

## 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), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058, in order to implement, interpret and make specific PC Section 5054, proposes to amend Sections 3000, 3023, 3043.4, 3044, 3077, 3139, 3269, 3269.1, 3314, 3315, 3321, 3323, 3334, 3335, 3341.5, 3375, 3375.2, 3375.3, 3376, 3376.1, 3377.2, 3378, 3378.1, 3378.2, 3378.3, 3504, 3505, 3545, 3561, 3651 and 3721 and to adopt Sections 3378.4, 3378.5, 3378.6, 3378.7, 3378.8 and 3378.9 of the California Code of Regulations (CCR), Title 15, concerning Security Threat Groups (formerly referred to as prison gangs).

#### **PUBLIC HEARING:**

Date and Time: **April 3, 2014 - 8:00 a.m. to 12:00 p.m.**  
Place: East End Complex  
Auditorium  
1500 Capitol Avenue  
Sacramento, CA 95811  
Purpose: To receive comments about this action.

#### **PUBLIC COMMENT PERIOD:**

The public comment period will close **April 3, 2014, at 5:00 p.m.** Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or e-mail at [m\\_STGRegulation@cdcr.ca.gov](mailto:m_STGRegulation@cdcr.ca.gov) before the close of the comment period.

#### **CONTACT PERSON:**

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief  
Regulation and Policy Management Branch  
Department of Corrections and Rehabilitation  
P.O. Box 942883, Sacramento, CA 94283-0001  
Telephone (916) 445-2269**

In the event the contact person is unavailable, inquires should be directed to the following back-up person:

**Josh Jugum  
Regulation and Policy Management Branch  
Telephone (916) 445-2228**

Questions regarding the substance of the proposed regulatory action should be directed to:

**Nancy Hardy  
Division of Adult Institutions  
Telephone (916) 324-0791**

## **AUTHORITY AND REFERENCE**

PC Section 5000 provides that commencing July 1, 2005, any reference to the 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 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

This action will:

- Replace references in the regulations to prisons gangs, street gangs and similar disruptive groups with the term Security Threats Groups (STGs). This term is used in the Federal correctional system and in many other correctional jurisdictions.
- Amend the Department's current STG (gang) management policy, which identifies STG members and associates and separates them from the General Population, to focus on identifying, interdicting, and managing STG leadership and behavior. The Department will move from a status-based process (i.e., gang affiliation) to a behavior-based process that separates gang affiliates from the General Population based on STG-related disciplinary violations and/or confirmed membership.
- Establish a process for the certification by the Department of a group or gang as a STG-I, and the recognition of a group/gang as a STG-II, based on criteria specified in the regulations. This process will differentiate between STG-Is, which are the more "traditional" prison type gangs that are considered the greatest threat to staff and institution security, and STG-IIs, which are other groups such as street gangs or other disruptive groups.
- Establish additional due process and a weighted criteria scale in the procedures used to validate an offender as an affiliate of an STG.
- Differentiate between STG-I Members and other offenders such as Associates who are affiliated with an STG but not a member. Only STG-I Members confirmed by an Institution Classification Committee will be placed in Security Housing Units (SHU) based on validation alone. Affiliated offenders will be placed in SHU if they have engaged in documented STG behavioral violations.
- Establish a five-step Step Down Program which will allow inmates housed in the SHU as a result of STG related behavior to return to a General Population setting provided they meet specified criteria and remain free of disciplinary violations.
- Incorporate enhanced privileges for inmates electing to participate through the Step Down Program.
- Establish a process to address classification and housing of validated STG affiliates who have paroled or discharged from CDCR jurisdiction and return to custody.
- Adopt definitions for several new terms related to Security Threat Groups and the Step Down Program.

- Incorporate into the regulations the STG Disciplinary Matrix, which will be used to determine Step Down Program placement when specified validated offenders commit STG-related disciplinary violations.
- Establish a process for the termination of an offender's status as a validated STG affiliate when specified criteria are met.
- Establish the responsibilities of various Department staff and committees as part of the STG policy.

### **FORMS INCORPORATED BY REFERENCE**

CDCR 128-G1 (11/13) Security Threat Group Unit Classification Committee – Results of Hearing  
 CDC 115 (07/88) Rules Violation Report  
 CDC 812 (11/13) Notice of Critical Case Information – Safety of Persons (Non-Confidential Enemies)  
 CDC 128-B (4/74) General Chrono  
 Security Threat Group Certification Worksheet  
 CDCR 128-B3 (11/13) Security Threat Group Identification Score Sheet  
 CDCR 128-B4 (11/13) Evidence Disclosure and Interview Notification  
 CDCR 1030 (11/13) Confidential Information Disclosure Form  
 CDCR 128- B5 (11/13) Security Threat Group Validation Chrono  
 CDCR 128-B2 (11/13) Security Threat Group Validation / Rejection Review  
 CDCR 128B SDP1 (11/13) Step Down Program Notice of Expectations (Step 1)  
 CDCR 128B SDP2 (11/13) Step Down Program Notice of Expectations (Step 2)  
 CDCR 128B SDP3 (11/13) Step Down Program Notice of Expectations (Step 3)  
 CDCR 128B SDP4 (11/13) Step Down Program Notice of Expectations (Step 4)  
 CDCR 128B SDP5 (11/13) Notice of Conditions of Monitored Status  
 CDC 128-G (10/89) Classification Chrono

### **SPECIFIC BENEFITS ANTICIPATED BY THE PROPOSED REGULATIONS**

The Department anticipates that these regulations will help to reduce STG (gang) violence and activity within California prisons, and eventually help to reduce gang violence in communities as well. The criminal activities of prison STGs extend beyond prison walls into many local communities, and STGs are often associated with, and in some cases control, street gangs.

The proposed regulations provide for additional due process in the procedures used to “validate” inmates as affiliates of STGs. This should help to reduce expensive litigation, as inmates will have the opportunity to challenge their validation through the Department’s processes rather than relying on the courts.

### **EVALUATION OF CONSISTENCY / COMPATIBILITY WITH EXISTING LAWS/REGULATIONS**

The Department has researched existing statutes and regulations regarding Security Threat Groups / prison gangs and has determined that these proposed regulations are not inconsistent or incompatible with existing state laws and regulations.

Currently, Department policy regarding STGs and the Step Down Program is under the authority of the STG Pilot Program, which went into effect in October 2012. This pilot program will remain in effect until these proposed regulations are permanently adopted.

### **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 to any local agency or school district that is required to be reimbursed: *None*
- Cost or savings to any state agency: *None*
- Other nondiscretionary cost or savings imposed on local agencies: *None*
- Cost or savings in federal funding to the state: *None*

**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 initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**EFFECT ON SMALL BUSINESSES:**

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

**RESULTS OF THE ECONOMIC IMPACT ASSESSMENT:**

The Department has determined that the proposed regulation will have no affect on the creation of new, or the elimination of existing, jobs or businesses within California, or affect the expansion of businesses currently doing business in California. The Department has determined that the proposed regulations will have no affect on the health of California residents, worker safety, or the state’s environment, because they relate strictly to the internal management of CDCR institutions.

The Department has determined that the proposed regulations may have an indirect positive impact upon the welfare of California residents by helping to reduce gang activity in local communities.

**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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law, than the proposed regulatory action. 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 Action will also be made available on the Department’s website <http://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 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 15 days after the date on which they are made available.