

CA Women's Prisons — Sexual Abuse Response and Prevention Working Group

Community Report to the Legislature



Staff Sexual Abuse Response and Prevention Working Group



Sister Warriors Freedom Coalition

The Sister Warriors Freedom Coalition is a membership base of women and trans people of all genders who have been incarcerated, have experienced violence, poverty, or living/ working on the streets. We are building a movement to support each other, shift power, and lead systems and policy change.

Just Detention International

Just Detention International is a health and human rights organization that seeks to end sexual abuse in all forms of detention.

Justice First

Justice First is a public interest law firm that represents women in staff sexual abuse lawsuits against CIW and CCWF, and seeks to remedy injustices by various strategies including prisoner advocacy and coalition building.

Published

March 2024

Design

Jessy V. Castillo, Rara Matter
raramatter.info

VALOR - ValorUS® (VALOR)

VALOR - ValorUS® (VALOR) is a California-based, national anti-sexual violence organization and California's sexual assault coalition committed to advancing equity and ending sexual violence through leadership, prevention, and advocacy.

California Coalition for Women Prisoners (CCWP)

CCWP is an abolitionist organization, with members inside and outside of prison, that challenges the institutional violence imposed on people in women's prisons and their communities by the prison industrial complex.

Survived & Punished (S&P)

Survived & Punished (S&P) is a national coalition that organizes to de-criminalize efforts to survive domestic and sexual violence, support and free criminalized survivors, and abolish racialized gender violence, policing, prisons, and deportations.

Table of Contents

1. Description and Membership of Working Group	4
2. Executive Summary	5
3. Topic Background	9
4. Recommendations	15
4.1 Notes from the Authors	15
4.2 Expedited Release of Survivors	16
4.3 Culture Shifting	19
4.4 Services	29
4.5 Investigation and Reporting Process	37
4.6 Accountability	43
5. Feedback from Incarcerated People	52
6. Technical References & Glossary	68
Endnotes	76

1.

Description and Membership of Working Group

This working group was created by the **Budget Act of 2023** (SEC. 176., Item 5225-024-0001).

It established “a sexual assault response and prevention working group and ambassador program” with a goal to identify best practices for whistleblower protections and trauma-informed care and support for survivors. Funding for the establishment of this working group went to both the Department of Corrections and Rehabilitation (CDCR) and Sister Warriors Freedom Coalition.

The working group was to consist of “leadership and staff from the department, correctional officers, community-based organizations led by formerly incarcerated people, representatives from the ambassador program..., and individuals who have survived sexual assault in custody.”

The Budget Act also required the publication of a report on this work, as follows:

“By March 1, 2024, the Department of Corrections and Rehabilitation shall submit a report to the appropriate fiscal and policy committees of each house of the Legislature that includes, but is not limited to, discussion of the following: (a) protections for sexual assault and harassment whistleblowers inside prisons or otherwise in the department’s custody, (b) access to trauma-informed supports for incarcerated survivors, and (c) the process for handling allegations of staff misconduct that specifically involve allegations of sexual assault and harassment. The report required by this section shall be submitted in compliance with Section 9795 of the Government Code.”

This working group met regularly since its commencement in August 2023 to draft a report that reflects the lived experience of people currently incarcerated in CDCR facilities as well as the subject-matter expertise of the working group member organizations who have been advocating for incarcerated people in CA for decades.

The membership of this working group consisted of: California Coalition for Women Prisoners, Just Detention International, Justice First, Sister Warriors Freedom Coalition, Survived & Punished, VALOR, and the CA Department of Corrections and Rehabilitation (CDCR).

Feedback from CDCR was primarily provided by the Female Offender Programs and Services (FOPS) office with consultation from the Prison Rape Elimination Act (PREA) Coordinator’s office.

Consultation and insight were also provided by people currently incarcerated in CDCR’s Central California Women’s Facility (CCWF) and California Institution for Women (CIW).

2.

Executive Summary

This report is a result of efforts by the Sexual Abuse Response and Prevention working group, which was created by the **Budget Act of 2023** (SEC. 176, Item 5225-024-0001). Commenced on August 30, 2023, this group consists of staff from the CA Department of Corrections and Rehabilitation and community-based organizations led by formerly incarcerated people and those advocating for currently incarcerated people. Membership of this working group includes California Coalition for Women Prisoners, Just Detention International, Justice First, Sister Warriors Freedom Coalition, Survived & Punished, and VALOR. Participation from CDCR was primarily provided by the Female Offender Programs and Services (FOPS) office with consultation from the Prison Rape Elimination Act (PREA) Coordinator's office. This group was tasked with submitting a report to the Legislature that includes discussion of the following: "(a) protections for sexual assault and harassment whistleblowers inside prisons or otherwise in the department's custody, (b) access to trauma-informed supports for incarcerated survivors, and (c) the process for handling allegations of staff misconduct that specifically involve allegations of sexual assault and harassment."

In preparing this report, the working group looked at both the root causes of staff sexual violence in carceral settings as well as more technical issues with the functioning of statutes, regulations, and policies related to the operation of CDCR facilities. For the purposes of this report, we primarily focused on the two state prisons designated for women: Central California Women's Facility (CCWF) and California Institution for Women (CIW).

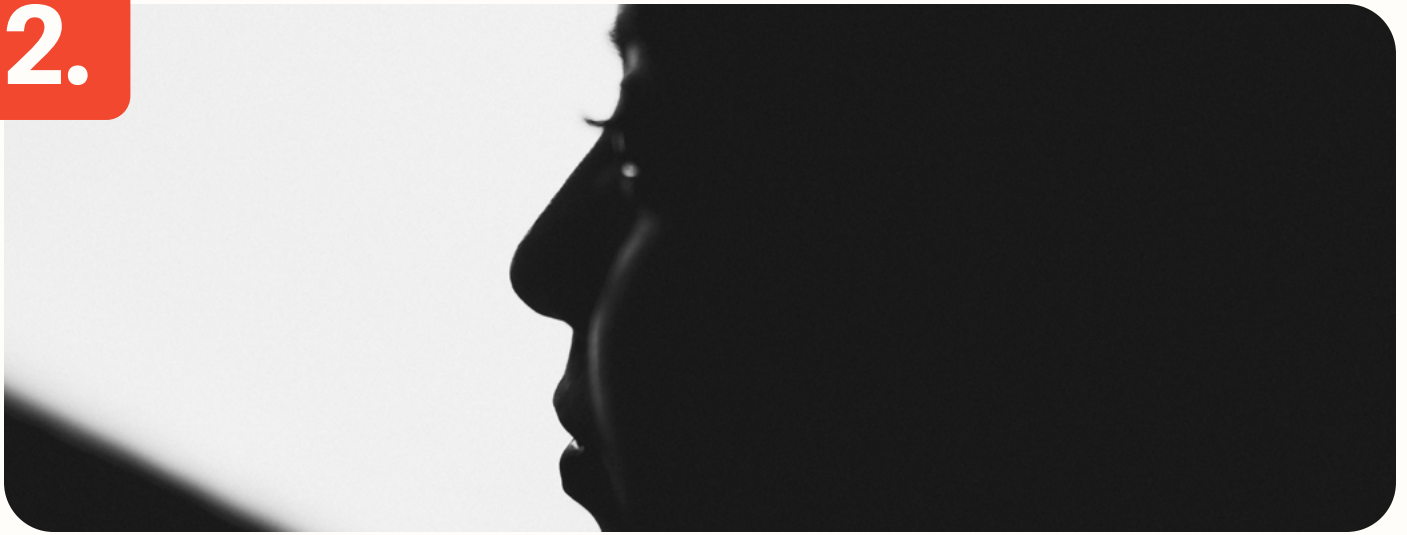
This report seeks to educate on the core issues that cause, perpetuate, enable, or excuse

staff sexual abuse in CDCR facilities and make recommendations for remedies. Many of these remedies will involve ongoing implementation efforts that will require continued oversight and adjustments. Most of these recommendations can be implemented by CDCR without the need for legislative fixes or statutory changes, and some are already ongoing efforts by CDCR. Please note that though adjustments to the federal PREA standard might be helpful in addressing some of these issues, all recommendations in this report took compliance with federal PREA standards into consideration and considered those federal standards as fixed.

An important framing to this document is that the working group is opposed to any increase in CDCR's budget for the purposes of achieving these recommendations. We support a reprioritization of existing CDCR funding as well as a decrease in prison population. Incarceration is inherently violent, and despite the efforts of many, no carceral system has been able to eliminate staff abuse. As such, we must acknowledge that the only way to truly protect women and trans people of all genders from abuse by prison staff is for them to remain in their community and not enter the prison population. Increased collective investment in incarceration is counter to the elimination of sexual abuse as well as healing for survivors.

To inform this report, the working group solicited feedback from individuals currently incarcerated in the two state prisons designated for women. This feedback was primarily collected in person at town hall meetings inside both CCWF and CIW as well as via confidential legal mail and several small in-person group discussions. We estimate that approximately 700 incarcerated individuals attended the town halls and provided very

2.



meaningful insights that greatly informed the drafting of this report.

We want to uplift and highlight the bravery of the incarcerated people who participated and were willing to share their thoughts and experiences with this working group. Speaking on sexual abuse while incarcerated is always risky, and we know that fears of retaliation are well-founded. The town hall participants demonstrated strength and bravery in being honest and vulnerable with the working group. This report would not be possible without them.

The recommendations in this report fall into five main categories: expedited release of survivors, culture shifting, services for survivors, the investigation and reporting process, and accountability.

A brief summary of those recommendations is as follows:

EXPEDITED RELEASE OF SURVIVORS

To support the safety and well-being of those who

have survived staff abuse, we recommend a system of processes to expedite their release. We received overwhelming feedback from survivors at the community town halls that release to their families and communities is the only path to safety after experiencing sexual violence by CDCR staff. Multiple pathways exist to release survivors, both within the current authority of CDCR and by amending existing law.

