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 people often have difficulty obtaining legal information in prison, and we cannot provide specific advice to all the people who request it. 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 PEOPLE IN CALIFORNIA PRISON: THE LAW AND SELF-ADVOCACY
(Updated November 2019)

We send this information because we received a letter from you that raised concerns about being transgender in CDCR custody. Thank you for writing to us. We are sorry that we cannot respond personally to your letter. That we do not do so is not a reflection on the merit or seriousness of your concerns.

We put together this information to address common issues that we see in letters from transgender people in CDCR prisons. CDCR policies and relevant law on these issues are discussed below. There is also information on what to do if you believe your rights have been violated.

The following topics are covered:

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In most cases we recommend that you file an administrative appeal (602 or 602-HC) on the issue you are facing. If you are unhappy with the response you get, we recommend that you
appeal it through the final level available. In each section below, we include information that we suggest you include when filing your administrative appeal.

We understand that the administrative appeals process often is imperfect and can be frustrating. 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 or Headquarters 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 final level administrative appeal 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 below, 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 until you receive a final level response.

We also include addresses to transgender and legal advocacy organizations at the end of this information letter. You may want to write to them and see if they can help you.
I. CLOTHING AND PERSONAL PROPERTY

A. Bras, Boxers, Binders, and Compression Tops

According to CDCR regulations, people in prison are provided a standard set of state clothing, based upon whether their prison is designated for men or women (15 C.C.R. § 3030). However, “[t]ransgender inmates and inmates having symptoms of Gender Dysphoria (GD) as identified and documented in SOMS by medical or mental health personnel within a CDCR institution shall be allowed to possess the state-issued clothing that corresponds to their gender identities in place of the state-issued clothing that corresponds to their assigned sex at birth in designated institutions” (15 C.C.R § 3030(c)). People who are identified as transgender or intersex “as documented on the Medical Classification Chrono, 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). In addition, a federal judge ordered CDCR to provide transgender men in female institutions with binders and compression tops.

If you do not have a bra, boxers, binder, compression top or other gender-specific clothing, you should submit a Form 22 request asking for the item. 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 item, you should file a 602 specifying (1) the date that you asked for the gender specific clothing, (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 expanded access to clothing and commissary items for transgender people consistent with their gender identity (Quine v. Beard, Docket No. 3:14-cv-02726 (N.D. Cal. Jun 12, 2014)).

The authorized personal property items that transgender people and people “having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel” may now possess are listed on the Transgender Inmates Authorized Personal Property Schedule (TIAPPS) (15 C.C.R. § 3190(d)). A copy of the TIAPPS is included at the end of this handout. The TIAPPS “shall be updated … no more than twice yearly” (Id). The combined volume of state-issued and allowable personal property may not exceed six cubic feet, except in limited circumstances (Id. at § 3190).

1 Note: we understand that people at the women’s prisons may request and receive boxer shorts via the institution clothing room, even if they are not identified as transgender or intersex on their Medical Classification Chrono. This, however, is not reflected in the current DOM or Title 15.
If you want to access any of the items listed on the TIAPPS that you believe you are entitled to have, you should submit a Form 22 request. 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.

II. HEALTH CARE, INCLUDING MEDICAL CARE

Transgender people may have concerns about healthcare for their condition, including wanting to be diagnosed as transgender, wanting or receiving hormones, or wanting or receiving Gender Affirming (previously known as sex reassignment) Surgery. Policies and issues regarding each of these matters are discussed below. In general, a person should submit a Healthcare Services Request Form (CDCR Form 7362) about any healthcare or medical issue, and describe their symptoms or concerns on that form. If an issue is not resolved, the person should submit a healthcare grievance (administrative appeal), using Form 602-HC (the blue appeal form), and submit the appeal until a Headquarters Level Response is received. You can send us a copy of any Headquarters Level Response, 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.

A. 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 (GD), 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 whether consider other mental health or medical diagnoses would interfere with or make it unhealthy to take hormones. 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.
B. Gender-Affirming Surgery

In December 2018, CDCR updated its care guidelines regarding gender-affirming surgery, for patients with Gender Dysphoria. The policy on Gender Affirming Surgery has changed in the last year, and it may continue to change as CCHCS finalizes and modifies its policies and procedures.2

If you want to undergo Gender-Affirming Surgery, we recommend that you to submit a 7362, so you can discuss it with your primary care provider.

