

FORM APPROVED COUNTY COUNSEL
 BY: GREGORY P. PRIAMOS
 DATE: 3/28/16

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

218



FROM: District Attorney

SUBMITTAL DATE:
 3/2/16

SUBJECT: Acceptance of the California Department of Corrections and Rehabilitation (CDCR) Agreement with the Riverside County District Attorney's Office; and Adoption of Resolution 2016-083. All Districts [\$2,497,250; State of California 100%]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve acceptance of the agreement (attached) between the California Department of Corrections and Rehabilitation (CDCR) and the Riverside County District Attorney's Office for a term of 3 years, 6 months from January 1, 2016 through June 30, 2019;
2. Adopt Resolution 2016-083 authorizing the District Attorney and/or his designee to sign the Agreement as well as related amendments or extensions that do not significantly change the agreement on behalf of the Board.

BACKGROUND:

Summary

(Background on page 2)

Etaina Bentley
 Etaina Bentley, for
 Michael A. Hestrin,
 District Attorney

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost:	POLICY/CONSENT (per Exec. Office)
COST	\$ 356,750	\$ 713,500	\$ 2,497,250	\$ 0	Consent <input type="checkbox"/> Policy <input checked="" type="checkbox"/>
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0	

SOURCE OF FUNDS: State of California
 Budget Adjustment: No
 For Fiscal Year: 15/16, 16/17, 17/18 & 18/19

C.E.O. RECOMMENDATION: APPROVE

County Executive Office Signature BY: *Elizabeth J. Olson*
 Elizabeth J. Olson

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Jeffries, seconded by Supervisor Benoit and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
 Nays: None
 Absent: None
 Date: April 12, 2016
 xc: D.A.

Keçia Harper-Ihem
 Clerk of the Board
 By: *Keçia Harper-Ihem*
 Deputy

Prev. Agn. Ref.: N/A | District: ALL | Agenda Number:

3-22

FISCAL PROCEDURES APPROVED
 PAUL ANGULO, CPA, AUDITOR-CONTROLLER
 BY: Susana Garcia-Bocanegra
 Departmental Concurrence

A-30
 Positions Added
 4/5 Vote
 Change Order

**SUBMITTAL TO THE BOARD OF SUPERVISORS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA
FORM 11** Acceptance of the California Department of Corrections and Rehabilitation (CDCR) Agreement with the Riverside County District Attorney's Office; and Adoption of Resolution 2016-083. All Districts [\$2,497,250; State of California 100%]

DATE: 3/2/16

PAGE: Page 2 of 2

BACKGROUND:

Summary

The Riverside County District Attorney's Office (RCDA) and the California Department of Corrections and Rehabilitation (CDCR) represented by the Chuckawalla Valley State Prison (CVSP) and Ironwood State Prison (ISP) wish to renew the long-standing Memorandum of Understanding (MOU) for the investigation and prosecution of crimes committed in the above listed facilities belonging to the Department of Corrections or the California Youth Authority. While past MOU's have not been brought to the Board of Supervisors under prior DA administrations, the current DA Mr. Hestrin, is committed to transparency and partnership as we move the County forward. The agreement with the State of California establishes guidelines for the referral of crimes for prosecution, investigation of criminal activity, release of records to the District Attorney's Office, and notification of inmate death or other major incidents.

The services provided under this agreement are pursuant to the California Code of Regulations (CCR), Title 15, Section 3316, which states in part, "...Except as provided in subsection (b), all criminal misconduct by persons under the jurisdiction of the department or occurring on facility property shall be referred by the institution head or designee to appropriate authorities for possible investigation and prosecution when there is evidence substantiating each of the elements of the crime to be charged."

Counties where state prisons are located provide investigations when prisoners commit a crime. Counties also prosecute and defend alleged perpetrators. These practices have been the norm for decades. The state of California reimburses counties for services rendered. Prior to the current Memorandum of Understanding between the District Attorney's Office and the California Department of Corrections and Rehabilitation the Board did not review agreements for the aforementioned services since the agreements are always zero budget (\$0) The state makes a commitment to pay as necessary but provides no estimate of potential cost.

Based on the current MOU with Chuckwalla Valley State Prison (CVSP) and Ironwood State Prison (ISP) the DA's Office budgeted \$713,500 yearly for FY 15/16 through FY 18/19. Six months (January through June 2016) of expenditures reimbursed for investigations of crimes at both CVSP and ISP is estimated at \$356,750 therefore no budget adjustments are needed. The Office will adjust the budget as necessary if inmate crimes and the subsequent investigations by the Office at the prisons exceed historic estimates. Estimating the cost of investigations is difficult given that many factors impact the cost including but not limited to the number of inmates involved, type/s of crime/s, witnesses, and/or property damage. For example a homicide investigation would likely cost more than one wherein property was stolen. The DA will estimate the revenue and expenses from this MOU in subsequent budgets and make adjustments accordingly.

The agreement and resolution have been reviewed and approved as to form by County Counsel.

Impact on Citizens and Businesses

All costs under this program will be recovered through the agreement.

Attachments:

State of California Standard Agreement
Resolution #2016-083
Current MOU's (CVSP & ISP)

2
3 RESOLUTION NO. 2016-083

4 RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
5 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, REGARDING
6 CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR)
7 AGREEMENT
8

9 WHEREAS, the Board of Supervisors of the County of Riverside has designated
10 the referral of crimes for prosecution, investigation of criminal activity, release of records, and
11 the notification of inmate death or other major incident to the District Attorney's Office and to be
12 funded by the California Department of Corrections (hereinafter referred to as "CDCR")
13 represented by the Chuckawalla Valley State Prison (hereinafter referred to as "CVSP) and
14 Ironwood State Prison (hereinafter referred to as ISP); now, therefore,
15

16 BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of
17 Riverside, State of California, in regular session assembled on April 12, 2016,
18 that the District Attorney of the County of Riverside, State of California and/or his designee is
19 authorized, on its behalf, to submit and to sign the agreement, as well as related amendments,
20 or extensions with CDCR, CVSP and ISP that do not significantly change the agreement.
21

22 BE IT FURTHER RESOLVED that the resolution shall be in effect for the period
23 beginning January 1, 2016 and ending June 30, 2019.

24 ROLL CALL:

25 Ayes: Jeffries, Tavaglione, Washington, Benoit and Ashley
26 Nays: None
27 Absent: None

28 The foregoing is certified to be a true copy of a resolution duly
adopted by said Board of Supervisors on the date therein set forth.

