

# Attachment 1

## TEXT OF PROPOSED REGULATIONS

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

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

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

#### Subchapter 4. General Institution Regulations

#### Article 5. Inmate Discipline

#### Section 3310. Definitions.

**Subsections 3310(a) through 3310(c) are unchanged.**

(d) Experienced means a permanent employee at the designated level, certified by the Chief Disciplinary Officer (CDO) or designee as competent to serve as a senior hearing officer or hearing officer, as specified. Requirements for certification shall include in-service or on-the-job training in disciplinary procedures, mental health assessment requirements, and observation of five serious/administrative disciplinary hearings. A probationary, limited term, or training and **development employee at the designated staff level may be certified as experienced. Acting staff whose permanent position is at a level lower than that required shall not be assigned senior hearing officer/hearing officer responsibility.**

**Subsections 3310(e) through 3310(f) are unchanged.**

#### Section 3315. Serious Rules Violations.

**Subsections 3315(a) through 3315(g) are unchanged.**

**Subsection 3315(h) is added to read:**

(h) Mitigation of Disposition due to Mental Illness. If an inmate is found guilty of the charge, the official shall consider the mental health assessment and any dispositional recommendations provided by mental health staff as documented on the CDCR Form 115-MH, Rules Violation Report: MH Assessment Request, or any other relevant information regarding the relationship between the inmate's mental illness and his or her misconduct, when assessing penalties.

Note: Authority cited: Section 5058, Penal Code. Reference: Sections 295-300.3, 314, 530, 532, 646.9, 647, 653m, 2931, 2932, 2933, 4501.1, 4573.6, 4576, 5054, 5068 and 12020, Penal Code.

#### Section 3317. Mental Health Evaluations for Disciplinary Hearings.

**Section 3317 is retitled and amended to read:**

#### **3317. Mental Health Evaluations Assessments for Disciplinary Hearings Proceedings**

~~Inmates in the Mental Health program or any inmate showing signs of possible mental illness may require a CDC 115 MH (Rev. 06/06), Rules Violation Report: Mental Health Assessment.~~

~~All inmates at the EOP, MHCB, and DMH level of care, who receive a CDC 115, Rules Violation Report shall be referred for a Mental Health Assessment. All inmates in CCCMS or non MHSDS inmates who receive a CDC 115 Rules Violation Report, and who exhibit bizarre, unusual or uncharacteristic behavior at the time of the rules violation shall be referred for a Mental Health Assessment. An inmate shall be referred for a mental health evaluation prior to documenting misbehavior on a CDC Form 115, Rules Violation Report, in any case where the inmate is suspected of self mutilation or attempted suicide. If the mental health evaluation determines that it was an actual suicide attempt, a CDC Form 115 shall not be written and the behavior shall be documented on a CDC Form 128B(Rev.4/74), General Chrono, for inclusion in the inmate's central file.~~

(a) A Mental Health Assessment is a means to incorporate clinical input into the disciplinary process when mental illness may have contributed to behavior resulting in a Rules Violation Report. Mental Health Assessments shall be considered by the hearing officer or other official during disciplinary proceedings when determining whether an inmate shall be disciplined and when determining the appropriate method of discipline.

(b) Inmates who are alleged to have committed a Rules Violation shall receive a mental health assessment, via completion of the CDCR Form 115-MH, Rules Violation Report: MH Assessment Request, for any of the following reasons:

(1) Inmate is a participant in the MHSDS at the EOP level of care.

(2) Inmate is a participant in the MHSDS at the MHCB level of care.

(3) Inmate is a participant in the MHSDS at the Psychiatric Inpatient Program, Acute Psychiatric Program or Intermediate Care Facility levels of care.

(4) Inmate is a participant in the MHSDS at the CCCMS level of care and has been charged with a Division A, B or C offense or any other rules violation which may result in the assessment of a Security Housing Unit term as defined in Section 3341.5.

(5) Inmate engaged in Indecent Exposure or Sexual Disorderly Conduct.

