



# PRISON LAW OFFICE

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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 people in prison often have trouble getting legal information. Unfortunately, we cannot give individual advice to everyone who asks for it. Additionally, 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.*

## **SEXUAL ABUSE IN CALIFORNIA PRISONS Updated November 2024**

The following information may be of help to people in CDCR facilities who fear they will be sexually abused, are experiencing sexual abuse, or have been sexually abused in CDCR in the past.

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## Introduction

Sexual abuse in prisons can take many forms including non-consensual sex acts or other types of touching, verbal harassment, lewd gestures, invasion of privacy, voyeurism, or leering (offensive looking or watching). It can occur in men's-designated prisons and women's-designated prisons.<sup>1</sup> The abuser can be a prison staff member, volunteer, or contractor or another incarcerated person. Abuse can be inflicted by or experienced by people of any gender identity or sexual orientation.

It can be hard to report sexual abuse. Furthermore, there is no guarantee that prison staff will respond adequately or that investigators will conclude that the sexual abuse occurred. Sometimes, CDCR's inadequate responses to reports of sexual abuse can make the person who reported feel shame, blame and anger, among other emotions. Also, abusers may be in positions of power, and prison staff or other incarcerated people may be hostile to you or retaliate against you if you report. However, making a report and asking for help is the only way to try to get prison officials, law enforcement officers, and possibly the courts to hold your abuser accountable and protect you from future harm. This letter discusses (I) the different ways sexual abuse can happen in prison, **(II) actions you can take immediately to report sexual abuse and to protect your health and safety**, and (III) other actions you can take to if you are not satisfied with how CDCR responds to your report of sexual abuse. At the end of this letter, there is a summary of your legal rights not to be sexually abused, which includes regulations in Title 15 of the California Code of Regulations and policies in the CDCR Department Operations Manual (DOM) (Attachment A). Also attached to this letter is a list of resource providers who may be able to advocate for you, advise you, or help you cope with and recover from sexual abuse (Attachment B).

## Recent Developments

On August 23, 2023, the California Legislative Women's Caucus convened a meeting on "Sexual Assault and Harassment in California's Women's Prisons." Advocates, including the Prison Law Office, and CDCR leadership, including the CDCR Secretary and CCWF Warden, participated. Testimony included accounts of people formerly and currently incarcerated at CCWF and CIW who had experienced sexual abuse by staff at these prisons.

California's 2023-2024 Budget Act provided resources for CDCR to create a Sexual Assault Response and Prevention Working Group and an Ambassador Program in partnership with the Sister Warriors Freedom Coalition. The Working Group consisted of staff from CDCR Female Offender Programs and Services (FOPS), advocacy groups, community-based organizations led by formerly incarcerated people, representatives from the ambassador groups, and people who have survived sexual assault in custody. It focused on the Central California Women's Facility (CCWF) and California Institution for Women (CIW) and spoke directly with people incarcerated at those institutions. In March 2024, the Working Group presented two

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<sup>1</sup> Women's-designated prisons include Central California Women's Facility (CCWF) and California Institution for Women (CIW). Men's-designated prisons include all other prisons. We used these terms because CDCR houses women at men's-designated prisons and houses men at women's-designated prisons. *See* Penal Code § 2605 *et seq.*

reports to the Legislature, one from community groups and one from CDCR. The reports provided information about CDCR's response to recent sexual abuse reports and recommendations for improving the safety of people in women's-designated prisons.<sup>2</sup>

In September 2024, the U.S. Department of Justice started a civil rights investigation into sexual abuse by staff at CCWF and CIW. The U.S. DOJ encourages people with relevant information to contact them. If you wish to do so, you may write to them at the below address and mark your envelope "Legal Mail," meaning that your letter is confidential and cannot be read by CDCR staff.

CA Prisons - CCWF and CIW  
U.S. Department of Justice  
Special Litigation Section – 4CON  
950 Pennsylvania Ave, NW  
Washington, DC 20530

You can also leave a voicemail for the U.S. DOJ at (888)-392-9490. However, at least as of October 2024, this line was not confidential/unmonitored. For people with hearing disabilities, please note that the auto-greeting prompts callers to press "1" for English and "2" for Spanish. Your loved ones and others with access to email can also write to the U.S. DOJ at [Community.CAWomensPrisons@usdoj.gov](mailto:Community.CAWomensPrisons@usdoj.gov).

## I. What Is Sexual Abuse?

Sexual abuse can take many forms. CDCR regulations and policies divide up sexual abuse into categories based on who causes the harm and the type of harm. We recognize that these may not be the terms you use to describe your own experience, but it is important to understand the categories CDCR uses so you can understand your rights and reporting options.

- **staff sexual misconduct:** threatened, coerced, attempted, or completed sexual contact, assault, battery, or behavior. This includes offering benefits in exchange for sexual favors, making threats for refusal to engage in sexual behavior, invasion of privacy beyond what is reasonably necessary for safety and security, displaying genitals, buttocks, or breasts, voyeurism, or making disrespectful, overly familiar, or sexually threatening comments.<sup>3</sup>

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<sup>2</sup> See California Women's Prisons – Sexual Abuse Response and Prevention Working Group: Community Report to the Legislature (March 2024), [https://www.sisterwarriors.org/prison\\_sexualassault\\_report](https://www.sisterwarriors.org/prison_sexualassault_report). This Community Report was issued by Working Group member organizations (Sister Warriors Freedom Coalition, Just Detention International, Justice First, ValorUS, California Coalition for Women Prisoners, and Survived & Punished. CDCR submitted its own report. See California Department of Corrections and Rehabilitation Report to the Legislature Sexual Assault Response and Prevention (March 2024), <https://www.cdcr.ca.gov/california-department-of-corrections-and-rehabilitation-report-to-the-legislature-sexual-assault-response-and-prevention-march-2024/>

<sup>3</sup> Cal. Code Regs., tit. 15, § 3401.5(a); DOM § 54040.3.