CULTURE SHIFTING

CDCR Staff Training and Services: To transform the culture within CDCR that allows and enables sexual harassment and sexual misconduct, we recommend that CDCR overhaul their staff trainings on sexual harassment and misconduct, including by having staff receive training by formerly incarcerated people. We also recommend that CDCR conduct mental health screening for staff to ensure they are able to work with the population in ways that do not further harm people or put them in danger.

CDCR Policies and Practices: The working group recommends that consultants (including formerly incarcerated experts) review all policies/procedures to identify standard activities that are likely to be retraumatizing to people who have experienced sexual, physical, and emotional violence prior to their incarceration. We also recommend specific changes to policies with the potential to trigger individuals or lead to retraumatization (including strip searches and forced housing transfers) to allow for the incarcerated person to exercise self-determination. We also recommend that staff training includes education on the role that these

2.

policies and attitudes play in the (re)traumatization of the incarcerated population and how to reduce these harms.

Community-Building: Currently incarcerated individuals reported animosity and a lack of community between incarcerated individuals, which decreases the likelihood of staff abuse being reported – because witnesses to abuse are less likely to report it, and victims of abuse feel less supported and are thus less safe to report. They also added that animosity between groups or individuals distracts from the greater problem of staff mistreatment and plays a role in retaliation against victims. We recommend a prioritization of community building activities, events, and programming to address this concern.

Staff Leadership Development: In response to rampant sexual abuse at the women’s prisons, more attention is needed on recruitment, training, support, and retention of the wardens and PREA (Prison Rape Elimination Act) staff at CIW and CCWF. We recommend additional training, a selection committee, and succession planning for wardens at CIW and CCWF. We also recommend expanding the roles and responsibilities for the PREA Compliance Managers at those facilities.

SERVICES

Services for Survivors: To ensure that survivors are able to receive the full benefits of Rape Crisis Center (RCC) victim advocates, we recommend best practices for RCC accompaniment to investigatory interviews and increased accountability for facilities to collaborate with RCCs. We also recommended ensuring access to remote emotional support services to increase the availability of services independent of CDCR. We also make recommendations related to CDCR’s Peer Education program to promote mutual peer support for the incarcerated individuals experiencing abuse.

Hotlines and Remote Trauma Services: Phone hotlines to Rape Crisis Centers (RCCs) are a critical support that incarcerated individuals can use to receive confidential emotional support at all times. We make recommendations to ensure universal access to confidential emotional support hotlines in prisons. These recommendations involve ensuring consistency in hotline services, increased ease of access to the hotline, unlimited private and confidential access to the hotline, and education to assure incarcerated individuals that the hotlines are confidential and safe to use.

Increasing Presence of Onsite Crisis Centers: In addition to remote access, it is important that survivors have access to meaningful in-person support from RCC victim advocates. We recommend increased program funding for RCCs to provide more services to incarcerated individuals. We also make recommendations to protect the privacy of survivors while receiving in-person victim advocate support.

Access to Community Resources: Community-based organizations (CBOs) can also be a powerful support for survivors, especially those led by formerly incarcerated individuals or providing supportive services. We make recommendations to ensure access to community-based organizations as a support and prevention measure, empowering incarcerated leaders to identify supportive CBOs, and increasing program funding for community-based organizations to provide more supportive services. We make recommendations to ensure expedited access to legal support for survivors of sexual misconduct and create confidential communication access to RCCs and designated supportive CBOs.

INVESTIGATION/REPORTING PROCESS

Reporting Methods: There are many different factors that make the current reporting process unsafe and inaccessible for individuals who have experienced or witnessed staff misconduct.

2.

Often, the reporting process will immediately open up reporters to retaliation from staff before an investigation can be concluded (or in many cases, even begun). We make recommendations to ensure that the reporting process is adequately accessible, private, anonymous, and confidential so that individuals reporting staff misconduct are less vulnerable to immediate negative attention and retaliation.

Independent Reporting Process: The incarcerated population reported very low confidence in the reporting process, citing that reports are often rejected or ignored and that they have little insight into how their reports are being handled. To increase confidence in reporting and ensure protection of impacted individuals, we recommend providing the option to report via an independent external body as well as an independent regulatory system to track the processing of reports. To bring more transparency to the process, we recommend creating an accessible tracking system and a formal role for external, independent support persons who can oversee individual investigations.

Independent Investigations and Determinations: When considering who should be investigating and making the determination of findings on serious staff misconduct reports, we need to prioritize agencies that will have the confidence and trust of the incarcerated population. The group recommends the identification or creation of an independent, external investigatory and oversight body to increase confidence in an unbiased, thorough investigation process. As a short-term solution, we recommend strengthening existing policies that increase the impartiality of investigations of staff sexual abuse by taking investigations out of the hands of local prison staff.

ACCOUNTABILITY

Whistleblower Protections: Whistleblower protections should address retaliation by altering policies that are frequently manipulated and

misused for the purpose of retaliation, and by providing adequate oversight. We make specific recommendations related to transfers and strip searches, which are frequently used as retaliation or threatened to discourage reporting. We also make recommendations for updating existing practices for tracking retaliation to ensure that it can be effective in identifying and stopping retaliation.

Body-Worn Cameras: Incarcerated people report that custody staff improperly deactivate their body worn cameras (BWC) frequently, including during assaults by officers or other staff misconduct. We make recommendations to ensure that cameras are not inappropriately deactivated, that incarcerated individuals have adequate access to BWC footage, and that BWC policies are adequate and consistent across all facilities and custody staff roles.

Institutional Accountability: The Office of the Inspector General (OIG) is responsible for providing oversight and transparency through monitoring, reporting, and recommending improvements regarding the policies and procedures of CDCR. Because of a lack of enforcement power, the concerns raised in these reports have not been adequately addressed.

We recommend that some body external to CDCR and OIG be responsible for following up on OIG audits to ensure that CDCR is held accountable for addressing the concerns of this oversight office.

3.

Topic Background

Sexual harassment and assault is a part of everyday life in women’s prisons.¹ Compounding the problem, researchers have noted an overwhelming prevalence of sexual abuse histories within the population of incarcerated women, with some figures suggesting that 86% of all women who are incarcerated have experienced sexual violence in their lifetime and 77% had experienced partner violence.² Evidence from the Bureau of Justice Statistics (BJS) suggests that sexual abuse is widespread in prisons and jails designated for women nationwide.³ Several recent examples in California include at the Dublin **federal prison** (a prison nicknamed the ‘rape club’), in local jails (including in **Los Angeles County, San Joaquin County, and Orange County**, among others), at ICE detention centers (including the **four privately run facilities** in CA), in juvenile halls and camps (like in LA county where **hundreds of former incarcerated youth** filed a lawsuit), and inside CA state prisons.⁴

The protection of incarcerated women and non-binary and trans people was an afterthought – not the main aim of PREA. PREA was a response to the advocacy of many different organizations, including Human Rights Watch, which published a report on sexual assault in prisons designated for men in 2001,⁵ and Just Detention International, which advocated for years for a federal law to end sexual abuse behind bars. As originally proposed in 2002, PREA did not focus on the sexual abuse of incarcerated women or on correctional officers as

perpetrators. Rather, the legislation emerged as a bipartisan response to concerns about the sexual abuse of incarcerated cis men by other incarcerated cis men.⁶ In 2003, shortly before PREA was passed into law, JDI convened a briefing on Capitol Hill, during which two women spoke about being sexually assaulted by male staff at the prisons where they served time.

By the time the PREA standards were adopted in 2012, tremendous work had been done to ensure that they were applicable to men’s, women’s and youth facilities, and responsive to abuse by staff as well as incarcerated people. There were a series of hearings, which included women who had been sexually assaulted by law enforcement and corrections officials, and subject matter committees that included experts on sexual abuse in women’s prisons.

The Office of the Inspector General (OIG) also plays a role in California by “providing oversight and transparency through monitoring, reporting, and recommending improvements to the California Department of Corrections and Rehabilitation.”⁷ The OIG is led by a Governor appointee and regularly produces audits and reports on various aspects of CDCR practices. This role was expanded in 2004 to include evaluation of CDCR’s investigations of employee misconduct and assessment of the legal advice provided by CDCR attorneys during the disciplinary process.⁸ OIG’s authority to conduct certain discretionary audits and investigations was limited by legislation in 2011 and reinstated again in 2019, along with a new mandate to monitor CDCR’s handling of complaints about staff misconduct by incarcerated people. By statutory and judicial mandate, the OIG’s role is limited to observing and reporting on certain aspects of CDCR. In terms

86%

OF ALL WOMEN WHO ARE INCARCERATED HAVE EXPERIENCED SEXUAL VIOLENCE IN THEIR LIFETIME

77%

HAD EXPERIENCED PARTNER VIOLENCE

3.

of officer misconduct, the OIG can recommend investigations or disciplinary actions, but it does not have decision-making or enforcement authority.

Despite the passage of PREA and monitoring by OIG, sexual harassment, abuse, and assaults of incarcerated people in the women's prisons at the hands of correctional officers and other staff has been continuous and relentless in California. Currently and formerly incarcerated women and trans people of all genders have reported and documented this violence.

In 2016, the Prison Law Office released a **scathing report** that revealed that the institutional structure and culture of CDCR perpetuates and allows sexual violence to take place. As described in the report, when correctional officers rape and sexually assault incarcerated people, survivors are systemically blocked from securing safety and accountability:

- › Survivors' reports are not taken seriously. Corrections officials – including facility heads, PREA compliance managers, and investigators – often presume that survivors are lying, making false reports as a way to harm staff and/or manipulate the system in some way. Even when the officials concede that sexual contact between staff and an incarcerated person may have occurred, they typically insist that it was “consensual” (ignoring that consensual contact is a legal and factual impossibility, given the power imbalance between staff and incarcerated people).
- › In most cases, officials do not investigate reports of sexual abuse. If they do, the investigation is often a matter of window dressing – not a robust, prompt, and impartial process. Ultimately, only a very small number of reports of sexual abuse and sexual harassment by staff are deemed “substantiated.” Nothing is done to track reports that are deemed unfounded or unsubstantiated and identify potential patterns of abuse.

