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*Your Responsibility When Using the Information Provided Below:*

*When we wrote this handout, we did our best to give you useful and accurate information because we know that prisoners often have difficulty obtaining legal information, and we cannot provide specific advice to all the prisoners who request it. The laws change frequently and are subject to differing interpretations, especially in this area of law. We do not always have the resources to make changes to this handout every time the law changes. If you use this handout it is your responsibility to make sure that the law has not changed and is applicable to your situation. Most of the materials you need should be available in your institution law library.*

**COMMON ISSUES FACING TRANSGENDER PRISONERS:  
 THE LAW AND SELF-ADVOCACY**  
 (Updated December 2016)

We are sending this packet to you because we received a letter from you that raised concerns specific to being transgender in CDCR custody. Thank you for writing to us. We are sorry that we currently do not have the staff to respond individually to your letter. Our form response is not a reflection on the merit or seriousness of your concerns.

We put together this packet to address some of the most common issues that we see in letters from transgender prisoners. This packet has information on the status of the law and CDCR policy related to those common issues. It also has information on what to do if you believe your rights have been violated.

The following topics are covered in this handout:

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In most cases we recommend that you file an administrative appeal (602) on the issue you are facing. If you are unhappy with the response you get, we recommend that you appeal it through the Third Level. In each section of this handout, we have included information that we suggest you include when filing your 602.

We understand that the appeals process often is imperfect and frustrating to navigate. However, in most cases filing and exhausting an appeal is the only way to gain access to the courts. The appeals process is also an important way to document the issues you are facing.

You can send our office a copy of any Third Level Response you receive to an appeal on transgender-specific issues:

Prison Law Office  
General Delivery  
San Quentin, CA 94964

We cannot promise that we will be able to help, but we will review and consider any Third Level Response you send us.

We hope you find that the following information addresses your concerns. If you have concerns or problems beyond what is covered in this handout, you can write to us and explain your situation. Please note again that, in most cases, we recommend that you file an administrative appeal on those concerns or problems, and file it through the Third Level. We also include addresses to more transgender and legal advocacy organizations at the end of this handout.

## **I. VIOLENCE, SEXUAL ASSAULT, AND SAFETY**

Unfortunately, transgender prisoners can be at a higher risk of physical and sexual violence in CDCR compared to the general prison population. Transgender prisoners often write to us about current safety concerns and/or about past assaults. We hope this section addresses those concerns. Single-cell housing is discussed in Section III of this handout.

### **A. Safety and Threats of Violence**

Prisons are required by the Eighth Amendment of the United States Constitution to protect everybody in their custody from violence by other prisoners and staff, including from sexual violence and abuse. *See Farmer v. Brennan*, 511 U.S. 825 (1994).

*What should I do if I am threatened or feel unsafe?*

It is important to report to staff if you receive threats or feel unsafe. It is best to report in writing so that you can demonstrate later that you have raised your concerns to staff. To create documentation, it is important for staff to be aware of any risk of harm you are facing.

If prison officials do not properly respond to your concerns about harassment or the threat of a physical or sexual assault, then you should file a 602 specifying (1) who threatened you, (2) when you were threatened, (3) how you were threatened, (4) the date that you told staff and which staff you told, (5) what staff's response to your concern was, and (6) any harm you faced as a result of staff's inaction.

We know that some prisoners will have safety concerns with putting this information in writing (especially listing who threatened them). We encourage you to continue to use your judgment about how best to stay safe. This information is intended to give you information about how to protect legal claims and CDCR's own process for addressing safety claims.

*What if I am moved to Ad-Seg?*

Unfortunately, raising safety concerns sometimes results in transgender prisoners being moved into Administrative Segregation (Ad-Seg). If you report safety concerns, you are only supposed to be placed in Ad-Seg if staff have determined that there are no other ways to keep you safe. If you are placed in Ad-Seg, you are supposed to receive a housing assessment within 24 hours of placement (DOM 54040.6). The Prison Rape Elimination

Act (PREA) Prison and Jail Standards also state that you may be in segregation only while officials determine where to safely house you, unless CDCR determines that there is no available alternative means of separation from likely abusers.

