

**State of California
Office of Administrative Law**

In re:
**Department of Corrections and
Rehabilitation**

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections:

Amend sections: 3023, 3075, 3097, 3122,
3161, 3375, 3375.2, 3375.3,
3375.4, 3375.5, 3376.1,
3377.2

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

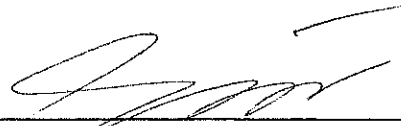
OAL Matter Number: 2023-1215-05

OAL Matter Type: Regular Resubmittal (SR)

In this rulemaking action, the California Department of Corrections and Rehabilitation (CDCR) promulgates regulations which allow CDCR to transfer condemned inmates from San Quentin to other correctional facilities commensurate with the condemned inmate's classification score. CDCR also promulgates regulations regarding deductions from condemned inmates' income and the transfer of those deductions to the California Victim Compensation Board. Finally, CDCR amends regulations which discuss how security threat group assessment applies to condemned inmates.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/31/2024.

Date: January 31, 2024



**Sam Micon
Attorney**

For: Kenneth J. Pogue
Director

Original: Jeffrey Macomber, Secretary
Copy: Josh Jugum

NOTICE PUBLICATION REGULATORY ACTION REGISTER

STD. 400 (REV. 10/2019)

RESUBMITTAL

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2023-1215-05	EMERGENCY NUMBER SR
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For use by Office of Administrative Law (OAL) only

OFFICE OF ADMIN. LAW
2023 DEC 15 PM 4:18**ENDORSED - FILED**
In the office of the Secretary of State
of the State of California**JAN 31 2024****3:20 PM**

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
California Department of Corrections and RehabilitationAGENCY FILE NUMBER (If any)
22-03**A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)**

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

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Condemned Inmate Transfer Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2023-0815-03S
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) TITLE(S) 15	ADOPT
	AMEND 3023, 3075, 3097, 3122, 3161, 3375, 3375.2, 3375.3, 3375.4, 3375.5, 3376.1, 3377.2
	REPEAL

3. TYPE OF FILING

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

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
June 6, 2023 through June 21, 2023 and October 18, 2023 through November 2, 2023**5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)**
☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) ☒ Effective on filing with Secretary of State ☐ §100 Changes Without Regulatory Effect ☐ Effective other (Specify)**6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**
☒ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal
☐ Other (Specify)

7. CONTACT PERSON Josh Jugum	TELEPHONE NUMBER 916 445-2269	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) joshua.jugum@cdcr.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 12-15-23
TYPED NAME AND TITLE OF SIGNATORY JEFF MACOMBER, Secretary	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED**JAN 31 2024****Office of Administrative Law**

FINAL TEXT OF PROPOSED REGULATIONS

In the following text, underline indicates newly adopted text and ~~strikethrough~~ indicates text deleted after the first renote.

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

Chapter 1. Rules and Regulations of Adult Operations and Programs

Article 1. Behavior

3023. Security Threat Group (STG) Behavior

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

Existing Subsection 3023(f) is deleted.

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

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

Article 6.5. Intake, Release and Discharge of Inmates

3075. Initial Intake and County Reimbursements.

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

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

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

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

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

Subchapter 2.

Article 1.5. Inmate Wages and Deductions

3097. Inmate Restitution Fine and Direct Order Collections.

Existing subsections 3097(a), 3097(b), 3097(d), and 3097(e) are repealed. Remaining subsections are renumbered in numerical order.

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

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

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

New subsection 3097(b) is adopted to read:

(bd) When a condemned inmate owes any obligation pursuant to a direct order of restitution or to a restitution fine imposed by a court, the department shall deduct 70 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income, with the exception of federal disability payments, veteran benefits, any reimbursement to an inmate as a result of a claim for lost or damaged property, or money reimbursed to an inmate due to a failed attempt to purchase merchandise, and shall transfer those funds to the California Victim Compensation Board pursuant to Penal Code sections 2085.5 and 2717.8. The collection of restitution fines from condemned inmates, on their condemned case only, is stayed until the automatic appeal of the conviction resulting in the sentence of death is exhausted. Deductions for direct orders of restitution are not stayed, unless otherwise ordered by the court.