- **staff sexual harassment:** repeated verbal comments or gestures of a sexual nature, including demeaning references to gender, sexually suggestive derogatory comments about body or clothing, or obscene language or gestures.<sup>4</sup>
- **sexual violence by another incarcerated person,** of which CDCR describes two types:
  - **nonconsensual sexual acts:** non-consensual or coerced sex acts such as vaginal sex, anal sex, oral sex, fingering, or penetration with an object; and
  - **abusive sexual contact:** non-consensual or coerced touching, either directly or through the clothing, of the genitals, anus, groin, breast, inner thigh, or buttocks.<sup>5</sup>
- **sexual harassment by another incarcerated person:** repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature.<sup>6</sup>

## II. What Can I Do to Protect Myself If I Have Been Sexually Abused or Am in Danger of Sexual Abuse?

If you have been sexually abused or feel you are in danger of being sexually abused, you should consider taking immediate action to protect your safety and rights, including seeking medical care for potential collection of evidence and treatment of physical injuries and emotional trauma. If you report abuse, prison officials are supposed to investigate your report and take steps to hold accountable the person who sexually abused, threatened, or harassed you. Prison officials are also supposed to provide you with any needed medical and mental health care and protect you from further abuse or threats of abuse. Below, we describe three different ways to report abuse. You (or your family or friends or advocates) can use one or all these ways to report what happened to you. The two subsections after that describe ways to seek medical or mental health care and safe housing. **Prison officials can take action to help you only if they know that you have been abused or are in danger of being abused. While we recognize it can be scary and hard to report and so you may have good reasons to wait, you should keep in mind that delays in reporting may make it more difficult for investigators to verify the sexual abuse.**

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<sup>4</sup> Cal. Code Regs., tit. 15, § 3401.6(a); DOM § 54040.3.

<sup>5</sup> DOM § 54040.3.

<sup>6</sup> DOM § 54040.3.

## **SEXUAL ABUSE ADVOCATES AND RAPE CRISIS CENTERS**

If at any point in time you want confidential support or information about dealing with sexual abuse, you may contact an outside sexual abuse advocate or rape crisis center by phone or by mail. For every CDCR institution, there is a sexual abuse advocate or rape crisis center that you can contact confidentially and for free. These advocates work for community-based organizations; they are *not* part of the prison system. They are trained in providing confidential emotional support to people who have been affected by sexual assault or sexual harassment. Their role is to support and listen to you, and they can provide information about your rights, options, and the services available to you. You can get support from an outside advocate without having to make a report to prison staff or law enforcement officials. **You can dial \*HELP# (\*4357#) on a phone or tablet from any CDCR institution to reach your local rape crisis center. You do not have to enter your PIN to place the call. The calls are supposed to be confidential and unmonitored.** In addition, the resources list attached to this letter has contact information for outside advocates who help people in California prisons.

### **A. Report Sexual Abuse to Prison Staff**

If you want prison officials to punish your abuser, provide you with safe housing, or provide you with medical care, you will have to report the abuse to someone who works at the prison as an employee, contractor, or volunteer. There are several ways you can report sexual abuse. You can report what happened using one or more options. No matter what method you choose, you should be prepared to provide as many details as possible, with specific times, dates, places, and descriptions of what happened and who did it. Also, if you have a communication disability or do not speak English, staff should provide any assistance you need to report sexual abuse, to participate in the investigation and in medical care or classification decisions, and to understand the results of the investigation.<sup>7</sup> Here are some of the ways you can report abuse:

- **Talk or write to any CDCR staff person.**<sup>8</sup> You may feel more comfortable if you make your report by talking to or writing a note to a staff person that you like and trust. Any staff who get information about sexual abuse must report it immediately to their supervisor and the Watch Commander.<sup>9</sup> You may choose to keep your identity confidential when reporting sexual abuse. However, this only means that your name and identity won't be in any public record about your report or any investigation of your report. Your identity will still be known to people who are involved in

<sup>7</sup> See, e.g., Cal. Code Regs., tit. 15, §§ 3335, 3481(g), 3999.201.

<sup>8</sup> Cal. Code Regs., tit. 15, § 3086.1(a)-(d); DOM § 54040.7

<sup>9</sup> Cal. Code Regs., tit. 15, §§ 3401.5(c), 3401.6(c); DOM § 54040.7.

- responding to your report.<sup>10</sup> Also, regardless of whether you choose to keep your identify confidential, staff are not supposed to disclose information about you or your report except on a “need to know” basis for the investigation, providing medical and mental health treatment, or providing you with safe housing.<sup>11</sup>
- **Submit a CDCR 602-1 grievance.**<sup>12</sup> This is a more formal way to make your report. If you submit a CDCR 602-1 form, you will have documentation that you reported sexual abuse. Also, completing the grievance process (including submitting a 602-2 appeal if you are not satisfied with the response to your 602-1) is necessary to protect your rights to bring a lawsuit against CDCR, your abuser, and/or supervisors who did not prevent the abuse or properly respond to your report of abuse.<sup>13</sup> There are *no* time limits for filing a grievance alleging sexual violence by another incarcerated person or sexual misconduct by staff.<sup>14</sup> For other issues, the time limit for filing a grievance is 60 days after the problem occurred, except in unusual circumstances.<sup>15</sup> An incarcerated person can submit a sexual abuse grievance on behalf of another person.<sup>16</sup> If you are continuing to have a safety or medical issue that needs immediate attention, you should write “URGENT” on the grievance form. Within 48 hours after they receive your grievance, CDCR officials are supposed to review your grievance, and take immediate action to protect you if you are in “substantial risk of imminent” sexual violence by staff or another incarcerated person or sexual misconduct or harassment by staff. Within 5 calendar days, officials must document the risk assessment and any actions that were taken to protect you.<sup>17</sup> You should get a full response to your grievance within 60 calendar days.<sup>18</sup> If CDCR doesn’t respond within 60 days or you don’t agree with CDCR’s response to your grievance, you can file an administrative appeal using a CDCR 602-2 form.<sup>19</sup> You should submit your 602-2 appeal within 60 calendar days after you receive the response to your 602-1 grievance.<sup>20</sup> **If you feel safe doing so, we generally recommend that you report your abuse this way so that you have a record of it. However, ultimately, you should report abuse in whatever way feels most comfortable to you.**
  - **Ask a friend, family member, or legal advisor** to call or write the prison Warden to report that you are being abused.<sup>21</sup> This may be a good option if you are afraid to report yourself or you want prison staff to know that someone on the outside is keeping an eye on your well-being.

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<sup>10</sup> See Penal Code § 293(a); Cal. Code Regs., tit. 15, § 3401.5(d); DOM §§ 54040.7, 54040.8.1.

