

A photograph of the California State Capitol dome, featuring a large, dark, ribbed dome with a white base and columns. The dome is set against a clear blue sky with a few wispy clouds. Green trees are visible on the left and right sides of the frame. The image is partially obscured by a white curved graphic element at the bottom.

Adult Titles 15 and 24 Regulations Revision Executive Steering Committee

**Workgroup Chair Presentations of Proposed Changes
to the
Executive Steering Committee**

March 30, 2016



Board of State & Community Corrections
2590 Venture Oaks Way, Suite 200
Sacramento CA 95833
www.bscc.ca.gov

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Title 15:

Administration Workgroup (Sec. 1004-1047)

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Classification and Discipline Workgroup (Sec. 1050-59; 1080-84)

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Programs and Services Workgroup (Sec. 1061-1073)

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Minors in Detention Workgroup (Sec. 1100-1163)

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Medical/Mental Health Workgroup (Sec. 1200-1230)

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Nutritional Health Workgroup (Sec. 1240-1248)

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Environmental Health Workgroup (Sec. 1260-1280)

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Title 24:

Physical Plant Workgroup (Parts 1 and 2)

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| Roster and Regulation Revision Worksheets | Tab 8 |
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BOARD OF STATE AND COMMUNITY CORRECTIONS

- Chair, Board of State and Community Corrections.....**Linda M. Penner**
- Secretary, Department of Corrections and Rehabilitation..... **Scott Kernan**
- Director (A), Division of Adult Parole Operations **Bobby Haase**
Department of Corrections and Rehabilitation
- County Sheriff in charge of a local detention facility**Dean Growdon**
which has a jail rated capacity of 200 or less inmates Lassen County
- County Sheriff in charge of a local detention facility**Geoff Dean**
which has a jail rated capacity of over 200 inmates Ventura County
- County Supervisor or County Administrative Officer **Leticia Perez**
Kern County
- Chief Probation Officer **Michelle Scray Brown**
from a county with a population over 200,000 San Bernardino County
- Chief Probation Officer **Michael Ertola**
from a county with a population under 200,000 Nevada County
- Judge **Ramona J. Garrett**
Solano County (retired)
- Chief of Police **David Bejarano**
Chula Vista Police Department
- Community provider of rehabilitative treatment or services **Scott Budnick**
for adult offenders Anti-Recidivism Coalition
- Community provider or advocate with expertise in effective **David Steinhart**
programs, policies, and treatment of Commonweal – Juvenile Justice Program
at-risk youth and juvenile offenders
- Public Member **Mimi H. Silbert**
Delancey Street Foundation

**ADULT TITLES 15 AND 24 REGULATIONS REVISION
EXECUTIVE STEERING COMMITTEE**

Geoff Dean, Chair

Board Member, Board of State and Community
Corrections
Sheriff, Ventura County Sheriff's Office

Carlos Rojas, Co-Chair

Chief of Police
Santa Ana Police Department

Tom Ferrara, Sheriff

Solano County Sheriff's Office

Dave Robinson, Sheriff

Kings County Sheriff's Office

Cynthia Renaud, Chief of Police

Folsom Police Department

Dennis Garton, County Supervisor

Tehama County Board of Supervisors

Bill Fenton, Chief Probation Officer

Colusa County Probation Department

John Mineau, Undersheriff

Lassen County Sheriff/Coroner's Office

Jerry Gutierrez, Assistant Sheriff

Riverside County Sheriff's Department

Todd Howeth, Assistant Public Defender

Ventura County Public Defender's Office

Terry Fillman, Health Services Administrator

San Bernardino County Sheriff's Department

Jo Robinson, Director

Behavioral Health Services, Department of
Public Health, City and County of San Francisco

Ramona Margherio, Deputy County Counsel

Solano County Counsel's Office

Greg Boston, Director

Inmate Programs and Services
Orange County Sheriff's Department

Betty Alvarez Ham, President

City Impact, Inc.

