

**State of California  
Office of Administrative Law**

In re:  
Department of Corrections and  
Rehabilitation

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections: 3078.7, 3078.8, 3078.9,  
3078.10, 3078.11, 3078.12,  
3078.13

Amend sections: 3000, 3077, 3078.1, 3078.2,  
3078.3, 3078.4, 3078.6,  
3375.2, 3379

Repeal sections: 3074.3, 3630

NOTICE OF APPROVAL OF REGULATORY  
ACTION

Government Code Section 11349.3

OAL Matter Number: 2024-0508-06

OAL Matter Type: Regular (S)

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This action proposes to adopt application and screening requirements for the Male Community Reentry Program (MCRP), Female Community Reentry Program (FCRP), and Community Participant Mother Program (CPMP); general policies and processing requirements for CPMP; and to repeal participation restrictions for these programs and additional parole services because of an inmate's immigration status.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/1/2024.

Date: June 19, 2024

*Ashita Mohandas*

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Ashita Mohandas  
Attorney

For: Kenneth J. Pogue  
Director

Original: Jeffrey Macomber, Secretary  
Copy: Dmitriy Kostyuk

NOTICE PUBLICATION/REGULATIONS SUMMARY

**REGULAR**

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER <b>Z-2024-0126-03</b>	REGULATORY ACTION NUMBER <b>2024-0508-065</b>	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

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

**JUN 19 2024**

*2:21 pm*

OFFICE OF ADMIN. LAW  
2024 MAY 8 PM4:36

AGENCY WITH RULEMAKING AUTHORITY  
California Department of Corrections and Rehabilitation

AGENCY FILE NUMBER (If any)  
23-29

**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)
<b>OAL USE ONLY</b> <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER <b>2024 6-2</b>	PUBLICATION DATE <b>2/16/24</b>	

**B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)**

1a. SUBJECT OF REGULATION(S) Community-Based Reentry Programs	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT 3078.7, 3078.8, 3078.9, 3078.10, 3078.11, 3078.12, 3078.13
AMEND 3000, 3077, 3078.1, 3078.2, 3078.3, 3078.4, 3078.6, 3375.2, 3379
TITLE(S) 15
REPEAL 3074.3, 3630

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<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"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only

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

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

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

7. CONTACT PERSON Dmitriy Kostyuk	TELEPHONE NUMBER (916) 445-2276	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) Dmitriy.Kostyuk@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.

DocuSigned by: SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Tammy Foss</i>	DATE 5/7/2024
TYPED NAME AND TITLE OF SIGNATORY Tammy Foss, Undersecretary, Operations	

For use by Office of Administrative Law (OAL) only

**ENDORSED APPROVED**

**JUN 19 2024**

**Office of Administrative Law**

## TEXT OF ADOPTED REGULATIONS

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

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

#### Chapter 1. Rules and Regulations of Adult Operations and Programs

##### Article 1. Behavior

##### 3000. Definitions.

Section 3000 is amended to alphabetically merge the definitions below with existing definitions in this section.

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\*

Community Participant Mother Program (CPMP) means an approved program for pregnant individuals or mothers with up to two children six years of age or younger, located in a structure in an area zoned for residential habitation, that is located and identified by a street number and street name, and provides participants the opportunity to be housed with their children in a safe and wholesome environment away from the prison setting.

\*

Enhanced Alternative Custody Program (EACP) means a voluntary program that allows eligible inmates to serve their sentence in the community in lieu of confinement in a state prison, consisting of restriction to a Female Community Reentry Program (FCRP), Male Community Reentry Program (MCRP), or Community Participant Mother Program (CPMP), during the hours designated by the department.

\*

Female Community Reentry Program (FCRP) means an approved program for female participants located in a structure in an area zoned for residential habitation, that is located and identified by a street number and street name, and provides substance abuse or other treatment, reentry and employment planning and services.

\*

Male Community Reentry Program (MCRP) means an approved program for male participants located in a structure in an area zoned for residential habitation, that is located and identified by a street number and street name, and provides substance abuse or other treatment, reentry and employment planning and services.

\*

\*

Note: Authority cited: Sections 243(f)(4), 2717.3, 3000.03, 3411, 3414, 5058, 5058.3, 6252, and 1170.05, Penal Code; Section 10115.3(b), Public Contract Code; and Sections 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 600, 646.9, 653, 832.5, 1170.05, ~~4203(b)(1)~~, 1203.8, 1389, 2080, 2081.5, 2084, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 3003.5(a), 3007.05, 3020, 3450, 3550, 4570, 4576, 5005, 5009, 5050, 5054, 5068, 6250, 6250.5, 6258.1, 7000 et seq., 7286.5, 11180 and 11191, Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3 and 10127, Public Contract Code; Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; Section 297.5, Family Code; Sections 8550, 8567, 12838 and 12838.7, Government

Code; Sections 11007, 11351, 11352, 11378 and 11379, Health and Safety Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *In re Bittaker*, 55 Cal.App. 4th 1004, 64 Cal. Rptr. 2d 679; *Madrid v. Cate* (USDC ND Cal. C90-3094 TEH); *Sassman v. Brown* (E.D. Cal. 2015) 99 F.Supp.3d 1223; *Mitchell v. Cate*, USDC ED 2:08-CV-01196-TLN-EFB; *In re Garcia* (2012) 202 Cal.App.4th 892; and *Quine v. Beard*, No. C 14-02726 JST.

## **[Article 6.3 Family Foundations Program is repealed.]**

### **Article 6.3 Family Foundations Program**

#### **3074.3. The Family Foundations Program.**

~~(a) The Family Foundations Program (FFP) is a 12-month residential substance abuse treatment program for pregnant and/or parenting female inmates who have been determined by the court to benefit from participation, recommended by the court for placement, and are accepted by the Department to participate. Female inmates in the program will be placed in a Family Foundations facility in the community as an alternative to serving their prison term in a State prison institution.~~

~~(b) Eligibility. To be eligible, a female inmate shall be sentenced to serve a term of not more than 36 months and be recommended by the court to participate, must have an established history of substance abuse, and be either pregnant or the parent of a child under the age of six years. Medical/dental and mental health evaluations shall be performed prior to placement to determine the existence of health care conditions that would affect participation in the program or require a reasonable accommodation be provided to the participant.~~

~~(c) Ineligibility. Female inmates who have been convicted of violent crimes and other offenses enumerated in Penal Code section 1174.4 are excluded from the program. In addition, a woman is ineligible for the program if she has an active or potential United States Immigration and Naturalization hold, felony hold; her child is a dependent of the court and it has been determined by the representative of the appropriate county agency that it is not in the best interest of the child; she is determined by the Department to pose an unreasonable risk to the public; a staff physician or psychiatrist has determined that the inmate's medical or psychiatric condition is likely to cause an adverse effect upon the inmate or upon other persons if the inmate is placed in the program; or she is not willing to sign a CDC Form 1890, Voluntary Placement Agreement, (<sup>4/00</sup>), which is incorporated by reference, and outlines the obligations and responsibilities of program participants.~~

~~(d) Credit earnings and losses, including pre-sentence, behavioral, participation and work time credits shall not be applied while a woman is in the program. Participants who fail to complete the 12-month residential program shall have credit earnings and losses applied for time served in the program. Participants who fail the program for reasons identified in (e) below, shall be delivered to State prison where they shall serve the remainder of their original sentences. A classification committee hearing shall precede a participant's delivery to State prison.~~

~~(e) Adverse reasons for failure to complete the program include:~~

~~(1) Program participant fails to participate in programming activities; or,~~

~~(2) Program participant fails to comply with facility rules as presented in orientation; or,~~

~~(3) Program participant fails to participate in Career Technical Education program/educational activities; or,~~

~~(4) Program participant fails urinalysis/drug or alcohol testing; or,~~

~~(5) Program participant demonstrates violent or disruptive behavior.~~

- ~~(f) Program participants may be removed from the program because of a health care condition that cannot be adequately managed in the FFP facility. Behavioral credit loss shall not be applied in such cases.~~
- ~~(g) Individualized treatment plans shall be developed for each participant and her child. The treatment plan shall be formulated as a result of an individual assessment performed by a program counselor. Each plan shall address the specific treatment needs of the participant and child including the treatment needs necessary for transitioning the participant to parole and/or another treatment program, and shall describe treatment goals for both mother and child and specific activities and services to achieve these goals. Changes to this plan may occur throughout the course of treatment and must be relevant to the participant's progress toward treatment goals. Individualized treatment plans shall address a full range of problems including those directly and indirectly related to:~~
- ~~(1) Substance abuse.~~
  - ~~(2) Physical and mental health.~~
  - ~~(3) Social services.~~
  - ~~(4) Parenting skills.~~
  - ~~(5) Career Technical Education and educational skills.~~
  - ~~(6) Long term treatment goals.~~
  - ~~(7) Treatment methods and resources.~~
- ~~(h) Early childhood care and development plans shall be developed for each child and shall address issues including, but not limited to:~~
- ~~(1) Immunizations and communicable diseases.~~
  - ~~(2) Pediatric medical care.~~
  - ~~(3) Nutrition.~~
  - ~~(4) Psychological interventions.~~
  - ~~(5) Communication skills.~~
  - ~~(6) Motor skill development.~~
  - ~~(7) Play therapies.~~
- ~~(i) Each participant shall be provided all of the following:~~
- ~~(1) Intensive substance abuse treatment education classes and relapse prevention counseling.~~
  - ~~(2) Classes, as appropriate, on topics such as domestic violence, incest survivors, family relationships, co-dependency, living with AIDS, child custody issues, and legal issues.~~
  - ~~(3) Individual counseling sessions.~~
  - ~~(4) Group counseling.~~
  - ~~(5) HIV/AIDS counseling for pre and post HIV testing.~~
  - ~~(6) Classes on parenting skills.~~
  - ~~(7) Early childhood care and development services.~~
  - ~~(8) Educational, Career Technical Education programs, and life skills training.~~
  - ~~(9) Medically necessary health services pursuant to section 3350 et seq.~~

~~(j) Each participant shall be assigned a case manager and casework team, comprised of a social worker, facility manager, counselor, child development specialist, child care worker, nurse, and departmental custody staff person. The casework team will manage the participant's intake, orientation and treatment program for the duration of the 12 months.~~

~~(k) Transition planning for the participant's release from the facility to parole, shall begin in the first six months of the program with a written Transition Services Plan for each participant to be developed no later than the seventh month. Each participant's Transition Services Plan shall be initiated after nine months of participation in the program. Transition Services Plans shall consist of, but are not limited to, transitional housing, job placement or assistance, identification of available social services, etc.~~

~~(l) An outpatient transitional services program shall be developed for each participant and shall include a twelve month period of intensive parole supervision pursuant to Penal Code Section 1174.2.~~

~~(m) The FFP shall maintain a zero tolerance for drugs and/or alcohol use. Frequent and random urine testing shall be conducted to detect any illegal drug use.~~

~~(n) Each facility shall maintain a library containing a variety of reference, fiction, self-help and children's books for use by participants and their children.~~

~~(o) Facilities shall accommodate requests for voluntary participation in religious programs.~~

~~(p) Facilities shall post visiting hours and conditions in English and Spanish and maintain a weekly visiting schedule for six hours on Saturday and six hours on Sunday of each week.~~

~~NOTE: Authority cited: Sections 1174.8(a) and 5058, Penal Code. Reference: Sections 1174-1174.9 and 5054, Penal Code~~

## **Article 6.7. Transfer of Inmate Assessment Responsibility**

### **Section 3077. County Assessment Program.**

**Section 3077 initial paragraph through subsection 3077(b)(6) are unchanged.**

**Subsection 3077(c) is unchanged but is shown for reference.**

(c) Exclusionary criteria. An offender is excluded from participating in the SB 618 Program if he or she:

**Subsections 3077(c)(1) through 3077(c)(3) are unchanged.**

**Subsection 3077(c)(4) is deleted.**

~~(4) Has a United States Immigration and Customs Enforcement hold from countries without immigration treaties.~~

**Subsections 3077(c)(5) through 3077(c)(7) are renumbered to 3077(c)(4) through 3077(c)(6), respectively, and are otherwise unchanged.**

~~(45) Possesses outstanding or active felony holds from other jurisdictions.~~

~~(56) Qualifies for participation in a drug treatment program as defined in PC section 1210(b).~~

~~(67) Repeat offenders with a new sentence and who are offered a probationary sentence are not automatically excluded from consideration for participation in the SB 618 Program upon approval of the court.~~

**Subsections 3077(d) through 3077(d)(3) are unchanged.**

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 667.5(c), 1203.8 and 5054, Penal Code.

**[The title of Article 6.8 is amended to read:]**

**Article 6.8. ~~Alternative Custody~~ Community Based Programs**

**[The title of section 3078.1 is amended to read:]**

**3078.1 Alternative Custody Program and Enhanced Alternative Custody Program General Policy.**

**[Section 3078.1 is renumbered to read:]**

(a) An Alternative Custody Program (ACP) is a voluntary alternative custody program that allows eligible inmates to serve their sentence in the community in lieu of confinement in state prison.

(~~b~~1) An ACP participant's confinement in the community shall consist of restriction to one of the following:

(4A) A residential home during the hours designated by the department, or

(2B) A transitional care facility that offers appropriate services during the hours designated by the department, or

(3C) A residential drug or treatment program during the hours designated by the department.

**[New subsection 3078.1(b) is adopted to read:]**

(b) An Enhanced Alternative Custody Program (EACP) is a voluntary alternative custody program that allows eligible inmates to serve the remainder of their sentence in a community facility administered by the Division of Rehabilitative Programs in lieu of confinement in a state prison.

(1) An EACP participant's confinement in the community shall consist of restriction to one of the following:

(A) A Male Community Reentry Program (MCRP) during the hours designated by the department, or

(B) A Female Community Reentry Program (FCRP) during the hours designated by the department, or

(C) A Community Participant Mother Program (CPMP) during the hours designated by the department.

**[Subsection 3078.1(c) is amended to read:]**

(c) One day of participation in the ACP or EACP shall be in lieu of one day of incarceration in state prison. Participants in the program shall receive any sentence reduction credits ~~that~~ they would have received pursuant to section 3043 had they served their sentence in state prison and shall be subject to denial and loss of credit pursuant to ~~PC~~ Penal Code section 2932(a).

**[Subsection 3078.1(d) is unchanged.]**

**[Subsection 3078.1(e) is amended to read:]**

(e) ~~Each inmate~~ inmates released for placement in the ACP or EACP shall be subject to applicable rules and regulations governing inmates pursuant to the California Code of Regulations, Title 15, Division 3.

Note: Authority cited: Sections 3414, 5058, 5058.3, 6252 and 1170.05, Penal Code. Reference: Sections 1170.05, ~~and 5054~~, and 6253, Penal Code; and *Sassman v. Brown* (E.D. Cal. 2015) 99 F.Supp.3d 1223.

**[The title of section 3078.2 is amended to read:]**

**3078.2. Alternative Custody Program and Enhanced Alternative Custody Program Eligibility Criteria.**

**[Subsection 3078.2(a) is amended to read:]**

(a) To be eligible to participate in the Alternative Custody Program (ACP) or Enhanced Alternative Custody Program (EACP), the inmate must volunteer.

**[Subsection 3078.2(b) is amended to read:]**

(b) The inmate shall be housed in an EACP facility and have no more than 12 months and no less than 45 days left to serve at the time of placement into the ACP, ~~and;~~

**[New subsections 3078.2(c) and 3078.2(d) are adopted to read:]**

(c) The inmate shall have no more than 32 months and no less than 60 days left to serve at the time of placement into the Male Community Reentry Program (MCRP) or Female Community Reentry Program (FCRP).

(d) The inmate shall have no more than six years and no less than 90 days left to serve at the time of placement into the Community Participant Mother Program (CPMP).

**[Existing subsection 3078.2(c) is renumbered to 3078.2(e) and is amended to read:]**

~~(c)~~ (ee) The inmate does shall not meet any of the exclusionary criteria as provided for in section 3078.3 for the ACP, the Male Community Reentry Program (MCRP) or the Female Community Reentry Program (FCRP), or in section 3078.9 for the Community Participant Mother Program (CPMP).

Note: Authority cited: Sections 3414, 5058, 5058.3, 6252 and 1170.05, Penal Code. Reference: Sections 1170.05 ~~and 5054~~, 6258.1, and 6253, Penal Code; and *Sassman v. Brown* (E.D. Cal. 2015) 99 F.Supp.3d 1223.

**[The title to section 3078.3 is amended to read:]**

**3078.3. Alternative Custody Program, Male Community Reentry Program, and Female Community Reentry Program Exclusionary Criteria.**

**[Subsection 3078.3(a) is amended to read:]**

(a) Mandatory exclusionary criteria for the Alternative Custody Program (ACP) ~~includes, but is not limited to:~~

**[Subsections 3078.3(a)(1) through 3078.3(a)(6) are unchanged.]**

**[Subsection 3078.3(a)(7) is repealed.]**

~~(7) Active or potential United States Immigration and Customs Enforcement holds, warrants, or detainers.~~

**[Subsection 3078.3(a)(8) is renumbered to 3078.3(a)(7) and is unchanged.]**

~~(8) Active restraining order.~~

**[Subsection 3078.3(a)(9) is renumbered to 3078.3(a)(8) and amended to read:]**



(98) In-custody misconduct equivalent to a Divisions “A-1” through “C” offense, as defined in section 3323, within the last 24 calendar months, except for physical possession of alcohol, drugs, or drug paraphernalia.

**[Subsection 3078.3(a)(10) is renumbered to 3078.3(a)(9) and amended to read:]**

(409) Restricted Housing Unit, Security Housing Unit or Psychiatric Services Unit terms within the last 12 calendar months.

**[Subsections 3078.3(a)(11) through 3078.3(a)(12) are renumbered to 3078.3(a)(10) through 3078.3(a)(11) and are unchanged.]**

(140) Current Close or Max Custody, as defined in section 3377.2.

(121) Current or prior conviction for a sexually violent offense, as defined in Welfare and Institutions Code section 6600(b).

**[Subsection 3078.3(a)(13) is amended to read:]**

(132) Validated active or inactive Security Threat Group (STG)-I members or associates, as defined in subsection 3378.1(c). Validated STG dropouts are not excluded from ACP.

**[Subsection 3078.3(b) is amended to read:]**

(b) Additional ACP exclusionary criteria shall be reviewed on a case-by-case basis, including but not limited to:

**[Subsections 3078.3(b)(1) through 3078.3(b)(8) are unchanged.]**

**[New subsection 3078.3(c) is adopted to read:]**

(c) Male Community Reentry Program (MCRP) screening shall be completed on a CDCR Form 2226-MCRP (Rev. 10/23), Male Community Reentry Program Eligibility, which is incorporated by reference. Mandatory exclusionary criteria for MCRP:

(1) A current or prior conviction for an offense that requires the participant to register as a sex offender as provided in Chapter 5.5 (commencing with section 290) of Title 9 of Part 1 of the Penal Code (PC), an “R” Suffix as provided in subsection 3377.1(b), or a current or prior conviction for a sexually violent offense, as defined in Welfare and Institutions Code section 6600(b).