<sup>11</sup> DOM § 54040.8.

<sup>12</sup> Cal. Code Regs., tit. 15, § 3084; DOM § 54040.7.1.

<sup>13</sup> See Section III of this resource.

<sup>14</sup> Cal. Code Regs., tit. 15, § 3084(c)(1), (d)(1).

<sup>15</sup> Cal. Code Regs., tit. 15, § 3482(b).

<sup>16</sup> Cal. Code Regs., tit. 15, § 3084(b).

<sup>17</sup> Cal. Code Regs., tit. 15, § 3084(a), (c), (d).

<sup>18</sup> Cal. Code Regs., tit. 15, § 3483.

<sup>19</sup> Cal. Code Regs., tit. 15, § 3084.

<sup>20</sup> Cal. Code Regs., tit. 15, § 3484(b).

<sup>21</sup> DOM § 54040.7.1.

Staff are not supposed to retaliate against you or punish you for reporting sexual abuse.<sup>22</sup> However, you can be punished with a rule violation if you knowingly give false or inaccurate information.<sup>23</sup>

No matter which method you use to report, prison officials are supposed to investigate your report of sexual abuse and document the findings in writing.<sup>24</sup> For allegations of staff sexual misconduct or staff sexual harassment, CDCR has regulations about who can conduct the investigation and how the investigation should be performed.<sup>25</sup>

If you have experienced sexual violence by another incarcerated person or staff sexual misconduct, you have a right to have a victim support advocate present when you are interviewed by an investigator, unless this would cause a problem such as posing a security risk.<sup>26</sup> Prison staff should provide you with contact information for outside advocates.<sup>27</sup> The resources list attached to this letter also has contact information for advocates.

When the investigation is completed, you should be told whether the investigators believed that you were sexually abused and if some type of action has been taken against your abuser.<sup>28</sup> Unfortunately, only a small number of CDCR investigations result in a finding that the sexual abuse report is “substantiated,” meaning that CDCR officials concluded that the abuse occurred. Most reports result in CDCR officials concluding that the report is “unsubstantiated” (there is not enough evidence to determine if the abuse occurred). In other cases, the report is deemed to be “unfounded” (it was proven that no abuse occurred) or leads to an ongoing investigation in which there is not yet any finding.<sup>29</sup>

If an investigation confirms that a staff person sexually abused you, CDCR must fire them.<sup>30</sup> If an investigation confirms that another incarcerated person sexually abused or harassed you, your abuser can be charged with a prison rule violation.<sup>31</sup> Prison officials also must report criminal sexual abuse by staff and can report criminal sexual abuse by other incarcerated people

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<sup>22</sup> Penal Code § 2939(b), (f); Cal. Code Regs., tit. 15, §§ 3401.5(f), 3401.6(d).

<sup>23</sup> Penal Code § 2937(c).

<sup>24</sup> Penal Code § 2639; Cal. Code Regs., tit. 15, §§ 3401.5(b), 3401.6(b).  
DOM §§ 54040.12-12.2.

<sup>25</sup> Cal. Code Regs., tit. 15, §§ 3486.1-3486.3.

<sup>26</sup> Penal Code §§ 264.2, 679.04; DOM § 54040.8.2.

<sup>27</sup> DOM § 54040.8.2.

<sup>28</sup> DOM 54040.12.5.

<sup>29</sup> CDCR, *PREA Annual Report-Calendar Year 2023*, available at [www.cdcr.ca.gov/prea/prea/reports-audits/](http://www.cdcr.ca.gov/prea/prea/reports-audits/). In 2023, there were 1,363 reports of sexual misconduct and sexual harassment involving staff, and only 9 (0.6%) of those were found to be substantiated. However, as of November 2024, over 1,000 reports are pending findings because the investigations are ongoing. Similarly, in 2023, there were 641 reports of nonconsensual sex acts, abusive sexual conduct, and sexual harassment by incarcerated people, only 24 (3.7%) of which were found to be substantiated.

<sup>30</sup> Penal Code § 2639(e).

<sup>31</sup> DOM § 54040.15; see also Cal. Code Regs., tit. 15, § 3316, 3323(b)(5), (h)(11).

to law enforcement authorities for possible prosecution.<sup>32</sup> When such referrals are made, the county District Attorney will decide whether to bring criminal charges.

## **B. Seek Medical and Mental Health Care**

When reporting sexual abuse, you can seek medical and mental health attention for treatment and/or for potential collection of any evidence to prove an assault happened. Be aware that if you have not already reported abuse before seeking medical or mental health attention, the health care provider will have to tell their supervisor or the Watch Commander that you have experienced or are experiencing sexual abuse.

If you were in contact with the skin, hair, or body fluids of your abuser, seeking *immediate* medical attention can help preserve evidence of the abuse. In such a case, you should not shower until after a medical examination because showering could wash away evidence. If possible, you should try not to use the restroom or drink liquids until after the examination. You should also keep and give the investigators any clothes or items that might have come into contact with the body fluids, skin, or hair of the person who assaulted you.

Prison medical staff should provide any emergency medical care that you need following a sexual assault.<sup>33</sup>

For some types of sexual abuse, CDCR must provide forensic medical exams (a “SART” exam, “SAFE” exam, or “rape kit”) for you and the person who assaulted you.<sup>34</sup> In other cases, SART exams may be conducted if recommended by a medical professional. Whether SART exams are required or recommended will depend on when the abuse happened (usually whether it was less than or more than 120 hours ago), whether there was physical contact, and whether there were explicit sexual acts. Any SART exam will be conducted by a doctor or nurse, either at the prison or an outside hospital. The doctor or nurse will interview you, do a physical exam, and take samples of hair, semen, and other fluids that may have been left by the person who assaulted you.<sup>35</sup> The doctor or nurse might take photos to identify you and to document injuries related to the assault, including taking close-up photos of your genitals. In most cases, the photos are only for the doctor or nurse to use as reference when writing up the report, and they should not be given to the investigators or other staff.

A person who has been sexually abused or assaulted has the right to refuse a forensic examination.<sup>36</sup> If you refuse the exam, CDCR is required to video record the refusal. You also have the right to have a support person, such as a friend, family member, or advocate with you at the exam unless that would cause a problem such as delay or security risk.<sup>37</sup>

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<sup>32</sup> Penal Code § 2639(e); Cal. Code Regs., tit. 15, §§ 3316, 3401.5(b), 3401.6(b); DOM § 54040.15.