Under the new guidelines, after a person requests GAS as treatment for GD, the institution provider must complete a Request for Services (RFS) to the prison’s second level of review. The RFS should say something like: “The patient is requesting evaluation for Gender Affirming Surgery.” If the provider refuses to complete the RFS for you, you should submit a 602-HC asking to be considered and evaluated for Gender Affirming Surgery.

Once the RFS is submitted, the prison’s second level reviewer forwards that and other information to the Statewide Medical Authorization Review Committee (SMART) in Sacramento. This generally must be done within 90 days following a documented request for GAS.

SMART then assigns it to their subcommittee for review. The subcommittee is called the Gender Affirming Surgery Review Committee (GASRC). It generally meets weekly and is made up of twelve voting members and several non-voting members. The voting members are four CDCR physicians from Medical Services, four CDCR physicians from the Mental Health Program, and four CDCR psychologists from the Mental Health Program. The GASRC reviews, evaluates, and discusses the provided information to determine whether or not to recommend GAS from a medical and mental health standpoint. The findings of the subcommittee are based on a majority vote of the members.

SMART reviews the GASRC recommendation and determines whether GAS is approved or denied. SMART affords great weight to the decision of the subcommittee, and should reverse only under a narrow set of circumstances, including, for example, reliance on erroneous facts or a failure to consider significant relevant information. If the GASRC recommends GAS, and the SMART approves it, then the SMART will refer the patient to an GAS surgeon for further treatment.

If SMART disagrees with an approved recommendation from GASRC, the Statewide Chief Medical Executive or designee will decide whether GAS will be approved. The guidelines

2 A copy of the Care Guidelines for Review of Requests for Gender Affirming Surgery should be available in your prison’s law library.
do not put deadlines on SMART and Statewide Chief Medical Executive review. The guidelines
do state that the patient will receive notice of the final decision in writing within five business
days.

If GAS is denied, you may submit a new request for surgery no sooner than one year after
issuance of the denial letter. You may also appeal the decision using the 602-HC process.

III. HOUSING

A. Housing Screening and Assignments

The Prison Rape Elimination Act (PREA) is a federal law that requires prisons to screen
all persons within 72 hours of their arrival at 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, people “who have been diagnosed as transgender or intersex,
as documented on the Medical Classification Chrono, 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 people shall be housed at the following institutions (DOM 62080.14):
Male-to-Female Transgender People

- 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 Men’s Colony (CMC)

Female-to-Male Transgender People

- Central California Women’s Facility (CCWF)
- Folsom Women’s Facility (FWF)

If a transgender person 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 people who wish to be housed in accordance with their gender. 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 people 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 someone’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, you should file a Form 22 requesting to be placed in a single-cell. (If you have an immediate safety concern, you should verbally tell staff as well.)

If you are unhappy with the response to your 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 attach the Form 22 response to your appeal.

IV. PRIVACY

We often receive letters from people 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 52050.16.7):

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 people in prison of another 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 person’s breasts, buttocks, and genitalia. This includes while someone 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 persons be allowed the opportunity to shower separately from others (28 C.F.R. § 115.42(f)). CDCR policy is consistent with PREA: “upon request, transgender and intersex inmates shall be given the opportunity to shower separately from other inmates” (DOM 54040.4). You can request to shower separately and/or at a different time if a privacy screen is not available, not feasible, or is not working to keep other people 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

1. Searches to Determine Genital Status

Under PREA, custody staff may not search or physically examine people in prison to determine genital status. Staff can ask the individual, 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 people, 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, four options are in current practice for searches of transgender or intersex inmates/residents/detainees:*

1) searches conducted only by medical staff;
2) **pat searches of adult inmates conducted by female staff only, especially given there is no prohibition on the pat searches female staff can perform (except in juvenile facilities);**

3) *asking inmates/residents/detainees to identify the gender of staff with whom they would feel most comfortable conducting the search,* and

4) **searches conducted in accordance with the inmate’s gender identity.**


The Prison Law Office has informed CDCR of its concerns about the apparent rule that all transgender women be searched by male officers. In addition, the law office Medina Orthwein LLP has been looking into this issue. You can find contact information for Medina Orthwein LLP at the end of this handout. The CDCR currently has a Working Group tasked with updating the search policy to comply with PREA.

