The purpose of the administrative review is to determine if the reason(s) for ~~administrative segregation~~ restricted housing placement is appropriate and whether continued ~~administrative segregation~~ restricted housing status retention is necessary, in accordance with the provisions of this article.

Subsections 3336(b) through 3336(b)(1) are amended to read:

(b) An inmate's ~~administrative segregation~~ restricted housing placement shall be reviewed for retention or release by staff at the level of Captain, Correctional Counselor III (CCIII), or higher, on the first business day following such placement. The review shall

include: the inmate's case factors, reason(s) for ~~segregation~~ restricted housing, and an interview with the inmate unless the inmate refuses to participate.

(1) Administrative reviews shall not be conducted by the staff member who authorized the initial ~~administrative segregation~~ restricted housing placement.

Subsection 3336(b)(2) is amended to read:

(2) An acting Captain in an official out of class assignment may conduct an administrative review; however, ~~if the acting Captain is not in an official out-of-class assignment, in this case,~~ an Associate Warden (AW) shall conduct a subsequent review that same day. If the reviewing AW is also in an acting capacity, their permanent rank shall be no lower than Captain or CCIII.

Subsection 3336(b)(3) is unchanged.

Subsection 3336(b)(4) is amended to read:

(4) The inmate shall be released to the GP if the Administrative Reviewer deems continued ~~administrative segregation~~ restricted housing placement unnecessary.

Existing Subsections 3336(b)(5) and 3336(b)(6) are renumbered to Subsections 3336(b)(6) and 3336(b)(7).

New Subsections 3336(b)(5) through 3336(b)(5)(C) are adopted to read:

(5) When releasing or rescinding an initial restricted housing placement prior to the initial Institution Classification Committee (ICC), prior to release, the releasing authority shall:

(A) Consult with the Captain or designee from the facility where the inmate is to be housed.

(B) Document the reason(s) for the decision on the automated Restricted Housing Unit Placement Notice (RHUPN) (11/23), which is incorporated by reference. The explanation of the reason(s) shall include the information and evidence relied upon for the action taken.

(C) Provide the inmate a copy of the automated RHUPN (11/23).

Subsections 3336(b)(6) and 3336(b)(7) are renumbered from existing Subsections 3336(b)(5) and 3336(b)(6) and amended to read:

(5) (6) If ~~administrative segregation~~ restricted housing placement is deemed appropriate, the Administrative Reviewer shall retain the inmate in restricted housing ~~administrative segregation~~ and address the appropriate cell status pending the ICC hearing. If placement is based on an investigation into safety concerns and the Administrative Reviewer determines placement does not appear to be based on the inmate's own misconduct, the Administrative Reviewer may grant temporary Non Disciplinary Restricted Housing for privileges and access to property pending ICC review. The determination shall be based on a review of the circumstances of placement, including

any confidential documents and an interview with the inmate.

(6) (7) The decision rendered shall be documented on the automated Administrative Segregation Unit Placement Notice (05/19) RHUPN (11/23) which is incorporated by reference. This documentation shall include an explanation of the reason(s) for retention and the information and evidence relied upon.

Subsection 3336(c) is unchanged.

Subsections 3336(c)(1) through 3336(c)(3) are amended to read:

(1) Staff Assistance. The Administrative Reviewer shall determine the need for a Staff Assistant (SA) in accordance with section 33404 and document on the automated RHUPN (11/23) Administrative Segregation Unit Placement Notice.

(2) Investigative Employee (IE). If an inmate requests witnesses or the assistance of an IE, the Administrative Reviewer, may assign an IE in accordance with section 33404 and document on the automated RHUPN (11/23) Administrative Segregation Unit Placement Notice.

(3) Inmate Waiver. An inmate may waive their right to the 72-hour preparation time in writing by signing and acknowledging the waiver on the automated RHUPN (11/23) Administrative Segregation Unit Placement Notice, pursuant to subsection 333740(a)(2).

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Taylor v. Rushen (N.D. Cal.) L-80-0139 SAW.

Existing Section 3337 is relocated and renumbered to new Section 3340.

New Section 3337 is adopted to read:

§3337. Determinate Restricted Housing Unit Term.

(a) An inmate shall be assessed a Determinate Restricted Housing Unit (RHU) term when the inmate is found guilty of a Rules Violation Report for an offense specifically listed in subsection 3337(g).

(b) A Determinate RHU term shall be computed using the RHU Term Matrix in subsection (g) and the automated RHU Term Computation (Rev. 11/23), which is hereby incorporated by reference. A completed copy of the automated RHU Term Computation (Rev. 11/23) shall be provided to the inmate. All Determinate RHU terms shall be assessed at the set term for the offense.

(1) The RHU term effective date shall be the date of placement in restricted housing or the date of discovery of the information leading to the disciplinary charge, whichever occurs first.

(2) Inmates may be assessed multiple independent RHU terms, which shall be served simultaneously. The RHU term with the most distant Restricted Housing Unit Maximum Release Date (RHU MRD) shall be the controlling RHU MRD.

(3) Only rule violations with a violation date within the past five (5) years on an inmate's current CDCR number that warrant a RHU assessment shall be addressed by ICC and

reviewed by the Classification Staff Representative (CSR). ICC shall assess the appropriate RHU term in accordance with subsection 3337(g) and one of the following actions:

- (A) Impose/Re-impose
- (B) Impose/Re-impose and Suspend
- (C) Impose/Re-impose and Suspend in Entirety
- (D) Commute

(4) In assessment of the RHU term, ICC shall review and consider the clinical input documented on the Form 115-MH-A (12/15) Rules Violation Report: Mental Health Assessment, which is incorporated by reference. ICC shall document on the automated Classification Committee Chrono (05/19) their consideration and the actions taken as a result of the clinical input.

(c) Re-imposed RHU terms shall be addressed in accordance with section 3346.

(d) Inmates shall be assessed a Determinate RHU term for serious misconduct occurring while on Administrative RHU status provided the inmate is found guilty of an offense listed in subsection 3337(g). The Administrative RHU status shall run concurrently to any/all assessed Determinate RHU terms, whether active or suspended, and upon the RHU MRD the administrative status will continue.

(e) RHU terms shall be served in a departmentally approved RHU, or a facility specifically designated for that purpose. RHU terms may also be served in secure inpatient medical or mental health settings, when deemed medically necessary.

(f) ICC decisions to assess a RHU term shall be referred to a CSR for review and approval. In auditing and endorsing cases, the CSR shall ensure that any RHU term assessment is consistent with the specific disciplinary violation that was charged and the subsequent findings as confirmed by the Chief Disciplinary Officer and ICC.

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

(g) RHU Term Matrix (Set terms for determinate confinement to RHU).

<u>Offense</u>	<u>SET TERM (Mos/Days)</u>
<u>(1) Homicide:</u>	
<u>(A) Murder, attempted murder, solicitation of murder, or voluntary manslaughter of a non-inmate.</u>	<u>24</u>
<u>(B) Murder, attempted murder, solicitation of murder, or voluntary manslaughter of an inmate.</u>	<u>18</u>
<u>(2) Violence Against Persons:</u>	
<u>(A) Battery on a non-inmate with a weapon capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury; or physical force causing serious injury.</u>	<u>15</u>

<u>(B) Assault on a non-inmate with a weapon, capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury.</u>	<u>7/15</u>
<u>(C) Rape, sodomy, or oral copulation on a non-inmate, or any attempt.</u>	<u>15</u>
<u>(D) Battery on an inmate with a weapon capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury or physical force causing serious injury.</u>	<u>9</u>
<u>(E) Assault on an inmate with a weapon capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury.</u>	<u>4/15</u>
<u>(F) Rape, sodomy, or oral copulation on an inmate accomplished against the inmate's will, or any attempt.</u>	<u>9</u>
<u>(G) Battery on a non-inmate without serious injury.</u>	<u>6</u>
<u>(H) Assault on a non-inmate.</u>	<u>3</u>
<u>(I) Aggravated battery by means of gassing intentionally placing or throwing, or causing to be placed or thrown upon the person of a non-inmate, any human excrement or bodily fluids or bodily substances, or any mixture containing human excrement or other bodily fluids or bodily substances, which results in actual contact with the person's skin or membranes.</u>	<u>10</u>
<u>(J) Battery on an inmate by means of gassing intentionally placing or throwing, or causing to be placed or thrown upon the person of an inmate, any human excrement or bodily fluids or bodily substances, or any mixture containing human excrement or other bodily fluids or bodily substances, which results in actual contact with the person's skin or membranes.</u>	<u>6</u>
<u>(3) Threat to Kill or Assault Persons:</u>	
<u>(A) To take or use a non-inmate as a hostage.</u>	<u>15</u>
<u>(B) Threat of violence to non-inmate, which meets the Division B criteria.</u>	<u>2/15</u>
<u>(4) Possession of a Weapon:</u>	
<u>(A) Possession of a firearm or possession, manufacture or attempted manufacture of an explosive device.</u>	<u>15</u>
<u>(B) Possession, manufacture or attempted manufacture of a Weapon.</u>	<u>4</u>

<u>(5) Disturbance, Riot, or Strike:</u>	
<u>(A) Leading a disturbance, riot, or strike</u>	<u>6</u>
<u>(B) Active participation in a disturbance, riot, or Strike (2 or more offenses within a 12 month period or 1 with direct STG nexus).</u>	<u>3</u>
<u>(6) Any inmate who conspires to commit or solicits another person to commit any of the offenses above shall receive the term specified for that offense.</u>	

(h) "RHU MRD Term" is a combination of months, followed by days, which represents the amount of time that must pass before a Determinate RHU term expires. Unless previously suspended, the established RHU MRD is the date the RHU term ends and the inmate is no longer on RHU status.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933.6, 4501.1, 4502, 5054 and 5068, Penal Code; Sandin v. Connor (1995) 515 U.S. 472; Madrid v. Gomez (N.D. Cal. 1995) 889 F.Supp. 1146; Toussaint v. McCarthy (9th Cir. 1990) 926 F.2d 800; Toussaint v. Yockey (9th Cir. 1984) 722 F.2d 1490; and Castillo v. Alameida, et al., (N.D. Cal., No. C94-2847).

Existing Section 3338 is relocated and renumbered to new Section 3342.

New Section 3338 is relocated and renumbered from existing Section 3341.5 and amended to read:

§333841.5. Suspending Security Restricted Housing Unit Terms.

New Section 3338(a) through subsection 3338(b)(1) are amended to read:

(a) Determinate Restricted Housing Unit (SRHU) Terms.

(1) ICC may commute or suspend any portion of a Determinate SRHU term. Once commuted, the term shall not be re-imposed. ICC may suspend a Determinate SRHU term any time it is determined an inmate no longer poses a threat to the safety of any person or the security of the institution. Additionally, ICC may suspend a Determinate SRHU term for purposes of inpatient medical or mental health treatment when deemed medically necessary. Any ICC action to suspend or commute a Determinate SRHU term shall clearly articulate substantive justification for the decision on the CDC Form 128-G (Rev. 10/89) automated Classification Committee Chrono (05/19), which is incorporated by reference.

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

(B) The remaining time of the suspended SRHU term continues to run while the inmate is no longer in segregated restricted housing as long as the inmate remains in CDCR custody. For the purposes of this provision, "CDCR custody" includes inmates out-to-court

and housed in a county facility unless they are under the jurisdiction of the United States Marshals Service.

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

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

(3) If an inmate paroles prior to assessment of a Determinate SRHU term, the ICC shall address the unresolved term should the inmate return to CDCR custody with the same CDCR identification number, in accordance with subsection ~~3341.3(a)(6)~~ 3337.

(b) Administrative SRHU terms.

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

New Subsection 3338(b)(2) is unchanged but shown for reference:

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

New Subsections 3338(b)(3) and 3338(b)(4) are amended to read:

(3) ICC shall refer the case to DRB if a determination is made that retention on Administrative SRHU status is warranted. DRB shall assess the inmate's case factors and disciplinary behavior and articulate the basis for the need to continue the inmate on Administrative SRHU status in accordance with section ~~3341.3(e)~~ 3339.

(4) If an inmate paroles while on an Administrative SRHU term, the SRHU term will be stayed. If the inmate returns to CDCR custody, the Administrative SRHU term will be addressed in accordance with section ~~3341.6(e)~~ 3339.

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

Existing Section 3339 is repealed.

~~§3339. Release from Administrative Segregation.~~

~~(a) Release from administrative segregation shall occur at the earliest possible time in~~

~~keeping with the inmate's case factors and reasons for the inmate's placement in administrative segregation.~~

~~(b) When releasing or rescinding an initial administrative segregation placement prior to the initial ICC, prior to release, the releasing authority shall:~~

~~(1) Consult with the Captain or designee from the facility where the inmate is to be housed.~~

~~(2) Explain the basis and reasoning for the decision on the CDC Form 114-D.~~

~~(3) Provide the inmate a copy of the CDC Form 114-D.~~

~~(c) Inmates released from administrative segregation are considered GP inmates and are no longer subject to the requirements of this article. If immediate release to the GP is impractical for reasons identified in section 3335, a new CDC Form 114-D shall be issued and addressed in accordance with sections 3335, 3336 and 3337.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Taylor v. Rushen (N.D. Cal.) L-80-0139 SAW.

New Section 3339 is adopted to read:

§3339. Administrative Restricted Housing Unit Term.

(a) An inmate in the following circumstances may be assessed an Administrative Restricted Housing Unit (RHU) term by the Departmental Review Board (DRB) when the DRB articulates a substantial justification for the need for RHU placement due to the inmate's ongoing threat to safety and security of the institution and/or others, and the inmate cannot be housed in a less-restrictive environment and:

(1) Upon completion of a Determinate RHU term, the DRB determines the inmate's case factors are such that overwhelming evidence exists supporting an immediate threat to the security of the institution or the safety of others; or

(2) The inmate has a substantial disciplinary history consisting of no less than three (3) RHU terms within the past five (5) years and substantial justification for the need for continued RHU placement due to the inmate's ongoing threat to safety and security of the institution and/or others, and the inmate cannot be housed in less-restrictive housing; or

(3) The inmate is currently serving an Administrative RHU term and continued retention is required because the inmate's case factors are such that overwhelming evidence exists supporting an immediate threat to the security of the institution or safety of others, or the inmate has a substantial disciplinary history consisting of no less than three (3) RHU terms within the past five (5) years.

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

Existing Section 3340 is relocated and renumbered to new Section 3344.

New Section 3340 is relocated and renumbered from existing Section 3337 and amended to read:

§334037. Classification Hearing of Restricted Housing ~~Administrative Segregation~~ Placements.

Subsections 3340(a) and 3340(a)(1) are amended to read:

(a) The need to retain an inmate in restricted housing ~~administrative segregation~~ shall be determined by the ICC.