<sup>33</sup> DOM § 54040.8.3.

<sup>34</sup> “SART” stands for Sexual Assault Response Team, and “SAFE” stands for Sexual Assault Forensic Exam. Both refer to medical care that collects and documents physical evidence of assault or abuse.

<sup>35</sup> DOM §§ 54040.9, 54040.11, 54040.12.1-54040.12.2.

<sup>36</sup> DOM §§ 54040.12.1-54040.12.2.

<sup>37</sup> DOM §§ 54040.8.2.



Some sexual assaults can result in pregnancy. If you have been sexually assaulted in a manner that might cause pregnancy, you can request an emergency contraceptive pill to prevent pregnancy. Four to six weeks after the assault, you should ask for a pregnancy test. If you are pregnant, you should seek medical advice and counseling concerning whether to terminate or continue the pregnancy, and about placement options or adoption if you choose to carry the pregnancy to term.<sup>38</sup>

Some sexual assaults can transmit diseases. If you have been sexually assaulted, you can ask to get tested for HIV and other sexually transmitted infections.<sup>39</sup> You can also request preventative treatment, which is usually medication that significantly reduces your risk of contracting HIV and gonorrhea, chlamydia, and trichomonas.<sup>40</sup> For HIV, the preventative medication is called post-exposure prophylaxis (“PEP”) and is effective if started within 72 hours of the assault. For gonorrhea, chlamydia, and trichomonas, the preventative medication are antibiotics that prevent and treat those infections.

Even if you initially test negative for HIV and other sexually transmitted infections, you should request re-testing at six weeks, three months, and six months post-assault, since it may take that long for a detectable levels to show up on a test. If you test positive for any sexually-transmitted infections, the prison staff should provide appropriate medical treatment. Before engaging in consensual sexual acts, you should speak with your provider about your risk of transmission.

Sexual abuse causes emotional and psychological trauma. If you have been sexually abused and need support, you can seek counseling from mental health staff, a religious advisor, or a volunteer or peer counselor. Prison mental health staff are supposed to evaluate you immediately for possible suicide risk. They are also supposed to be aware of warning signs of post-trauma mental health problems and provide you with ongoing mental health treatment and counseling as appropriate. A mental health counselor is supposed to keep your conversations confidential, meaning that they cannot tell others what you say (unless you give them permission to tell someone else).<sup>41</sup> Prison staff are also supposed to provide you with contact information for outside rape crisis services and victim advocacy organizations.<sup>42</sup>

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<sup>38</sup> See DOM § 54040.9 (outside medical staff will provide information about pregnancy options), 54040.8.3 (prison medical staff must provide information about pregnancy options); see also Penal Code § 3405 (incarcerated people have right to abortion under state law).

<sup>39</sup> Penal Code § 2638(a); DOM § 54040.9.

<sup>40</sup> Penal Code § 2638(a); DOM § 54040.9 (“As required in Penal Code Section 2638 (part of AB 550), immediate HIV/AIDS prophylactic measures will be provided. In addition, information regarding sexually transmitted infections, HIV and pregnancy options, will be discussed with the victim and/or suspect. Testing for sexually transmitted infections, HIV, and pregnancy (if appropriate) will be offered.”).

<sup>41</sup> Penal Code § 2638(d); DOM §§ 54040.7, 54040.10.

<sup>42</sup> DOM § 54040.18.

### C. Seek Safe Housing

When you have been sexually abused, or when you are the target of sexual assault, harassment, or pressuring, you may want to ask for a change in housing so that you can be separated from the person who is abusing, harassing, or threatening you or from anyone who is retaliating against you for reporting sexual abuse. Prison staff have a responsibility to ensure that you are housed safely.<sup>43</sup> They also have a responsibility to ensure that you are not being retaliated against after you report sexual abuse.<sup>44</sup>

You may get immediate protection by asking for placement in an Restrictive Housing Unit (RHU) on Non-Disciplinary Restrictive Housing (NDRH) status. In RHU housing, you will not have the same programming and movement opportunities as in the general prison population. However, RHU placement may be necessary if you are being abused or will be abused if you remain in your current housing. NDRH is a type of RHU placement for people who have immediate safety concerns that are not any fault of their own, such as being the victim of sexual abuse.<sup>45</sup> If you are on NDRH status, you will stay in the same privilege group you were in prior to being placed in the RHU,<sup>46</sup> so you may have some telephone access and more privileges, activities, property, and programs than other people who are in the RHU.<sup>47</sup> However, you will be limited to non-contact visits.<sup>48</sup>

Placement in an RHU is only a short-term solution. You may want to request a longer-term housing change to try to prevent further sexual abuse. Some changes that might be helpful include:

- Single Cell Status – Housing you in a single cell may reduce your risk of sexual abuse. CDCR regulations state that single cell housing shall be considered for people with a history of in-cell physical or sexual abuse by another incarcerated person.<sup>49</sup>
- Transfer to Another Facility – You might want to request transfer to another facility so that you are separated from your abuser. Also, you may have ongoing problems at one facility but be able to live safely at a different facility.
- Transfer to a Sensitive Needs Yard (SNY) –CDCR has “sensitive needs yards” (SNYs). SNY’s house people who have safety concerns that put them at serious risk of harm, but who otherwise can function with regular programs and privileges. You must express safety concerns and request SNY placement; have specific, documented

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<sup>43</sup> Penal Code 2637(a); Cal. Code Regs., tit. 15, §§ 3401.5(g), 3401.6(e); DOM §§ 54040.6-54040.7, 54040.14-54040.14.1.

<sup>44</sup> DOM § 54040.13.

<sup>45</sup> Penal Code § 2637(b); Cal. Code Regs., tit. 15, § 3335(a); DOM §§ 54040.14-54040.14.1.

<sup>46</sup> Cal. Code Regs., tit. 15, § 3044(c)(6)(A), 3335(a)(1)(D).

<sup>47</sup> Cal. Code Regs., tit. 15, §§ 3044(c)(6)(A), 3190(c).

<sup>48</sup> Cal. Code Regs., tit. 15, § 3044 (d)(2)(B), (e)(2)(B).