If you think you have been wrongly placed in Ad-Seg for raising safety concerns or that you have not been appropriately assessed, you should file a 602 specifying (1) the safety concern that you raised, (2) when you were placed in Ad-Seg, (3) how long you have been in Ad-Seg, and (4) whether a housing assessment has been completed.

## **B. Sexual Assault**

Rape and other types of forced or coerced sexual assault are crimes under California law (Penal Code Section 261). The criminal laws apply regardless of whether the person who commits the assault is a prisoner or prison employee. California law and CDCR policy also prohibit “any sexual behavior” between staff and prisoners, regardless of whether it was consensual or not (DOM 54040.2; Penal Code Section 289.6).

*What should I do if I am sexually assaulted?*

We recognize that deciding whether to report a sexual assault can be a very difficult decision involving many considerations. From a legal standpoint, if you have been sexually assaulted, we recommend that you let staff know so that they can respond to medical and safety concerns.

You can report sexual assault in several ways (DOM 54040.7):

1. in writing to any CDCR staff member;
2. by speaking with any CDCR staff member;
3. through the CDCR appeals process;
4. through a third party;
5. by calling the sexual assault hotline (the phone number should be listed on PREA posters posted throughout your facility); and
6. by writing to the Ombudsman for Sexual Abuse in Detention Elimination in the Office of the Inspector General at 1011 Old Placerville Road, Suite 110, Sacramento, CA 95827.

We also recommend that you seek immediate medical attention for any injuries, to prevent or detect the transmission of any sexually-transmitted diseases, and for collection of evidence to prove the rape or assault allegations. A prisoner who has been sexually

assaulted and who wants emotional support is also entitled to—and should—seek counseling from mental health staff, a religious advisor, or a volunteer or peer counselor.

*What happens next?*

CDCR's Prison Rape Elimination Policy (Article 44) was revised on July 1, 2015, and outlines in detail what happens after someone reports sexual violence. We also have a handout on Sexual Assault and Harassment in Prison. Let us know if you want a copy.

Staff are required to report to the appropriate supervisor/staff member any information indicating that a prisoner has experienced sexual violence. If you choose to report, you have the right to a victim advocate and a victim support person of your choosing to be present at (1) any interview by law enforcement, the district attorney, or defense attorneys, and (2) medical examinations, if you are the victim of certain crimes, including rape, sodomy, oral copulation, and forcible acts of sexual penetration (DOM 54040.8.2). The victim advocate typically is a person employed by a local rape crisis center. If an outside victim advocate is not available, a designated employee will fill that role (DOM 54040.3).

If you report a sexual assault and believe the prison's response is inadequate, or that the prison did not adequately act to prevent a sexual assault, you should file a 602 specifying (1) when the sexual assault occurred, (2) what happened, (3) who was involved or witnessed the sexual assault, (4) the date that you told staff and who you told, and (5) how staff responded. There are no time limits on filing a 602 about a sexual assault.

*Is there anyone else I can contact?*

Just Detention International (JDI) is a health and human rights organization that seeks to end sexual abuse in all forms of detention. JDI provides advice, support and information for prisoners who are facing, or who are survivors of, sexual abuse.

Just Detention International  
3325 Wilshire Blvd., Suite 340  
Los Angeles, CA 90010

Many resources are available on JDI's website at [www.justdetention.org](http://www.justdetention.org). JDI also maintains a list of rape crisis centers in California that can provide legal and psychological counseling for prisoners: <http://justdetention.org/service/state/california/>.

## **II. MEDICAL CARE**

We often receive letters from transgender prisoners writing about health care for Gender Dysphoria (GD), including gender-affirming surgery (also known as Sexual Reassignment Surgery) and hormone therapy.

We represent all CDCR prisoners with serious medical concerns in the ongoing federal class action lawsuit known as the *Plata* case. Under *Plata* we may be able to assist you if you are experiencing problems with your medical care. In most cases, however, for us to consider assisting you we need to review a copy of a recent Third Level Health Care Response. You can send us a copy of any recent Third Level Health Care Response you have received, along with a brief description of the problems you are experiencing with your care. We will review that information to see if we can help you.

