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Your Responsibility When Using the Information Provided Below:

When putting this material together, we did our best to give you useful and accurate information because we know that prisoners often have trouble getting legal information and we cannot give specific advice to all prisoners who ask for it. The laws change often and can be looked at in different ways. We do not always have the resources to make changes to this material every time the law changes. If you use this pamphlet, it is your responsibility to make sure that the law has not changed and still applies to your situation. Most of the materials you need should be available in your institution's law library.

**INFORMATION ABOUT
THE CALIFORNIA DEPARTMENT OF CORRECTIONS
ALTERNATIVE CUSTODY PROGRAM (ACP)
(Updated December 2015)**

We are sending you this letter because you have asked for information about the CDCR's Alternative Custody Program (ACP) for female prisoners or about a recent lawsuit requiring that the ACP be opened up to male prisoners. We are unable to send individual responses to every who contacts us about the ACP, but we hope that this letter will help answer your questions.

The Alternative Custody Program (ACP) allows some non-serious, non-violent, non-sex offenders to serve part of their sentences in residential homes, nonprofit residential drug-treatment programs, or transitional care facilities. (Penal Code § 1170.05; 15 CCR § 3078.1.)

The statute that created the ACP, and the current CDCR regulations, limit participation in the ACP to female prisoners only. However, in September 2015, a federal court found that excluding male prisoners from the ACP violates the constitutional guarantee of equal protection, and the court ordered the CDCR to expand the program to allow male prisoners. As of December 2015, the CDCR reports that it has begun accepting applications for ACP placement from male prisoners, but is still working on developing evaluation criteria, locating community facilities, and other tasks necessary to place males in the ACP. The court has set a deadline of April 9, 2016 for the state to complete these tasks. (*Sassman v. Brown* (E.D. Cal) No. 2:14-cv-01679-MCE-KJN, Orders filed Sept. 9, 2015 and Dec. 15, 2015.)

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Currently, to be considered for ACP placement, a prisoner must have no more than 24 months and no less than 45 days of the state prison sentence left to serve. (15 CCR § 3078.2(b).) The prisoner must not have a current conviction for a serious or violent felony, a sex offender registration requirement, a history of escape within the past 10 years, or be considered to be at high risk of committing a violent offense. (Penal Code § 1170.05(d); 15 CCR § 3078.3(a).) In addition, the CDCR rules require exclusion of prisoners for other reasons including felony or immigration detainers, certain types of in-prison misconduct, prison gang validation, close custody status, and recent SHU or PSU placement. (15 CCR § 3078.3(a).) Prisoners who need on-going psychiatric or medical care or who have certain other special case factors are to be considered for ACP on a case-by-case basis. (15 CCR § 3078.3(b).) Importantly, ACP placement can be denied if there simply is no appropriate facility space available. (15 CCR § 3078.1(d).) The CDCR has reported that there were 64 female participants in the ACP as of September 2015.

To be considered for ACP placement, a prisoner must sign and submit a CDCR Form 2234 ACP Application and Voluntary Agreement. (15 CCR § 3078.34(a).) The procedures for processing a request for ACP placement are set forth in the CDCR's regulations. (15 CCR § 3078.4.) The regulations do not provide for any set deadline for the CDCR to process an ACP application.

Prisoners who are placed in the ACP will receive credit for actual time served and the same conduct credits that they would have received if they had served the time in prison. (Penal Code § 1170.05(a); 15 CCR § 3078.1(c).) Participants in the ACP are supervised by a parole agent and can be subjected to searches, electronic monitoring, and other conditions. (Penal Code § 1170.05(g); 15 CCR § 3078.5.) ACP participants can be returned to custody for any reason, including no longer meeting the program criteria, not complying with the conditions of the program, failure of the electronic monitoring device, new criminal activity, or when the available programs can no longer meet the participant's needs. A participant can also ask to be removed from the ACP. (15 CCR § 3078.6.)

In addition to the ACP, the CDCR has some other alternative custody-type programs currently available to female prisoners who have relatively short amounts of time left to serve. These programs include the Community Prisoner Mother Program (CMCPM) and the Custody to Community Transitional Re-entry Program (CTCTRP).

If you think you are eligible for the ACP (or if you want to learn more about the other alternative custody programs for female prisoners), please contact your correctional counselor. If you have problems getting prison officials to consider you for ACP placement, or if you believe you have been unfairly denied ACP placement, you should file an administrative appeal. Likewise, if you are placed in the ACP and have complaints about your treatment or conditions, or if you are unfairly removed from the ACP, you should file an administrative appeal. A free manual on how to prepare and file administrative appeals is available from the Prison Law Office or at www.prisonlaw.com.

If you pursue an administrative appeal through the Third (Director's) Level and are not satisfied with the result, please send a copy of your appeal and all responses to the Prison Law Office. At that point, the Office attorneys will review your appeal and determine whether we can provide either assistance or information on further legal actions.