



Department of Corrections and Rehabilitation NOTICE OF CHANGE TO REGULATIONS

Sections:	NCR Number:	Publication Date:	Effective Date:
3006, 3044, 3090, 3178, 3190, 3282, 3314, 3315, and 3323	25-08	September 19, 2025	To Be Determined

INSTITUTION POSTING AND CERTIFICATION REQUIRED

This Notice announces the proposed amendment of sections 3006, 3044, 3090, 3178, 3190, 3282, 3314, 3315, and 3323 of the California Code of Regulations (CCR), Title 15, Crime Prevention and Corrections, Division 3, regarding Incarcerated Person Calls and Property Rule Violation.

PUBLIC COMMENT PERIOD

The public comment period will close on **November 6, 2025**. Any person may submit written comments about the proposed regulations by mail to the California Department of Corrections and Rehabilitation (CDCR), Regulation and Policy Management Branch (RPMB), P.O. Box 942883, Sacramento, CA 94283-0001, or by e-mail to RPMB@cdcr.ca.gov. All written comments must be received or postmarked no later than **November 6, 2025**.

PUBLIC HEARING INFORMATION

A public hearing regarding these proposed regulations will be held on **November 6, 2025**, from 10:00 a.m. to 11:00 a.m. in Building C, first floor, Room 101, located at 8260 Longleaf Drive, Elk Grove, CA 95758. The purpose of the hearing is to receive comments about the proposed regulations. It is not a forum to debate the proposed regulations. No decision regarding the permanent adoption of these regulations will be rendered at this hearing. Written comments submitted during the prescribed comment period are given the same significance and weight as oral comments presented at the hearing. This hearing site is accessible to the mobility impaired.

POSTING

This Notice shall be posted immediately upon receipt at locations accessible to incarcerated and supervised persons, and employees in each department facility and field office not later than five calendar days after receipt. Also, institutions and facilities shall make this Notice available for review by incarcerated persons in restricted housing who do not have access to the posted copies, and shall distribute it to incarcerated person law libraries and advisory councils. CDCR Form 621-A (Rev. 05/19), Certification of Posting, shall be returned to RPMB by mail or email. See Department Operations Manual Section 12010.6.7 for posting and certification of posting procedures.

CONTACT PERSON

Inquiries regarding this Notice should be directed to A. Colavita, by mail to California Department of Corrections and Rehabilitation, RPMB, P.O. Box 942883, Sacramento, CA 94283-0001, by telephone at (279) 223-2314, or e-mail to RPMB@cdcr.ca.gov. Inquiries regarding the subject matter of these regulations should be directed to J. Hirst, Division of Adult Institutions (DAI), at (279) 223-3644.

Original Signed by:

Jason D. Johnson
Undersecretary, Operations
California Department of Corrections and Rehabilitation

Attachments

NOTICE OF PROPOSED REGULATIONS
California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR or the department), proposes to amend sections 3006, 3044, 3090, 3178, 3190, 3282, 3314, 3315, and 3323 of Title 15, Division 3, Chapter 1, regarding Incarcerated Person Calls and Property Rule Violation.

PUBLIC COMMENT PERIOD

The public comment period begins **September 19, 2025** and closes on **November 6, 2025**. Any person may submit written comments by mail addressed to the primary contact person listed below, or by email to rpmb@cdcr.ca.gov, before the close of the comment period. For questions regarding the subject matter of the regulations, call the program contact person listed below.

CONTACT PERSONS

<u>Primary Contact</u>	<u>Back-Up</u>	<u>Program Contacts</u>
A. Colavita	Y. Sun	J. Hirst
Telephone: (279) 223-2314	Telephone: (279) 223-2316	Telephone: (279) 223-3644
Regulation and Policy	Regulation and Policy	Division of Adult Institutions
Management Branch	Management Branch	P.O. Box 942883
P.O. Box 942883	P.O. Box 942883	Sacramento, CA 94283-0001
Sacramento, CA 94283-0001	Sacramento, CA 94283-0001	

PUBLIC HEARING

Date and Time:	November 6, 2025 – 10:00 a.m. to 11:00 a.m.
Place:	State of California, Building C, first floor, Room 101 8260 Longleaf Drive Elk Grove, CA 95758

AUTHORITY AND REFERENCE

Government Code Section 12838.5 provides that commencing July 1, 2005, CDCR succeeds to, and is vested with, all the powers, functions, duties, responsibilities, obligations, liabilities, and jurisdiction of abolished predecessor entities, such as Department of Corrections, Department of the Youth Authority, and Board of Corrections.

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations. **PC Section 5050** provides that commencing July 1, 2005, any reference to the Director of Corrections in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

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

PC Section 5055 provides that commencing July 1, 2005, all powers and duties previously granted to and imposed upon the Department of Corrections shall be exercised by the Secretary of the CDCR. **PC Section 5058** authorizes the Director to prescribe and amend rules and regulations for

the administration of prisons and for the administration of the parole of persons. **PC Section 5058.3** authorizes the Director to certify in a written statement filed with Office of Administrative Law that operational needs of the department require adoption, amendment, or repeal of regulation on an emergency basis.

Additional Authority and Reference cited in the amended CCR sections include: PC Sections 148, 241, 243, 295-300.3, 311(a), 314, 530, 532, 646.9, 647, 653, 1170.05, 2086, 2600, 2601, 2700, 2701, 2772, 2790, 2931, 2932, 2933, 2933.05, 2933.3, 2933.6, 2935, 4500, 4501, 4501.1, 4573.6, 4574, 4576, 4570.5, 4576, 4600, 5005, 5006, 5030.1, 5057, 5058.7, 5068 and 12020; California Constitution, article I, Sections 32(a)(2), 32(b); *In re Monigold*, 205 Cal.App.3d 1224 (1988); *Procurier v. Martinez*, 94 S. Ct. 1800 (1974); *In re Alcala*, 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 *Prison Legal News v. Schwarzenegger* Settlement Agreement, No. Civ-07-02058 CW; and Religious Land Use and Institutionalized Persons Act, 42 United States Code Sections 2000cc et seq.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The proposed regulations comply with Assembly Bill (AB) 3043, which added Section 5058.7 to the Penal Code, regarding confidential calls, establish the procedures for when an incarcerated person intentionally damages or destroys an authorized wireless communication device, such as a tablet or kiosk, and the department's requirements of incarcerated person-use of these devices.

This action will:

- Comply with AB 3043 requiring the department to approve an attorney's request to make confidential calls and to provide an incarcerated person at least 30 minutes, once per month, per case, to make those calls, unless the incarcerated person or attorney requests less time.
- Define and provide new secured communication methods that allow incarcerated persons to stay connected to their families and loved ones.
- Set the department's requirements and expectations for using communication methods and specify consequences if incarcerated persons do not follow these requirements.
- Incorporate by reference new CDCR Form 2293, Authorized Wireless Communication Device User Agreement.

DOCUMENTS INCORPORATED BY REFERENCE

- CDCR Form 2293 (06/24), Authorized Wireless Communication Device User Agreement.

This note explains the department's justification for incorporating forms by reference. The department uses over 1,500 forms, many of which are regulatory. It would be unduly cumbersome, expensive and impractical to print all these forms in the CCR text, therefore the department has always incorporated forms by reference, except in specific circumstances which do not apply in the case of these regulations.

The adopted, amended, and/or repealed forms included in this rulemaking action are available to the public for review and are included in the notice of rulemaking sent to all parties who have requested notification

SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS

The proposed amended CCR sections will provide the department with the authority to hold

incarcerated persons accountable for misconduct relative to their use of authorized wireless communication devices. Further, the proposed amended CCR sections shall align with AB 3043 and PC section 5058.7. These revisions shall provide continuity and consistency with the implementation of PC section 5058.7 within institutions statewide. Additionally, the proposed amendments define and provide new secured communication methods to incarcerated persons which allow them to stay connected to their families and loved ones. These regulations set the department's expectations and requirements for using these communication methods and to hold incarcerated persons accountable by delineating specific consequences if incarcerated persons do not follow such requirements.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the department has determined the proposed regulations are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the department has concluded that these are the only regulations that concern confidential calls and rules violations for the damage or destruction of authorized wireless communication devices.

LOCAL MANDATES

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

FISCAL IMPACT STATEMENT

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

EFFECT ON HOUSING COSTS

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

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

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

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS

The department has made an initial determination that this action will not have a significant statewide adverse economic impact on business, including the ability of California businesses to compete with businesses in other states because the proposed regulations affect the internal management of CDCR only, and place no requirements or restrictions on businesses.

EFFECT ON SMALL BUSINESSES

The department has determined that the proposed regulations will not affect small businesses. This action has no significant adverse economic impact on small businesses because they place no obligations or requirements on any business.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

The department has determined that the proposed regulation will not have any impact on the following:

- Creation or elimination of jobs within California.

- Creation of new businesses or elimination of existing businesses within California.
- Expansion of businesses currently doing business with the state.
- The state's environment.

The department has determined that the proposed regulation does not impact the health and welfare of California residents. However, it may benefit CDCR staff and incarcerated persons by improving safety and well-being within CDCR institutions. The proposed regulation supports CDCR's efforts to maintain safe and secure institutions by establishing clear rules for how incarcerated individuals may use approved wireless communication devices. It also outlines consequences for misuse, helping staff manage communication more effectively and reducing potential safety risks.

In addition, the regulation introduces secure ways for incarcerated individuals to stay connected with their families and loved ones. These connections are important for mental health and rehabilitation, which contribute to overall well-being.

Together, these changes promote worker safety and support the health and welfare of incarcerated persons, and ensure incarcerated persons' access to confidential calls which is consistent with the goals of AB 3043 and Penal Code section 5058.7.

CONSIDERATION OF ALTERNATIVES

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

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS

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

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

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

AVAILABILITY OF CHANGES TO PROPOSED TEXT

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

TEXT OF PROPOSED REGULATIONS

In the following text, all new language is indicated by underline and deleted text is indicated by ~~strikethrough~~.

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

Section 3006. Contraband.

Subsection 3006(a) is amended to read:

(a) Dangerous Property. Incarcerated persons shall not possess or have under their control or constructive possession any weapons, explosives, explosive making material, poisons, or any destructive devices, nor shall they possess or assist in circulating any writing or voice recording which describes the making of any weapons, explosives, poisons, or destructive devices. Incarcerated persons shall not possess communication devices capable of making or receiving wireless communications, except as expressly authorized by the Secretary, pursuant to subsections 3190(l)(7) and 3190(m).

Subsections 3006(b) through 3006(c)(19) are unchanged.

Subsection 3006(c)(20) is amended to read:

(20) Any wireless communication device accessory or component including, but not limited to, a Subscriber Identity Module (SIM) card, memory storage device, battery, wired or wireless headset, and charger, except as expressly authorized by the Secretary, pursuant to subsections 3190(l)(7) and 3190(m).

Subsections 3006(c)(21) and 3006(d) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 311(a), 2600, 2601, 2772, 2790, 4574, 4576, 5030.1, 5054 and 5057, Penal Code.

Article 3.4. Incarcerated Person Work and Privileges

3044. Incarcerated Person Work Groups and Privilege Groups.

Subsections 3044(a) through 3044(d)(2)(G) are unchanged.