### **A. Gender-Affirming or Sexual Reassignment Surgery**

On May 24, 2016, CDCR updated its care guidelines regarding gender-affirming surgery, also known as Sexual Reassignment Surgery (SRS), for patients with Gender Dysphoria. We call it SRS in this handout because that is the term CDCR and California Correctional Health Care Services (CCHCS) uses for the surgery. The policy on Sexual Reassignment Surgery has changed a lot in the last year, and it may continue to change as CCHCS finalizes and modifies its policies and procedures.

If you want to undergo gender-affirming surgery, we advise you to submit a 7362, so you can discuss it with your primary care provider.

Under the new guidelines, after a prisoner request SRS as treatment for GD, the institution provider must complete a Request for Services (RFS). The RFS should say something like: “The patient is requesting evaluation for sex reassignment surgery.” The provider will then refer the RFS to the prison’s Institution Utilization Management Committee (IUMC), along with medical, mental health, and custody assessments. The provider will also discuss SRS with the prisoner, including the risks associated with it. If the provider refuses to complete the RFS for you, you should submit a 602-HC asking to be considered and evaluated for Sexual Reassignment Surgery.

Once the RFS is submitted, IUMC forwards that and other information to the Headquarters Utilization Management Committee (HQUMC) in Sacramento. This generally must be done within 90 days following a documented request for SRS.

HQUMC then assigns it to their subcommittee for review. The subcommittee is called the Sex Reassignment Surgery Review Committee (SRSRC). It meets weekly and is made up of six voting members and several non-voting members. The voting members are two CDCR physicians from Medical Services, two CDCR physicians from the Mental Health Program, and two CDCR psychologists from the Mental Health Program. The SRSRC reviews, evaluates, and discusses the provided information to determine whether or not to recommend SRS from a medical and mental health standpoint.

HQUMC reviews the SRSRC recommendation and determines whether SRS is approved or denied. If HQUMC disagrees with an approved recommendation from SRSRC, the Statewide Chief Medical Executive or designee will decide whether SRS will be approved. The guidelines do not put deadlines on HQUMC and Statewide Chief Medical Executive review. The guidelines do state that the prisoner will receive notice of the final decision in writing within five business days.

If SRS is denied, you may proceed directly to court. The decision is not subject to review in the 602-HC process. The guidelines allow prisoners to submit a new request for SRS one year after issuance of a letter disapproving the request.

## **B. Hormone Treatment**

If you want to undergo hormone treatment, we recommend that you file a 7362 requesting to begin hormone treatment. If you are already on hormones and having problems with your hormone treatment, we recommend you file a 7362 explaining any symptoms you are experiencing.

Under the care guide for Gender Dysphoria, after a patient asks for hormone treatment, medical and mental health staff must hold a treatment team case conference to determine whether to confirm a diagnosis of GD.

If a GD diagnosis is confirmed, the patient will be referred to a medical provider for assessment and for a recommended treatment plan. Medical staff will then evaluate a patient's eligibility for hormone treatment. In doing so, medical staff will consider other mental health or medical diagnoses that would contraindicate or greatly increase the risk of hormone treatment. After going on hormone therapy, patients should be regularly monitored and the treatment modified as necessary.

After filing a 7362, if your concerns remain unresolved, we recommend you file a 602-HC requesting to begin hormone treatment or to have your treatment adjusted.

### III. HOUSING

Transgender prisoners often write to us asking about housing policy in CDCR. Sometimes, people ask about changing their housing status or location.

#### A. Housing Screening and Assignments

The Prison Rape Elimination Act (PREA) is a federal law that requires prisons to screen all prisoners within 72 hours of their arrival to a facility for their risk of being victimized or abused, and to take that information into account when making decisions about housing (28 C.F.R. §§ 115.41; *see also* DOM 54040.6).