**May I be searched in a private area?**

If you are searched in front of other incarcerated people, you can ask to be searched in a private area, 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 unclothed body cavity searches of transgender people 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 people (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 people in prison may be able to raise claims about privacy under the Fourth Amendment, Fourteenth Amendment, and Eighth Amendment of the United States Constitution. 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.

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 an incarcerated person 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) (internal quotation marks and citation omitted).

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) (en banc).

V. NAMES, PRONOUNS, AND MISGENDERING

Transgender people may want to be called by a name other than their legal name or the name they were given at birth and one that feels more in line with their gender identity. Transgender people usually want to be called the pronouns (for example, he/him, she/her, they/their) that align with their gender identity. In corresponding with our office, please let us know your name, pronouns, and/or title (for example, Mr., Ms., Mx.). We will respect your choice.

Some transgender people want to change their legal name while incarcerated. California passed a bill—SB 310: Name and Dignity Act for Incarcerated People—that creates a right for people in California prison to petition the court to obtain a name or gender change. If you have any questions about the bill, or would like help with a name change, we recommend that you contact the Transgender Gender Variant and Intersex (TGI) Justice Project. Their address is listed at the end of this handout.

Transgender people may want to be referred to by pronouns that match their gender. “Misgendering” is when someone refers to a person by pronouns that do not match the person’s gender identity, for example, by referring to a transgender woman as “he” or “him.” CDCR’s policy provides the following general statement (DOM 54040.4):
Institutions shall train all staff on how to communicate professionally with inmates, including inmates who identify themselves as Lesbian, Gay, Bisexual, Transgender, Intersex, and Gender Non-Conforming in accordance with Inmate/Staff Relations Training...

If you are being misgendered by staff, you may want to let them know, if you feel comfortable doing so. You can also file a 602.

VI. VIOLENCE, SEXUAL ASSAULT, AND SAFETY

Unfortunately, transgender people can be at a higher risk of physical and sexual violence in CDCR compared to the general prison population. Transgender people often write to us about current safety concerns and/or about past assaults.

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 people in prison 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.

We know that some people have safety concerns with putting this information in writing through the appeals process (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.

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.
What if I am moved to Ad-Seg?

Unfortunately, raising safety concerns sometimes results in people being moved into Administrative Segregation (Ad-Seg). If you report safety concerns, you are only supposed 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 an incarcerated person or prison employee. California law and CDCR policy also prohibit “any sexual behavior” between staff and incarcerated people, 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 sexually transmitted infections, and for collection of evidence to prove the rape or assault allegations. A person who has been sexually assaulted and who wants emotional support is also entitled to 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 May 15, 2018, and outlines in detail what happens after someone reports sexual violence (see DOM §§ 54040 et seq). 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 person in prison 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 incarcerated people who are facing, or who are survivors of, sexual abuse.
Many resources are available on JDI’s website at www.justdetention.org. JDI also maintains a list of rape crisis centers that can provide legal and psychological counseling for people in California prisons: http://justdetention.org/service/state/california/.

VII. OTHER RESOURCES

These organizations also provide support and advocacy for transgender people:

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

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
(415) 829-7285

ACLU of San Diego & Imperial Counties
P.O. Box 87131
San Diego, CA 92138-7131

Jennifer Orthwein
Medina Orthwein LLP
230 Grand Ave, Ste. 201
Oakland, CA 94610

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

Finally, please remember that in most cases, if you feel comfortable doing so, 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.
Transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution who are housed at male institutions may possess the authorized personal property items listed in the “DESIGNATED MALE INSTITUTIONS” section of this schedule and in the Authorized Personal Property Schedule (APPS) (Rev. 4/1/14), which is incorporated by reference in Section 3190(b), specific to their security levels and privilege groups as described in Subsections 3190(b)(1) through 3190(b)(4). Transgender inmates and inmates having symptoms of gender dysphoria as identified and documented in SOMS by medical or mental health personnel within a CDCR institution who are housed at female institutions may possess the authorized personal property items listed in the “DESIGNATED FEMALE INSTITUTIONS” section of this schedule and in the APPS specific to their security levels and privilege groups as described in Subsection 3190(b)(5).