(2) A California Static Risk Assessment (CSRA) score of 5 (high violence).

(3) A history of escape within the last 10 years from a facility while under juvenile or adult custody, including, but not limited to any detention facility, camp, jail, or state prison facility; or inmates that have been reviewed for escape and have been affixed with an administrative determinant of ESC, as provided in subsection 3375.2(b)(9).

(4) Felony detainer inquiry or active felony hold, warrant, or detainer. Inmates with a detainer inquiry or active hold based solely on their immigration status shall not be precluded from placement in a MCRP.

(5) In-custody misconduct equivalent to a Division “A-1” through “C” offense, as defined in section 3323, within the last 24 calendar months, except for physical possession of alcohol, drugs, or drug paraphernalia (distribution and trafficking offenses are exclusionary).

(6) Restricted Housing Unit, Security Housing Unit or Psychiatric Services Unit terms within the last 12 calendar months.

(7) An administrative determinant of DIS affixed as provided by subsection 3375.2(b)(7). The Institution Classification Committee (ICC) may remove a previously affixed DIS administrative determinant and refer for MCRP placement in the same committee action.

(8) Validated active or inactive STG-I members or associates, as defined in subsection 3378.1(c). Validated STG dropouts are not excluded from MCRP.

(9) An administrative determinant of ARS affixed as provided by subsection 3375.2(b)(2).

(10) A current requirement for Level IV 180-design housing as provided by subsection 3375.1(a)(4)(A). Inmates housed in 180-design facilities who are eligible for 270-design housing are not excluded from MCRP.

(11) Current Close or Maximum custody, as defined by section 3377.2.

**[New subsection 3078.3(d) is adopted to read:]**

(d) Additional MCRP criteria shall be reviewed on a case-by-case basis:

(1) An administrative determinant of VIO imposed or a review pending as provided by subsection 3375.2(b)(28), based on a conviction for an offense not listed in PC section 667.5(c).

(2) A current or prior violent felony conviction, including stayed counts or enhancement for offenses pursuant to PC section 667.5(c).

(3) A current or prior sexual conviction which does not require PC section 290 registration (no "R" Suffix imposed).

(4) A current or prior child abuse arrest(s), good cause finding, or probable cause finding by the Board of Parole Hearings, or conviction(s) where the offense was related to abuse or neglect of a child.

(5) A current or prior conviction(s), good cause finding, or probable cause finding by the Board of Parole Hearings for stalking.

(6) An active restraining or protective order(s).

(7) An arrest, good cause finding or probable cause finding by the Board of Parole Hearings for arson or possession of an explosive device.

(8) An administrative determinant of PUB, as provided in subsection 3375.2(b)(18). The ICC shall consider whether the inmate's notoriety will negatively impact the program.

(9) Any prior ACP or Enhanced Alternative Custody Program (EACP) participation that resulted in an adverse return to an institution.

(10) A documented history of failure or refusal to house in a Non-Designated Programming Facility (NDPF).

(11) Inmates identified with a Disability Placement Program (DPP) designation which impacts placement.

(12) Inmates identified as a participant in the Developmental Disability Program (DDP).

(13) A current psychiatric, medical or dental condition that requires ongoing care.

**[New subsection 3078.3(e) is adopted to read:]**

(e) Female Community Reentry Program (FCRP) screening shall be completed on a CDCR Form 2226-FCRP (Rev. 10/23), Female Community Reentry Program Screening, which is incorporated by reference. Mandatory exclusionary criteria for FCRP:

(1) A current or prior conviction for an offense that requires the participant to register as a sex offender as provided in Chapter 5.5 (commencing with section 290) of Title 9 of Part 1 of the PC, or a current or prior conviction for a sexually violent offense, as defined in Welfare and Institutions Code section 6600(b).

(2) A CSRA score of 5 (high violence).

(3) A history of escape within the last 10 years from a facility while under juvenile or adult custody, including, but not limited to, any detention facility, camp, jail, or state prison facility; or inmates that have been reviewed for escape and have been affixed with an administrative determinant of ESC, as provided in subsection 3375.2(b)(9).

(4) Felony detainer inquiry or active felony hold, warrant, or detainer. Inmates with a detainer inquiry or active hold based solely on their immigration status shall not be precluded from placement in a FCRP.

(5) In-custody misconduct equivalent to a division “A-1” through “C” offense, as defined in section 3323, within the last 24 calendar months, except for physical possession of alcohol, drugs, or drug paraphernalia (distribution and trafficking offenses are exclusionary).

(6) Restricted Housing Unit, Security Housing Unit or Psychiatric Services Unit terms within the last 12 calendar months.

(7) An administrative determinant of ARS affixed as provided by subsection 3375.2(b)(2).

(8) Validated active or inactive STG-I members or associates, as defined in subsection 3378.1(c). Validated STG dropouts are not excluded from FCRP.

(9) Current Close or Maximum custody, as defined by section 3377.2.

**[New subsection 3078.3(f) is adopted to read:]**

(f) Additional FCRP criteria shall be reviewed on a case-by-case basis:

(1) A current or prior child abuse conviction(s) or convictions where the offense was related to abuse or neglect of a child.

(2) A current or prior conviction(s), good cause finding or probable cause finding by the Board of Parole Hearings for stalking.

(3) Any prior ACP or EACP participation that resulted in an adverse return to an institution.

(4) An arrest, good cause finding or probable cause finding by the Board of Parole Hearings for arson or possession of an explosive device.

(5) A current or prior conviction of any of the crimes listed as a violent felony in PC section 667.5(c) including stayed counts and enhancements.

(6) A current or prior conviction(s) for a sexual offense not requiring registration pursuant to PC section 290, or a currently imposed “R” suffix.

(7) An active restraining or protective order.

**[Subsection 3078.3(c) is renumbered to 3078.3(g) and amended to read:]**

(eg) An inmate’s existing psychiatric or medical condition that requires ongoing care is not a basis for excluding the inmate from eligibility to participate in the ACP or EACP. ICC shall review all relevant information and determine if the inmate’s needs can be adequately met in a community facility.

Note: Authority cited: Sections 5058, 5058.3, 6252 and 1170.05, Penal Code. Reference: Sections 290, 667.5(c), 1170.05, 1192.7(c), 1192.8, ~~and~~ 5054, and 6258.1, Penal Code. Section 6600(b), Welfare and Institutions Code.

**[The title of section 3078.4 is amended to read:]**

**3078.4 Alternative Custody Program, Male Community Reentry Program, and Female Community Reentry Program Processing**

**[Subsection 3078.4(a) is amended to read:]**

(a) Screening and Assessment for Alternative Custody Program (ACP) Cases.

**[Subsections 3078.4(a)(1-2) are unchanged.]**

**[Subsection 3078.4(a)(3) is amended to read:]**

(3) Preliminary screening for ACP eligibility shall be completed by the Correctional Counselor utilizing the criteria provided in section 3078.2 on a CDCR Form 2235 (03/16 07/23), Alternative Custody Program Screening Form, which is incorporated by reference. Upon completion, the CDCR Form 2235 shall be forwarded to ~~Women and Children Services Unit (WCSU)~~ the Division of Rehabilitative Programs (DRP) for further screening.

**[Subsections 3078.4(a)(4) is unchanged.]**

**[Subsection 3078.4(a)(5) is amended to read:]**

(5) ~~WCSU~~ DRP shall review the CDCR Form 2235 and other case factors to determine if the inmate is potentially eligible for ACP. The inmate shall be notified in writing of a determination of potential eligibility.

**[Subsection 3078.4(b) is amended to read:]**

(b) ~~Individualized Treatment and Rehabilitation~~ Reintegration Plan for ACP Cases.

(1) Within 30 calendar days after a finding that the applicant is potentially eligible for participation in ACP, an ~~Individualized Treatment and Rehabilitation~~ Reintegration Plan (ITRP) shall be developed by designated ~~institution~~ staff in consultation with the ~~inmate~~ participant based on the assessment completed in (a)(4) above and a review of the ~~inmate~~ participant's ~~central~~ file. The ITRP shall address a full range of issues including those directly and indirectly related to the specific needs of the potential ACP Participant. The ITRP shall describe specific activities and services needed to achieve identified goals. The ITRP shall address, but is not limited to the following factors:

- (A) Housing.
- (B) Employment plans.
- (C) Transportation.
- (D) Substance abuse treatment.
- (E) Parenting and life skills.
- (F) Anger management and criminal thinking.
- (G) Career Technical Education programs and educational needs.
- (H) Social services needs, e.g., Veteran's Affairs benefits, general assistance, social security.
- (I) Medical, dental, and mental health needs.

(2) ~~Institution~~ Staff shall coordinate with the ACP Program Manager, as defined in section 3078, to identify appropriate transitional care facility, residential drug or treatment program or residential home consistent with the offender's needs and availability of appropriate program(s). When available and appropriate, the department shall prioritize the use of evidence based programs and services. Other factors to be considered include but are not limited to: Placement resulting in a potential participant residing in close proximity to any person that was the victim of the potential participant's crime.

**[Subsections 3078.4(b)(3) through 3078.4(b)(4) are unchanged.]**

**[Subsection 3078.4(c) is amended to read:]**

(c) Classification and Case Records for ACP Cases

**[Subsections 3078.4(c)(1) through 3078.4(c)(6) are unchanged.]**

**[Subsection 3078.4(d) is amended to read:]**

(d) For ACP cases, Except as necessary to comply with any release notification requirements, the inmate shall be released to the program no later than seven business days following notice of acceptance into the program, or if this is not possible in the case of an inmate to be placed in a residential drug or treatment program or in a transitional care facility, the first day a contracted bed becomes available at the requested location.

**[Subsection 3078.4(e) is amended to read:]**

~~(e) The inmate may file a grievance regarding the decision through the procedures detailed in section 3480 et seq. or reapply for participation in the program 30 days after the notice of the denial.~~ Screening and assessment for Male Community Reentry Program (MCRP) cases.

(1) Every male inmate shall be afforded the opportunity to sign and submit to their assigned Correctional Counselor a CDCR Form 2234-MCRP (Rev. 07/23), Male Community Reentry Program (MCRP) Application and Voluntary Agreement which is incorporated by reference.

(2) Cases shall be screened by the assigned Correctional Counselor to determine eligibility, utilizing a CDCR Form 2226-MCRP (Rev. 10/23) Male Community Reentry Program Eligibility, which is incorporated by reference.

(3) Eligible cases shall be presented to the Institution Classification Committee (ICC), as provided in subsection 3376(c)(2), for program participation consideration. The ICC shall conduct any required case-by-case reviews and consider the totality of case factors along with input from the inmate prior to recommendation for MCRP placement.

(4) Upon recommendation of ICC for MCRP placement, the case will be referred to a Classification Staff Representative (CSR) for endorsement.

**[New subsection 3078.4(f) is adopted to read:]**

(f) Screening and Assessment for Female Community Reentry Program (FCRP) Cases

(1) Every female inmate shall be afforded the opportunity to sign and submit to their assigned Correctional Counselor or institutional Community Beds Coordinator a CDCR Form 2234-FCRP (Rev. 10/23) Female Community Reentry Program Application and Voluntary Agreement, which is incorporated by reference.

(2) Cases shall be screened by the assigned institutional Community Beds Coordinator to determine eligibility, utilizing a CDCR Form 2236-FCRP (Rev. 10/23) Female Community Reentry Program Screening, which is incorporated by reference.

(3) Eligible cases shall be presented to the ICC, as provided in subsection 3376(c)(2), for program participation consideration. The ICC shall conduct any required case-by-case reviews and consider the totality of case factors along with input from the inmate prior to recommendation for FCRP placement.

(4) Upon recommendation of ICC for FCRP placement, the case will be referred to a Classification Staff Representative (CSR) for endorsement.

**[3078.5 Alternative Custody Program Participant Case Management and Supervision is unchanged.]**

**[The title of section 3078.6 is amended to read:]**

**3078.6 Alternative Custody Program and Enhanced Alternative Custody Program Return to Institution.**

**[Subsection 3078.6(a) is amended to read:]**

(a) An Alternative Custody Program (ACP) or Enhanced Alternative Custody Program (EACP) Participant may be returned to state prison to serve the remainder of their original sentence, with or without cause, pursuant to the provisions of subsections (b)–(b)(7) below.

**[Subsection 3078.6(b) is amended to read:]**

(b) ~~Division of Adult Parole Operations~~ Staff shall conduct a Case Conference Review, as defined in section 3000, regarding whether a participant should be returned to prison. ACP cases shall be reviewed by the Division of Adult Parole Operations (DAPO), and EACP cases shall be reviewed by the Division of Rehabilitative Programs (DRP). When determining a participant's retention in the program or return to prison, staff shall consider the totality of case factors, including the participant's behavior and program participation while housed in ACP or EACP. Reasons for return to prison may include, but are not limited to:

**[Subsections 3078.6(b)(1) through 3078.6(b)(2) are unchanged.]**

**[Subsection 3078.6(b)(3) is amended to read:]**

(3) The electronic monitoring device is unable for any reason to properly perform its function at the designated ~~place of detention~~ residence or program.

**[Subsections 3078.6(b)(4) through 3078.6(b)(5) are unchanged.]**

**[Subsection 3078.6(b)(6) is amended to read:]**

(6) A felony hold, warrant or detainer is received by the department after an inmate is placed in the ACP or EACP.

**[Subsection 3078.6(b)(7) is unchanged.]**

Note: Authority cited: Sections 5058, 5058.3, 6252, 6253, and 1170.05, Penal Code. Reference: Sections 1170.05 and 5054, Penal Code.

**[New section 3078.7 is adopted to read:]**

**3078.7 Community Participant Mother Program – General Policy.**

(a) The Community Participant Mother Program (CPMP) provides a community treatment program that provides for the release of the mother and up to two children to a public or private facility in the community suitable to the needs of the mother and child(ren), which will provide the best possible care for the mother and child(ren).

(b) If any woman received by or committed to the Department of Corrections and Rehabilitation (CDCR), has a child under six years of age, or gives birth to a child(ren) while an inmate under the jurisdiction of CDCR, the child(ren) and their mother shall, upon their request, be admitted to and retained in the CPMP, subject to meeting the eligibility requirements for approval.

(c) The CPMP is a voluntary custody program that allows eligible pregnant inmates and inmate mothers the opportunity to be housed with their child(ren) in a supervised facility away from the prison setting while serving their prison sentence.

(d) Inmates released for placement in CPMP shall be subject to applicable rules and regulations governing inmates pursuant to the California Code of Regulation, Title 15, Division 3.

(e) Child(ren) may participate in CPMP until they reach the age of six years old, at which time CDCR will assist the inmate mother in arranging for the child's care elsewhere under any procedure authorized by statute. If the inmate mother is not pregnant and has no other child(ren) in CPMP, they shall be returned to institution for review by a classification committee to determine appropriate placement. Consistent with PC section 3421, the Board of Parole Hearings (BPH) may give approval to retain the child and mother for a longer period of time. A CDCR Form 415-E (Rev. 07/23) Community Participant Mother Program – Recommendation to Board of Parole

Hearings for Retain/Return, which is incorporated by reference, shall be submitted to BPH for approval or denial.

Note: Authority cited: Sections 3414, 5058 and 6252, Penal Code. Reference: Sections 3416, 3417, 3421 and 5054, Penal Code

**[New section 3078.8 is adopted to read:]**

**3078.8 Community Participant Mother Program – Eligibility Criteria.**

(a) To be eligible for the Community Participant Mother Program (CPMP) each inmate shall volunteer and submit a CDCR Form 415 (Rev. 07/23), Community Participant Mother Program – Application, which is incorporated by reference. Inmates shall be screened for eligibility utilizing a CDCR Form 415-K (07/23) Community Participant Mother Program – Application Screening Worksheet, which is incorporated by reference.

(b) The inmate shall be pregnant or have one or more children, age 6 years or younger at the time of application.

(c) The inmate shall have been the primary caregiver of their child(ren) prior to incarceration, which means a parent who has consistently assumed responsibility for the care, housing, and health of the child(ren). The inmate shall not be excluded if, as primary caregiver, they arranged for temporary care for the child(ren) in the home of a relative or licensed foster home.

(d) The inmate shall have legal custody of their child(ren).

(e) If the child(ren) is a dependent of the Juvenile Court, the inmate shall receive permission from the Court for the child(ren)'s placement.

(f) The inmate shall not have the child(ren)'s placement challenged by the County Department of Child Services, the child's caretaker, or guardian.

(g) The inmate shall not have been declared to be an unfit parent by a court.

Note: Authority cited: Sections 3414, 5058 and 6252, Penal Code. Reference: Sections 3416, 3417 and 5054, Penal Code

**[New section 3078.9 is adopted to read:]**

**3078.9 Community Participant Mother Program – Exclusionary Criteria.**

(a) Mandatory exclusionary criteria for the Community Participant Mother Program (CPMP):

(1) A history of escape within the last 10 years from a facility while under juvenile or adult custody, including, but not limited to any detention facility, camp, jail, or state prison facility or inmates that have been reviewed for escape and have been affixed with an administrative determinant of ESC, as provided in subsection 3375.2(b)(9).

(2) A current or prior conviction for arson, under Penal Code (PC) sections 450 - 455.

(3) A current or prior conviction for a sex offense listed in PC section 667.6; an offense that requires the inmate to register as a sex offender as provided in Chapter 5.5 (commencing with section 290) of Title 9 of Part 1 of the PC; an "R" Suffix as provided in subsection 3377.1(b); or a current or prior conviction for a sexually violent offense, as defined in Welfare and Institutions Code section 6600(b).

(4) Felony detainer inquiry or active felony hold, warrant, or detainer. Inmates with a detainer inquiry or active hold based solely on their immigration status shall not be precluded from placement in a CPMP.

(5) The inmate has a current commitment or prior conviction for a violent offense listed by PC section 667.5(c), with the following exceptions:

(A) The Institution Classification Committee (ICC) shall conduct a case-by-case review of inmates with convictions for robbery or burglary, pursuant to paragraph (21) of PC section 667.5(c), to determine if placement is appropriate.

(B) Inmates with a conviction of any offense listed in PC section 667.5(c) other than burglary or robbery, are only eligible for placement in the CPMP if an ICC determines there were unusual or mitigating circumstances. The ICC shall consider all relevant case factors, including, but not limited to, the passage of time since commission of the offense, if the offense was committed in response to a physically abusive partner, and, the inmate's participation in rehabilitative programming while incarcerated.

(6) The inmate shall be designated Medium-A custody or lower, as provided in subsection 3377.1(a). Inmates designated Close or Maximum custody are ineligible.

(7) Restricted Housing Unit, Security Housing Unit or Psychiatric Services Unit terms within the last 12 calendar months.

(8) In-custody misconduct equivalent to a division "A-1" through "C" offense, as defined in section 3323, within the last 24 calendar months, except for physical possession of alcohol, drugs, or drug paraphernalia (distribution and trafficking offenses are exclusionary).

(b) Additional CPMP exclusionary criteria shall be reviewed on a case-by-case basis:

(1) Any prior Alternative Custody Program or Enhanced Alternative Custody Program participation that resulted in an adverse return to an institution.

