

**ADDENDUM TO SUBSTANTIVE REVISIONS MATRIX  
9/30/21 ESC MEETING**

**TITLE 15 MINIMUM STANDARDS FOR LOCAL DETENTION FACILITIES**

**BSCC STAFF RECOMMENDED REVISIONS  
AS REQUESTED BY ESC ON 8/31/2021**

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## § 1027.5 Safety Checks.

### **August 31, 2021 Executive Steering Committee Direction:**

The ESC directed BSCC staff to create a revision that combines the proposed revisions of the Workgroup and those provided by public comments.

### **Original Workgroup Recommendation:**

Safety checks shall be conducted at least hourly through direct visual observation of all inmates. There shall be no more than a 60-minute lapse between safety checks. There shall be a written plan that includes the documentation of routine safety checks and a process to review completed safety checks.

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

### **BSCC Response and Recommendation:**

The facility administrator shall develop and implement policy and procedures for conducting safety checks that include but are not limited to the following:

Safety checks will determine the safety and well-being of individuals and shall be conducted at least hourly through direct visual observation of all ~~inmates~~ people housed in the facility.

- (a) There shall be no more than a 60-minute lapse between safety checks.
- (b) Safety checks for people in sobering cells, safety cells, and restraints shall occur more frequently as outlined in the relevant regulations.
- (c) Safety checks shall occur at random or varied intervals.
- (d) There shall be a written plan that includes the documentation of ~~routine~~ all safety checks. Documentation shall include:
  - (1) the actual time at which each individual safety check occurred;
  - (2) the location where each individual safety check occurred, such as a cell, module, or dormitory number; and,
  - (3) Initials or employee identification number of staff who completed the safety check(s).
- ~~(b)~~ (e) A documented process by which safety checks are reviewed at regular defined intervals by a supervisor or facility manager, including methods of mitigating patterns of inconsistent documentation, or untimely completion of, safety checks.

### **BSCC Revision Rationale:**

BSCC staff recognizes the call for Section 1027.5 to become more robust in its protection of the safety of individuals and also the current time and staff constraints of facilities.

Title 15 regulations are intended to serve as minimum standards that every facility in the state can meet, therefore the revisions we propose must be reasonably attainable for every facility type and size.

BSCC staff suggests that the regulation maintain the current minimum lapse between safety checks; at a time when many facilities are facing staffing shortages, or lack of staff due to COVID-19 exposure, a change to safety check frequency may cause undue hardship and most smaller facilities would not have the ability to comply.

BSCC suggests creating additional requirements for the documentation and review of safety checks. Proposed revisions are intended to ensure consistency and accountability of staff, supervisors/managers, and facilities.

BSCC staff does not recommend modifying the time limit for safety checks at this time and recommends that this issue be revisited during the next regulation revision process.

## § 1062. Visiting.

### **August 31, 2021 Executive Steering Committee Direction:**

The ESC reviewed the proposed revisions received through public comments and requested that BSCC staff consider the comments and create three options, one of which may be approved by the ESC, or, that may be presented to the BSCC Board:

1. The Workgroups proposed changes (shown above, Workgroup did not suggest any changes)
2. A BSCC staff recommended version that contemplates public comment
3. Revisions suggested by CJCJ et al. in the public comment letter dated 8/28/2021

### **1. Original Workgroup Recommendation (no changes proposed):**

- (a) The facility administrator shall develop written policies and procedures for inmate visiting which shall provide for as many in-person visits and visitors as facility schedules, space, and number of personnel will allow. For sentenced inmates in Type I facilities and all inmates in Type II facilities there shall be allowed no fewer than two visits totaling at least one hour per inmate each week. In Type III and Type IV facilities there shall be allowed one or more visits, totaling at least one hour, per week.
- (b) In Type I facilities, the facility administrator shall develop and implement written policies and procedures to allow visiting for non-sentenced detainees. The policies and procedures will include a schedule to assure that non-sentenced detainees will be afforded a visit no later than the calendar day following arrest.
- (c) The visiting policies developed pursuant to this section shall include provision for visitation by minor children of the inmate.
- (d) Video visitation may be used to supplement existing visitation programs, but shall not be used to fulfill the requirements of this section if in-person visitation is requested by an inmate.
- (e) Facilities shall not charge for visitation when visitors are onsite and participating in either in-person or video visitation. For purposes of this subsection, "onsite" is defined as the location where the inmate is housed.
- (f) Subdivision (d) shall not apply to facilities which (1) exclusively used video visitation prior to January 1, 2017 or (2) had been designed without in-person visitation space and conditionally awarded by the Board prior to June 27, 2017, funding authorized by Chapter 3.11 (commencing with Section 15820.90), Chapter 3.12 (commencing with Section 15820.91), Chapter 3.13 (commencing with Section 15820.92), or Chapter 3.131 (commencing with Section 15820.93).
- (g) If a local detention facility offered video visitation only as of January 1, 2017, the first hour of remote video visitation per week shall be offered free of charge.