<sup>49</sup> Cal. Code Regs., tit. 15, § 3269(d)-(e); DOM § 54040.6.

and verified systemic safety concerns; not pose a threat to the safety or security of other people; and if you are validated as Security Threat Group I (STG-I) member you must have completed the debriefing process.<sup>50</sup>

- Transfer to the Protective Housing Unit (PHU) – The Protective Housing Unit (PHU), which exists only at CSP–Corcoran, is a men’s-designated prison that houses a very small number of people who have extreme security concerns.<sup>51</sup> There are strict security procedures in the PHU, but people who are housed there may get job assignments and greater privileges than people who are in an RHU.

### **III. What Can I Do If I Report Sexual Abuse and CDCR Staff Do Not Respond Appropriately?**

There are follow-up actions that you can take if you report sexual abuse and prison officials do not respond appropriately.

#### **A. Contact the Office of the Inspector General (OIG)**

You (or your friend, family member, or legal advisor) can contact the Office of the Inspector General (OIG) Office of the PREA Ombudsperson. The OIG is an independent state agency that has the authority to investigate whether the CDCR is mishandling your report of sexual abuse.<sup>52</sup>

The phone numbers for the OIG are \*7732# (quick dial from CDCR phone or tablet) or (800) 700-5952. For people who have web access, there is a reporting form on the OIG website at [www.oig.ca.gov/connect/prea-form/](http://www.oig.ca.gov/connect/prea-form/).

People also can send confidential “Legal Mail” letters to:

OIG PREA Ombudsperson  
10111 Old Placerville Road  
Suite 110  
Sacramento, CA 95827.

You or anyone else making a report can ask to remain anonymous. After receiving a report, the OIG will contact officials at your prison for an investigation. If you request to remain anonymous, OIG will not provide CDCR with your name or other identifying information. Be aware that there may be delays in OIG following up on a report or notifying you of any action that has been taken.

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<sup>50</sup> Cal. Code Regs., tit. 15, §§ 3269.2-3269.3.

<sup>51</sup> Cal. Code Regs., tit. 15, § 3341.1.

<sup>52</sup> Penal Code § 2641; *see also* DOM § 54040.16 (all CDCR sexual abuse investigation reports are sent to the OIG).

## **B. Submit a Grievance and Appeal**

If prison officials do not properly investigate your report of sexual abuse, you can submit an administrative grievance and (if necessary) an appeal of the grievance. You should use CDCR 602-1 and 602-2 forms if prison staff are not properly handling your report of sexual abuse or are retaliating against you for reporting sexual abuse. You should use a CDCR 602-HC health care grievance and appeal form if health care staff did not provide an appropriate SART exam or appropriate medical or mental health care after you were sexually abused.

These types of grievances will be handled as either regular grievances or staff misconduct grievances (depending on the issue), rather than under the special rules for sexual misconduct grievances.<sup>53</sup> Thus, the deadline for filing a 602-1 grievance is within 60 days after you learn about the problem and the deadline for filing a 602-HC is within 30 days after you learn about the problem, except in unusual situations.<sup>54</sup> If you are not satisfied with the response, you can file an appeal of the grievance within 60 days of learning of the response (for a 602-2) or 35 days after the date the response was mailed to you (for a 602-HC).<sup>55</sup>

If you are *also* still being sexually abused or at serious risk of being sexually abused, you can take any of the steps discussed in Section II of this letter. Any new grievance about new sexual abuse that happened after your prior report should be submitted on a separate CDCR 602-1/602-2 grievance and appeal, which should be handled under the special rules that apply to sexual misconduct grievances (see Section II-A, above).

If you are continuing to have a safety or medical issue that needs urgent attention, you should ask for expedited (quicker) action processing by writing “URGENT” on the grievance form.

It is important to submit an administrative grievance and appeal through the highest level necessary when prison officials do not respond appropriately to your sexual abuse report. If you have documentation that you filed a grievance, that may help if you need to try to get higher level investigators involved in your case. Also, courts will usually require you to complete the grievance and appeal process (or at least make your best efforts to do so) before you can file a legal action against CDCR or against CDCR officials or staff.

Prison Law Office has a letter with more information on how to submit and pursue administrative grievances and appeals. You can request a free copy of the manual by writing to Prison Law Office, General Delivery, San Quentin, CA 94964-0001. The letter is also available on the Resources page at [www.prisonlaw.com](http://www.prisonlaw.com).

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<sup>53</sup> Cal. Code Regs., tit. 15, §§ 3480-3485 (regular grievances), 3486.01-3486.3 (staff misconduct grievance).

<sup>54</sup> Cal. Code Regs., tit. 15, §§ 3482(b) (regular grievance), 3999.227(b) (health care grievance).

<sup>55</sup> Cal. Code Regs., tit. 15, §§ 3484(b) (regular grievance), 3999.229 (health care grievance).

### **C. Contact CDCR's Office of Internal Affairs (OIA)**

Anyone can request an investigation about sexual abuse of an incarcerated person by writing or calling the Office of Internal Affairs (OIA), which is CDCR's internal division for investigation of staff misconduct and other prison problems. The contact information for the OIA Offices is:

#### **CDCR Office of Internal Affairs, Northern Region**

P.O. Box 3009  
Sacramento, CA 95812  
(916) 464-3805  
Sexual misconduct: (877) 424-3577

#### **CDCR Office of Internal Affairs, Central Region**

5016 California Avenue, Suite 210 Bakersfield, CA 93309  
(661) 335-7338  
Sexual misconduct: (661) 335-7338

#### **CDCR Office of Internal Affairs, Southern Region**

9035 Haven Avenue, Suite 105  
Rancho Cucamonga, CA 91730  
(909) 466-1052  
Sexual misconduct: (909) 466-1052

### **D. File a Legal Action in Court**

If CDCR does not protect you from sexual abuse or does not respond appropriately to your report of sexual abuse, you may consider filing a legal action asking a court to order CDCR to protect you or to take appropriate action on your report. You may also be able to ask a court to award you money compensation for harm you have suffered. Indeed, in the past several years, hundreds of women have filed lawsuits about sexual abuse by staff that they experienced at CCWF and CIW. Unfortunately, there is no one organization dedicated to representing incarcerated people in legal actions about sexual abuse. You can try to look for an attorney to represent you, but you may end up having to prepare and file the legal action on your own.