The U.S. Department of Justice issued a memorandum regarding PREA on March 24, 2016:

*Being transgender is a known risk factor for being sexually victimized in confinement settings. The standard, therefore, requires that facility, housing, and programming assignments be made “on a case-by-case basis.” Any written policy or actual practice that assigns transgender or intersex inmates to gender-specific facilities, housing units, or programs based solely on their external genital anatomy violates the standard. A PREA-compliant policy must require an individualized assessment. A policy must give “serious consideration” to transgender or intersex inmates’ own views with respect to safety. The assessment, therefore, must consider the transgender or intersex inmate’s gender identity – that is, if the inmate self-identifies as either male or female. A policy may also consider an inmate’s security threat level, criminal and disciplinary history, current gender expression, medical and mental health information, vulnerability to sexual victimization, and likelihood of perpetrating abuse. The policy will likely consider facility-specific factors as well, including inmate populations, staffing patterns, and physical layouts. The policy must allow for housing by gender identity when appropriate.*

According to CDCR policy, prisoners who have been diagnosed as transgender and have this status documented on their CDCR Form 128-C3 “shall be referred to a classification committee for review of all case factors and determination of appropriate institutional placement and housing assignment” (DOM 62080.14). The DOM further states that “to the maximum extent practical,” transgender prisoners shall be housed at the following institutions (DOM 62080.14):



### Male to Female Transgender Prisoners

- California Medical Facility (CMF)
- Richard J. Donovan (RJD)
- San Quentin State Prison (SQ)
- Mule Creek State Prison (MCSP)
- California Substance Abuse Treatment Facility (SATF)
- California State Prison – Sacramento (SAC)
- Salinas Valley State Prison (SVSP)
- California Institution for Men (CIM)
- Kern Valley State Prison (KVSP)

### Female to Male Transgender Prisoners

- Central California Women’s Facility (CCWF)
- California Institution for Women (CIW)

If a transgender prisoner has multiple case factors that make it hard for CDCR to house them in one of the recommended institutions, staff from the Health Care Placement Oversight Program, Classification Services Unit, California Correctional Health Care Services, and Population Management Unit will meet to determine “most appropriate level of care/institution suitable for housing consistent with the inmate-patient’s case factors” (DOM 62080.14).

If you would like to change your cell, yard, or institution, we recommend you first file a Form 22 to your CCI to discuss a housing change. If that does not resolve your concerns, we recommend you file a 602 explaining why you need to change housing. You should attach the Form 22 with your 602.

We hear from many prisoners who wish to be housed in accordance with their gender. As stated above, CDCR policy does not appear to allow that at this time. However, if you would feel safer housed in a prison that is consistent with your gender identity, we encourage you to include that information on any 602 that you file explaining why you need to change housing.

## **B. Single-Cell Status**

Some transgender prisoners report that they would feel safer if they were housed in a single cell. On January 19, 2016, CDCR issued a memorandum entitled, “Inmate Housing Assignment Considerations During the Screening and Housing Process.” A copy of the memorandum should be in your prison library.

According to the memorandum, staff must weigh “all available factors” when determining a prisoner’s housing assignment, including:

- Length of sentence
- Enemies and victimization history
- Criminal influence demonstrated over other inmates
- Vulnerability of the inmate due to medical, mental health, and disabilities
- Reason(s) for segregation
- History of “S” suffix determination
- History of in-cell assaults and/or violence
- Security Threat Group affiliation and/or association
- Nature of commitment offense
- Adaptive support needs listed on the CDCR Form 128 C-2

The memorandum also states:

*Examples of inmates who should be considered for single-cell status, or other appropriate housing, on the basis of vulnerability are: . . . . An inmate with gender dysphoria (studies show this can increase the risk of sexual victimization).*

If you feel that you should be in single-cell housing and you are not currently single-celled, you should file a Form 22 requesting to be placed in a single-cell. (If you have an immediate safety concern, you may want to verbally inform staff as well.)

If you are unhappy with the response to your Form 22, you should file a 602 specifying (1) why you believe that single-cell status is necessary for you, and (2) which of the factors listed above apply to you. You should also attach the Form 22 response to your appeal.

## **IV. PRIVACY**

We often receive letters from prisoners reporting intrusions into their privacy or asking about the policies regarding privacy in CDCR. Those topics include privacy in showers and during custody searches. This area of the law remains somewhat open. At the end of this section, we have included general information on federal privacy claims that may provide a starting point for you if you decide to pursue legal action.