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

(H) The receipt of four incarcerated person packages, 30 pounds maximum weight each, per year. Incarcerated persons may also receive special purchases and special issuances, as provided in subsections 3190(j) ~~and through~~ (kn).

Subsections 3044(d)(2)(I) through 3044(e)(2)(G) are unchanged.

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

(H) The receipt of four incarcerated person packages, 30 pounds maximum weight each, per year. Incarcerated persons may also receive special purchases and special issuances, as provided in subsections 3190(j) ~~and through~~ (k).

Subsections 3044(e)(2)(I) through 3044(f)(2)(E) are unchanged.

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

(F) No incarcerated person packages. Incarcerated persons may receive special purchases and special issuances, as provided in subsections 3190(j) ~~and through~~ (k).

Subsections 3044(f)(2)(G) through 3044(g)(3)(E) are unchanged.

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

(F) The receipt of one incarcerated person package, 30 pounds maximum weight each, per year. Incarcerated persons shall be eligible to acquire an incarcerated person package after completion of one year of Privilege Group D assignment. Incarcerated persons may also receive special purchases and special issuances, as provided in subsections 3190(j) ~~and through~~ (k).

Subsections 3044(g)(3)(G) through 3044(h)(2)(F) are unchanged.

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

(G) No incarcerated person packages. Incarcerated persons may receive special purchases and special issuances, as provided in subsections 3190(j) ~~and through~~ (k).

Subsections 3044(i) through 3044(i)(3)(G) are unchanged.

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

(H) Receipt of incarcerated person packages, 30 pounds maximum weight each. Incarcerated persons may also receive special purchases and special issuances, as provided in subsections 3190(j) ~~and through~~ (k). ICC shall designate between one and four packages per year.

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

Note: Authority cited: Cal. Const., article I, Section 32(b); and Sections 2700, 2701 and 5058, Penal Code. Reference: Cal. Const., article I, Section 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).

Subchapter 2. Incarcerated Person Resources

Article 1. Canteens

3090. Incarcerated Person Canteen Establishment and Draw Limits.

Subsections 3090(a) through 3090(c) are unchanged.

Subsection 3090(d) is amended to read:

(d) An incarcerated person's trust account deductions for canteen purchases shall not be restricted beyond limits established by the Secretary for all incarcerated persons in like work groups, except by following an adjudicated guilty finding after formal disciplinary action for any of the following:

(1) a A violation involving canteen.

(2) or the intentional or negligent destruction, damage, or misuse of state property, or any authorized wireless communication device, as defined in subsection 3282(a)(6).

(3) for vViolations of subsections 3016(a), 3016(b), 3016(d), or 3290(d), or in accordance with subsections 3315(g)(5)(K) and 3315(g)(5)(M).

Subsection 3090(e) is unchanged.

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

Article 7. Visiting

3178. Attorney Visitations and Consultation.

Subsection 3178(a) is amended to read:

(a) The provisions of this section apply to any attorney or legal service organization as identified in section 3141(c)(~~8~~10) authorized to practice law in California, another state, or the District of Columbia.

Subsections 3178(b) through 3178(c)(4) are unchanged.

Subsection 3178(d) is amended to read:

(d) An attorney who wishes to consult in person with an incarcerated person shall contact the institution/ or facility at which the incarcerated person is housed. The request shall be made by calling or writing via U. S. Postal Service, facsimile, or electronic message (including via facsimile) to the staff designated (usually the ~~L~~ittigation ~~e~~Coordinator) in the institution/ or facility operational supplement. In order to obtain approval/ and clearance, the attorney shall provide the following personal and professional information in writing (including via facsimile): name; mailing address; date of birth, valid driver's license or state-issued identification card number; proof of current registry and good standing with a governing bar association; and indication of the jurisdiction(s) licensed to practice law.

Requesting attorneys must also report any prior felony convictions, explain any prior suspension or exclusion from a correctional facility and declare one or more of the following:

Subsections 3178(d)(1) through 3178(d)(4) are unchanged but shown for reference:

- (1) They are the incarcerated person's attorney either by appointment by the court or at the incarcerated person's request;
- (2) They have been requested by a judge to interview a named incarcerated person for purposes of possible appointment as counsel by the same court;
- (3) They are requesting to visit an incarcerated person who may be a witness directly relevant to a legal process, purpose, or proceeding;
- (4) They are seeking to interview a named incarcerated person, at the request of the incarcerated person, for the purpose of representation of the incarcerated person in a legal process, for a legal purpose or in a legal proceeding.

Subsection 3178(d)(5) is amended to read:

- (5) They have been requested by a ~~third-party~~ legally authorized representative to consult with the named incarcerated person when the incarcerated person cannot do so because of a medical condition, disability or other circumstance.

Subsections 3178(e) through 3178(t) are unchanged.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2601, 4570.5 and 5054, Penal Code; and *Procunier v. Martinez*, 94 S. Ct. 1800 (1974).

Article 9. Personal Property and Religious Personal Property

3190. General Policy.

Subsections 3190(a) through 3190(k) are unchanged.

Subsection 3190(l) is unchanged but shown for reference:

(l) Incarcerated persons shall be allowed special purchases of authorized personal property items from either departmentally-approved package vendors, departmentally-approved vendors of religious items, or locally-approved special purchase vendors. The institution head or their designee shall ensure approved vendor catalogs and order forms are available to eligible incarcerated persons. Special purchases are limited to the following:

Subsections 3190(l)(1) through 3190(l)(6) are unchanged.

Subsection 3190(l)(7) is unchanged but shown for reference:

(7) Network capable tablets. Incarcerated persons expressly authorized by the Secretary to possess network capable tablets are listed in the Authorized Personal Property Schedules, pursuant to subsections 3190(b)(1) through (b)(5).

New subsection 3190(m) is adopted to read:

(m) Incarcerated persons shall be allowed special issuances of authorized items from departmentally-approved vendors. Special issuances include wireless communication devices, such as a network capable tablet or laptop computer, authorized for incarcerated person use, provided at no-cost to the incarcerated person to facilitate incarcerated persons' communications and programming. Incarcerated persons may possess (but do not own) a wireless communication device via a special issuance, and special issuances are not itemized within the Authorized Personal Property Schedules. Prior to a special issuance of an authorized wireless communication device, incarcerated persons shall sign the mandatory CDCR Form 2293 (06/24), Authorized Wireless Communication Device User Agreement, which is incorporated by reference.

Existing subsections 3190(m) through 3190(w) are renumbered to 3190(n) through 3190(x), but are otherwise unchanged.

~~(m)~~ Incarcerated persons may be allowed to possess appliances and one musical instrument as follows:

(1) Incarcerated persons assigned to Privilege Groups A or B may possess up to three approved appliances in their quarters/living area, facility physical plant limitations permitting, and shall not exceed the six cubic feet maximum limitation. One musical instrument with case not exceeding 46" x 24" x 12" may be substituted as one of the three appliances.

(2) Incarcerated persons assigned to Privilege Group C may not possess entertainment appliances and/or a musical instrument. Incarcerated persons placed on Privilege Group C pursuant to a disciplinary action pursuant to subsections 3314(e)(3), 3315(g)(5)(C), or classification committee action shall have the disallowed property stored at the incarcerated person's institution.

Incarcerated persons assigned to Privilege Group C by a classification committee as a result of being deemed a program failure as defined in Section 3000 who receive one or more additional Administrative or Serious Rules Violation Reports shall be required to mail out, return, donate, or dispose of disallowed property in accordance with Subsection 3191(c).

(3) Incarcerated persons assigned to a RHU or other restricted housing 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. Incarcerated persons assigned to RHU are authorized two entertainment appliances. Eligibility to possess an entertainment appliance commences on the date of Privilege Group D assignment. An incarcerated person who is deemed to be a program failure, as defined in section 3000, based on

conduct prior to or while in the RHU or other restricted housing shall have their entertainment appliance stored by the institution pending removal of program failure designation. Incarcerated persons 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 incarcerated person 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 or other restricted housing, 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. Incarcerated persons assigned to Privilege Group D shall not possess a musical instrument.

(4) Incarcerated persons assigned to Privilege Group U shall not possess any appliances or musical instruments.

(5) Incarcerated persons housed at conservation camps shall not possess a television or television/radio combination.

(6) An incarcerated person deemed to be a program failure, based on conduct prior to or while in the RHU or other restricted housing, shall have their maximum monthly canteen draw items limited to stationery, stationery supplies, personal hygiene, vitamins, and medications. Incarcerated persons 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.

~~(n)~~ All appliances shall be sealed by staff by covering exterior pieces of the appliance that may be used to access the interior of the appliance with hotglue.

~~(o)~~ Incarcerated persons who break or tamper with the seal of an appliance(s) may be subject to disciplinary action and confiscation of the item.

~~(p)~~ Incarcerated persons ordering new or replacement appliances shall be required to purchase clear-case appliances, as they become available.

~~(q)~~ Incarcerated person correspondents shall be permitted to purchase appliances for qualifying incarcerated persons, including health care appliances, and Entertainment Appliances, Headphones/Earbuds and Musical Instruments, from either a departmentally-approved incarcerated person package vendor or a locally-approved special purchase vendor, pursuant to section 3044.

~~(r)~~ In addition to the six cubic feet limitation of authorized property, incarcerated persons who participate in institution academic or Career Technical Educational programs shall be allowed to possess, in their quarters/living area, state provided textbooks/materials necessary to complete their education requirements. In accordance with section 3011, incarcerated persons who do not return state textbooks in serviceable condition, may be

charged a replacement fee, as determined by the supervisor of correctional education programs.

(~~st~~) Incarcerated persons may acquire and possess correspondence course materials, including textbooks, in their quarters/living area as approved by the supervisor of correctional education programs and designated custody staff pursuant to limitations in section 3190(b). Correspondence courses requiring tools, construction kits, or other materials that may pose a threat to the institution's security or the safety of persons shall not be allowed.

(~~tu~~) The amount charged an incarcerated person for a special purchase or incarcerated person package shall include normal taxes and a 10% service charge based upon the purchase price. Service charges shall be deposited in the Incarcerated Welfare Fund. Exception: The 10% service charge shall not be added to purchases of health care appliances, correspondence courses, nonfiction books, religious items, and legal materials.

(~~uv~~) Incarcerated persons shall be permitted to possess membership cards, identification cards, or service-type cards in addition to those issued by the department in accordance with subsection 3237(c).

(~~vw~~) All allowable incarcerated person property shall be inventoried, documented, and stored for incarcerated persons transferred Out-to-Medical or Out-to-Court, or placed in restricted housing, a Correctional Treatment Center, or an Outpatient Housing Unit, until the incarcerated person returns. Specific to publications, incarcerated persons in restricted housing units shall be afforded the opportunity to choose which publications they want to maintain in their assigned living quarters and the publications that shall be stored as excess personal property.

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

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 2086, 5006 and 5054, Penal Code; *In re Alcala*, 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 *Prison Legal News v. Schwarzenegger* Settlement Agreement, No. Civ-07-02058 CW and Religious Land Use and Institutionalized Persons Act, 42 United States Code Sections 2000cc et seq.

Subchapter 4. General Institution Regulations
Article 2. Security

Section 3282 is amended to read:

3282. Use of ~~Telephones~~ Communication Devices by Incarcerated Persons.

Subsections 3282(a) through 3282(a)(2) are unchanged but shown for reference:

(a) For purposes of this section:

- (1) An “emergency call” means a telephone call regarding the serious illness or injury, or the death of an incarcerated person’s immediate family member.
- (2) A “confidential call” means a telephone call between an incarcerated person and their attorney which both parties intend to be private.