Please be aware that courts will most likely dismiss any legal case you file against CDCR officials or staff if you have not "exhausted administrative remedies" by submitting and receiving responses to an administrative grievance and appeal at all levels of review (CDCR Forms 602-1/602-2 or CDCR Form 602-HC). Also, before you file a state tort lawsuit, you must file a Government Claim with the Department of General Services, Office of Risk and Insurance Management, within six months of the sexual abuse.

The type of actions that you may consider filing are:

- State Court Petition for Writ of Habeas Corpus: This is a relatively quick and simple type of legal action. You can use a habeas corpus petition to ask a court to order prison officials to do something or stop doing something (called “injunctive relief”), but you *cannot* ask for money damages for physical or emotional injuries in this type of legal action. You also can ask the court to issue a preliminary injunction to make prison officials provide you with immediate action like medical care or safe housing during the time the court is considering your case. A habeas corpus petition can be based on violations of state laws and/or federal laws. There is a form for filing the petition. If you make a good showing on your petition, and the court decides to hold further formal proceedings on your case, the court must appoint an attorney to represent you if you do not have money to hire an attorney.
- Federal Civil Rights (§ 1983) Lawsuit: You can use a federal civil rights lawsuit to ask a court to order prison officials to do something or stop doing something (“injunctive relief”) and/or to ask for money damages for physical injuries. You can also ask the court to issue a preliminary injunction to make prison officials take immediate action to protect your health and safety while the court is considering your case. A federal civil rights lawsuit must be based on a violation of federal law, but it can be filed in either federal or state court. There are forms for filing this type of lawsuit in federal court.
- State Tort Lawsuit: You may be able to file a state tort or state *Bane* civil rights act lawsuit asking a court to award you money damages for harm caused by intentional acts like sexual assault or sexual harassment, or for prison staff’s negligence in failing to protect you from sexual abuse. Sometimes a state tort or state civil rights claim can be combined with a federal civil rights lawsuit.

Filing a legal action can be complicated and there are different deadlines for various types of cases. If you want more information, write to Prison Law Office, General Delivery, San Quentin, CA 94964-0001 for free manuals on State Habeas Corpus and/or Lawsuits for Money Damages Against Prison Officials (which includes information on filing Government Claim forms). These manuals are also available on the Resources page at [www.prisonlaw.com](http://www.prisonlaw.com).

In addition, information on legal actions for enforcing the rights of incarcerated people can be found in *The California Prison and Parole Law Handbook*. The Handbook is available for free on CDCR electronic Tablets and kiosks in the Lexis-Nexis legal research materials. People on the outside can view, download, and print the Handbook for free on our website at [www.prisonlaw.com](http://www.prisonlaw.com). We are updating the Handbook a few chapters at a time. As we finish the updated chapters, we will post them on our website and send them to Lexis-Nexis, and they should then appear on the Tablet. We will also post the updated chapters on our website at [www.prisonlaw.com](http://www.prisonlaw.com). Any updated chapter will show the date on which it was revised.

## Appendix A: Summary of Laws Concerning Sexual Abuse

There are federal (U.S.) laws and California state laws that require prison officials to protect you from sexual abuse, investigate your reports of sexual abuse, and punish prison staff or incarcerated people who have sexually abused you. These laws are:

- The Eighth Amendment to the U.S. Constitution protects the right to be free from cruel and unusual punishment. This includes the right to not be sexually abused by prison staff.<sup>56</sup> Because of power dynamics, a court will presume that sexual conduct between prison staff and an incarcerated person was not consensual, but prison officials can try to present evidence to overcome that presumption.<sup>57</sup> To violate the constitution, the conduct must be “offensive to human dignity” and committed “maliciously and sadistically to cause harm.”<sup>58</sup> It is offensive to human dignity for prison staff, acting without legitimate penal justification, to touch you in a sexual manner or engage in sexual conduct for the staff’s own sexual gratification or for the purpose of humiliating, degrading, or demeaning you.<sup>59</sup>
- The Eighth Amendment to the U.S. Constitution requires prison staff to protect you from sexual abuse by other incarcerated people.<sup>60</sup> To violate the constitution, prison staff must be “deliberately indifferent” to a “substantial risk” of harm to your health and safety.<sup>61</sup> Deliberate indifference to an unreasonable risk of harm violates the constitution even if you have not yet been sexually assaulted.<sup>62</sup>
- The Eighth Amendment to the U.S. Constitution is violated by sexually intrusive searches or monitoring that is not justified by legitimate prison needs.<sup>63</sup> Also, the Fourth Amendment right to privacy may be violated by unrestricted viewing or frequent unnecessary unclothed searches by staff of the opposite sex.<sup>64</sup> However, the

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<sup>56</sup> *Schwenk v. Hartford* (9th Cir. 2000) 204 F.3d 1187, 1196-1197; *Wood v. Beauclair* (9th Cir. 2012) 692 F.3d 1041, 1046.

<sup>57</sup> *Wood v. Beauclair* (9th Cir. 2012) 692 F.3d 1041, 1049-1049.

<sup>58</sup> *Wood v. Beauclair* (9th Cir. 2012) 692 F.3d 1041, 1054-1051; see also *Bearchild v. Cobban* (9th Cir. 2020) 947 F.3d.1130; compare with; *Austin v. Terhune* (9th Cir. 2004) 367 F.3d 1167, 1172 (no Eighth Amendment violation where officer in control booth displayed genitals and made sexual comment).

<sup>59</sup> *Bearchild v. Cobban* (9th Cir. 2020) 947 F.3d.1130.

<sup>60</sup> *Farmer v. Brennan* (1994) 511 U.S. 825, 828 [114 S.Ct. 1970; 128 L.Ed.2d 811]; *Berg v. Kincheloe* (9th Cir. 1986) 794 F.2d 457, 459.

<sup>61</sup> *Farmer v. Brennan* (1994) 511 U.S. 825, 828 [114 S.Ct. 1970; 128 L.Ed.2d 811]; *Berg v. Kincheloe* (9th Cir. 1986) 794 F.2d 457, 459.

<sup>62</sup> *Berg v. Kincheloe* (9th Cir. 1986) 794 F.2d 457, 459; see also *Helling v. McKinney* (1993) 509 U.S. 25, 33-34 [113 S.Ct. 2475; 125 L.Ed.2d 22].