### **A. Sexual Orientation and Gender Identity**

CDCR policy provides (DOM 52050.16):

*Many inmates consider their sexual orientation and gender identity to be private information, and the widespread knowledge of this information could impact the safety and well-being of sexual minorities such as lesbian, gay, bisexual, transgender and intersex (LGBTI) inmates. This information is considered sensitive and should be handled in a confidential manner.*

*The information should only be communicated to staff when there is a justified “Need to Know.”*

*This information should never be communicated to other offenders. This will protect the rights and safety of the involved inmate.*

### **B. Showers**

Transgender people in prison frequently state that they do not have privacy during showers, and that staff and/or prisoners of the opposite gender can view them while they are showering.

Under PREA, prisons are supposed to minimize situations where custody staff of the opposite gender can view a prisoner’s breasts, buttocks, and genitalia. This includes while the prisoner is showering, changing clothes, and using the toilet (28 C.F.R. §§ 115.15(d)).

CDCR policy is that modesty screens are to be “placed strategically in areas that prevent incidental viewing” of breasts, buttocks, and genitalia, when placing screens does not impact safety and security (DOM 54040.4). The screen is supposed to be sufficiently large to prevent viewing breasts, buttocks, and genitalia.

PREA also dictates that intersex and transgender prisoners be allowed the opportunity to shower separately from other prisoners (28 C.F.R. §§ 115.42(f)). You can request to shower separately and/or at a different time from other prisoners if a privacy screen is not available, not feasible, or is not working to keep other prisoners and staff from viewing your breasts, buttocks, or genitalia.

If you are being denied a privacy screen in a shower, changing area, and/or toilet area, we advise you to file a 602 specifying (1) how your current situation does not afford you privacy, and (2) the impact it has on you.

### **C. Custody Searches**

Transgender prisoners often report that they would like to be searched by custody staff of the same gender. PREA addresses searches under two situations: (1) searches to determine genital status, and (2) security searches.

#### **1. Searches to Determine Genital Status**

Under PREA, custody staff may not search or physically examine prisoners to determine genital status. Staff can ask the prisoner, review medical records, or request a private evaluation by medical staff (28 C.F.R. § 115.15(e)). CDCR policy provides:

*In the event that an individual's genital status is ambiguous, the search shall be conducted by a staff member that is the same biological sex as indicated in the inmate's records (i.e., paperwork indicates male, inmate will be searched by a male staff member). If staff are unable to determine the genital status through medical records or an interview with the inmate, the inmate shall be placed on single-cell status or in administrative segregation for his/her safety, until the standard intake medical evaluation is completed. The standard medical examination will establish the genital status of the inmate.*

DOM 52050.16.7.

#### **2. Security Searches**

Prisons are required by PREA to provide training to custody staff on conducting searches of transgender prisoners, and searches are to be conducted in the least intrusive manner possible consistent with security needs (28 C.F.R §§ 115.15, 115.115, 115.215, 115.315).

*What if I want to be searched by female (or male) staff?*

CDCR policy is that an individual who identifies as transgender will be searched by a staff member of the same biological sex (DOM 52050.16.7).

You can request to be searched by staff of a specific gender. If you are currently searched by male officers and would like to be searched by female officers (or vice versa), we advise you to file a 602 requesting to be searched by female officers (or male officers). While the DOM does not require this, it is standard procedure under PREA:

*Operationally, three options are in current practice for searches of transgender or intersex inmates/residents/detainees:*

- 1) searches conducted only by medical staff;*
- 2) searches conducted by female staff only, especially given there is no prohibition on the pat-searches female staff can perform (except in juvenile facilities); and*
- 3) asking inmates/residents/detainees to identify the gender of staff with whom they would feel most comfortable conducting the search.*

National PREA Resource Center, *Can You Please Clarify the Parameters of Conducting a Search of a Transgender or Intersex Inmate/Resident?* (Feb. 7, 2013), <https://www.prearesourcecenter.org/node/3257>.