(1) The initial ICC hearing shall be held within 10 calendar days after the date the inmate was initially placed in restricted housing ~~administrative segregation~~. Voluntary extension of this time frame by the inmate is not permitted.

Subsection 3340(a)(2) is unchanged but shown for reference.

(2) The inmate shall be allowed at least 72 hours to prepare for the ICC classification hearing. However, the inmate may waive this procedural safeguard, after the Administrative Reviewer considers the need for Staff Assistant (SA) and the inmate does not require a SA.

Subsections 3340(a)(3) through 3340(a)(6) are amended to read:

(3) In addition to a copy of the automated Restricted Housing Unit Placement Notice (RHUPN) (11/23), which is incorporated by reference ~~CDC Form 114-D~~, provided to the inmate at the time of placement in restricted housing ~~administrative segregation~~ in accordance with subsection 3335(~~b~~c)(3), the inmate shall be provided copies of all additional documentation concerning the reasons for restricted housing ~~administrative segregation~~ placement at least 24 hours prior to the ICC hearing. Confidential information pertaining to the case shall be afforded to the inmate in accordance with subsection 3321(b)(3).

(4) Inmates not requiring ~~a staff assistant~~ an SA, in accordance with section ~~3344~~ 3340, may waive the 24-hour period for documentation review. Waivers shall be formally noted in the automated Classification Committee Chrono (05/19) ~~CDC Form 128-G (Rev. 10/89)~~.

(5) Exceptions to the inmate's physical presence at the hearing shall be permitted in accordance with subsections 3320(g) or 3375(f)(3). The reasons for any hearing conducted without the presence of the inmate shall be recorded within the automated Classification Committee Chrono (05/19) ~~CDC Form 128-G (Rev. 10/89)~~.

(6) If the inmate refuses or is unable to attend the hearing, a staff member shall query the inmate on behalf of the ~~ICC classification committee~~ and convey all relevant information to the ~~ICC committee~~ to consider in making their decision, which ~~and~~ shall be recorded within the automated Classification Committee Chrono (05/19) ~~CDC Form 128-G (Rev. 10/89)~~.

Subsection 3340(a)(7) is unchanged.

Subsection 3340(b) is amended to read:

(b) The primary purpose of the initial ICC hearing is to determine the need for continued ~~segregation~~ retention in restricted housing. Consistent with the criteria set forth in section 3335, the ICC review shall be based on the documented case-specific circumstances of the ~~automated RHUPN (11/23) CDC Form 114-D~~ and any other disciplinary, IE report or other available information that may impact placement. The ~~classification committee~~ ICC shall ensure that all applicable procedural safeguards are uniformly applied to each inmate placed in restricted housing ~~administrative segregation~~ and record their findings on an automated Classification Committee Chrono (05/19) CDC Form 128-G (Rev. 10/89) in accordance with subsection 3375(g), including any evidence or documentation relied upon, with a copy issued to the inmate.

Subsections 3340(b)(1) and 3340(b)(2) are unchanged.

Subsections 3340(c) through 3340(c)(5) are amended to read:

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

(1) At intervals of not more than ~~480 days~~ 180 days: when a pending Security Restricted Housing Unit (SRHU) assessable Rules Violation Report (RVR) is postponed pending a court proceeding or ~~referral to the District Attorney (DA) decision~~ for possible prosecution of referred cases. ~~Administrative segregation~~ Restricted housing extension requests specific to pending disciplinary matters shall identify the inmate's intent to postpone the disciplinary hearing, as well as, the status of the pending DA referral. Upon resolution of such matters, an ICC shall review the inmate's case within 14 calendar days. Inmates who have postponed their RVR pending a court proceeding or a referral to the DA shall not be retained in ~~ASU~~ RHU past the anticipated projected RHU MERD unless ICC has reason to believe, based on the inmate's disciplinary history and other case factors, including the existence of overwhelming evidence supporting an immediate threat to the security of the institution or the safety of others, that referral to the Departmental Review Board (DRB) is necessary for: 1) assessment of Administrative SRHU status for the safety and security of the institution or persons, following the adjudication of the RVR; or 2) the inmate's safety needs will require appropriate housing determination. In these cases, a new automated RHUPN (11/23) CDC Form 114-D shall be immediately prepared and issued, clearly articulating the reasons for continued retention, in accordance with section 3335.

(2) At intervals of not more than 90 days: when an restricted housing ~~administrative segregation~~ inmate is pending a GP transfer.

(3) At intervals of not more than 90 days: until a SRHU assessable RVR is adjudicated and the matter is not pending referral for prosecution. Upon resolution of such matters,

an ICC shall review the inmate's case within 14 calendar days.

(4) At intervals of not more than ~~90~~ 30 days: pending completion of an investigation into the safety of any person; if the complexity of the issues (e.g., safety/enemy concerns, institutional security, serious misconduct or criminal activity) require further investigation, up to a 90-day extension may be requested. Should the completed investigation result in the issuance of an RVR and/or referral to the DA for criminal prosecution, the ICC shall review the case in accordance with the schedule set forth in subsections (1) or (3) above. Upon resolution of such matters, an ICC shall review the inmate's case within 14 calendar days.

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

Subsections 3340(c)(6) and 3340(d) are unchanged.

Subsection 3340(e) is amended to read:

(e) Inmates in restricted housing ~~administrative segregation~~ who have an approved imposed ~~SRHU~~ term, but are pending other unresolved case considerations, shall be reviewed by the ICC in accordance with subsection 3341.8, Security Housing Unit/Psychiatric Services Unit Classification Hearings.

New Subsection 3340(f) is adopted to read:

(f) RHU classification decisions, including notification of the reasons for a classification hearing, housing restrictions, and yard assignment shall be documented on the automated Classification Committee Chrono (5/19), with a copy provided to the inmate.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; *Wright v. Enomoto*, (1976) 462 F.Supp. 397; and *Toussaint v. McCarthy* (9th Cir. 1986) 801 F.2d 1080, cert. denied, 481 U.S. 1069.

Existing Section 3341 is repealed

~~§3341. Segregated Program Housing Units.~~

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

~~(b) With the exception of Protective Housing Unit (PHU) and as otherwise specified in subsections section 3378.3(b)(1) through 3378.3(b)(3), SPHU placement for administrative SHU purposes shall be reviewed by ICC at least every 180 days, or sooner~~

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

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

~~(d) The ICC may release an inmate from PSU/SHU to an available and appropriate bed pending CSR review for alternate placement consideration at another institution. Unless otherwise specified in this section, if the current institution has other available and appropriate non SPHU housing, the ICC may release the inmate to that program pending C&PR review who has local endorsement authority in this circumstance.~~

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

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

New Section 3341 is adopted to read:

§3341. Imposed Restricted Housing Unit Term Classification Hearings.

(a) Restricted Housing Status Reviews. The Institution Classification Committee (ICC) shall conduct all classification hearings of restricted housing status inmates except as detailed in subsection 3376(d)(5).

(b) Inmates on Administrative Restricted Housing Unit (RHU) status shall be reviewed by an ICC for release consideration to less-restrictive housing no less frequently than every 180 days. Inmates who are retained on Administrative RHU status by an ICC shall be referred to the Departmental Review Board (DRB) on an annual basis. The DRB shall conduct an assessment of the inmate's case factors and disciplinary behavior for placement in less-restrictive housing.

(1) The DRB review shall include, but not be limited to, the availability of alternative housing, demonstrated evidence of behavioral change and expressed willingness to conform to CDCR rules.

(2) If retained, the DRB shall articulate on the automated Classification Committee Chrono (05/19) the basis for continued retention on Administrative RHU status in accordance with section 3339.

(c) Inmates on an imposed Determinate RHU term shall be reviewed by the ICC no less frequently than every 180 days following their initial RHU annual review, or sooner as directed by a Classification Staff Representative for release consideration.

(1) The purpose of the review is to evaluate the inmate's case factors to determine if RHU continues to be the most appropriate and least restrictive placement option commensurate with any existing threat to safety and security of the institution and/or others.

(2) The ICC review shall include, but not be limited to, the availability of appropriate alternative housing, demonstrated evidence of behavioral change and expressed willingness to conform to CDCR rules.

(d) Any inmate expected to be retained on RHU status beyond 360 days shall be provided an automated Restricted Housing Unit Placement Notice (RHUPN) (11/23), which is incorporated by reference, documenting the RHU annual review, which shall be issued in accordance with section 3342, prior to the inmate's RHU annual review.

(e) An inmate shall not be retained in RHU beyond the expiration of an imposed Determinate RHU term or beyond 360 days with an unexpired RHU Maximum Release Date (RHU MRD), unless the ICC has determined that retention in the RHU is required.

(f) A validated Security Threat Group (STG) I inmate who is requesting to debrief from their STG shall be considered for release from a RHU as follows:

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

(2) If serving an Administrative RHU term and DRB maintained transfer control, the inmate shall be referred to DRB for transfer consideration to the DPU in accordance with section 3378.5.

(3) If serving an imposed Determinate RHU term, the inmate will be retained in RHU. The debrief process will continue and upon resolution of the Determinate RHU term, the inmate shall be referred to the ICC for transfer consideration to the DPU in accordance with section 3378.5.

(g) Pre-RHU MRD Hearing. A Pre-RHU MRD hearing shall be held by ICC 90 days prior to the expiration of the controlling RHU MRD. The ICC review shall include, but not be limited to, the availability of appropriate alternative housing, demonstrated evidence of behavioral change, and expressed willingness to conform to CDCR rules, as well as determination of the housing and program assignment following completion of the RHU term, or sooner, if appropriate.

(1) If before the Pre-RHU MRD hearing there is any indication the inmate may be retained in restricted housing beyond the RHU MRD for reasons specified in section 3335, the inmate shall be issued an automated RHUPN (11/23) in accordance with section 3342.

(2) If ICC retains the inmate in restricted housing beyond the expiration of the RHU MRD, future classification hearings shall be conducted in accordance with section 3340.

(h) RHU classification decisions, including notification of the reasons for a classification hearing, RHU term assessment, housing restrictions, and yard assignment shall be documented on the automated Classification Committee Chrono (05/19), with a copy provided to the inmate.

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

Existing Section 3341.1 is repealed.

~~§3341.1. Protective Housing Unit.~~

~~Protective Housing Unit (PHU). A PHU houses inmates whose safety would be endangered by general population inmates and provides secure housing and care for inmates with safety concerns of such magnitude, that no other viable housing options are available.~~

~~(a) An inmate may be placed in PHU in accordance with the following criteria:~~

~~(1) The inmate does not require segregated housing placement for reasons other than protection.~~

~~(2) The inmate is not documented as an affiliate of an STG-I.~~

~~(3) A classification committee has determined that the inmate does not pose a threat to the safety or security of other inmates similarly housed in the PHU.~~

~~(4) The inmate has specific, documented and verified safety and/or enemy concerns, likely to and capable of causing the inmate great bodily injury if placed in the general population.~~

~~(5) The inmate has notoriety likely to result in great bodily injury to the inmate if placed in general population.~~

~~(6) There is no alternative placement available that can both ensure the inmate's safety and provide the level of custody required for the appropriate control of the inmate's movement.~~

~~(b) The inmate's uncorroborated personal report, the nature of their commitment offense or a record of prior protective custody shall not be the sole basis for protective housing unit placement.~~

~~(c) The DRB shall retain sole authority for the placement and removal of inmates from PHU.~~

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

Existing Section 3341.2 is repealed.

~~§3341.2. Psychiatric Services Unit.~~

~~Psychiatric Services Unit (PSU). A PSU provides secure housing and care for inmates with diagnosed psychiatric disorders not requiring inpatient hospital care, but who require placement in housing equivalent to Security Housing Unit (SHU), as described in section 3341.3.~~

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

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

~~(2) The inmate is included in the Developmental Disability Program at DD3 and the inmate's conduct has resulted in either a determinate or administrative SHU term.~~

~~(b) Staff shall not postpone a CSR referral for any inmate requiring placement in a PSU.~~

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

~~(d) Inmates assigned to PSU shall be classified pursuant to section 3341.8.~~

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

Existing Section 3341.3 is repealed

~~§3341.3. Security Housing Unit.~~

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

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

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

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

continual restrictive housing.

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

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

~~(A) Upon completion of a determinate SHU term, the DRB determines the inmate's case factors are such that overwhelming evidence exists supporting an immediate threat to the security of the institution or the safety of others.~~

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

~~(C) The inmate who is currently serving an administrative SHU term and continued retention is required because 1) the inmate's case factors are such that overwhelming evidence exists supporting an immediate threat to the security of the institution or safety of others; or 2) the inmate has a substantial disciplinary history consisting of no less than three SHU terms within the past five years. 1) the inmate's case factors are such that overwhelming evidence exists supporting an immediate threat to the security of the institution or safety of others; or 2) the inmate has a substantial disciplinary history consisting of no less than three SHU terms within the past five years.~~

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

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

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

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

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

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

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

~~(3) SDP in SHU~~

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

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

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

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

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

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

Existing Section 3341.4 is repealed.

~~§3341.4. Security Housing Unit Terms -- Initial, Concurrent and Consecutive.~~

~~(a) An initial Security Housing Unit (SHU) term is the first established term that changes the inmate's status from administrative segregation to SHU and shall be calculated using the SHU Term Assessment Worksheet. The initial SHU term shall be the controlling term unless another SHU term is later assessed with a more distant MERD.~~

~~(b) Concurrent SHU terms are independent SHU terms running simultaneously to another SHU term(s) and shall be calculated using the SHU Term Assessment Worksheet. Concurrent SHU terms shall be assessed for any offenses eligible for SHU assessment that occur either prior to the initial SHU term and may also be assessed for those offenses eligible for SHU assessment that occur or after the initial SHU term.~~

~~(c) Consecutive SHU terms are successive SHU terms that begin following the maximum MERD of an initial or previously assessed SHU term and shall be calculated using the~~

~~SHU Term Assessment Worksheet. Consecutive SHU terms may be assessed for any offense committed after the assessment of a previous SHU term with an unexpired MERD.~~

~~(d) For SHU assessable violations that occur after a previously assessed SHU term, with an unexpired MERD, ICC shall have the discretion to assess either a Concurrent or Consecutive SHU term, in accordance with subsections 3341.4(b) and (c). Any ICC action to assess either a Concurrent or Consecutive SHU term shall clearly articulate substantive justification for the decision on the CDC Form 128-G (Rev. 10/89).~~

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

Existing Section 3341.5 is relocated and renumbered to new Section 3338

Existing Section 3341.6 is repealed.