- › Survivors are constantly monitored and face retaliation if they disclose information about the violence. Retaliation includes giving survivors disciplinary violations, making them vulnerable to parole denials, involuntary transfers to another prison, and prolonged confinement in Administrative Segregation.⁹
- › Survivors are attacked by correctional officers with state-issued weapons who have institutional credibility and protection from other officers, prison guard unions, and law enforcement associations.
- › Survivors live in constant fear of being repeatedly assaulted or punished.
- › Advocates of survivors are subjected to retaliation and interference with their access to survivors.¹⁰

Rampant and unchecked sexual abuse and other forms of gendered violence at Central California Women's Facility (CCWF) and California Institution for Women (CIW) have been documented in troubling number of lawsuits. As an example, a lawsuit filed in 2017, *Rojas v. Brown*, seeks to hold CDCR accountable for **violent assaults** in which CCWF correctional officers used abusive physical force, sexual harassment, and verbal assaults, including homophobic and transphobic threats.

In 2019, SB 1421 (Skinner) was implemented and required the release of records of sexual misconduct and use of force by correctional officers. Subsequently, hundreds of allegations against officers, and the evidence to support those claims, **were exposed**. The **California Reporting Project**, a coalition of 40 news organizations across the state, was formed to request and report on previously secret records of police misconduct and use of force in California.

Finally, the **2022 PREA Facility Audit Report** confirms that the official CDCR protocol for incarcerated people who report sexual violence includes mandating them to undergo strip searches

3.



for an “investigation,” and then isolating them in segregation for “safety.” This institutional response to sexual violence effectively *institutionalizes sexual violence* and compounds the traumatic violence that survivors have experienced.

The OIG publishes regular **reports and audits** that document that CDCR performed poorly and failed to follow appropriate policies and procedures in a large majority of alleged staff misconduct cases. Despite this regular and consistent critical feedback, CDCR continues to **typically perform poorly** according to these assessments.

In December 2022, survivors began to file multiple lawsuits against former Officer Gregory Rodriguez, who is accused of **sexual assaults** against *more than 22 incarcerated people* at the Central California Women’s Facility (CCWF). Further, in January 2023, former CCWF Warden Pallares was asked to leave his position after being implicated in sexual harassment and abuse cases.

In 2023, several statewide advocacy organizations, led by California Coalition for Women Prisoners, Sister Warriors Freedom Coalition, Survived & Punished California, and UnCommon Law, **published a letter**¹¹ to CDCR demanding a meaningful response to the sexual abuse crisis in state prisons. In just one week these demands were endorsed by over 80 local and statewide organizations representing survivors of sexual violence and other system-impacted people. Organizations include those led by formerly and currently incarcerated people, and public defense, advocacy, anti-sexual violence, and research organizations.

On August 23, 2023, the CA Legislative Women’s Caucus hosted a **briefing** entitled “Sexual Assault and Harassment at CA’s Women’s Prisons and What is Being Done in Response.”¹² Advocates and CDCR leadership were brought together to testify on the realities of sexual violence in CDCR prisons and ongoing responses. Testimony included accounts of the experiences of women formerly and currently incarcerated in CA state prisons, and discussion of widely shared concerns about CDCR’s continued failure to take accountability for the egregious abuse or change the culture of abuse within California prisons. Regarding CDCR’s vision to end sexual abuse in prisons, Secretary Macomber testified to the need for incarcerated people to have an environment free from abuse that promotes rehabilitation:

“Most of our folks do return back to the community. We don’t want to make them worse while they’re in prison. We want them to be better and safe, and get the services they need.”¹³

Following this briefing, members of the Legislative Women’s Caucus visited CCWF in January 2024 to hear directly from incarcerated women and trans people about the realities of sexual abuse in CA’s women’s prisons.

3.

DISPROPORTIONATE RACIALIZED, GENDERED IMPACT

Analyzing issues of sexual violence and incarceration requires an intersectional approach because Black women and women of color are statistically more likely to be incarcerated *and* experience sexual violence. Sexual violence is an epidemic that disproportionately affects Black women and women of color, including trans women. In the United States, 1 in 5 non-hispanic Black women were raped during their lifetime, and 38.2% of non-hispanic Black women experienced sexual violence other than rape in their lifetimes.¹⁴ Black girls, both cis and trans, are hypersexualized from a young age, and their experiences are often dismissed and ignored, making them extremely vulnerable to sexual abuse in CDCR. Systemic racism is at the foundation of the criminal legal system which disproportionately affects Black and brown people at every stage. Therefore, when working to stop sexual assault in prisons, it must be stressed that if solutions are not implemented, Black women and women of color will continue to be the most vulnerable to sexual violence.

As of 2016, two-thirds of the women in jail were women of color, and Black women made up 44% of that population.¹⁵ After Black men, Black women are being incarcerated at the highest rate compared to any other demographic. As of 2019, 25.6% of those in CDCR prisons designated for women were Black,¹⁶ but California's population is only 6.5% Black,¹⁷ demonstrating how Black people in women's prisons are disproportionately impacted by the criminal legal system.

LGBTQ+ people are disproportionately incarcerated in California and nationwide. This is particularly true for Black transgender people and transgender women. Approximately 16% of transgender people (including 21% of transgender women) have been incarcerated in their lives – far higher than the rate for the general population. Among Black trans people, 47% have been incarcerated at some

25%

RESPONDENTS*
REPORTED BEING
PHYSICALLY
ASSAULTED

20%

RESPONDENTS*
REPORTED BEING
SEXUALLY
ASSAULTED

* IN A STUDY OF INCARCERATED TRANS PEOPLE

point in their lives.¹⁸ Trans people in prisons and jails are also five times more likely than the general population to be sexually assaulted by staff.¹⁹ Almost 1 in 4 respondents to a national survey reported being physically assaulted by staff or other incarcerated people; 1 in 5 reported being sexually assaulted.²⁰ Other studies have found that up to 40% of incarcerated trans people had been sexually abused over the last 12 months.²¹

When tackling issues of sexual violence and incarceration, we must bring attention to the systemic racism and transphobia within the criminal legal system and bring the voices and experiences of Black women, women of color, and trans people of all genders into documenting the crisis and developing solutions.

PRISON CULTURE AND RETALIATION

The problem of sexual assault in prison cannot be fully addressed without acknowledging and addressing the culture of retaliation that is so pervasive in the women's prisons. The incarcerated population shared many stories about typical forms of retaliation that everyone knew to expect after filing a PREA report – from physical violence, sexually abusive strip and pat searches, and immediate placement in restrictive housing. Victims who file PREA reports know that they face a serious risk of being falsely accused of disciplinary hearings violations, loss of job assignments, interference with their prospects for parole, and involuntary transfer to another prison far from their families and support networks.

3.

Faced with these severe consequences that commonly come with filing a PREA report against staff, victims most often make the reasonable choice to stay silent about sexually abusive staff.

CDCR has a long history of overlooking retaliation against victims who file PREA reports. In other words, CDCR has adopted regulations/policies against retaliation for reporting staff misconduct and assures that all retaliation complaints against staff will be investigated.²² But in practice, CDCR has routinely failed to properly investigate or otherwise address serious allegations of retaliation by staff. A recent report by the Office of Inspector General concluded that CDCR mishandled a large number of staff misconduct grievances under the new investigation procedure, 22% of which were retaliation complaints.²³ Since the PREA standard were released in 2012, CIW and CCWF have not consistently complied with Standard 115.67, which has required monitoring for possible retaliation against a victim who reports staff misconduct.²⁴ Both prisons have systematically failed to take

action when retaliation is indicated during the required monitoring period.²⁵

When faced with the threat of retaliation for reporting staff misconduct, victims wisely choose to stay silent about staff sexual abuse. Rather than risking placement in restrictive housing, being the subject of false disciplinary violations and abusive strip searches, or interfering with their possibility of parole, victims opt to remain silent and often self-blame for their sexual abuse by staff. Without any consequences for retaliation by staff, CDCR allows a culture of retaliation and fear that discourages reporting and ensures ongoing sexual abuse by staff.



“As demonstrated by the epidemic of staff sexual abuse at carceral institution at all levels and across agencies and states, a culture of violence, including sexual violence, is intrinsic to incarceration.”

4.

Recommendations

4.1 Notes from the Authors

A NOTE ON THE STATE BUDGET

As demonstrated throughout the recommendations in this report, the practice of incarceration inherently creates and perpetuates power imbalances, denies basic needs, enables abuse, and triggers pre-existing traumas. Standard prison practices create an environment that is inherently violent and prone to rampant abuse, especially for incarcerated women and transgender people. Despite the efforts of many, no carceral system has been able to eliminate staff abuse. As such, we must acknowledge that the only way to truly protect women and trans people of all genders from abuse by prison staff is for them to remain in their community and not enter the prison population.

Therefore, we must emphasize that none of the recommendations listed in this report should be construed as a reason to increase California's prison budget. With 13-14 billion dollars allocated to CDCR in recent years,²⁶ there is no need to increase CDCR's budget. Indeed, the **2023-2024 CDCR budget report** published by the Legislative Analyst's Office asserts that it would be fiscally responsible to deactivate at least five prisons and reallocate those funds to treatment and re-entry programs. Further, an increase to the budget of CDCR is an investment in the flawed solution of incarceration, rather than community-based practices that can promote healing and violence prevention without exposing individuals to the violence that is inherent to incarceration. To fund the recommendations in this report and further prevent violence, we must reduce the prison population. A reduction in the CA prison population through

prioritizing release and reentry will also allow for the redistribution of CDCR funds to Rape Crisis Centers and community-based organizations led by formerly incarcerated people. It may even be appropriate for the funding allocated for RCCs to engage in in-prison work to be funneled through other state agency channels RCC funding (typically CalOES). The reprioritization of existing funding will be necessary to support survivors and stop the cycle of violence, including the perpetual retraumatization of incarcerated people. It is imperative that the re-allocation of CDCR funding prioritizes safety and healing for all, not just special programs for a small group who are deemed "worthy."