KECIA HARPER-IHEM, Clerk of said Board
By Karen Boston
Deputy

FORM APPROVED COUNTY COUNSEL
BY: M. J. [Signature] 3/28/16
DATE: 3/28/16
BY: STEPHEN SPINIS
28

STATE OF CALIFORNIA
STANDARD AGREEMENT
 STD 213 (Rev 06/03)

AGREEMENT NUMBER 5600006052
REGISTRATION NUMBER

- This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME California Department of Corrections and Rehabilitation (CDCR)
CONTRACTOR'S NAME Riverside County District Attorney's Office (RCDA)
- The term of this Agreement is: January 1, 2016 through June 30, 2019
- The maximum amount of this Agreement is: \$ 0.00
Zero Dollars and No Cents
- The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

The CDCR agrees for the Riverside County DA to provide investigative services:

Exhibit A - Memorandum of Understanding	13 pages
Exhibit A-1 Prison Rape Elimination Act Volunteer/Contractor Informational Sheet	2 pages
Exhibit B – Participating Institutions	1 page
Attachment A – Riverside County Investigative Checklist	1 page
Attachment B – Expanded Reference Guide Prison Filing Checklist	7 pages

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
 These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto:

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) Riverside County District Attorney		FORM APPROVED BY RIVERSIDE COUNTY DA BY: NEAL R. KIPNIS DATE: 3/29/16	California Department of General Services Use Only
BY (Authorized Signature) 	DATE SIGNED (Do not type)		
PRINTED NAME AND TITLE OF PERSON SIGNING Michael A. Hestrin, District Attorney			
ADDRESS 3960 Orange Street Riverside, CA 92501 (951) 955-5400			
STATE OF CALIFORNIA			
AGENCY NAME California Department of Corrections and Rehabilitation		<input type="checkbox"/> Exempt per:	
BY (Authorized Signature) 	DATE SIGNED (Do not type)		
PRINTED NAME AND TITLE OF PERSON SIGNING Peggy Jones, Manager, Institution Contracts Section Unit 1			
ADDRESS 9838 Old Placerville Road, Suite B-2, Sacramento, CA 95827			

**MEMORANDUM OF UNDERSTANDING
CALIFORNIA DEPARTMENT OF CORRECTIONS
CHUCKAWALLA VALLEY AND IRONWOOD STATE PRISON
RIVERSIDE COUNTY DISTRICT ATTORNEY'S OFFICE**

I. PURPOSE

The California Department of Corrections and Rehabilitation (CDCR) represented by the Chuckawalla Valley State Prison (CVSP) and Ironwood State Prison (ISP), hereinafter referred to as CVSP and ISP, and the Riverside County District Attorney's Office (RCDA), hereinafter referred to as RCDA, enter into this Memorandum of Understanding (MOU) to establish guidelines for the referral of crimes for prosecution, investigation of criminal activity, release of records to the District Attorney's Office, and notification of inmate death or other major incident.

The services provided under this agreement are pursuant to the California Code of Regulations (CCR), Title 15, Section 3316, which states in part, "...Except as provided in subsection (b), all criminal misconduct by persons under the jurisdiction of the department or occurring on facility property shall be referred by the institution head or designee to appropriate authorities for possible investigation and prosecution when there is evidence substantiating each of the elements of the crime to be charged."

The guidelines contained in this agreement shall be construed broadly in the spirit of mutually beneficial cooperation between the agencies. There may be instances in which a case does not fall strictly within the guidelines prescribed by this agreement. Such unique cases should be discussed between the agencies and may result in cases being referred to the District Attorney's Office even though they are not explicitly contemplated by this agreement. These guidelines do not limit the discretion of the District Attorney's Office to prosecute any offense under California law. ISP and RCDA mutually agree to the following:

This agreement becomes effective upon signing by both parties and remains in effect until June 30, 2019.

This agreement may be modified by mutual agreement of the parties. Any such modification shall be in writing and signed by the parties or their successors. Any such modification shall be subject to all remaining terms of this agreement.

Either party may terminate this agreement upon 30 calendar days written notice, without cause, unless an earlier time is mutually agreed upon by both parties.

II. BRADY OBLIGATIONS

Pursuant to *Brady v. Maryland* (1963) 373 U.S. 83, the prosecutor must disclose any evidence that is favorable to the defendant and material on the issue of guilt or punishment. This duty encompasses both impeachment and exculpatory evidence. The duty extends to favorable material information that is not in the possession of the individual prosecutor trying the case as the prosecutor has a duty to learn of any favorable evidence known to others acting on the government's behalf (*Kyles v. Whitley* [1995] 514 U.S. 419). In *People v. Superior Court [Barrett]* [2000] 80 Cal. App. 4th 1305, the court held that CDCR has a hybrid status: part investigatory agency that is part of the prosecution team and part third party whose records may be obtained only through an Subpoena Duces Tecum (SDT) (records kept by CDCR in the course of running the prison such as inmate movement records, etc.)

The prosecutor's obligation to disclose extends to promises or inducements to an informant (*United States v. Bagley* [1985] 473 U.S. 667.) The fact that charges are pending against a witness anywhere in the state, even if not moral turpitude, that conduct must be disclosed. (*People v. Coyer* [1983] 142 Cal. App. 3d 839) the probation or parole status of a witness must also be disclosed. (*People v. Hayes* [1992] 3 Cal. App. 4th 1238.) This duty extends to disclose whether law enforcement officers are currently charged with a crime or on misdemeanor probation for a crime committed anywhere in the state.

In accordance with our BRADY obligation, the following procedure was established to both comply with that obligation and to ensure our Deputy District Attorneys (DDA) are not compromised by information they were not supposed to have or did not know existed. For example, an officer can either state in his/her report information from a confidential informant was relied upon or can follow the procedure outlined below. This policy is utilized between the RCDA's office and all law enforcement agencies within Riverside County and outlined below:

- A. CVSP and ISP case agent provides a separate written memo to the Supervising Deputy District Attorney (SDDA) of the RCDA Prison Crimes Unit detailing the following information:
1. Name and contact information of the CVSP/ISP officer who conducted any search, had contact with a suspect, and/or arrested a suspect based upon confidential information.
 2. Summation of information provided to that CVSP/ISP officer by the confidential informant.
 3. Summation of the independent probable cause developed by the case agent.

- B. The SDDA will review the memo and the underlying reports. If necessary, the SDDA must contact the originating CVSP/ISP officer to review all of his information to determine if disclosure was or was not necessary.
- C. The SDDA must document all the information and decide whether a BRADY disclosure is necessary or not.
- D. If a BRADY disclosure is necessary, the SDDA must advise the originating ISP officer to determine the impact of ongoing investigations and operations. After consultation, the decision would be with the RCDA's Office to both proceed and disclose, or to dismiss the case.
- E. If a BRADY disclosure is not necessary, the SDDA will write a decision memo and place it, with all supporting documentation, in a sealed envelope with case identification information on the outside. These envelopes shall be maintained in a secure location within the RCDA's Office.
- F. The SDDA will notify the trial DDA that confidential information exists and that, at the appropriate times, the DDA must invoke the privileges pursuant to Evidence Code Section 1040. If an IN CAMERA hearing is necessary, the SDDA will present the information to the judge.
- G. The DDA or designee is authorized to review confidential files in the presence of the designated CVSP/ISP institution staff to determine whether there is sufficient available information to file criminal charges for in-custody misconduct (i.e., staff assault/inmate assault). Requests by the DDA or designee for copies of confidential documents necessary to prosecute in-custody crimes shall be provided to the Investigative Services Unit (ISU) Lieutenant, who will forward the documents to the Warden or designee for authorization to release, per Department Operations Manual (DOM) Section 13030.14.