~~(d) When an inmate owes any obligation pursuant to a restitution fine imposed by a court, the department shall deduct 30 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits, regardless of the source of such income, subject to the exemptions enumerated in subsection (j). In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 33 percent. The amount deducted, less the administrative fee, shall be transferred to the California Victim Compensation and Governing Claims Board for deposit in the Crime Victims' Restitution Fund in the State Treasury. The inmate shall be credited for the amount~~

~~deducted, less the administrative fee, against the amount owing on the fine. A maximum deduction of 33 percent shall remain in effect through December 31, 2004 at which time subsection (e) shall take effect.~~

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

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

~~(cf) Effective January 1, 2007 and thereafter, w~~When an inmate owes any obligation pursuant to a restitution fine imposed by a court, the department shall deduct 50 percent or the balance owing, whichever is less, from the inmate's wages and trust account deposits regardless of the source of such income subject to the exemptions enumerated in subsection (jg) and shall transfer those funds to the California Victim Compensation Board pursuant to Penal Code sections 2085.5 and 2717.8. In addition, an administrative fee of 10 percent of the deduction shall be deducted to reimburse the department for its administrative costs, for a maximum deduction of 55 percent. The amount deducted, less the administrative fee, shall be transferred to the California Victim Compensation and Government Claims Board Victim Compensation Board ~~for deposit in the Crime Victims' Restitution Fund in the State Treasury. The inmate shall be credited for the amount deducted, less the administrative fee, against the amount owing on the fine.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Note: Authority cited: Sections 5058, 5058.3 and 1170.05, Penal Code. Reference: Sections 1170.05, 1243, 2085.5, 2700.1, 2717.8, and 5054, Penal Code, People v. Chhoun (2021) 11 Cal.5th 1., Briggs v. Brown (2017) 3 Cal.5th 808., 42 U.S.C.A section 407, and 38 U.S.C.A. section 5301.

Article 3. Library.

3122. Inmate Law Library.

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

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

New subsection 3122(c) is adopted to read:

(c) Following initial classification and custody designation, condemned inmates shall automatically be granted PLU status until the automatic appeal of the conviction resulting in the sentence of death is exhausted or the inmate is resentenced by a court to a term other than a death sentence. After exhaustion of the appeal or resentencing, section 3122(b) shall apply.

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

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

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

NOTE: Authority cited: Section 5058, Penal Code. Reference: Section 5054, Penal Code; *Gilmore v. Lynch*, 319 F.Supp. 105 (N.D. Cal. 1970); *Toussaint v. McCarthy*, 801 F.2d 1080 (9th Cir. 1986); *Toussaint v. McCarthy*, USDC N.D. Cal. No. C 73-1422 SAW, First Special Report of the Monitor, August 19, 1987; and *Toussaint v. Rowland*, USDC N.D. Cal. No. C 73-1422 SAW, Second Special Report of the Monitor, June 30, 1988; *Zatko v. Rowland*, 835 F.Supp. 1174 (N.D. Cal. 1993); *Lewis v. Casey*, 518 U.S. 343 (1996).

Article 6. Legal Documents.

Section 3161. Inmate-Owned Legal Materials.

Section 3161 is amended to read:

(a) Inmate-owned legal materials₁, documents, law books₁, and papers shall be limited to the availability of space authorized by section 3190(b) for personal property in the inmate's quarters/ or living area₁ except as specified in this section. Inmates may possess up to one cubic foot of legal materials/ or documents related to their active cases, in addition to excess of the six cubic feet of allowable property in their assigned quarters/ or living area. Legal materials₁, documents, law books₁, and papers in excess of this limitation shall be disposed of pursuant to section 3191(c). Inmates may request the institution/ or facility store excess legal materials/ or documents related to their active cases(s) when such materials/documents exceed this one cubic foot additional allowance. Inmate-owned law books in excess of the additional allowance shall not be stored by the institution/ or facility. Institutions or facilities shall provide for the storage of excess legal

materials, law books, or documents related to the automatic appeal of the conviction resulting in the sentence of death of condemned inmates.