Note: Authority cited: Sections 6024 and 6030, Penal Code. Reference: Section 6030 and 4030, Penal Code, and Section 15820.948, Government Code.

## **2. BSCC Recommendation:**

The facility administrator shall develop and implement written policies and procedures which include the following requirements:

- (a) ~~The facility administrator shall develop written policies and procedures for inmate~~ A visiting program which shall provide for:
- (1) as many in-person visits and visitors as facility schedules, space, and number of personnel will allow.
  - (2) A publicly posted schedule of facility visiting hours. If practicable, visiting hours should be made available on weekends, evenings, or holidays.
  - (3) For sentenced inmates in Type I facilities and all inmates in Type II, III, and IV facilities there shall be allowed no fewer than two visits totaling at least one hour per inmate each week. ~~In Type III and Type IV facilities there shall be allowed one or more visits, totaling at least one hour, per week.~~
  - ~~(4)~~(4) In Type I facilities, the facility administrator shall develop and implement written policies and procedures to allow visiting for non-sentenced detainees. The policies and procedures will include a schedule to assure that non-sentenced detainees will be afforded a visit no later than the calendar day following arrest.
- (b) A documented process by which cancelled visitation opportunities are regularly reviewed by a supervisor or facility manager.
- ~~(b)~~(c) The visiting policies developed pursuant to this section shall include provision for visitation by minor children of the inmate.
- ~~(e)~~(d) Video visitation may be used to supplement existing visitation programs, but shall not be used to fulfill the requirements of this section if in-person visitation is requested by an inmate.
- ~~(d)~~(e) Facilities shall not charge for visitation when visitors are onsite and participating in either in-person or video visitation. For purposes of this subsection, “onsite” is defined as the location where the inmate is housed.
- ~~(e)~~(f) Subdivision (d) shall not apply to facilities which (1) exclusively used video visitation prior to January 1, 2017 or (2) had been designed without in-person visitation space and conditionally awarded by the Board prior to June 27, 2017, funding authorized by Chapter 3.11 (commencing with Section 15820.90), Chapter 3.12 (commencing with Section 15820.91), Chapter 3.13 (commencing with Section 15820.92), or Chapter 3.131 (commencing with Section 15820.93).
- ~~(f)~~(g) If a local detention facility offered video visitation only as of January 1, 2017, the first hour of remote video visitation per week shall be offered free of charge.

### **3. CJCJ et al. (8/28/2021) Recommendation:**

- (a) The facility administrator shall develop written policies and procedures for inmate visiting which shall provide for as many in-person visits and visitors as facility schedules, space, and number of personnel will allow. For sentenced inmates in Type I facilities and all inmates in Type II facilities there shall be allowed no fewer than two visits totaling at least one hour per inmate each week. In Type III and Type IV facilities there shall be allowed no fewer than two~~one~~ or more visits, totaling at least one hour, per week.
- (b) In Type I facilities, the facility administrator shall develop and implement written policies and procedures to allow visiting for non-sentenced detainees. The policies and procedures will include a schedule to assure that non-sentenced detainees will be afforded a visit no later than the calendar day following arrest.
- (c) The visiting policies developed pursuant to this section shall include provision for visitation by minor children of the inmate.
- (d) Video visitation may be used to supplement existing visitation programs, but shall not be used to fulfill the requirements of this section if in-person visitation is requested by an inmate.
- (e) Facilities shall not charge for visitation when visitors are onsite and participating in either in-person or video visitation. For purposes of this subsection, "onsite" is defined as the location where the inmate is housed.
- (f) Subdivision (d) shall not apply to facilities which (1) exclusively used video visitation prior to January 1, 2017 or (2) had been designed without in-person visitation space and conditionally awarded by the Board prior to June 27, 2017, funding authorized by Chapter 3.11 (commencing with Section 15820.90), Chapter 3.12 (commencing with Section 15820.91), Chapter 3.13 (commencing with Section 15820.92), or Chapter 3.131 (commencing with Section 15820.93).
- (g) If a local detention facility offered video visitation only as of January 1, 2017, the first two hours of remote video visitation per week shall be offered free of charge.
- (h) Facilities shall establish reasonable visiting hours that are convenient and suitable for visitors, including time on weekends, evenings, and holidays.
- (i) Facilities shall not cancel visitation except as necessary and only if narrowly tailored to further the legitimate security interests of the government.

### **BSCC Revision Rationale:**

BSCC staff has reorganized the regulation for clarity and proposes the following:

1. Staff felt it was important that visiting hours be publicly posted/available and that weekend, evening or holiday hours for visiting be offered, when practicable, meaning that the facility has enough resources available to accommodate those

extra hours. Not all facilities have the ability to comply with such a requirement but may be able to schedule extra visiting opportunities when resources allow.