Despite the increase in allowable personal property items, the combined volume of state-issued and allowable personal property items possessed by a transgender inmate or an inmate having symptoms of gender dysphoria shall not exceed six cubic feet per Subsection 3190(e).
DESIGNATED MALE INSTITUTIONS

PERSONAL CLOTHING ITEMS FOR TRANSGENDER INMATES/INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA

- INMATES ARE PERMITTED TO WEAR SOLID COLORS ONLY, UNLESS OTHERWISE INDICATED.
- INMATES ARE PROHIBITED FROM POSSESSING, USING, OR WEARING PERSONAL CLOTHING ITEMS IN ANY SHADE OR TINT OF GREEN, BLACK, BROWN, TAN, RED, OR BLUE, UNLESS OTHERWISE INDICATED.
- INMATES ARE PROHIBITED FROM POSSESSING, USING, OR WEARING ITEMS WHICH ARE OBSCENE OR WHICH HAVE LOGOS, LETTERING, OR PICTURES WHICH ADVERTISE OR DEPICT ALCOHOL, GANGS, PROFANITY, SEX, WEAPONS, DRUGS, OR DRUG PARAPHERNALIA.

<table>
<thead>
<tr>
<th>ITEM DESCRIPTION</th>
<th>GENERAL POPULATION LEVELS I, II, and III</th>
<th>GENERAL POPULATION LEVEL IV</th>
<th>SHU/PSU</th>
<th>ASU</th>
</tr>
</thead>
<tbody>
<tr>
<td>With additional requirements and restrictions.</td>
<td>PRIVILEGE GROUP</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>A</td>
</tr>
<tr>
<td>BRASSIERES (White or gray only. No metal underwire, lace, strapless, see through, or pushup.)</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>PANTIES (White or gray only. No thong, G-string, lace, see-through or pockets.)</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>SANDALS (Beige, brown, or white only. No hidden compartments, zippers, or laces that are covered or concealed. Purchase value not to exceed $75.)</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>T-SHIRTS (White or gray only. Any combination of crew neck, v-neck, long sleeve, or sleeveless athletic tank-top. Turtle neck and mock turtle neck not permitted. The number of allowable t-shirts is combined with, and not in addition to, the number of allowable under shirts. Under shirts are as allowed in the APPS.)</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>WALKING SHOES (Beige, brown, or white only.)</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>
PERSONAL CARE/HYGIENE ITEMS FOR TRANSGENDER INMATES/
INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA

- NO ALCOHOL-BASED PRODUCTS AND NO AEROSOL CONTAINERS ALLOWED.
- NO METAL CONTAINERS OR CONTAINERS HAVING METAL TOPS OR BOTTOMS.
- PRODUCTS CONTAINING PHOSPHATES ARE NOT ALLOWED.
- MAKE UP PRODUCTS ARE ALLOWED AS DESCRIBED BELOW. THEY MUST BE
  NATURAL SKIN TONES PER CALIFORNIA CODE OF REGULATIONS,
  SECTION 3062, INMATE GROOMING STANDARDS.