Subsection 3282(a)(3) is amended to read:

- (3) An “incarcerated person telephone” means a telephone designated solely to accommodate incarcerated person-originated, non-confidential personal calls.

Subsections 3282(a)(4) and 3282(a)(5) are unchanged but shown for reference:

- (4) An “intrafacility telephone” means a telephone which is not capable of direct-dial connections to telephones outside of the facility.
- (5) A “prison telephone” means a telephone that is capable of outside access and is not monitored or recorded.

New subsections 3282(a)(6) through 3282(a)(10) are adopted to read:

(6) An “authorized wireless communication device” is a wireless communication device, such as a network capable tablet, that is departmentally approved for incarcerated person use in accordance with subsections 3190(l)(7) and 3190(m).

(7) A “contact” is a person who communicates with an incarcerated person via an authorized wireless communication device.

(8) An “electronic message” is a non-confidential method of written communications between an incarcerated person and a contact, and an incarcerated person receiving photographs, images, and video from a contact, using an authorized wireless communication device.

(9) A “device call” is an incarcerated person-originated, non-confidential voice call made using an authorized wireless communication device.

(10) A “video call” is an incarcerated person-originated, non-confidential call made using an authorized wireless communication device with a camera and a screen, allowing participants to see each other as they communicate.

(11) “Electronic communications” are all forms of communication transmitted by an authorized wireless communication device. Electronic communication includes the exchange of written electronic messages between an incarcerated person and their contact, the receipt of photographs, images and video messages from an incarcerated person’s contact, and incarcerated person-originated device calls and video calls.

Subsection 3282(b) is amended to read:

(b) Facilities shall provide incarcerated person telephones for use by incarcerated persons consistent with their assigned privilege group. Incarcerated persons may place ~~collect~~ telephone calls or device calls to persons outside the facility at designated times and on designated telephones or on authorized wireless communication devices, as set forth in local procedures. Limitations may be placed on the frequency and length of such calls based on the incarcerated person's privilege group as outlined in section 3044, and to ensure equal access. Telephone calls requiring the use of a Telecommunication Device for the Deaf (TDD), ~~or voice relay service, or video relay service~~ shall have extended time scheduled due to the time delay which results from the TDD relay process.

Subsection 3282(c) is unchanged but shown for reference:

(c) An incarcerated person shall not:

Subsections 3282(c)(1) through 3282(c)(8) are unchanged.

Subsection 3282(c)(9) is amended to read:

(9) Knowingly participate in a forwarded, transferred, or three-party call on an incarcerated person telephone, device call, or video call.

New subsections 3282(c)(10) through 3282(c)(13) are adopted to read:

(10) Intentionally manipulate the blurred background feature while making a video call to reveal background images or people.

(11) Violate the provisions of the mandatory CDCR Form 2293 (06/24), Authorized Wireless Communication Device User Agreement, which is incorporated by reference. Violations of the provisions of CDCR Form 2293 (06/24) are subject to disciplinary action, and possible device use suspension and reimbursement of the cost of device repair or replacement in accordance with section 3314.

(12) Send obscene text via electronic message, as defined in subsection 3006(c)(15). Violations of this provision are subject to disciplinary action in accordance with sections 3314 and 3315.

(13) Commit acts of indecent exposure or sexual disorderly conduct, as defined in section 3000, or sexual behavior or obscenity, as specified in sections 3007 and 3008, while utilizing electronic communications. Violations of this provision are subject to disciplinary actions pursuant to sections 3315 and 3323, and possible device use suspension in accordance with section 3315.

New subsections 3282(d) through 3282(d)(3) are adopted to read:

(d) An incarcerated person's contact shall not:

(1) Send via electronic communications to an incarcerated person: obscene text as defined in subsection 3006(c)(15), sexually explicit images as defined in section 3006(c)(16), including disturbing or offensive material as defined in section 3135, or material reasonably deemed to be a threat to legitimate penological interests. Violation of this provision shall result in the following consequences:

(A) The rejection of the electronic communication by the reviewing staff member, which will generate an electronic rejection notification message sent to the incarcerated person's contact.

(B) For the first offense, the incarcerated person's contact shall be notified of the nature of the violation and advised that future similar behavior shall result in the restriction of electronic communications with the incarcerated person.

(C) For the second offense, the incarcerated person's contact shall be restricted from electronic communications with the incarcerated person for 90 days.

(D) For the third offense, the incarcerated person's contact shall be restricted from electronic communications with the incarcerated person indefinitely. To request reinstatement of the ability to send electronic communications with the incarcerated person, the incarcerated person's contact shall submit a complaint in accordance with subsection 3137(c) in writing to the Warden or Director of the Division of Adult Institutions (DAI). A decision by the Warden or Director of DAI to approve or deny a request for reinstatement shall be made on a case-by-case basis, in consideration of the totality of circumstances resulting in the restriction of electronic communications. Factors for consideration include, but are not limited to, the seriousness of the prior offenses and any additional violations of departmental rules.

(2) Display nudity, engage in sexual behavior, wear see-through clothing, or share the nude images of any person, consistent with explicit images as defined in section 3006(c)(16), while on a video call with an incarcerated person. Violation of this provision shall result in the disconnection of the call by the reviewing staff member, and the consequences listed in subsection 3282(d)(1).

(3) Send electronic communications deemed as criminal activity or would facilitate violations of state or federal law. Violation of this provision shall result in the consequences listed in subsection 3282(d)(1), and possible referral for criminal prosecution in accordance with section 3316.

Existing subsections 3282(d) through 3282(g) are renumbered to 3282(e) through 3282(h), and are amended to read:

(de) Except as provided in this section, no limitation shall be placed on the identities or relationships of persons to whom an incarcerated person may place a collect call, or with whom an incarcerated person conducts electronic communications.

(ef) All incarcerated person calls placed on intrafacility and incarcerated person telephones, and electronic communications may be subject to monitoring and recording at any time by institution staff.

(fg) A conspicuous notice in English and Spanish shall be posted at each incarcerated person telephone capable of recording and monitoring stating in both languages: "All numbers dialed and conversations on this telephone may be recorded and may be monitored without any further notice. By using this telephone, you agree to the monitoring and recording. It is your responsibility to notify the person called that their conversation and telephone number may be monitored and will be recorded." Staff who authorize an incarcerated person to use an unposted telephone for a nonconfidential call shall inform that incarcerated person before the call is made regarding the notice of monitoring/recording requirement.

(gh) If staff designated by the institution head determine that an incoming call concerns an emergency or confidential matter, the caller's name and telephone number shall be obtained and the incarcerated person promptly notified of the situation. The incarcerated person shall be permitted to place an emergency or confidential call, either collect or by providing for the toll to be deducted from the incarcerated person's trust account. A confidential call shall not be made on an incarcerated person telephone and shall not be monitored or recorded. If a call is determined to be an attorney and incarcerated person confidential phone call, in order for the incarcerated person to place or receive the call it must have already received approval or clearance in accordance with subsections (gh)(42), (gh)(23) and (gh)(45).

New subsection 3282(h)(1) is adopted to read:

(1) The department shall grant an approved attorney's request to have a confidential call with the incarcerated person they represent. The approved confidential call shall be at least 30 minutes once per month, per incarcerated person, per case, unless the incarcerated person or attorney requests less time. Incarcerated persons with vision or hearing disabilities shall receive confidential phone calls of at least 60 minutes once per month, per incarcerated person, per case, to account for the additional time it may take to communicate. Upon receipt of a request for a confidential call, a confidential call shall be scheduled in consideration of institutional security and available resources.

Existing subsections 3282(g)(1) through 3282(g)(5) are renumbered to 3282(h)(2) through 3282(h)(6), and are amended to read:

~~(12) A Confidential calls may be approved on a case-by-case basis by the institution head or designee, upon written request from an attorney shall be in writing on the attorney's office letterhead stationery. The request shall be made by written request and may be submitted~~ via U. S. Postal Service mail, or facsimile, or electronic message to the Institution Litigation Coordinator or designee. To obtain approval ~~and~~ clearance, the attorney shall provide in writing the following personal and professional information:

(A) Name,

(B) Mailing address,

(C) Date of Birth,

(D) Valid driver's license or state-issued identification card number,

(E) Proof of current registry and good standing with a governing bar association, and

(F) Indication of the jurisdiction(s) licensed to practice law. If the requesting attorney wishes to have a representative conduct the confidential phone call, the attorney representative must provide all applicable information listed above in addition to the attorney submitting their information. Refer to Title 15, subsection 3178(c)(1) for attorney representative criteria.

~~(23)~~ Requesting attorney ~~or~~ attorney representative shall report any prior felony convictions or pending arrest dispositions, describe and explain any prior suspension or exclusion from a correctional facility, and declare under penalty of perjury one or more of the following:

(A) They are the named incarcerated person's attorney either by appointment by the court or at the incarcerated person's request,

(B) They have been requested by a judge to interview a named incarcerated person for purposes of possible appointment as counsel by the same court,

(C) They are requesting to call a named incarcerated person who may be a witness directly relevant to a legal process, purpose, or proceeding,

(D) They are seeking to interview a named incarcerated person, at the request of the incarcerated person, for the purpose of representation of the incarcerated person in a legal process, for a legal purpose or in a legal proceeding, and

(E) They have been requested by a ~~third party~~ legally authorized representative to consult with the named incarcerated person when the incarcerated person cannot do so because of a medical condition, disability or other circumstance.

(34) Any false statement or deliberate misrepresentation of facts specific to the information required in subsection (gh)(23) shall be grounds for denying the request or cause for subsequent suspension or exclusion from all institutions/ and facilities administered by the department.

(45) Upon receipt of the information specified in (gh)(42), a California law enforcement telecommunications system (CLETS) check of the attorney/ and attorney representative, as applicable, through the Department of Justice and verification of the attorney's credential through the governing state bar ~~will~~ shall be conducted. Once the clearance and state bar verification have been obtained and approved, the attorney shall be contacted to schedule the confidential telephone call with the specified incarcerated person. Attorneys and attorney representatives shall immediately report to the Institution Litigation Coordinator any change in personal or professional information, arrest history, ~~and~~ or pending dispositions and declarations made in subsections (gh)(42) and (gh)(23) to retain their approval/ and clearance. In addition, a CLETS check ~~will~~ shall be conducted at least annually and as needed based on changes provided to the above listed information or information from any source that such changes had occurred.

(56) The date, initiating time, ~~duration~~, and place where the incarcerated person will make or receive the call, ~~and manner of the call~~ are within the discretion of the institution head, except as restricted herein. A confidential call from an incarcerated person shall be placed ~~as a collect call or by providing for the toll to be deducted from the incarcerated person's trust account and made~~ from a prison telephone or, with appropriate authentication of the caller, may be received from an attorney.

Existing subsection 3282(g)(6) is deleted.