Confidential documents identified by the Warden or designee as endangering the safety and security of staff, inmates, or the CVSP/ISP institution and/or deemed too sensitive for release to the DDA or designee will not be released without a proper court order. All other requests by the DDA or designee for access to confidential files to assess information for possible prosecution of crimes occurring in the community will be reviewed by the Warden or designee on a case-by-case basis. The Warden or designee shall factor the need of the DDA or designee to obtain relevant information and the need to ensure the safety and security of staff, inmates, and the ISP institution.

In the event the DDA or designee discovers exculpatory information in the confidential files during their initial review, or any subsequent review, the DDA shall immediately notify the Warden or designee of the discovery and of the

DDA's duty to disclose the exculpatory information to defense. The DDA or designee shall notify the Warden or designee prior to disclosure of such information to the defense in order for the Warden or designee to determine any possible safety concerns and take appropriate action. The RCDA shall retain discretion to dismiss any case wherein documents deemed necessary for prosecution are requested but withheld by ISP.

At the time the case is submitted to the District Attorney's Office, the existence of confidential memoranda related to the case shall be disclosed to the District Attorney's Office by including the information in a sealed envelope along with the submittal package. (See I. 3.A.6. [g] above)

III. PROSECUTORIAL CONSIDERATION

The decision of whether or not to file criminal charges against an inmate must take into account all circumstances involving the offense, victim, and offender. While nearly all in-custody offenses are designated felonies by statute, an effort is made to evaluate the conduct involved in order to prosecute the more serious offenses and allow the less serious offenses to be handled through the correctional administrative discipline process.

The power and authority to use administrative discipline as an alternative to formal prosecution is a unique option that can be considered in crimes committed by an inmate. Thus, factors such as the seriousness of the offense, degree of injury to the victim, mental status of the inmate, actual sentencing consequences to the inmate, as well as the quantity and the quality of the evidence of the offense should be considered. CCR, Title 15, Section 3316(D)(3) provides that an acquittal in court will result in a reversal of any administrative sanctions, thus, the ability to achieve a conviction should be considered as well.

IV. COMMON CRIMES COMMITTED IN PRISON

The list of prison crimes specified in this section is not an exhaustive one; rather, it is a list of crimes that are most commonly referred to District Attorney Offices having correctional institutions within their jurisdictions.

A. Assaultive Crimes (Penal Code [PC] Sections 4500, 4501, 4501.1, 4501.5, 245[a], and 245[c]):

1. **Staff Assaults** (Sworn and Non-sworn): Assaults/batteries on staff only require that an inmate willfully used force or violence upon another person who was not an inmate. No serious injury is required for a referral under this code section.

Assaults on staff should be referred for review where there is significant, observable injury, or where, by the nature of the assault, the potential for serious or great bodily injury is clear. Serious injury may include, but is not limited to, loss of consciousness, concussion, bone fracture protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and/or serious disfigurement. (CALCRIM 925; PC Section 243[f] [4])

All assault and batteries on staff members shall be referred for review. All crimes designated as an Aggravated Battery by Gassing, as defined in PC Section 4501.1, are required by statute to be referred to the District Attorney's Office for prosecution. (PC Section 4501.1[d])

Subdivision (b) of Section 4501.1 defines the term "gassing" for purposes of a criminal violation. There is no violation of this section unless the bodily fluid, bodily substance, or mixture thrown results in actual contact with the victim's skin or membranes. Incidents not involving proof beyond a reasonable doubt that a bodily fluid was involved, or where the substance did not result in contact with the person's skin or membranes, should be referred as a violation of PC Section 4501.5.

2. Inmate Assaults (PC Sections 4501 and 12022.7):

Assaults by an inmate on another inmate should be referred where a deadly weapon or instrument was used or the means of force used produced or was likely to produce great bodily injury. "Great bodily injury" means a significant or substantial injury, not an injury that is trivial, insignificant, or moderate in nature.

If the victim inmate expresses an unwillingness to testify, ensure all corroborating evidence is gathered, including witness statements, articles of clothing, photographs of the victim and suspect(s), etc.

3. Sexual Assaults: (PC Sections 220, 261, 264.1, 286, 289, and 289.6)

The provisions of Public Law 108-79 (the Prison Rape Elimination Act [PREA] of 2003), California Assembly Bill 550 (Chapter 303, Statutes of 2005), and CDCR's DOM Sections 54040.1 through 54040.17 govern CDCR's response to allegations of sexual misconduct. All criminal investigations of sexual misconduct shall be referred to the District Attorney's Office. Pursuant to PC Section 293(a) and Government Code Section 6254, the "Victims of Sex Crimes" form must be attached to all criminal reports related to PC Sections 220, 261, 264.1, 286, 288a, and 289. Sexual assault kits from the

Sexual Assault Response Team (SART) shall be used in the collection of evidence.

4. Homicides or Other Major Incidents (PC Sections 187, 664/187, and 4500):

A major incident includes any homicide, attempted homicide with proof of intent to kill (as opposed to an assault resulting in great bodily injury), escape, riot involving a significant number of inmates, any use of deadly force, or a serious assault on a correctional officer.

Per PC Section 5021, the respective county's District Attorney's Office shall be notified of **any** death that occurs in any facility operated by CDCR.

Notification of an inmate's death, when the circumstances indicate even a possibility of criminal conduct, and notification of any other major incident shall be made **immediately** by calling the RCDA's Major Crimes on-call at (951) 965-8582.

For all inmate deaths, ISP shall fax the preliminary report required by CDCR regulations to the District Attorney's Office, attention the Prison Crimes Unit or alternately send an email to the RCDA's Prison Unit's DDA and Investigator(s).

*updated
on 3/22*

B. Indecent Exposure (PC Section 314[1]):

In accordance with the directive issued by the Director of the Division of Adult Institutions on this issue, referral of cases involving indecent exposure in violation of PC Section 314(1) should be submitted to the District Attorney's Office for filing consideration. The crime is a felony only where the inmate has a previous conviction for a violation of Section 314(1) or Section 288 (Lewd or lascivious acts), not to be confused with Section 288a (oral copulation).

Charges are more likely to be filed where there have been previous violations and the incident occurs in a more public area of the prison or it is clear the defendant was trying to direct attention to his behavior; however, referral of a first time offense of Section 314(1) will be considered in order to obtain the "prior conviction" necessary for a possible future felony offense. All previous rules and violation reports concerning similar conduct should be attached to the report and submitted to the RCDA's Office.

C. Weapons Possession (PC Sections 4502 and 4574):

All cases involving an identifiable suspect in the possession of a firearm, deadly weapon, or explosive shall be referred to RCDA for review and possible felony prosecution.

Possession of a weapon, or attempt to manufacture a weapon fitting the criteria set forth in PC Section 4502 (e.g., sharp instrument and weapon) shall also be referred to RCDA for review and possible felony prosecution.

D. Controlled Substances Possession (PC Sections 4573, 4573.5, 4573.6, 4573.8, and 4573.9 and Health and Safety (H&S) Code Sections 11351, 11351.5, 11352, 11359, 11360, 11378, 11379.6, and 11383):

By Free Persons: Possession of a usable quantity of controlled substances by free persons within the prison grounds shall be referred to the District Attorney's Office for review and possible prosecution when there is evidence that tends to connect the person to the contraband.

