



**PRISON LAW OFFICE**  
General Delivery, San Quentin CA 94964  
Telephone (510) 280-2621 • Fax (510) 280-2704  
www.prisonlaw.com

*Director:*  
Donald Specter

*Managing Attorney:*  
Sara Norman

*Staff Attorneys:*  
Mae Ackerman-  
Brimberg  
Rana Anabtawi  
Steven Fama  
Alison Hardy  
Sia Henry  
Corene Kendrick  
Rita Lomio  
Margot Mendelson  
Millard Murphy  
Lynn Wu

*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 CDCR'S ALTERNATIVE CUSTODY PROGRAM (ACP)**  
(Updated December 2016)

We are sending you this letter because you have asked for information about the CDCR's Alternative Custody Program (ACP). 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 prisoners to serve part of their sentence in a residential home, residential drug-treatment program, or transitional care facility. (Penal Code § 1170.05; 15 CCR § 3078.1.)

The ACP was originally available only to female prisoners. However, in September 2015, a federal court found that excluding male prisoners from the ACP violated the constitutional guarantee of equal protection, and the court ordered the CDCR to expand the program to allow male prisoners. (*Sassman v. Brown* (E.D.Cal. 2015)99 F.Supp.3d 1223.) The CDCR has now amended the ACP regulations and accepts applications from and approves certain male prisoners to go to the ACP.

To be considered for ACP placement, a prisoner must have no more than 12 months and no less than 45 days of state prison sentence left to serve by the time of the ACP placement. (15 CCR § 3078.2(b).) The prisoner must not have a current conviction for a serious or violent felony, a current or prior conviction that requires sex offender registration, a history of escape within the past 10 years, or be deemed at high risk of committing a violent offense. (Penal Code § 1170.05(d); 15 CCR § 3078.2(c); 15 CCR § 3078.3(a).) The CDCR rules also bar prisoners from ACP placement for other reasons including an active or potential criminal or immigration hold, an active restraining order, Level A-1 through Level C in-prison misconduct in the last 24 months (except for possession of alcohol), validation as an active or inactive STG-I member or associate, current close or max custody status, and SHU or PSU placement in the last 12 months. (15 CCR § 3078.2(c); 15 CCR § 3078.3(a).) There are other factors that may exclude a person

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from ACP placement, but that are considered on a case-by-case basis; these include being validated as an STG II member or associate, having a current or prior conviction for child abuse, stalking or arson, and having failed in a prior ACP placement. (15 CCR § 3078.3(b). Importantly, ACP placement can be denied if there simply is no appropriate facility space available. (15 CCR § 3078.3(b)(5).)

A psychiatric or medical condition that requires ongoing care is *not* a basis for excluding a prisoner from eligibility for participation in the ACP. (15 CCR § 3078.3(c).)

To be considered for ACP placement, a prisoner must sign and submit a CDCR Form 2234 ACP Application and Voluntary Agreement. (15 CCR § 3078.4(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. However, if the CDCR deems a prisoner to be potentially eligible for the ACP, prison staff are supposed to take no more than 30 calendar days to prepare an Individualized Treatment and Rehabilitation Plan (ITRP) describing the activities and services needed for the particular prison. (15 CCR § 3078.4(b).) The ITRP and other information will then be presented to an Institution Classification committee (ICC), which will decide whether or not to recommend ACP placement. (15 CCR § 3078.4(c).)

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 with or without cause 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 other programs through which prisoners with short amounts of time left to serve may be placed in the community. These programs include the Community Prisoner Mother Program (CPMP), the Custody to Community Transitional Re-entry Program (CCTRP), and the Male Community Reentry Program (MCRP).

If you think you are eligible for the ACP (or if you want to learn more about the other community-based programs), 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](http://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 assistance or information on further legal actions.