~~(6) It is within the discretion of the institution head, or their designee, to approve or deny a confidential call. As long as the attorney/client communication privilege is not violated, a confidential call may be denied where the institution head, or their designee, determines that normal legal mail or attorney visits were appropriate means of communication and were not reasonably utilized by the incarcerated person or attorney. Where demand for confidential calls seriously burdens institutional operations, the institution head, or their designee, shall prioritize confidential calls.~~

Existing subsection 3282(g)(7) is renumbered to 3282(h)(7) but is otherwise unchanged and shown for reference:

(7) Emergency calls on prison telephones between an incarcerated person and clergy, other religious advisors, or health care professionals shall be approved or denied on a case-by-case basis by staff designated by the institution head.

Existing subsections 3282(g)(8) and 3282(h) are renumbered to 3282(h)(8) and 3282(i) and are amended to read:

(8) Approved attorneys, approved attorney representatives, and confidential phone call applicants ~~still pending approval~~ may file a complaint regarding departmental policies,

local procedures, or staff decisions related to confidential phone calls with the Warden or other official responsible for that housing unit.

(hi) Telecommunication Device for the Deaf (TDD) telephones shall be made available to incarcerated persons with a documented ~~severe~~ hearing impairment for personal, emergency, and confidential calls, which shall be subject to the provisions of this section.

Existing subsections 3282(h)(1) through 3282(i) are renumbered to 3282(i)(1) through 3282(j) but are otherwise unchanged and shown for reference:

(1) Assistive device telephones and additional time on telephones may be necessary to provide accommodations for incarcerated persons and their callers with disabilities.

(2) The facility shall provide for the procedures necessary to ensure effective telephone communications for incarcerated persons with disabilities and/or the disabled person(s) with whom they are communicating.

(ij) All calls made on incarcerated person telephones shall have an announcement before and at random intervals during the calls stating that the call is from an incarcerated person at a California state correctional facility and is being recorded.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 5054 and 5058.7, Penal Code.

Article 5. incarcerated Person Discipline

3314. Administrative Rule Violations.

Subsections 3314(a) through 3314(a)(2)(G) are unchanged.

Subsection 3314(a)(3) is unchanged but shown for reference:

(3) Administrative rule violations include but are not limited to:

Subsections 3314(a)(3)(A) through 3314(a)(3)(C) are unchanged.

Subsection 3314(a)(3)(D) is amended to read:

(D) Misuse of telephone privileges on an incarcerated person telephone, or an authorized wireless communication device capable of electronic messaging, making device calls or video calls, as defined in subsection 3282(a), presenting no threat to facility security.

Subsections 3314(a)(3)(E) through 3314(a)(3)(M) are unchanged.

Existing subsection 3314(a)(3)(N) is renumbered to 3314(a)(3)(N)1 and new subsection 3314(a)(3)(N) is adopted to read:

(N) Violations of the provisions of the mandatory CDCR Form 2293 (06/24), Authorized Wireless Communication Device User Agreement, which is incorporated by reference, include but are not limited to:

Existing subsection 3314(a)(3)(N) is renumbered to 3314(a)(3)(N)1, and is amended to read:

1. ~~(N)~~ Possession or constructive possession of another incarcerated person's authorized wireless communication device. Constructive possession includes the use of another incarcerated person's personal identification information to gain access on an authorized wireless communication device.

New subsection 3314(a)(3)(N)2 is adopted to read:

2. Intentional or negligent damage or destruction of an authorized wireless communication device, or the corruption or modification or attempted corruption or modification of any files, programs, or applications on the device.

Subsections 3314(b) through 3314(d) are unchanged.

Subsection 3314(e) is unchanged but shown for reference:

(e) The hearing official may find the incarcerated person guilty and order one or more of the following dispositions:

Subsections 3314(e)(1) through 3314(e)(9) are unchanged.

Subsection 3314(e)(10) is unchanged but shown for reference.

(10) Incarcerated persons placed in a Restricted Housing Unit, 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(e)(10)C are renumbered to 3314(e)(10)(A) through 3314(e)(10)(C) and are amended to read:

(A). Thirty calendar days for the first offense.

(B). Sixty calendar days for the second offense.

(C). Ninety calendar days for the third offense.

New subsections 3314(e)(11) through 3314(e)(11)(E) are adopted to read:

(11) Incarcerated persons who are found guilty of a RVR due to the intentional or negligent damage or destruction of a wireless communication device, or the corruption or modification or attempted corruption or modification of any files, programs, or applications on the device, shall be responsible for reimbursing the replacement or repair cost of the device, and shall be subject to the following device use restrictions:

(A) For the first offense, the incarcerated person shall be restricted from receiving or accessing another authorized wireless communication device equivalent to the device associated with the violation for 90 calendar days.

(B) For the second offense, the incarcerated person shall be restricted from receiving or accessing another authorized wireless communication device equivalent to the device associated with the violation for 180 calendar days.

(C) For the third offense and subsequent offenses, the incarcerated person shall be suspended indefinitely from usage of another authorized wireless communication device equivalent to the device associated with the violations.

(D) Repaired or replacement authorized wireless communication devices shall not be issued to the incarcerated person until the RVR is adjudicated as not guilty, or, in the case of a guilty finding, until completion of the appropriate restricted use period and reimbursement for the damaged or destroyed device is received. The restricted authorized wireless communication device use period shall begin on the day the intentional damage or destruction was discovered by staff as documented in the RVR.

(E) To reinstate authorized wireless communication device use prior to the completion of the restricted use period or indefinite suspension, the incarcerated person shall submit a grievance in accordance with section 3482 to the Institutional Office of Grievances. If the incarcerated person is not satisfied with the grievance decision, the grievance can be appealed to the Office of Appeals in accordance with section 3484. Factors for consideration to reinstate authorized wireless communication device use include the incarcerated person's disciplinary history since the restriction began, including any pending RVRs, and if reinstating device use would pose a risk of harm to the safety and security of incarcerated persons, or staff or other members of the public.

Subsections 3314(f) through 3314(k) are unchanged.

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

3315. Serious Rules Violations.

Subsection 3315(a) is unchanged but shown for reference.

(a) Incarcerated person misconduct reported on a RVR shall be classified serious if:

Subsections 3315(a)(1) through 3315(a)(2)(E) are unchanged.

Subsection 3315(a)(3) is unchanged but shown for reference.

(3) Serious rule violations include but are not limited to:

Subsection 3315(a)(3)(A) is unchanged.

Subsection 3315(a)(3)(B) is amended to read:

(B) Theft, embezzlement, destruction, or damage to another's personal property, rented or leased property, state funds, or state property.

Subsections 3315(a)(3)(C) through 3315(a)(3)(W) are unchanged.

Subsection 3315(a)(3)(X) is amended to read:

(X) Possession or constructive possession of any wireless communication device or any component thereof including, but not limited to, a Subscriber Identity Module (SIM) card, memory storage devices, batteries, wired or wireless headsets, or chargers, except as expressly authorized by the Secretary, pursuant to subsections 3190(k)(87) and 3190(m).

Subsections 3315(a)(3)(Y) through 3315(a)(3)(AA) are unchanged.

New subsection 3315(a)(3)(BB) is adopted to read:

(BB) Violation of Indecent Exposure, Sexual Behavior, or Sexual Disorderly Conduct of sections 3007, 3323(d)(9), 3323(f)(4), and 3323(g)(7), including while using an authorized wireless communication device.

Subsections 3315(b) through 3315(f)(3) are unchanged.

Subsection 3315(g) is unchanged but shown for reference.

(g) Disposition. Upon completion of the fact-finding portion of the disciplinary hearing, the incarcerated person may be found:

Subsections 3315(g)(1) through 3315(g)(4)(C) are unchanged.

Subsection 3315(g)(5) is unchanged but shown for reference.

(5) The disposition may or when mandated shall include assessment of one or more of the following:

Subsections 3315(g)(5)(A) through 3315(g)(5)(J)3 are unchanged.

Subsections 3315(g)(5)(K) through 3315(g)(5)(K)2 are amended to read:

(K) Violation of Indecent Exposure, Sexual Behavior, or Sexual Disorderly Conduct of sections 3007, 3323(d)(9), 3323(f)(4), and 3323(g)(7), including while using an authorized wireless communication device, shall result in:

1. First offense violation(s) shall result in loss of any or all of the following for up to 90 calendar days: canteen, appliances, authorized wireless communication devices, incarcerated person packages, telephone privileges, and personal property.
2. Second offense and subsequent offense violation(s) shall result in loss of any or all of the following for up to 180 calendar days: canteen, appliances, authorized

wireless communication devices, incarcerated person packages, telephone privileges, and personal property.

New subsection 3315(g)(5)(K)3 is adopted to read:

3. To request the reinstatement of any suspended privileges prior to the suspension timeframe, the incarcerated person shall be required to submit a grievance in accordance with section 3482 to the Institutional Office of Grievances. If the incarcerated person is not satisfied with the grievance decision, the grievance can be appealed to the Office of Appeals in accordance with section 3484. Factors for consideration to reinstate authorized wireless communication device use include the incarcerated person's disciplinary history since the restriction began, including any pending RVRs, and if reinstating device use would pose a risk of harm to the safety and security of incarcerated persons, or staff or other members of the public.

Subsections 3315(g)(5)(L) through 3315(j) 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.

Section 3323. Disciplinary Credit Forfeiture Schedule.

Subsections 3323(a) through 3323(f)(13) are unchanged.

Subsection 3323(f)(14) is amended to read:

(14) Possession or constructive possession of a wireless communication device, not expressly authorized by the Secretary pursuant to subsections 3190(k)(87) and 3190(m). Penal Code section 4576(c) provides that an incarcerated person found to be in possession of a wireless communication device shall be subject to time credit denial or loss of up to 90 days. An incarcerated person in possession of a wireless communication device, authorized by the Secretary, shall not receive any time credit denial or loss.

Subsections 3323(f)(15) through 3323(k)(4) are unchanged.

Note: Authority cited: Sections 5058, 5058.3 and 1170.05, Penal Code. Reference: Sections 148, 241, 243, 295-300.3, 314, 647, 1170.05, 2932, 2933, 4500, 4501, 4501.1, 4573.6, 4576, 4600, 5054 and 12020, Penal Code.

AUTHORIZED WIRELESS COMMUNICATION DEVICE USER AGREEMENT

CDCR 2293 (06/24)

Page 1 of 2

Authorized Wireless Communication Device User Agreement

This User Agreement is to be read, agreed to, and signed by the user as it contains important information about the rules you must adhere to once you are granted access to use an authorized wireless communication device (device), as defined in Title 15, section 3282. Devices include tablets authorized for incarcerated person personal use.

Your signature shall indicate that you understand, acknowledge, and agree to the terms of the User Agreement as a condition to the privilege of utilizing the device.

If you choose to not sign this User Agreement, you may still have access to the Kiosk, for electronic messaging, account balance, commissary, etc., but shall not have access to a personal device, such as a tablet.

If you violate any terms of this User Agreement, your device privileges may be suspended, either temporarily or permanently, depending on the severity of the violation in accordance with Title 15, sections 3314 and 3315.

Violations of this User Agreement may result in a Rules Violation Report in accordance with Title 15, sections 3314 and 3315.