Generally, these cases are best established if:

1. The substance or item is found on the person;
2. There is an admission or confession to the possession of the substance or item; or
3. There is videotape evidence showing the free person in possession of the controlled substance.

All preliminary documents (e.g., search warrant affidavit) and any completed reports shall be faxed to the District Attorney's Office by 8:30 A.M. on the morning of the first court day following arrest of a non-inmate who is in the custody of Riverside County Jail. Complete submission packets shall be brought to the District Attorney's Office no later than noon the same day, as cases must be filed expeditiously with the court.

By Inmates: Inmates found in possession of any usable amount of controlled substance or drug paraphernalia shall be referred to the District Attorney's Office for review and possible felony prosecution. Like possession of weapons by inmates, cases should be referred:

1. When the inmate is in actual possession of the contraband; or
2. When it is found secreted in his personal property or his cell and there is an admissible confession or admission of the ownership, or other evidence tending to prove the inmate knew of the substance's presence and nature as a controlled substance.

Judicial economy and practical considerations will be considered in totality in regards to inmates in possession of minor amounts of drugs. All cases where inmates are in possession of narcotic paraphernalia, (e.g., hypodermic needles) may be submitted for evaluation if the criteria in the MOU is met.

E. Conspiracies to Smuggle Contraband (PC Section 182):

Conspiracy to provide certain types of contraband such as controlled substances, drugs, tobacco, escape aid, unlawful communications, admission of false identification, and cell phone components to an inmate is a felony. In order to prove that a conspiracy has occurred, the following must be shown:

1. The suspect or suspects entered into an agreement;
2. The suspect(s) intended for someone to introduce a controlled substance into the prison for the inmate; and
3. The named suspect(s) committed at least one overt act to further the conspiracy.

F. Possession of Cell Phone Components (PC Sections 4575 and 4576):

Both PC Section 4575 and 4576 are misdemeanors. Although the RCDA's Office does not generally prosecute misdemeanors committed in prison, cases involving visitors or non-sworn staff that deliver, or attempt to deliver, a cell phone to an inmate, should be submitted to the RCDA's Office for review. Conspiracy to introduce a cell phone to an inmate is a felony.

G. Escapes or attempted escapes (PC Section 4530):

Actual escapes should be referred as quickly as possible to the RCDA's Office so arrest warrants are promptly entered into the criminal justice information system. Attempts to escape should be referred when the evidence unequivocally demonstrates an intent to escape, as compared to facts which demonstrate the inmate was merely "out of bounds" in violation of the institution's rules. The CDCR 837 Crime/Incident Report must specify whether or not the inmate used force during the actual or attempted escape.

H. Criminal Threats (PC Section 422):

Incidents in which an inmate threatens to kill or to inflict great bodily injury or to commit a forcible sexual crime upon a staff member should be referred, provided the staff member took the threat seriously and was in sustained fear for his/her personal safety or the safety of his/her family. The victim's feelings of fear shall be documented in the CDCR 837 report written by the victim staff member.

I. Crimes committed by Staff

In instances where non-sworn staff members are suspected of committing a crime while engaged in the course and scope of their duties, a case referral shall be submitted to the RCDA's Office Prison Crimes Unit.

In instances where sworn staff members are suspected of committing a crime while on duty or in some way related to their duties as a peace officer, the case shall be submitted to the main division of the District Attorney's Office for filing review. RCDA will follow the Officer Involved Misconduct internal process. RCDA recognizes the case will be investigated by CDCR's Office of Internal Affairs.

J. Other Crimes

It is agreed if a case exists wherein it is believed the prosecution criteria appears to be borderline or there is a desire by ISU for a review of an incident on the part of the District Attorney's Office, the case will be referred for possible criminal prosecution.

V. CDCR INVESTIGATION OF CRIMINAL ACTIVITY

Investigation and prosecution are but two phases of one indivisible process. For the most part, the quality of the initial investigation will determine the likelihood of success of the prosecution. Recognizing investigative responsibility is vested primarily with CDCR, it is suggested the following procedures be implemented to the extent they are consistent with the administration of the prison facility.

RCDA shall provide written notification to ISP within a reasonable period of time from the submission of the case indicating whether or not the case has been accepted for prosecution. If a submittal case requires additional investigation, or if the items listed above were not submitted with the original package, RCDA will deny the case for filing and refer it back with an articulated request for further investigation.

A. Evidence Collection: It is imperative whoever finds a piece of evidence documents when, where, and how the item was found. The item should then be booked into evidence. Items of evidence to consider are kites; clothing worn by suspects and victims; cell phones; narcotics; weapons; copies of cell search logs, isolation logs, and daily movement logs; and personal property of the inmate if it relates to the possession of contraband. In all homicide cases, the personal

property of the victim and the suspect should be seized and booked into evidence.

- B. Forensic Examinations:** It is strongly recommended the lead investigator consult with the RCDA's Office before sending any physical evidence out for forensic examination. Consultation will assist in determining the type and order of analysis and if evidence should be removed from the original container to facilitate more than one type of forensic examination.

For all incidents in which evidence of sexual assault is going to be collected, sexual assault kits from SART must be used. This includes all PREA and homicide cases.

- C. Crime Scene Photographs:** ISP shall collect any regular surveillance video recordings made of the crime scene and take additional photographs and video of the crime scene following an incident, when possible. All photographs and video recordings shall be provided to the RCDA's Office at the time the case is submitted for filing.

- D. Outside Medical Care:** If the victim of an assault has sustained injuries severe enough he must be transported to a medical care facility outside of the prison, at least one officer shall ensure the victim's injuries are photographed (without bandaging, unless prevented by medical necessity) for use in potential criminal prosecution. Note: The officer shall also take a statement from the treating doctor regarding the extent of the victim's injuries, which shall be included in the officer's report, along with the doctor's identifying information.

- E. Investigatory Statements/Miranda:** In addition to statements taken from eyewitnesses and victims, every attempt shall be made to obtain a statement from the suspect(s) in a crime. Service of a term of imprisonment, without more, is not enough to constitute Miranda custody (*Howes v. Fields* [2012] 132 S. Ct 1181).

- F. Discovery:** PC Section 1054.1 states the prosecutor must provide the names and addresses of person the prosecutor intends to call as a witness, statements of all defendants, all relevant real evidence seized or obtained as part of an investigation, the existence of a felony conviction of any material witness, any exculpatory evidence, and relevant written or recorded statements of witnesses or reports of all statements of witnesses whom the prosecutor intends to call as a witness. Subpoenas for inmate records, including Central and Confidential Files, shall be referred to the institution in which the crime occurred.

1. Subpoenas for inmate medical and psychiatric records shall be referred to the institution in which the inmate is housed at the time the subpoena is issued.

To the extent possible, medical records of the inmate specific to the crime should be copied to the criminal case investigation file prior to moving the inmate to a different institution.

2. All parties understand the need to protect the safety and security of inmates who have given information deemed by ISP to be confidential; however, in the prosecution of criminal cases, statements of all defendants, victims, and eyewitnesses to an incident must be disclosed to RCDA. This includes statements made by an eyewitness to an Internal Affairs investigator.