(2) Any current or prior conviction for the unlawful sale, or possession for sale, manufacture, or transportation, for controlled substances, if for large scale profit pursuant to PC section 3417. Current or prior convictions for Health & Safety Code sections 11358 and 11359 are eligible and do not require a review.

(3) Validated active or inactive Security Threat Group I (STG-I) members or associates, as defined in subsection 3378.1(c). Validated STG dropouts are not excluded from CPMP.

(4) An administrative determinant of PUB, as provided in subsection 3375.2(b)(18). The ICC shall consider whether the inmate's notoriety will negatively impact the program.

(5) The inmate's and child(ren)'s current psychiatric, medical or dental condition that requires ongoing care. The ICC shall review all relevant information, including written opinions from staff physicians or psychiatrists, and determine if the inmate's and child(ren)'s needs can be adequately met in a community facility.

Note: Authority cited: Sections 3414, 5058 and 6252, Penal Code. Reference: Section 6600(b), Welfare and Institutions Code; Sections 11358 and 11359, Health & Safety Code; Sections 3416, 3417, 3418, 3419, 3420 and 5054, Penal Code.

**[New section 3078.10 is adopted to read:]**

**3078.10 Community Participant Mother Program – Recruitment.**

(a) At all female institutions, the Associate Warden, Community Beds Coordinators, Reception Center (RC), and the Program Services Division, are administratively responsible for the identification, recruitment, and endorsement of inmates for the Community Participant Mother Program (CPMP).

(b) All correctional counselors shall be responsible to notify female inmates of the availability of the CPMP and the application process.

(c) Inmates shall be notified of the CPMP application process during RC processing and general population initial and annual classification review. Upon notification, inmates shall sign a CDC Form 128-B (Rev. 4/74) General Chrono, which is incorporated by reference.



(d) Inmates shall be notified of the CPMP during any scheduled orientation sessions in the RC and general population. During such sessions, any interested inmates shall be provided with CPMP information packages.

(e) The CDCR Form 415-D (Rev. 7/23), Community Participant Mother Program - Notification, which is incorporated by reference, shall be prominently posted in all inmate housing units, Law Libraries, and common areas.

Note: Authority cited: Sections 3414, 5058 and 6252, Penal Code. Reference: Sections 3416, 3417, 3418, 3419, 3420 and 5054, Penal Code

**[New section 3078.11 is adopted to read:]**

**3078.11 Community Participant Mother Program – Processing.**

(a) A Correctional Counselor (CC) II Supervisor designated as the Institutional Community Beds Coordinator shall track Community Participant Mother Program (CPMP) applications and Classification Staff Representative referrals.

(b) All pregnant inmates and inmate mothers shall be afforded the opportunity to apply for participation in the CPMP.

(c) Interested inmates shall complete the CPMP application package and submit to their assigned CCI or directly to the Institutional Community Beds Coordinator via institutional mail.

(d) The CCI shall ensure the application package is forwarded to the Institutional Community Beds Coordinator no more than 5 business days from receipt of the application package. The CCI shall provide relevant information to assist the Institutional Community Beds Coordinator in determining an inmate's eligibility on a CDCR Form 415-C (Rev. 07/23), Community Participant Mother Program – Assessment of Application, which is incorporated by reference, but shall not be responsible to evaluate the inmate's eligibility for the CPMP.

(e) The Institutional Community Beds Coordinator shall review the inmate's application package as appropriate, and other case factors, to determine the inmate's eligibility for the CPMP. The inmate shall be notified in writing of a determination of eligibility via the CDCR Form 415-F (Rev. 07/23) Community Participant Mother Program – Determination of Eligibility, which is incorporated by reference.

(f) The Institutional Community Beds Coordinator shall be responsible for preparing the inmate's case for presentation to the Institution Classification Committee (ICC). Prior to the ICC hearing, the following forms shall be completed and available for committee review: CDCR Form 415-A (Rev. 07/23), Community Participant Mother Program – Notice to Child's Caretaker/Guardian, CDCR Form 415-B (REV. 07/23), Community Participant Mother Program – Notice to County Children's Services, CDCR Form 415-H (REV. 07/23), – Community Participant Mother Program – Authorization and Release, and CDCR Form 415-L (07/23), – Community Participant Mother Program – Participant Placement Agreement, which are incorporated by reference.

(g) The inmate is responsible for submitting birth certificates for their child(ren) and any other court documents related to the guardianship or custody of the child(ren).

(h) The Classification Staff Representative is responsible for reviewing and endorsement of all CPMP cases.

Note: Authority cited: Sections 3414, 5058 and 6252, Penal Code. Reference: Sections 3416, 3417, 3418, 3419, 3420 and 5054, Penal Code

**[New section 3078.12 is adopted to read:]**

**3078.12 Community Participant Mother Program – Transfer Procedures.**

(a) The Division of Rehabilitative Programs (DRP) maintains the statewide waiting list for the Community Participant Mother Program (CPMP). When vacancies in the CPMP occur, DRP selects inmates for transfer.

(b) Transportation from an institution to CPMP shall be coordinated through the institutional Community Beds Coordinator and DRP.

(c) Inmates who are scheduled to transfer to a CPMP shall be required to dispose of excess property. Storage space is limited in the facility, as some space must be used for the child(ren)'s belongings. Personal televisions or tablets are not permitted in the CPMP program.

Note: Authority cited: Sections 3414, 5058 and 6252, Penal Code. Reference: Sections 3416, 3417, 3418, 3419, 3420 and 5054, Penal Code

**[New section 3078.13 is adopted to read:]**

### **3078.13 Community Participant Mother Program – Return.**

(a) Community Participant Mother Program (CPMP) participants may be returned to state prison to serve the remainder of their original sentence, with or without cause. Staff shall conduct a Case Conference Review, as defined in section 3000, regarding whether a participant should be returned to prison. CPMP cases shall be reviewed by the Division of Rehabilitative Programs (DRP). When determining a participant's retention or return, staff shall consider the totality of case factors, including the participant's behavior and program participation while housed in the CPMP. Reasons for return include, but are not limited to:

(1) The need for extensive medical or mental health treatment, which is unable to be accommodated or available at the CPMP.

(2) Voluntary removal from the program.

(3) Program failure.

(4) Security reasons requiring higher custody, such as a pending action for a serious Rules Violation Report.

(5) Violation of CPMP rules, guidelines, or any determination, which cause the inmate to be deemed no longer appropriate for CPMP placement.

(6) A change in case factors which make the inmate no longer eligible for program placement, or a change in case factors that requires a case-by-case review by the Institution Classification Committee (ICC).

(b) Any property belonging to the CPMP inmate shall not be returned with them to state prison and must be picked up by or mailed to an individual designated by the inmate.

(c) Child(ren) shall not be permitted to remain at the CPMP overnight in the absence of the participant. The child(ren) shall be released to the person(s) designated on CDCR Form 415-J (Rev. 07/23), Community Participant Mother Program - Child Release Authorization, which is incorporated by reference. If the designated person(s) is unable to pick up the child(ren), the CPMP staff shall notify the Department of Children and Family Services and release the child(ren) to their custody. The welfare of the child(ren) shall be the primary factor in the determination of the child(ren)'s placement.

Note: Authority cited: Sections 3414, 5058 and 6252, Penal Code. Reference: Sections 3416, 3417, 3418, 3419, 3420 and 5054, Penal Code

## **Subchapter 4. General Institution Regulations**

### **Article 10. Classification**

#### **3375.2 Administrative Determinants**

**[Subsections 3375.2(a) through (a)(3) are unchanged but shown for reference:]**

(a) An inmate meeting one or more of the following administrative or irregular placement conditions, known as administrative determinants, may be housed in a facility with a security level which is not consistent with the inmate's placement score:

(1) An inmate requires an outpatient or higher degree of medical or psychiatric care at a facility specifically staffed for the type of treatment necessary.

(2) An inmate with a history of sex crimes designated in section 3377.1(b) shall not be housed in a Level I facility and shall not be assigned outside the security perimeter.

(3) An inmate with a history of arson shall not be housed in a facility constructed primarily of wood.

**[Subsection 3375.2(a)(4) is amended to read:]**

(4) An inmate with a felony detainer inquiry or active felony hold, warrant, detainer, or the equivalent thereof filed with the Department, who is likely to receive a significant period of consecutive incarceration or be deported, shall not be housed in a Level I facility without perimeter gun towers. Inmates with a detainer inquiry or active hold based solely on their immigration status shall not be precluded from placement in any departmental program or service, including security-level, classification level, housing placement and Division of Rehabilitative Programs community-based reentry facilities.

**[Subsections 3375.2(a)(5) through 3375.2(b) are unchanged.]**

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

**3379. Inmate Transfers**

**[Subsection 3379(a) is unchanged but shown for reference:]**

(a) Transfer requirements.

**[Subsection 3379(a)(1) is amended to read:]**

(1) Unless exempted within this subsection, any inmate transfer shall require a classification committee action and endorsement by a classification staff representative (CSR) or expedited transfer approval by the Chief of the Population Management Unit. A classification committee action and CSR endorsement is not required in the cases of ~~illegal aliens transferring for the purpose of deportation proceedings~~ and expedited transfers warranted under emergent circumstances, including but not limited to inmate medical or mental health needs and transfers from one restricted housing unit to a similar restricted housing unit. Additionally, a classification committee action is not required for an inmate transfer from a reception center.

**[Subsections 3379(a)(2) through 3379(d) are left unchanged.]**

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 2911, 5025, 5054, 5068, 5080 and 11191, Penal Code; Sections 8550 and 8567, Government Code; Governor's Prison Overcrowding State of Emergency Proclamation dated October 4, 2006; *Armstrong v. Schwarzenegger*, United States District Court, N.D. Cal., No. C-94-2307 CW, Stipulation and Proposed Order issued November 30, 2006; *Coleman v. Schwarzenegger*, United States District Court, E.D. Cal., No. CIV-S-90-0520 LKK JFM P, Order issued November 6, 2006; and *Whitaker v. Rushen* (9th Cir. 1983) 720 F.2d 1132, 1135.

**Article 11 and Section 3630 are repealed.**

**Article 11. Illegal Aliens**

### **~~Section 3630. Limitations of Parole Services.~~**

~~(a) Pursuant to Section 411 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, (PRWORA) (8 U.S.C. Section 1621), and notwithstanding any other provision of Title 15, Division 3 of the California Code of Regulations, aliens who are not "qualified aliens" or "nonimmigrant aliens," as defined by federal law, or who are paroled into the United States for less than one year, are ineligible to receive or participate in the following parole services:~~

~~(1) Food coupons.~~

~~(2) Bus passes.~~

~~(3) Job placement services.~~

~~(4) Short term cash assistance.~~

~~(b) Verification of immigration status is based on information furnished to the Department by the United States Immigration and Customs Enforcement prior to an inmate alien's release on parole.~~

~~(c) A determination that an alien is ineligible for the services specified in subdivision (a) may be grieved as provided in Section 3480, et seq.~~

~~(d) All eligibility requirements contained herein shall be applied without regard to race, creed, color, gender, religion, or national origin.~~

~~(e) For purposes of this section, an alien who, at the time he or she applies for, receives, or attempts to receive a parole benefit specified in subsection (a), is eligible for those benefits if he or she meets all of the conditions of subparagraphs (1), (2), (3), and (4) below:~~

~~(1) Has been battered or subjected to extreme cruelty in the United States by a spouse or registered domestic partner or a parent, or by a member of the spouse's or registered domestic partner's or parent's family residing in the same household as the alien, and the spouse or registered domestic partner or parent of the alien consented to, or acquiesced in, such battery or cruelty; or has a child who has been battered or subjected to extreme cruelty in the United States by a spouse or registered domestic partner or a parent of the alien, without the active participation of the alien in the battery or cruelty, or by a member of the spouse's or registered domestic partner's or parent's family residing in the same household as the alien, and the spouse or registered domestic partner or parent consented to or acquiesced in such battery or cruelty.~~

~~(2) In the opinion of the Attorney General of the United States, which opinion is not subject to the review of any court, there is a substantial connection between such battery or cruelty and the need for the benefits provided.~~

~~(3) Has been approved or has a petition pending which sets forth a prima facie case, as enumerated in the Immigration and Nationality Act (INA), for:~~

~~(A) Status as a spouse or registered domestic partner or child of a United States citizen; or~~

~~(B) Suspension of deportation and adjustment of status; or~~

~~(C) Classification pursuant to clause (ii) or clause (iii) of Section 204(a)(1)(B) of the INA.~~

~~(D) Cancellation of removal pursuant to Section 240A(b)(2) of the INA.~~

~~(4) For the period for which the benefits are sought, the individual responsible for the battery or cruelty, as stated in paragraph (e)(1) does not reside in the same household or family eligibility unit as the individual subjected to the battery or cruelty.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: 8 U.S.C. Sections 1621, 1641 and 1642; Section 297.5, Family Code; and Section 5054, Penal Code.~~

# ADOPT

NAME and NUMBER

CDC 128-B (Rev. 4/74)

DATE

GENERAL CHRONO

NAME and NUMBER

CDC 128-B (Rev. 4/74)

DATE

GENERAL CHRONO

NAME and NUMBER

CDC 128-B (Rev. 4/74)

DATE

GENERAL CHRONO

# ADOPT

**COMMUNITY PARTICIPANT MOTHER PROGRAM -  
APPLICATION SCREENING WORKSHEET  
CDCR415-K (07/23)**

CDCR NUMBER	OFFENDER NAME	INSTITUTION
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YES	NO	<b>EXCLUSIONARY CRITERIA – ALL RESPONSES MUST BE “YES” FOR COMMUNITY PARTICIPANT MOTHER PROGRAM (CPMP)</b>
<input type="checkbox"/>	<input type="checkbox"/>	Offender is pregnant or has one or more children six years of age or younger.
<input type="checkbox"/>	<input type="checkbox"/>	Offender was the primary caregiver of their child(ren) prior to incarceration. Offenders are not excluded as caregiver if they made arrangements for temporary care for the child(ren) with relatives or foster care.
<input type="checkbox"/>	<input type="checkbox"/>	Offender has legal custody of their child(ren).
<input type="checkbox"/>	<input type="checkbox"/>	Offender received permission from the Juvenile Court for child(ren)'s placement, if child(ren) are a dependent of the court (mark Yes if not applicable).
<input type="checkbox"/>	<input type="checkbox"/>	Child(ren)'s caretaker or County Children's Services Department have not challenged the child(ren)'s placement in CPMP.
<input type="checkbox"/>	<input type="checkbox"/>	For children under guardianship, the guardian is willing to terminate the guardianship and relinquish the child (mark Yes if not applicable).
<input type="checkbox"/>	<input type="checkbox"/>	Offender has not been declared an unfit parent by any court.
<input type="checkbox"/>	<input type="checkbox"/>	Offender has no more than six years and no less than 90 days remaining to serve.
<input type="checkbox"/>	<input type="checkbox"/>	No history of escape within the last 10 years, and no Escape (ESC) administrative determinant affixed.
<input type="checkbox"/>	<input type="checkbox"/>	No current or prior conviction for arson, under Penal Code sections 450-455.
<input type="checkbox"/>	<input type="checkbox"/>	No current or prior conviction for a sex offense and no "R" suffix affixed.
<input type="checkbox"/>	<input type="checkbox"/>	No active felony holds, warrants, or detainers.
<input type="checkbox"/>	<input type="checkbox"/>	Offender is designated Medium-A custody or lower.
<input type="checkbox"/>	<input type="checkbox"/>	No Security Housing Unit or Psychiatric Services Unit terms within the last 12 calendar months.
<input type="checkbox"/>	<input type="checkbox"/>	No in-custody misconduct equivalent to a Division "A1" through "C" offense in the last 24 calendar months, except for physical possession of alcohol, drugs, or drug paraphernalia (distribution and trafficking offenses are exclusionary).

YES	NO	<b>CASE-BY-CASE REVIEWS – ANY “YES” RESPONSE REQUIRES A CASE-BY-CASE REVIEW BY INSTITUTIONAL CLASSIFICATION COMMITTEE</b>
<input type="checkbox"/>	<input type="checkbox"/>	Prior placement in a community program that resulted in adverse return to prison.
<input type="checkbox"/>	<input type="checkbox"/>	Current or prior conviction for the unlawful possession for sale, manufacture, or transportation of controlled substances for large scale profit (convictions for Health and Safety Code sections 11358 and 11359 are not exclusionary and do not require case-by-case review).
<input type="checkbox"/>	<input type="checkbox"/>	Validated active or inactive Security Threat Group-I member or associate.
<input type="checkbox"/>	<input type="checkbox"/>	Public interest case (PUB) administrative determinant affixed. ICC shall consider whether or not the offender's notoriety will negatively impact the program.
<input type="checkbox"/>	<input type="checkbox"/>	Current or prior conviction for a violent offense listed in Penal Code section 667.5(c). Convictions for robbery and burglary shall be reviewed by ICC to determine if placement is appropriate. <i>Offenders with convictions for any offense listed in Penal Code section 667.5(c) other than robbery or burglary are only eligible for CPMP if ICC determines there were unusual or mitigating circumstances.</i>
<input type="checkbox"/>	<input type="checkbox"/>	Offender or child(ren)'s current psychiatric, medical or dental condition that requires ongoing care. ICC shall determine if the offender's and/or child(ren)'s needs can be adequately met in a community facility.

COMMUNITY BEDS COORDINATOR (PRINT)	COMMUNITY BEDS COORDINATOR SIGNATURE	DATE
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**MALE COMMUNITY REENTRY PROGRAM ELIGIBILITY**

CDCR 2226-MCRP (Rev. 10/23)

Page 1 of 1

Inmate \_\_\_\_\_ CDCR# \_\_\_\_\_ was interviewed on \_\_\_\_\_ for transfer consideration to the Male Community Reentry Program (MCRP). Subject  does  does not (check one) wish to participate in the MCRP if determined eligible.