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

Subchapter 4. General Institution Regulations.

Article 10. Classification.

3375. Classification Process.

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

Subsection 3375(j) is amended to read:

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

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

Subsection 3375(k) is amended to read:

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

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

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

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

Subsection 3375(l) is unchanged.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 1203.8, 3020, 5054, 5068 and 11191, Penal Code; Sections 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *Wright v. Enomoto* (1976) 462 F. Supp. 397; *Stoneham v. Rushen* (1984) 156 Cal.App.3d 302; and *Castillo v. Alameida*, et al., (N.D. Cal., No. C94-2847).

3375.2. Administrative Determinants.

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

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

(7) Condemned inmates shall not be housed in a facility with a security level lower than that which is authorized to house LWOP inmates. A condemned inmate shall not be housed in a facility with

a security level lower than Level II, except when authorized by the DRB. Additionally, a condemned inmate housed within a general population facility shall be housed in a facility with a lethal electrified fence as defined in section 3000. Female condemned inmates shall only be housed at the Central California Women's Facility.

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

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

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

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

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

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

(4011) An inmate serving a life term whose placement score is not consistent with a Level I security level shall not be housed in a Level I facility except when approved by the Departmental Review Board.

(4112) An inmate whose death sentence is commuted or modified shall be transferred to a reception center for processing after which an ICC action and subsequent endorsement by a CSR shall determine the inmate's initial facility placement.

(4213) An inmate with a case factor described in subsections 3377.2(b)(2)(A), 3377.2(b)(2)(B), or 3377.2(b)(2)(C), shall be ineligible for minimum custody. An inmate with a history of one or more walkaways from non secure settings, not to include Drug Treatment Furlough, Community Correctional Reentry Centers, and Community Reentry Programs, shall not be placed in minimum custody settings for at least ten years following the latest walkaway.

(4314) A validated STG-I associate or member may be granted Minimum A or Minimum B Custody on a case-by-case basis. Designation of Minimum A or Minimum B Custody for a validated STG-I associate or member requires a review of the totality of the inmate's case factors by an ICC and a determination that their housing with such a level of custody would not pose a threat to the safety and security of the institution, inmates, staff, and public.

Subsections 3375.2(b) through 3375.2(b)(30) are unchanged.

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

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

Subsection 3375.3 is amended to read:

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

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

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

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

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

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

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

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

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

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 4502, 5054 and 5068, Penal Code; *Wright v. Enomoto* (1976) 462 F.Supp. 397; *Stoneham v. Rushen* (1984) 156 Cal. App. 3d 302; and *Castillo v. Alameida*, et al. (N.D. Cal., No. C94-2847).

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

Subsection 3375.4 is amended to read:

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

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

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

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

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

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

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

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

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

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

Subsection 3375.4(g)(3) is amended.

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

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

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 4502, 5054 and 5068, Penal Code; *Wright v. Enomoto* (1976) 462 F.Supp. 397; and *Stoneham v. Rushen* (1984) 156 Cal.App.3d 302.

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

Subsection 3375.5 is amended to read:

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

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

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

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

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

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

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

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

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

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

Subsection 3375.5(f)(2) is amended.

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

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

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 4502 and 5054, Penal Code.

3376.1. Departmental Review Board.

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

The Departmental Review Board (DRB) provides the Secretary's final review of classification issues which are referred by an institution head for a resolution or decision at the headquarters level. The DRB decision serves as the Secretary's level decision which is not appealable and concludes the inmate/parolee's departmental administrative remedy of such issues.