(6) Inmate displayed bizarre, unusual or uncharacteristic behavior at the time of the offense

(c) When a mental health assessment is required, the reviewing supervisor shall request that a mental health clinician complete the assessment by completing a CDCR Form 115-MH, Rules Violation Report: MH Assessment Request and delivering it to the institution's mental health program within two calendar days of the date of discovery. The mental health program shall complete the assessment and return it to the reviewing supervisor within eight calendar days of receipt.

(d) At any time during the disciplinary process, after inmate misconduct has occurred, an authorized official may address the misconduct or otherwise handle the disciplinary action or Rules Violation pursuant to CCR section 3312(a) when information indicates that mental illness contributed to the inmate's behavior. The official shall consider mental health staff's assessment, as documented on the CDCR Form 115-MH, Rules Violation Report: MH Assessment Request, and any other relevant information, when determining whether the inmate should be disciplined or the appropriate method of discipline because the inmate's behavior was strongly influenced by mental illness. The official shall also consider mental health staff's assessment when determining whether punishment should be mitigated due to the inmate's mental illness. These considerations shall be undertaken throughout the entirety of disciplinary process.

(e) An inmate shall be referred for a mental health assessment prior to documenting misbehavior on a CDC Form 115, Rules Violation Report, in any case where the inmate is suspected of self-

mutilation or attempted suicide. If the mental health assessment determines it was self-mutilation or an actual suicide attempt, a CDC Form 115, Rules Violation Report shall not be written.

**Section 3317.1 is added to read:**

**3317.1. Documenting Rules Violations in an Alternate Manner for Inmates in the MHSDS**

(a) If the inmate's behavior was strongly influenced by symptoms of mental illness at the time the rules violation occurred, mental health staff may recommend via the CDCR Form 115-MH, Rules Violation Report: MH Assessment Request, that the inmate would be better served by having the behavior documented in an alternate manner. In this event the CDC Form 115, Rules Violation Report, and CDCR Form 115-MH, Rules Violation Report: MH Assessment Request, shall be forwarded to the Facility Captain with the recommendation. The Captain will review the CDC Form 115, Rules Violation Report and return it to the hearing officer within three calendar days from the date of receipt with a decision.

(b) Based on his or her review, the Captain will direct the hearing officer to proceed in any of the following manners:

(1) Proceed with hearing the Rules Violation Report as serious,

(2) Proceed with hearing the Rules Violation Report as administrative,

(3) Void the CDC Form 115, Rules Violation Report, and document the behavior via a CDC Form 128-A, Custodial Counseling Chrono, for minor misconduct, or

(4) Void the CDC Form 115, Rules Violation Report, and document the behavior via CDC Form 128-B, General Chrono.

(c) If the Captain elects to void the CDC Form 115, the hearing officer shall document the decision via a memorandum and attach it to the CDCR Form 1154, Disciplinary Action Log.

**Section 3317.2 is added to read:**

**3317.2. Behaviors Related to Mental Illness Excluded from Rules Violation Reports**

Inmates shall not be issued a Rules Violation Report for behavior that constitutes a Rule Violation under the following circumstances:

(1) If the behavior occurred in connection with a cell extraction for the administration of involuntary medication, as defined in Penal Code section 2602, or involuntary medical treatment, as defined in Probate Code section 3200, et seq.

(2) If the behavior occurred in connection with a cell extraction for transfer of the inmate to a mental health inpatient unit or between mental health inpatient units.

(3) If the behavior occurred in connection with being placed in mental health restraints and/or seclusion.

(4) If the behavior is determined to be an act of self-mutilation or attempted suicide.

The inmate's conduct shall be documented on a CDC Form 128-B, General Chrono, for inclusion in the inmate's central file.