I, \_\_\_\_\_ do  do not (check one) request review and consideration of placement. I am aware that if approved for placement, I must wear and maintain an electronic monitoring device as a condition of placement. \_\_\_\_\_  
Inmate name Signature

**Completion of the eligibility criteria is only required for offenders who volunteer to participate in the MCRP.**

YES	NO	EXCLUSIONARY CRITERIA – Any “Yes” responses in this section indicates the offender is ineligible.
<input type="checkbox"/>	<input type="checkbox"/>	Penal Code (PC) section 290 registration requirement, an R suffix, or a current or prior conviction for a sexually violent offense as defined in subdivision (B) of the Welfare and Institutions Code section 6600.
<input type="checkbox"/>	<input type="checkbox"/>	California Static Risk Assessment score of 5 (high violence).
<input type="checkbox"/>	<input type="checkbox"/>	Currently has more than <b>32</b> months remaining to serve or less than 60 days to serve.
<input type="checkbox"/>	<input type="checkbox"/>	Escape (ESC) Administrative Determinant affixed pursuant to California Code of Regulations (CCR), Title 15, subsection 3375.2(b) or a history of escape in the last 10 years.
<input type="checkbox"/>	<input type="checkbox"/>	Active or potential felony hold, warrant, or detainer. Holds due solely to immigration status are not exclusionary.
<input type="checkbox"/>	<input type="checkbox"/>	In-custody misconduct (Division A1-C offenses) within the last <b>24</b> calendar months, except physical possession of alcohol, drugs, or drug paraphernalia. (Distribution/Trafficking offenses are exclusionary).
<input type="checkbox"/>	<input type="checkbox"/>	Released from a Restricted Housing Unit (RHU), Security Housing Unit (SHU) or Psychiatric Services Unit (PSU) term within the last 12 calendar months. (Offender is eligible if RHU/SHU term was assessed, imposed, and either suspended or commuted effective the same date as the imposition, regardless of whether D2 credit was imposed).
<input type="checkbox"/>	<input type="checkbox"/>	DIS Administrative Determinant affixed pursuant to CCR, Title 15, subsection 3375.2(b). The Institution Classification Committee (ICC) may remove a previously affixed DIS and refer for MCRP placement in the same committee action.
<input type="checkbox"/>	<input type="checkbox"/>	Validated Security Threat Group I pursuant to CCR, Title 15, subsection 3378(c).
<input type="checkbox"/>	<input type="checkbox"/>	ARS Administrative Determinant affixed pursuant to CCR, Title 15, subsection 3375.2(b).
<input type="checkbox"/>	<input type="checkbox"/>	Current requirement for Level IV 180-design housing pursuant to CCR, Title 15, section 3375.1(a)(4)(A). Offenders housed in 180-design facilities that are eligible for 270-design housing are not excluded from MCRP.
<input type="checkbox"/>	<input type="checkbox"/>	Close or Maximum Custody.
YES	NO	CASE-BY-CASE REVIEW – Any “Yes” response in this section requires a case-by-case review by ICC.
<input type="checkbox"/>	<input type="checkbox"/>	VIO Administrative Determinant imposed pursuant to CCR, Title 15, subsection 3375.2(b) or review pending based on a conviction for an offense <b>NOT</b> listed in PC section 667.5(c).
<input type="checkbox"/>	<input type="checkbox"/>	Current or prior violent felony conviction, including stayed counts or enhancement for offenses pursuant to PC section 667.5(c).
<input type="checkbox"/>	<input type="checkbox"/>	Current or prior sexual conviction which does not require PC section 290 registration (No “R” Suffix imposed).
<input type="checkbox"/>	<input type="checkbox"/>	Current or prior child abuse arrest(s), convictions, or Good Cause Finding/Probable Cause Finding (GCF/PCF) by the Board of Parole Hearings (BPH) where the offense was related to abuse or neglect of a child.
<input type="checkbox"/>	<input type="checkbox"/>	Current or prior conviction(s) or GCF/PCF by BPH for stalking.
<input type="checkbox"/>	<input type="checkbox"/>	Active Restraining/Protective Order(s).
<input type="checkbox"/>	<input type="checkbox"/>	An arrest or GCF/PCF by the BPH for arson or possession of an explosive device.
<input type="checkbox"/>	<input type="checkbox"/>	PUB Administrative Determinant affixed pursuant to CCR, Title 15, subsection 3375.2(b). ICC shall consider whether the offender’s notoriety will negatively impact the program.
<input type="checkbox"/>	<input type="checkbox"/>	Prior MCRP/Alternative Custody Program (ACP) participation which ended with an adverse return to CDCR.
<input type="checkbox"/>	<input type="checkbox"/>	Documented history of failure or refusal to house in Non-Designated Program Facility (NDPF).
<input type="checkbox"/>	<input type="checkbox"/>	Identified with a Disability Placement Program (DPP) concern which impacts placement.
<input type="checkbox"/>	<input type="checkbox"/>	Identified as a participant in the Developmental Disability Program (DDP).
<input type="checkbox"/>	<input type="checkbox"/>	Current psychiatric, medical or dental condition requiring ongoing care. ICC shall review all relevant case factors and determine if the inmate’s needs can be adequately met in a community facility.

Correctional Counselor Name: \_\_\_\_\_ Correctional Counselor Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Institution: \_\_\_\_\_

**DISTRIBUTION:** Original: Inmate’s File

Copies: Institution’s DRP CC III, C&PR and Inmate

ADA Accessible

# REPEAL

STATE OF CALIFORNIA  
ACP SCREENING  
CDCR 2235 (Rev. 03/16)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

## ACP SCREENING

CDCR Number: \_\_\_\_\_ Name: \_\_\_\_\_ Release Date: \_\_\_\_\_

This form shall be completed after review of a CDCR 2234, ACP APPLICATION AND VOLUNTARY AGREEMENT form from an inmate.  
If applicable, check the appropriate EXCLUSIONARY box(es) below:

### I. EXCLUSIONARY CRITERIA:

- Current Violent or Serious Felony conviction, including stayed counts or enhancements for offenses pursuant to PC Section 667.5(c), Section 1192.7(c), or 1192.8.
- PC Section 290 et seq. registration requirement or current or prior conviction for a sexually violent offense as defined in subdivision (b) of Welfare and Institutions Code Section 6600.
- California Static Risk Assessment (CSRA) score of 5 (high violence).
- Upon placement into program, cannot have more than 12 months or less than 45 days to serve on EPRD.
- Escape history within last 10 years or mandatory minimum for escape.
- Active or potential misdemeanor or felony holds, warrants, or detainers. Active or potential ICE holds, warrants, or detainers.
- Active Restraining Order.
- In-Custody misconduct (Division A-C offenses) in last 24 calendar months, except physical possession of alcohol.
- SHU/PSU within the last 12 calendar months.
- Close or MAX Custody.
- Active or inactive validated STG-I member or associate pursuant to CCR Section 3378 et seq.

### II. CASE-BY-CASE REVIEW:

- Validated as an STG-II member or associate.
- Current or prior child abuse conviction(s) or convictions where the offense was related to abuse or neglect of a child.
- Current or prior conviction(s) for stalking.
- Any prior ACP participation that resulted in a return to an institution.
- Current or prior arson conviction.
- Upon review of all case factors, no appropriate transitional care facility, residential drug or treatment program or residential home is available in the community.
- Prior conviction of any of the crimes listed as a violent felony in Penal Code (PC) section 667.5(c) or serious felony in PC sections 1192.7(c) or 1192.8 including stayed counts and enhancements.

### III. DETERMINATION:

- **Forward to WCSU** - If there are no boxes marked in Section I or II, check the "Forward to WCSU" box below for further review to determine potential eligibility. Final eligibility will be determined by the Institutional Classification Committee considering ACP placement.
- **Ineligible** - If any boxes are marked in Section I, check the "Ineligible" box below. The reason for ineligibility shall be noted in the Comment Section.
- **Case-by-Case Review** - If there are no boxes marked in Section I and one or more boxes are marked in Section II, check the "Forward to WCSU" and "Case-by-Case Review" boxes below. CBC reviews are conducted ONLY when no other exclusions exist. The above noted CBC reviews shall be evaluated by the Institutional Classification Committee considering ACP placement.

Ineligible                       Case-by-Case Review                       Forward to WCSU

Comments Section: \_\_\_\_\_

Institution/CCII Name/Date \_\_\_\_\_ Signature: \_\_\_\_\_

WCSU/Name/Date: \_\_\_\_\_ Signature: \_\_\_\_\_  Potentially eligible  Ineligible

Distribution: Original to c-file.



# ADOPT

STATE OF CALIFORNIA  
ACP SCREENING  
CDCR 2235 (Rev. 07/23)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

## ACP SCREENING

CDCR Number: \_\_\_\_\_ Name: \_\_\_\_\_ Release Date: \_\_\_\_\_

This form shall be completed after review of a CDCR 2234, ACP APPLICATION AND VOLUNTARY AGREEMENT form from an inmate.  
If applicable, check the appropriate EXCLUSIONARY box(es) below:

### I. EXCLUSIONARY CRITERIA:

- Current Violent or Serious Felony conviction, including stayed counts or enhancements for offenses pursuant to PC Section 667.5(c), Section 1192.7(c), or 1192.8.
- PC Section 290 et seq. registration requirement or current or prior conviction for a sexually violent offense as defined in subdivision (b) of Welfare and Institutions Code Section 6600.
- California Static Risk Assessment (CSRA) score of 5 (high violence).
- Upon placement into program, cannot have more than 12 months or less than 45 days to serve on EPRD.
- Escape history within last 10 years or mandatory minimum for escape.
- Active or potential misdemeanor or felony holds, warrants, or detainers.
- Active Restraining Order.
- In-custody misconduct (Division A-C offenses) in last 24 calendar months, except physical possession of alcohol, physical possession of drugs, or possession of drug paraphernalia.
- RHU/SHU/PSU terms within the last 12 calendar months.
- Close or MAX Custody.
- Active or inactive validated STG-I member or associate pursuant to CCR Section 3378 et seq.
- Not currently housed in the Male Community Reentry Program (MCRP), Female Community Reentry Program (FCRP) or Community Participant Mother Program (CPMP).

### II. CASE-BY-CASE REVIEW:

- Validated as an STG-II member or associate.
- Current or prior child abuse conviction(s) or convictions where the offense was related to abuse or neglect of a child.
- Current or prior conviction(s) for stalking.
- Any prior ACP participation that resulted in a return to an institution.
- Current or prior arson conviction.
- Upon review of all case factors, no appropriate transitional care facility, residential drug or treatment program or residential home is available in the community.
- Prior conviction of any of the crimes listed as a violent felony in Penal Code (PC) section 667.5(c) or serious felony in PC sections 1192.7(c) or 1192.8 including stayed counts and enhancements.

### III. DETERMINATION:

- **Forward to Division of Rehabilitative Programs (DRP)** - If there are no boxes marked in Section I or II, check the "Forward to DRP" box below for further review. Final eligibility will be determined by the Institutional Classification Committee considering ACP placement.
- **Ineligible** - If any boxes are marked in Section I, check the "Ineligible" box below. The reason for ineligibility shall be noted in the Comment Section.
- **Case-by-Case Review** - If there are no boxes marked in Section I and one or more boxes are marked in Section II, check the "Forward to DRP" and "Case-by-Case Review" boxes below. CBC reviews are conducted ONLY when no other exclusions exist. The above noted CBC reviews shall be evaluated by the Institutional Classification Committee considering ACP placement.

Ineligible                       Case-by-Case Review                       Forward to DRP

Comments Section: \_\_\_\_\_

Institution/CCII Name/Date \_\_\_\_\_ Signature: \_\_\_\_\_

DRP/Name/Date: \_\_\_\_\_ Signature: \_\_\_\_\_  Potentially eligible  Ineligible

Distribution: Original to c-file.

# ADOPT

## FEMALE COMMUNITY REENTRY PROGRAM SCREENING

CDCR Number: \_\_\_\_\_ Name: \_\_\_\_\_ Release Date: \_\_\_\_\_

This form shall be completed upon receipt of a CDCR 2234, FCRP APPLICATION AND VOLUNTARY AGREEMENT form from an inmate.  
If applicable, check the appropriate EXCLUSIONARY box(es) below:

### I. EXCLUSIONARY CRITERIA:

- Penal Code (PC) Section 290 et seq. registration requirement or current or prior conviction for a sexually violent offense as defined in subdivision (b) of Welfare and Institutions Code section 6600.
- California Static Risk Assessment (CSRA) score of 5 (high violence).
- Upon placement into program, cannot have more than 32 months or less than 45 days to serve on Earliest Possible Release Date (EPRD).
- Escape history within last 10 years or mandatory minimum for escape.
- Active or potential felony holds, warrants, or detainers. Holds due solely to immigration status are not exclusionary.
- In-Custody misconduct (Division A-C offenses) in last 24 calendar months, except physical possession of alcohol, physical possession of drugs, or possession of drug paraphernalia.
- Released from a Restricted Housing Unit (RHU)/ Security Housing Unit (SHU)/Psychiatric Services Unit (PSU) term within the last 12 calendar months.
- Close or Maximum Custody.
- Active or inactive validated STG-I member or associate pursuant to California Code of Regulations section 3378 et seq.
- ARS Administrative Determinant affixed pursuant to CCR, Title 15, subsection 3375.2(b).

### II. CASE-BY-CASE REVIEW:

- Current or prior child abuse conviction(s) or convictions where the offense was related to abuse or neglect of a child.
- Current or prior conviction(s) or Good Cause Finding/Probable Cause Finding by the Board of Parole Hearings for stalking.
- Any prior Enhanced Alternative Custody Program (EACP) participation that resulted in a return to an institution.
- An arrest or Good Cause Finding/Probable Cause Finding by the Board of Parole Hearings for arson or possession of an explosive device.
- Current/Prior conviction of any of the crimes listed as a violent felony in Penal Code (PC) section 667.5(c), including stayed counts and enhancements.
- Current/Prior conviction(s) for a sexual offense not requiring registrations pursuant to PC Section 290, or a currently imposed "R" suffix.
- Active restraining/protective order.

### III. DETERMINATION:

- **Forward to Division of Rehabilitative Programs (DRP)** - If there are no boxes marked in Section I or II, check the "Forward to DRP" box below for further review to determine potentially eligibility. Final eligibility will be determined by the Institutional Classification Committee considering FCRP placement.
- **Ineligible** - If any boxes are marked in Section I, check the "Ineligible" box below. The reason for ineligibility shall be noted in the Comment Section.
- **Case-by-Case (CBC) Review** - If there are no boxes marked in Section I and one or more boxes are marked in Section II, check the "Forward to DRP" and "Case-by-Case Review" boxes below. CBC reviews are conducted ONLY when no other exclusions exist. The above noted CBC reviews shall be evaluated by the Institutional Classification Committee considering FCRP placement.

Ineligible                       Case-by-Case Review                       Forward to DRP

Comments Section:

Institution/CCII Name/Date: \_\_\_\_\_ Signature: \_\_\_\_\_

DRP/Name/Date: \_\_\_\_\_ Signature: \_\_\_\_\_  Potentially eligible  Ineligible

## COMMUNITY PARTICIPANT MOTHER PROGRAM - APPLICATION

**CDCR 415 (Rev. 07/23)**

CDCR NUMBER	INMATE'S NAME	TODAY'S DATE
DATE RECEIVED BY CDCR	RELEASE DATE	MAXIMUM DATE
COUNTY OF COMMITMENT (FOR DATA PURPOSES ONLY)		
COMMITMENT OFFENSE	COUNTY OF LAST LEGAL RESIDENCE	ARE YOU PREGNANT? <input type="checkbox"/> YES <input type="checkbox"/> NO
IF YES, ESTIMATED DUE DATE:		

Provide information about your child(ren) in the spaces below. Please place details for one child per section. The child(ren) must be less than six years old to participate with you in the CPMP.

CHILD'S NAME	CHILD'S DATE OF BIRTH
CHILD'S CARETAKER	RELATIONSHIP TO CHILD
TELEPHONE NUMBER	
CARETAKER'S ADDRESS	CITY AND STATE
ZIP CODE	
CHILD'S CASEWORKER / SOCIAL WORKER (IF APPLICABLE)	TELEPHONE NUMBER
ADDRESS	CITY AND STATE
ZIP CODE	

Were you the primary caretaker for this child before you were incarcerated?  YES  NO

Is the above child a dependent of the Juvenile Court?  YES  NO

If yes, provide date of action: \_\_\_\_\_ Court: \_\_\_\_\_

CHILD'S NAME	CHILD'S DATE OF BIRTH
CHILD'S CARETAKER	RELATIONSHIP TO CHILD
TELEPHONE NUMBER	
CARETAKER'S ADDRESS	CITY AND STATE
ZIP CODE	
CHILD'S CASEWORKER / SOCIAL WORKER (IF APPLICABLE)	TELEPHONE NUMBER
ADDRESS	CITY AND STATE
ZIP CODE	

Were you the primary caretaker for this child before you were incarcerated?  YES  NO

Is the above child a dependent of the Juvenile Court?  YES  NO

If yes, provide date of action: \_\_\_\_\_ Court: \_\_\_\_\_

Provide information about your other children in the spaces below.

NAME	AGE	CARETAKER	ADDRESS	TELEPHONE NUMBER

If admitted to the Community Participant Mother Program (CPMP), I understand that I remain under the legal custody of the California Department of Corrections and Rehabilitation (CDCR), and must comply with the policies, procedures, and rules of the CPMP center. I understand that the County Children's Services Department will be notified of my application and that they have the right to challenge my application.

I understand that my child's present caretaker will be notified of my application and that they have the right to challenge my application. I understand that if my child is under a guardianship, I am responsible for obtaining a notarized declaration from the guardian that the guardianship will be terminated.

**I certify that I have given true and complete information throughout this application.**

INMATE'S SIGNATURE	DATE SIGNED	PROGRAM LOCATION PREFERENCE	OR <input type="checkbox"/> STATEWIDE
CORRECTIONAL COUNSELOR'S SIGNATURE	NAME (PRINT OR TYPE)	INSTITUTION	DATE SIGNED

# ADOPT

**COMMUNITY PARTICIPANT MOTHER PROGRAM - NOTICE TO  
CHILD'S CARETAKER/GUARDIAN  
CDCR 415-A (Rev. 07/23)**

Today's Date:

TO:

Regarding:

INMATE-MOTHER'S NAME	CDCR NUMBER
CHILD'S NAME	DATE OF BIRTH
CHILD'S NAME	DATE OF BIRTH

Dear Guardian or Caretaker:

The inmate-mother identified above has applied for placement with their child(ren) in the California Department of Corrections and Rehabilitation's (CDCR) Community Participant Mother Program (CPMP). If the inmate-mother is qualified, they may be permitted to live in a supervised community center away from the prison setting with their child(ren) under the age of six. The mother would be responsible for their child(ren) at all times and provide for the child(ren)'s care inside and outside of the center.

You have **FIVE DAYS** from the date of this notice to decide whether or not to challenge the appropriateness of the inmate-mother's entry into the CPMP. If it is your intention to file a petition of fitness proceeding against the mother (PC section 3420), please notify the CDCR at the address provided below within FIVE DAYS from the date of this notice. Lack of a petition filed shall result in a presumption that you do not challenge the appropriateness of their entry into the CPMP. A completed form CDCR 415-H, Authorization and Release is attached.

**If you are the child(ren)'s legal guardian, a written declaration is required stating that the guardianship will be terminated. Guardianship must be terminated by the court prior to the mother's transfer to CPMP.**

Please complete page 2 of this form and return to the Institutional Community Beds Coordinator identified below. If you have any questions, please contact the staff identified below between the hours of 8:00 AM and 4:00 PM, Monday through Friday.

**ATTACHMENTS:** CDCR 415-H

Name of Institution: Address: City/State/Zip: Attention: _____ Community Beds Coordinator Telephone Number:
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# ADOPT

**COMMUNITY PARTICIPANT MOTHER PROGRAM - NOTICE TO  
CHILD'S CARETAKER/GUARDIAN  
CDCR 415-A (Rev. 07/23)**

This form is to be completed for cases where the child(ren) is with a guardian or caretaker. Form must be mailed to guardian/caretaker, and be included in the CPMP application package.

**INMATE'S NAME:**

**CDCR NUMBER:**

I understand that the above named inmate has applied for placement into the CPMP with the child(ren) listed below. The above named inmate is the mother of the child(ren) listed below, of which I have been granted guardianship by the court, or I am the recognized caretaker.