*May I be searched in a private area?*

If you are searched in front of other prisoners, you can ask to be moved to a private area to be searched, although CDCR policy does not currently appear to require it.

CDCR policy does require that routine unclothed body searches “be conducted in a safe manner and in an area that allows the inmate to preserve some measure of dignity and self-respect” (DOM 52050.16.5).

*What if staff searched me inappropriately?*

Staff are supposed to receive training on conducting pat-down searches and body cavity searches of transgender prisoners and are supposed to conduct such searches “in a professional, respectful manner, and in the least intrusive manner possible consistent with

security needs” (DOM 54040.4). Furthermore, staff are supposed to receive training on how to communicate professionally with transgender prisoners (DOM 54040.4).

If you believe you have been subjected to an inappropriate search, we advise you to file a 602 explaining (1) when the search took place, (2) who conducted the search, and (3) what happened during the search. Please note that this 602 will be treated as a staff complaint.

#### **D. Federal Claims**

Under federal law, transgender prisoners may be able to raise claims about privacy under the Fourth Amendment, Fourteenth Amendment, and Eighth Amendment.

Below we list a few case citations from the Supreme Court and courts in the Ninth Circuit. They may provide a starting point for you if you decide to file a lawsuit. The Project on Addressing Prison Rape also maintains a list of case law on cross-gender searches, organized by circuit. See <https://www.wcl.american.edu/endsilence/> (click on “Civil Case Law”).

Please note that this area of the law is unsettled. The list below is not a comprehensive list of the case law in the area. You should consult with an attorney and/or conduct additional legal research before filing a lawsuit.

The Fourth Amendment protects “against unreasonable searches and seizures.” U.S. Const. amend. IV.

- The Ninth Circuit has held that “the Fourth Amendment does apply to the invasion of bodily privacy in prisons.” *Bull v. City and County of San Francisco*, 595 F.3d 964, 974-75 (9th Cir. 2010) (en banc).
- “The test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application. In each case it requires a balancing of the need for the particular search against the invasion of personal rights that the search entails. Courts must consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted.” *Bell v. Wolfish*, 441 U.S. 520, 559 (1979).

- “[W]e conclude that the cross-gender strip search of Byrd was unreasonable as a matter of law. O’Connell touched Byrd’s inner and outer thighs, buttocks, and genital area with her latex-gloved hand through very thin boxer shorts. She moved his penis and scrotum in the process of conducting the search. The scope of this intrusion totally thwarted any desire on Byrd’s part to shield his unclothed figure from the view of strangers of the opposite sex.” *Byrd v. Maricopa County Sheriff’s Dep’t*, 629 F.3d 1135, 1142 (9th Cir. 2011) (internal quotation marks, ellipses, and citation omitted). “Ten to fifteen non-participating officers watched the strip search, and at least one person videotaped the search.” *Id.* at 1143.
- “[N]ot all strip search procedures will be reasonable; some could be excessive, vindictive, harassing, or unrelated to any legitimate penological interest.” *Michenfelder v. Sumner*, 860 F.2d 328, 332 (9th Cir.1988).

The Fourteenth Amendment prohibits state actors from “depriv[ing] any person of life, liberty, or property, without due process of law” and “deny[ing] to any person . . . the equal protection of the laws.” U.S. Const. amend. XIV, § 1

- *Grummet v. Rushen*, 779 F.2d 491, 493 n.1 (9th Cir. 1985) (observing that a prisoner might raise a privacy claim “under the liberty component of the fourteenth amendment”).
- “[T]he Court concludes that discrimination based on transgender status independently qualifies as a suspect classification under the Equal Protection Clause because transgender persons meet the indicia of a ‘suspect’ or ‘quasi-suspect classification’ identified by the Supreme Court. . . . The application of intermediate scrutiny requires the government to show that its gender classification is substantially related to an important governmental interest, requiring an exceedingly persuasive justification.” *Norsworthy v. Beard*, 87 F. Supp. 3d 1104, 1119, 1120 (N.D. Cal. 2015).

The Eighth Amendment prohibits “cruel and unusual punishments.” U.S. Const. amend. VIII.