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

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

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

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

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

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

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

3377.2. Criteria for Assignment of Close Custody.

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

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

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

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

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

CDCR CLASSIFICATION SCORE SHEET

4. COUNTY OF LAST LEGAL RESIDENCE

			18
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5. FORM IDENTIFICATION (ENTER X in a, b or c)

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

B. BACKGROUND FACTORS

AGE AT FIRST ARREST MATRIX	
POINTS	POINTS
0 TO 17 = 12	30 TO 35 = 4
18 TO 21 = 10	36 + = 0
22 TO 29 = 8	

FIRST ARREST DATE
OR AGE

DATE OF BIRTH

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

AGE AT RECEPTION MATRIX	
POINTS	POINTS
16 TO 20 = 8	27 TO 35 = 4
21 TO 26 = 6	36 + = 0

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

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

4. STREET GANG/DISRUPTIVE GROUP + 6 = 35

a) Type Code 36 b) Verification Code 38

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

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

7. PRIOR INCARCERATION(S)
a) DJJCYA, Juvenile State/Federal Level (MAX 1) + 1 = 45

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

8. TOTAL BACKGROUND FACTORS SCORE = +

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

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

D. PRIOR INCARCERATION BEHAVIOR

1. LAST 12 MONTHS OF INCARCERATION

a) FAVORABLE (No Serious Disciplinary) (MINUS) - 4 = 60

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

2. SERIOUS DISCIPLINARY HISTORY

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

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

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

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

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

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

3. TOTAL PRIOR INCARCERATION

BEHAVIOR SCORE (Combine D.1. and sum of D.2.) = + / -

E. PLACEMENT

MANDATORY MINIMUM SCORE FACTOR CODES AND SCORES

CODE	SCORE
[1] Condemned	69 19
[2] Life Without Possibility of Parole	36 19
[3] History of Escape	19
[4] Warrants "R" Suffix	19
[5] Violence Exclusion	19
[6] Other Life Sentence	19

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

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

3. MANDATORY MINIMUM SCORE 69

ENTER PRELIMINARY SCORE OR MANDATORY MINIMUM SCORE WHICHEVER IS GREATER

4. PLACEMENT SCORE 71

F. SPECIAL CASE FACTORS

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

Felony 74 USICE 75

2. RESTRICTED CUSTODY SUFFIX

(Enter R) 76

3. CURRENT INSTITUTION AND FACILITY

77

4. LEVEL IV DESIGN

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

5. US ARMED FORCES (Enter Y or N) 85

6. CASEWORKER'S NAME FI

86

G. CLASSIFICATION STAFF REPRESENTATIVE

1. LAST NAME

95

2. DATE OF ACTION

103
MO DAY YR

3. LEVEL IV DESIGN

a) 180 Status (Enter Y to Apply) 109 b) Reason Code 110

4. MINIMUM CUSTODY

a) Eligibility (Enter E, L or P) 112 b) Reason Code 113

5. DEVELOPMENTAL DISABILITY PROGRAM (DDP) CODE

119

6. DISABILITY PLACEMENT PROGRAM (DPP) CODE(S)

a) Primary (affects placement) b) 122 126 128 131

7. ADMINISTRATIVE DETERMINANT CODE(S)

a) 134 b) 137 c) 140 d) 143 e) 146

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

CCCMS EOP

9. INSTITUTION APPROVED

150

10. REASON FOR ADMINISTRATIVE OR IRREGULAR PLACEMENT

157

A. IDENTIFYING INFORMATION

1. CDCR NUMBER

1

2. INMATE'S LAST NAME

7

3. DATE RECEIVED CDCR

12
MO DAY YR

Original - Central File

Canary - OIS

Green - Inmate

CDCR RECLASSIFICATION SCORE SHEET

4. DATE OF LAST SCORE SHEET
MO DAY YR 18

5. FORM IDENTIFICATION (ENTER X in a, b or c) DATE CORRECTED
a) NEW b) CORRECTION c) DELETE
24 25 MO DAY YR 26 32

B. ANNUAL/6 MONTH REVIEW PERIOD DATES E. CORRECTION TO CDC 840 SCORE SHEET (Prior to Rev. 07/02)

1. REVIEW PERIOD BEGINNING DATE MO DAY YR 33 39

2. REVIEW PERIOD ENDING DATE MO DAY YR 40

3. (Enter X) Annual

4. Number of Full Review Periods

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

TOTAL CORRECTION = (+ OR -)