Efforts to reduce the prison population have been underway for many years and include combating extreme sentencing, creating and expanding pathways to resentencing, and increasing access to community-based diversion programs. This report also makes specific recommendations on the release of survivors of CDCR staff violence. CDCR has the power to recommend individuals for resentencing, and the Board of Parole Hearings is designed to recommend individuals for release. The governor also has the authority to prioritize clemency for survivors of CDCR abuse. Allowing individuals to be released to the community is a key aspect of reducing harm and actualizing safety when addressing sexual violence in prisons.

For all of these reasons, we are strongly opposed to an increase in the CDCR budget for the purposes of achieving any of the following recommendations.

4.

NOTES ON THE GOALS AND LIMITATIONS OF THIS REPORT

In preparing this report, the working group looked at both the root causes of staff sexual violence in carceral settings as well as more technical issues with the functioning of statutes, regulations, and policies related to the operation of CDCR facilities. For the purposes of this report, we primarily focused on the two state prisons designated for women: Central California Women's Facility (CCWF) and California Institution for Women (CIW).

This report seeks to educate on the core issues that cause, perpetuate, enable, or excuse staff sexual abuse in CDCR facilities and make recommendations for remedies. Many of these remedies will be ongoing implementation efforts that will require continued oversight and adjustments. Most of these recommendations can be implemented by CDCR without the need for legislative fixes or statutory changes, and some are already ongoing efforts by CDCR. Please note that though adjustments to the federal PREA standard might be helpful in addressing some of these issues, all recommendations in this report took compliance with federal PREA standards into consideration and considered those federal standards as fixed.

4.2 Expedited Release of Survivors

To support the safety and well-being of those who have survived staff abuse, we recommend a system of processes to expedite their release. These processes would be enacted with the consent of survivors, and survivors would self-determine their parole plans.

We received overwhelming feedback from survivors at the community town halls that release to their families and

communities is the *only* path to safety after experiencing sexual violence by CDCR staff.

IMMEDIATELY AVAILABLE PROCESSES FOR EXPEDITED RELEASE FOR SURVIVORS:

- A. **Resentencing Cohort:** Establish a CDCR PC § 1172.1 resentencing cohort for survivors of sexual assault by CDCR staff to expedite resentencing review and referrals for survivors still in custody. The warden of the institution must submit a resentencing recommendation to the Secretary of CDCR immediately upon the substantiation of a staff sexual misconduct report. Because of institutional failures of the grievance process that prevent the substantiation of legitimate reports, an oversight committee independent from CDCR will also review substantiated and unsubstantiated reports of staff misconduct and submit a recommendation for resentencing. Survivors can be referred to the oversight committee for review either through self-referral or a third party. A finding of abuse can be established by (a) a recommendation by CDCR, (b) a court order, stipulation, or admission of staff sexual abuse, (c) a conviction in a criminal case, (d) a substantiated finding in a PREA case, (e) a sustained finding in a staff misconduct investigation, or (f) letters of support from community supporters or legal advocates, trauma service providers, and/or family members.
- B. **Special Consideration for Executive Clemency:** The Governor's Office should prioritize clemency review and clemency grants for applicants who are survivors of CDCR sexual violence. This should include prioritizing applicants for commutations, reprieves and pardons, possibly in the form of a cohort for survivors of sexual assault by CDCR staff.

4.

- C. Remove ICE Holds:** CDCR must stop its voluntary collaboration with ICE and remove all U.S. Immigration and Customs Enforcement (ICE) holds to ensure that all survivors are released to their families and communities and not further punished and subject to sexual violence and other abuse by ICE. CDCR is not obligated to collaborate with ICE by the penal code or its administrative regulations.
- D. Credit Earning:** CDCR should expand the use of existing “Extraordinary Conduct Credits,” which award up to 12 months of credit, to all individuals who have experienced CDCR violence or been closely connected with or impacted by abuse by CDCR staff (including but not limited to individuals that provided support to victims, assisted in the reporting or investigation process, or experienced retaliation based on proximity to the victim). Survivors can be referred to CDCR for consideration either through self-referral or a third party. A finding of abuse or negative impact related to staff abuse can be established by (a) a recommendation by CDCR, (b) a court order, stipulation, or admission of staff sexual abuse, (c) a conviction in a criminal case, (d) a substantiated finding in a PREA case, (e) a sustained finding in a staff misconduct investigation, or (f) letters of support from community supporters or legal advocates, trauma service providers, and/or family members documenting their connection to incident(s) of abuse and the impact they experienced as a result. Impacted individuals should have the ability to appeal a denial and provide additional evidence of impact at the time of reconsideration.

PROCESSES FOR EXPEDITED RELEASE TO ESTABLISH THROUGH AMENDING CURRENT LAW:

- A. Compassionate Release:** California currently has a process for compassionate release for incarcerated people who are either suffering from a serious/advanced illness with an end

of life trajectory or are permanently medically incapacitated (PC § 1172.2(b)). In April 2023, the U.S. Sentencing Commission adopted a new category of compassionate release for victims of sexual assault by prison staff who are serving federal sentences. California should follow suit by adopting a new category for compassionate release when an incarcerated person is found to be a victim of staff sexual abuse. Such a finding can be established by (a) a recommendation by CDCR, (b) a court order, stipulation, or admission of staff sexual abuse, (c) a conviction in a criminal case, (d) a substantiated finding in a PREA case, (e) a sustained finding in a staff misconduct investigation, or (f) letters of support from community supporters or legal advocates, trauma service providers, and/or family members.

- B. Special Consideration by the Board of Parole Hearings:** Ensure that the Board of Parole Hearings (BPH) gives “great weight” to the mitigating impact of victimization under Penal Code § 4801 to parole applicants who are survivors of CDCR sexual violence. Further, survivors should not be penalized for the very personal decisions they must make about when and how to discuss their experiences of CDCR sexual abuse (i.e. the Board should not be allowed to draw a nexus between survivors’ “untimely” reporting of abuse in prison and untimely reporting related to their conviction).
- a. CDCR and the Board must ensure protections for survivors in the parole consideration process such that a survivor’s decision to discuss or not to discuss past sexual abuse may not be construed as evidencing a “lack of insight” or unsuitability for parole.
- b. For all parole hearings that occur in women’s prisons, establish an oversight committee independent from CDCR to review the Board’s decisions in terms of how commissioners

4.

approach sexual violence. Community-based experts must be included as advisors when establishing oversight for such BPH decisions (i.e. UnCommon Law, Survived & Punished, and other formerly incarcerated experts).

- c. Commissioners and forensic psychologists should undergo a training program with annual refreshers about the impact of experiences of trauma on incarcerated individuals and the impact this has on behavior and rehabilitation. This training must attend to gender dynamics and gender violence, including the impacts of trauma engendered by CDCR itself. Training must address topics such as the sexual abuse to prison pipeline, retraumatization for those who survived sexual abuse prior to their incarceration, the necessity of self-determination in healing, and the ways in which captivity precludes healing.

C. General resentencing considerations: The Penal Code should be amended to direct the court to consider the victimization of survivors of CDCR sexual violence as a mitigating factor in support of a survivor's resentencing.

- a. In PC § 1172.1(a)(5), language should be amended to: "In recalling and resentencing pursuant to this provision, the court shall consider postconviction factors, including, but not limited to, the disciplinary record and record of rehabilitation of the defendant while incarcerated, evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the defendant's risk for future violence, and evidence that reflects that circumstances have changed since the original sentencing so that continued incarceration is no longer in the interest of justice, including whether the defendant has experienced abuse or

sexual violence by CDCR staff during their incarceration".

- b. Pertaining to the resentencing of individuals who were under 18 at the time of the offense and sentenced to life without the possibility of parole, the following factor should be added to PC § 1170(d)(6): "(I) The defendant has experienced abuse or sexual violence during their incarceration."
- D. Credit Earning:** The Penal Code should be amended to add a Survivor Safety Emergency Credit for survivors of CDCR violence to recognize that when individuals were sentenced, they were not sentenced to sexual violence, isolation and fear while incarcerated. Individuals should be awarded up to 12 months of credit for time spent in CDCR facilities experiencing these conditions. At a minimum, we recommend that this includes all women and transgender individuals housed in CDCR facilities.
- a. A life or life without the possibility of parole (LWOP) sentence should not preclude someone from obtaining a credit through this process. That credit should be applied to parole eligibility dates (if applicable) or release dates, if that individual is resentenced or awarded clemency.
 - b. Note: There is precedent for CDCR broadly awarding time credits based on adverse conditions inside CDCR facilities. See the credit applied to mitigate the loss of programming due to the COVID-19 pandemic.²⁷

4.3 Culture Shifting

4.3.1 Note on the Limitations of Culture Shifting

As discussed at the 2023 CA Legislative Women’s Caucus **briefing**, shifting the culture of an institution is an incredibly complex and difficult process that we can expect will take, at a minimum, decades. As demonstrated by the epidemic of staff sexual abuse at carceral institution at all levels and across agencies and states, a culture of violence, including sexual violence, is intrinsic to incarceration. While we can make recommendations to combat this culture, we must acknowledge that the institution of prisons will always produce violence due to the stark disparities in power, the denial of basic freedoms, and the prevalence of a history of abuse and traumatization for incarcerated people. While the members of this working group continue to advocate for less violent conditions in prisons that will better allow for the survival and release of the individuals imprisoned there, we must reiterate that services to promote growth and healing would be best provided within an individual’s community and before that individual reaches the point of crisis that resulted in arrest.

4.3.2 CDCR Staff Training and Services

To transform the culture within CDCR that allows and enables sexual harassment and sexual misconduct, we recommend that CDCR overhaul their staff trainings on sexual harassment and misconduct, including by having staff receive training by formerly incarcerated people. We also recommend that CDCR conduct mental health screening for staff to ensure they are able to work with the population in ways that do not harm people or put them in danger.