<table>
<thead>
<tr>
<th>ITEM DESCRIPTION</th>
<th>GENERAL POPULATION LEVELS I, II, and III</th>
<th>GENERAL POPULATION LEVEL IV</th>
<th>SHU/PSU</th>
<th>ASU</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PRIVILEGE GROUP</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>A</td>
</tr>
<tr>
<td>BODY SPLASH</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(10 oz. each max. No sprays or pumps.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BLUSH</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(Natural skin tones only.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>COTTON BALLS</td>
<td>400</td>
<td>400</td>
<td>400</td>
<td>400</td>
</tr>
<tr>
<td>EMERY BOARD</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>(Non-metal only.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EYEBROW PENCIL/EYELINER</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(Factory sealed. Pencil only, no liquid. Natural skin tones only, i.e., black or brown in color.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EYE SHADOW KIT</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(No mirrors. Kit shall not be altered. Natural skin tones only.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FABRIC SOFTENER</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>(Liquid, one bottle only, 36 oz. max.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FACE POWDER</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(10 oz. each max.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FACIAL ASTRINGENT</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(10 oz. each max.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FACIAL CLEANSER</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(10 oz. each max.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FEMININE HYGIENE WASH</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>FOUNDATION</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(Natural skin tones only.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>HAIR GEL, SPRAY AND GEL CURL, BRAID SPRAY AND LOCK GEL</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>HAIR ROLLERS</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>(Non-electric.)</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>LIP GLOSS/LIPSTICK/LIP LINER</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>(Natural skin tone only.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>MASCARA</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>(Factory sealed. Natural skin tone, i.e., black or brown.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PUMICE BAR/PUMICE SPONGE</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>(Combined with shower puffs/loofahs and</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
REGISTERABLE PROPERTY FOR TRANSGENDER INMATES/INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA

<table>
<thead>
<tr>
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<th>GENERAL POPULATION LEVEL IV</th>
<th>SHU/PSU</th>
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</tr>
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<tbody>
<tr>
<td></td>
<td>PRIVILEGE GROUP</td>
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<td></td>
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<tr>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>A</td>
</tr>
<tr>
<td>Chain or necklace (Yellow or white metal only. Purchase value not to exceed $25. The chain or necklace shall be no more than 5 millimeters wide and 24” long.)</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

Washcloths. Washcloths are as allowed in the APPS.  

Scrunchies (Black, white, or gray only. Combined total with hair ties. Hair ties are as allowed in the APPS.)  

Shower bag (At Warden’s discretion. Mesh construction.)  

Shower cap (Must be both clear and colorless.)  

Shower puffs/loofahs (White only. Combined with pumice bar/pumice sponge and washcloths. Washcloths are as allowed in the APPS.)  

Tweezers (Plastic only. Maximum of 3’’ long.)
DESIGNATED FEMALE INSTITUTIONS

PERSONAL CLOTHING ITEMS FOR TRANSGENDER INMATES/INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA

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<tr>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
<td>A</td>
</tr>
<tr>
<td>ATHLETIC SUPPORTER</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>BINDERS/COMPRESSION TOPS</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>(White or gray only. The number of allowable binders/compression tops is combined with, and not in addition to, the number of allowable brassieres. Brassieres are as allowed in the APPS.)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BRIEFS/BOXERS</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>(White or gray only. For SHU and ASU inmates, boxers shall have no elastic on the leg opening.)</td>
<td></td>
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</tr>
</tbody>
</table>

PERSONAL CARE/HYGIENE ITEMS FOR TRANSGENDER INMATES/INMATES HAVING SYMPTOMS OF GENDER DYSPHORIA

- NO ALCOHOL-BASED PRODUCTS AND NO AEROSOL CONTAINERS ALLOWED.
- NO METAL CONTAINERS OR CONTAINERS HAVING METAL TOPS OR BOTTOMS.
- PRODUCTS CONTAINING PHOSPHATES ARE NOT ALLOWED.
ITEM DESCRIPTION
With additional requirements and restrictions.

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<th>GENERAL POPULATION LEVELS I, II, and III</th>
<th>GENERAL POPULATION LEVEL IV</th>
<th>SHU</th>
<th>ASU</th>
</tr>
</thead>
<tbody>
<tr>
<td>AFTER SHAVE (Must be clear and in clear container only. 5 oz. each max.)</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
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</tbody>
</table>

PRIVILEGE GROUP

<table>
<thead>
<tr>
<th>PRIVILEGE GROUP</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>D</th>
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<tbody>
<tr>
<td>PRIVILEGE GROUP</td>
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<td>2</td>
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<td>2</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>0</td>
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</tbody>
</table>