70

F. COMPUTATION OF SCORE

1. PRIOR PRELIMINARY SCORE (Preliminary Score from 839/New Preliminary Score from 840 or 841) = 73

2. Net Change in Score (D. 8 minus C. 4) = (+ or -) 76

3. PRELIMINARY SCORE SUBTOTAL (Not less than 0) =

4. Change in Term Points (T/P) (x 2) = (+ or -) 79

5. NEW PRELIMINARY SCORE (Not less than 0) = 82

G. PLACEMENT

MANDATORY MINIMUM SCORE FACTOR CODES AND SCORES

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

1. SCORE FACTOR CODE (Assess First Applicable Factor) 85

2. MANDATORY MINIMUM SCORE 86

3. PLACEMENT SCORE ENTER NEW PRELIMINARY SCORE OR MANDATORY MINIMUM SCORE WHICHEVER IS GREATER 88

H. SPECIAL CASE FACTORS

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

Felony 91 USICE 92

2. RESTRICTED CUSTODY SUFFIX (Enter R or *) 93

3. LEVEL IV DESIGN a. 180 Status (Y/N) b. Reason Code

4. US ARMED FORCES (Enter Y or N) 95

5. CURRENT INSTITUTION AND FACILITY 96

6. COUNTY OF LAST LEGAL RESIDENCE 103

7. CASEWORKER'S NAME FI 106

I. CLASSIFICATION STAFF REPRESENTATIVE

1. LAST NAME 115

2. DATE OF ACTION MO DAY YR 123

3. LEVEL IV DESIGN a) 180 Status (Enter Y or *) 129 b) Reason Code 130

4. MINIMUM CUSTODY a) Eligibility (Enter E, L or P) 132 b) Reason Code 133

5. DEVELOPMENTAL DISABILITY PROGRAM (DDP) CODE 139

6. DISABILITY PLACEMENT PROGRAM (DPP) CODE(S) a) (*) Primary (affects placement) b) (*) c) (*) d) (*) 142 146 150 154

7. ADMINISTRATIVE DETERMINANT CODE(S) a) (*) b) (*) c) (*) d) (*) e) (*) 158 162 166 170 174

8. MENTAL HEALTH LEVEL OF CARE (Enter C or E) CCCMS EOP 178

9. INSTITUTION APPROVED 179

10. REASON FOR ADMINISTRATIVE OR IRREGULAR PLACEMENT 186

A. IDENTIFYING INFORMATION

1. CDCR NUMBER 1

2. INMATE'S LAST NAME 7

3. DATE COMPLETED MO DAY YR 12

Original - Central File Canary - OIS Green - Inmate

CDCR READMISSION SCORE SHEET

4. DATE OF LAST SCORE SHEET MO DAY YR 18 24			5. COUNTY OF LAST LEGAL RESIDENCE 24			6. FORM IDENTIFICATION (ENTER X in a, b or c) a) NEW b) CORRECTION c) DELETE 27 28 29 35																					
B. READMISSION REVIEW PERIOD CALCULATION						E. COMPUTATION OF SCORE																					
1. DATE PAROLED MO DAY YR 36						1. PRIOR PRELIMINARY SCORE (Preliminary Score from 839/New Preliminary Score from 640 or 641) = 75																					
2. REVIEW PERIOD BEGINNING DATE MO DAY YR 42						2. Net Change in Score (D. 8 minus C. 4) = (+ or -) 78																					
3. Total Review Periods Not Previously Addressed MONTHS DAYS YEARS						3. PRELIMINARY SCORE SUBTOTAL (Not less than 0) =																					
4. Number of 6 Month Review Periods 5. Partial Review Period (Less Than 6 Months) MONTHS DAYS						4. Change in Term Points (T/P) (x 2) - Old T/P + New T/P = (+ or -) 81																					
C. FAVORABLE BEHAVIOR SINCE LAST REVIEW Number Of Review Periods Apply points for each Review Period of 6 Months at full value Apply points for Review Period less than 6 Months at half value						5. NEW PRELIMINARY SCORE (Not less than 0) = 84																					
1. Continuous Minimum Custody x 4 = 48						F. PLACEMENT																					
2. No Serious Disciplinary x 2 = 50						MANDATORY MINIMUM SCORE FACTOR CODES AND SCORES																					