If the mother is accepted into the program, I agree to cooperate with the mother in the transportation arrangements of her child(ren) into the program.

	CHILD'S NAME	AGE	RELATIONSHIP TO CHILD
1.			(Circle One) GUARDIAN / CARETAKER
2.			(Circle One) GUARDIAN / CARETAKER

**IF YOU DESIRE ADDITIONAL INFORMATION REGARDING THE CPMP, PLEASE CONTACT THE COMMUNITY BEDS COORDINATOR LISTED ON PAGE 1 OF THIS FORM.**

NAME (PLEASE PRINT LEGIBLY)	RELATIONSHIP TO MOTHER
ADDRESS (STREET ADDRESS, CITY, STATE AND ZIP CODE)	
HOME TELEPHONE NUMBER	WORK TELEPHONE NUMBER
SIGNATURE OF CARETAKER OR LEGAL GUARDIAN	DATE

## COMMUNITY PARTICIPANT MOTHER PROGRAM - NOTICE TO COUNTY CHILDREN'S SERVICES CDCR 415-B (Rev. 07/23)

Today's Date:

TO:

Regarding:

INMATE-MOTHER'S NAME	CDCR NUMBER
SOCIAL SECURITY NUMBER	DATE OF BIRTH
CHILD'S NAME	DATE OF BIRTH
CASE NUMBER / FILE NUMBER	
CHILD'S NAME	DATE OF BIRTH
CASE NUMBER / FILE NUMBER	

This is to serve notice that pursuant to section 3410 et.seq. of the California Penal Code (PC), the above identified inmate-mother has applied for placement with their child(ren) in the California Department of Corrections and Rehabilitation's (CDCR) Community Participant Mother Program (CPMP). The CPMP would enable the mother, if qualified, to live with their child(ren) under the age of six in a public or privately supervised center away from the prison setting.

You have **FIVE DAYS** from the date of this notice to decide whether or not to challenge the appropriateness of the inmate-mother's entry into the CPMP. If it is your intention to file a petition of fitness proceeding against the inmate-mother (PC section 3420), please notify the CDCR at the address provided below within FIVE DAYS from the date of this notice. Lack of a petition filed shall result in a presumption that your Agency does not challenge the appropriateness of their entry into the CPMP. A completed form CDCR 415-H, Authorization and Release is attached.

The determination of whether or not to file shall be based, in part, on the likelihood of the inmate-mother being a fit parent for the child(ren) in question, both during the CPMP and afterwards. (PC section 3420). An inmate-mother shall not be denied the opportunity to participate in the CPMP based in whole or in part on a determination that they are an unfit mother unless that decision is made pursuant to section 232 of the Civil Code, section 2625, or section 300 of the Welfare and Institutions Code (PC section 3417).

If you have any questions, please contact the Community Beds Coordinator identified below between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

**ATTACHMENT:** CDCR 415-H

<p>Name of Institution:</p> <p>Address:</p> <p>City/State/Zip:</p> <p>Attention: _____</p> <p style="text-align: center;">Community Beds Coordinator</p> <p>Telephone Number:</p>
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# ADOPT

## COMMUNITY PARTICIPANT MOTHER PROGRAM - ASSESSMENT OF APPLICATION

CDCR 415-C (Rev. 07/23)

INSTRUCTIONS: It is not within the scope of a Correctional Counselor I's duties to decide whether an inmate may participate in the Community Participant Mother Program (CPMP). However, the Correctional Counselor I is responsible for providing relevant information to assist the Community Beds Coordinator in determining an inmate's eligibility.

CDCR NUMBER	INMATE'S NAME	DATE INMATE RECEIVED BY CDCR	RELEASE DATE
COUNTY OF LAST LEGAL RESIDENCE		COMMITMENT OFFENSE(S)	
CHILD'S NAME	DATE OF BIRTH	CHILD'S NAME	DATE OF BIRTH

YES  NO DOES THE CENTRAL FILE INDICATE THE INMATE WAS THE CHILD'S OR CHILDREN'S PRIMARY CARETAKER?

YES  NO HAS THE INMATE BEEN FOUND TO BE AN UNFIT PARENT IN ANY COURT PROCEEDINGS?  
*If yes, explain below.*

### LIST ARREST HISTORY

### LIST PRIOR COMMITMENT OFFENSE(S)

### LIST ENHANCEMENTS

### DESCRIBE DISCIPLINARY HISTORY

YES  NO DOES THE INMATE REQUIRE SPECIAL HOUSING? *If yes, explain below.*

YES  NO DOES THE INMATE POSE AN UNREASONABLE RISK AS DESCRIBED IN PENAL CODE SECTION 3417(b) TO THEMSELF, THEIR CHILD, OR TO THE PUBLIC? *If yes, explain below.*

CORRECTIONAL COUNSELOR'S NAME (Print/Type)	CORRECTIONAL COUNSELOR'S SIGNATURE	DATE	INSTITUTION
--------------------------------------------	------------------------------------	------	-------------

**COMMUNITY PARTICIPANT MOTHER PROGRAM - NOTIFICATION**

CDCR 415-D (Rev. 07/23)

## NOTICE TO INMATE-MOTHERS

The Community Participant Mother Program (CPMP) gives you a chance to live with up to two of your young children in a supervised community facility outside of the prison setting.

If admitted to this program, you will remain under the supervision and custody of the California Department of Corrections and Rehabilitation in an outside facility within the community while you serve your prison sentence.

### YOU MAY BE ELIGIBLE FOR THIS PROGRAM IF:

- You are pregnant or have children under six years of age.
- You were the child(ren)'s primary caretaker before you were incarcerated and/or had prior legal custody prior to incarceration. *This means you consistently assumed responsibility for the housing, health, and safety of your child(ren) prior to incarceration. You will not be excluded if, as a primary caretaker you arranged temporary care for your child in the home of a relative or licensed foster care.*
- Your child(ren)'s guardian, if under a guardianship, provides a declaration that the guardianship will be terminated. Guardianship must be terminated prior to your transfer to CPMP.
- Pursuant to Penal Code section 3417, the applicant has not been found to be an unfit parent in any court proceeding.
- Your maximum remaining sentence is less than six years at the time of your application and you have more than 90 days to parole or release after reduction of credits at the time of transfer to CPMP.

Please see your assigned correctional counselor for additional eligibility criteria and application.

**APPLICATIONS** are available through your assigned Correctional Counselor I, the Institutional Community Beds Coordinator, the Law Library, the Inmate Advisory Council (IAC) and Reception Center. If you need any assistance with completing your application or understanding the eligibility requirements, staff will assist you.

**NOTE:**

The current guardian or caretaker of your child(ren) and the Children's Services Department in your last county of legal residence will be notified of your application.

Your child(ren)'s current guardian and/or caretaker, the Children's Services Department and the California Department of Corrections and Rehabilitation have the right to challenge your application.



# ADOPT

## COMMUNITY PARTICIPANT MOTHER PROGRAM - RECOMMENDATION TO BOARD OF PAROLE HEARINGS FOR RETAIN/RETURN

CDCR 415-E (Rev. 07/23)

TO: BOARD OF PAROLE HEARINGS	FROM: DIVISION OF REHABILITATIVE PROGRAMS (DRP) - WOMEN AND CHILDREN SERVICES UNIT (WCSU)	TODAY'S DATE:
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Pursuant to section 3421 of the Penal Code, the following information and recommendation are submitted for your consideration and decision. The subject child has reached six years of age and must be approved by the Board of Parole Hearings (BPH) in order to continue in the Community Participant Mother Program (CPMP).

The following information is provided to assist you in reaching a decision. Please contact the staff listed below if you require additional information.

INFORMATION		
PARTICIPANT-MOTHER'S NAME:	CDCR NUMBER:	DATE OF PROGRAM ADMISSION:
EARLIEST POSSIBLE RELEASE DATE:	COMMITMENT OFFENSE:	
CHILD'S NAME:	CHILD'S AGE:	
CHILD'S NAME:	CHILD'S AGE:	

PROGRAM PARTICIPATION INFORMATION		
DISCIPLINARY ACTIONS WHILE IN PROGRAM: <i>Attach sheet if additional space is needed</i>		
DATE:	CHARGE:	DISPOSITION:

SPECIFIC PROGRAMS/ACTIVITIES AND DESCRIPTION OF SUCCESS OR FAILURE:

### RECOMMENDATION OF THE DEPARTMENT OF CORRECTIONS AND REHABILITATION

- RETAIN IN PROGRAM       RETURN TO CDCR INSTITUTION       OTHER

COMMENTS:

SUBMITTED BY: (Signature of CDCR staff)	PRINTED NAME:	DATE SIGNED:
APPROVED BY: (Signature of WCSU Administrator)	TELEPHONE NUMBER:	DATE SIGNED:

**COMMUNITY PARTICIPANT MOTHER PROGRAM -  
DETERMINATION OF ELIGIBILITY**  
CDCR 415-F (Rev. 07/23)

CDCR NUMBER	INMATE'S NAME		INSTITUTION	RELEASE DATE
CHILD'S LEGAL NAME	DATE OF BIRTH	SEX	APPROVED/ DISAPPROVED	

**APPROVED.** The above identified inmate's application and case factors have been reviewed and they have been found to be eligible for placement in the Community Participant Mother Program (CPMP). The inmate must be medically cleared and approved for CPMP participation by the institution's medical and/or mental health staff and Classification Staff Representative (CSR) prior to transfer.

Please note that participation in the CPMP is based on the availability of bed space. If approved and endorsed by the CSR, the inmate will be transferred to CPMP at the earliest possible date. If there is no bed available at CPMP, The inmate's name will be place on the Statewide Waiting List pending bed availability at CPMP.

**DENIED.** The above identified inmate's application to participate in the CPMP has been reviewed and the inmate applicant has been found ineligible for the following reason(s):

Inmates not approved for CPMP may submit a grievance/appeal in accordance with the California Code of Regulations Title 15, sections 3480-3487.

CASE SCREENING COORDINATOR PRINTED NAME	CASE SCREENING COORDINATOR SIGNATURE	DATE SIGNED
RECEIVED BY (INMATE'S SIGNATURE)		DATE SIGNED
CORRECTIONAL COUNSELOR PRINTED NAME	CORRECTIONAL COUNSELOR SIGNATURE	DATE SIGNED

**COMMUNITY PARTICIPANT MOTHER PROGRAM -  
AUTHORIZATION AND RELEASE**  
CDCR 415-H (Rev. 07/23)

**AUTHORIZATION AND RELEASE**

I, \_\_\_\_\_, CDCR Number: \_\_\_\_\_  
give my consent to the California Department of Corrections and Rehabilitation (CDCR) to obtain from any organization, including County Children's Services, or individual, including your child(ren)'s current caretaker or guardian, information necessary to determine my fitness and suitability for supervision in the Community Participant Mother Program (CPMP).

I hereby release the above mentioned persons, corporations, associations, organizations, and their employees, agents, representatives, managers, and officers thereof from any and all liability and damages which may result due to their compliance or attempts to comply with this release.

INMATE'S SIGNATURE	PRINT NAME	CDCR NUMBER	DATE
INSTITUTION NAME			
ADDRESS			
CITY / STATE / ZIP CODE			
WITNESSED BY (SIGNATURE OF CORRECTIONAL COUNSELOR)	COUNSELOR'S PRINTED NAME	DATE	

# ADOPT

**COMMUNITY PARTICIPANT MOTHER PROGRAM -  
CHILD RELEASE AUTHORIZATION**  
CDCR 415-J (Rev. 07/23)

In the event I elect to leave the program or am terminated from the Community Participant Mother Program (CPMP) facility, I authorize release of my child(ren) to the individual listed below. If this individual is unavailable or unable to pick up the child(ren) within 24 hours after termination of my stay at the CPMP facility, my child(ren) will be turned over to Child Protective Services. The individual listed is aware of my request and has agreed to accept placement of my child(ren) should circumstances require it.

I, \_\_\_\_\_, CDCR # \_\_\_\_\_ authorize the CPMP Center identified above to release my child(ren) named, \_\_\_\_\_ to \_\_\_\_\_ if I elect to leave the program or am terminated from the Community Participant Mother Program.

\_\_\_\_\_  
PARTICIPANT'S SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
WITNESS' SIGNATURE

\_\_\_\_\_  
DATE

I agree to accept placement in my home of the above named child(ren) should their mother elect to leave the program or be terminated from the Community Participant Mother Program.

NAME (PLEASE PRINT LEGIBLY)	RELATIONSHIP TO CHILD(REN)'S MOTHER
ADDRESS (STREET ADDRESS, CITY, STATE, AND ZIP CODE)	
HOME TELEPHONE NUMBER	WORK TELEPHONE NUMBER
SIGNATURE	DATE

**COMMUNITY PARTICIPANT MOTHER PROGRAM -  
PARTICIPANT PLACEMENT AGREEMENT  
CDCR 415-L (07/23)**

**PARTICIPANT NAME:****CDCR NUMBER:****DATE:**

I understand the following document includes, but is not limited to, rules for participation in the Community Participant Mother Program (CPMP).

1. I am voluntarily choosing to enter CPMP.
2. I understand that as a CPMP participant I will still be under the custody of the Department of Corrections and Rehabilitation (CDCR).
3. I understand that CPMP is a structured program involving substance abuse treatment, personal responsibility, parenting skills training, and other services for women and children.
4. I cannot possess any narcotics, paraphernalia, weapons, alcohol, or controlled substances of any type. This includes prescribed medications which would be administered by staff.
5. I understand that sexual activity on facility grounds is prohibited.
6. No violence is allowed. Acts of violence against another participant, staff, or child(ren), including corporal punishment to a child, is prohibited.
7. I understand that verbal threats to another participant, staff, or child(ren) are prohibited.
8. I understand no gambling, betting or lottery activities are allowed.
9. I must conduct myself in a courteous and respectful manner. I will not use profanity.
10. I will be able to wear civilian clothing and must dress appropriately, as per facility dress code rules.
11. I will be searched upon entering and exiting the facility.
12. I must follow all staff orders and instructions.
13. I must submit to a random urinalysis (UA) when instructed to do so.
14. I understand all job assignments and chores will be issued by staff and I must complete all assignments efficiently and in a timely manner.
15. I understand no smoking is allowed. Any tobacco related products are considered contraband.
16. I understand my room and personal belongings are subject to search by staff at any time.
17. I must leave all bedroom doors open, except when child(ren) are sleeping or I am dressing.
18. I understand all windows in the dorm rooms are to remain closed, the windows may only be opened by a staff member.
19. I am not allowed in any other participant dorm rooms at any time, unless directed by a staff member to do so.
20. I am prohibited from borrowing or loaning anything to another CPMP participant including money and personal belongings.
21. I understand my mail is subject to search, both incoming and outgoing.
22. I must participate in all planned activities, treatment plans, groups and classes, unless excused by staff in writing. I must report to all groups and activities on time.
23. I understand all passes and leaves must have prior CDCR approval in advance. I may not deviate from any approved itinerary, including pass times or destination. I cannot meet with or have any contact with the general public. While on passes, I must follow facility rules regarding check-ins. In case of any emergency, I must call and speak to a staff member on duty and follow all instructions given.
24. I am allowed to use the facility telephones at the designated times only.
25. I am responsible for cleaning up after myself and my child(ren) in all common living areas. I must make my bed daily.
26. I must clean up after my child(ren) at all times.
27. I understand children under my care must be closely supervised and within reach while under my care at all times.
28. I understand my child(ren) must be bathed daily before the evening bedtime unless otherwise specified by a doctor.

29. I am responsible for the health of my child(ren) and myself. I must keep all health appointments made for my child(ren) and report any health concerns to staff immediately.
30. I must adhere to the rules of the onsite laundry room.
31. I may not trespass into any out-of-bounds areas without staff permission.
32. I understand that tablets and/or personal televisions are not allowed at the CPMP facility.
33. I must comply with all policies regarding visitors while on the premises.
34. I must obey all policies regarding the use of Aid to Families with Dependent Children and Food Stamp Benefits.
35. I understand that I am responsible for costs related to my child(ren), which will not exceed forty percent (40%) of the county's Temporary Assistance for Needy Families (TANF) payment standard. I understand that government benefits, such as TANF, food stamps, Supplemental Security Income, or personal funds may be directed to the program to satisfy the support costs.
36. I must obey all facility rules stipulated by the program staff.
37. I may appeal department rules, regulations, and policies per the grievance and appeal procedures as set forth in the California Code of Regulations Title 15, sections 3480-3487.
38. I understand my personal property will be inventoried and any item that exceeds \$300.00 in value will be mailed out of the facility at my expense.

I have had the opportunity to ask questions regarding the CPMP. After reading the above regulations, I have willingly decided to request placement in this program instead of serving the remainder of my prison sentence in a California State Prison facility. I understand that signing this document indicates my willingness to voluntarily participate in the CPMP program, which is a residential treatment program for participant-mothers and their child(ren).

I further understand that by signing this document, I am not guaranteed placement in the program. I understand that placement in the program is contingent upon available bed space, a review of my case factors, and the criteria outlined in the CPMP application screening worksheet (CDCR 415-K).

I understand that I must comply with all the above rules . **I understand that CDCR may return me to custody if at anytime I am deemed no longer suitable for placement. I understand that failure to comply with any rule will lead to progressive disciplinary action, up to and including transfer to state prison to serve the remainder of my sentence. I understand that if I leave the CPMP without staff permission, I will be considered as an escapee and could face criminal charges and an additional state prison sentence.**

PARTICIPANT SIGNATURE	CDCR NUMBER	DATE
CDCR STAFF SIGNATURE	CDCR STAFF NAME (PRINT)	DATE
PARTICIPANT SIGNATURE (AFTER ARRIVAL AT CPMP)	CDCR NUMBER	DATE
CPMP STAFF SIGNATURE (AFTER ARRIVAL AT CPMP)	CPMP STAFF NAME (PRINT)	DATE

**FEMALE COMMUNITY REENTRY PROGRAM APPLICATION AND  
VOLUNTARY AGREEMENT  
CDCR 2234-FCRP (10/23)**

The Female Community Reentry Program (FCRP) is a voluntary program that promotes parenting, family reunification, and the development of life skills while addressing treatment needs. The FCRP allows eligible female inmates to be housed in a transitional reentry program in lieu of serving time in prison. Participants must live in a FCRP facility while receiving rehabilitative programs and substance abuse treatment services. I understand placement into the FCRP is based upon meeting specific eligibility criteria and the California Department of Corrections and Rehabilitation has the authority for final placement approval based on bed availability and other factors. While participating in the FCRP, I will be subject to applicable rules and regulations governing inmates pursuant to the California Code of Regulations (CCR), Title 15, Division 3. I understand I may be removed from the FCRP and returned to prison to serve the remainder of my original sentence for any reason, with or without cause.

**I. TO BE COMPLETED BY INMATE** I have private medical insurance.**OR** I agree to apply for any county, state or federal medical coverage for which I may qualify.

I understand that my signature on this document indicates my willingness to voluntarily participate in the FCRP. I am aware that wearing and maintaining an electronic monitoring device is a condition of my placement in the FCRP.