Rules of the User Agreement:

1. The devices shall not be used to conduct criminal activity of any kind, or activity that violates the California Department of Corrections and Rehabilitation's (CDCR's) policies and procedures.
2. The user acknowledges that the device is leased by the vendor who has assigned its rights to CDCR to prevent modification, destruction or damage to the device as well as collect repair costs to devices.
3. The user shall not intentionally or negligently damage or destroy a device, or corrupt/modify or attempt to corrupt/modify any files, programs, or applications on the device. Upon a guilty finding for intentional or negligent damage or destruction of a device (internal or external components), the user, including indigent incarcerated persons, shall be **required to reimburse the vendor for the replacement cost or repair cost of the intentionally or negligently damaged or destroyed device prior to issuance of a replacement device**. Users shall submit a CDCR Form 193, Trust Withdrawal (Rev. 07/24), to pay the replacement cost of the intentionally or negligently damaged or destroyed device. The user is limited to a total of two (2) replacement devices due to intentional or negligent damage or destruction within a calendar year.
4. At no time shall the user possess another incarcerated person's device.
5. The user shall be responsible for their assigned device and shall not lend the device to any persons.
6. The user shall not attempt to install or use any equipment, lines, or cable, nor install any software, on the device.
7. The user shall not give their username and password to another incarcerated person.
8. The user shall not use another incarcerated person's username and password to access a device.
9. The user shall be responsible for any unauthorized content found on their device.
10. It is the user's responsibility to immediately report any damage, loss, or theft of their device to staff.
11. The devices are only to be used in designated areas per each institution's operational procedures.
12. Users who are temporarily out-to-court or an outside health care facility shall retain their device in their personal property at the institution. If the incarcerated person returns to the facility, the device will be returned to the user.
13. The device is to be returned upon the user's release with all issued working items (device, earbuds, and barrel charger, if applicable).

Device Type: _____ **Device Serial #:** _____

User Printed Name: _____ User CDCR #: _____

User Signature: _____ Date: _____

AUTHORIZED WIRELESS COMMUNICATION DEVICE USER AGREEMENT

CDCR 2293 (06/24)

Page 2 of 2

For Official Use Only:

Did the incarcerated person decline to sign the User Agreement and refuse device? Yes / No (circle one)

Does the incarcerated person have a qualifying disability requiring effective communication? Yes / No (circle one)

If yes, cite the source document and/or observations:

What type of accommodation or assistance was provided to the user to achieve effective communication?

Staff Witness: _____

Date: _____

Upon Return of Device, complete the following:

Return Date: _____

Condition of Device: _____

Staff Witness: _____

INITIAL STATEMENT OF REASONS

The California Department of Corrections and Rehabilitation (CDCR or the department), proposes to amend sections 3006, 3044, 3090, 3178, 3190, 3282, 3314, 3315, and 3323. of the California Code of Regulations (CCR) Title 15, Division 3, Adult Institutions, Programs and Parole.

Staying connected to family and loved ones is vital to individual success during and after incarceration. These connections keep the incarcerated population updated on family activities, assist with reentry planning, and help people stay motivated to follow a positive path towards integrating back into society.

CDCR entered into a contract with ViaPath Technologies (formerly known as Global Tel*Link) to expand upon the five-prison tablet program implemented in 2018. In 2021, the department began issuing tablets to every adult institution and fire camp. Jails and prisons across the United States are seeing the benefits of electronic devices, as they provide incarcerated persons access to educational content, rehabilitative programs, and positive leisure-time activities, such as knowledge-based games and books. These devices also allow for incarcerated persons' activities to be tracked and monitored for safety and security.

Amending the regulations is necessary to define and clarify the new methods of communication the incarcerated population has access to, and to establish procedures to address intentional destruction or damage of an authorized wireless communication device, as well as the department's requirements when using these devices to make calls, including video calls. When making video calls, users and their loved ones are not to display nudity, engage in sexual behavior, wear see-through clothing, or share nude images of any other person. CDCR Form 2293, Authorized Wireless Communication Device User Agreement, is incorporated by reference in this rulemaking. Incarcerated persons must sign this mandatory agreement to obtain an authorized wireless communication device and shall follow the rules and expectations detailed in CDCR 2293 to maintain the device use privileges. To ensure complete understanding of this agreement, effective communication is utilized as needed depending on the user's needs.

In addition, on September 30, 2020, Assembly Bill (AB) 3043 was approved by Governor Newsom and filed with the Secretary of State. AB 3043 requires the department to approve an attorney's request to make confidential calls, as specified. The bill requires the department grant an approved attorney's request to have a confidential call with the incarcerated person they represent at least 30 minutes once per month, per case, to make those calls, unless the incarcerated person or attorney requests less time.

With the approval of AB 3043, Section 5058.7 was added to the Penal Code (PC) to read:

“(a) The department shall approve an attorney's request to have a confidential call with an inmate that they represent. The approved confidential call shall be at least 30 minutes once per month, per inmate, per case, unless the inmate or attorney requests less time.

(b) For purposes of this section, “confidential call” means a telephone call between an inmate and their attorney that both the inmate and attorney intend to be private.”

Amending the regulations is necessary to afford incarcerated persons an additional method for participating in confidential calls as detailed in PC section 5058.7.

The following information highlights the impactful changes that are proposed in this revision regarding confidential calls:

- “Electronic messages” have been added to the regulations as a means for requesting confidential calls, as well as attorney visits, consistent with current practices.
- Language is amended to ensure that the institution head shall not limit the duration of a confidential call between an incarcerated person and their attorney or attorney representative in accordance with PC section 5058.7, which establishes a minimum duration of 30 minutes per call.
- Language has been removed that allowed for an institution head to deny a confidential call when it is determined that other means of communication were not reasonably utilized by the incarcerated person or their attorney.

CONSIDERATION OF ALTERNATIVES:

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

Currently, no reasonable alternatives have been identified that would alter the department’s initial determination.

ECONOMIC IMPACT ASSESSMENT:

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

Creation of New Jobs or the Elimination of Existing Jobs within the State of California

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

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

The department has determined the proposed regulations will not have an impact on the

creation of new or the elimination of existing businesses within California or affect the expansion of businesses currently doing business in California as the proposed regulations affect the internal management of prisons only.

Benefits to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The department has determined the proposed regulations may impact the health and welfare of CDCR incarcerated persons and worker safety by increasing safety and security within the institutions. The proposed regulations will have no impact on the health and welfare of California residents and the state's environment.

Significant Adverse Economic Impact on Business

The department has made an initial determination that the proposed regulatory action will not have a significant adverse economic impact on business. Additionally, there have been no facts, evidence, documents, testimony, or other evidence provided that would alter the department's initial determination. The proposed regulations do not have a direct impact on California businesses as the proposed regulations affect the internal management of prisons only.

BENEFITS OF THE REGULATIONS:

The proposed amended CCR sections will provide the department with the authority to hold incarcerated persons accountable for misconduct relative to their use of authorized wireless communication devices. Further, the proposed amended CCR sections shall align with AB 3043 and PC section 5058.7. These revisions shall provide continuity and consistency with the implementation of PC section 5058.7 within institutions statewide. Additionally, the proposed amendments define and provide new secured communication methods to incarcerated persons which allow them to stay connected to their families and loved ones. The proposed regulations also set the department's expectations and requirements for using these communication methods to hold incarcerated persons accountable and establish specific consequences if incarcerated persons do not follow such requirements.

FORMS INCORPORATED BY REFERENCE:

- CDCR Form 2293 (06/24), Authorized Wireless Communication Device User Agreement.

This form is incorporated by reference in these proposed regulations. The department uses over 1,500 forms, many of which are regulatory. It would be unduly cumbersome, expensive and impractical to print all these forms in the CCR text, therefore the department has always incorporated forms by reference, except in specific circumstances which do not apply in the case of these regulations.

MATERIALS RELIED UPON:

The department, in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

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

Subsections 3006(a) and 3006(c)(20) are amended to add an “s” to pluralize “subsections,” and add the verbiage “and 3190(m).” It is necessary to pluralize “subsections” for proper grammar as more than one subsection is cited. It is necessary to add the special issuances of the wireless communication devices pursuant to proposed subsection 3190(m), as issued wireless communication devices are authorized for incarcerated person-use.

Subsections 3044(d)(2)(H), 3044(e)(2)(H), 3044(f)(2)(F), 3044(g)(3)(F), 3044(h)(2)(G), and 3044(i)(3)(H) are amended to add the verbiage “and special issuances” and correct the citation of subsections 3190 by replacing the “j” with “l”, the “and” with “through”, and the “k” with “n” to read: “subsections 3190(l) through (n).” It is necessary to add the verbiage “and special issuances” pursuant to proposed subsection 3190(m), as issued wireless communication devices are authorized for incarcerated person-use.

It is necessary to correct the 3190 subsection citations within section 3044 of approved incarcerated person possessions as prior rulemakings did not update these citations, and it is necessary to account for the adoption of a new subsection 3190(m) defining special issuances in the proposed regulations. In 2018 (OAL Matter Number 2018-0404-03), section 3190 subsections (j) and (k) were renumbered to (k) and (l), respectively. Additionally, in 2022 (OAL Matter Number 2021-1118-01), (k) and (l) were renumbered to (l) and (m), respectively, which is the current section numbering. Neither the 2018 nor the 2022 section 3190 renumbering was updated within section 3044 citations. To account for the citation errors due to not updating in prior rulemakings, and to add the proposed new subsection 3190(m) and “special issuances,” it is necessary to update the 3190 subsection citations within section 3044 to “subsections 3190(l) through (n).”

Subsection 3090(d) is amended to break existing text into subsections 3090(d)(1) through 3090(d)(3) to provide clarity as to the exceptions in which an incarcerated person’s trust account deductions for canteen purchases shall be restricted. Non-substantive changes were made for proper grammar, including adding language and punctuation “any of the following:” to introduce the list; changing the lowercase “a” to an uppercase “A” in the beginning of the sentence and adding a “.” to the end of the sentence in 3090(d)(1); deleting the “or” and changing the lowercase “t” to an uppercase “T” in the beginning of the sentence and adding a “.” to the end of the sentence in 3090(d)(2); and

deleting “for” and changing the lowercase “v” to an uppercase “V” in the beginning of the sentence in 3090(d)(3).

In subsection 3090(d) the word “by” was deleted and replaced with “following an adjudicated guilty finding after” formal disciplinary action. This additional language concerning an adjudicated guilty finding after formal disciplinary action is necessary to ensure due process for the incarcerated person before deducting from the incarcerated person’s trust account.

Subsection 3090(d)(2) was also amended to delete the verbiage “or the”, replace the lowercase “i” with an uppercase “I” in “Intentional” for proper sentence structure, and delete the “,” after property, and add the verbiage “or any department-authorized wireless communication device, as defined in subsection 3282(a)(6).” This additional language is necessary as current regulations only speak to violations involving intentional or negligent destruction, damage, or misuse of state property. Intentional or negligent destruction, damage, and misuse of departmentally approved wireless communication devices, such as vendor-supplied tablets and kiosks, need to be included as the incarcerated population have access to these devices and need to be deterred from damaging them as well.

Subsection 3178(a) is amended to replace the reference to section 3141(c)(8)” with 3141(c)(10)”, which is necessary because of subsection renumbering in a prior rulemaking (OAL Matter Number: 2024-1009-01).