G. Evidence Code 1101(b): Evidence Code 1101(b) permits the admission of evidence that a defendant committed a crime or other act when relevant to prove motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. Evidence of such past crimes or rules violations committed by the suspect in the possession of CDCR shall be provided to the RCDA's Office to further the goal of a successful prosecution.

H. Crimes/Conduct of Moral Turpitude: Moral turpitude is defined as general readiness to do evil, which may but does not necessarily, involve dishonesty. A witness may be impeached with felony convictions or misdemeanor conduct involving moral turpitude. (Cal. Evidence Code Section 788; People v. Wheeler [1992] 4 Cal. 4th 284; People v. Cadogan [2009] 173 Cal. App. 4th 1502) CDC 115 violations may provide moral turpitude conduct committed by the suspect(s) or victim(s), which is why it is necessary for these documents to be provided to the RCDA's Office.

VI. LIAISON RELATIONSHIP

Finally it is agreed the ISU Lieutenant, or his/her designee, will act as the liaison between the institution and RCDA's Office. The ISU Lieutenant, or his/her designee, will regularly meet with the District Attorney or his/her designee to mutually appraise each other of changes in circumstances that may affect their operation and to adjust for those changes.

VII. PRISON RAPE ELIMINATION POLICY

CDCR maintains a zero tolerance for sexual misconduct in its institutions, community correctional facilities, conservation camps and for all offenders under its jurisdiction. All sexual misconduct is strictly prohibited.

CDCR is committed to providing a safe, humane, secure environment, free from sexual misconduct. This will be accomplished by maintaining a program to ensure education/prevention, detection, response, investigation and tracking of sexual misconduct and to address successful community re-entry of the victim.

All Contractors and their employees are expected to ensure compliance with this policy as described in Department Operations Manual, Chapter 5, Article 44.

If you are providing services for the confinement of our inmates, you and your staff are required to adopt and comply with the PREA standards, 28 Code of Federal Regulations (CFR) Part 115 and with CDCR's Department Operations Manual, Chapter 5, Article 44, including updates to this policy. This will include CDCR staff and outside audit personnel (who also conduct PREA audits of state prisons) conducting audits to ensure compliance with the standards.

As a Contractor with CDCR, you shall not assign an employee to a CDCR facility or assign an employee to duties if that employee will have contact with CDCR inmates, if that employee has 1) engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997); 2) been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or 3) has been civilly or administratively adjudicated to have engaged in the activity described in this section.

The Contractor shall conduct a criminal background records check for each contract employee who will have contact with CDCR inmates and retain the results for audit purposes. By signing this contract the Contractor agrees to ensure that all of the mandates of this Section 5: Prison Rape Elimination Policy are complied with. Material omissions, by the contract employee, regarding such misconduct or the provision of materially false information, shall be grounds for removal from institutional grounds.

Contract employees, who have contact with inmates, shall be provided training via the Exhibit titled; "PRISON RAPE ELIMINATION POLICY, Volunteer/Contractor Informational Sheet" to learn their responsibilities under the agency's sexual abuse and sexual harassment prevention, detection, and response policies and procedures. A copy of this signed informational sheet will be provided to the institution before a contract employee may have contact with inmates.

Any contract employee who appears to have engaged in sexual misconduct of an inmate shall be prohibited from contact with inmates and shall be subject to administrative and/or criminal investigation. Referral shall be made to the District Attorney unless the activity was clearly not criminal. Reportable information shall be sent to relevant licensing bodies.

ATTACHMENT A - Titled Riverside County District Attorney Prison Crime Investigation Checklist for Filing Packet is incorporated into this document.

ATTACHMENT B - Titled Riverside County District Attorney's Expanded Reference Guide for Prison Filings Checklist is incorporated into this document.

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION
PRISON RAPE ELIMINATION POLICY
Volunteer/Contractor Informational Sheet

The Prison Rape Elimination Policy for the California Department of Corrections and Rehabilitation (CDCR) is explained on this informational sheet. As a volunteer or private contractor who has contact with CDCR offenders, it is your responsibility to do what you can, within the parameters of your current assignment, to reduce incidents of sexual violence, staff sexual misconduct, and sexual harassment and to report information appropriately when they are reported to you or when you observe such an incident.

Historical Information

Both the Congress and State Legislature passed laws, the Federal Prison Rape Elimination Act (PREA) of 2003, the Sexual Abuse in Detention Elimination Act, Chapter 303, Statutes of 2005, and most recently the United States, Department of Justice Final Rule; National Standards of 2012 to help prevent, detect and respond to sexual violence, staff sexual misconduct and sexual harassment behind bars. It is important that we, as professionals, understand all aspects of these laws and our responsibilities to help prevent, detect, and respond to instances by offenders and staff.

The CDCR policy is found in Department Operations Manual (DOM), Chapter 5, Article 44. PREA addresses five types of sexual offenses. Sexual violence committed by offenders will encompass: Abusive Sexual Contact, Nonconsensual Sex Acts, or Sexual Harassment by an Offender (towards an offender). The two remaining types of sexual offenses covered by PREA are Staff Sexual Misconduct and Staff Sexual Harassment (towards an offender).

CDCR's policy provides for the following:

- CDCR is committed to continuing to provide a safe, humane, secure environment, free from offender on offender sexual violence, staff sexual misconduct, and sexual harassment.
- CDCR maintains zero tolerance for sexual violence, staff sexual misconduct, and sexual harassment in its institutions, community correctional facilities, conservation camps, and for all offenders under its jurisdiction.
- All sexual violence, staff sexual misconduct, and sexual harassment is strictly prohibited.
- This policy applies to all offenders and persons employed by the CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole.

Retaliatory measures against employees or offenders who report incidents of sexual violence, staff sexual misconduct, or sexual harassment as well as retaliatory measures taken against those who cooperate with investigations shall not be tolerated and shall result in disciplinary action and/or criminal prosecution.

Retaliatory measures include, but are not limited to:

- Coercion.
- Threats of punishment.
- Any other activities intended to discourage or prevent staff or offenders from reporting incident(s).

Professional Behavior

Staff, including volunteers and private contractors are expected to act in a professional manner while on the grounds of a CDCR institution and while interacting with other staff and offenders.

Key elements of professional behavior include:

- Treating everyone, staff and offenders alike, with respect
- Speaking without judging, blaming, or being demeaning
- Listening to others with an objective ear and trying to understand their point of view
- Avoiding gossip, name calling, and what may be perceived as offensive or “off-color” humor
- Taking responsibility for your own behavior

Preventative Measures

You can help reduce sexual violence, staff sexual misconduct, and sexual harassment by taking various actions during the performance of your duties as a volunteer or private contractor.

The following are ways in which you can help:

- Know and enforce the rules regarding the sexual conduct of offenders.
- Be professional at all times.
- Make it clear that sexual activity is not acceptable.
- Treat any suggestion or allegation of sexual violence, staff sexual misconduct, and sexual harassment as serious.
- Follow appropriate reporting procedures and assure that the alleged victim is separated from the alleged predator.
- Never advise an offender to use force to repel sexual advances.