2. One additional visit per week for Type III and IV facilities for consistency with the Type II requirements.
3. A process for review of cancelled visitation by a supervisor or facility manager.
4. Penal Code section 4032 (d) requires that the first hour of remote video visitation be free of charge; this revision maintains alignment with statute.

## § 1067. Access to Telephone.

### **August 31, 2021 Executive Steering Committee Direction:**

The ESC reviewed the Workgroup proposed revisions and public comments requesting that BSCC staff create a revision that considers submitted public comment and ensures access to telephones and communication devices, provides that telephonic equipment be accessible to individuals with speech impairments, and protects against the unnecessary revocation of telephonic communication.

### **Original Workgroup Recommendation**

The facility administrator shall develop written policies and procedures which allow ~~reasonable~~ access to a telephone [or communication device](#) beyond those telephone calls which are required by Section 851.5 of the Penal Code.

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

### **BSCC Recommendation:**

The facility administrator shall develop written policies and procedures which allow ~~reasonable~~ access to a telephone [or communication device](#) beyond those telephone calls which are required by Section 851.5 of the Penal Code. [Individuals who are known to have, or perceived by others as having, hearing or speech impairments shall be provided access to the appropriate telecommunication device which will facilitate communication. Such devices may include but are not limited to videophones, teletypewriters, or third-party communications assistance. An individual's access to telephone communications shall not be withdrawn unless doing so is required to uphold the safety and security of the facility.](#)

### **BSCC Revision Rationale:**

Telephones provide an important and necessary link between the incarcerated and their families, friends, community, and attorney. Every person who is incarcerated should have access to a telephone or telecommunication device that is capable of facilitating the type of communication understood by that individual.

The California Public Utilities Commission (CPUC) has capped the rates of calls for all incarcerated person calling services operating within California at seven cents (\$0.07) per minute.

## § 1069. Inmate Orientation.

### **August 31, 2021 Executive Steering Committee Direction:**

The ESC accepted the Workgroup's proposed revisions and asked that BSCC staff rework CJCJ et al.'s suggested insertion regarding translation for non-English speakers.

### **Original Workgroup Recommendation:**

(a) In Type II, III, and IV facilities, the facility administrator shall develop written policies and procedures for the implementation of a program reasonably understandable to inmates designed to orient a newly received inmate at the time of placement in a living area. Access to an orientation program may be by video or written form. Additional measures may be necessary to ensure the orientation material is understood by all. Such a program shall be published and include, but not be limited to, the following:

- (1) correspondence, visiting, and telephone usage rules;
- (2) rules and disciplinary procedures;
- (3) inmate grievance procedures;
- (4) programs and activities available and method of application;
- (5) medical and mental health services;
- (6) classification/housing assignments;
- (7) court appearance where scheduled, if known;
- (8) voting, including registration; ~~and,~~
- (9) zero tolerance policy against sexual abuse and sexual harassment; ~~and,~~  
10) availability of personal care items and opportunities for personal hygiene.

(b) In Type I facilities, the facility administrator shall develop written policies and procedures for a program reasonably understandable to non-sentenced detainees to orient an inmate at the time of placement in a living area. Such a program shall be published and include, but not be limited to, the following:

- (1) rules and disciplinary procedures;
- (2) visiting rules;
- (3) availability of personal care items, opportunities for personal hygiene;
- (4) availability of reading and recreational materials; and,
- (5) medical/mental health procedures.

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

### **BSCC Recommendation:**

(a) In Type II, III, and IV facilities, the facility administrator shall develop written policies and procedures for the implementation of a program ~~reasonably understandable for to~~ people newly admitted to the facility designed to orient ~~a newly received inmate~~them at the time of placement in a living area. Both written and verbal information shall be provided and may be supplemented with video orientation. Provision shall be made to provide accessible orientation information to each person, including those with disabilities, limited literacy, or those with limited English proficiency (LEP). Such a program shall be published and include, but not be limited to, the following:

- (1) correspondence, visiting, and telephone usage rules;
- (2) rules and disciplinary procedures;
- (3) inmate grievance procedures;
- (4) programs and activities available and method of application;
- (5) medical [and mental health](#) services;
- (6) classification/housing assignments;
- (7) court appearance where scheduled, if known;
- (8) voting, including registration; ~~and,~~
- (9) zero tolerance policy against sexual abuse and sexual harassment; ~~and,~~
- [10\) availability of personal care items and opportunities for personal hygiene.](#)

(b) In Type I facilities, the facility administrator shall develop written policies and procedures for a program reasonably understandable to non-sentenced detainees to orient an inmate at the time of placement in a living area. Such a program shall be published and include, but not be limited to, the following:

- (6) rules and disciplinary procedures;
- (7) visiting rules;
- (8) availability of personal care items, opportunities for personal hygiene;
- (9) availability of reading and recreational materials; and,
- (10) medical/mental health procedures.