~~§3341.6. Re-Imposed Security Housing Unit Terms.~~

~~(a) A suspended SHU term may be re-imposed if an inmate is placed in administrative segregation immediately following an RVR for serious misconduct that occurred prior to the expiration of a previously established MERD. In this circumstance, the inmate must be found guilty of the serious misconduct and the ICC determines that the inmate poses a threat to the safety of any person or to the security of the institution. SHU terms re-imposed based on subsequent serious misconduct shall be effective the date of the misconduct. SHU terms suspended based solely on the need for inpatient medical or mental health treatment may be re-imposed without subsequent misconduct if the inmate continues to pose a threat to the safety of others or the security of the institution.~~

~~(1) If the SHU term is re-imposed, the ICC shall record the decision and the reasons for the decision on the CDC Form 128-G (Rev. 10/89). If multiple SHU terms are eligible for re-imposition, the SHU term with the most distant MERD need only be addressed. In this circumstance, any remaining SHU terms with unexpired MERD's shall be considered reimposed.~~

~~(2) Upon a guilty finding of subsequent serious misconduct, the ICC may elect to re-impose the current unexpired MERD, impose a forfeiture of clean conduct credits or impose a subsequent SHU term. ICC may impose a forfeiture of clean conduct credit or a concurrent/consecutive SHU term, where appropriate, upon those cases where the subsequent and serious misconduct occurred prior to the expiration of the established MERD; however, adjudication did not occur until after.~~

~~(b) If an inmate paroles with an active Determinate SHU term and subsequently returns to CDCR custody under the same CDCR number, ICC shall evaluate the Determinate SHU term for re-imposition. Re-imposed Determinate SHU terms shall be calculated utilizing the SHU Term Assessment Worksheet. Any unexpired SHU term shall be recalculated and addressed by ICC. If multiple CSR approved SHU terms are eligible for re-imposition, the SHU term with the most distant MERD need only be addressed. In this circumstance, any remaining SHU terms with unexpired MERD's shall be considered re-~~

imposed. ICC retains the authority to impose or suspend any remaining time based upon the safety of persons or security of the institution.

(1) If re-imposed, the SHU term shall not exceed the period of time remaining on the original SHU term at the time of parole.

(2) Re-imposition of the SHU term following return to custody shall be documented on the appropriate CDC Form 128-G (Rev. 10/89).

(3) SHU terms reassessed under the provisions of this subsection shall be audited and approved by a CSR.

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

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

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

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

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

(3) If the inmate paroled from Steps 1–3 of the SDP, has been out of CDCR custody for less than 5 years, and is returning with the same CDCR number, he shall be referred by ICC, as appropriate, to the Classification Staff Representative for transfer endorsement to the SHU SDP. The inmate will be assigned to the beginning of the next successive step from which he left to ensure that he does not spend more than 6 months in the assigned step.

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

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

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

Existing Section 3341.7 is repealed.

~~§3341.7. Forfeiture of Clean Conduct Credit.~~

~~(a) Serious misconduct not warranting a SHU term, occurring at any time following the commission of any offense listed in subsection 3341.9(e), but prior to a projected/established MERD, may result in a forfeiture of clean conduct credits.~~

~~(1) Up to 45 days of clean conduct credit may be forfeited as a result of a guilty finding for a serious misconduct not listed in subsection 3341.9(e). Such forfeiture shall be calculated utilizing the SHU Term Assessment Worksheet.~~

~~(2) If the SHU term has not yet been assessed or has been suspended in accordance with section 3341.5 at the time of the subsequent serious misconduct, the forfeiture of clean conduct credit is permitted should the SHU term be imposed or re-imposed.~~

~~(b) For inmates on segregation status, the ICC shall review any serious misconduct which may result in forfeiture of clean conduct credit and clearly articulate in the CDC Form 128-G (Rev. 10/89) the basis for their decision.~~

~~(c) Forfeitures of clean conduct credit may be assessed against credits already earned or future clean conduct credits, but shall not be assessed in periods exceeding the maximum MERD for the controlling offense.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933.6, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; and *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490.~~

Existing Section 3341.8 is repealed.

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

~~The ICC shall conduct all classification hearings of SHU/PSU status inmates.~~

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

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

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

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

~~(4) A validated STG affiliate who is requesting to debrief from his STG shall be considered for release from a SHU, as follows:~~

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

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

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

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

~~(5) A validated STG affiliate shall be released from SHU upon successful completion of Steps 1 through 4 of the SHU SDP, pursuant to section 3378.3. Inmates shall be transferred to the general population and be housed in a facility consistent with his or her case factors and placement score.~~

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

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

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

~~(1) If before the Pre-MERD hearing, there is any indication the inmate may be retained in segregation beyond the MERD for reasons specified in section 3335, the inmate shall be issued an CDC Form 114-D in accordance with section 3338.~~

~~(2) If ICC retains the inmate in segregation beyond the expiration of the MERD, the inmate's status then becomes administrative segregation, where future classification hearings shall be conducted in accordance with section 3337.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2933.6, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal.

1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; *Castillo v. Alameida, et al.*, (N.D. Cal., No.C94-2847); *Coleman v. Wilson* 912 F.Supp. 1282 (E.D. Cal. 1995); and *Clark v. California* 123 F.3d 1267 (9th Cir. 1997).

Existing Section 3341.9 is repealed.

~~§3341.9. Security Housing Unit Term Calculation and Assessment.~~

~~(a) The SHU term shall be set at the expected range unless the ICC finds factors exist which warrant the imposition of a lesser or greater period of confinement.~~

~~(1) Both aggravating and mitigating factors shall be considered for behavior occurring prior to the current serious rules violation. Aggravating and mitigating factors shall be considered for behavior occurring during an inmate's current term, prior term, discharged term or other verifiable incarcerated period, which have occurred during the past 5 calendar years.~~

~~(2) The total period of confinement assessed shall be no less than nor greater than the lowest or highest months listed for the offense in subsection 3341.9(e), the SHU Term Assessment Chart. In setting the term, the ICC shall determine the expected term for the offense, review the circumstances of the disciplinary offense, and consider the inmate's institutional behavior history using the factors below. The ICC shall then determine that either no unusual factors exist, or find that specific aggravating and/or mitigating factors exist which specify a greater or lesser term. The reasons for the specific amount of time assessed or deviation from the expected term shall be clearly documented on a CDC Form 128-G (Rev. 10/89), and SHU Term Assessment Worksheet, with a copy provided to the inmate.~~

~~(3) When calculating a SHU term, ICC shall address all aggravating and mitigating factors. Any single aggravating and/or mitigating factor shall be considered. If aggravating or mitigating factors exist, ICC shall adjust the SHU term in consideration of such factors. Should both aggravating and mitigating factors exist, ICC shall adjust the SHU term by uniformly applying each factor.~~

~~(b) Factors in Mitigation:~~

~~(1) The inmate has no serious RVR's within 12 months of the behavior or no disciplinary history during the first year of CDCR incarceration,~~

~~(2) The inmate has not been involved in prior serious misconduct of the same or similar nature, as listed in subsection 3341.9(e), within the last five calendar years.~~

~~(3) The serious misconduct was situational and spontaneous, as documented and referenced.~~

~~(4) The inmate was influenced by others to commit the offense, as documented and referenced.~~

~~(5) The serious misconduct resulted, in part, from the inmate's fear for safety, as documented and referenced.~~

~~(6) The serious misconduct resulted, in part, from the inmate's mental health, as documented and referenced on the CDCR Form 115-MH-A (Rev. 09/15).~~

~~(c) Factors in Aggravation:~~

~~(1) The inmate has been involved in prior serious misconduct of the same or similar~~

nature, as listed in subsection 3341.9(e), within the last five calendar years.

(2) The serious misconduct was planned and executed, as documented and referenced.

(3) The serious misconduct was committed on behalf of an STG, as documented and referenced.

(4) The inmate influenced others to commit serious misconduct at the time of the offense, as documented and referenced.

(5) The serious misconduct directly resulted in injury to more than one victim, as documented and referenced.

(d) ICG decisions to assess a SHU term and/or referral for segregated housing placement, shall be referred to a CSR for review and approval. In auditing and endorsing cases, the CSR shall ensure that any SHU term assessment is consistent with the specific disciplinary violation that was charged and the subsequent findings as confirmed by the Chief Disciplinary Officer (CDO) and ICG.

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

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

Offense	TYPICAL TERM (Mos/Days)		
	<i>Low</i>	<i>Expected</i>	<i>High</i>
(1) Homicide:			
(A) Murder, attempted murder, solicitation of murder, or voluntary manslaughter of a non-inmate.	36	48	60
(B) Murder, attempted murder, solicitation of murder, or voluntary manslaughter of an inmate.	24	36	48
(2) Violence Against Persons:			
(A) Battery on a non-inmate with a weapon capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury; or physical force causing serious injury.	18	30	42
(B) Assault on a non-inmate with a weapon, capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury.	9	15	21
(C) Rape, sodomy, or oral copulation on a non-inmate, or any attempt.	18	30	42
(D) Battery on an inmate with a weapon capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury or physical force causing serious injury.	12	18	24

(E) Assault on an inmate with a weapon capable of causing serious or mortal injury; caustic substance or other fluids capable of causing serious or mortal injury.	6	9	12
(F) Rape, sodomy, or oral copulation on an inmate accomplished against the inmate's will, or any attempt.	12	18	24
(G) Battery on a non-inmate without serious injury.	6	12	18
(H) Assault on a non-inmate.	3	36	9
(I) Battery on an inmate without serious injury. (2 or more offenses within a 12 month period the initial offense may be an offense listed within the subsection 3341.9(e)(1)-(2) or 1 with direct STG nexus).	2	4	6
(J) Aggravated battery by means of gassing intentionally placing or throwing, or causing to be placed or thrown upon the person of a non-inmate, any human excrement or bodily fluids or bodily substances, or any mixture containing human excrement or other bodily fluids or bodily substances, which results in actual contact with the person's skin or membranes.	12	20	28
(K) Battery on an inmate by means of gassing intentionally placing or throwing, or causing to be placed or thrown upon the person of an inmate, any human excrement or bodily fluids or bodily substances, or any mixture containing human excrement or other bodily fluids or bodily substances, which results in actual contact with the person's skin or membranes.	8	12	16
(3) Threat to Kill or Assault Persons:			
(A) To take or use a non-inmate as a hostage.	18	30	42
(B) Threat of violence to non-inmate.	2	5	8
(4) Possession of a Weapon:			
(A) Possession of a firearm or possession, manufacture or attempted manufacture of an explosive device.	18	30	42
(B) Possession, manufacture or attempted manufacture of a Weapon.	4	48	12
(5) Distribution of Controlled Substances as defined in Section 3000.	6	12	18
(6) Escape:			

(A) With force or attempted escape with force against a person.	12	24	36
(B) Or attempted escape from any departmental prison or institution other than a camp, MSF, or reentry facility.	6	12	18
(7) Disturbance, Riot, or Strike:			
(A) Leading a disturbance, riot, or strike	6	12	18
(B) Active participation in a disturbance, riot, or Strike (2 or more offenses within a 12 month period or 1 with direct STG nexus).	3	36	9
(C) Inciting conditions likely to threaten institutional security	3	6	9
(8) Harassment: a willful course of conduct which alarms, annoys or terrorizes a specific person, group, or entity in the free society, and which serves no legitimate purpose, either directly or indirectly.	6	12	18
(9) STG Disruptive Behavior:			
(A) Acting in a leadership role by directing or controlling STG behavior that is a behavior listed in this SHU Assessment Chart	6	12	18
(B) Recruiting inmates to become an STG affiliate or to take part in STG activities that is a behavior listed in this SHU Assessment Chart.	3	6	9
(C) Acting in a leadership role to generate, move, or facilitate assets or proceeds as a result of or in support of prohibited STG business dealings	3	6	9
(10) Theft or destruction of State property by any means where the loss or potential loss exceeds \$10,000 or threatens the safety of others.	2	8	12
(11) Extortion or Bribery:			
(A) Extortion or bribery of a non-inmate.	4	8	12
(B) Extortion or bribery of an inmate.	2	3	4
(12) Sexual Misconduct:			
(A) Indecent exposure	3	6	9

(B) Sexual disorderly conduct (2 or more offenses within a 12 month period. The initial offense may be any offense listed within the subsection 3341.9(e)(12)).	3	6	9
(13) Except as otherwise specified in this section or identified as an assault, proven attempts to commit any of the above listed offenses shall receive one-half (1/2) of the term specified for that offense.			
(14) Any inmate who conspires to commit or solicits another person to commit any of the offenses above shall receive the term specified for that offense.			

(f) Staff shall apply the appropriate amount of time to calculate the maximum and minimum eligible release date of the SHU term, pursuant to subsection 3341.9(e). Both the maximum and minimum eligible release dates from SHU shall be established by assessing the appropriate number of months, followed by any remaining calendar days.

(1) SHU MOS refers to the maximum number of months assessed for a specific determinate term pursuant to subsection 3341.9(e).

(2) MERD TERM means a combination of months, followed by days which represent the minimum amount of time that must pass before a SHU term expires and is also referred to as the MERD. The MERD initially represents 50% or one-half of the maximum SHU term, as it incorporates 50% or one-half clean conduct credit. The MERD may be adjusted based upon subsequent serious misconduct.

(A) Unless previously suspended, the established MERD is the date the SHU term ends and the date on which the inmate is no longer on SHU status. When multiple MERD's exist, the most distant MERD shall be the controlling MERD.

(3) CLEAN CONDUCT CREDIT means a combination of months, followed by days which represent credits that shall be applied to the maximum determinate SHU term, as long as the inmate remains free of any subsequent serious misconduct through the MERD. Clean conduct credit is calculated as one-half or 50% of the assessed maximum SHU term.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 4501.1, 4502, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; *Castillo v. Alameida, et al.*, (N.D. Cal., No.C94-2847); *Coleman v. Wilson* 912 F.Supp. 1282 (E.D. Cal. 1995); and *Clark v. California* 123 F.3d 1267 (9th Cir. 1997).

Existing Section 3342 is relocated and renumbered to new Section 3347.

New Section 3342 is relocated and renumbered from existing Section 3338 and amended to read:

§334238. Amendment to Reasons for Segregation Restricted Housing.

Subsections 3342(a) through 3342(a)(2) are amended to read:

(a) When the initial reason(s) for segregation restricted housing has been resolved, but additional circumstances exist warranting continued administrative segregation restricted

housing placement, a new automated ~~Administrative Segregation~~ Restricted Housing Unit Placement Notice (05/19/11/23), which is incorporated by reference, shall be immediately prepared and issued, clearly articulating the reasons for continued retention, in accordance with ~~Section~~ 3335.

(1) An automated ~~Administrative Segregation~~ Restricted Housing Unit Placement Notice (11/23), which is incorporated by reference, issued for purposes of retaining an inmate in ~~segregated housing a Restricted Housing Unit (ASU/SHU/Psychiatric Services Unit (PSU))~~ shall not require an Administrative Review.