Detection

All staff, including volunteers and private contractors, is responsible for reporting immediately and confidentially to the appropriate supervisor any information that indicates an offender is being, or has been, the victim of sexual violence, staff sexual misconduct, or sexual harassment.

After immediately reporting to the appropriate supervisor, you are required to document the information you reported. You will be instructed by the supervisor regarding the appropriate form to be used for documentation.

You will take necessary action (i.e., give direction or press your alarm) to prevent further harm to the victim.

I have read the information above and understand my responsibility to immediately report any information that indicates an offender is being, or has been, the victim of sexual violence, staff sexual misconduct, or sexual harassment.

Volunteer/Contractor Name (Printed)

Date Signed

Signature of Volunteer/Contractor

Current Assignment within Institution

Contact Telephone Number

Supervisor in Current Assignment

RIVERSIDE COUNTY DISTRICT ATTORNEY INVESTIGATIVE SERVICES

CONTRACT LIAISONS

INSTITUTION	CONTACT PERSON	TELEPHONE	FAX NUMBER
Chuckawalla Valley State Prison (CVSP) 19025 Wiley's Well Road Blythe, Ca 92225	Sylvia Dominguez, BSO Lt. Burt, ISU	760-922-5300 X 5225 760-922-5300 X 9710	760-922-9780
Ironwood State Prison (ISP) 19005 Wileys Well Road, Blythe CA 92225	Patricia Sue Farrell	(760) 921-7577	(760) 921-4352

In each criminal case, items numbered A1- 6 (a - m) and B1- 8 will be submitted with multiple copies, one for the prosecution and one each for each named defendant.

A. Every request for filing shall include:

1. Complaint Assignment Form 228-A
2. Adult Disposition of Arrest and Court Action Form for each suspect
3. Inmate Specific Information Form (yellow)
4. Statement of Case 228-7(pink)
5. RVR 115 reports, 969(b) packets with probation reports from commitment offense(s) for each victim in regards to marriage chronos, mutual combat, assaults on other inmates or staff.
6. Copy of incident report including:
 - a. Full description of the crime
 - b. Copies of Statements of all victims, witnesses and suspects
 - i. Statements of witnesses include all correctional officers, all staff, all emergency treating personnel, all medical personnel and all inmates who could hear or see the crime event
 - c. Collection and copies of all visitation logs, visiting questionnaires, property receipts, bed assignments, cell assignments, cell search receipts kept establishing inmate's cell, cell-mates and visitations at the prison
 - d. Photos, preferably on CD-ROM discs- printed and attached to the photographer's written report
 - e. Copies of Video mentioned in reports (including "use of force" inmate interviews and cell extraction videos)
 - f. Copies of CDs of audio recordings (e.g. victim, witness and suspect interviews)
 - g. Copies of Liaison/investigating Officer's declaration regarding confidential memoranda and attachments specific to BRADY discovery requirements.
 - h. Copies of Toxicology results of tested evidence including narcotics, blood and urine from the forensic laboratory
 - i. Copies of reports of Criminalist/Forensic results including fingerprints, DNA
 - j. Copies of Chain of custody paperwork correlating with all evidence – collection, preservation, testing reports
 - k. Copies of Scale Calibration logs- if evidence weight mentioned in reports
 - l. Copies of CDs of recorded phone conversations mentioned in reports
 - m. Copies or scanned images of letters/kites mentioned in reports
 - n. Medical documentation regarding assessment and treatment of injuries to victims of violent crimes and the documentation of consent of the victim or otherwise the document of compliance with PC 1543-1545, 1524 and HIPAA Sec 164.512(f)

B. For Each Defendant

1. Declaration in Support of Arrest Warrant for each inmate to be released within 5 years.
2. Certified 969(b) packet for suspects CDC # to include previously issued CDC#'s
 - a. Custodian of Records Affidavit with Verified parole Date Information
 - b. Most recent CDCR 5/7 color photo
 - c. Probation reports from previous committed offenses
3. Abstract of Judgements for all convictions with fingerprints
4. Copy of the Probable Cause Declaration
5. Copies of the Rap/DMV
6. A list of all RVR 115 violations
7. A copy of all RVR 115 violations that are equivalent to the pending charge
8. Copies of Suspect's Interview and/or Miranda Advisement, Spontaneous statements
9. Copy of search warrant, affidavit for search warrant and return to search warrant

**RIVERSIDE COUNTY DISTRICT ATTORNEY'S
EXPANDED REFERENCE GUIDE FOR PRISON FILINGS CHECKLIST**

A.	<u>FILING PAPERWORK</u>
	District Attorney Complaint Assignment Form
	Adult Disposition of Arrest and Court Action Form
	Inmate Specific Information Form (yellow)
	Statement of Case 228-7 (pink)
	Declaration In Support of Arrest Warrant – Inmate to be released within five years
	Penal Code (PC) Section 969(b) packet – two copies of all prison commitments for all CDCR numbers belonging to the inmate Page 1- Custodian of Records Affidavit with Verified Parole Date Information – Maxed Out date Page 2 - Most recent CDCR 5x7 colored photo Next – Abstract of Judgments for all convictions Next – Fingerprints Next – Probation and sentencing reports
	CLETS – for suspect - two copies for each suspect
	<u>Suspects and Victims</u> 1. Suspect's CDC 115 hearing packet regarding the new prison filing or postponement until DA referral. 2. History of CDC 115 hearing packets equivalent to the new prison filing - to include transcripts of Senior Hearing Officer and Investigating Officer (IO) reports with inmate's statements and findings of guilty or not guilty. Example: New crime PC Section 4501: history of RVR for violence, mutual fighting, assaults, and marriage chronos. 3. A list of all CDC 115 charges in suspect's Central File.
B.	<u>TESTIMONIAL EVIDENCE – INCLUDED IN REPORT</u>
	Interviews of all <u>suspects</u> at or near the time of the incident for all crimes. * Miranda Advisement is necessary when there is: 1. <u>Custodial</u> – Inmate interviewed in an unnatural custodial prison setting where it is unreasonable to believe the inmate thinks he could leave after placed there by correctional officers with restraints: <i>Example: holding cell</i> 2. <u>Interrogation</u> – Asking questions the correctional officer has answers for but wants suspect to affirm. 3. <u>Interviews</u> - Asking questions the correctional officer does not have answers for; correctional officer collecting information for the investigation. **Each contested Miranda issue is on a case-by-case basis, there is no bright line rule given by the Court <u>SPONTANEOUS STATEMENTS OF INMATE SUSPECTS</u> - Any spontaneous statements made to anyone by the defendant at or near the time of the incident. - Any spontaneous statements made by suspect during any phase of the proceedings to include transportation to Court if such statements are made should be provided in supplement report. • <u>Jail Calls and Mail Holds</u> – immediately monitor the inmate's incoming and outgoing mail and phone calls for suspect's incriminating statements in regard to their pending case.
	<u>Contraband located in cell – if facts warrant, report:</u> - Question inmate which bunk he sleeps on. - Question inmate which locker he uses. - Question inmate where he places his personal items. - Question inmate which shelves – counter space he uses. - Question inmate as to where the contraband came from/who it belongs to. - Check the master lock on the locker with the inmate's property card.