AGENDA
MARCH 30, 2016
BOARD OF STATE AND COMMUNITY CORRECTIONS
2590 VENTURE OAKS WAY, SACRAMENTO CA 95833
10:00 AM – 5:00 PM

| | |
|--|---|
| Welcome and Objectives for the Day | Allison Ganter BSCC Staff |
| Public Comment | |
| Administration Workgroup Presentation | Lenard Vare BSCC Staff |
| Classification and Discipline Workgroup Presentation | Matthew Schuler BSCC Staff |
| <i>Working Lunch</i> | |
| Programs and Services Workgroup Presentation | Jamie Clayton BSCC Staff |
| Minors in Detention Workgroup Presentation | Dale Miller BSCC Staff |
| Medical/Mental Health Workgroup Presentation | Kathy Wild & Michael Moore BSCC Staff |
| Nutritional Health Workgroup Presentation | Jan Wyatt-Lucha BSCC Staff |
| Environmental Health Workgroup Presentation | Ryan Sullivan BSCC Staff |
| Physical Plant Workgroup Presentation | Dan Dyer BSCC Staff |
| Public Comment | |
| Discussion and Adjourn | ESC BSCC Staff |

PLAN FOR CONSIDERING WORKGROUP RECOMMENDATIONS

The primary purpose of this meeting is for the ESC to review workgroup recommendations for regulatory change and take action on those recommendations. The options available and their outcomes are summarized below.

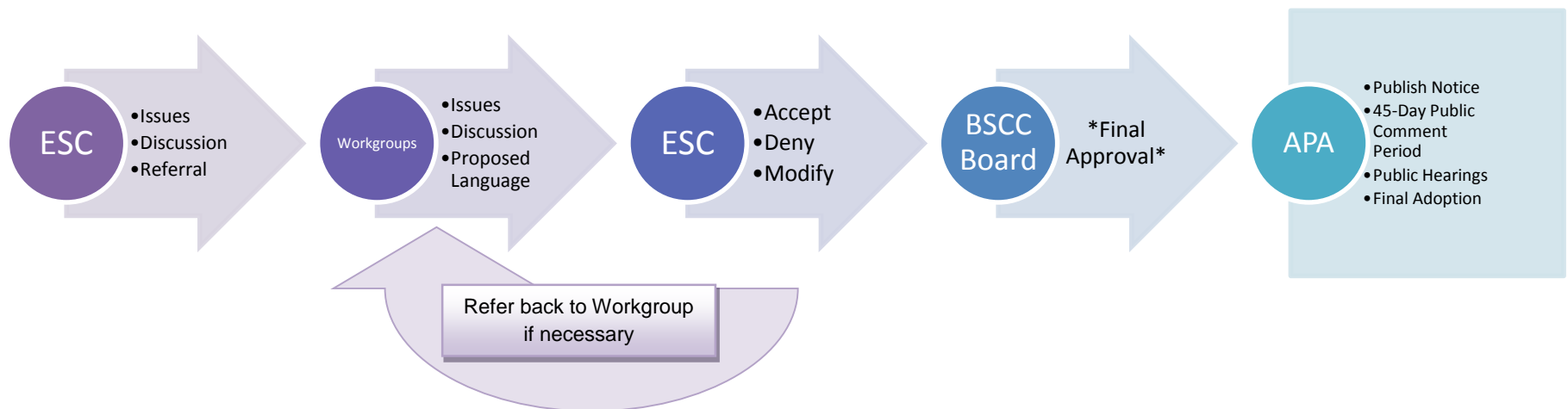
| Action | Outcome |
|--|--|
| 1. Accept workgroup recommendation | Recommendation will be forwarded to the BSCC Board. |
| <i>This option represents the ESC's acceptance of the proposed revision as written.</i> | |
| 2. Modify workgroup recommendation prior to accepting | ESC recommendation will be forwarded to the BSCC Board. |
| <i>This option allows the ESC to modify a recommendation. This might happen when the ESC's discussion identifies problems with the proposed language, yet it is not reasonable or necessary to reconvene the workgroup. The ESC may work with BSCC staff to develop proposed language.</i> | |
| 3. Deny workgroup recommendation | No further action taken. |
| <i>This option may be used when the ESC feels that the proposed language is not appropriate or necessary. The ESC may determine that the current language is adequate and may direct future workgroups to review the regulation.</i> | |
| 4. Direct workgroup to reconvene to reconsider an issue | Return to the ESC for consideration and approval prior to forwarding a recommendation to the BSCC Board. |
| <i>This option allows the ESC to reconvene a workgroup to reconsider and further discuss an issue. After meeting, the workgroup would return suggestions to the ESC for consideration. This would be a consideration if the ESC felt strongly that a concern needed further discussion, could not be resolved by the ESC, and should not be deferred to the next revision process.</i> | |

ROLE OF THE EXECUTIVE STEERING COMMITTEE AND WORKGROUPS

The Executive Steering Committee (ESC) identifies the issues to be considered, makes recommendations for revisions, and provides direction to the individual workgroups. The workgroups assigned to each section of the regulations will make any proposed language changes to existing regulations and will present these recommendations to the ESC for final consideration. The ESC may accept, deny, or modify any of the workgroups recommendations. The ESC may also ask the workgroup to reconsider the proposed revision and ask for further information. The ESC will ultimately present final regulations revisions to the BSCC Board for final approval.