(2) The official documenting retention shall ensure, and articulate on the automated ~~Administrative Segregation~~ Restricted Housing Unit Placement Notice (11/23) at the time of issuance, that all procedural safeguards have been provided, in accordance with subsections 3336(c)(1) through (3).

Subsection 3342(a)(3) is unchanged.

Subsections 3342(b) through 3342(c) are amended to read:

(b) For retention purposes, the automated ~~Administrative Segregation~~ Restricted Housing Unit Placement Notice (11/23) shall include:

(1) The current reason(s) for ~~segregation~~ restricted housing, and any resolution of such placement.

(2) The new reason(s) for retention in ~~segregated~~ restricted housing in accordance with section 3335.

(3) When necessary, the official issuing the automated ~~Administrative Segregation~~ Restricted Housing Unit Placement Notice (11/23) for ~~administrative segregation~~ restricted housing retention shall document the need for effective communication accommodation if any, as defined in ~~Section~~ 3000, the provision of any assistance provided that is consistent with the inmate's disability or communication need, and the method staff used to determine the inmate understood.

(c) ICC hearings on automated ~~Administrative Segregation~~ Restricted Housing Unit Placement Notices (11/23), retaining inmates in ASU/SHU/PSU restricted housing shall be in accordance with ~~Section~~ 333740.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; and Taylor v. Rushen (N.D. Cal.) L-80-0139 SAW.

Existing Section 3343 is relocated and renumbered to new Section 3348.

New Section 3343 is adopted to read:

§3343. Release from Restricted Housing.

(a) Release from restricted housing shall occur at the earliest possible time in keeping with the inmate's case factors and reasons for the inmate's placement in restricted housing.

(b) The Institution Classification Committee (ICC) may release an inmate from restricted

housing to an available and appropriate bed pending Classification Staff Representative review for alternate placement consideration at another institution. Unless otherwise specified in this section, if the current institution has other available and appropriate non-restricted housing, the ICC may release the inmate to that program pending review by a Classification & Parole Representative who has local endorsement authority in this circumstance.

(c) Inmates released from restricted housing are considered General Population inmates and are no longer subject to the requirements of this article. If immediate release to the general population is impractical for reasons identified in section 3335, a new automated Restricted Housing Unit Placement Notice (RHUPN) (11/23), which is incorporated by reference, shall be issued and addressed in accordance with sections 3335, 3336 and 3340.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5068, Penal Code; and Taylor v. Rushen (N.D. Cal.) L-80-0139 SAW.

Existing Section 3344 is relocated and renumbered to new Section 3349.

New Section 3344 is relocated and renumbered from existing Section 3340 and amended to read:

§334440. Assistance to Inmates for Restricted Housing Administrative Segregation Classification Hearings.

Section 3344 Initial paragraph is renumbered and amended to read:

(a)The Administrative Reviewer of the automated ~~Administrative Segregation Restricted Housing Unit Placement Notice (RHUPN) (05/4911/23)~~, which is incorporated by reference, or official ordering an inmate retained in ~~administrative segregation restricted housing~~, shall determine the need for providing assistance to inmates placed or retained in ~~administrative segregation restricted housing~~. Such assistance may be in the form of a Staff Assistant (SA) or an Investigative Employee (IE). Only staff trained in the role and responsibilities of an SA or IE may be assigned. The duties and functions of a staff member assigned to assist an inmate in a classification hearing based upon an automated RHUPN (11/23) Administrative Segregation Unit Placement Notice will be separate from those described in ~~S~~section 3318 for a disciplinary hearing.

Subsections 3344(b) through 3344(b)(3) are relocated and renumbered from existing 3340(a) through 3340(a)(3) and text is unchanged but shown for reference.

(ab) An SA shall be assigned if:

(1) The inmate is illiterate.

(2) The inmate has difficulty reading, writing or speaking English. If an SA is necessary for the purpose of language interpretation, but is not fluent in the inmate's language, a certified interpreter shall also be provided.

(3) The issues are sufficiently complex to make it unlikely that the inmate can understand the issues or the ICC hearing process.

Subsections 3344(b)(4) and 3344(b)(4)(A) are relocated and renumbered from existing 3340(b)(4) and 3340(b)(4)(A) and amended to read:

(4) The inmate is included in the Mental Health Services Delivery System (MHSDS), is Developmentally Disabled, or the circumstances surrounding ~~administrative segregation~~ restricted housing unit placement involve behavior of a bizarre or unusual nature.

(A) The ICC shall assess the ongoing appropriateness for an SA assigned to inmates in the MHSDS Correctional Clinical Case Management System (CCCMS) level of care while housed in ~~administrative segregation~~ restricted housing. In such cases, the ICC shall determine whether the inmate is capable of comprehending the issues being presented based upon a clinical assessment in accordance with subsection 3375(g)(3), and presented at the time of the hearing.

Subsections 3344(c) through 3344(h) are relocated and renumbered from existing 3340(b) through 3340(g) and text is unchanged but shown for reference.

~~(bc)~~ An inmate may refuse to accept the first SA at the time of assignment. If the inmate refuses the SA at the time of initial assignment, a second Sstaff Assistant shall be assigned. Any decision to substitute the assigned SA subsequent to the administrative review shall require notification to the inmate in writing.

~~(ed)~~ Inmates may refuse to accept the assignment of a second SA or waive a previous SA assignment unless:

(1) It is determined by the Administrative Reviewer that a fair hearing cannot otherwise be held.

(2) The inmate meets criteria in accordance with subsection (a)(4) of this section.

~~(de)~~ The assigned SA shall:

(1) Meet with the inmate at least 24 hours prior to the classification hearing, inform the inmate of the role of the SA, and explain their rights and the purpose and procedure of the classification hearing.

(2) Address the need for effective communication. The provision of any assistance provided that is consistent with the inmate's disability or communication need and the method the SA used to determine the inmate understood shall be documented in the automated Classification Committee Chrono (05/19), which is incorporated by reference, in accordance to subsection 3375(g)(1)(E).

(3) Provide assistance to the inmate by being present during the IE's interview of the inmate.

(4) Inform the inmate of the following due process rights afforded during the classification hearing process:

A. The right to 72 hours' time to prepare their response for the ICC hearing;

B. The right to a fair and impartial hearing;

C. The right to request witnesses and documentary evidence;

D. The right to a written decision documenting the evidence or information relied upon for the decision.

- (5) Advise and assist in the inmate's preparation for a classification hearing. However, the SA shall refrain from giving legal counsel or specifying the position the inmate should take in the classification hearing.
- (6) Keep confidential any information the inmate may disclose concerning the charges for which the SA was assigned.
- (7) Inform the inmate that all evidence and information obtained and considered or developed in the classification process may be used in court if the same charges have been or are to be referred to the district attorney for possible criminal prosecution.
- (8) If the SA becomes aware that the inmate is contemplating future criminal conduct, the SA shall disclose this information if necessary to protect potential victims and prevent the contemplated crime.
- (9) Assist the inmate in presenting the inmate's position, in person, at the hearing.
- (10) Make reasonable effort to ensure that the inmate's position is understood.
- (11) Make reasonable effort to ensure the inmate understands and comprehends the decision reached.
- (12) Perform the above duties for inmates in conjunction with all classification reviews.
- (ef) The SA assigned and assisting the inmate in the manner described above shall be the same staff member who appears with the inmate at the classification hearing.
- (fg) Assignment of an SA shall not preclude assignment of an IE.
- (gh) An IE may be assigned if:

Subsections 3344(h)(1) through 3344(h)(1)(B) are relocated and renumbered from existing 3340(g)(1) through 3340(g)(1)(B) and are amended to read:

- (1) The reasoning for an inmate's placement in ~~administrative segregation~~ restricted housing is for non-disciplinary reasons and the inmate requests in writing the presence of witnesses or submission of documentary evidence at a classification hearing on the reason or need for retention in ~~segregated~~ restricted housing.
- (A) When an inmate's ~~administrative segregation~~ restricted housing placement is for non-disciplinary reasons, the Administrative Reviewer will consider all available evidence or information relating to the validity of the reasons documented for ~~administrative segregation~~ restricted housing placement. Denial of an IE, witnesses or evidence requested by the inmate shall be on the basis of legitimate penological interest and documented on the automated (RHUPN) (11/23) Administrative Segregation Unit Placement Notice.
- (B) When The reason for an inmate's placement in ~~administrative segregation~~ restricted housing is a serious disciplinary matter resulting in the issuance of a Rules Violation Report and/or a referral to the district attorney for criminal prosecution, the classification committee will assume the alleged misconduct or criminal activity to be factual as documented. In such cases, the services of an IE, witnesses or additional evidence shall be reserved for the disciplinary hearing, but denied for purposes of the initial ICC.

Subsections 3344(i) and 3344(j) are relocated and renumbered from existing 3340(h) and 3340(i) and the text is unchanged but shown for reference.

(hi) Based upon the findings of the investigative Employee, the initial hearing shall permit the inmate to present witnesses and documentary evidence unless the chairperson of the committee determines in good faith that permitting such evidence will be unduly hazardous to the safety and/or security of the institution.

(ij) Assignment of an IE shall not preclude assignment of an SA.

Subsection 3344(k) is relocated and renumbered from existing 3340(j) and amended to read:

(jk) The inmate may not select the investigative Employee, but may object to the one assigned and provide, in writing to the Administrative Reviewer, the reasons for the objection. The Administrative Reviewer shall evaluate the inmate's objection(s) and, if determined to be reasonable, assign an alternate investigative Employee to complete the investigation. If the Administrative Reviewer determines that the inmate's objections are not reasonable, the original investigative Employee shall complete the investigation. The inmate's objection must be provided prior to the beginning of the investigation. The Administrative Reviewer shall note on the automated RHUPN (11/23) Administrative Segregation Unit Placement Notice the decision to deny or approve a request, and if denied, explain the reason(s) for denial.

Subsections 3344(l) through 3344(l)(2) are relocated and renumbered from existing 3340(k) through 3340(k)(2) and the text is unchanged but shown for reference.

(kl) The assigned IE shall:

(1) If applicable, coordinate with the inmate's assigned SA to ensure the SA is present during any questioning by the IE.

(2) Document all effective communication efforts, as necessary; including the assistance provided consistent with the inmate's disability or communication need, and the method the SA used to determine the inmate understood.

Subsection 3344(l)(3) is relocated and renumbered from existing 3340(k)(3) and amended to read:

(3) Interview the inmate, to include the inmate's statement and any relevant questions for witnesses with first-hand knowledge of the circumstances warranting the inmate's ~~segregation~~ restricted housing. An IE is not subject to the confidentiality provisions of the SA in accordance with subsection 33404(~~de~~)(6) and shall not withhold any information received from the inmate. The inmate's submission of questions for witnesses does not preclude the IE from asking other relevant questions of the witnesses that may be of assistance to the classification committee in making decisions regarding the reason(s) for ~~segregation~~ restricted housing placement.

Subsections 3344(l)(4) and 3344(l)(5) are relocated and renumbered from existing 3340(k)(4) and 3340(k)(5) and the text is unchanged but shown for reference.

(4) It is the inmate's responsibility to provide information to the IE in order to assist in identifying any relevant witness(es) the inmate requests to be interviewed.

(5) Immediately document the investigative findings in a report, including the name of the SA and, if applicable, an interpreter present during interviews; and forward the completed report to the ICC.

Subsection 3344(l)(6) is relocated and renumbered from existing 3340(k)(6) and amended to read:

(6) Provide the inmate a copy of the IE report, and any non-confidential reports and information relevant to the ~~segregation~~ restricted housing decision and/or ~~administrative segregation~~ restricted housing placement, within 24 hours prior to the ICC.

Subsections 3344(l)(7) and 3344(l)(8) are relocated and renumbered from existing 3340(k)(7) and 3340(k)(8) and the text is unchanged but shown for reference.

(7) Witnesses and Evidence. The authority to grant or deny the appearance of witnesses shall be reserved for the ICC.

(8) When an IE provides assistance to an inmate, in lieu of or in addition to that provided by an SA, the IE shall do so as a representative of the official who will conduct the classification hearing rather than as a representative of the inmate.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; *Coleman v. Wilson* 912 F. Supp. 1282 (E.D. Cal. 1995); and *Clark v. California* 123 F. 3d 1267 (9th Cir. 1997).

Existing Section 3345 is repealed.

~~§3345. Officer in Charge.~~

~~The custodial officer in charge of a disciplinary detention, segregation or security housing unit where inmates are segregated for disciplinary or administrative purposes, will insure that nothing is passed in or out of such units unless it has been thoroughly inspected; that no unauthorized visitors are permitted in such units; that all laundry, shoes, clothing, or other materials and supplies going to or from the units are carefully inspected; that inmates needing medical attention receive it promptly; that all locks and bars are inspected and maintained in secure and proper working order; that proper precautions are taken in removing inmates from their cells and in passing them from place to place. The general welfare of inmates in segregated housing units and in all facilities therein will be properly maintained and regularly inspected to insure human decency and sanitation.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code.~~

New Section 3345 is adopted to read:

§3345. Restricted Housing Unit Programming Credit.

(a) Restricted Housing Unit Programming Credit (RHUPC) may be awarded to reduce time spent in restricted housing through a rehabilitative programming reward system. The RHUPC applies to inmates with projected, imposed or re-imposed active Determinate Restricted Housing Unit (RHU) terms.

(b) For every twenty (20) hours of completed rehabilitative programming, restricted housing inmates may receive five (5) days credit off their Restricted Housing Unit Maximum Release Date (RHU MRD), not to exceed 25% of the set term.

(1) RHUPC are awarded in increments of not less than five (5) days.

(2) No RHUPC program hours shall be counted towards credits in other programs that were established to advance an inmate's court-sentenced release date (e.g., Rehabilitative Achievement Credit, Milestone Completion Credit), except in accordance with subsection 3043.3(f)(2).

(c) The award of RHUPC requires successful participation in, and completion of, rehabilitative programs including mental health group treatment, therapeutic programs, and social life skills programs. To be awarded credit, the inmate shall participate in all required program activities for the duration of the program, including any subcomponents required in the curriculum for that program. Passing an exam alone shall not qualify for the award of RHUPC credit.

(d) Upon completion of any approved programming hours, staff shall have ten (10) business days to input the hours into the information technology system.

(e) RHUPC for completed hours in the information technology system shall be applied to the inmate's RHU MRD at the next scheduled Institution Classification Committee, as detailed in subsections 3340(c) and 3341(b), (c) and (g).

(1) All hours awarded on a projected or imposed RHU term must be completed subsequent to placement in restricted housing for the behavior warranting that RHU MRD. Any RHUPC earned but not applied shall be forfeited upon expiration of the RHU MRD or suspension of the RHU term.