	- Check the other items located in the cell/locker with the inmate's property card.
	<p><u>Interviews of all potential witnesses for either the victim or the suspect – if facts warrant, report:</u></p> <ul style="list-style-type: none"> - Question the cellmate who lives with the suspect inmate that he can shift the blame of the crime to. - Question any other inmates that suspect inmate can shift the blame to because the facts suggest so. - Question all surrounding inmates located at the time of incident with the ability to see or hear. - Question all surrounding staff located at the time of incident who saw or heard the incident.

C.	<u>EXPERT TESTIMONY FOR CRIME</u> – if facts warrant it
	<p>Expert Witness Evaluates the Facts of Incident – Report with the Conclusion of Expert Opinion</p> <p>1. <u>Drugs</u> – Drugs found on the suspect inmate are for sale and distribution and not for personal use.</p> <p><u>Indicia of Sales Inquiries regarding property:</u></p> <ul style="list-style-type: none"> a. Extra commissary? b. Money Gram evidence? c. Western Union evidence? d. Green Dots? e. Cell phones? f. Pay-O sheet? g. Receipts/Listings for sales? h. Packaging drug materials located? i. <u>Absence</u> of any paraphernalia is equally important to prove drugs NOT for personal use. <ul style="list-style-type: none"> 1) Inmate Needles? 2) Inmate pipes? 3) Rolling papers? <p><u>Lack of Evidence Regarding the defense of “Only for Personal Use”</u></p> <ul style="list-style-type: none"> j. Expert will testify inmates that use drugs for personal use regularly have track marks or injection marks on their body. k. And the CDCR 7219 did not show any track marks on the date of incident. l. And an unclothed body search conducted by the expert to look for personal use signs on suspect inmate's body – this needs to be done to get the findings for the supplemental report. m. Urinalysis results for drugs in the inmate's system. <ul style="list-style-type: none"> • <u>Value of Drugs in Prison Setting</u> – the total amount the drugs could be sold for in a prison setting and broken down into amounts generally sold to an individual inmate buyer. • <u>Presumptive Field Test Inmate Accept Result Form</u> – Did the inmate accept the NIK results after presented to him for acknowledgment? • <u>Check Accuracy of Scale</u> – a nickel weighs 5.0 grams and a 1 dollar bill weighs 1.0 grams, otherwise, the scale needs to be calibrated before weighing the substance.

	<p>"Prison Politics" Expert to Evaluate the Facts of Incident – Report with the Conclusion of Expert Opinion</p> <p>2. Attempted Murder – the number and location of injuries on the victim in combination with prison politics - expert gives the opinion the incident was a "hit" and not just a battery with a weapon.</p> <ol style="list-style-type: none"> Stab wounds are located on the body of victim near vital body parts (i.e., heart, lungs, stomach, back – overall the upper body torso area). Stab wounds for other than attempted murder are less in number of stabs and are located on the limbs (i.e., arms, legs) Depth of stab wounds into the victim's body verses shallow flesh slashes. <p>3. Gang Experts – if facts show sufficient evidence of the crime committed in the furtherance of a recognized gang by an inmate gang member or associate, then gang experts will need to write a report to allege the gang enhancements.</p>
D.	<p>PHOTOGRAPHS: submit one CD of colored photos – print one copy for DA file only.</p>
	<p>ILLEGAL CONTRABAND NOT FOUND ON INMATE'S BODY: if facts warrant it</p> <ol style="list-style-type: none"> Take colored photos of the contraband before it is picked up by correctional officer with latex gloves. Take colored photos of the surrounding area where the contraband is located to give perspective. Take colored photos of the area in which the contraband was hidden in the cell. For example: hole, door cracks, lighting, desk, stool, wall, ceiling, outlets, toilet, etc. Take a colored photo of the mattress and where the tear was located, spread mattress hole with fingers to photograph the size of the hole. Take colored photos of other items that show "dominion and control" over the contraband. <ol style="list-style-type: none"> Picture of where the inmate stores his other items. Picture of those other items with the inmate's name on them located next to contraband. Take a photo of correctional officer picking up contraband wearing latex gloves. Take a photograph of the inmate suspect at the time of the incident holding his CDCR identification card – no fingerprints are taken for booking so a photo of the suspect at the scene of the incident is even more essential for identification purposes for trial.
	<p>ILLEGAL CONTRABAND FOUND ON INMATE'S BODY- CLOTHING: if facts warrant it</p> <ol style="list-style-type: none"> Take a photo of where the contraband was found on the inmate's body <u>excluding</u> private areas. Take a photo of the inmate's clothing while the inmate is still wearing the clothing. Take a photo if the inmate's clothing has hidden compartments that cannot be seen. If clothing has been modified by the inmate (inmate manufactured pockets), please collect item into evidence when possible.
	<p>PHOTO OF VICTIMS</p> <ol style="list-style-type: none"> Take photos of the victim's injuries as soon as the incident of deadly harm/battery has occurred while in Central Health (Treatment and Triage Area) before the victim is authorized by a prison doctor to be transported off site to another medical institution. Take photos of each injury you are able to visually observe and describe them in the report. Use the CDCR 7219 to confirm that you have photographed the injuries the nurse marked on the CDCR 7219 when they initially evaluated the victim.

	<ol style="list-style-type: none"> 4. Take photos of the victim's injuries after he returns from the off-site medical hospital for any permanent scarring or disfigurement. 5. Make reference in the report if the victim returned to the prison and was placed in the Outpatient Housing Unit (Infirmary) or went back to his regular housing or new requested Sensitive Needs Yard (SNY) housing.
	<p><u>PHOTO OF SUSPECTS</u></p> <ol style="list-style-type: none"> 1. Take photos of the suspects at or near the time of incident. 2. Take photos of any fresh injuries at or near the time of incident. 3. Refer to the CDCR 7219 report from the nurse to indicate if injuries were found and need to be photographed. 4. Take a photo of the suspect's full frontal of the face and any other identifying markings on the suspect. Since fingerprints are not taken from the suspect at the time of the incident, photos are essential for identification.
	<p><u>PHOTO OF WEAPONS</u></p> <ol style="list-style-type: none"> 1. Take photos of the weapon in the exact location where the weapon was found. 2. Take overall broad photos of the surrounding area where the weapon was found in comparison to the victim and suspect inmate(s). 3. Take a closer photo of the weapon without scale capturing details of the weapon. 4. Take photos of the weapon with scale capturing the approximately size and length. 5. Take a photo of the weapon to depict the weapon is a sharp instrument to a point, show photo of sharp point - report needs to indicate the weapon is capable of causing great bodily injury by cutting flesh. 6. All photos should have the case agency number and date on the placard.
	<p><u>PHOTOGRAPHS OF CRIME SCENE OR EVIDENCE</u></p> <ol style="list-style-type: none"> 1. Take photographs of all of the relevant crime scene evidence and people involved. 2. Each photo needs to be labeled with a number and very detailed description as to person, area, date, and general purpose of the photo for the investigation. 3. Copies or scanned images of letters/kites relevant to case.
E.	<p><u>VIDEO & AUDIO EVIDENCE</u></p> <ol style="list-style-type: none"> 1. If video surveillance is referred to in the reports, please include a playable version of the video on a CD with your filing and any timed reference points on the video especially significant to the facts in the case when the investigating officer reviewed it for their report. 2. If any interviews were conducted and videotaped, please include a playable version of the interview. 3. If any audio interviews were conducted, please include a playable version of the audio interview. 4. If inmate phone call conversations were recorded, please include a playable version that can be transcribed. 5. If any evidence has been lost in a case, please submit a report denoting the agency has exercised due diligence to find the evidence and a detailed description as to what the missing evidence depicted.