Subsection 3178(d) is amended to establish that a request for an attorney visit may be made via telephone call, in writing via U.S. Postal Service mail, facsimile, or electronic message. The addition of writing to include U.S. Postal Service, and electronic message is necessary to clarify that written requests can be made through each of these communication methods, which is consistent with the use of traditional and current technologies. Utilizing electronic mail also provides incarcerated persons with an additional method to request an attorney visit. Additionally, the lowercase “l” and “c” in “litigation coordinator” are deleted and replaced with uppercase “L” and “C” to read “Litigation Coordinator.” this edit is necessary to provide consistent capitalization of the term “Litigation Coordinator,” which is capitalized in other sections of Title 15. In two locations, the “/” in “institution/facility” is replaced with “or” to provide clarity that the incarcerated person is either housed in an institution or a facility. The “/” in “approval/clearance” is replaced with “and” to clarify that approval and clearance are obtained.

Subsection 3178(d)(5) is amended to replace the verbiage “third party” with “legally authorized representative.” This language is necessary to clarify that only a legally authorized representative shall act on behalf of an incarcerated person when the incarcerated person cannot do so due to a medical condition, disability or other circumstance.

Subsection 3190(m) is adopted to define special issuances, establish that incarcerated persons are allowed special issuances of authorized items, and incorporate by reference CDCR Form 2293, Authorized Wireless Communication Device User Agreement. It is

necessary to adopt and define special issuances to account for the issuing of wireless communication devices, such as tablets and laptops, for approved incarcerated person use. In the past, incarcerated persons were able to purchase network capable tablets, however, currently wireless communication devices approved for incarcerated person-use are now issued to incarcerated persons at no-cost to the incarcerated person. These special issuances are not owned by the incarcerated person, but incarcerated persons are permitted to possess these special issuances after agreeing to the terms of CDCR 2293.

It is necessary that incarcerated persons sign CDCR 2293 to obtain a personal use authorized wireless communication device, such as a tablet, as this form is an agreement to the rules and expectations for the privilege of obtaining a personal device, and the form clearly provides incarcerated persons with notice of the consequences for intentional damage or destruction (software and hardware) of devices. Additionally, this subsection establishes that a violation of the provisions of CDCR 2293 may result in the issuance of a Rules Violation Report (RVR), which is part of the department's disciplinary process. It is necessary to issue an RVR for violating the terms of CDCR 2293 to hold incarcerated persons accountable for the damage or destruction of property, or the misuse of property, and to discourage prohibited behavior.

Existing subsections 3190(m) through 3190(w) are renumbered to 3190(n) through 3190(x), but are otherwise unchanged.

Section 3282 title is amended to replace “Telephones” with “Communication Devices.” This title change is necessary to be inclusive of both older communication devices, such as telephones, and newer wireless communication devices, such as tablets and kiosks, all of which the incarcerated population uses to communicate.

Subsection 3282(a)(3) is amended to add a “,” between the descriptive terms “incarcerated person-originated” and “non-confidential” regarding a personal call for proper grammar and clarity.

New subsection 3282(a)(6) is adopted to define an “authorized wireless communication device” as a wireless communication device that is departmentally approved for incarcerated person use in accordance with subsections 3190(l)(7) and 3190(m). It is necessary to define an authorized wireless communication device as current regulations only speak to usage of state property when making telephone calls. Use of departmentally approved wireless communication devices, such as vendor-supplied tablets and kiosks, needs to be included as the incarcerated population now has access to these devices to make device voice and video calls.

New subsection 3282(a)(7) is adopted to define “contact” as a person who communicates with an incarcerated person via an authorized wireless communication device. It is necessary to define contact to establish a class of persons subject to regulations, specifically, subsection 3282(d).

New subsection 3282(a)(8) is adopted to define an “electronic message” as a non-confidential form of written communications between an incarcerated person and a contact, and includes an incarcerated person receiving photographs, images, and video from a contact using an authorized wireless communication device. It is necessary to define an electronic message as this is a new form of communication the incarcerated population uses.

New subsection 3282(a)(9) is adopted to establish that incarcerated persons may make a “device call” by utilizing an authorized wireless communication device, such as a tablet or kiosk. This is necessary because current regulations only provide for the incarcerated persons to have access to incarcerated person telephones. With this change, incarcerated persons will have access to authorized wireless communication devices that can make a non-confidential voice call.

New subsection 3282(a)(10) is adopted to establish that incarcerated persons may make a “video call” by utilizing an authorized wireless communication device. It is necessary to add this subsection because incarcerated persons will have access to authorized wireless communication devices that can make a non-confidential video call.

New subsection 3282(a)(11) is adopted to define “electronic communications” as all forms of communication transmitted by an authorized wireless communication device. This definition is necessary to provide a concise and all-encompassing way to refer to all communication using an authorized wireless communication device, whether the communication is incarcerated person-originated, an exchange of messages between an incarcerated person and their contact, or the receiving of messages by an incarcerated person from an incarcerated person’s contact.

Subsection 3282(b) is amended to delete “collect” calls from the available telephone calls, which is necessary as the state currently pays for incarcerated person telephone calls. The verbiage “or device calls” and “or on authorized wireless communication devices,” is added as these are new ways in which incarcerated persons can make voice calls. This amendment is necessary to establish the new ways in which incarcerated persons can communicate with friends and family, and to inform the incarcerated population of these opportunities. Additionally, a “,” is added and the word “or” is deleted, followed by the addition of the punctuation and verbiage “, or video relay service” for proper sentence structure. Adding video relay service as a form of calls is necessary as this is another form of communication that is available to disabled incarcerated persons that requires extended time scheduled.

Subsection 3282(c)(9) is amended to include “device call, or video call,” as these are new ways in which incarcerated persons can make calls utilizing an authorized wireless communication device. Therefore, it is necessary to include that if an incarcerated person is on a device call or video call, they are not to participate in any forwarding, transferring, or third-party calling while conducting a call.

New subsection 3282(c)(10) is adopted to establish that incarcerated persons shall not intentionally manipulate the blurred background feature during a video call to reveal

background images or people. This added language is necessary to establish CDCR's intention to maintain privacy of all staff members as well as the incarcerated population, by ensuring staff and other incarcerated persons are not viewed in the background of the video call. Users shall be prohibited from accessing, photographing, or distributing pictures or videos of sensitive information that could compromise the security of the institution, such as the layout of an institution and security procedures. Blurred backgrounds are essential for the safety and security of the institution and institution staff.

New subsection 3282(c)(11) is adopted to establish that violations of the mandatory CDCR Form 2293, Authorized Wireless Communication Device User Agreement are subject to disciplinary action, and possible device use suspension and reimbursement of the cost of the device repair or replacement in accordance with section 3314. It is necessary for incarcerated persons to be subject to disciplinary action if they violate the terms of CDCR 2293, because the use of a wireless communication device is a privilege and using that device in a prohibited manner may create institutional safety and security concerns. Additionally, the possible suspension of device use and reimbursement for the replacement or repair cost for an intentionally damaged device is necessary to hold incarcerated persons accountable for the intentional damage or destruction of property, misuse of property, and to discourage prohibited behavior. These regulations establish the leasehold status of the tablets and the department's assigned right to pursue the vendor's interests in preventing damage to the devices as well as collect repair costs in cases of negligent or willful damage.

New subsection 3282(c)(12) is adopted to prohibit the sending of obscene text as defined in subsection 3006(c)(15) via electronic messaging and to designate that violations of this provision are subject to disciplinary action in accordance with sections 3314 and 3315. It is necessary to prohibit obscene text via electronic messaging as this is a violation of regulations as provided in subsection 3006(c)(15). The department finds that instances of obscene text, including electronic messaging, will contribute to a hostile atmosphere, can lead to harassment, non-consensual acts, or violence against staff and incarcerated persons, and can lead to violations of federal Equal Employment Opportunity (EEO) standards, the federal Prison Rape Elimination Act (PREA) of 2003, and California's Sexual Abuse in Detention Elimination Act, Chapter 303, Statutes of 2005.

New subsection 3282(c)(13) is adopted to prohibit acts of indecent exposure or sexual disorderly conduct, as defined in section 3000, or sexual behavior or obscenity, as specified in sections 3007 and 3008, while utilizing electronic communications, and to designate that violations of this provision are subject to disciplinary action and possible device use suspension. CDCR follows a strict policy of zero tolerance pertaining to indecent exposure or sexual disorderly conduct while utilizing an authorized wireless communication device. Indecent exposure or sexual disorderly conduct committed utilizing authorized wireless communication devices shall be subject to disciplinary actions pursuant to sections 3315 and 3323. If an incarcerated person commits indecent exposure or sexual disorderly conduct while utilizing an authorized wireless communication device, their use of a device shall be suspended in accordance with subsection 3315(g)(5)(K).

This subsection is necessary because regulatory language does not currently exist in relation to indecent exposure or sexual disorderly conduct while utilizing authorized wireless communication devices, and this subsection provides correctional staff the authority to initiate a disciplinary action against an incarcerated person who commits acts of indecent exposure or sexual disorderly conduct while utilizing these devices. Additionally, the department finds that instances of indecent exposure or sexual disorderly conduct in the institutions, including via a wireless communication device, will contribute to a hostile atmosphere, can lead to harassment, non-consensual acts, violence against staff and incarcerated persons, and can lead to violations of federal EEO standards, the federal PREA of 2003, and California's Sexual Abuse in Detention Elimination Act, Chapter 303, Statutes of 2005.

New subsection 3282(d) through 3282(d)(1)(D) are adopted to establish restrictions on authorized wireless communication device privileges to prevent an incarcerated person's contact from sending obscene text as defined in section 3006(c)(15), or sexually explicit images as defined in section 3006(c)(16), including disturbing material as defined in section 3135 to incarcerated persons via electronic communications. Electronic communications shall be rejected by the reviewing staff member if they contain obscene text, or sexually explicit, disturbing, or offensive pictures or video messages, because these prohibited electronic communications pose a threat to the safety and security of the institution and are contraband as defined in section 3006. A rejected electronic communication will generate an electronic rejection notification to the incarcerated person's contact; this is necessary to provide the contact with the reason why their electronic communication was rejected, and aids in the prevention of the contact sending further prohibited electronic communications.

For the first offense, the incarcerated person's contact shall be notified of the nature of the violation and advised that future similar behavior shall result in the restriction of electronic communications with the incarcerated person. The department has decided that a warning of restricted communication via an authorized wireless communication device, such as a tablet or kiosk, is a reasonable response for a first violation and serves as a deterrent from further prohibited behavior. Even though the receiving participant may be a consenting party, the possession and display of sexually explicit material by an incarcerated person is prohibited pursuant to subsections 3006(c)(15) through 3006(c)(16).

For the second offense, the incarcerated person's contact shall be restricted from electronic communications with the incarcerated person for 90 calendar days. The department has decided that restricting electronic communications for 90 calendar days is a reasonable amount of time for a second violation and serves as a deterrent from further prohibited behavior.

For the third offense, the incarcerated person's contact shall be suspended from electronic communications with the incarcerated person indefinitely. The department has decided that on the third violation the department shall suspend the incarcerated person's contact from using electronic communications with the incarcerated person to ensure the prohibited behavior ceases.

These subsections are necessary because regulatory language does not currently exist in relation to sexual conduct while utilizing authorized wireless communication devices, and these subsections provide correctional staff the authority to initiate device suspensions to prevent an incarcerated person's contact from sending obscene text or sexually explicit, disturbing, or offensive pictures, or video electronic communications.