CDCR NUMBER	INMATE NAME (PRINT)	INMATE SIGNATURE	DATE SIGNED	HOUSING UNIT
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**II. FOR USE BY INSTITUTION COUNSELING STAFF**

Does the participant have a qualifying disability requiring effective communication?  Yes  No

If yes, cite the source document and/or observation(s): \_\_\_\_\_

What type of accommodation/assistance was provided to achieve effective communication to the best of the inmate's ability?

COUNTY OF LAST LEGAL RESIDENCE	COUNTY OF COMMITMENT	INSTITUTION	EARLIEST POSSIBLE RELEASE DATE
ELIGIBILITY <input type="checkbox"/> REFER FOR SCREENING <input type="checkbox"/> INELIGIBLE	REASON, IF INELIGIBLE		
CORRECTIONAL COUNSELOR NAME (PRINT)	CORRECTIONAL COUNSELOR SIGNATURE	DATE SIGNED	

**III. FOR USE BY DIVISION OF ADULT PAROLE OPERATIONS STAFF**

REGION <input type="checkbox"/> NORTHERN <input type="checkbox"/> SOUTHERN	PAROLE UNIT	INVESTIGATING PAROLE AGENT'S NAME	DATE SIGNED
PROPOSED RESIDENCE MEETS CRITERIA <input type="checkbox"/> YES <input type="checkbox"/> NO	COMMENTS		DUE DATE
PAROLE AGENT'S NAME (PRINT)	PAROLE AGENT'S SIGNATURE	DATE SIGNED	
<input type="checkbox"/> <b>I CONCUR WITH THE PAROLE AGENT'S RECOMMENDATION.</b>			
UNIT SUPERVISOR'S NAME (PRINT)	UNIT SUPERVISOR'S SIGNATURE	DATE SIGNED	

# ADOPT

## MALE COMMUNITY REENTRY PROGRAM APPLICATION AND VOLUNTARY AGREEMENT

CDCR 2234-MCRP (Rev. 07/23)

The Male Community Reentry Program (MCRP) is a voluntary program that promotes parenting, family reunification, and the development of life skills while addressing the inmate's treatment needs. The MCRP allows eligible inmates to be housed in a transitional reentry treatment program instead of serving time in prison. The MCRP requires the inmate be housed at the MCRP facility. *I understand placement into the MCRP is based upon meeting specific eligibility criteria and the California Department of Corrections and Rehabilitation has the authority for final placement approval based on bed availability and other factors. While participating in the MCRP, I will be subject to applicable rules and regulations governing inmates pursuant to the California Code of Regulations (CCR), Title 15, Division 3. I understand I may be removed from the MCRP and returned to prison to serve the remainder of my original sentence for any reason, with or without cause.*

### I. TO BE COMPLETED BY INMATE

**SELECT ONE** I have private medical insurance.**OR**  I agree to apply for any County, State, or Federal medical coverage for which I may qualify.**I am requesting MCRP placement and to reside at the following MCRP facility:**

NAME OF MCRP PROGRAM/FACILITY

STREET ADDRESS

CITY, ZIP CODE

COUNTY

**I understand that my signature on this document indicates my willingness to voluntarily participate in the MCRP. I am aware that wearing and maintaining an electronic monitoring device is a condition of placement.**

 I voluntarily accept to participate in the MCRP. I decline to participate in the MCRP.

CDCR NUMBER	INMATE NAME (PRINT)	INMATE SIGNATURE	DATE SIGNED	HOUSING UNIT

### II. FOR INSTITUTION COUNSELING STAFF USE ONLY

Does the participant have a qualifying disability requiring effective communication?  YES  NO

If yes, cite the source document and/or observation(s):

What type of accommodation/assistance was provided to achieve effective communication to the best of the inmate's ability? (specify):

COUNTY OF LAST LEGAL RESIDENCE	COUNTY OF COMMITMENT	INSTITUTION	EARLIEST POSSIBLE RELEASE DATE

MCRP ELIGIBILITY	REASON, IF INELIGIBLE
<input type="checkbox"/> INMATE ELIGIBLE <input type="checkbox"/> INMATE INELIGIBLE	

CORRECTIONAL COUNSELOR NAME (PRINT)	CORRECTIONAL COUNSELOR SIGNATURE	DATE SIGNED	PHONE NUMBER

### III. FOR PAROLE UNIT USE ONLY

REGION	PAROLE UNIT	ASSIGNED PAROLE AGENT	DATE ASSIGNED
<input type="checkbox"/> NORTHERN <input type="checkbox"/> SOUTHERN			

COMMENTS

PAROLE AGENT NAME (PRINT)	PAROLE AGENT SIGNATURE	DATE SIGNED



## **FINAL STATEMENT OF REASONS**

The Initial Statement of Reasons (ISOR) is incorporated by reference.

### **UPDATES TO THE INITIAL STATEMENT OF REASONS:**

On February 16, 2024, the California Department of Corrections and Rehabilitation (CDCR or the department) published the Notice of Change to Regulations for Community Based Reentry Programs, which began the public comment period. The department's Notice of Change to Regulations #24-02 was mailed the same day to individuals who had requested to be on the department's mailing list for regulation changes, was posted on the department's website, and copies were posted in CDCR institutions. Thirty written public comments were received during the public comment period. The comments are summarized and responded to below under the heading *Summaries and Responses to Written Public Comments Received During the Initial Comment Period*. A public hearing was held on April 3, 2024; there were thirteen attendees, and seven stated comments.

There was a clerical error made within the notice mailed out in the section titled "Evaluation of Inconsistency/Incompatibility with Existing Laws and Regulations." The second sentence stated, "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 the housing of condemned inmates." The sentence was changed to the following, "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 community-based reentry programs." The notice published to the department's website on February 16, 2024, included the correction which replaced "the housing of condemned inmate" with "community-based reentry programs."

After the 45-day public comment period, there were non-substantive changes made to section 3078.4. The term "Treatment and Rehabilitation Plan" was renamed to "Reintegration Plan", "institution staff" was replaced with "staff," "inmate" to "participant," and "central file" to "file." These changes do not change the purpose or meaning of the proposed regulations. The revision date for CDCR Form 2235 (Rev. 10/23) Female Community Reentry Program Screening, was corrected in the text. It was originally noticed in the text with a 7/23 revision date, but corrected to match the form that was noticed which had a 10/23 revision date. A typographical error was corrected in CDCR Form 415-K (07/23) and amended to align with the text. A typographical error was corrected in the section 3078.3(d)(1), to correct the reference citation to VIO which is 3375.2(b)(28) instead of 3375.2(b)(29). The acronym "MCRP" was added after the CDCR form number for CDCR Form 2226 (Rev. 10/23), Male Community Reentry Program Eligibility, and CDCR Form 2235 (Rev. 10/23), Female Community Reentry Program Screening, was renumbered to 2226-FCRP. These changes were made for consistency and clarity between the two forms, additionally references to the forms were updated within the affected sections. CDCR Form 415-D Community Participant Mother Program – Notification (Rev. 07/23) was amended to include a Non-sub change due to statute 232 of the Civil Code, and 2624 of the Welfare and Institution Code being repealed, and being replaced with authorizing Penal Code section 3417. Minor non substantive corrections to illustrate changes with strikethrough and underline were incorporated.

It was necessary that the department set a limit of two children for the Community Participant Mother Program due to the physical limitations of the building and available staffing. The building occupancy is set by the State Fire Marshal, and the program provides services such as childcare while participants are employed offsite. A reasonable limit had to be set to ensure compliance with appropriate legal requirements and provide equitable access to as many participants as possible.

### **DETERMINATIONS, ASSESSMENTS, MANDATES, AND FISCAL IMPACT:**

The department has determined that no alternative considered would be more effective in carrying out the purpose for which this regulation is proposed or 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 provision of law than the action proposed. No such alternatives were proposed or brought to the department's attention during the adoption of this rulemaking action.

The department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the department's initial determination.

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

The department has determined that no reasonable alternatives to the regulation have been identified or brought to the attention of the department that would lessen any adverse impact on affected private persons or small businesses than the action planned.

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

The department has relied upon the results of the Economic Impact Assessment, which can be found in the Notice of Proposed Regulations and is available for review as part of the rulemaking file.

It would be unduly cumbersome, expensive, and impractical to publish, CDCR Form 2226-MCRP (Rev. 10/23) Male Community Reentry Program Eligibility, CDCR Form 2234-MCRP (Rev. 07/23) Male Community Reentry Program Application and Voluntary Agreement, CDCR Form 2226-FCRP (Rev. 10/23) Female Community Reentry Program Screening, CDCR Form 2235 (Rev. 07-23) ACP Screening, CDCR Form 2234-FCRP (Rev. 10/23) Female Community Reentry Program Application and Voluntary Agreement, CDCR Form 415 (Rev. 07/23) Community Participant Mother Program – Application, CDCR Form 415-A (Rev. 07/23) Community Participant Mother Program – Notice to Child's Caretaker/Guardian, CDCR Form 415-B (Rev. 07/23) Community Participant Mother Program – Notice to County Children's Services, CDCR Form 415-C (Rev. 07/23) Community Participant Mother Program – Assessment of Application, CDCR Form 415-D (Rev. 07/23) Community Participant Mother Program – Notification, CDCR Form 415-E (Rev. 07/23) Community Participant Mother Program – Recommendation to Board of Parole Hearings for Retain/Return, CDCR Form 415-F (Rev. 07/23) Community

Participant Mother Program – Determination of Eligibility, CDCR Form 415-H (Rev. 07/23) Community Participant Mother Program – Authorization and Release, CDCR Form 415-J (Rev. 07/23) Community Participant Mother Program – Child Release Authorization, CDCR Form 415-K (07/23) Community Participant Mother Program – Application Screening Worksheet, CDCR Form 415-L (07/23) Community Participant Mother Program – Inmate Placement Agreement and CDC Form 128-B (04/74) General Chrono, in the CCR, therefore the department is incorporating the documents by reference. The documents were made available upon request directly from the agency or were reasonably available to the affected public from a commonly known or specified source.

## **SUMMARIES AND RESPONSES TO WRITTEN PUBLIC COMMENTS RECEIVED DURING THE INITIAL COMMENT PERIOD:**

### **Commenter #1**

**Comment 1:** CDCR has a history of excluding inmates from level I facilities, outside perimeter assignment, camp assignment, Male Community Reentry Program (MCRP) and Alternative Custody Program (ACP). Under the California model this prohibitive process no longer serves any penal interest. Inmates convicted of sex crimes are more likely to be victims of violence in prison and do not receive treatments for their underlying sexual offences, due to institutional security concerns. Their demonstrated ability to follow institutional rule are dismissed with prejudice. Expanding eligibility to inmates convicted of sex crimes will allow them to participate in community treatment early on, rather than wasting taxpayers' money doing nothing while in prison. ACP and MCRP will allow sex offenders extended, enhanced monitoring during community living; promotes successful reentry, and allows for more accurate mental health evaluations and risk assessments. Extending eligibility to sex offenders will have a positive impact on public safety and provide more treatment to sex offenders earlier prior to their release.

**Response 1:** Penal Code 1170.05(d)(3) excludes any incarcerated person who “...has a current or prior conviction for an offense that requires the person to register as a sex offender as provided in Chapter 5.5 (commencing with Section 290) of Title 8 of Part 1” from participating in ACP. Penal Code 6258.1 lists conditions that must be met for MCRP/FCRP eligibility, including subsection (b): “The inmate does not have a current or prior conviction for an offense that requires the person to register as a sex offender as provided in Chapter 5.5 (commencing with Section 290) of Title 8 of Part 1.” Sex offenders are specifically excluded from community-based programs by law.

### **Commenter #2**

**Comment 2:** The proposed revision for subsection 3078.2(b) will restrict ACP participants to those who have successfully completed other Enhanced Alternative Custody Program (EACP) and eliminate the ability for inmates to be released to ACP from prisons and camps. ACP is a program that was established by the California legislature for the inmates in a state prison to be given the opportunity to participate in an early release program in the community. These proposed changes will eliminate that program in practice. While

an evaluation of the risks and benefits of ACP and its continued existence may be of value to the public, quietly eliminating the program through changes in regulations is not. Commenter questions the departments authority to amend regulations regarding ACP because, the program was established through the legislature, and its elimination should be enacted through law as well.

**Response 2:** Penal Code 1170.05 grants authority to the Secretary of CDCR to offer an alternative custody program. Penal Code does not require the Secretary to establish ACP, using the permissive language: *“The Secretary of the Department of Corrections and Rehabilitation may offer a program under which inmates, as specified in subdivision (c), who are not precluded by subdivision (d), and who have been committed to state prison may be allowed to participate in a voluntary alternative custody program as defined in subdivision (b) in lieu of their confinement in state prison.”* Additionally, Penal Code 1170.05(g) requires CDCR to *“...prescribe reasonable rules and regulations under which the alternative custody program shall operate.”* The Secretary has the discretion to operate, modify, or terminate the ACP without further legislative action. The proposed regulations do not eliminate ACP and are consistent with the requirements of PC1170.05. Pursuant to the regulations, placement in ACP will be limited to those inmates who have already proven their ability be safely housed in EACP. CDCR is using its authority under Penal Code 1170.05 to create this additional requirement for placement in ACP in furtherance of public safety, as described in the ISOR.

### **Commenter #3**

**Comment 3A:** The ACP was initially only available to female offenders in the CDCR. However, in 2015, a federal court found that excluding male offenders from the ACP violated the constitutional guarantee of equal protection, and the court ordered the CDCR to expand the program to allow male offenders to participate in the program (reference: *Sassman v. Brown* (E.D. Cal. 2015) 99 F.Supp.3d 1223.). The recent proposed change to regulations is set to affect the number of male offenders who can participate in the ACP by enacting the EACP, which will eliminate eligible male offenders in state prisons and fire camps from applying to the program.

**Response 3A:** The proposed regulations do not exclude male incarcerated persons from participation in ACP. The required participation in an “EACP” program prior to ACP application includes the MCRP, FCRP, and CPMP (proposed section 3000). The proposed regulations allow male incarcerated persons who meet eligibility requirements to participate in ACP.

**Comment 3B:** Commenter explains their experience and success with eligible ACP applicants who are MCRP participants and provides statistical data for MCRP Kern participation and states “In the past six years, the percentage of MCRP placements in the ACP program for the central region has been significantly low. What could be highly considered are changes to the current program. For instance, the ACP could benefit from funding for male offenders who request placement in a rehabilitative program for at least their first month in the program. Some funding will give them time to begin working to

afford their monthly payment in the program. Offering some funding for placement programs that are not free of cost will allow them to have more options across the state when it comes to finding a program that will assist them in their rehabilitative efforts. Additionally, the program could also benefit from a comprehensive program evaluation that will identify strengths and weaknesses so that changes to the program could be justified for the best interest of the program and program participants/applicants.”

**Response 3B:** The commenter’s suggestion does not address the regulatory text. CDCR takes into consideration commenter’s funding request; however, will proceed with the proposed text as delineated in NCR-24-02.

#### **Commenter #4**

**Comment 4:** Commenter on behalf of Immigrant Rights and Education Network (SIREN) provides their location, the organization’s values, and states that; “CDCR’s proposed regulations do not go far enough to uphold these values, nor do they address the serious concerns our communities and I have with CDCR’s practices and policies” and “urge immediate action to address the systemic discrimination perpetuated by CDCR.”

To end state prison staff’s repeated practice of detaining Californians beyond their release date to provide ICE with more time to pick them up.

**Response 4:** The comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, Section 11346.9(a)(3).

This rulemaking action is proposing changes to CDCR’s eligibility and exclusionary criteria for participation in Community Based Reentry Programs. The proposed regulations are not discriminatory. CDCR is a state agency, and must comply with the law, including Penal Code section 5025.

#### **Commenter #5**

**Comment 5:** Commenter has colleagues and loved ones impacted by CDCR policies and practices and has the following concerns regarding ICE sections of the proposed regulations:

- To end CDCR’s collusion with ICE, including voluntarily referring people to ICE or transferring Californians who have completed their sentences to ICE detention.
- To address how California’s largest public agency uses public resources to operate a system of double punishment.
- To stop CDCR staff from pursuing unjustified ICE transfers in spite of their own records, nor from flagging people for ICE based on racist assumptions about their names, the languages they speak, or where they were born.

- To end state prison staff's repeated practice of detaining Californians beyond their release date to provide ICE with more time to pick them up.
- To grant credits retroactively to people who should have received lower classification and/or been granted access to credit-earning programs since the implementation of the California Values Act in 2017.

**Response 5:** CDCR personnel do not determine whether an incarcerated person is a U.S. citizen. CDCR personnel do not determine whether an incarcerated person may be deportable. Instead, CDCR may place a detainer inquiry based on information in an incarcerated person's file showing foreign birth or based on an incarcerated person's self-reported information showing foreign birth or citizenship. When a potential inquiry is placed, CDCR submits a request to federal immigration officials to determine citizenship and deportation status. California Penal Code section 5025 requires CDCR to consider several sources from which an incarcerated person's place of birth can be discerned/noted by CDCR personnel, to identify incarcerated persons potentially subject to deportation and to refer those persons to ICE.

The comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, Section 11346.9(a)(3).

CDCR does not "pursue" ICE transfers, nor does CDCR flag people based on racist assumptions, their name, or the language they speak. Further, CDCR personnel do not determine whether an incarcerated person is a U.S. citizen. CDCR personnel do not determine whether an incarcerated person may be deportable. Instead, CDCR may place a detainer inquiry based on information in an incarcerated person's file showing foreign birth or based on an incarcerated person's self-reported information showing foreign birth or citizenship. When a potential inquiry is placed, CDCR submits a request to federal immigration officials to determine citizenship and deportation status. California Penal Code section 5025 requires CDCR to consider several sources from which an incarcerated person's place of birth can be discerned/noted by CDCR personnel, to identify incarcerated persons potentially subject to deportation and to refer those persons to ICE.

CDCR does not detain incarcerated persons beyond their release dates.

The commenter's statement to "grant credits retroactively" is outside the scope of the proposed regulations. This rulemaking action is proposing changes to CDCR's eligibility and exclusionary criteria for participation in Community Based Reentry Programs. If the commenter believes regulations regarding credit earning should be amended, the commenter may petition to adopt, amend, or repeal regulations pertaining to credit earning, per Government Code 11340.6.

## **Commenter #6**

**Comment 6:** Commenter on behalf of Human Impact Partners states “all people have a right to be healthy and safe here. I am concerned that CDCR’s proposed regulations do not go far enough to uphold these values. CA state prisons must stop pushing people who qualify for release into U.S. Immigration and Customs Enforcement (ICE) detention and deportation.”

**Response 6:** CDCR has numerous regulations that seek to provide incarcerated persons with a safe environment, however, the subject matter of the proposed regulations is Community Based Reentry Programs. CDCR personnel do not determine whether an incarcerated person is a U.S. citizen. CDCR personnel do not determine whether an incarcerated person may be deportable. Instead, CDCR may place a detainer inquiry based on information in an incarcerated person’s file showing foreign birth or based on an incarcerated person’s self-reported information showing foreign birth or citizenship. When a potential inquiry is placed, CDCR submits a request to federal immigration officials to determine citizenship and deportation status. California Penal Code section 5025 requires CDCR to consider several sources from which an incarcerated person’s place of birth can be discerned/noted by CDCR personnel, to identify incarcerated persons potentially subject to deportation and to refer those persons to ICE.