(2) If the inmate has more than one established projected or imposed RHU term, the RHUPC shall be applied to the controlling projected or imposed RHU MRD.

(A) If the credit was applied on a projected, imposed or re-imposed RHU MRD and the inmate subsequently receives an additional Rules Violation Report (RVR) for a violation listed on the RHU term matrix, those credits will not be reapplied to the new projected, imposed or re-imposed RHU MRD.

(B) If an RVR is dismissed or the administrative findings for the RVR are overturned, any credit applied to the RHU MRD for that RVR shall be applied to an existing RHU MRD if appropriate and eligible.

(3) Credit shall not be applied in an amount rendering the inmate overdue for release from restricted housing.

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

New Section 3346 is adopted to read:

3346. Re-Imposed Restricted Housing Unit Terms.

(a) A suspended Restricted Housing Unit (RHU) term may be re-imposed if an inmate is placed in restricted housing immediately following a Rules Violation Report (RVR) for serious misconduct that occurred prior to the expiration of a previously established Restricted Housing Unit Maximum Release Date (RHU MRD). In this circumstance, the inmate must be found guilty of the serious misconduct and the Institution Classification Committee (ICC) shall determine that the inmate poses a threat to the safety of any person or to the security of the institution. RHU terms re-imposed based on subsequent serious misconduct shall be effective the date of the misconduct. RHU terms suspended based solely on the need for inpatient medical or mental health treatment may be re-imposed without subsequent misconduct if the inmate continues to pose a threat to the safety of others or the security of the institution.

(1) If the RHU term is re-imposed, the ICC shall record the decision and the reasons for the decision on the automated Classification Committee Chrono (05/19). If multiple RHU terms are eligible for re-imposition, the RHU term with the most distant RHU MRD need only be addressed. In this circumstance, any remaining RHU terms with unexpired RHU MRD's shall be considered re-imposed.

(2) Upon a guilty finding of subsequent serious misconduct, the ICC may elect to re-impose the current unexpired RHU MRD.

(b) If an inmate paroles with an active Determinate RHU term and subsequently returns to CDCR custody under the same CDCR number, ICC shall evaluate the Determinate RHU term for re-imposition. Re-imposed Determinate RHU terms shall be calculated utilizing the automated RHU Term Computation (Rev. 11/23), which is incorporated by reference. Any unexpired RHU term shall be recalculated and addressed by ICC. If multiple CSR-approved RHU terms are eligible for re-imposition, the RHU term with the most distant RHU MRD need only be addressed. In this circumstance, any remaining RHU terms with unexpired RHU MRD's shall be considered re-imposed. ICC retains the authority to impose or suspend any remaining time based upon the safety of persons or security of the institution.

(1) If re-imposed, the RHU term shall not exceed the period of time remaining on the original RHU term at the time of parole.

(2) Re-imposition of the RHU term following return to custody shall be documented on the appropriate automated Classification Committee Chrono (05/19).

(3) RHU terms reassessed under the provisions of this subsection shall be audited and approved by a CSR.

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

(1) An inmate who previously paroled with MAX custody and is returned to CDCR's custody shall be placed in RHU and afforded all procedural safeguards for restricted housing inmates. ICC shall determine if the criteria for placement on Administrative RHU status in accordance with section 3339 are met, and if so, then the inmate shall be referred to the DRB.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 314, 2933.6, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926

F.2d 800; Toussaint v. Yockey (9th Cir. 1984) 722 F.2d 1490; Coleman v. Wilson 912 F.Supp. 1282 (E.D. Cal. 1995); and Castillo v. Alameida, et al., (N.D. Cal., No.C94-2847).

New Section 3347 is relocated and renumbered from existing Section 3342 and amended to read:

§3347~~2~~. Case Review.

(a) The case of every inmate assigned to a ~~segregated~~ restricted housing unit will be continuously reviewed and evaluated by custodial and casework staff assigned to the unit. Staff will confer on each case no less frequently than once a week during the first two months of the inmate's ~~segregated~~ restricted housing status. Such case reviews will not be necessary during any week in which the inmate's case is reviewed by a regular or special classification committee or by staff who are authorized to take classification actions. Any significant observations, determinations or recommendations, will be documented on the inmate's ~~CDC Form 114 A, Detention/Segregation~~ automated Restricted Housing Record (Rev. 11/23), which is incorporated by reference.

(b) Psychological Assessment. A psychological assessment of the inmate's mental health will be included in the case review and classification committee review of inmates assigned to ~~segregated~~ restricted housing units. When any indication of psychiatric or psychological problems exists, the case will be referred to the institution's psychiatrist or psychologist for further evaluation and recommended classification committee actions, if any.

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

New Section 3348 is relocated and renumbered from existing Section 3343 and amended to read:

3348~~3~~. Conditions of Restricted ~~Segregated~~ Housing.

Section 3348(a) Initial paragraph through Subsection 3348(n) are relocated and renumbered from existing 3343 Initial paragraph through Subsection 3343(m) and amended to read:

(a) For the purposes of this section, ~~special purpose segregated housing~~ Restricted Housing Units (RHU) includes, but is not limited to, ~~Administrative Segregation Units (ASU) and Segregated Program Housing Units (SPHU)~~ Enhanced Outpatient Program RHU, Correctional Clinical Case Management System RHU and General Population RHU.

(a~~b~~) Living Conditions. In keeping with the special purpose of an ~~Administrative Segregation Unit (ASU) or Segregated Program Housing Unit (SPHU)~~ RHU, the physical conditions of ~~special purpose segregated~~ RHU housing ~~ASU and SPHU~~ will approximate those of the general population, with the exception of the physical layout of the building itself and necessary security measures that must be enforced to provide the level of security, control, and supervision required to serve that special purpose.

(bc) Restrictions. Whenever an inmate in ~~ASU or SPHU~~ RHU is deprived of any usually authorized item or activity and the action and reason for that action is not otherwise documented and available for review by administrative and other concerned staff, a report of the action will be made and forwarded to the unit administrator as soon as possible.

(ed) Clothing. No inmate in ~~ASU or SPHU~~ RHU shall be required to wear clothing that significantly differs from that worn by other inmates in the unit, except that temporary adjustments may be made in an inmate's clothing as is necessary for security reasons or to protect the inmate from self-inflicted harm. No inmate shall be clothed in any manner intended to degrade the inmate.

(de) Meals. Inmates assigned to ~~ASU or SPHU~~ RHU, shall be fed the same meal and ration as is provided for inmates of the general population, except that a sandwich meal may be served for lunch. Deprivation of food will not be used as punishment.

(ef) Mail. Inmates assigned to ~~ASU or SPHU~~ RHU, shall not be restricted in their sending and receiving of personal mail, except that incoming packages may be limited in number, and in content to that property permitted in the ~~segregated unit~~ RHU to which an inmate is assigned.

(fg) Visits. Inmates assigned to ~~ASU, SHU and PSU~~ RHU shall be permitted non contact visits, unless otherwise specified in section 3170.1(f), General Visiting.

(gh) Personal Cleanliness. Inmate's assigned to ~~ASU or SPHU~~ RHU, shall be provided the means to keep themselves clean and well-groomed. Haircuts will be provided as needed. Showering and shaving shall be permitted at least three times a week. Clothing, bedding, linen and other laundry items shall be issued and exchanged no less often than is provided for general population inmates.

(hi) Exercise Out of Cell Time. Inmates assigned to ~~ASU or SPHU~~ RHU shall be offered permitted a minimum of 20 hours of out of cell time per week, one hour per day, five days a week, of exercise outside their rooms or cells unless security and safety considerations preclude such activity. Exercise periods shall be offered a minimum of ~~When ASU or SPHU are equipped with their own recreation yard, the yard periods may substitute for other out of cell exercise periods, providing the opportunity for use of the yard is available at least three days per week for a total of not less than 10 hours a week. The remaining 10 hours may be comprised of a combination of additional exercise periods, individual or group programs, and rehabilitative programs.~~

(ij) Reading Material. Inmates assigned to ~~ASU or SPHU~~ RHU, shall be permitted to obtain and possess the same publications, books, magazines and newspapers as are inmates of the general population, except the quantity may be limited for safety and security reasons. Library services shall be provided and will represent a cross-section of material available to the general population.

(jk) Telephones. Institutions shall establish procedures for the making of outside telephone calls by inmates in ~~ASU or SPHU~~ RHU. Such procedures will approximate those for the work/training incentive group to which the inmate is assigned, ~~except that individual calls must be specifically approved by the supervisor in charge or the administrator of the unit before a call is made.~~

(kl) Institution Programs and Services. Inmates assigned to ~~ASU or SPHU~~ RHU shall be permitted to participate and have access to such programs and services as can be reasonably provided within the unit without endangering security or the safety of persons.

Such programs and services may include, but are not limited to: education, commissary, library services, social services, counseling, religious guidance and recreation.

~~(m)~~ Visitation and Inspection. Inmates assigned to ~~ASU or SPHU~~ RHU shall be seen daily by the custodial supervisor in charge of the unit and by a physician, registered nurse or medical technical assistant, and, by request, members of the program staff. A timely response should be given to such requests whenever reasonably possible. Any indication of medical or mental health distress, shall be immediately referred for further evaluation.

~~(nn)~~ Disruptive Cases. Inmates assigned to ~~ASU or SPHU~~ RHU who persist in disruptive, destructive, or dangerous behavior and who will not heed or respond to orders and warnings to desist shall be referred for a mental health evaluation.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601(d) and 5054, Penal Code.

New Section 3349 is relocated and renumbered from existing Section 3344 and amended to read:

§33449. Administrative Segregation Restricted Housing Records.

Subsections 3349(a) and 3349(b) are amended to read:

(a) A CDC Form 114, Isolation Log (rev: 3/03), shall be maintained in each ~~ASU and SPHU Restricted Housing Unit~~. One Isolation Log may serve two or more special purpose units which are administered and supervised by the same staff members.

(b) A separate record shall be maintained for each inmate assigned to ~~administrative segregation, including SHU and PSU~~ RHU. This record shall be compiled on an CDC Form 114-A Detention/Segregation automated Restricted Housing Record (Rev. 11/23), which is incorporated by reference, and shall include all required identifying information required on the form. Additionally, all significant information relating to the inmate during the course of ~~segregation, restricted housing~~ from reception to release, including, but not limited to, documentation of all programs, activities, and services afforded the inmate while ~~segregated on restricted housing status~~, and all notes regarding any significant staff observations, determinations or recommendations regarding unusual behavior displayed by the inmate during this period, shall be entered in chronological order.

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

Article 10. Classification

§3375. Classification Process.

Subsections 3375(a) through 3375(f)(1)(B) are unchanged.

Subsection 3375(f)(1)(C) is amended to read:

(C) Involuntary placement in ~~segregated~~ restricted housing.

Subsections 3375(f)(1)(D) through 3375(f)(7) are unchanged.

Subsection 3375(g) is amended to read:

(g) Every decision of a classification committee shall be documented on an CDC Form 128-G, ~~automated~~ Classification Committee Chrono (Rev. 10/89 05/19), which is incorporated by reference.

Subsections 3375(g)(1) through 3375(g)(2)(D) are unchanged.

Subsection 3375(g)(3) is amended to read:

(3) When the inmate is treated under the Mental Health Services Delivery System (MHSDS) and is at the Enhanced Outpatient Program (EOP) or the Mental Health Crises Crisis Bed (MHCB) level of care, regardless of the inmate's housing, a mental health clinician is required as a committee member at all hearings. When the inmate is in ~~segregated~~ restricted housing and treated under the MHSDS at any level of care, a mental health clinician is required as a committee member at all hearings. Documentation shall include, but not be limited to the following:

Subsections 3375(g)(3)(A) through 3375(g)(3)(C) are unchanged.

Subsections 3375(g)(4) through 3375(g)(4)(B) are amended to read:

(4) In all hearings when the inmate is treated under the MHSDS and is housed in ~~segregated~~ restricted housing, documentation shall include the requirements indicated in subsection 3375(g)(3) as well as the following:

(A) A clinical assessment of the inmate's likelihood of decompensation if retained in ~~segregated~~ restricted housing.

(B) A summary of the clinical information provided by the mental health clinician when an actively decompensating mentally ill inmate is recommended for transfer to a mental health program by the mental health clinician and the decision of the committee is to retain the inmate in ~~segregated~~ restricted housing.

Subsections 3375(g)(5) through 3375(l) are unchanged.

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

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§3375.1 Inmate Placement.

Subsections 3375.1(a) through 3375.1(a)(4)(A) are unchanged.

Subsections 3375.1(a)(4)(A)1. through 3375.1(a)(4)(A)3. are amended to read:

1. Inmates who have an assessed and imposed, suspended, and/or commuted ~~d~~Determinate Security Restricted Housing Unit (SRHU) term for a Division A-1, A-2, or B offense, which involves assaultive/violent behavior, or weapons, ~~or distribution of a controlled substance,~~ pursuant to section 3323, within the last three incarcerated years, shall be excluded from Level IV 270-design housing for three years from the Minimum Restricted Housing Unit Maximum Eligible Release Date (RHU MERD) or the date of the Institution Classification Committee (ICC) action suspending and/or commuting the SRHU term, whichever comes first. If the inmate was not placed into Administrative Segregation a Restricted Housing Unit (ASRHU) for the offense, the inmate is not excluded from 270-design housing.

2. Inmates found guilty of any of the following Rules Violation Reports (RVRs) within the last a twelve months of incarceration shall be excluded from Level IV 270-design housing for one year from the RHU MERD or the date of the ICC action suspending and/or commuting the SRHU term for the most current offense, whichever occurs first. If the inmate was not placed into ASRHU for the offense, the inmate is not excluded from 270-design housing.

~~(i) One RVR for Inciting a Riot.~~

(ii) One RVR for Participation in a Riot with a direct Security Threat Group (STG) nexus.

(iii) Two or more RVR's for Participation in a Riot.

~~(iiiv) One RVR for Assault on Non-Inmate.~~

~~(v) One RVR for Battery on an Inmate with a direct STG nexus.~~

~~(vi) Two or more RVRs for Battery on an Inmate.~~

3. Inmates released from ~~SHU or a Psychiatric Services Unit (PSU)~~ RHU after serving an Administrative SRHU Term shall be reviewed by DRB, in accordance with ~~§~~subsection 3376.1(d), for appropriate housing.

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

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

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§3375.2. Administrative Determinants.

Subsections 3375.2(a) through 3375.2(a)(13) are unchanged.

Subsection 3375.2(b) is unchanged but shown for reference.

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

Subsections 3375.2(b)(1) through 3375.2(b)(20) are unchanged.

Subsection 3375.2(b)(21) is deleted.