PROVIDE ADDITIONAL STAFF SUPPORT THROUGH TRAINING AND MENTAL HEALTH SERVICES

The working group strongly suggests that CDCR incorporate the following practices to improve staff conduct:

- A. **Training** for CDCR staff that is developed and conducted by formerly incarcerated and system-impacted survivors. These trainings will be focused on the following aspects of culture change, but not be limited to: Trauma-Informed Care, Organizational and Agency Culture, Peer Accountability, Communication, and Gender-Based Violence. Training must be attended every quarter for a minimum of 8 hours. The training should be conducted by formerly incarcerated individuals that have been STC-certified by the state.
- B. **Staff perception of training** has historically been negative and harmful and has decreased the efficacy of training. Staff members making jokes or using derogatory language to describe training material, minimizing trainings by telling newer or lower level staff that they do not have to follow what they were instructed in the trainings, should face disciplinary action. Leadership within facilities should make every effort to counter the staff culture of undermining or mocking these trainings. Speech or behavior from staff that are disrespectful or demeaning of the values of training should be considered staff violations per the CDCR Operations Manual: *“Failure to observe or perform within the scope of training” or “Disruptive, offensive, or vulgar conduct which causes embarrassment to the Department.”*²⁸ Repeated demonstrations of dismissive or negative attitudes about the values of these trainings should be disqualifying for officer academy candidates, following the progressive disciplinary process. Additionally, all levels of staff, including wardens and others who have key leadership roles within the facility, must be required to complete these trainings.

4.

C. **Mental health screening** must be done for CDCR staff before hiring and subsequently annually to ensure that they demonstrate maturity and stability, and are in a mental state to work with individuals who have been exposed to and subjected to trauma.

D. **Mental health day** for all CDCR staff that must be conducted monthly.

- a. This is not to be mistaken for being excused from work or post. This is to acknowledge the importance of mental health in reducing violence. This practice may be conducted through the following measures but not limited to: meeting with health professionals, and questionnaires to assess mental health and safety risks.
- b. This practice should be integrated within existing benefits and budget for CDCR employees.

ESTABLISH A MULTIDISCIPLINARY CURRICULUM DEVELOPMENT COMMITTEE FOR TRAINING RELATED TO SEXUAL ABUSE AND HARASSMENT.

Incarcerated people who make PREA reports regarding staff often report experiencing victim-blaming, hostile responses from CDCR staff, which discourages survivors from trusting in the reporting and investigation process.

CDCR staff would benefit from a multidisciplinary curriculum development committee, which includes community-based organizations, especially those led by formerly incarcerated individuals, as well as formerly and currently incarcerated survivors who can provide feedback and insight on trainings related to trauma-informed approaches to responding to sexual violence, including those who respond to reports, provide transport during forensic exams, conduct investigations, searches, etc. This committee would receive the content of CDCR training and review feedback provided on evaluation surveys for each training. This review process would

ensure that staff are comprehending the content and make adjustments.

For example, this would require CDCR to work closely with RCCs when providing staff training on performing searches or coordinating forensic exams appropriately.

CHANGING CULTURAL VIEWS OF PREA

Victim advocates and community supporters continuously hear from survivors that sexual violence is not taken seriously by staff. This is evidenced by staff failing to take PREA reports seriously, making jokes about sexual violence, and claiming that incarcerated people are “manipulating” advocates and supporters for their resources. Once a PREA report is made, survivors have shared that they have experienced retaliation from staff, including preventing access to medical and mental health care, programming, community, and forcing survivors into segregation as a form of “protection.” These instances are reflective of a culture of violence that hides and perpetuates sexual violence against incarcerated people perpetrated by CDCR staff.

An integral part of changing culture is changing minds and perspectives through education and training led by formerly incarcerated survivors with expertise on the dynamics of power and control and incidents of biases and discrimination in prison, as well as the implementation of the PREA standards, especially on standards of care, and best practices around the confidentiality of investigations, as well as access to victim services, medical, and mental health care.

4.

DISSENTING OPINION ON TRAINING (SURVIVED & PUNISHED)

While we deeply understand the importance of formerly incarcerated survivors having the opportunity to engage CDCR staff as a harm reductive process of accountability, we also affirm that “training” of CDCR staff has occurred over decades while practices have not changed, more incarcerated people have been sexually harassed and assaulted, and the violence continues to be hidden and protected by staff throughout CDCR. We do not believe that staff can be trained out of violence in a violent system. As affirmed by the organizations in this group and by a **2024 budget report** by the California Legislative Analyst’s Office, it is imperative that more prisons are deactivated, plans are made to safely release incarcerated people, and funds are re-allocated to community-based strategies that effectively support the health and well-being of all of California’s communities.

4.3.3 Culture shifting within CDCR policies

In addition to the policies and practices that directly relate to staff misconduct and sexual assault, the context of the prison environment, the factors that bring women and trans people into prison, and the broader impacts of patriarchal society are all significant factors in the prevalence of staff sexual assault. To end sexual assault and abuse in prisons, we must address all of these.

DESIGNING POLICIES AROUND PRE-EXISTING TRAUMA

An overwhelming majority of incarcerated women and trans people have prior experiences of trauma, victimization, violence, discrimination, criminalization, and poverty. An overwhelming majority of incarcerated women and trans people are survivors of sexual violence that occurred even before they interacted with the criminal legal system

(**Vera Institute of Justice**, 2016). Most have also experienced partner violence and/or caregiver violence. Many are struggling with substance use. A majority have physical health problems, and a significant portion have serious mental health issues. A significant portion of incarcerated trans people have experienced homelessness, foster care, and poverty before the age of 18 (**Prison Policy Institute**, 2022).

CDCR should take these backgrounds and the need for approaches that attend to gender violence and trauma into account when developing policies and procedures, in order to limit retraumatization and create an environment more conducive to rehabilitation.

The working group recommends: 1) that consultants (including formerly incarcerated experts) review all policies/procedures to identify standard activities that are likely to be retraumatizing to people who have experienced sexual, physical, and emotional violence prior to their incarceration; 2) that policies with the potential to trigger individuals or lead to retraumatization be altered to allow for the incarcerated person to exercise self-determination by choosing the best options for themselves; and 3) that staff training (as described above) includes education on the role that these policies and attitudes play in the (re)traumatization of the incarcerated population and how to reduce these harms.

ADDRESS THE CULTURE OF DEPRIVATION

A common experience for anyone incarcerated within CDCR prisons is the lack of access to basic needs. It is standard CDCR practice to limit an individual’s access to food, hygiene items, medical and mental health care, connection with their family, access to their support systems, appropriate clothing, and gender-affirming resources. This is often even more pronounced within restricted housing units and after a PREA report is made.



The deprivation and occasional complete denial of these needs leads to desperation and fear for incarcerated individuals, making them more susceptible to manipulation by abusive staff.

It increases the likelihood that individuals will not report abuse out of fear that staff will further restrict their access to these needs. This includes a fear of being transferred to restricted housing units with restricted access during the investigation. It also increases the likelihood that incarcerated individuals will exchange sex in order to obtain access to these basic needs. (It is important to note that this situation embodies a form of sexual abuse and misconduct, not consensual sex.)

The working group recommends ending the policy of depriving and restricting access to basic needs for incarcerated individuals. We recommend that CDCR:

- › Make sure that individuals are not hungry by increasing the caloric content, nutritional value, and variety of foods served for meals and making canteen prices affordable for incarcerated individuals on the lowest-paying job assignments.
- › Make sure that individuals are not lacking the clothing they need, including different options for gender-affirming and climate-appropriate choices, and sufficient good-quality, new or

gently used undergarments. Included in this is that all incarcerated individuals should have access to all available clothing choices, regardless of gender identity or expression.

- › Make sure that individuals have access to their families by ending denial of visitation as a consequence of rules violations and providing tablet access with unlimited phone, video, and email access for all individuals, with no exceptions, free of cost.
- › Make sure that individuals have access to appropriate hygiene items by providing larger quantities and more variety of good-quality hygiene items and, again, by making canteen prices affordable for incarcerated individuals on the lowest-paying job assignments.
- › Make sure that individuals have access to living spaces that are appropriately heated and cooled and well maintained for the health and comfort of the people living in facilities. If facilities are not equipped to provide temperatures between 68 and 75 degrees Fahrenheit, temporary solutions (e.g., additional portable heaters, heated blankets, fans, and evaporative coolers) must be provided until the facility can eventually undergo appropriate upgrades. This recommendation should not be misconstrued to justify large budget expansions for the purpose of building upgrades (*see note on funding and CDCR budgets in section 4.1*).

ADDRESS THE CULTURE OF VIOLENCE

Fear and animosity between incarcerated individuals and staff, as well as within the

4.

incarcerated population, greatly discourages the reporting of any type of abuse, let alone sexual abuse by staff members. The standard use of force by staff in daily life, the regular use of excessive force resulting in serious injury to incarcerated individuals, the daily use of sexualized, violent and disrespectful language by staff, and the psychological manipulation by staff all contribute to this culture of violence. These experiences, described in more detail below, were described by incarcerated individuals as trademarks of living within CDCR facilities.

Use of excessive force within CDCR should not exist at all, but it is common practice and creates a culture in which incarcerated individuals have no sense of safety. Without this basic need met, we will inevitably continue to see sexual abuse and staff misconduct go unreported. We recommend a review of use of force policies at CDCR and a policy of serious inquiry and consequences whenever incarcerated individuals are injured as a result of staff action. All use of force should be logged and monitored for patterns of behavior or victimization.