3. Average or Above Performance in Work, School or Vocational Program x 2 = 52						<table border="1" style="width: 100%; border-collapse: collapse;"><tr><th>CODE</th><th>SCORE</th><th>CODE</th><th>SCORE</th></tr><tr><td>[1] Condemned</td><td>60 19</td><td>[4] Warrants "R" Suffix</td><td>19</td></tr><tr><td>[2] Life Without Possibility of Parole</td><td>36 19</td><td>[5] Violence Exclusion</td><td>19</td></tr><tr><td>[3] History of Escape</td><td>19</td><td>[6] Other Life Sentence</td><td>19</td></tr></table>						CODE	SCORE	CODE	SCORE	[1] Condemned	60 19	[4] Warrants "R" Suffix	19	[2] Life Without Possibility of Parole	36 19	[5] Violence Exclusion	19	[3] History of Escape	19	[6] Other Life Sentence	19
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4. TOTAL FAVORABLE POINTS =						1. SCORE FACTOR CODE (Assess First Applicable Factor) 87																					
D. UNFAVORABLE BEHAVIOR SINCE LAST REVIEW						2. MANDATORY MINIMUM SCORE 88																					
SERIOUS DISCIPLINARIES						3. PLACEMENT SCORE ENTER NEW PRELIMINARY SCORE OR MANDATORY MINIMUM SCORE WHICHEVER IS GREATER 90																					
1. Div. A-1/A-2 Dates: x 8 = 54						G. SPECIAL CASE FACTORS																					
Div. B, C & D Dates: x 6 = 56						1. HOLDS, WARRANTS and DETAINERS (Enter A or P)																					
Div. E & F Dates: x 4 = 58						2. RESTRICTED CUSTODY SUFFIX (Enter R) 95																					
2. Battery or Attempted Battery on a Non-Prisoner Dates: x 8 = 60						3. LEVEL IV DESIGN a) 180 Status (Y/N) 93 b) Reason Code 94																					
3. Battery or Attempted Battery on an Inmate Dates: x 4 = 62						4. US ARMED FORCES (Enter Y or N) 97																					
4. Distribution of Drugs Dates: x 4 = 64						5. CURRENT INSTITUTION AND FACILITY 98 105																					
5. Possession of a Deadly Weapon Dates: x 16 = 66						6. RETURN STATUS (Enter RTC or WNT) 108																					
6. Inciting a Disturbance Dates: x 4 = 68						7. CASEWORKER'S NAME FI 108																					
7. Battery Causing Serious Bodily Injury Dates: x 16 = 70																											
8. TOTAL UNFAVORABLE POINTS = +																											
H. CLASSIFICATION STAFF REPRESENTATIVE																											
1. LAST NAME 117						2. DATE OF ACTION MO DAY YR 125																					
3. LEVEL IV DESIGN a) 180 Status (Enter Y to apply) 131 b) Reason Code 132						4. MINIMUM CUSTODY a) Eligibility (Enter E, L or P) 134 b) Reason Code 135																					
5. DEVELOPMENTAL DISABILITY PROGRAM (DDP) CODE 141						6. DISABILITY PLACEMENT PROGRAM (DPP) CODE(S) a) Primary (affects placement) 144 b) 147 c) 150 d) 153																					
7. ADMINISTRATIVE DETERMINANT CODE(S) a) 156 b) 159 c) 162 d) 165 e) 168						8. MENTAL HEALTH LEVEL OF CARE (Enter C or E) CCCMS EOP 171																					
9. INSTITUTION APPROVED 172						10. REASON FOR ADMINISTRATIVE OR IRREGULAR PLACEMENT 179																					
A. IDENTIFYING INFORMATION																											
1. CDCR NUMBER 1				2. INMATE'S LAST NAME 7				3. DATE RECEIVED THIS INCARCERATION MO DAY YR 12																			

Original - Central File

Canary - OIS

Green - Inmate