~~(21) SDP. Step Down Program. Shall be used to identify an inmate who is currently assigned to the Security Threat Group (STG) Step Down Program (SDP) or who has been assigned in the SDP in the past. This designation shall be assigned upon the inmate's assignment to the SDP and shall be retained upon his transition to general population housing after completion of the SDP. This designation will remain assigned while the validation remains current.~~

Existing Subsections 3375.2(b)(22) through 3375(b)(29) are renumbered to Subsections 3375.2(b)(21) through 3375(b)(28) and text is unchanged.

(21~~2~~) SEC. Shall be used only by a CSR to indicate that the inmate has been designated as a Security Concern by an ICC and requires Close Custody.

(22~~3~~) SEX. Inmate has a prior incidence of rape, oral copulation, sodomy, or a lewd and lascivious act which requires restricted custody or placement.

(23~~4~~) SNY. Inmate has documented and verified Systemic Safety Concerns.

(24~~5~~) SOR. Inmate's bisexual or homosexual orientation may require special placement.

(25~~6~~) ST1. Security Threat Group-I (STG-I). Documentation establishes that the inmate's STG-I designation may require special attention or placement consideration, while the validation remains current.

(26~~7~~) ST2. Security Threat Group-II (STG-II). Documentation establishes that the inmate's STG-II designation may require special attention or placement consideration, while the validation remains current.

(27~~8~~) TIM. Inmate's time to serve is long, requiring placement at a facility with a security level higher than that which is consistent with their placement score.

(28~~9~~) VIO. Inmate has a current or prior conviction for a violent felony, or a sustained juvenile adjudication including, but not limited to, those listed under Penal Code (PC) section 667.5(c), a felony conviction or equivalent finding for PC section 192(b), a felony or misdemeanor conviction or equivalent finding for PC section 422 or 646.9, or a guilty finding for Division A-1 or A-2 RVR offense that is the equivalent of a PC section 667.5(c) offense which occurred on or after February 20, 2017, which, as determined by the Classification Staff Representative (CSR), requires placement in a facility with a higher security level than that indicated by their placement score. For the purpose of this subsection, an equivalent finding means any finding specified within subsections 3375.2(b)(29)(A) through 3375.2(b)(29)(C). For the purpose of this subsection, a case-by-case review for VIO means a classification committee action in which the committee conducting the review examines the totality of the inmate's case factors including, but not limited to: the circumstances of the offense, extent of injury to the victim(s), rationale for

committing the offense, criminal intent versus neglect, history of committing similar acts, and the safety of the public, staff, and other inmates.

Existing Subsections 3375.2(b)(29)(A) through 3375.2(b)(29)(I) are renumbered to 3375.2(b)(28)(A) through 3375.2(b)(28)(I) and the text is unchanged.

Existing Subsection 3375.2(b)(29)(J) is renumbered to 3375.2(b)(28)(J) and the text is unchanged.

Existing Subsections 3375.2(b)(29)(J)1. through 3375.2(b)(29)(J)4. are renumbered to 3375.2(b)(28)(J)1. through 3375.2(b)(28)(J)4. and the text is unchanged.

Existing Subsection 3375.2(b)(29)(J)5. is renumbered to 3375.2(b)(28)(J)5. and is amended to read:

5. The classification committee conducting the review shall consider each of the following criteria and thoroughly summarize and document the committee's reason for its decision to remove, impose, or not impose the VIO administrative determinant within the automated Classification Committee Chrono (05/19), which is incorporated by reference, consistent with subsection 3375(g).

- a. Circumstances of the violent offense(s) in question;
- b. Positive in-custody behavior;
- c. Negative in-custody behavior; and
- d. Inmate's threat to the safety of public, staff, and inmates based upon the totality of the inmate's case factors.

Existing Subsections 3375.2(b)(29)(J)6. through 3375.2(b)(29)(J)8. are renumbered to 3375.2(b)(28)(J)6. through 3375.2(b)(28)(J)8. and the text is unchanged.

Existing Subsections 3375.2(b)(30) and 3375(b)(31) are renumbered to Subsections 3375.2(b)(29) and 3375(b)(30) and the text is unchanged.

~~(2930)~~ VOC. Inmate is involved in a Career Technical Education program, also referred to as a vocational program, which is not available at a facility with a security level which is consistent with the inmate's placement score.

~~(304)~~ WOR. Inmate has a work skill in a critical trade, which warrants special placement consideration.

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

Article 10. Classification

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

Subsection 3375.3 Initial paragraph through Subsection 3375.3(b)(4)(F) are unchanged.

Subsection 3375.3(b)(4)(F)1. is amended to read:

1. Four points shall be entered in Boxes 59-60 for each well documented incident of an inmate's possession, manufacture or attempted manufacture of a deadly weapon where apparent use was intended (does not include possession of commonly available and unmodified objects unless used as a weapon and this fact is documented in the disciplinary hearing process). Include possession of a razor blade (whether modified or not) in a ~~segregated restricted program-housing unit (e.g. Administrative Segregation Unit, Security Housing Unit, Psychiatric Services Unit~~ i.e., EOP RHU, CCCMS RHU, or GP RHU, etc.); or,

Subsections 3375.3(b)(4)(F)2. through 3375.3(g)(2) are unchanged.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 4502, 5054 and 5068, Penal Code; *Wright v. Enomoto* (1976) 462 F.Supp. 397; *Stoneham v. Rushen* (1984) 156 Cal. App. 3d 302; and *Castillo v. Alameida*, et al. (N.D. Cal., No. C94-2847).

Article 10. Classification

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

Subsections 3375.4 Initial paragraph through Subsection 3375.4(b)(4) are unchanged.

Subsection 3375.4(b)(5) is amended to read:

(5) For each well-documented serious misbehavior for possession, manufacture or attempted manufacture of a deadly weapon where apparent use was intended, 16 points shall be entered in Boxes 64-65. Points shall not be assessed for possession of commonly available and unmodified objects, unless they were used as weapons and that fact is documented in the disciplinary report. Include possession of a razor blade (whether modified or not) in a ~~segregated restricted program-housing unit (e.g., Administrative Segregation Unit, Security Housing Unit, Psychiatric Services Unit~~ i.e., EOP RHU, CCCMS RHU, or GP RHU, etc.).

Subsections 3375.5(b)(6) through 3375.4(m) are unchanged.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 4502, 5054 and 5068, Penal Code; *Wright v. Enomoto* (1976) 462 F.Supp. 397; and *Stoneham v. Rushen* (1984) 156 Cal.App.3d 302.

Article 10. Classification

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

Subsections 3375.5 Initial paragraph through Subsection 3375.5(b)(5) are unchanged.

Subsection 3375.5(b)(6) is amended to read:

(6) For each well-documented serious disciplinary for possession, manufacture or attempted manufacture of a deadly weapon where apparent use was intended, 16 points shall be entered in Boxes 66-67. Points shall not be assessed for possession of commonly available and unmodified objects, unless they were used as weapons and that fact is documented in the disciplinary report. Include possession of a razor blade (whether modified or not) in a ~~segregated~~ restricted program-housing unit (e.g., ~~Administrative Segregation Unit, Security Housing Unit, Psychiatric Services Unit~~ i.e., EOP RHU, CCCMS RHU, or GP RHU, etc.).

Subsections 3375.5(b)(7) through 3375.5(k)(1)(B)3. are unchanged.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 4502 and 5054, Penal Code.

Article 10. Classification

§3376. Classification Committees.

Subsections 3376(a) through 3376(c)(1) are unchanged.

Subsection 3376(c)(1)(A) is amended to read:

(A) Facility ~~e~~Captain, ~~correctional captain,~~ or CAF/CCF manager (chairperson).

Subsections 3376(c)(1)(B) through 3376(c)(2)(C) are unchanged.

Subsection 3376(c)(2)(D) is amended to read:

(D) Facility ~~e~~Captain.

Subsection 3376(c)(2)(E) is deleted.

~~(E) Correctional captain.~~

Existing Subsections 3376(c)(2)(F) through 3376(c)(2)(I) are renumbered to 3376(c)(2)(E) through 3376(c)(2)(H) and the text is unchanged.

(~~FE~~) Correctional counselor III, parole agent III, correctional counselor II, or parole agent II (recorder).

(~~GF~~) Assignment lieutenant or CAF/CCF inmate assignment/program coordinator.

(~~HG~~) Educational or Career Technical Education program representative.

(~~H~~) Other staff as required.

Subsections 3376(c)(3) through 3376(d)(3)(E) are unchanged.

Subsection 3376(d)(3)(E)1. is amended to read:

1. Inmates assigned to Privilege Group C ~~as a result of a classification committee action or disciplinary action~~, who participate in the Mental Health Services Delivery System at the Enhanced Outpatient Program (EOP) level of care or higher, shall be referred to the Interdisciplinary Treatment Team (IDTT) via CDCR Form 128-MH5 (Rev. 05/14), Mental Health Referral Chrono, for a program review.

Subsection 3376(d)(3)(E)2. is amended to read:

2. Within five working days, IDTT may recommend certain privileges be granted to the inmate on a case-by-case basis when it is determined suspension of privileges would cause decompensation or would be detrimental to the inmate's mental health status. In this event, the correctional counselor attending IDTT shall refer the inmate to the classification committee for consideration of reinstating privileges, or the Captain for cases described in subsection 3044(f)(1)(B)4.

Subsection 3376(d)(3)(E)3. is amended to read:

3. Each time the classification committee, or the Captain for cases in accordance with subsection 3044(f)(1)(B)4., reinstates privileges, the attending correctional counselor attending committee or the Captain shall ensure housing unit staff are made aware of any privileges reinstated to the inmate or if the removal of Privilege Group C has occurred. Any changes shall be documented on a CDC Form 128-B (Rev. 04/74), General Chrono, and distributed to the housing unit and the inmate following the classification committee or Captain's decision and shall be effective immediately.

Subsection 3376(d)(3)(E)4. is unchanged.

Subsection 3376(d)(3)(E)5. is amended to read:

5. The classification committee shall consider the input provided by the primary clinician via the CDC 128-C (Rev. 01/96), when determining whether an inmate will be removed from Privilege Group C and document the findings on the automated Classification Committee Chrono (Rev. 05/19).

Subsections 3376(d)(3)(E)6. and 3376(d)(3)(F) are unchanged.

Subsections 3376(d)(3)(G) through 3376(d)(3)(H) are deleted.

~~(G) For validated Security Threat Group (STG) cases:~~

~~1. Review the Validation Package and the CDC Form 128-G, Classification Chrono (Rev. 10/89), which is incorporated by reference.~~

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

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

Existing Subsections 3376(d)(3)(I) and 3376(d)(3)(J) are renumbered to 3376(d)(3)(G) and 3376(d)(3)(H) and amended to read:

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

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

Existing Subsections 3376(d)(4) through 3376(d)(5)(C) are unchanged.

Existing Subsection 3376(d)(5)(D) is deleted.

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

Existing Subsection 3376(d)(5)(E) is renumbered to subsection 3376(d)(5)(D) and text is unchanged.

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

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

Article 10. Classification

§3376.1. Departmental Review Board.

Subsections 3376.1 initial paragraph through Subsection 3376.1(d)(9) are unchanged.

Subsection 3376.1(d)(9)(A) is amended to read:

(A) If the DRB determines that there is a substantial threat to the inmate's personal safety should they be released to the GP as determined by a preponderance of the evidence, the DRB retains the discretion, in accordance with existing authority to house that inmate in alternate appropriate ~~non-SHU, non-restricted Administrative segregation~~ housing commensurate with his case factors, such as alternate general population housing or RCGP. The DRB shall articulate substantial justification for the need for alternative placement.

Subsections 3376.1(d)(10) through 3376.1(g) are amended to read:

(10) An institution head determines upon completion of a ~~D~~eterminate SRHU term, that overwhelming evidence exists supporting an immediate threat to the security of the institution or the safety of others.

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

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

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

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

Subsection 3376.1(h) is unchanged.

Subsection 3376.1(i) is deleted.

~~(i) An inmate may appeal an ICC decision to the DRB when ICC determines placement in a Restricted Custody General Population (RCGP) facility is appropriate based on the inmate being found guilty of: three serious STG related; or five administrative STG related; or a total of five serious and administrative STG related rules violation reports while housed in the SHU SDP. The DRB will review the inmate's disciplinary history and determine whether removal from the SHU SDP and transfer to the RCGP was~~

appropriate. A hearing before the DRB is not required for a determination on such an appeal.

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

Article 10. Classification

§3377.1. Inmate Custody Designations.

Subsections 3377.1(a) and 3377.1(a)(1) are unchanged.

Subsections 3377.1(a)(1)(A) and 3377.1(a)(1)(B) are amended to read:

(A) Housing shall be in cells in an approved ~~segregated~~ restricted program housing unit as described in ~~CCR sections 3335 and CCR subsections 3341.5(b) and 3341.5(e) through 3335.3.~~

(B) Assignments and activities shall be within the confines of the approved ~~segregated~~ restricted program housing unit.

Subsections 3377.1(a)(1)(C) through 3377.1(b)(13)(A) are unchanged.

Subsection 3377.1(b)(13)(B) is amended to read:

(B) Facility means a subfacility of an institution headed by a ~~facility~~ captain.

Subsections 3377.1(c) through 3377.1(d)(3)(B) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 290, 4852.01, 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.

Article 10. Classification

§3377.2. Criteria for Assignment of Close Custody.

Subsections 3377.2(a) through 3377(b)(2) are unchanged.

Subsections 3377.2(b)(2)(A) through 3377.2(b)(2)(C) are amended to read:

(A) An inmate convicted of, or whose current or prior commitment offense includes, or who is found guilty of a disciplinary report by any law enforcement agency for, Escape With Force or Attempted Escape With Force from any correctional setting or armed escort shall serve at least 10 years of Close Custody when the escape or attempted escape

occurred within 10 years of the date of return to CDCR, or the initial custody classification, or the date of release from ~~segregated~~ restricted housing, whichever occurs later.

(B) An inmate convicted of, or whose current or prior commitment offense includes, or who is found guilty of a disciplinary report by any law enforcement agency for, Escape Without Force or Attempted Escape Without Force from a correctional setting other than a non-secure facility as defined in section 3000, or from an armed escort shall serve at least 8 years at Close Custody when the escape or attempted escape occurred within 10 years of return to CDCR or the initial custody classification, or the date of release from ~~segregated~~ restricted housing, whichever occurs later.

(C) An inmate convicted, or found guilty of a disciplinary report by any law enforcement agency, for plotting or planning to escape from a correctional setting other than a non-secure facility as defined in section 3000 or from an armed escort shall serve at least 3 years at Close Custody from the date of the conviction or administrative finding of guilt, or when the incident occurred within 10 years of the initial custody classification, or the date of release from ~~segregated~~ restricted housing, whichever occurs later.