#### **Commenter #7**

**Comment 7A:** Commenter on behalf of Public Law Center (PLC), provides background information to the organization and commends CDCR for taking steps to prohibit the exclusion of individuals from accessing programming or services and custodial placement due to an ICE hold. However, “we remain deeply concerned that the proposed regulations do not sufficiently uphold California’s values of inclusivity, compassion, and justice. Additionally, these regulations overlook the genuine apprehensions expressed by the Orange County community regarding CDCR’s practices and policies, including fears of perpetuating family separation, exacerbating systemic discrimination, and misusing public resources at the expense of immigrant communities within Orange County.

California should prioritize keeping families together, in line with our state’s commitments to rehabilitation and homecoming. However, the proposed regulations fall short in this regard. They represent a sloppy and inadequate attempt to comply with the California Values Act (AB 54), which has been in effect for over six years. During this time, CDCR has continued to violate the Values Act, voluntarily facilitating the detention and deportation of thousands of Californians, including U.S. citizens and lawful residents who cannot be lawfully deported. These regulations fail to address the systemic discrimination within CDCR, perpetuating a dual system of justice that unfairly targets immigrants, refugees, and individuals assumed to be foreign-born.”

**Response 7A:** This rulemaking action is proposing changes to CDCR’s eligibility and exclusionary criteria for participation in Community Based Reentry Programs. This rulemaking action does not address CDCR’s regulations or policies addressing

compliance with Penal Code section 5025, or communication with ICE. In that regard, some of the commenter's statements are not directed at this rulemaking action.

CDCR personnel do not determine whether an incarcerated person is a U.S. citizen. CDCR personnel do not determine whether an incarcerated person may be deportable. Instead, CDCR may place a detainer inquiry based on information in an incarcerated person's file showing foreign birth or based on an incarcerated person's self-reported information showing foreign birth or citizenship. When a potential inquiry is placed, CDCR submits a request to federal immigration officials to determine citizenship and deportation status. California Penal Code section 5025 requires CDCR to consider several sources from which an incarcerated person's place of birth can be discerned/noted by CDCR personnel, and to identify incarcerated persons potentially subject to deportation and to refer those persons to ICE.

Commenter's statement appears to be directed towards CDCR's implementation of Penal Code section 5025, and ICE, rather than with the regulations that are the subject of this rulemaking action. Further, the California Values Act prevents state and local law enforcement agencies from using their resources on behalf of federal immigration enforcement agencies, however Government Code section 7284.4 excludes CDCR from the definition of "law enforcement agency" and therefore CDCR is not bound by Government Code section 7284.6 which was put in law with the California Values Act. CDCR therefore disagrees that the regulations are inadequate in terms of compliance with the California Values Act. The commenter is unclear to what specific changes to the regulation they are seeking, and no meaningful response can be formulated by the department in refutation or accommodation of the comment.

**Comment 7B:** Despite documented instances of systemic discrimination within California's state prison system, the proposed regulations do not adequately address this unlawful behavior. Emails uncovered last year revealed how prison staff pursued unjustified ICE transfers based on racist assumptions, such as individuals' names, languages spoken, and perceived birthplaces. These discriminatory practices must be addressed to ensure that all individuals are treated equally and fairly by CDCR. Indeed, the proposed regulations do not address these discriminatory practices, exposing CDCR to lawsuits like the one filed by incarcerated and formerly incarcerated Californians last year.

**Response 7B:** See response to 7A.

**Comment 7C:** The proposed regulations fail to address this misuse of resources, allowing CDCR to continue betraying our state's values and discriminating against immigrant Californians and people of color. It is imperative that CDCR fully complies with the law and ends its wasteful and cruel practices of voluntarily facilitating ICE detention and deportation. By doing so, California can reaffirm its commitments to rehabilitation, homecoming, and equal treatment for all its residents. PLC urges CDCR to revise the proposed regulations to more effectively reflect California's values.



**Response 7C:** See response to 7A.

**Commenter #8**

**Comment 8A:** Commenter with the legislative team lead for NorCal Resist, provides organizations focus and their experience with the federally detained population. The commenter states these regulations are overdue and is concerned with the proposed regulations because it doesn't come close to meeting CDCR's requirements under state law to both keep non-citizens out of federal custody and treat non-immigrant detainees equally to all other CDCR detainees. The proposed regulations do not meet the requirements of the California Values Act.

**Response 8A:** See response to 7A.

**Comment 8B:** The commenter lists concerns the regulations do not address:

- End CDCR collusion with ICE.
- Prevent CDCR staff from attempting to transfer CDCR detainees to ICE.
- Curtail CDCR's pervasive practice of holding undocumented Californians beyond their state-imposed release date so as to facilitate apprehension by ICE
- Grant the rights and privileges earned by undocumented CDCR detainees prior to 2017, when the California Values Act became law.

Concluding with a statement of how California is mismanaging public resource.

**Response 8B:** CDCR does not detain incarcerated persons beyond their release dates. The comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, Section 11346.9(a)(3). Also, see response to 7A.

**Commenter #9**

**Comment 9:** Commenter on behalf of Freedom for Immigrants provides background information about their organization and is concerned with CDCR transfers to ICE detention centers from CDCR. From their experience, these transfers have been deadly and violate human rights. CDCR should stop discriminating against immigrants, refugees and to ensure the safety of people who are eligible for release.

**Response 9:** See response to 7A.

**Commenter #10**

**Comment 10A:** Commenter on behalf of Root & Rebound provides some background information about the organization. End the use of holds (including ICE holds), detainers, and warrants as justifications for exclusion from any programs or placements. At a minimum, end the use of “detainer inquiry” or “potential detainer” as justifications for exclusion from any programs or placements. Use of a “potential detainer” or “detainer inquiry” goes beyond what is authorized by law, “active detainer,” Penal Code (PC) 3417 to deny admission into CDCR programs. Additionally, CDCR has had a practice of classifying all individuals it believes were born outside of the United States as “foreign born” and placing a “Potential Immigration Hold.” Resolving potential detainers and completing detainer inquiries in a timely manner must be a priority of CDCR so that erroneous, outdated, and unconfirmed information does not limit the rehabilitation of an incarcerated person. A regulation only permitting the exclusion of people with active detainers – if any detainer-related exclusion is necessary – would help ensure CDCR is resolving potential detainers and detainer inquiries quickly, and in turn, ensuring fair access to rehabilitative programming. Therefore, these regulations ideally should remove holds, warrants, and detainers as permissible justification for denying programming and community placement.

**Response 10A:** A felony detainer inquiry is a written document generated by the department when there’s probable cause a felony criminal act has occurred. Additionally, the phrase in the Notice of Change to Regulation (NCR) 24-02 “or be deported” has been removed from current text as it is no longer applicable; and the phrase “Inmates with a detainer inquiry or active hold based solely on their immigration status, shall not be precluded from placement in any departmental program or service, including security-level housing placement, and DRP community-based re-entry facilities” had been added to clarify that a detainer inquiry or active hold based solely on an inmate’s immigration status shall not obstruct or exclude an inmate from participating in any departmental programs and services, including security-level housing placement, which encompasses both departmental fire camps and minimum support facilities. This language has been clarified to differentiate that a felony hold, warrant or detainer, is different from an immigration hold, warrant or detainer.

**Comment 10B:** End the use of “County of last legal residence (CLLR)” as criteria to determine eligibility or participation in any ACP, including MCRP, Female Community Reentry Program (FCRP), Community Participant Mother Program (CPMP), and EACP. Due to the inequity, we have seen with access to some ACP programs, at least MCRP programs. We request the regulations make explicit that an existing ACP program in the county of a person’s last legal residence is not a prerequisite for participation. This request comports with CDCR’s “Initial Statement of Reasons” to improve equity. ACP programs are clearly custody programs despite being staffed by local county parole offices. (PC 1170.05). PC 3003 limits the use of CLLR to “release on parole or post release community supervision” and does not give authority to restrict in-custody placements based on CLLR. Significantly, SB 990 (2022) clearly shows the Legislature’s intent to provide the best reentry opportunities available to all incarcerated and returning people, regardless of where they lived prior to incarceration, by making intercounty transfers presumptive when a county other than a person’s CLLR provides for better reentry-related

opportunities. The same rationale promotes explicitly removing all CLLR prerequisites for ACP participation. Further, the existence of SB 990 also supports the removal of any CLLR prerequisite for ACP participation, because the presumption now is that a person can parole to a county other than CLLR where they have an established job, housing, educational opportunity, etc. - things ACP programs help people acquire - and because SB 990 expects that said transfers occur pre-release.

**Response 10B:** The proposed regulations do not contain any provisions to limit any program placement based on County of Last Legal Residence (CLLR). CDCR has the ability to place incarcerated persons in a program outside their CLLR, when appropriate. CDCR takes into consideration commenter's request for specific language, however, will proceed with the proposed text as delineated in NCR-24-02.

Participants do not have the ability to choose a specific community program for placement. A participant's requests are considered, but the final authority regarding placement lies with the classification committee. The regulations do not require placement in the CLLR. Reentry services are best provided as near as possible to the planned county of release (for example, it would be counterproductive to assist a participant in establishing housing, employment, health care, etc. in Los Angeles County, and then releasing the participant to San Francisco County without any local resources). Consistent with CCR 3741 & 3742, this is generally the CLLR. However, this placement may not always be appropriate. In these cases, the committee has the discretion to place the participant in the appropriate site, based on individual case factors.

#### **Commenter #11**

**Comment 11:** Commenter is a volunteer with the ACLU of San Diego & Imperial Counties, provides demographics. Commenter is concerned with CDCR regulations regarding CDCR transfers to ICE and states CDCR should not be transferring families to ICE after serving their time. The proposed regulations are in violation with the California Value Act and CDCR has been systematically discriminating against those born outside of the US.

**Response 11:** See response to 7A.

#### **Commenter #12**

**Comment 12:** Commenter is with the ACLU of San Diego & Imperial Counties and provides demographics, stating:

"Like most Californians, I believe in justice, fairness, and equality. I am concerned that CDCR's proposed regulations do not go far enough to uphold these values, nor do they address the serious concerns my community and I have with CDCR's practices and policies.

I am concerned that the proposed regulations don't:

- End CDCR’s collusion with ICE, including voluntarily referring people to ICE or transferring Californians who have completed their sentences to ICE detention.
- Stop CDCR staff from pursuing unjustified ICE transfers in spite of their own records, nor from flagging people for ICE based on racist assumptions about their names, the languages they speak, or where they were born.
- Address how California’s largest public agency uses public resources to operate a system of double punishment.
- End state prison staff’s repeated practice of detaining Californians beyond their release date to provide ICE with more time to pick them up.
- Grant credits retroactively to people who should have received lower classification and/or been granted access to credit-earning programs since the implementation of the California Values Act in 2017.”

**Response 12:** CDCR personnel do not determine whether an incarcerated person is a U.S. citizen. CDCR personnel do not determine whether an incarcerated person may be deportable. Instead, CDCR may place a detainer inquiry based on information in an incarcerated person’s file showing foreign birth or based on an incarcerated person’s self-reported information showing foreign birth or citizenship. When a potential inquiry is placed, CDCR submits a request to federal immigration officials to determine citizenship and deportation status. California Penal Code section 5025 requires CDCR to consider several sources from which an incarcerated person’s place of birth can be discerned/noted by CDCR personnel, to identify incarcerated persons potentially subject to deportation and to refer those persons to ICE.

The comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, Section 11346.9(a)(3).

CDCR does not detain incarcerated persons beyond their release dates additionally, see response to 7A.

The commenter’s statement to “grant credits retroactively” is outside the scope of the proposed regulations. This rulemaking action is proposing changes to CDCR’s eligibility and exclusionary criteria for participation in Community Based Reentry Programs. If the commenter believes regulations regarding credit earning should be amended, the commenter may petition to adopt, amend, or repeal regulations pertaining to credit earning, per Government Code 11340.6.

**Commenter #13 is a duplicate of commenter #12.**

**Commenter #14**

**Comment 14:** Commenter is with the ACLU of San Diego & Imperial Counties and provides demographics stating, “Like most Californians, I believe all of us, including

immigrants, deserve to be treated fairly and rebuild our lives after incarceration. I am concerned that CDCR's proposed regulations do not go far enough to uphold these values, nor do they address the serious concerns my community and I have with CDCR's practices and policies. We need to end CDCR's collusion with ICE, including voluntarily referring people to ICE or transferring Californians who have completed their sentences to ICE detention and address how California's largest public agency uses public resources to operate a system of double punishment."

**Response 14:** See response to 7A.

#### **Commenter #15**

**Comment 15:** Commenter is with the ACLU of San Diego & Imperial Counties and provides demographics stating, "Like most Californians, I believe all immigrants and those who live in California deserve the right to live harmoniously with their communities. I also believe it is crucial to ensure that they don't have to live in fear. I am extremely concerned that CDCR's proposed regulations do not go far enough to uphold these values, nor do they address the serious concerns my neighbors, family, community, and I have with CDCR's practices and policies."

**Response 15:** See response to 7A.

#### **Commenter #16**

**Comment 16:** Commenter is with the ACLU of San Diego & Imperial Counties and provides demographics stating, "Like most Californians, I believe that everyone, wherever they come from and wherever they end up, is a human being. All human beings must be treated with dignity and respect. I am concerned that CDCR's proposed regulations do not go far enough to uphold these values, nor do they address the serious concerns my community and I have with CDCR's practices and policies. This proposed regulation claims to prohibit CDCR from letting an ICE hold impact an individual's custodial classification placement or their access to programming and services; however, these regulations do not go far enough to address CDCR's ongoing collusion with ICE. I demand CDCR stop discriminating against immigrants and refugees and instead ensure that Californians who qualify for release -- no matter who they are or what they look like -- can go home to their loved ones and rebuild their lives."

**Response 16:** See response to 7A.

#### **Commenter #17**

**Comment 17:** Commenter is with the ACLU of San Diego & Imperial Counties and provides demographics stating, "Like most Californians, I believe the Values Act fails to 1) end CDCR's collusion with ICE, including voluntarily referring people to ICE or transferring Californians who have completed their sentences to ICE detention; 2) address how California's largest public agency uses public resources to operate a system

of double punishment, 3) stop CDCR staff from pursuing unjustified ICE transfers in spite of their own records, nor from flagging people for ICE based on racist assumptions about their names, the languages they speak, or where they were born; 4) end state prison staff's repeated practice of detaining Californians beyond their release date to provide ICE with more time to pick them up. I am concerned that CDCR's proposed regulations do not go far enough to uphold humanitarian values, nor do they address the serious concerns my community and I have with CDCR's practices and policies."

**Response 17:** The comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, Section 11346.9(a)(3).

CDCR does not detain incarcerated persons beyond their release dates additionally, see response to 7A.

#### **Commenter #18**

**Comment 18:** Commenter is with the ACLU of San Diego & Imperial Counties and provides demographics stating, "Like most Californians, I am concerned that CDCR's proposed regulations do not go far enough to uphold the shared value of compassion nor do they address the serious concerns I have with CDCR's practices and policies on immigration."

**Response 18:** The comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, Section 11346.9(a)(3).

Also, See response to 7A.

#### **Commenter #19**

**Comment 19:** Commenter is a PhD student from UCSD, stating there are reports that indicate immigrants and refugees received more scrutiny upon release than other individuals. The proposed regulations do not align with California values of equality and fairness. Commenter urges CDCR to stop their discriminatory practices which hold back people with an immigration status from release. Instead, develop policies and procedure to promote inclusivity and meet unique needs of immigrants and refugees incarcerated.

**Response 19:** The comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can

be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, Section 11346.9(a)(3).

Also, see response to 7A.

### **Commenter #20**

**Comment 20A:** Commenter is with the Criminal Justice Reform Program at the Asian Law Caucus. Commenter provides background information about the organization and states “CDCR’s newly proposed regulations - both in their delay and nominal changes - do not go far enough to address CDCR’s ongoing, unacceptable collusion with ICE, which harms incarcerated people and their loved ones on a generational scale.” CDCR has been in violation of the California Values Act which went in effect 1/1/18. The California Values Act “prohibits CDCR from considering citizenship or immigration status when deciding whether someone is eligible for programming and what someone’s housing classification will be. Yet, until recently, CDCR had not even attempted to comply with these legal requirements, ultimately making these regulations too little too late.”

**Response 20A:** A felony detainer inquiry is a written document generated by the department when there’s probable cause a felony criminal act has occurred. The phrase in the Notice of Change to Regulation (NCR) 24-02 “or be deported” has been removed from current text as it is no longer applicable; and the phrase “Inmates with a detainer inquiry or active hold based solely on their immigration status, shall not be precluded from placement in any departmental program or service, including security-level housing placement, and DRP community-based re-entry facilities” has been added to clarify that a detainer inquiry or active hold based solely on an inmate’s immigration status shall not obstruct or exclude an inmate from participating in any departmental programs and services, including security-level housing placement, which encompasses both departmental fire camps and minimum support facilities. This language has been clarified to differentiate that a felony hold, warrant or detainer, is different from an immigration hold, warrant or detainer.

Also, see response to 7A.

**Comment 20B:** “The agency’s use of state resources to voluntarily collaborate with ICE has funneled thousands of Californians into ICE detention and deportation, ripping apart countless families. State prisons have been going to horrifying lengths to discriminate against anyone who prison staff believe was born outside of the U.S. As revealed in a report published last year by the ACLU, Asian Law Caucus, Asian Prisoner Support Committee, and Root and Rebound, released emails exposed how CDCR, in spite of their own records, often flags people for ICE based on racist assumptions about their names, preferred languages, or place of birth.”

**Response 20B:** See response to 7A.

### **Commenter #21**

**Comment 21:** Commenter is with 18 Millions Rising, which constitutes from immigrant families and communities. “CDCR’s proposed regulations do not go far enough to uphold these values, nor do they address the serious concerns my immigrant families and I have with CDCR’s practices and policies. Allowing the California state prisons to collude with ICE is a step backwards to the progress we’ve made. We cannot leave our immigrant families behind. Many of whom have fled war, poverty, the impact of the climate disaster and so much more --issues that the U.S. have caused. California and the U.S. have a responsibility to repair this harm and one way is to make sure families who seek refuge and reunion with each other can do so.”

**Response 21:** See response to 7A.

## **Commenter #22**

**Comment 22A:** Comment on behalf of, The Prison Law Office and the Law Office of Sara Norman are plaintiffs’ counsel in *Clark v. California*, No. C 96-1486 CRB (N. D. Cal.). The proposed regulations fail to provide inclusionary criteria and direction for people with developmental disabilities within community-based programs. Without clear direction, people with developmental disabilities are at risk of discriminatory exclusion.