If the inmate commits a Serious Rules Violation pursuant to CCR, Title 15, Section 3315 while participating in the behavior noted above, which constitutes a Division A-1 offense as defined in CCR, Title 15, Section 3323(b), an assault or battery as defined in CCR, Title 15, Sections 3323(d)(1), 3323(d)(2), or 3323(d)(3), or an assault on a peace officer or non-prisoner as defined in CCR, Title 15, Sections 3323(f)(11) and 3323(f)(12), a CDC Form 115, Rules Violation Report, shall be completed and processed in accordance in accordance with this Article.

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

DRAFT

# **Attachment 2**

### **52080.5.8 Special Consideration of Rules Violations Related to Mental Illness**

Inmates who are alleged to have committed a Rules Violation shall receive a mental health assessment, via completion of the CDCR Form 115-MH, Rules Violation Report: MH Assessment Request for any of the following reasons:

- Inmate is a participant in the MHSDS at the EOP level of care.
- Inmate is a participant in the MHSDS at the MHCBC level of care.
- Inmate is a participant in the MHSDS at the Psychiatric Inpatient Program, Acute Psychiatric Program or Intermediate Care Facility levels of care.
- Inmate is a participant in the MHSDS at the CCCMS level of care and has been charged with a Division A, B or C offense or any other rules violation which may result in the assessment of a SHU term as defined in Section 3341.5.
- Inmate engaged in Indecent Exposure or Sexual Disorderly Conduct.
- Inmate displayed bizarre, unusual or uncharacteristic behavior at the time of the offense

An inmate shall be referred for a mental health assessment prior to documenting misbehavior on a CDC Form 115, Rules Violation Report, in any case where the inmate is suspected of self-mutilation or attempted suicide. If the mental health assessment determines it was self-mutilation or an actual suicide attempt, a CDC Form 115, Rules Violation Report shall not be written.

Inmates shall not be issued a Rules Violation Report (RVR) for any of the following reasons:

- (1) The behavior occurred in connection with a cell extraction for the administration of involuntary medication, as defined in Penal Code section 2602, or involuntary medical treatment, as defined in Probate Code section 3200, et seq.
- (2) The behavior occurred in connection with a cell extraction for transfer of the inmate to a mental health inpatient unit or between mental health inpatient units.
- (3) The behavior occurred in connection with being placed in mental health restraints and/or seclusion.
- (4) The behavior is determined to be an act of self-mutilation or attempted suicide.

When any of these circumstances are met, the inmate's conduct shall be documented on a CDC Form 128-B, General Chrono, for inclusion in the inmate's Central File. Any use of force used during these situations shall be documented appropriately on a CDCR Form 837, Crime/Incident Report, in accordance with CCR, Title 15, 3268.1.

If the inmate commits a Serious Rules Violation pursuant to CCR, Title 15, Section 3315 while participating in the behavior noted above, which constitutes a Division A-1 offense as defined in CCR, Title 15, Section 3323(b), an assault or battery as defined in CCR, Title 15, Sections 3323(d)(1), 3323(d)(2), or 3323(d)(3), or an assault on a peace officer or non-prisoner as defined in CCR, Title 15, Sections 3323(f)(11) and 3323(f)(12), a

CDC Form 115, Rules Violation Report, shall be completed and processed in accordance with current regulations and policy.

At any time during the disciplinary process, after inmate misconduct has been identified, an authorized official may address the misconduct or otherwise dispose of the disciplinary action or Rules Violation when information indicates mental illness contributed to the inmate's behavior. If a CDCR Form 115-MH, Rules Violation Report: MH Assessment Request, has been completed, the official shall consider mental health staff's assessment when making these determinations. The adjudication of inmate misconduct or disciplinary proceeding shall be appropriately documented as determined by the hearing official and in accordance with this article.

The mental health clinicians may recommend documenting an inmate's behavior in an alternate manner via CDCR Form 115-MH, Rules Violation Report: MH Assessment Request, when the behavior was determined to be strongly influenced by mental illness at the time of the offense for all inmate participants in the MHSDS. The mental health clinicians Program Supervisor will be required to provide a signature on the CDCR Form 115-MH Rules Violation Report: MH Assessment Request, acknowledging they agree with the opinions offered by the reviewing clinician. In this event, the hearing officer shall forward the CDC Form 115, Rules Violation Report, to the Facility Captain with all supporting documentation for review.