Another aspect of this culture of violence is the reality that most custody staff are cisgender men who are often taller, heavier, and stronger than the incarcerated individuals in prisons designated for women. Relatedly, a large majority of incarcerated women and trans people are known to have experienced violence in their lives prior to their incarceration, most often at the hands of cis men. We recommend that CDCR continue to recruit women to transfer to or apply for positions at women-designated institutions, with the goal of achieving a significant majority of women as custody staff, including in leadership roles. We also recommend that CDCR prioritize candidates with career backgrounds that include experience in trauma-informed care (e.g., social work) during the recruitment, hiring, and staffing of personnel for positions in women-designated institutions.²⁹

(See Dissenting Opinion from currently incarcerated people below.)

The culture of violence within CDCR also impacts staff. We recommend that staff members who experience violence within CDCR facilities be placed in a role outside of contact with incarcerated individuals and receive extensive mental health services before returning to work directly with incarcerated people. This will help to decrease the likelihood that the experience of trauma will trigger future incidents of violence by staff who have previously experienced violence and the incarcerated population. If a staff member has been involved in or subjected to multiple assaults, we recommend that CDCR consider reassignment and conduct an inquiry into why multiple assaults have happened and whether there is a larger pattern of behavior or relationship between the staff member and incarcerated individuals that is contributing to this pattern.

Psychological abuse is another facet of this violence. One aspect of this is the language used by staff to speak to or about incarcerated individuals. Currently incarcerated individuals reported daily use of aggressive, unprofessional, and inappropriate language by custody staff (e.g., profane, sexualizing, derogatory, demeaning, or violent language). The working group also heard reports that some officers target people new to the prison, often young people, who have little community support. These officers would offer “friendly” support and needed supplies, and then become abusive over time. These are all hallmarks of emotional abuse and contribute to a culture of fear and animosity. They are also counter-productive to CDCR’s mission of creating an environment conducive to rehabilitation.

A key aspect of this psychological manipulation is the creation of divisions between individuals or communities within the incarcerated population. Policies, language, or staff actions can all serve to create distrust or animosity between incarcerated

4.

people within a facility. This division discourages the reporting of witnessed abuse or violence and prevents members of the incarcerated population from supporting each other to help prevent future abuse and violence. This “divide and conquer” strategy by prison staff is a trademark of the culture of incarceration and a method of distracting incarcerated individuals from staff misconduct by focusing their attention on their negative perceptions of other members of the population (e.g., the trans population, people with sensitive cases, race-based hostility, elders, etc). Currently incarcerated individuals described that this manipulation strategy included staff using this animosity to encourage incarcerated individuals to target each other for violence as a form of retaliation for reporting staff misconduct. We recommend that any of this kind of behavior or speech by staff members is closely monitored and evaluated. Repeated behavior of this kind should result in disciplinary action, and refusal to modify behavior or incidents resulting in violence should result in dismissal.

DISSENTING OPINION ON RECRUITMENT OF MORE FEMALE STAFF (CURRENTLY INCARCERATED FOCUS GROUP)

The currently incarcerated people we consulted did not agree with the recommendation for a focus on the recruitment of more female staff. Please see Section 5.2 “Staffing Needs” to learn about their insight into staff dynamics and their priorities for staff recruitment.

END POLICIES THAT SEXUALIZE INCARCERATED INDIVIDUALS OR TRIGGER SEXUAL TRAUMA

Policies that limit incarcerated individuals’ clothing options, cosmetics, or other cultural expressions of gender as a strategy to “deter” sexual violence ultimately *reinforce* sexual violence. These policies are both a violation of their right to express their gender and a reinforcement of the belief that staff will be “tempted” or “seduced” by incarcerated

individuals – that it is the fault of incarcerated people if they are sexually abused by staff, and that staff are not responsible (or not fully responsible) for such actions. As any form of sexual behavior between a staff member and an incarcerated person is both illegal and unethical, placing these limits on incarcerated people only serves to sexualize and persecute them. It also places the responsibility of deterring sexual behavior on incarcerated individuals, rather than CDCR staff who hold complete institutional power over incarcerated individuals. This both contributes to a culture of sexualization and future sexual abuse by creating an environment where incarcerated individuals expect to experience more sexual violence without remedy.

We recommend that CDCR remove these restrictions and ensure that incarcerated individuals have access to standard hygiene and beauty products as well as clothing that is appropriate for the climate they are living in (including shorts and appropriate undergarments for transgender people).

Strip search policies should be closely examined as a frequent site of sexual misconduct with an extremely high potential to trigger sexual trauma, including those conducted for incarcerated people to access medical care and visiting. Excessive and traumatizing strip searches were a common experience reported by incarcerated people at the town halls. We heard multiple reports that strip searches related to visits lead individuals to end future visits with loved ones because of the trauma of that experience. We recommend a significant reduction in strip searches and ultimately an end to strip searches as they are essentially a violating practice.

Abusive gynecological exams were also cited by currently incarcerated individuals as seriously traumatizing and reasons that they began to refuse medical care or visits by loved ones. At

4.

both women-designated facilities, the doctors performing gynecological and obstetric care were all men, including the trainee doctors.

We recommend that the practices of gynecological or obstetric exams and strip searches are highly monitored for frequency and misconduct. We also recommend that the default personnel for gynecological or obstetric exams are female medical staff, unless otherwise requested by the incarcerated individual. More is described about these recommendations in Section 4.6.1 “Whistleblower Protections” of this report.

DISSENTING OPINION ON STRIP SEARCHES (SURVIVED & PUNISHED)

We understand strip searches to be state-sanctioned sexual violence. Therefore, as a form of sexual violence, strip searches cannot be reformed and must end.

ADDRESS THE CULTURE OF DISPARATE ACCOUNTABILITY FOR INCARCERATED INDIVIDUALS VS. STAFF

In the name of “rehabilitation and safety,” CDCR holds incarcerated people to extremely high levels of responsibility. At parole board hearings, individuals are expected to take accountability for every rule violation or comment in probation reports, regardless of whether those allegations were dismissed or unfounded. This also extends to daily life in CDCR facilities, where individuals are held to unrealistic standards of behavior despite the challenging and often triggering and traumatizing circumstances. Whether the response from staff is a rule violation, a rebuke, or just critical language, this harsh and damaging culture contributes to low self-esteem and is another hallmark of emotional abuse. We have also observed that incarcerated individuals can be punished for ways they are trying to get their needs met – a way of policing their modes of communication rather than addressing the needs directly.

While this is happening, the incarcerated population is also seeing that staff misconduct and disrespect is rampant and unaddressed. This is despite the fact that staff are state employees who should be held to a higher standard of behavior. The disparity of treatment and lack of accountability on the part of CDCR staff reinforces the distrust of CDCR processes for addressing staff misconduct and discourages the reporting of misconduct. We recommend that in addition to ensuring that discipline and reprimands are reasonable and appropriate and staff misconduct and inappropriate behavior is always addressed, staff training should address this disparity and encourage staff to hold themselves to higher standards of behavior in order to create a respectful and fair environment.

4.3.4 Community Building

As discussed earlier in the “Culture Shifting” sections, currently incarcerated individuals cited a lack of community among the incarcerated population as an important factor that decreases the likelihood of staff abuse being reported. Lack of community and animosity between incarcerated individuals means that witnesses to abuse are less likely to report it, victims of abuse feel less supported and are thus less safe to report, and animosity between groups or individuals distracts from the greater problem of staff mistreatment.

CREATING OPPORTUNITIES FOR COMMUNITY BUILDING INSIDE FACILITIES

When working group members conducted outreach at the two women-designated CDCR facilities, incarcerated individuals specifically requested more opportunities like those town halls as a way to build community within the incarcerated population, have conversations around these topics more freely (without the surveillance of CDCR staff), and make connections with community-based organizations who can provide support and facilitate ongoing discussions. We recommend the implementation of more programming and events similar to the working

4.

group town halls that can promote these goals of building community and raising awareness. We also recommend that CDCR actively work to increase access to community-based support organizations inside in order to help facilitate discussions on the topic of staff misconduct and sexual violence within CDCR.

It is also important that these types of events are able to be conducted without staff presence in or monitoring of the space, which can discourage incarcerated individuals from speaking openly.

The working group was able to speak with the incarcerated population in CCWF and CIW without staff presence or surveillance, and the incarcerated individuals who attended specifically cited this as an important factor in encouraging participation and open sharing of thoughts during those conversations. It also reduces the fear of retaliation and creates a more positive culture of trust and community responsibility.

Staff response to incidents that may occur in and around the events should also be handled with maximum restraint in order to not interfere with the community building efforts.

Since the COVID pandemic began, opportunities for community-building across yards have been cut back and have not fully returned. Some specific examples are failure to return to practices of integrated yard time or eating meals in communal halls. While health and safety is important, the continuation of practices of isolation are negatively impacting the mental and community health of

the incarcerated population. We recommend that CDCR immediately return to practices of maximizing access to shared spaces within facilities, including across yards.

One example of tension between communities within the incarcerated population was between cisgender and transgender communities. During our outreach, we heard many concerns around the implementation of SB 132, the targeting and mistreatment of transgender people, and a feeling of being unsafe across the population. We witnessed directly that the majority of people in restrictive housing are trans people, despite many detained there having no active or pending disciplinary violations. We recommend an audit of restrictive housing placement and practices, including investigating discriminating practices. We also heard that staff often stoke or contribute to this tension among the population, in which case we recommend that staff are investigated and held accountable. In terms of supporting and not further dividing the population, we recommend intentional conversations and mediation between cisgender and transgender communities within CIW and CCWF, with community-based facilitators and a commitment to ongoing education and conversations that produce solutions for the whole population.

Tensions within the incarcerated population can lead people to misuse of PREA policies as a tool to get housing changes or retaliate against peers. People who are struggling to change their housing situation (e.g., move units or change roommates) through the official channels due to denials or long wait times may use a false PREA report to force CDCR to make housing changes. We recommend reviewing the process for requests of housing transfers to create more confidence in the process and remove the need to misuse PREA for this purpose.

False PREA allegations are also known to be used to retaliate against peers for unrelated reasons. This

4.

is a further symptom of the lack of an integrated community within facilities and struggles with addressing conflict within the population. Providing more community building opportunities as well as programming and training opportunities in conflict resolution can help begin to address this issue.