- “We uphold the district court’s conclusion that the cross-gender clothed body search policy at the women’s prison constituted cruel and unusual punishment in violation of the Eighth Amendment.” *Jordan v. Gardner*, 986 F.2d 1521, 1531 (9th Cir. 1993).

## V. CLOTHING AND PERSONAL PROPERTY

We often receive letters from transgender prisoners requesting gender-affirming clothing and toiletries. We hope this section addresses those concerns.

### A. Bras and Boxers

According to CDCR policy, “inmates identified as transgendered on the CDCR Form 128-C3 shall, upon request, be provided with state issued brassieres or boxer shorts via the institution clothing room and permitted to purchase such items as needed” (DOM 62080.14).

If you do not have a bra or boxers, you should submit a Form 22 request asking for the bra or the boxers.

If you are unhappy with the response to the Form 22, you should re-submit the form to the supervisor’s level of review.

If, after receiving the supervisor’s level response to the Form 22, you still do not have the bra or boxers, you should file a 602 specifying (1) the date that you asked for the bra or boxers, (2) who you asked, and (3) the reason that they were not given to you. You should also attach the Form 22 and a copy of your Form 128-C3 to your appeal.

### B. Other Personal Property

A court order in a lawsuit brought by the Transgender Law Center against CDCR has expanded access to clothing and commissary items for transgender prisoners consistent with their gender identity (*Quine v. Beard*, Docket No. 3:14-cv-02726 (N.D. Cal. Jun 12, 2014)).

In particular, Judge Vadas ordered on June 9, 2016, that prisoners who are identified as transgender by medical or CDCR personnel and who are housed in male institutions must have “at least some access” to the following items that are permitted in women’s institutions:

- pajamas/nightgowns
- scarves
- walking shoes
- robes
- chains/necklaces
- sandals
- t-shirts



Judge Vadas held that transgender prisoners housed in male institutions should have “supervised access” to:

- pumice stone
- emery boards
- curling irons

However, in the interests of prison safety, Judge Vadas held that male institutions are *not* required to allow bracelets, earrings, hair brushes, and hair clips.

A copy of Judge Vadas’ order should be in your prison library. As of the date of this handout, CDCR policy had not yet been updated to incorporate Judge Vadas’ order.

If you want to access any of the items Judge Vadas ruled should be allowed for transgender prisoners, you should submit a Form 22 request asking to purchase the item(s) you want.

If you are unhappy with the response to the Form 22, you should re-submit the form to the supervisor’s level of review. If, after receiving the supervisor’s level response to the Form 22, you still do not have the allowed item, you should file a 602 specifying (1) the date you asked for the items, (2) who you asked, (3) what items you would like, and (4) the reason they were not given to you. You should also attach the Form 22 to your appeal.

## VI. OTHER RESOURCES

Please write to our office if you would like more information about:

1. Sexual Assault and Harassment in Prison
2. CDCR Administrative Appeals Procedures
3. Habeas Corpus

These resources should be available to you in your institution's law library:

1. CDCR's Single Cell Memorandum
2. CCHCS SRS Guidelines
3. CCHCS Gender Dysphoria Care Guide
4. Judge Vadas' Order in *Quine v. Beard*

These California-based organizations also provide support and advocacy for transgender prisoners in CDCR on a range of issues:

Transgender Law Center  
P.O. Box 70976  
Oakland, CA 94612  
Phone: (510) 380-8229 (collect)

ACLU of San Diego & Imperial Counties  
P.O. Box 87131  
San Diego, CA 92138

ACLU of Northern California  
39 Drumm St.  
San Francisco, CA 94111

Transgender Gender Variant and Intersex  
(TGI) Justice Project  
370 Turk St. #370  
San Francisco, CA 94102

ACLU of Southern California  
1313 West 8th St.  
Los Angeles, CA 90017

Finally, please remember that in most cases we recommend that you file a 602 on the issue you are facing. If you are unhappy with the response you get, we recommend that you appeal it through the Third Level. You can send our office a copy of any Third Level Response you receive to an appeal on transgender-specific issues. We cannot promise that we will be able to help, but we will review and consider any Third Level Response you send us.

We wish you the best.