<sup>63</sup> *Jordan v. Gardner* (9th Cir. 1993) 986 F.2d 1521, 1527 (policy requiring male staff to do random, non-emergency searches that included squeezing and kneading the genitals and breasts of people in women’s prisons was unconstitutional); compare with *Watison v. Carter* (9th Cir. 2012) 668 F.3d 1108, 1114 (no Eighth Amendment violation where officer searched cell while person on toilet and rubbed briefly against thigh).

<sup>64</sup> *Bowling v. Enomoto* (N.D. Cal. 1981) 514 F.Supp. 201, 204 (people in male prisons had limited right to privacy which included right to be free from unrestricted observation of their genitals and bodily functions by staff of

- constitution is not violated by routine searches or occasional observations of nudity by officers of the opposite sex.<sup>65</sup>
- The federal Prison Rape Elimination Act (PREA) of 2003 resulted in the U.S. Department of Justice issuing national standards to eliminate sexual abuse in detention facilities. CDCR risks losing some of its federal funding if it does not comply with the standards.<sup>66</sup>
  - California’s Sexual Abuse in Detention Elimination Act (SADEA) requires CDCR to have procedures to protect you from sexual abuse and to respond to reports of sexual abuse.<sup>67</sup> Furthermore, prison staff are supposed to intervene if you appear to be the target of sexual harassment or intimidation.<sup>68</sup>
  - Rape, other non-consensual sex acts, or offensive sexual touching are crimes under the California Penal Code. The criminal laws apply regardless of whether the person who assaults you is a prison staff person or an incarcerated person. Moreover, you cannot lawfully consent to sex with a prison staff person, which means that staff cannot avoid criminal punishment by claiming that you consented.<sup>69</sup>
  - CDCR regulations (“Title 15”) prohibit “sexual misconduct” and “sexual harassment” by staff.<sup>70</sup> Staff cannot claim that you consented to sexual activities with them.<sup>71</sup> The regulations also prohibit officers of the opposite sex from doing unclothed body searches on you, except in emergencies.<sup>72</sup> Routine clothed inspections of people in men’s prisons may be performed by staff of either sex, but clothed inspections of people in women’s prisons must be performed by female staff except in emergencies when there are not enough available female staff.<sup>73</sup>
  - The CDCR regulations (“Title 15”) make it a rule violation for other incarcerated people to sexually assault or harass you.<sup>74</sup>

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opposite sex ); see also *Lay v. Porker* (C.D. Cal. 2004) 371 F.Supp.2d 1159, 1164 (subjecting person to needlessly intrusive unclothed body cavity search in presence of staff of opposite sex violated right to privacy).

<sup>65</sup> *Grummett v. Rushen* (9th Cir. 1985) 779 F.2d 491, 492; *Somers v. Thurman* (9th Cir. 1997) 109 F.3d 614, 624.

<sup>66</sup> Federal Prison Rape Elimination Act (PREA) of 2003, 42 U.S.C § 15601 et seq.; National Standards To Prevent, Detect, and Respond to Prison Rape, 28 CFR 115.5 et seq., available at [www.federalregister.gov/a/2012-12427](http://www.federalregister.gov/a/2012-12427).

<sup>67</sup> Penal Code §§ 2635-2643.

<sup>68</sup> Penal Code § 2636(b).

<sup>69</sup> Penal Code § 289.6.

<sup>70</sup> Cal. Code Regs., tit. 15, §§ 3401.5, 3401.6.

<sup>71</sup> Cal. Code Regs., tit. 15, § 3401.5(a).

<sup>72</sup> Cal. Code Regs., tit. 15, § 3287(b)(1).

<sup>73</sup> Cal. Code Regs., tit. 15, § 3287 (b)(2)-(4).

<sup>74</sup> Cal. Code Regs., tit. 15, §§ 3315, 3323(b)(5), (h)(11).



- CDCR’s Prison Rape Elimination Policy, which is in the Department Operations Manual (DOM), states that CDCR shall have a “zero tolerance for sexual violence, staff sexual misconduct, and sexual harassment.”<sup>75</sup> The policy has guidelines for preventing, responding to, and investigating sexual misconduct.<sup>76</sup> For example, the policy states that you should be allowed to shower, perform bodily functions, and change your clothing without non-medical staff of the opposite sex viewing your breasts, buttocks, or genitalia, except when incidental to routine cell checks or in urgent circumstances, and that staff of the opposite sex are supposed to announce their presence when entering your housing unit.<sup>77</sup>
- Senate Bill 132, *The Transgender Respect, Agency and Dignity Act*, created Penal Code §§ 2605-2606. This law allows incarcerated transgender, non-binary, and intersex people to request to be housed and searched in a manner consistent with their gender identity. Prison Law Office can provide more information about rights under this bill and about CDCR policies for transgender, non-binary, and intersex people. If you are interested in this information, please request it by writing to Prison Law Office, General Delivery, San Quentin, CA 94964-0001.

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<sup>75</sup> DOM § 54040.1.

<sup>76</sup> DOM § 54040.1-54040.23.

<sup>77</sup> DOM § 54040.4.

**Appendix B: California Rape Crisis Programs and Other Support Services**

Prepared by Just Detention International, [www.justdetention.org](http://www.justdetention.org)