Following his or her review, the Facility Captain will direct the hearing officer to proceed in any of the following manners:

- Proceed with hearing the RVR as serious
- Proceed with hearing the RVR as administrative
- Void the RVR and document the behavior via CDC Form 128-A, Custodial Correctional Counseling Chrono, for minor misconduct, or
- Void the RVR and document the behavior via CDC Form 128-B, General Chrono

If the Facility Captain elects to void the CDC Form 115, Rules Violation Report, the hearing officer shall document the decision via memorandum and attach it to the CDCR Form 1154, Disciplinary Action Log, to provide proof of practice. A copy of the memorandum shall be forwarded to Case Records to facilitate removal of the CDC Form 804, Notice of Pending CDC 115, from the inmate's Central File within the Electronic Records Management System.



# **Attachment 3**

RULES VIOLATION REPORT: MENTAL HEALTH ASSESSMENT REQUEST  
REVIEWING CUSTODY SUPERVISOR

A CDC 115, Rules Violation Report (RVR), has been written on the following inmate, who requires a mental health assessment.

Could this offense result in a SHU term?     Yes     No

Inmate Name:  
CDC Number:  
RVR Log Number:  
Date of violation:  
Housing:  
Specific Act Charged:

The inmate's current Mental Health Level of Care is: (check one)

Not in MHSDDS Program <sup>1</sup>  
CCCMS <sup>1,2</sup>  
EOP  
MHCB  
DSH/PIP

<sup>1</sup>Non-MHSDDS or CCCMS program participants will be referred for a mental health assessment for behavior that is bizarre or unusual for any inmate, or is uncharacteristic for this inmate.

<sup>2</sup>CCCMS program participants will be referred for a mental health assessment for Division A, B, or C offenses or any offense that may result in a Security Housing Unit term.

Sent to Mental Health (date)  
By (Print name/signature)  
Return this form to: (Print name)  
By (date)

Timelines: Custody has two calendar days to submit this MHA to mental health; mental health has eight calendar days to return this completed MHA to custody.

The interview was conducted in a confidential location.     Yes     No    Date: \_\_\_\_\_

If No, please explain. \_\_\_\_\_

The inmate was informed of the purpose of the evaluation and that information shared during the interview is not confidential and will be used in adjudicating the Rules Violation Report.

Yes  No

Data Source(s) for this Evaluation:

C-File  128 C-2  health record  DECS  MHTS  SOMS  ERMS  Staff  
 Other \_\_\_\_\_

1. CCCMS/NON-MHSDS only. Are there any mental health factors that would cause the inmate to experience difficulty in understanding the disciplinary process and representing his/her interests in the hearing that would indicate the need for assignment of a staff assistant?

Yes  No

Provide rationale

2. In your opinion, was the inmate's behavior so *strongly influenced* by symptoms of a mental illness that the inmate would be better served by documenting this behavior in an alternate manner? If Yes, consult with your program supervisor, provide rationale, establish a nexus between mental health symptoms and the behavior, and go to Question 4. If No, go to Question 3.

No  Yes

Provide rationale

Consulting Program Supervisor:

Print/Sign \_\_\_\_\_

3. In your opinion, is there evidence to suggest that mental illness *contributed* to the behavior that led to the RVR?

No  Yes

Provide rationale. If yes, establish a nexus between mental health symptoms and the behavior.

4. If the inmate is found guilty of the offense, what mental health factors should the hearing officer consider when assessing the penalty, such as penalties that may have an adverse impact on the inmate's stability?

Examples of penalties include, but are not limited to, changes and reduction in: Phone calls, visits (when permissible), day room, confined to quarters, loss of packages, yard time, loss of appliances.

(Example of mandated sanctions: Violations of CCR, Title 15, Sections 3323(c)(6), 3323(d)(8) and 3323(f)(6) shall result in loss of visits.)