An expanded Peer Educator Program (detailed under “Services for Survivors” and “Whistleblower Protections”) could also play a role in addressing tensions between incarcerated individuals and providing mediation when necessary. We recommend that the peer educator program be provided with regular mediation training to help aid in this effort.

4.3.5 Staff Leadership Development

LEADERSHIP RECOMMENDATIONS:

1. Training for Wardens – In response to rampant sexual abuse at the women’s prisons, more attention is needed on recruitment, support, and retention of the wardens at CIW and CCWF. For training, every warden at the women’s prisons should be required to undergo training that includes trauma-informed practices, such as the Great Wardens Project.
2. Warden Selection Committee – in the past 6 years, seven wardens have been removed from the women’s prisons. This signals the need for improved methods of warden selection at both CIW and CCWF. The selection process should include input from the formerly incarcerated and/or community-based support organizations serving that population. The committee should help identify additional hiring criteria for the wardens at CIW/CCWF, such as (a) prior experience at a women’s prison, and (b) college education in social work, counseling, or psychology and (c) a demonstrated understanding of gender-based violence, a

demonstrated commitment to trauma-informed policies, and adherence to a zero-tolerance policy toward staff sexual abuse and use of abusive language and practices and (d) an established record in pro-rehabilitative policies and leadership. The committee should also work to identify potential staff as future wardens and provide input on the Warden Succession Plan.

3. Warden Succession Plan – in response to high turnover among the wardens at CIW and CCWF, FOPS should implement a succession plan for wardens at the women’s prisons. Retention, training, and additional support should be provided to staff identified by the Warden Selection Committee as possible future wardens at the women’s prisons to ensure a pipeline of high quality candidates who are likely to succeed as long-term wardens at CIW/CCWF.

DISSENTING OPINION ON STAFF TRAINING (SURVIVED & PUNISHED)

CDCR staff and leadership training has occurred over decades while practices have not changed. Meanwhile, incarcerated people have continued to be sexually harassed and assaulted, and the violence continues to be hidden and protected by CDCR staff, including by staff in leadership positions. We do not believe that staff can be trained out of violence in a violent system. Accountability for CDCR staff who are abusive or threatening cannot be achieved if CDCR staff lead accountability processes.

DEVELOP AND IMPLEMENT A ROLE DESCRIPTION FOR PREA COORDINATORS AND FACILITY-BASED PREA COMPLIANCE MANAGERS

The statewide PREA Coordinator (PC) and facility-based PREA Compliance Manager (PCM) positions are vital roles that demand clear responsibilities and expectations. The PC role is responsible for leading sexual safety efforts statewide, and PCMs take on a similar leadership role for their facilities. For the PC to be effective, the PC must outrank facility-

4.

based leadership. When the PC is a lower rank than wardens, the incentive to follow PC guidance and instructions is limited. PCs must also be responsible for supervision of facility-based PCMs.

For the PCM to fulfill the requirements related to their role, facility leadership must ensure that the person appointed to this role has “sufficient time and authority” to coordinate the facility’s efforts to comply with the PREA standards, per PREA Standard 115.11(c). What constitutes “sufficient time and authority” will be unique per facility. The PCM role tends to be collateral, with PCMs often having numerous other responsibilities. The PCM role at women-designated facilities must be full-time in order to appropriately meet the needs of the population. The PCM should also not be an assigned role, but rather a position that demands a screening process, including demonstrated genuine interest in the role and commitment to the goal of safety and dignity for all incarcerated people. The primary goal of the PC and PCM role is to ensure safety, not simply to ensure compliance with PREA standards. PCMs must have appropriate supervision by leadership well-versed in PREA and sexual safety in detention. PCMs typically have many other duties, and may have supervisors who are not able to provide the kind of guidance PCMs need. Therefore, the PC should be responsible for direct supervision of the PCMs work related to PREA.

Rape crisis advocates often share their struggles in maintaining communication with PREA Compliance Managers (PCMs), sometimes hearing from them only when their facility is undergoing a PREA audit. This makes it extremely challenging to build a sustainable partnership and creates

unnecessary barriers to providing emotional support services to incarcerated survivors.

The PCM role should be a respected position and should be held by someone who is viewed by staff as an enforcer of PREA. Historically, the PCM role has been abused by staff at the women’s prisons as a way of helping staff to evade PREA and to minimize the scope of sexual abuse at the prison. The PCM role description must reflect their full range of responsibilities, including those related to providing access to outside victim advocates. For the purposes of this recommendation, the PCM role description should include, at minimum, the following requirements:

- › Meaningful, ongoing compliance with the PREA standards and agreements with rape crisis programs
- › Clear expectations around communication with rape crisis advocates (such as holding monthly or quarterly meetings, and notifying advocates prior to a sexual assault forensic medical exam or investigatory interview related to a report of sexual abuse)
- › Identifying a designee for day-to-day coordination if the PCM is unavailable (such as the Community Resource Manager)
- › Including rape crisis advocates in the facility’s coordinated response plan and incident reviews
- › Requirement to notify the rape crisis center in the event of change in the PCM
- › Responsibility to monitor implementation of policies around confidential phone calls and letters to RCCs (including education)
- › No disciplinary record, repeated allegations, or known reputation for sexual abuse or sexual harassment of incarcerated individuals.
- › The PCM role at the women’s prisons should be a full-time position, unencumbered by unrelated

4.

responsibilities, to ensure that all of the above job requirements will be met. (In 2022, former PCM at CIW testified that he spent only 5 hours per week in his role as PCM.³⁰)

4.4 Services

4.4.1 Services for Survivors

BEST PRACTICES FOR RCC ACCOMPANIMENT TO INVESTIGATORY INTERVIEWS; ENSURING SURVIVORS HAVE ACCESS TO ADVOCATE

The PREA standards require a survivor's access to an advocate during the investigative interview. Incarcerated people have demonstrated that emotional support during the investigatory interview is paramount to creating a trauma-informed environment during the interview process.

We recommend that CDCR staff make an advocate available to incarcerated people before they undergo an investigatory interview in order for the advocate to explain their intended role during the interview. This will ensure that the survivor is able to make informed decisions about whether they would like an advocate present during the interview. Survivors should have access to their advocate in-person or over a confidential phone when receiving information on the outcome of the investigation or at least within 48 hours of receiving the information. Information about their rights to access or to deny support from an RCC advocate should be posted visibly in all housing units and medical facilities and shared verbally upon intake and quarterly by IAC and Peer Health Educators. This information should also be available in writing, including in the inmate handbook. RCCs should also be provided access to a private office when advocates are awaiting or prepping for individual or group counseling.

Peer advocates would need to have access to all facilities. Access must include all restrictive housing and A yard, for individuals that are in reception, Enhanced Outpatient Programs (EOP), Psychiatric

Inpatient Programs (PIP), Correctional Treatment Centers (CTC), Skilled Nursing Facility (SNF), Mental Health Crisis Beds (MHCB), and other units where peer advocates have experienced serious barriers to access.

The following standards and codes are included to support the recommendations above.

PREA Standard 115.21

(e) As requested by the victim, the victim advocate, qualified agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process and investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.

California Penal Code 679.04

(a) A victim of sexual assault as the result of any offense specified in paragraph (1) of subdivision (b) of Section 264.2 has the right to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys.

Prior to any such examination the assigned officer shall ensure that the victim has been properly informed of his/her right to have a sexual assault victim counselor and at least one other support person present (PC § 264.2(b)(2)).

INCREASED ACCOUNTABILITY TO COLLABORATE WITH RAPE CRISIS CENTERS (RCCS)

We aim to create a policy that demonstrates clear pathways for the Rape Crisis Center (RCC) to reach out to CDCR staff to ensure seamless service provision for survivors at CDCR, specifically the Community Resource Manager, facility PREA Compliance Manager (PCM), and agency PREA Coordinator. This policy should include, but is not limited to:

4.

- › PREA Compliance Manager must appoint at least two staff persons to maintain open lines of communication with the Rape Crisis Center in their service area.
- › Create a role description, including monthly/quarterly outcomes for those involved in leading PREA responsibilities, as it relates to engaging with the RCC:
 - Document at least one instance of CDCR staff reaching out to and/or engaging with the RCCs and the purpose each month. Confirm documented tracking with RCCs.
 - Create an incentive for CDCR staff to collaborate with RCCs on training efforts related to sexual violence response, prevention, and PREA.
 - Ensure that the coordinated response team and incident review team includes at least one RCC staff.
 - Develop and routinely update informational materials to facilitate coordination with new RCCs and RCC staff.
 - Develop and maintain collaborative relationships with nearby RCCs
 - Work with the RCC's and technical assistance providers (like VALOR® and JDI) to create educational materials for the incarcerated population around their options for care providers and survivor resources; keep them updated and distribute them on a regular basis, ensuring that incarcerated people who are new to the facility receive them. Collaborate with community organizations and RCCs to build out and maintain connections with those providers
- › Require the PREA Coordinator and facility wardens to monitor and ensure accountability for PREA Compliance Managers' compliance with these responsibilities.
- › Ultimately create a mindset and culture shift for all staff to seek collaborative relationships with RCCs.

PEER EDUCATION AND MUTUAL SUPPORT

Peer support models are an effective way to disseminate information about the right to be free from sexual abuse and how to get help; to promote meaningful leadership opportunities among incarcerated people; and to expand access to emotional support at little additional cost to CDCR.

In order to help build a culture of disclosure and healing, we recommend that CDCR should expand the existing PREA peer-education program. The peer educators should be trained (by existing peer educators, community-based support organizations, and RCCs who help facilitate the program), and they should be paid for their work providing information about sexual safety, staff misconduct, trauma, and resources to the population. Peer educators should be able to share this information with the population as part of the required initial education incarcerated people receive at intake and the comprehensive education required within the first month (under PREA Standard 115.33) as well as regularly thereafter. CDCR should ensure that such programs have the resources and support to effectively and sustainably operate, even as changes in facility leadership and program oversight invariably occur. Peer educators should have ongoing access to RCCs and community based organizations, including those led by formerly incarcerated individuals, for the purposes of training and connection to resources. The PREA Compliance Manager and other staff involved in PREA compliance should be trained in the foundational knowledge needed to sustain the peer educators program without disruption, and be held responsible for dispensing that information accurately.