<b>State-wide Resources</b>	
<b>Name &amp; Address</b>	<b>Services</b>
<p><b>Just Detention International (JDI)</b>  3250 Wilshire Blvd., Ste. 1630, Los Angeles, CA 90010.  Address letters to Cynthia Totten, Attorney at Law (CA Attorney Registration #199266), and label as Confidential Legal Mail  Office: (213) 384-1400, x110  Email: <a href="mailto:info@justdetention.org">info@justdetention.org</a>  Website: <a href="http://www.justdetention.org">www.justdetention.org</a></p>	<p>JDI is a health and human rights organization that seeks to end sexual abuse in all forms of detention and provides advice, support and information for incarcerated people who are facing sexual abuse or who are survivors of sexual abuse. JDI’s website has resources such as state-by-state lists of counseling, government and legal resources for survivors of prison sexual abuse.</p>
<p><b>ValorUS</b>  1215 K Street, Suite 1850, Sacramento, CA 95814  Office: (916) 446-2520; TTY Office: (916) 446-8802  Office Hours: Monday-Friday, 8am-5pm PST</p>	<p>ValorUS partners with JDI to support rape crisis centers to support survivors in prisons, jail and youth detention centers and to advocate to bring the CDCR into compliance with PREA standards.</p>
<p><b>Transgender Gender Variant and Intersex (TGI) Justice Project</b>  370 Turk Street #370  San Francisco, CA 94102  (415) 829-7285</p>	<p>TGIJP builds voice, power and leadership among transgender, gender variant and intersex people—inside and outside of prisons, jails and detention centers—creating a united family in the struggle for survival and freedom centering Black TGI people. TGIJP provides information and resources. TGIJP does not provide individual representation.</p>
<p><b>California Coalition for Women Prisoners</b>  Bay Area Chapter  4400 Market Street  Oakland, CA 94608</p>	<p>CCWP is a grassroots abolitionist organization—with members inside and outside prison—that challenges the institutional violence imposed on women, transgender people, and communities of color by the prison industrial complex (PIC). CCWP provides resources, information, support, and advocacy to women and trans people in all facilities in California. CCWP does not provide individual representation.</p>

**Resources by CDCR Facility**

<b>Prison</b>	<b>Contact Information for Community-Based Advocates</b>
Avenal State Prison (AVSP)	<b>Resource Center for Survivors of Sexual Assault and Family Violence (RCS Fresno)</b> 259 N. Blackstone Avenue, Fresno, CA 93701 Office: (559) 497-2900 M-F, 8am-5pm PST 24-Hour Hotline: (559) 222-7273
Pleasant Valley State Prison (PVSP)	
Valley State Prison (VSP)	
California Correctional Institution (CCI)	<b>Women’s Center-High Desert, Inc.</b> P.O. Box 309, Ridgecrest, CA. 93556 Office Hours: M-F, 8am-5pm PST Office Number/24-Hour Hotline: (760) 375-0745 25-Hour TDD Hotline (916) 443-3715
California Health Care Facility (CHCF)	<b>Women’s Center of San Joaquin County</b> 620 North San Joaquin Street, Stockton, CA 95202 24-Hour Hotline: 209-465-4997
California Institution for Women (CIW)	<b>Riverside Area Rape Crisis Center</b> 1845 Chicago Avenue, Riverside, CA 92507 Office/24-Hour Hotline: 951-686-7273
California Institution for Men (CIM)	
California Rehabilitation Center (CRC)	
California Men’s Colony (CMC)	<b>RISE</b> 51 Zaca Lane, Suite 140, San Luis Obispo, CA 93401 Office: (805) 545-8888 M-F, 8:30am-5pm PST Toll-Free 24-Hour Hotline (805) 656-4673
California Medical Facility (CMF)	<b>SafeQuest Solano, Inc.</b> P.O. Box 368 Fairfield, CA 94533 24-Hour Hotline: 866-487-7233
California State Prison – Solano (SOL)	
California State Prison – Corcoran (COR)	<b>Kings Community Action Organization</b> 1130 N. 11th Avenue, Handford, CA 92320 24 Hour Hotline: 877-727-3225
California Substance Abuse Treatment Facility (SATF)	
California State Prison – Sacramento (SAC)	<b>WEAVE, Inc.</b> 1900 K. Street Sacramento, CA 95811 24-Hour Hotline: (916) 920-2952 24-Hour TDD Hotline: (916) 443-3715
Folsom State Prison (FSP)	
California State Prison – Los Angeles County (LAC)	<b>Valley Oasis</b> P.O. Box 2980, Lancaster, CA 93539 Office: (661) 949-6143 24-Hour Hotline: (661)723-7273

Prison	Contact Information for Community-Based Advocates
Calipatria State Prison (CAL) California State Prison – Centinela (CEN)	<b>Sure Helpline Center</b> 101 N. Lake Ave, Suite A, Calipatria, CA 92233 Office (760) 354-2121 24-Hour Hotline: 760-352-7873
Central California Women’s Facility (CCWF)	<b>Community Action Partnership of Madera County</b> 1225 Gill Ave. Madera, CA 93637 24-Hour Hotline: 800-355-8989
Chuckawalla Valley State Prison (CVSP) Ironwood State Prison (ISP)	<b>Partners Against Violence</b> 444 N. Arrowhead, Ste. 101, San Bernardino, CA 92401 24-Hour Hotline (909) 885-8884
Correctional Training Facility (CTF) Salinas Valley State Prison (SVSP)	<b>Monterey County Rape Crisis Center</b> P.O. Box 2401, Salinas, CA 93902 Office: (831) 771-0411 M-F 8:00am-5:00pm PST 24-Hour Hotline: (831) 424-4357
High Desert State Prison (HDSP)	<b>Lassen Family Services</b> 1306 Riverside Drive, Susanville, CA 96130 Office: (530)-257-4599 M-F 8am-5pm PST 24-Hour Hotline: (530)-257-5004
Kern Valley State Prison (KVSP) North Kern State Prison (NKSP) Wasco State Prison (WSP)	<b>Alliance Against Family Violence</b> 1921 19th Street Bakersfield, CA 93301 Toll-Free Hotline: 800-273-7713 24-Hour Hotline: 661-327-1091
Mule Creek State Prison (MCSP)	<b>Operation Care</b> 817 Court Street, Jackson CA 95642 Toll-Free Hotline: 800-675-3392 24-Hour Hotline: 209-223-260
Pelican Bay State Prison (PBSP)	<b>North Coast Rape Crisis Team</b> P.O. Box 1082, Crescent City, CA 95531 Office: Del Norte (707) 465-6961 M-F, 8:30am-5pm PST 24-Hour Hotline: (707) 465-2851
Richard J. Donovan (RJD)	<b>Center for Community Solutions</b> 4508 Mission Bay Drive, San Diego, CA 92109 24-Hour Hotline: (888) 385-4657
San Quentin State Prison (SQ)	<b>Community Violence Solutions &amp; Rape Crisis Center</b> 2101 Van Ness Street, San Pablo, CA 94806 Toll-Free 24-Hour Hotline: (800) 670-7273
Sierra Conservation Center (SCC)	<b>Center for Non-Violent Community</b> 19043-B Standard Road, Sonora, CA 95370 Office: (209) 588-9305 M-F 8:30am-5:00pm 24-Hour Hotline: 209-533-3401