ROLE OF STAFF

After the BSCC Board provides final approval of the proposed changes to regulations, staff prepares the documents that must proceed through the Administrative Procedures Act (APA), as outlined in Government Code 11340, et seq. Staff will ensure that proposed revisions are formatted according to the APA and will submit the necessary filings to public notice in the State Register and open a 45-day public comment period. Staff will hold public hearings in accordance with the APA, and if necessary, incorporate any necessary modifications to the proposed language. Staff will ensure that the ESC is kept apprised during the APA timeline.



ADULT TITLES 15 AND 24 REGULATIONS REVIEW AND REVISION PROCESS
PROPOSED TIMELINE – UPDATED

- | | |
|-----------------------|--|
| June 19-July 10, 2015 | · Solicit feedback from the field |
| August 27, 2015 | · Executive Steering Committee meeting <ul style="list-style-type: none">○ Review feedback from the field and critical issues○ Forward regulations for review/amendment to workgroups |
| January 2016 | · Workgroups meet |
| March 30, 2016 | · Executive Steering Committee meeting <ul style="list-style-type: none">○ Workgroup presentations of proposed amendments○ Finalize regulation revision recommendations |
| June 2016 | · Board of State and Community Corrections meeting <ul style="list-style-type: none">○ Executive Steering Committee recommendations○ Approve proposed revisions○ Permission to submit to the Department of Finance, Office of Administrative Law and Building Standards Commission for purpose of commencing public comment period on regulation revisions |
| June 2016 | · Submit Economic Statement to Department of Finance for review |
| July 2016 | · Submit notice package to Office of Administrative Law and Building Standards Commission · Publication date in California Regulatory Notice Register |
| July/August 2016 | · 45-day public comment period · Public hearing, location TBA |
| September 2016 | · 15-day public comment period |

ADULT TITLES 15 AND 24 REGULATIONS REVIEW AND REVISION PROCESS
PROPOSED TIMELINE – UPDATED

- | | |
|---------------|---|
| November 2016 | <ul style="list-style-type: none">· Board of State and Community Corrections meeting<ul style="list-style-type: none">○ Draft regulations presented for adoption○ Permission to submit to the Office of Administrative Law and Building Standards Commission |
| November 2016 | <ul style="list-style-type: none">· File regulations with Office of Administrative Law and Building Standards Commission |
| December 2016 | <ul style="list-style-type: none">· Office of Administrative Law and Building Standards Commission approval/disapproval notice |
| March 2017 | <ul style="list-style-type: none">· Title 15 and Title 24, Part 1 regulations become effective |
| May 2017 | <ul style="list-style-type: none">· Title 24, Part 2 regulations become effective |

GLOBAL TOPIC INFORMATION PROVIDED TO THE WORKGROUPS

THE FOLLOWING INFORMATION WAS PROVIDED TO THE WORKGROUPS, REFLECTING DIRECTION FROM THE EXECUTIVE STEERING COMMITTEE ON ADDITIONAL TOPICS TO BE CONSIDERED BY MULTIPLE WORKGROUPS.

| ESC DIRECTION TO THE WORKGROUPS ON GLOBAL TOPICS | |
|---|--|
| All Workgroups | |
| I. PREA | The ESC has directed each workgroup to review regulations for any potential conflict with the Prison Rape Elimination Act (PREA) standards, and provide recommended changes in support of consistency, as may be appropriate. |
| II. Long-Term Stays | With the advent of Realignment and the subsequent increases in the length of sentences to county jail, the ESC has directed each workgroup to review regulations for any recommended changes in support of meeting the operational and/or physical plant needs related to inmates' long-term stays. |
| Medical/Mental Health Workgroup Classification and Discipline Workgroup Administration Workgroup | |
| III. Restraint of Pregnant Inmates | Assembly Bill 2530, Inmates in Labor (Chapter 726, Statutes of 2012) amended various laws, including amendments to Penal Code (PC) 6030(f) which requires the BSCC to establish minimum standards for local correctional facilities regarding the restraint of pregnant women. PC 3407, also amended, places additional requirements. The ESC directed the Medical/Mental Health Workgroup, Classification and Discipline Workgroup, and Administration Workgroup to review the legislative requirements and recommend appropriate changes to regulation. |