**Response 22A:** Commenter is referring to the proposed language at subsection 3078.3(d)(12), which provides that an inmate referred to MCRP who is identified as a participant in the department’s Developmental Disability Program (DDP) shall be reviewed on a case-by-case basis for inclusion in MCRP. Commenter recommends the regulations include more direction regarding this review. CDCR declines Commenter’s recommendation. Under the Americans with Disabilities Act (ADA) (42 USC. § 12111 et seq.), public entities are required to make “reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability” (28 C.F.R. § 35.130(b)(7)(i)). Exceptions are provided if the “modifications would fundamentally alter the nature of the service, program, or activity” (*ibid.*) or if the modifications would result “in undue financial and administrative burdens.” (28 C.F.R. § 35.164.) Each inmate identified as a participant in the DDP has unique disabilities and adaptive support needs. Additionally, there are variations between the MCRP programs. Given the variety of unique factors, the department cannot provide further direction in these regulations as to what can or cannot be reasonably accommodated for a specific inmate to be placed in an MCRP. However, in recognition of Commenter’s concerns, CDCR is planning to provide training to relevant staff about conducting a case-by-case review. Additionally, it’s noteworthy that CDCR is working on a separate regulatory package regarding the DDP, to be publicly noticed in the next several months, which shall provide general guidance on the provision of reasonable accommodations to inmates in the DDP.

**Comment 22B:** People determined to have developmental or related disabilities in CDCR are included in the Developmental Disability Program (DDP). CDCR is required by federal law, court order, and its own policy to prevent discrimination against people in the DDP.



See Americans with Disabilities Act, 42 U.S.C. § 12132; *Clark v. California*, 739 F. Supp. 2d 1168 (N.D. Cal. 2010); Clark Remedial Plan. In the past, people in the DDP have been excluded from community-based programs solely due to their disability. Following advocacy from *Clark* plaintiffs' counsel, CDCR developed standards to evaluate the capabilities of people in the DDP, on a case-by-case basis, to determine program eligibility for MCRP and Custody to Community Transition Reentry Programs (CCTRP). This process is set forth in a Functional Evaluation review, which the commenter attached with their comment.

**Response 22B:** Commenter is correct that in the past, CDCR has explored use of a specialized mental health evaluation (referred to as a "Functional Evaluation") to identify the individualized disability and adaptive support needs of an inmate in the DDP to be accommodated in an MCRP. The "Functional Evaluation" was used with a handful of inmates participating in the DDP. The department has not issued the "Functional Evaluation" as policy. Instead, CDCR plans to provide training to relevant staff about conducting a case-by-case review of inmates in the DDP for inclusion in MCRP.

**Comment 22C:** No reference is made in these proposed regulations to the Functional Evaluation process, or indeed to any standards on how people in the DDP should be considered for eligibility for the MCRP, FCRP, and CPMP. The only reference to the DDP is found in the section on MCRP entry criteria, which specifically states that participation in the DDP "shall be reviewed on a case-by-case basis." (Section 3078.3(d)(11)). There is no such requirement for FCRPs or CPMPs. (Section 3078.3(f); Section 3078.9.)

**Response 22C:** See CDCR's responses to Comments 22A and 22B. Commenter is correct, the regulations provide different criteria for the MCRP, FCRP, and CPMP programs. The programs service different populations and programming is tailored to best service the target population (e.g. gender and/or trauma responsive training). Consequently, there are variations in eligibility and processes between the programs. For example, there are only two female facilities in the state, and both are Non-Designated Programming Facilities (NDPF). Consequently, a case by case review for previous NDPF housing is not necessary for FCRP cases. Additionally, part of FCRP case preparation is an Individualized Treatment and Rehabilitation Plan (ITRP). An ITRP is prepared by a social worker, and includes case factors such as mental health needs, documented disabilities, and other medical needs. The social worker participates in the classification committee process and the ITRP is considered by the committee along with other case factors. This makes an additional case by case review regarding medical and mental health needs redundant. MCRP committees do not utilize an ITRP, making a specific case by case review of the medical and mental health needs of subsections 3078.3(d)(11-13) necessary.

**Comment #23 A-C are duplicate of comment #22 A-C but is missing the attached document stated in part (B) of the comment.**

**Commenter #24**

**Comment 24:** Commenter is previously incarcerated, who was placed on a potential ICE hold even though he was a U.S. citizen born in the U.S. Commenter provided their experience with how difficult it was to remove the ICE hold even with being born in the U.S. and his traumatic experience with doing so, because the ICE hold kept him from qualifying for CCTRP. CDCR discriminates people based on their backgrounds, therefore the department should amend the regulations to not rely on race, national origin, or ethnicity when it comes to potential ICE holds, classification, and programming. Remove ICE holds, protentional ICE holds due to CDCR picking and choosing who this will affect.

**Response 24:** See response to 7A, and 20A.

### **Commenter #25**

**Comment 25A:** Commenter is on behalf of The Asian Prisoner Support Committee (APSC) and provides the organization's mission. Their focus of the proposed action is specific to addressing treatment of people who are believed to be non-citizen in prison. The proposed regulations fail to bring CDCR in compliance with the law, specifically the California Values Act and do not address the long history of profiling discrimination. CDCR must eliminate the ICE hold program because the current policies are based on perception of the persons race, ethnicity, preferred language, or place of birth. Numerous US citizens have been put on potential ICE holds resulting in exclusion from certain programs and credit earning opportunities.

**Response 25A:** See response to 7A.

**Comment 25B:** Commenter provides some background information and benefits to the Prison Industry Authority (PIA) and Joint Venture Program (JVP). The proposed rulemaking restricts people who have ICE holds which is in violation with the law. Commenter referenced PC section 2801 Business and Professional Code 135.5, 8 C.F.R 1001.1 (p) and 9 U.S.C. 1324 (b) to support his comment that CDCR's ICE hold should not restrict participation in PIA and JVP programs.

**Response 25B:** The phrase "or be deported" is being removed from the proposed text as it is no longer applicable; and the phrase "Inmates with a detainer inquiry or active hold based solely on their immigration status, shall not be precluded from placement in any departmental program or service, including security-level housing placement, and DRP community-based re-entry facilities" is added to further clarify that a detainer inquiry or active hold based solely on an inmate's immigration status shall not obstruct or exclude an inmate from participating in any departmental programs and services, including security-level housing placement, which encompasses both departmental fire camps and minimum support facilities. This language is being clarified to differentiate that a felony hold, warrant or detainer, is different from an immigration hold, warrant or detainer.

The proposed rulemaking does not restrict incarcerated individuals with ICE holds from participating in PIA or JVP. PIA is a separate agency, and CDCR cannot answer questions on their behalf.

**Comment 25C:** Release allowances should be provided regardless of immigration status to be in law with PC 2713.1 which does not exclude inmates on ICE holds. “Often, ICE releases community members from immigration detention in remote areas hundreds or thousands of miles from home. Without resources, they are still expected to report to their parole office the following day. Providing a release allowance would allow them to safely return home and begin their reentry process.”

**Response 25C:** The comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, Section 11346.9(a)(3).

#### **Commenter #26**

**Comment 26A:** Commenter is on behalf of ACLU California Action and the ACLU Foundations of Northern California, Southern California, and San Diego & Imperial Counties, provides information about their organization. The proposed regulations are in violation with the California Value Act because the proposed regulations fail to address other illegal practices of the department and what has been done in the past. The proposed regulations should be amended to repeal illegal collusion with ICE.

**Response 26A:** See response to 7A.

**Comment 26B:** Commenter provides background information about the California Value Act which went into effect on 1/1/18 and states the department is not properly implementing it to the full scope. Commenter references GC 7284.10 (b)(1) and (b)(2) to support the comment, additionally references to section where the department has made revision in the rulemaking action in line with the California Value Act. Commenter states the regulations “fail to contemplate the full scope of the Values Act, to comply with the Values Act, the department must clarify that other indicators of citizenship or immigration status can play no role in determining who may have access to rehabilitative programming or credit-earning opportunities or in classification determinations. This includes, for example, place of birth.” CDCR has practiced miss classifying U.S. citizens who are “foreign born” which resulting in potential ICE holds, and being excluded from different programs, credit earning and early release. The department’s use of an individual’s perceived or actual place of birth, race, or ethnicity to classify them functions as a proxy for citizenship and immigration status, which is a practice prohibited under the state constitution, statutory prohibitions against unlawful discrimination, and the Values Act. The department subjects those with a potential immigration hold to discriminatory treatment intended to facilitate their transfers to ICE custody. The potential immigration holds classification results in treatment equivalent to ICE having requested an actual hold. Notably, actual holds—meaning those issued by ICE—are contemplated and addressed in the changes the department is proposing, potential immigration hold classifications are completely ignored.

**Response 26B:** The potential immigration hold is not ignored in the proposed changes. The potential immigration hold is referred to as a “detainer inquiry...based solely on their immigration status.” The proposed regulations indicate that the detainer inquiry based solely on immigration status shall not be used to preclude inmates from placement in any departmental program or service. Also see response 20A.

**Comment 26C:** The department must address the harm it has caused to the people in its custody during its violation of state law protections, by denying community reentry opportunities, otherwise limiting credit-earning and programming opportunities based on potential immigration holds. The department undermines its stated rehabilitative mission. Commenter urges the department to include a streamlined and thorough process for retroactive credit restoration for each person whom the department has misclassified due to citizenship or immigration status and who remains in the department’s custody.

**Response 26C:** See response to 7A. The commenter’s statement regarding “retroactive credit restoration” is outside the scope of the proposed regulations. This rulemaking action is proposing changes to CDCR’s eligibility and exclusionary criteria for participation in Community Based Reentry Programs. If the commenter believes regulations regarding credit earning should be amended, the commenter may petition to adopt, amend, or repeal regulations pertaining to credit earning, per Government Code 11340.6.

#### **Commenter #27**

**Comment 27:** Commenter is on behalf of VietRise, provides organizations mission and values and states their values do not align with CDCR’s values due to their practices and policies. CDCR has been transferring Vietnamese immigrants to ICE who have completed their sentence with CDCR, resulting in inhumane treatment and therefore are not in compliance with the California Values Act. CDCR ICE transfers is double punishment and has been an on-going problem that has separated countless families. Commenter states CDCR should reject the proposed regulations because it is a misuse of public resources.

**Response 27:** See response to 7A.

#### **Commenter #28**

**Comment 28:** Commenter on behalf of Alianza and provides background information about the organization. The proposed regulations don’t address CDCR’s collusion with ICE, including voluntarily referring people to ICE or transferring Californians who have completed their sentences to ICE detention. An investigation by a civil rights group released in August 2023, concluded CDCR systematically, illegally, discriminated against immigrants, refugees, and anyone who prison officials suspected was born outside of the United States. Commenter states the proposed regulations do not address the following:

- Ending CDCR’s collusion with ICE, including voluntarily referring people to ICE or transferring Californians who have completed their sentences to ICE detention.

- Addressing how California’s largest public agency uses public resources to operate a system of double punishment.
- Stopping CDCR staff from pursuing unjustified ICE transfers in spite of their own records, nor from flagging people for ICE based on racist assumptions about their names, the languages they speak, or where they were born.
- Ending state prison staff’s repeated practice of detaining Californians beyond their release date to provide ICE with more time to pick them up.
- Granting credits retroactively to people who should have received lower classification and/or been granted access to credit-earning programs since the implementation of the California Values Act in 2017.
- Like many Californians, Alianza is concerned that CDCR’s proposed regulations do not address the serious concerns documented by civil rights groups. This regulation needs to address the above issues.

**Response 28:** CDCR personnel do not determine whether an incarcerated person is a U.S. citizen. CDCR personnel do not determine whether an incarcerated person may be deportable. Instead, CDCR may place a detainer inquiry based on information in an incarcerated person’s file showing foreign birth or based on an incarcerated person’s self reported information showing foreign birth or citizenship. When a potential inquiry is placed, CDCR submits a request to federal immigration officials to determine citizenship and deportation status. California Penal Code section 5025 requires CDCR to consider several sources from which an incarcerated person’s place of birth can be discerned/noted by CDCR personnel, to identify incarcerated persons potentially subject to deportation and to refer those persons to ICE.

The comment is either insufficiently related to the specific action proposed or to the procedures followed by the department in proposing or adopting these regulations, or generalized or personalized to the extent that no meaningful response can be formulated by the department in refutation or accommodation of the comment, therefore the comment is irrelevant pursuant to Government Code, Section 11346.9(a)(3).

CDCR does not detain incarcerated persons beyond their release dates.

The commenter’s statement to “grant credits retroactively” is outside the scope of the proposed regulations. This rulemaking action is proposing changes to CDCR’s eligibility and exclusionary criteria for participation in Community Based Reentry Programs. If the commenter believes regulations regarding credit earning should be amended, the commenter may petition to adopt, amend, or repeal regulations pertaining to credit earning, per Government Code 11340.6.

CDCR takes into consideration commenter’s request; however, has determined to proceed with the proposed text as delineated in NCR 24-02, additionally see response to 7A.

**Commenter #29**

**Comment 29:** Commenter is with the ACLU of San Diego & Imperial Counties. These proposed regulations will allow CDCR to continue to break up families. They do nothing to stop CDCR from perpetuating a dual system of justice that discriminates against immigrants, refugees, and anyone CDCR officers unilaterally - and often incorrectly - assume was born outside the U.S.

We need stronger policies to prevent unjustified ICE transfers and prison staff's repeated practice of detaining Californians beyond their release date to provide ICE with more time to pick them up. Our prison system cannot be a holding place for ICE, due to this being inhumane.

**Response 29:** CDCR does not detain incarcerated persons beyond their release dates, additionally see response to 7A.

**Comment #30 is a duplicate of comment #26.**

**SUMMARIES AND RESPONSES TO PUBLIC HEARING COMMENTS:**  
**A public hearing was held on April 3, 2024, at 10:00 a.m.**

**Speaker #1:** Commenter is with ACLU and stated that CDCR needs to fully comply with the law because currently it is not in compliance with the California Values Act. The act was passed six years ago, and the proposed regulations inadequately attempt to bring CDCR into full compliance with the Act. CDCR has been discriminating against foreign immigrants by racial profiling and sending them to ICE detentions splitting families apart and excluding eligibility for programming.

**Response to Speaker #1:** See response to 7A.

**Speaker #2:** Speaker is a mother of an incarcerated individual affected by the ICE holds. States her son is a U.S. born citizen who was racially profiled, and an ICE hold was added to him. It took ten years to remove the ICE hold. CDCR should not exclude individuals from accessing programming or service due to ICE holds, end CDCR collusion with ICE, stopping CDCR staff from pursuing or placing unjustified ICE transfers or holds in spite of their own records, nor from flagging people for ICE, based on racist assumptions. ICE holds are double punishment and CDCR needs to stop using public resources to fund double punishment.

**Response to Speaker #2:** See response to 7A.

**Speaker #3:** Speaker is with the legislative advocacy group at the ACLU California. Speaker provides background and past work experience. Explains information for the California Values Act and states CDCR is not in compliance with the Act due to racially discriminating, profiling incarcerated people resulting in exclusions from programming benefits. Urges CDCR to create a streamlined and thorough process for retroactive credit restoration for each person for whom the department has misclassified due to citizenship or immigration status and who remains in department's custody currently. The department

must amend its proposed regulations to include the full scope of the California Values Act to ensure that the department fully complies with current state law and that there is no space for ambiguity among line staff. The department must adopt a rule that clarifies that citizenship, immigration status, place of birth, or any other factor that might be perceived to bear on immigration status, or citizenship status can play no role in determining access to programming, credit earning opportunities, or classification placement. Additionally develop a streamlined and thorough process for retroactive credit restoration for each person for whom the department has misclassified due to citizenship or immigration status and who remains in departments custody currently.

**Response to Speaker #3:** The proposed regulations state that “Inmates with a detainer inquiry or active hold based solely on their immigration status shall not be precluded from placement in any departmental program or service, including security-level, classification level, housing placement and Division of Rehabilitative Programs community-based reentry facilities.” To further clarify that a detainer inquiry or active hold based solely on an inmate’s immigration status shall not obstruct or exclude an inmate from participating in any departmental programs and services, including security-level housing placement, which encompasses both departmental fire camps and minimum support facilities.

Also see response to 7A.

The speaker’s statement to “develop a streamlined and thorough process for retroactive credit restoration” is outside the scope of the proposed regulations. This rulemaking action is proposing changes to CDCR’s eligibility and exclusionary criteria for participation in Community Based Reentry Programs. If the commenter believes regulations regarding credit earning should be amended, the commenter may petition to adopt, amend, or repeal regulations pertaining to credit earning, per Government Code 11340.6.

**Speaker #4:** Speaker is with the Asian crisis support committee, provides his experience with migrating to the U.S. being incarcerated and placed on an ICE hold after completing his sentence. Speaker shares his example of turning his life around being previously incarcerated, stating, “everyone deserves a second chance because, people's circumstances can sometimes lead them to make desperate decision, poor choices, but these decisions do not define who they are.” CDCR does not currently uphold the current laws or values of California. The proposed regulation is an inadequate attempt to bring CDCR into compliance with the California's Value Act. CDCR violates the Values Act and has voluntarily pushed thousands of Californians into extension, deportation, resulting in separating families. CDCR must stop discriminating against immigrants and refugees and instead assure Californians who have qualified for release, no matter who they are or what they look like, can go home to their loved ones and rebuild their lives.

**Response to Speaker #4:** See response to 7A.

**Speaker #5:** Commenter speaking on behalf of the ACLU Northern California. CDCR has a discriminatory classification system in place which has led people to lose opportunities to earn credits that would allow them to return home to their communities and families

more quickly. They lost opportunities to work certain jobs that would have prepared them better to succeed in life outside of prison walls and lost opportunities to engage in programming like transitional housing designed for successful reintegration into society. Commenter provides three stories of people who have been affected and programs they were excluded from. The proposed regulations do not ensure that CDCR ends its discrimination by not relying on foreign birth, race, or ethnicity as part of the eligibility criteria for classification and programming. The regulations also do not, retroactively grant credits to people who should have received them in the past but were denied the opportunity because of CDCR discriminatory classification. The proposed regulations also do not address CDCR's use of discriminatory national origin related classification for other purposes and finally CDCR should prohibit collaborating with ICE and retroactively grant credits.

**Response to Speaker #5:** See response to 7A.

The speaker's statement to "retroactively grant credits" is outside the scope of the proposed regulations. This rulemaking action is proposing changes to CDCR's eligibility and exclusionary criteria for participation in Community Based Reentry Programs. If the commenter believes regulations regarding credit earning should be amended, the commenter may petition to adopt, amend, or repeal regulations pertaining to credit earning, per Government Code 11340.6.

**Speaker #6:** Commenter is with root and rebound and provides information about their organization, what she does with the organization and some personal background information. CDCR's current policies are not in line with the California Values Act and are double punishment due to ICE holds. Provides examples of people affected by immigration status. CDCR must end the use of holds, detainers, and warrants as justifications for exclusion from any programs or placements. All incarcerated individuals should have the opportunity to access programming, community based alternative programs, and facilitating successful transition back home.

**Response to Speaker #6:** See response to 7A.

**Speaker #7:** Speaker has been personally affected by CDCR due to them inaccurately labeling them as a possible ICE detainee or illegal but was a legal citizen and service member. The policy in general should include individuals or a means of attaining citizenship status when it comes to certain inmates because the policy itself doesn't manage that.

**Response to Speaker #7:** CDCR takes into consideration commenter's request; however, has determined to proceed with the proposed text as delineated in NCR 24-02. The proposed regulations only address community reentry programs.