The incarcerated person's contact shall be required to submit a complaint to restore communication privileges as subsection 3137(c) states in part that any persons other than incarcerated persons may address the complaints in writing to either the Warden or the Director of the Division of Adult Institutions (DAI). It is necessary to provide the incarcerated person's contact with an opportunity to restore their electronic communications with incarcerated individuals, when appropriate. The decision by the Warden or Director of DAI to approve or deny a request for reinstatement shall be made on a case-by-case basis with consideration factors including the seriousness of the prior offenses and any additional violations of departmental rules. It is necessary to establish consideration factors for electronic communication reinstatement requests to provide guidance to the Warden or the Director of DAI when determining the modification or suspension of electronic communication privileges. Providing factors for decision making ensures consistency and proportionality in the modification and suspension of electronic communication privileges and puts incarcerated persons' contacts on notice as to how the department will handle violations to the electronic communication privileges.

New subsection 3282(d)(2) is adopted to deter incarcerated person's contacts from displaying nudity, engaging in sexual behavior, wearing see-through clothing, or sharing nude images, consistent with the prohibition on sexually explicit images as defined in section 3006(c)(16), while on a video call by authorizing the department to disconnect the call when such activity occurs. It is necessary to disconnect the video call to prevent prohibited behavior that may endanger the safety and security of the institution. If an individual is found displaying any of the content mentioned above, the individual will be subject to the consequences listed in subsection 3282(d)(1). The department has made the determination that these consequences are appropriate responses to prohibited behavior, and are necessary to prevent and deter future prohibited behavior. The department finds that instances of sexually explicit images in the institutions, including via a wireless communication device, will contribute to a hostile atmosphere, can lead to harassment, non-consensual acts, violence against staff and incarcerated persons, and can lead to violations of federal EEO standards, the federal PREA of 2003, and California's Sexual Abuse in Detention Elimination Act, Chapter 303, Statutes of 2005.

New subsection 3282(d)(3) is adopted to deter incarcerated person's contact from sending communications deemed as criminal activity utilizing electronic communications. It is necessary to notify the public that engaging in criminal acts with incarcerated persons utilizing electronic communications shall result in restricted electronic communications with incarcerated persons, and possible referral for criminal prosecution in accordance with Section 3316 as a deterrent to criminal activity.

Existing subsection 3282(d) is renumbered to 3282(e) and is amended to remove "collect" call; it is necessary to delete this verbiage as the state currently does not charge

incarcerated persons for calls. Additionally, “, or with whom an incarcerated person conducts electronic communications” is added as it is necessary to clarify that there are no limitations placed on the identity of an incarcerated person’s contact while using authorized wireless communication devices, as provided in section 3282.

Existing subsection 3282(e) is renumbered to 3282(f) and is amended to add the language “and electronic communications.” This additional language is necessary to notify the incarcerated population that their electronic communications are non-confidential and subject to monitoring and recording. Additionally, the verbiage “by institution staff” is deleted from the text. It is necessary to delete “by institution staff” as incarcerated person electronic communications may be reviewed by contracted vendor staff.

Existing subsection 3282(f) is renumbered to 3282(g) and is amended to add a beginning quotation mark (“) before the word “All.” This is necessary, as the beginning of the quotation was missing from the original text detailing the posting verbiage, while the end quotation after “recorded” is present.

Existing subsection 3282(g) is renumbered to 3282(h) and is amended to add a period after the verbiage “confidential call” and delete the language “either collect or by providing for the toll to be deducted from the incarcerated person’s trust account.” It is necessary to remove this language as the state does not charge incarcerated persons for telephone calls. Additionally, it is necessary to replace the citation of subsections “(g)(1), (g)(2) and (g)(4)” within the text to “(h)(2), (h)(3) and (h)(5)” due to the renumbering of those subsections.

New subsection 3282(h)(1) is adopted to add language required to grant an approved attorney’s request for a confidential call with an incarcerated person, and that the call shall be at least 30 minutes, once per month, per incarcerated person, per case, unless the incarcerated person or attorney requests less time. This is necessary to align the regulations with PC section 5058.7. Incarcerated persons with vision or hearing disabilities shall receive confidential calls at least 60 minutes in length. It is necessary to provide additional time for incarcerated persons with vision or hearing disabilities because disabilities impacting communication, such as those who use sign language, talk to text, or other means of communications, may require additional time to complete their confidential call. Additional language is added to state that a confidential call shall be scheduled in consideration of institutional security and available resources. This is necessary to ensure an institution schedules confidential calls at times when the pertinent equipment, and staffing are readily available and do not adversely impact institutional security and operational needs.

Existing subsection 3282(g)(1) is renumbered to subsection 3282(h)(2) and is amended to include directions for making requests for confidential calls. The text “shall be in writing,” is added to restructure this subsection. This is necessary to establish that all requests for confidential calls shall be made in writing. Non-substantive changes were made to the term “Confidential calls” by changing the capital “C” to lowercase for proper

grammar, removing the “s” at the end of calls to make the term singular, and adding the article “A” to “A confidential call” for proper grammar.

The text regarding a confidential call “may be approved on a case-by-case basis by the institution head or designee, upon written” request is deleted, minimizing departmental discretion in the processing of requests for confidential calls. This is necessary because the language conflicts with PC section 5058.7.

The text “and may be submitted” is added for sentence structure. This is necessary to introduce the various written methods an attorney can use to submit a request for a confidential call; “mail” is added to U.S. Postal Service to provide clarity that a request can be submitted through the mail; and “or” is removed for proper grammar. The term “electronic message” is added as a means for requesting a confidential call. This change is necessary to be consistent with the revision to subsection 3178(d) of these regulations and is in alignment with the use of current technologies for written communication. It is necessary that the confidential call be scheduled in consideration of institutional security and available resources to allow for the confidential call to be scheduled when there are sufficient resources, including staff and telephones, that allow for the safety of staff and incarcerated persons.

Existing subsections 3282(g)(1)(A) through 3282(g)(1)(C) are renumbered to 3282(h)(2)(A) through 3282(h)(2)(C), but are otherwise unchanged.

Existing subsection 3282(g)(1)(D) is renumbered to 3282(h)(2)(D) and is amended to replace the sentence punctuation from a “.” to a “,” to be consistent with the listed information above and below the subsection.

Existing subsections 3282(g)(1)(E) and 3282(g)(1)(F) are renumbered to 3282(h)(2)(E) and 3282(h)(2)(F), but are otherwise unchanged.

Existing subsection 3282(g)(2) is renumbered to 3282(h)(3) and is amended to replace the “/” with “or” to identify that either an attorney “or” an attorney representative shall report the requested information.

Existing subsections 3282(g)(2)(A) through 3282(g)(2)(D) are renumbered to 3282(h)(3)(A) through 3282(h)(3)(D), but are otherwise unchanged.

Existing subsection 3282(g)(2)(E) is renumbered to 3282(h)(3)(E) and is amended to replace the verbiage “third party” with “legally authorized representative.” This language is necessary to clarify that only a legally authorized representative shall act on behalf of an incarcerated person when the incarcerated person cannot do so due to a medical condition, disability or other circumstance.

Existing subsection 3282(g)(3) is renumbered to 3282(h)(4) and is amended to replace the existing citation of subsection “(g)(2)” to “(h)(3),” which is necessary due to the renumbering of the subsections. Additionally, “/” is replaced with “and” to clarify that suspension or exclusion are for both institutions and facilities administered by the department.

Existing subsection 3282(g)(4) is renumbered to 3282(h)(5) and is amended to replace the existing citations of subsection “(g)(1)” to “(h)(2)” in two locations, and “(g)(2)” to “(h)(3),” which is necessary due to the renumbering of the subsections. Additionally, “/” is replaced with “and” to clarify that Department of Justice checks for either the attorney and attorney representative, and “, as applicable,” is added as the California Law Enforcement Telecommunications System (CLETS) check shall apply to those who are requesting approval and clearance. The word “will” is replaced with “shall” in two instances to clarify that is a requirement, as opposed to a choice. A comma is added and the word “and” is deleted from the verbiage “arrest history, or pending dispositions...” It is necessary to add the “,” and delete the “and” for proper grammar, and to clarify that if an attorney or attorney representative has any change in one or more of the following, they would need to immediately report that information to the Institution Litigation Coordinator: change in personal or professional information, arrest history, or pending dispositions and declarations made in subsections (h)(2) and (h)(3). A second use of “/” is replaced with “and” to clarify that approval and clearance are both dependent on reporting any change in described personal or professional information.

Existing subsection 3282(g)(5) is renumbered to 3282(h)(6) and is amended to remove the term “duration” and language “, and manner of the call.” To be in accordance with PC section 5058.7, it is necessary to remove the term “duration,” as institution heads do not have discretionary authority to limit the duration of a confidential call between an incarcerated person and their attorney or attorney representative. Incarcerated persons shall be afforded at least 30 minutes per confidential call unless the incarcerated person or attorney requests less time. The addition of verbiage “initiating” to describe time of the call is necessary to clarify that the institution head cannot alter the duration of the confidential call to be in accordance with PC section 5058.7. Additionally, “as a collect call or by providing for the toll to be deducted from the incarcerated person’s trust account and made” is also deleted from the text; it is necessary to delete this verbiage as the state currently does not charge incarcerated persons for confidential calls.

Existing subsection 3282(g)(6) is deleted to remove language that currently allows institution heads to deny a confidential call when it is determined that the incarcerated person or attorney did not reasonably utilize alternative means of communication. It is necessary to remove this language to be in accordance with PC section 5058.7, which is cited as a reference, and provides incarcerated persons the right to participate in a confidential call for at least 30 minutes once per month, per incarcerated person, per case.

Existing subsection 3282(g)(7) is renumbered to 3282(h)(7) but is otherwise unchanged.

Existing subsection 3282(g)(8) is renumbered to 3282(h)(8) and is amended to delete the verbiage “still pending approval”. This deletion is necessary, because any person wanting a confidential phone call may file a complaint with the Warden or other official responsible for the housing unit, not just those with a confidential call pending approval. For example, someone denied approval for a confidential phone call should be

able to file a complaint about the process with the Warden or other official responsible for the housing unit.

Existing subsection 3282(h) is renumbered to 3282(i) and is amended to delete the word “severe” in relation to hearing impairment. It is necessary to delete “severe” to extend the availability of Telecommunication Device for the Deaf (TDD) telephones to all hearing-impaired incarcerated persons so that they may have the benefit of TDD telephones to better communicate.

Existing subsections 3282(h)(1) through 3282(i) are renumbered to 3282(i)(1) through 3282(j) but are otherwise unchanged.

Section 3282 Reference within the Note is amended to add PC section 5058.7. This additional citation is necessary as revisions were made to this section to be in accordance with PC section 5058.7. Additionally, the word “Section” was pluralized to “Sections” as more than one section is referenced.

Subsection 3314(a)(3)(D) is amended to include “on an incarcerated person telephone, or an authorized wireless communication device capable of electronic messaging, making device calls or video calls, as defined in subsection 3282(a)” related to incarcerated persons not misusing these communication tools. It is necessary to include all available communication tools and their definitions, as the current regulatory language is vague and not specific to incarcerated person phones, electronic messaging, device calls, and video calls. The language needs to be amended to provide clear notice to the incarcerated population that misuse of any form of communication tool is subject to disciplinary action.

New subsection 3314(a)(3)(N) is adopted to establish that violating the provisions of the mandatory CDCR Form 2293, Authorized Wireless Communication Device User Agreement, which is incorporated by reference, is grounds for issuance of a RVR. The department has made the determination that a RVR is an appropriate response to prohibited behaviors outlined in CDCR 2293, and that the disciplinary action is necessary to prevent and deter future prohibited behavior.