Subsections 3377.2(b)(3) and 3377.2(b)(4)(B) is unchanged.

Subsection 3377.2(b)(4)(C) is amended to read:

(C) An inmate found guilty of a Division A-1 or Division A-2 serious RVR, as set forth in ~~GCR S~~section 3323, shall serve at least 1 year at Close Custody. Thereafter, during each annual classification review, consistent with subsection 3376(d)(2)(A) the inmate shall be considered for a reduction in custody. A classification committee may retain the inmate at Close Custody for up to two additional years based solely upon the degree of threat the inmate's misconduct, as documented within the original Division A-1 or Division A-2 serious RVR, continues to present to the institution. To be retained at Close Custody, the inmate must be reviewed by a classification committee and the reasons for retention at Close Custody shall be articulated within the automated Classification Committee Chrono (05/19). The inmate shall be removed from Close Custody at the third annual review after Close Custody was assigned unless otherwise required by these regulations.

Subsections 3377.2(b)(5) and 3377.2(c)(4) are unchanged.

Subsection 3377.2(c)(5) is amended to read:

(5) An inmate who is Maximum Custody on February 20, 2017, for a reason that does not require Close Custody, shall be subject to section 3377.2(c)(1) through section 3377.2(c)(4) during the first classification committee review reducing the inmate from Maximum Custody. The inmate's custody designation prior to the Maximum Custody designation shall be considered with the applicable section [3377.2(c)(1) through 3377.2(c)(4)]. However, an inmate who is Maximum Custody on February 20, 2017, who was originally placed on Maximum Custody for a reason that does require Close Custody upon release from ~~segregated~~ restricted housing shall be subject to the Close Custody criteria established February 20, 2017 in section 3377.2 during the first classification committee review reducing the inmate from Maximum Custody.

An inmate who is Maximum Custody on February 20, 2017, for a reason that requires Close Custody, shall be subject to the Close Custody criteria established February 20, 2017 in section 3377.2 during the first classification committee review reducing the inmate from Maximum Custody.

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.

Article 10. Classification

§3378.2. Security Threat Group Validation Process.

Initial paragraph and Subsection 3378.2(a) are unchanged.

Subsection 3378.2(b) is amended to read:

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

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

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

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

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

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

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

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

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

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

CDCR staff shall not place inmates into a ~~Security Housing Unit (SHU), Administrative Segregation Unit (ASU), or the SDP~~ Restricted Housing Unit solely on the basis of their validation status.

~~Although placement into the SHU/Step Down Program (SHU/SDP) is based upon behavior with a nexus to a certified or recognized STG, vValidation of an STG affiliate can occur based upon the sole use of source criteria items or based upon a combination of source criteria items and STG behavior that is reported and adjudicated via the disciplinary process. The STG validation process may take into account source criteria items that may have occurred at any time in an individual's personal STG history. If behavior is identified which violates section 3314 or 3315, it is staff's responsibility to ensure appropriate disciplinary procedures are applied. The determination for placement into the SHU/SDP by an Institution Classification Committee (ICC) must be based upon SHU eligible STG related behavior, except as provided in section 3378.2(e), upon expiration of the inmate's controlling projected/assessed SHU term consistent with section 3341.8(b) or 3378.4(b)(1), and has been adjudicated through the inmate disciplinary process.~~

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

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

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

The source items shall be based on the following criteria:

Subsections 3378.2(b)(1) through 3378.2(c)(7) are unchanged.

Subsection 3378.2(d) is amended to read:

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

An investigative employee shall be assigned by the STG Unit Classification Committee Chairperson to assist the inmate with preparation for the STG Unit Classification Committee. The duties and functions of a staff member assigned to assist an inmate in the hearing on a validation will be the same as described in ~~Section 33440~~ Section 33440 for Assistance to Inmates for ~~Administrative Segregation~~ Restricted Housing Classification Hearings. In screening prospective witnesses, the investigative employee will do so in accordance with the information to be considered in the classification hearing. The investigative employee is designated to gather information for the STG Unit Classification Committee Chairperson and will submit a written report to the Chairperson which may include witness statements and a summary of the information collected.

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

Subsections 3378.2(d)(1) through 3378.2(d)(1)(C) are unchanged.

Subsection 3378.2(d)(1)(D) is amended to read:

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

Subsections 3378.2(d)(1)(D)1. through 3378.2(d)(1)(E) are unchanged.

Subsections 3378.2(d)(1)(F) through 3378.2(d)(2) are amended to read:

(F) All validation documents are accurate and complete, all non-confidential/confidential evidence was provided to the inmate by the STG investigator at least 72 hours prior to any validation review, determine correct validation designation and status, and appropriately document their decision on a ~~CDC Form 128-G (10/89)~~ automated Classification Committee Chrono (Rev. 05/19).

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

Subsections 3378.2(d)(3) through 3378.2(e)(3) are deleted.

~~(3) If the STG affiliate is validated as an STG-I Member or Associate, and has one SHU eligible, STG related RVR, within the previous two years, as listed in section 3378.4(a) STG Disciplinary Matrix and which is also identified in section 3341.9(e), SHU Term~~

~~Assessment Chart, that is being used as a validation source item, the offender shall be referred to ICC by the STG Unit Classification Committee for program review and transfer consideration to Step 1 of the SDP in the SHU.~~

~~(4) If the STG affiliate is validated as an STG-II Member or Associate, and has two SHU eligible, STG related RVRs, within the previous four years, as listed in section 3378.4(a) STG Disciplinary Matrix and which are also identified in section 3341.9(e), SHU Term Assessment Chart, the offender shall be referred to ICC by the STG Unit Classification Committee for program review and transfer consideration to Step 1 of the SDP in the SHU.~~

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

~~(1) STG-I Member or Associate.~~

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

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

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

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

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

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

~~(2) STG-II Member or Associate.~~

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

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

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

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

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

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

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

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

Section 3378.3 is repealed.

~~§3378.3. Security Threat Group Step Down Program.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§3378.4. Security Threat Group Behavior or Activity.

Section 3378.4 Initial paragraph is unchanged.

Subsection 3378.4(a) is amended to read:

(a) The STG Disciplinary Matrix.

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

STG DISCIPLINARY MATRIX

<i>Behavior With Nexus to STG</i>	<i>Administrative or Serious</i>
Section 1:	
a) Murder, attempted murder, solicitation of murder, or voluntary manslaughter of a non-offender or offender;	Serious
b) Assault or battery capable of causing serious injury; assault or battery with a deadly weapon or caustic substance capable of causing serious injury, solicitation for offense;	
c) Taking a hostage;	
d) Possession of a firearm, explosive device, or weapon which has been manufactured or modified so as to have the obvious intent or capability of inflicting traumatic injury, and which is under the immediate or identifiable control of the offender;	
e) Escape or attempted escape with force or violence	
f) Rape, sodomy, or oral copulation against the victim's will.	
Section 2:	
a) Introduction, trafficking, or distribution of any Controlled Substance (as defined in <u>s</u> Section 3000);	Serious
b) Arson involving damage to a structure or causing serious bodily injury.	
c) Possession of flammable, explosive, or combustible material with intent to burn any structure or property;	
d) Extortion or threat by means of force or violence, including requiring payment for protection/insurance or intimidating any person on behalf of the STG;	
e) Threatening to kill or cause serious bodily injury to a public official, their immediate family, their staff, or their staff's immediate family;	

f) Any other felony involving violence or injury to a victim and not specifically identified on this chart.	
Section 3:	
a) Battery on a Peace Officer or non-offender not involving use of a weapon;	Serious
b) Assault on a Peace Officer or non-offender by any means likely or not likely to cause great bodily injury;	
c) Assault or battery on a prisoner with no serious injury;	
d) Destruction of state property valued in excess of \$400 dollars during a riot or disturbance;	
e) Theft, embezzlement, arson, destruction, or damage to another's personal property, state funds, or state property valued in excess of \$400;	
f) Any felony not involving violence or the use of a weapon not listed in this schedule with a direct nexus to STG Behavior.	
Section 4:	
a) Bribery of a non-offender;	Serious
b) Leading/Inciting a disturbance, riot, or strike;	
c) Participation in, or attempting to cause conditions likely to threaten institution security;	
d) Willfully resisting, delaying, or obstructing any peace officer in the performance of duties;	
e) Possession of cell phone or components;	
f) Acting in a leadership role displaying behavior to organize and control other offenders within the STG;	
Section 5:	
a) Gambling;	Serious
b) Tagging, or otherwise defacing state property valued at less than \$950, with symbols or slogans intended to promote affiliation with a STG.	
Section 6:	
a) STG-related tattoos and/or body markings (new since most recent arrival in CDCR and not previously documented);	Serious
b) Recording/documentation of conversations evidencing STG behavior;	
c) Harassment of another person, group or entity either directly or indirectly through the use of the mail, telephone, or other means;	
d) Communications between offenders/others evidencing STG behavior;	
e) Leading STG roll call;	
f) Directing cadence for STG group exercise;	
g) In personal possession of STG-related written material, including membership or enemy list, roll call lists, constitution, organizational structures, codes, training material, etc.;	

h) In personal possession of mail, notes, greeting cards or other communication (electronic or non-electronic) which include coded or explicit messages evidencing STG behavior;	
Section 7: Except as otherwise specified in this section, proven attempts to commit or an offender who conspires to commit any of the above listed offenses shall receive the term range specified for that offense.	Serious
Section 8: a) Participation in STG roll call;	Administrative
b) Participating in STG group exercise;	
c) Using hand signs, gestures, handshakes, slogans, distinctive clothing, graffiti which specifically relate to an STG;	
d) Wearing, possessing, using, distributing, displaying, or selling any clothing, jewelry, emblems, badges, certified symbols, signs, or other STG items which promote affiliation in a STG;	
e) In possession of artwork, mail, notes, greeting cards, letters or other STG items clearly depicting certified STG symbols;	
f) In possession of photographs that depict STG association. Must include STG connotations such as insignia, certified symbols, or other validated STG affiliates.	
g) In possession of contact information (i.e., addresses, telephone numbers, etc.) for validated STG affiliates or individuals who have been confirmed to have assisted the STG in illicit behavior.	

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

Subsections 3378.4(b) through 3378.4(b)(1) are deleted.

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

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

Existing Subsection 3378.4(b)(1)(A) is renumbered to 3378.4(a)(1) and is amended to read:

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

Existing Subsection 3378.4(b)(1)(A)1. through 3378.4(b)(1)(A)5. are renumbered to 3378.4(a)(1)(A) through 3378.4(a)(1)(E) and text is unchanged.

1. (A) Review of compliance with procedural safeguards, i.e., time constraints and assistance to the inmate, in accordance with existing policy and regulations.
2. (B) The specific act charged includes an STG nexus and coincides with the description of the circumstances that describes the STG behavior for which the inmate was found guilty.
3. (C) The evidence and/or circumstances support the finding of guilt.
4. (D) The evidence used to establish the nexus to the STG is supported and thoroughly documented by the Senior Hearing Officer.
5. (E) The use of confidential information adheres to the standards for the consideration of and reliance upon in accordance with section 3321.

Existing Subsection 3378.4(b)(1)(A)6. is renumbered to 3378.4(a)(1)(F) and is amended to read:

6. (F) ~~SRHU~~ CSR shall ensure the assessment of the ~~SRHU~~ term is consistent with the charge(s) and within departmental standards outlined in section 333741.9(eg).

Subsection 3378.4(b)(2) is deleted.

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

Existing Subsection 3378.4(b)(2)(A) is renumbered to 3378.4(a)(2) and amended to read:

(A) (2) ~~Endorsement by~~ ~~†~~The ~~SRHU~~ CSR shall include audit of the ~~SRHU~~ eligible STG related RVRs in the same manner described in section 3378.2(d). The CSR will approve the requested actions or return the case for corrections, referral to the Chief Deputy

Warden, or defer the requested actions upon discovery of any due process violations. If the case is returned, the CSR shall articulate the required corrections.

Subsections 3378.4(b)(3) through 3378.4(b)(3)(B) are deleted.

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

~~(A) Disciplinary Violations while in the SDP:~~

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

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

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

~~4. The inmate may appeal the RCGP placement to the DRB, in accordance with section 3480 et. seq., without delay of transfer.~~

~~(B) Determinate SHU Term:~~

Existing Subsection 3378.4(b)(3)(B)1. Is renumbered to 3378.4(a)(3) and amended to read:

~~4. (3) If an inmate is found guilty of committing a SRHU eligible offense while assigned to the SDP or RCGP, he they shall complete the intervening Ddeterminate SRHU term as imposed by the ICC before returning to the RCGP SHU SDP. The inmate will be returned to the same step from which he was removed; however, he shall not serve more than a total of 6 months in each step.~~

Subsections 3378.4(b)(3)(B)2. Through 3378.4(b)(3)(B)4. Are deleted.

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

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

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

Existing Subsections 3378.4(c) through 3378.4(c)(3) are renumbered to 3378.4(b) through 3378.4(b)(3) and are amended to read:

(~~b~~e) If an STG nexus is identified for an offense after the disciplinary process has been completed, for a SRHU eligible offense, as listed in section 333741.9(~~e~~g); this information will be referred to the STG Lieutenant, who will document the information and forward to the hiring authority or designee where the inmate is currently housed. The hiring authority shall refer this to the Chief Disciplinary Officer (CDO) to review the information/evidence and determine if the original RVR should be reissued/reheard based upon this new STG related information/evidence which was not available or reasonably discoverable at the time of the original disciplinary action. The CDO may consider the following options:

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

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

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

Subsection 3378.4(d) is deleted.

~~(d) Offenders who are found guilty of a serious rule violation and assessed a determinate SHU term, shall be removed from the SDP and required to complete the determinate SHU term. ICC may give consideration to suspending the remaining SHU term at each scheduled review.~~

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

§3378.5. Debriefing Process.

Section 3378.5 Initial paragraph through Subsection 3378.5(e) are unchanged.

Subsections 3378.5(f) and 3378.5(f)(1) are amended to read:

(f) Inmates will be afforded expanded program opportunities as they progress through the DPU. Detailed information about the operation of the DPU is located in section 3378.7. Upon receipt of notification of an inmate's intent to disassociate from an STG, the institutional STG investigator shall ensure the inmate has been placed in appropriate housing to address the inmate's safety in accordance with sections 3335 through 3336~~8~~, 3340 and 3342.

The STG investigator shall contact the validated inmate within five business days of receipt of the notification to conduct an Initial Debrief Intake Interview.

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

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

Subsection 3378.5(f)(2) is unchanged.

Subsection 3378.5(f)(3) is amended to read:

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

Subsections 3378.5(f)(4) and 3378.5(g) are unchanged.