Medical/Mental Health Workgroup

**IV.
Healthcare
Staff
Designations**

The ESC has directed the **Medical/Mental Health Workgroup** (only) to review the use of the various healthcare staff designations as currently contained in the regulations under the purview of this group (1200-1230 and cross-over regulations), and provide recommended changes in support of consistency, clarity and appropriateness. Consider use of “responsible healthcare staff” where appropriate.

For example, 1055 Use of Safety Cell states, in part, “An inmate shall be placed in a safety cell only with the approval of the facility manager, facility watch commander, or the designated physician; continued retention shall be reviewed a minimum of every eight hours.” The use of “designated physician” may not be necessary in this situation.

THE FOLLOWING INFORMATION WAS PROVIDED TO THE EXECUTIVE STEERING COMMITTEE IN PREPARATION FOR ITS AUGUST 27, 2015 MEETING, AND WAS SUBSEQUENTLY PROVIDED TO THE THREE WORKGROUPS TASKED WITH CONSIDERING REGULATION REVISIONS RELATED TO THE RESTRAINT OF PREGNANT INMATES (ADMINISTRATION, CLASSIFICATION AND DISCIPLINE, AND MEDICAL/MENTAL HEALTH WORKGROUPS).

RESOURCE INFORMATION: RESTRAINT OF PREGNANT INMATES

AB 2530 Inmates in Labor (Chapter 726, Statutes of 2012) amended various laws, including amendments to PC 6030(f) which requires the BSCC to establish minimum standards for local correctional facilities regarding the restraint of pregnant women. PC 3407, also amended, places additional requirements. Current regulations, as referenced below, already address some issues relative to pregnant inmates.

The following two references provide pertinent statute and regulation.

1. Reference: AB 2530 (excerpt). *Pertinent changes to the law are highlighted.*

Section 3407 is added to the Penal Code, to read:

3407.

- (a) An inmate known to be pregnant or in recovery after delivery shall not be restrained by the use of leg irons, waist chains, or handcuffs behind the body.
- (b) A pregnant inmate in labor, during delivery, or in recovery after delivery, shall not be restrained by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public.
- (c) Restraints shall be removed when a professional who is currently responsible for the medical care of a pregnant inmate during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of restraints is medically necessary.
- (d) This section shall not be interpreted to require restraints in a case where restraints are not required pursuant to a statute, regulation, or correctional facility policy.
- (e) Upon confirmation of an inmate's pregnancy, she shall be advised, orally or in writing, of the standards and policies governing pregnant inmates, including, but not limited to, the provisions of this chapter, the relevant regulations, and the correctional facility policies.**
- (f) For purposes of this section, "inmate" means an adult or juvenile who is incarcerated in a state or local correctional facility.

Section 6030 of the Penal Code is amended to read:

6030.

- (a) The Board of State and Community Corrections shall establish minimum standards for local correctional facilities. The board shall review those standards biennially and make any appropriate revisions.
- (b) The standards shall include, but not be limited to, the following areas: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local correctional facilities, and personnel training.
- (c) The standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.
- (d) The standards shall also include requirements relating to the acquisition, storage, labeling, packaging, and dispensing of drugs.

(e) The standards shall require that inmates who are received by the facility while they are pregnant be notified, orally or in writing, of and provided all of the following:

- (1) A balanced, nutritious diet approved by a doctor.
- (2) Prenatal and post partum information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor.
- (3) Information pertaining to childbirth education and infant care.
- (4) A dental cleaning while in a state facility.

(f) The standards shall provide that a woman known to be pregnant or in recovery after delivery shall not be restrained, except as provided in Section 3407. **The board shall develop standards regarding the restraint of pregnant women at the next biennial review of the standards after the enactment of the act amending this subdivision and shall review the individual facilities' compliance with the standards.**

(g) In establishing minimum standards, the board shall seek the advice of the following:

(1) For health and sanitary conditions:

The State Department of Public Health, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in correctional facilities:

The Department of Corrections and Rehabilitation, state and local juvenile justice commissions, state and local correctional officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections and Rehabilitation, state and local correctional officials, and other interested persons.