Provide rationale

5. (SHU offense only—see box above to determine if applicable) If the inmate is found guilty of the offense, are there any mental health factors the Institutional Classification Committee should consider when assessing a SHU term?

Provide rationale:

\_\_\_\_\_

\_\_\_\_\_  
Clinician- Print and Sign  
Extension

\_\_\_\_\_ Date

\_\_\_\_\_ Phone

\_\_\_\_\_

Custody Staff-Print and Sign

\_\_\_\_\_ Date

# **Attachment 4**

# Memorandum

Date:

To: Associate Directors, Division of Adult Institutions  
Wardens  
Chief Executive Officers  
Chiefs of Mental Health

Subject: **IMPLEMENTATION OF RULES VIOLATION REPORT EXCLUSIONS AND DOCUMENTATION OF RULES VIOLATIONS IN AN ALTERNATE MANNER BASED ON CLINICAL INPUT FOR ALL INMATE PARTICIPANTS IN THE MENTAL HEALTH SERVICES DELIVERY SYSTEM**

## Categories Excluded From Rules Violation Report Process

Effective immediately, inmates shall not be issued a Rules Violation Report (RVR) under the following circumstances:

- (1) If the behavior occurred in connection with a cell extraction for the administration of involuntary medication, as defined in Penal Code section 2602, or involuntary medical treatment, as defined in Probate Code section 3200, et seq.
- (2) If the behavior occurred in connection with a cell extraction for transfer of the inmate to a mental health inpatient unit or between mental health inpatient units.
- (3) If the behavior occurred in connection with being placed in mental health restraints and/or seclusion.
- (4) If the behavior is determined to be an act of self-mutilation or attempted suicide.

When any of these circumstances are met, the inmate's conduct shall be documented on a CDC Form 128-B, General Chrono, for inclusion in the inmate's Central File. Any use of force used during these situations shall be documented appropriately on a CDCR Form 837, Crime/Incident Report, in accordance with CCR, Title 15, 3268.1.

However, if the inmate commits a Serious Rules Violation pursuant to CCR, Title 15, Section 3315 while participating in the behavior noted above, which constitutes a Division A-1 offense as defined in CCR, Title 15, Section 3323(b), an assault or battery as defined in CCR, Title 15, Sections 3323(d)(1), 3323(d)(2), or 3323(d)(3), or an assault on a peace officer or non-prisoner as defined in CCR, Title 15, Sections 3323(f)(11) and 3323(f)(12), a CDC Form 115, Rules Violation Report, shall be completed and processed in accordance with current regulations and policy.

**Special Processes for Reviewing and Documenting Rules Violation Reports in an Alternate Manner**

Additionally, in accordance with the revised CDCR Form 115-MH Rules Violation Report: MH Assessment Request (Rev. \*\*/15), mental health clinicians may recommend documenting an inmate's behavior in an alternate manner when the behavior was determined to be strongly influenced by mental illness at the time of the offense for all inmate participants in the MHSDS. The mental health clinicians Program Supervisor will be required to provide a signature on the CDCR Form 115-MH Rules Violation Report: MH Assessment Request, acknowledging they agree with the opinions offered by the reviewing clinician. In this event, the hearing officer shall forward the CDC Form 115, Rules Violation Report, to the Facility Captain with all supporting documentation for review.

Following his or her review, the Facility Captain will direct the hearing officer to proceed in any of the following manners:

- Proceed with hearing the RVR as serious
- Proceed with hearing the RVR as administrative
- Void the RVR and document the behavior via CDC Form 128-A, Custodial Correctional Counseling Chrono, for minor misconduct, or
- Void the RVR and document the behavior via CDC Form 128-B, General Chrono

If the Facility Captain elects to void the CDC Form 115, Rules Violation Report, the hearing officer shall document the decision via memorandum and attach it to the CDCR Form 1154, Disciplinary Action Log, to provide proof of practice. A copy of the memorandum shall be forwarded to Case Records to facilitate removal of the CDC Form 804, Notice of Pending CDC 115, from the inmate's Central File within the Electronic Records Management System.