Subsection 3378.5(g)(1) is amended to read:

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

Subsections 3378.5(h) through 3378.5(h)(1)(B) are unchanged.

Subsection 3378.5(i) is repealed.

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

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

§3378.7. Debrief Processing Unit.

Section 3378.7 Initial paragraph is unchanged.

Subsections 3378.7(a) through 3378.7(a)(2) are unchanged.

Subsection 3378.7(a)(3) is amended to read:

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

Subsections 3378.7(a)(4) through 3378.7(b) are unchanged.

Subsection 3378.7(c) is amended to read:

(c) When housing within the DPU has been determined by ICC, but medical, mental health, mobility or other case factors preclude the inmate from being transferred to the DPU, a conference call should be initiated to provide institutional staff with guidance concerning placement issues and privileges utilizing the case conference process with Classification Services Unit, Healthcare Placement Oversight Program (HCPOP), and the Division of Adult Institutions (DAI) Associate Director. This case conference shall be documented in the ~~CDCR Form 128-G~~, automated Classification Committee Chrono (Rev. 10/89-05/19), which is incorporated by reference. It is recognized that at times the inmate's overriding need for access to specific medical or mental health facilities will take priority over his housing in the DPU. These inmates should receive all privileges identified within this section, unless the privilege will create a significant security concern. If the hiring authority determines that the DPU privileges will be denied based on security concerns, the hiring authority shall contact the DAI Associate Director to obtain approval before denying the privileges.

Subsections 3378.7(d) through 3378.7(e)(1) are unchanged.

Subsection 3378.7(e)(2) is amended to read:

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

Subsections 3378.7(e)(3) through 3378.7(f)(1)(A) are unchanged.

Subsection 3378.7(f)(1)(A)1. is amended to read:

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

Subsection 3378.7(f)(1)(A)2. is deleted.

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

Existing subsection 3378.7(f)(1)(A)3. is renumbered to 3378.7(f)(1)(A)2. and text is unchanged.

~~3~~2. An inmate who was previously housed in the RCGP due to safety concerns, shall have his WG reverted consistent with the WG assigned while housed in the RCGP.

Subsection 3378.7(f)(1)(B) is unchanged.

Subsection 3378.7(f)(1)(B)1. is amended to read:

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

Subsection 3378.7(f)(1)(B)2. is deleted.

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

Existing Subsection 3378.7(f)(1)(B)3. is renumbered to 3378.7(f)(1)(B)2. and text is unchanged.

~~3~~2. An inmate who was previously housed in the RCGP due to safety concerns, shall have his PG reverted consistent with the PG assigned while housed in the RCGP.

Subsection 3378.7(f)(1)(C) is unchanged.

Subsection 3378.7(f)(1)(D) is amended to read:

(D) A minimum of 10 hours of yard exercise per week will be provided pursuant to subsection 33483(h), incorporating yard interaction in a group yard setting with inmates of diverse affiliations. ICC will assign the inmate to the appropriate yard group.

Subsection 3378.7(f)(1)(E) is unchanged.

Subsection 3378.7(f)(1)(E)1. is amended to read:

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

Subsections 3378.7(f)(1)(E)2. through 3378.7(f)(1)(F) are unchanged.

Subsection 3378.7(g) is amended to read:

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

Subsections 3378.7(h) and 3378.7(i) are unchanged.

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

§3378.9. Restricted Custody General Population.

Section 3378.9 Initial paragraph is amended to read:

The Restricted Custody General Population (RCGP) may be established at any institution or facility the Department deems appropriate and will provide a general population housing alternative for inmates who:

- ~~have refused to participate/complete the Step Down Program (SDP);~~
- ~~have been found guilty of repeated Security Threat Group (STG) Rules Violation Reports (RVR) while in the SDP; or~~
- have a substantial threat to their personal safety should they be released to the general population and are deemed appropriately housed, based upon a preponderance of evidence, by the Departmental Review Board (DRB).

Subsection 3378.9(a) is amended to read:

(a) Programming for those inmates housed in the RCGP ~~will~~ shall be comprised of at least 20 hours of out-of-cell time per week unless safety and security considerations preclude such activity. ~~These programs~~ provide increased opportunities for positive social interaction with other prisoners and staff, including but not limited to: Alternative Education Program and/or small group education opportunities; yard (minimum of 10 hours per week) in small group yards as determined by ICC; access to religious services,

support services job assignments and leisure time activity groups; access to GED, high school, and college level educational programs, with adequate academic support, and electrical appliances commensurate with the Authorized Personal Property Scheduled for the designated level of the facility and individual or small group yards as determined by ICC, which shall be a minimum of ten (10) hours a week.

Subsections 3378.9(b) through 3378.9(d) are unchanged.

Subsections 3378.9(e) through 3378.9(f)(4) are deleted.

~~(e) Inmates assigned to the RCGP due to refusal to participate in or complete the SDP shall be addressed as follows:~~

~~(1) During the RCGP initial classification review, the ICC shall affirm the WG as A2 in accordance with section 3044(b)(2) unless the inmate was previously deemed a program failure as defined in section 3000, and provide the inmate with program expectations including completion of all components of the SDP. ICC shall affirm PG S3 or S4, respective of the assigned step.~~

~~(2) ICC may reassign the inmate to PG S4 based on his progression through the SDP components remaining to be completed.~~

~~(3) RCGP inmates will be authorized to participate in both contact and non-contact visiting during other than assigned work/program hours.~~

~~(A) The inmate shall be allowed a minimum of one contact visit every 120 days if programming and no disciplinary violations for which the loss of privileges imposes a restriction on visiting. ICC shall have the discretion to increase this schedule to one contact visit every 90 days, on a case-by-case basis.~~

~~(B) Inmates will be allowed contact visits which shall be limited to approved visitors, who have been pre-approved in accordance with the existing visiting regulations.~~

~~(C) Not eligible for Family Visits.~~

~~(4) If the inmate completes the SDP, while in the RCGP, and is not found guilty of either one serious STG related or two administrative STG related rules violation reports, as listed in section 3378.4(a), STG Disciplinary Matrix, during the 180-day review period, he will be considered for transfer to appropriate general population housing, commensurate with his case factors and placement score.~~

~~(5) If the inmate has completed the SDP but is found guilty of either: 1) one serious STG related rules violation; or 2) two administrative STG related RVRs; the ICC will retain the inmate in the RCGP and re-evaluate his behavior at his next 180-day ICC review. The inmate must remain disciplinary free of STG related behavior, as identified above, for a 180-day review period to be considered for release to general population housing. ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining appropriate housing.~~

~~(6) Upon a guilty finding in a disciplinary hearing, the disposition may or when mandated include assessment of one or more penalties in accordance with sections 3314 or 3315. RCGP inmates who receive a disciplinary violation which results in a loss of privileges, including restricted visiting, shall comply with the restrictions imposed in accordance with that loss of privileges.~~

~~(f) Inmates assigned to the RCGP due to receiving rules violations while in the SDP, as described in the presentence of section 3378.9, shall be addressed as follows:~~

~~(1) During the RCGP initial classification review, the ICC shall affirm the WG as A2 in accordance with section 3044(b)(2) unless the inmate was previously deemed a program failure as defined in section 3000, and provide the inmate with program expectations including remaining free of disciplinary behavior. ICC shall affirm the PG S3 or S4 respective to their assigned step.~~

~~(2) RCGP inmates will be authorized to participate in both contact and non-contact visiting during other than assigned work/program hours.~~

~~(A) The inmate shall be allowed a minimum of one contact visit every 120 days if programming and no disciplinary violations for which the loss of privileges imposes a restriction on visiting. ICC shall have the discretion to increase this schedule to one contact visit every 90 days, on a case-by-case basis.~~

~~(B) Inmates will be allowed contact visits which shall be limited to approved visitors, who have been pre-approved in accordance with the existing visiting regulations.~~

~~(C) Not eligible for Family Visits.~~

~~(3) If the inmate completes the SDP components and, while housed in the RCGP, is not found guilty of either one serious STG related or two administrative STG related RVRs within the 180-day review period, he shall be referred to the ICC for determination of appropriate housing based on case factors and placement score. ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining appropriate housing.~~

~~(4) Upon a guilty finding in a disciplinary hearing, the disposition may or when mandated include assessment of one or more penalties in accordance with sections 3314 or 3315. RCGP inmates who receive a disciplinary violation which results in a loss of privileges, including restricted visiting, shall comply with the restrictions imposed in accordance with that loss of privileges.~~

Existing Subsection 3378.9(g) is renumbered to Subsection 3378.9(e) and text is unchanged.

(ge) Inmates assigned to the RCGP for safety needs shall be addressed as follows:

(1) During the RCGP Institutional Classification Committee, the assigned WG will be evaluated and retained unless case factors have changed which warrant modification of the assigned workgroup.

(2) The inmate shall be assigned a PG in accordance with section 3044(c). Privileges shall include:

(A) RCGP inmates will be authorized to participate in both contact and non-contact visiting during other than assigned work/program hours.

1. The inmate shall be allowed a minimum of one contact visit every 60 days unless the inmate incurs a disciplinary violation for which the loss of privileges imposes a restriction on visiting.

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

(B) Inmates will be allowed to participate in family visiting, in accordance with section 3177.

(C) Personal Property in accordance with the Authorized Personal Property Schedule for Level IV general population inmates.

(D) Telephone call shall be commensurate with assigned PG.

(3) Upon a guilty finding in a disciplinary hearing, the disposition may or when mandated include assessment of one or more penalties in accordance with sections 3314 or 3315. RCGP inmates who receive a disciplinary violation which results in a loss of privileges, including restricted visiting, shall comply with the restrictions imposed in accordance with that loss of privileges.

Subsection 3378.9(h) is deleted.

~~(h) If the RCGP inmate is found guilty of STG related behavior, identified in section 3378.4(a) STG Disciplinary Matrix, Although the inmate meets the criteria for placement in the SHU SDP, in accordance with CCR sections 3378.2 or 3378.4, ICC shall determine the inmate's housing and program needs. ICC maintains discretion in evaluating an affiliate's overall disciplinary record and case factors in determining continued management within the RCGP or other appropriate housing.~~

Existing Subsection 3378.9(i) is renumbered to Subsection 3378.9(f) and is amended to read:

(if) When housing within the RCGP has been determined by ICC, but medical, mental health, mobility or other case factors preclude the inmate from being transferred to the RCGP, a conference call should be initiated to provide institutional staff with guidance concerning placement issues and privileges utilizing the case conference process with Classification Services Unit, HCPOP, and the DAI Associate Director. This case conference shall be documented in the ~~CDGR Form 128-G~~, automated Classification Committee Chrono (Rev. 40/89 05/19), which is incorporated by reference. It is recognized that at times the inmate's overriding need for access to specific medical or mental health facilities will take priority over his housing in the RCGP. These inmates should receive all privileges identified within this section, unless the privilege will create a significant security concern. If the hiring authority determines that the RCGP privileges will be denied based on security concerns, the hiring authority shall contact the DAI Associate Director to obtain approval before denying the privileges.

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

§3378.10. Termination of Security Threat Group (STG) Validation Status.

Subsection 3378.10(a) is unchanged.

Subsections 3378.10(a)(1) and 3378.10(a)(1)(A) are amended to read:

(1) A validated STG-I or STG-II associate ~~released from Step Down Program (SDP) to in any type of general population;~~ or an associate these cases determined to have be

~~inactive or dropout status; or those remaining in any type of general population housing,~~ who remains free of STG disciplinary behavior for a period of six (6) consecutive years, while incarcerated within CDCR, may be eligible to have their STG Validation Status terminated. The six years will begin counting toward completion of the required time period as follows:

(A) Validated Associates released from SDP to general population: the date upon which a committee approved release from segregation restricted housing.

Subsections 3378.10(a)(1)(B) through 3378.10(a)(3) are unchanged.

Subsection 3378.10(a)(4) is amended to read:

(4) Upon ICC terminating an inmate's validation status, the institution shall submit a copy of the ~~CDC Form 128-G (10/89),~~ automated Classification Committee Chrono (Rev. 05/19), which is incorporated by reference, to the Office of Correctional Safety (OCS), who shall generate an updated CDCR Form 128-B2 (Rev. 06/14), Security Threat Group Validation/Rejection Review, which is incorporated by reference, reflecting "Terminated". The original CDCR Form 128-B2 shall be returned to the institution. Review by the STG Unit Classification Committee will not be required to review/approve this document.

Subsections 3378.10(a)(5) through 3378.10(b) are unchanged.

Subsections 3378.10(b)(1) and 3378.10(b)(1)(A) are amended to read:

(1) A validated STG-I or STG-II member ~~released from SDP to in any type of general population; or a member those cases determined to have be inactive or dropout status; or those remaining in any type of general population housing,~~ who remains free of STG disciplinary behavior for a period of eleven (11) consecutive years, while incarcerated within CDCR, may be eligible to have their STG Validation Status terminated. The eleven years will begin counting toward completion of the required time period as follows:

(A) Validated Members released from SDP to general population: the date upon which a committee approved release from segregation restricted housing.

Subsections 3378.10(b)(1)(B) through 3378.10(b)(3) are unchanged.

Subsection 3378.10(b)(4) is amended to read:

(4) Upon ICC terminating an inmate's validation status, the institution shall submit a copy of the ~~CDC Form 128-G,~~ automated Classification Committee Chrono (Rev. 05/19), to OCS, who shall generate an updated CDCR Form 128-B2 reflecting "Terminated". The original CDCR Form 128-B2 shall be returned to the institution. Review by the STG Unit Classification Committee will not be required to review/approve this document.

Subsection 3378.10(b)(5) is unchanged.

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

§3379. Inmate Transfers.

Subsections 3379(a) through 3379(b) are unchanged.

Subsection 3379(c) is amended to read:

(c) Disciplinary and security factors. Prior to transfer of an inmate, the sending institution shall resolve any matters related to incomplete disciplinary punishment or establishment of a determinate period to be served in a SRHU at the receiving facility. Disciplinary detention shall be completed, suspended, or commuted to time served. If a transfer related to misbehavior does not require SRHU placement but the inmate is transferred to an institution of higher level than indicated by the inmate's classification score, the endorsing CSR shall establish a date for follow-up review by the receiving institution.

Subsections 3379(d) through 3379(d)(4) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2911, 5025, 5054, 5068, 5080 and 11191, Penal Code; Sections 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *Armstrong v. Schwarzenegger*, United States District Court, N.D. Cal., No. C-94-2307 CW, Stipulation and Proposed Order issued November 30, 2006; *Coleman v. Schwarzenegger*, United States District Court, E.D. Cal., No. CIV-S-90-0520 LKK JFM P, Order issued November 6, 2006; and *Whitaker v. Rushen* (9th Cir. 1983) 720 F.2d 1132, 1135.