Existing subsection 3314(a)(3)(N) is renumbered to 3314(a)(3)(N)1 and is amended to include language clarifying the definition of authorized wireless communication device and that “Constructive possession includes the use of another incarcerated person’s personal identification information to gain access on a wireless communication device.” The additional language is necessary to clarify that the use of another incarcerated person’s personal identification to use a tablet or other wireless communication device is a form of constructive possession. The added verbiage is necessary to clarify to incarcerated persons that they will receive a RVR if they use another incarcerated person’s personal identification to use a tablet or other wireless communication device.

New subsection 3314(a)(3)(N)2 is adopted to establish that the intentional or negligent damage or destruction of an authorized wireless communication device, or the corruption or modification or attempted corruption or modification of any files, programs, or applications on the device is grounds for issuance of a RVR. The department has made

the determination that a RVR is an appropriate response to the intentional or negligent damage or destruction of a device (hardware or software), and that disciplinary action is necessary to prevent and deter future prohibited behavior.

Existing subsections 3314(e)(10)A through 3314(e)(10)C are renumbered to 3314(e)(10)(A) through 3314(e)(10)(C) and are amended to add “calendar” to the description of days. It is necessary to renumber the subsections to be consistent with proper CCR numbering. Additionally, adding “calendar” to the days of loss of entertainment appliances is necessary to provide the exact timeframe the suspension will last. This provides clarity to the text and provides notice to the incarcerated population of the exact timeframes for temporary loss of entertainment appliances.

New subsection 3314(e)(11) is adopted to allow correctional staff to take disciplinary action against incarcerated persons who are found to have intentionally destroyed or damaged the hardware and/or software of an authorized wireless communication device, such as tablets or kiosks. The incarcerated person may receive a Rules Violation Report and, if sustained, shall be charged for the cost of replacement or repair of the device. This added subsection is necessary to hold incarcerated persons accountable for the damage or destruction of property and discourage prohibited behavior.

New subsection 3314(e)(11)(A) is adopted to establish that incarcerated persons who have been found guilty of intentionally destroying or damaging an authorized wireless communication device, such as a tablet or kiosk, shall, for a first offense, be restricted from having access to another equivalent device for 90 calendar days. This subsection is necessary because regulatory language does not currently exist. The department has determined that restricting an incarcerated person’s use of an equivalent device to the damaged or destroyed authorized wireless communication device for 90 calendar days is a reasonable amount of time for a first offense and serves as a deterrent from further intentional destruction or damage of devices. For example, if an incarcerated person is found to have intentionally destroyed a tablet as a first offense, the incarcerated person shall be restricted from using another tablet for 90 calendar days.

New subsection 3314(e)(11)(B) is adopted to establish that incarcerated persons who have been found guilty of intentionally destroying or damaging an authorized wireless communication device, such as a tablet or kiosk, shall, for a second offense, be restricted from having access to another equivalent device for 180 calendar days. This subsection is necessary because regulatory language does not currently exist. The department has determined that restricting an incarcerated person’s use of an equivalent device to the damaged or destroyed authorized wireless communication device for 180 calendar days is a reasonable amount of time for a second offense and serves as a deterrent from further intentional destruction or damage of devices. For example, if an incarcerated person is found to have intentionally destroyed a tablet as a second offense, the incarcerated person shall be restricted from using another tablet for 180 calendar days.

New subsection 3314(e)(11)(C) is adopted to establish that incarcerated persons who have been found guilty of intentionally destroying or damaging an authorized wireless communication device for a third time, shall be suspended indefinitely from equivalent

authorized wireless communication device use. The department determined that if an incarcerated person continues to intentionally damage or destroy equivalent authorized wireless communication devices after two offenses, on the third offense the department shall indefinitely suspend the usage of equivalent authorized wireless communication devices to ensure this behavior ceases. For example, if an incarcerated person is found to have intentionally destroyed a tablet as a third offense, the incarcerated person shall have their tablet usage suspended indefinitely. This added subsection is necessary to hold incarcerated persons accountable for the destruction of property and discourage negative behavior and actions.

New subsection 3314(e)(11)(D) is adopted to establish when an incarcerated person can receive their repaired or replacement authorized wireless communication device. It is necessary for the adjudication process to be completed and the incarcerated person to be found not guilty prior to providing the incarcerated person with an additional device to prevent further damage to additional devices during the adjudication process. In the case of a guilty finding, it is necessary for the incarcerated person to complete both their restricted use period and to pay the reimbursement cost of the intentionally damaged or destroyed device, as the violations of the terms of use of the authorized wireless communication device need to be enforced to deter further prohibited behavior and property damage. This subsection additionally clarifies that the RVR adjudication time frame shall apply to the authorized wireless communication device restriction period in the case of an adjudicated guilty finding. It is necessary to apply the RVR adjudication time frame to the restricted device use period, as the incarcerated person will be without the use of the device since damage or destruction was first discovered by staff.

New subsection 3314(e)(11)(E) is adopted to establish that incarcerated persons are required to submit a grievance in accordance with section 3482 to the Institutional Office of Grievances if they would like their authorized wireless communication device privileges restored prior to the end of their device restricted use period or if the incarcerated person has an indefinite device use suspension due to multiple violations. If an incarcerated person is not satisfied with the grievance decision, the incarcerated person may file an appeal in accordance with section 3484. This language is necessary to provide the incarcerated persons with an opportunity to restore their authorized wireless communication device privileges, when appropriate. Additionally, the decision to grant or deny a grievance or appeal related to restoring wireless communication device privileges shall be made based on consideration factors including the incarcerated person's disciplinary history since the restriction began, including any pending RVRs, and if reinstating device use would pose a risk to the safety and security of incarcerated persons, or staff or other members of the public. It is necessary to establish consideration factors for device privilege reinstatement in the grievance or appeal process to provide guidance to the correctional staff who is determining the modification or suspension of device privileges. Providing factors for decision making ensures consistency and proportionality in the modification and suspension of device privileges and puts incarcerated persons on notice as to how the department will handle violations to the authorized wireless communication device privileges.

Subsection 3315(a)(3)(B) is amended to include “rented or leased property” in the list of property that may result in a serious RVR if the property is involved in theft, embezzlement, destruction, or damage. It is necessary to add “rented or leased property” as incarcerated persons have access to rented medical equipment, such as oxygen concentrators, bariatric medical beds, patient lifts, stretchers, bedside monitors, wheelchairs, etc., and leased equipment such as state vehicles, and kiosks and tablets for incarcerated person use. Incarcerated person access to rented or leased property presents the opportunity for this property to be subject to theft, embezzlement, destruction, or damage, and the misuse of the rented or leased property should be discouraged. The department has made the determination that a serious RVR is an appropriate response to the theft, embezzlement, destruction, or damage of rented or leased property, and is necessary to prevent and deter future prohibited behavior.

Subsection 3315(a)(3)(X) is amended to update the referenced subsection from 3190(k)(8) to 3190(k)(7). It is necessary to update this referenced subsection, as this subsection was renumbered as part of the Incarcerated Person Mail regulations (OAL matter 2024-1009-01) with an effective date of November 21, 2024.

Subsection 3315(a)(3)(BB) is adopted to establish that a violation of indecent exposure, sexual behavior, or sexual disorderly conduct, including while using an authorized wireless communication device, is subject to a serious RVR. This is necessary because committing prohibited acts of indecent exposure or sexual disorderly conduct, including while using electronic communications, shall be subject to disciplinary action. CDCR follows a strict policy of zero tolerance pertaining to indecent exposure or sexual disorderly conduct, including while utilizing an authorized wireless communication device. The department finds that instances of indecent exposure or sexual disorderly conduct in the institutions, including via a wireless communication device, will contribute to a hostile atmosphere, can lead to harassment, non-consensual acts, violence against staff and incarcerated persons, and can lead to violations of federal EEO standards, the federal PREA of 2003, and California’s Sexual Abuse in Detention Elimination Act, Chapter 303, Statutes of 2005.

Subsection 3315(g)(5)(K) is amended to add the verbiage and punctuation “, Sexual Behavior,” and “, including while using an authorized wireless communication device,” to the consequences of committing acts of indecent exposure or sexual disorderly conduct. It is necessary to add “sexual behavior” to the list of violations as that is the title of referenced section 3007. It is necessary to add “while using an authorized wireless communication device,” because the incarcerated population now has access to these devices and, even though the receiving participant may be a consenting party, indecent exposure or sexual disorderly conduct are prohibited.

Subsections 3315(g)(5)(K)1 and 3314(g)(5)(K)2 are amended to include “authorized wireless communication devices” to the list of potentially suspended items. It is necessary to add authorized wireless communication device, because the loss of the device for the suspension period is an appropriate disposition for committing indecent exposure or sexual disorderly conduct while utilizing an authorized wireless communication device. Losing the use of an authorized wireless communication device for up to 90 calendar

days for the first offense violation and up to 180 calendar days for the second offense and subsequent offense violations serves as a deterrent from continued misuse of authorized wireless communication devices.

Subsection 3315(g)(5)(K)1 is further amended to add “(s)” after the term violation“(s)”, which is necessary as there may be more than one violation of the indecent exposure or sexual disorderly conduct provisions in sections 3007 and 3323 as part of the incarcerated person’s first offense.

Additionally, these subsections are amended to add “calendar” to the description of days. It is necessary to add “calendar” to the days of loss of canteen, appliances, authorized wireless communication devices, incarcerated person packages, telephone privileges, and personal property is necessary to provide the exact timeframe the suspension will last.

New subsection 3315(g)(5)(K)3 is adopted to require incarcerated persons to submit a grievance in accordance with section 3482 to the Institutional Office of Grievances if they would like any of their privileges restored prior to the completion of their restricted use period. If an incarcerated person is not satisfied with the grievance decision, the incarcerated person may file an appeal in accordance with section 3484. This language is necessary to provide the incarcerated persons with an opportunity to restore their privileges, when appropriate. Additionally, the decision to grant or deny a grievance or appeal related to restoring any privileges shall be made based on consideration factors including the incarcerated person’s disciplinary history since the restriction began, including any pending RVRs, and if reinstating device use would pose a risk to the safety and security of incarcerated persons, or staff or other members of the public. It is necessary to establish consideration factors for restoring suspended privileges in the grievance or appeal process to provide guidance to the correctional staff who is determining the modification or suspension of privileges. Providing factors for decision making ensures consistency and proportionality in the modification and suspension of device privileges and puts incarcerated persons on notice as to how the department will handle violations concerning indecent exposure, sexual behavior, or sexual disorderly conduct and access to privileges.

Subsection 3323(f)(14) is amended to add an “s” to pluralize “subsections” and to correct the proper citations of wireless communication devices authorized for incarcerated person-use in section 3190 by replacing the “k” with “l”, the “8” with “7”, and adding “and 3190(m)” to read “ 3190(l)(7) and 3190(m).” It is necessary to pluralize “subsections” for proper grammar as more than one subsection is cited. It is necessary to correct the 3190 citation to (l)(7) and add subsection (m) to account for the citation errors due to not updating in prior rulemakings, and to add the proposed new subsection 3190(m) and allowed special issuances of wireless communication devices to incarcerated persons.