(5) For female inmates and pregnant inmates in local adult and juvenile facilities:

The California State Sheriffs' Association and Chief Probation Officers' Association of California, and other interested persons.

.....

2. Reference: Title 15, Section 1029, Policy and Procedures Manual; and Section 1058, Use of Restraint Devices. *The pertinent section of 1029 has been highlighted; section 1058 does not make specific reference to pregnant inmates.*

§ 1029. Policy and Procedures Manual.

Facility administrator(s) shall develop and publish a manual of policy and procedures for the facility. The policy and procedures manual shall address all applicable Title 15 and Title 24 regulations and shall be comprehensively reviewed and updated at least every two years. Such a manual shall be made available to all employees.

(a) The manual for Temporary Holding, Type I, II, and III facilities shall provide for, but not be limited to, the following:

- (1) Table of organization, including channels of communications.
- (2) Inspections and operations reviews by the facility administrator/manager.
- (3) Policy on the use of force.
- (4) Policy on the use of restraint equipment, including the restraint of pregnant inmates as referenced in Penal Code Section 6030(f).**
- (5) Procedure and criteria for screening newly received inmates for release per Penal Code sections 849(b)(2) and 853.6, and any other such processes as the facility administrator is empowered to use.

- (6) Security and control including physical counts of inmates, searches of the facility and inmates, contraband control, and key control. Each facility administrator shall, at least annually, review, evaluate, and make a record of security measures. The review and evaluation shall include internal and external security measures of the facility.
- (7) Emergency procedures include:
 - (A) fire suppression preplan as required by section 1032 of these regulations;
 - (B) escape, disturbances, and the taking of hostages;
 - (C) civil disturbance;
 - (D) natural disasters;
 - (E) periodic testing of emergency equipment; and,
 - (F) storage, issue, and use of weapons, ammunition, chemical agents, and related security devices.
- (8) Suicide Prevention.
- (9) Segregation of Inmates.
- (10) The policies and procedures required in subsections (6) and (7) may be placed in a separate manual to ensure confidentiality.

(b) The manual for court holding facilities shall include all of the procedures listed in subsection (a), except number (5).

(c) The manual for Type IV facilities shall include, in addition to the procedures required in subsection (a), except number (5), procedures for:

- (1) accounting of inmate funds;
- (2) community contacts;
- (3) field supervision;
- (4) temporary release; and
- (5) obtaining health care.

Note: Authority cited: Section 6030, Penal Code. Reference: Section 6030, Penal Code.

§ 1058. Use of Restraint Devices.

The facility administrator, in cooperation with the responsible physician, shall develop written policies and procedures for the use of restraint devices and may delegate authority to place an inmate in restraints to a physician. In addition to the areas specifically outlined in this regulation, at a minimum, the policy shall address the following areas: acceptable restraint devices; signs or symptoms which should result in immediate medical/mental health referral; availability of cardiopulmonary resuscitation equipment; protective housing of restrained persons; provision for hydration and sanitation needs; and exercising of extremities.

Restraint devices shall only be used on inmates who display behavior which results in the destruction of property or reveal an intent to cause physical harm to self or others. Restraint devices include any devices which immobilize an inmate's extremities and/or prevent the inmate from being ambulatory. Physical restraints should be utilized only when it appears less restrictive alternatives would be ineffective in controlling the disordered behavior.

Inmates shall be placed in restraints only with the approval of the facility manager, the facility watch commander, or the designated physician; continued retention shall be reviewed a minimum of every two hours. A medical opinion on placement and retention shall be secured as soon as possible, but no later than four hours from the time of placement. The inmate shall be medically cleared for continued retention at least every six hours thereafter. A mental health consultation shall be secured as soon as possible, but in no case longer than eight hours from the time of placement, to assess the need for mental health treatment.

Direct visual observation shall be conducted at least twice every thirty minutes to ensure that the restraints are properly employed, and to ensure the safety and well-being of the inmate. Such observation shall be documented. While in restraint devices all inmates shall be housed alone or in a specified housing area for restrained inmates which makes provisions to protect the inmate from abuse. In no case shall restraints be used for discipline, or as a substitute for treatment.

The provisions of this section do not apply to the use of handcuffs, shackles or other restraint devices when used to restrain inmates for security reasons.

NOTE: Authority cited: Sections 6024 and 6030, Penal Code. Reference: Section 6030, Penal Code