F.	VICTIM'S STATEMENTS AND VICTIM'S MEDICAL RECORDS WITH ALL WAIVERS
	<ol style="list-style-type: none"> 1. If possible, meet with the victim before he is transported offsite to another medical hospital and ask the victim why suspected inmates by their ACTUAL name were trying to: (fact specific) <ol style="list-style-type: none"> a. *** Kill him, stab him, hurt him (whatever was done to victim). 2. Document any spontaneous statements made by the victim to Transportation Officers during transport. 3. Write down any statement the victim says to you including wanting to be transferred to SNY and why. 4. If victim signs the two medical waivers, please submit CDCR's forms to the prison's Litigation Coordinator and the civilian hospital waiver in the filing. 5. Arrange a meeting with the victim and the DA investigator as soon as the victim returns from the offsite hospital for the purpose of: <ol style="list-style-type: none"> a) An in-depth interview with the victim before he transfers to another prison or paroles. b) Obtaining individual medical waivers (if they have not been previous obtained by ISU) from the victim for <u>both</u> CDCR and the offsite hospital before he transfers to another prison or paroles. 6. If the victim is a staff member, include any medical documentation referring to treatments that have occurred from a continuation of the injury received by the inmate(s) battery while staff is on Worker's Compensation.7. If staff cannot obtain their medical records from their civilian doctors, please contact the DA's Office to assist in producing the correct documentation for the staff member to sign.

G.	CRIME SCENE PROCESSING - COLLECTION OF EVIDENCE
	<ol style="list-style-type: none"> 1. <u>FINGERPRINTS</u> <ol style="list-style-type: none"> a. Submit item to Riverside County Sheriff's forensics team <u>to lift any prints that might be detected</u> to prove possession of contraband. b. Please do not request DNA from Riverside Sheriff's Office forensics. If DNA is needed afterward, a request will be submitted to the Department of Justice (DOJ) for potential DNA swabs and DNA references. c. Evidence must be labeled, sealed, and packaged with all appropriate information to include: <ol style="list-style-type: none"> 1) Suspect(s) names and CDCR number(s) 2) victim's name and CDCR number(s) 3) agency name and agency's case number 4) investigating officer to be contacted when request is complete 5) date of incident 6) item's specific description with any barcode 7) If evidence contains a protection seal or other materials which were placed on the evidence <u>afterwards</u> by a correctional officer, please indicate on the form so the criminalist does not process that area. 8) Chain of custody MUST be completed with date of each entry whether evidence is coming out or back into evidence locker at the prison by each person that has handled the evidence.

2. DNA REFERENCES FOR VICTIMS AND SUSPECTS

- a. Immediately at or near the date of the incident, collect all DNA references relevant to the crime (i.e., DNA swabs from the victim before he transfers or paroles, DNA swabs from all suspects before they transfer or parole). Contact the DA's office regarding which items of evidence/materials to submit to DOJ for comparison to DNA references to prove the cases.
- **Weapons** should always be submitted **IF** used on another inmate/staff.
 - Swabs taken of potential suspected blood located on any of the inmate's exposed skin that are not explainable because they have no injuries in that area of their body
 - All items of clothing from suspects and victims are **not** necessary – a discussion about the facts will narrow down the process time for DOJ to provide results. It is imperative to have communication between the prison and District Attorney's Office to determine which clothing/items should be submitted to DOJ.
- b. Evidence must be labeled, sealed, and packaged with all appropriate information to include:
- 1) Suspect(s) name(s), CDCR number
 - 2) victim's name
 - 3) agency name and agency's case number
 - 4) investigating officer to be contacted when request is complete
 - 5) date of incident
 - 6) items specific description with any barcode
 - 7) If item contains a protection seal that was put on afterward, please indicate so
 - 8) Chain of custody completed with date of each entry whether evidence is coming out or back into evidence locker at the prison.

H. CONTRABAND FOUND IN SEARCH OF CELL PRISON PAPERWORK NEEDED

1. All "cell search receipts" of the suspect inmate's cell previous to the new cell search date at issue while the inmate was residing in the cell.
2. The scribe's cell search log list – recitation of all the cell search receipts.
3. Report submitted by the last correctional officer to search the cell (previous to the search date at issue) and his findings in the exact location where the new contraband was located.
 - a. "I searched the same area _____ on (date) while Inmate _____ was residing in cell# _____ and I did not see the _____ found in that same location."
4. Documents indicating when the inmate began residency in the cell (with highlighted entry).
5. Document that the inmate signed when beginning sole occupation of cell, that the inmate searched the cell for leftover contraband, and the inmate is now responsible for all contraband if located in the cell.
6. Documents indicating which other inmate was a cellmate with the suspect inmate before the new incident date and when the cellmate moved into the cell with the suspect inmate and out of the cell (with highlighted entry).
7. Documents indicating which bed belonged to the suspect – upper or lower (with highlighted entry).
8. If a weapon was located, report must indicate if the "inmate manufactured weapon was sharpened to a point and was capable of cutting flesh and producing great bodily injury."

I.	CRIMINAL CHARGES AGAINST VISITORS THAT COME INTO PRISON
	<ol style="list-style-type: none"> 1. Visitation Logs for the suspect inmate being visited on the date(s) of the incident(s). 2. Visitation records showing at which time the visitation started and was terminated. 3. CDC 106 Visiting Questionnaire 4. Copy of the visitor's identification card provided by the visitor to CDCR staff.
J.	SEARCH WARRANTS
	<ol style="list-style-type: none"> 1. Search warrants need to be prepared at or near the time of the active investigation to prevent them from becoming stale or remote. 2. Search warrants need to be reviewed by a DDA for approval, then the warrant needs to be submitted by the agency to the Judge for approval. 3. Search warrants can be a valuable tool for cell phones, civilian body searches, vehicles, or residences of interest and DNA buccal swabs if the inmate refuses to give them and CDCR policy indicates a search warrant is necessary to forcibly obtain a DNA buccal swab. 4. One copy of the search warrant, affidavit for search warrant, and return to search warrant need to be included in filing.
K.	CONFIDENTIAL MEMORANDUMS PLACED IN CENTRAL FILES
	<ol style="list-style-type: none"> 1. Correctional officer declarations regarding confidential memoranda and attachments specific to BRADY discovery requirements: <ol style="list-style-type: none"> a. Correctional officer reports which include Confidential Informant (CI) information for which the pending offense is based. b. Correctional officer interviews which were conducted with witnesses of the pending case and not included in the submitted filing due to CI information.