**BSCC Revision Rationale:**

The inserted language in subsection (a) proposed by BSCC staff is consistent with orientation requirements for juvenile detention facilities, which were reviewed and updated in 2019 to include the term “English language learners” (ELL). BSCC staff suggests ELL be replaced here with limited English proficiency. BSCC staff suggests the remainder of the workgroup-suggested revisions be approved as shown above.

## § 1073. Inmate Grievance Procedure.

### **August 31, 2021 Executive Steering Committee Direction:**

The ESC considered the recommendations of the Workgroup and public comment suggestions by the ACLU and CJCJ, requesting that BSCC staff create three versions of the regulation to present to the BSCC Board:

1. The original Workgroup-proposed revisions (shown above)
2. A combination of the revisions proposed by the ACLU and CJCJ et al.
3. A BSCC-written combination of 1 and 2.

### **1. Original Workgroup Recommendation:**

(a) Each administrator of a Type II, III, or IV facility and Type I facilities which hold inmate workers shall develop written policies and procedures whereby any inmate may ~~file appeal and have resolved~~ grievances relating to any conditions of confinement, included but not limited to: medical care; classification actions; disciplinary actions; program participation; telephone, mail, and visiting procedures; and food, clothing, and bedding. Such policies and procedures shall include:

- (1) a grievance form or instructions for registering a grievance;
- (2) resolution of the grievance at the lowest appropriate staff level;
- (3) appeal to the next level of review;
- (4) written reasons for denial of grievance at each level of review which acts on the grievance;
- (5) provision for response within a reasonable time limit; and,
- (6) provision for resolving questions of jurisdiction within the facility.

(b) Grievance System Abuse:

The facility may establish written policy and procedure to control the submission of an excessive number of grievances.

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

### **2. ACLU and CJCJ et al. Combined Recommendation:**

(a) Each administrator of a Type II, III, or IV facility and Type I facilities which hold inmate workers shall develop written policies and procedures whereby any inmate may appeal and have resolved grievances relating to any conditions of confinement, included but not limited to: medical care; classification actions; disciplinary actions; program participation; telephone, mail, and visiting procedures; and food, clothing, and bedding. Such policies and procedures shall include:

- (1) a grievance form or instructions for registering a grievance, including all relevant deadlines and information on anonymous grievance submission;
- (2) resolution of the grievance at the lowest appropriate staff level;
- (3) appeal to the next level of review;
- (4) written reasons for denial of grievance at each level of review which acts on the grievance with an explanation of appeal process and deadlines;

- (5) provision for initial response within ten calendar days from the date the grievance was received~~a reasonable time limit; and,~~
- (6) provision for resolving questions of jurisdiction within the facility; and,
- (7) provision for providing a copy of the grievance, appeal, response, and related documents to the incarcerated person.

(b) Grievance System Abuse:

The facility may establish written policy and procedure to control the submission of an excessive number of grievances.

**3. BSCC Recommendation:**

(a) Each administrator of a Type II, III, or IV facility and Type I facilities which hold inmate workers shall develop written policies and procedures whereby all incarcerated persons have the opportunity and ability to submit and appeal ~~and have resolved~~ grievances relating to any conditions of confinement, included but not limited to: medical care; classification actions; disciplinary actions; program participation; telephone, mail, and visiting procedures; and food, clothing, and bedding. Such policies and procedures shall include:

- (1) a grievance form; ~~or~~
- (2) instructions for registering and appealing a grievance, including relevant deadlines;
- (3) a process for submission and handling of anonymous grievances; resolution of the grievance at the lowest appropriate staff level;
- (4) appeal to the next level of review;
- (5) written reasons for denial of grievance at each level of review which acts on the grievance;
- (6) provision for initial response within a reasonable time limit which shall not exceed a period of 10 calendar days; ~~and,~~
- (7) provision for resolving questions of jurisdiction within the facility; and,
- ~~(7)~~(8) provision for providing a copy of the grievance, appeal, response, and related documents to the incarcerated person.

(b) Grievance System Abuse:

The facility may establish written policy and procedure to control the submission of an excessive number of grievances.

**BSCC Revision Rationale:**

BSCC staff reviewed public comments and suggestions on grievance procedures and proposed the following:

1. The language in subsection (a) be amended to clarify what incarcerated persons have the ability to do
2. Require that instructions include information on appealing grievances and deadlines so that timelines are understood
3. Require an initial response from facility staff within ten (10) days; data from a 50-state survey of prison and jail grievance policies conducted by the

Michigan Law Prison Information Project showed that many jails are providing initial responses in less than 15-days.