Associate Directors, Division of Adult Institutions  
Wardens  
Chief Executive Officers  
Chiefs of Mental Health  
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If you have any questions please contact, Eric Hobbs, Correctional Lieutenant, Class Action Management Unit, at (916)-322-1725 or via electronic mail at Eric.Hobbs@CDCR.Ca.Gov or Corey Scheidegger, Senior Psychologist, Statewide Mental Health Program at (916)-691-0310 or via electronic mail at Corey.Scheidegger@CDCR.Ca.Gov.

KELLY HARRINGTON  
Director  
Division of Adult Institutions  
cc: Kathleen Allison  
Ralph Diaz  
Tim Virga  
Thomas Tyler  
Amy Eargle  
Angela Ponciano  
Corey Scheidegger  
Eric Hobbs

TIMOTHY BELAVICH, Ph.D., MSHCA, CCHP  
Director (A), Division of Health Care Service  
Deputy Director, Statewide Mental Health



# **Attachment 5**

# Memorandum

Date :

To : Associate Directors, Division of Adult Institutions  
Wardens

Subject : **ELIMINATION OF INMATE CLERKS TYPING RULES VIOLATION REPORT HEARING SUMMARIES FOR INMATE PARTICIPANTS IN THE MENTAL HEALTH SERVICES DELIVERY SYSTEM**

Effective immediately, as a result of the recent Coleman Special Master's, Rules Violation Report (RVR) review, inmate clerks will no longer be allowed to type the CDC Form 115, Rules Violation Report (CDC 115) **hearing summaries** for inmate participants in the Mental Health Services Delivery System (MHSDS).

Staff responsible for documenting an inmate's behavior on a CDC 115 shall no longer identify whether the inmate is a participant in the MHSDS or the inmate's level of care in the body of the RVR.

The inmate clerk will continue typing all original CDC 115's with the exception of those submitted for inmates housed in a Mental Health Crisis Bed (MHCB), Psychiatric Inpatient Program (PIP), or Department of State Hospitals (DSH) programs within a CDCR institution. Staff shall be responsible for typing all CDC 115's for MHCB, PIP and DSH inmates.

**Each CDC 115 shall be concluded as shown in the example below:**

*INMATE is / is not a participant in the Mental Health Services Delivery System.*  
(Circle one)

*Level of care: N/A, CCCMS, EOP, MHCB, APP, ICF, or PIP*  
(Circle one)

Upon review of the original CDC 115, the reviewing supervisor shall utilize the Disability and Effective Communication System or Strategic Offender Management System (SOMS) to identify the inmate's participation in the MHSDS and the appropriate level of care. The reviewing supervisor shall circle all applicable items prior to signing the CDC 115. If the inmate has been identified as a MHSDS participant, the inmate clerk will no longer be permitted to assist in the RVR process to include preparation of the CDCR Form 115-MH Rules Violation Report: MH Assessment Request.

Associate Directors, Division of Adult Institutions  
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However, if the inmate has not been identified as a MHSDS participant, the inmate clerk shall be allowed to type the CDC 115 hearing summary.

In addition, inmate clerks shall no longer be allowed to process or file any completed CDC 115's or CDCR Form 837, Crime/Incident Report's involving participants in the MHSDS.

Each institution shall be responsible for identifying staff members who have been appropriately trained to type CDC 115's for all MHCBC, PIP, and DSH inmates and the hearing summaries for all CDC 115's involving participants in the MHSDS.

This process shall be used on an interim basis, pending integration of the inmate disciplinary process into SOMS.

If you have any questions or concerns regarding this process, please contact your respective Associate Director.

KELLY HARRINGTON  
Director (A)  
Division of Adult Institutions

Attachments

cc: Kathleen Allison  
Ralph Diaz  
Tim Virga  
Thomas Tyler