4.

Additionally, CDCR should implement a peer support program for incarcerated survivors of sexual abuse. Members of the incarcerated population at each facility should be allowed to apply to become peer supporters, using an application process developed in collaboration with RCC advocates. Those who are selected would undergo standard rape crisis training provided by outside RCC advocates and gain that certification. The peer supporters' role would be to provide trauma-informed assistance and resources to survivors of sexual abuse in the population. Peer educators should have the support of staff to provide assistance as needed, regardless of a victim's programming or housing placement. The outside RCC advocates would also provide input to the facility staff who supervise the program and program-specific training and ongoing support and guidance to the peer supporters. Certified peer advocates should have the same access to victims as outside RCC advocates.

These two programs should be coordinated jointly, with peer advocates and peer educators working together to provide a continuum of education and lay emotional support. Every housing unit should have multiple peer educators and multiple peer supporters, so that individuals have options for who they can reach out to for support. There should be a minimum of 9 educators and 9 advocates per yard. There should be regular trainings to allow for new educators and advocates to step in when others are transferred or released. Status as an educator or advocate should never prevent housing transfers. The training for both roles should include not only sexual misconduct and victimization, but also an understanding of the impact and dynamics of domestic and sexual violence and the impact and signs of trauma, including suicidal ideation. Facility staff, partnering with community-based support organizations and RCCs, must work to ensure stable teams of peer educators and peer supporters, including by recruiting, screening and training additional individuals for these positions on an ongoing basis. The selection process should

screen for individuals who have relevant experience and interests, are trusted community members inside the facility, and can demonstrate a deeper understanding of the landscape of sexual abuse in prisons. Training should be comprehensive and ongoing.

ACCESS TO REMOTE EMOTIONAL SUPPORT SERVICES

Access to individual counseling services can be highly beneficial for survivors of trauma. Mental health staff working in CDCR facilities typically have heavy caseloads, focused primarily on incarcerated people experiencing severe psychiatric issues. They often do not have significant expertise in treating survivors of sexual trauma. Additionally, many incarcerated people do not seek mental health services from CDCR staff since doing so assigns them Triple-CMS classification, which can affect parole outcomes. This leaves the many survivors of domestic and sexual violence, trafficking, and other forms of trauma and interpersonal violence with few options for accessing emotional support. For community rape crisis advocates and other emotional support providers who are interested in working with survivors in CDCR facilities, but are not located nearby, it may not be feasible to provide services in-person. For RCCs in particular, the time and cost involved in traveling to facilities located at great distances can be prohibitive. We recommend that CDCR establish remote access to these providers with the technology that it uses to enable remote court appearances and legal visitation via video call so that many more incarcerated people can receive needed mental health support.

PREA Standard 115.53 requires that access to emotional support services be provided in as confidential a manner as possible. Remote emotional support services would also need to be confidential, provided via the same technology as legal visits.

4.

4.4.2. Hotlines and Remote Trauma Services

PREA Standard 115.53(a) states that facilities ensure communication between survivors and rape crisis advocates in “as confidential a manner as possible.” There have been some common barriers to accessing emotional support hotlines in CDCR facilities. Specifically, changes in phone system providers have further compromised confidentiality, as has the requirement to enter one’s individual PIN to access the hotlines. Additionally, facilities have displayed the emotional support hotline number on posters that are easily and regularly torn down; and phones are typically in public areas that make it impossible to speak to an advocate privately. The current system is also confusing because incarcerated people and advocates report that there is a recorded message that comes on during hotline calls stating that all calls are monitored. It is thus no wonder that many people do not feel secure using the hotlines.

As described in detail below, CDCR must ensure universal access by:

- › Establishing a short PIN that is universal across all CDCR facilities, and that automatically dials the local hotline number, eliminating the need for

survivors to input their individual PINs and dial the full hotline number.

- › Ensuring that calls to the emotional support hotline are non-monitored and non-recorded. Access must be anonymous and confidential, and accurate information about the confidentiality of the calls must be provided for incarcerated people and advocates.
- › Eliminating call maximums for the hotline. Any limitations to general phone use (for example, two calls a month) should not be applied to hotline access, regardless of disciplinary or housing status.
- › Programming tablets to include the emotional support hotline number. This will allow survivors to make calls directly on individual tablets and make privacy easier. This option must be made available to all incarcerated people, regardless of disciplinary or housing status. Individuals in all units (including A yard and restricted housing) must always have access to tablets with phone and email access. Information should be provided alerting incarcerated people and advocates as to whether calls on the tablets are confidential. If possible, they should be confidential.



4.

ENSURE CONTINUED AND CONSISTENT ACCESS TO CONFIDENTIAL EMOTIONAL SUPPORT HOTLINE

Over the years, CDCR has established access to a confidential emotional support hotline operated by the Rape Crisis Center in the corresponding service area of each facility. However, each time the phone system has changed, access to the RCC hotline has become limited and/or barriers have increased, including a lack of clarity due to conflicting information around whether the hotline remains confidential.

Staff who are charged with making changes to the phone system are often unaware of how these changes will impact access to the confidential hotline. Those who hold this responsibility must be aware of the RCC hotline and how to maintain its confidential nature. Staff must communicate with the RCC (and members of the working group that developed this recommendation), to work through any potential obstacles, and ensure that the hotline remains confidential (non-recorded and non-monitored) each time a change is made to the phone systems.

INCREASE EASE OF ACCESS TO RCC HOTLINE

Posters listing information regarding how to access the rape crisis center hotline are often taken down. Additionally, incarcerated people who are transferred will often memorize and utilize the hotline number of the Rape Crisis Center for their previous institution.

Other jurisdictions have utilized a number like #77 across their facilities to create ease of hotline access. We recommend that CDCR utilize a similar system. Incarcerated survivors should be able to dial the same number regardless of which facility they are housed at and reach the local rape crisis program.

ENSURE UNLIMITED ACCESS TO CONFIDENTIAL RCC HOTLINE

Incarcerated people in restricted housing situations

or under lockdown are often limited, and some are only allocated 2 phone calls a month, which creates limited access to the RCC hotline and the ability to communicate with community members (friends, family, outside resources, etc.). It is notable that this is not consistent across all CDCR facilities.

However, there should be a policy in place that ensures that incarcerated people have access to the RCC hotline, regardless of the 2-phone call limit.

PRIVATE ACCESS TO THE CONFIDENTIAL RCC HOTLINE

Phone calls to RCC hotlines are often made in public areas. Survivors often use these calls to discuss sensitive and traumatic experiences, which may place them at increased risk of violence and retaliation. It is thus critical that incarcerated people have greater access to private areas in which they can make calls to the RCC hotline.

We suggest that CDCR expand access to the confidential RCC hotline via private booths and tablets.

EDUCATION ABOUT CONFIDENTIAL PHONE LINES

The standard recorded message for phone calls (which informs participants that the call is being recorded) must be removed for calls to confidential hotlines and replaced with a message that ensures participants that the call is confidential and unmonitored.

We recommend education at intake as well as quarterly reminders to inform the incarcerated population of their right to confidential phone calls to rape crisis center hotlines.

4.4.3. Increasing Presence of On-site Crisis Centers

PROTECTION OF SURVIVORS' PRIVACY WHEN SEEKING SEXUAL ABUSE SUPPORT SERVICES AND PARTICIPATING IN INVESTIGATORY INTERVIEWS

In-person services can be instrumental to building trust and rapport with outside victim advocates, and thus, are integral to an incarcerated survivor's healing process. Unfortunately, when advocates come to the facilities to provide in-person emotional support services facility staff often fail to safeguard the survivor's privacy – potentially exposing them to retaliation from staff and other incarcerated individuals. This public safety concern is demonstrated in the variety of laws that protect sexual assault survivor confidentiality such as: removing the name of the sexual assault survivor from the public record (Penal Code § 293, 293.5, Evidence Code 352.1); the defense attorney cannot disclose to the defendant the address or telephone number of the sexual assault survivor (Penal Code § 1054.2); the sexual assault survivor has the right to have support persons in court while she testifies, even if that person is also a witness (Penal Code § 868.5, 868.8); the court has no contempt power over the sexual assault survivor which equates to the survivor's absolute right to participate, or not, in the criminal legal system (Code of Civil Procedure 219). Similarly, when investigators conduct investigatory interviews, incarcerated survivors are exposed to the threat of retaliation because of the staff's failure to ensure that the interviews are conducted privately and in a manner that doesn't alert other incarcerated people and staff who do not have a need to know. For example, facility officials regularly share information about incarcerated survivors' emotional support sessions and investigatory interviews with other staff unnecessarily.

PREA Standard §115.61 requires that CDCR staff take steps to protect the confidentiality of sexual abuse information by sharing internally with only

those who need to know. We recommend that CDCR apply this standard not only to investigations of sexual abuse and sexual harassment, but also when a survivor is seeking sexual abuse support services, regardless of when the abuse may have occurred, per California Evidence Code § 1035.4 and Marcy's Law, California Constitution Article I § 28(b). Accordingly, facility staff must only share information about an incarcerated survivor accessing in-person services or being involved in an investigatory interview to the extent necessary, and these sessions, like investigatory interviews, must be accorded due privacy.

To ensure meaningful adherence to the 'need to know' standard, CDCR staff must be made aware of their responsibility to ensure access to private and confidential RCC staff visits and private investigatory interviews for survivors of sexual assault and sexual harassment. This includes escorting incarcerated people to these appointments in a manner that does not draw attention to other incarcerated people and staff who do not have a need to know. This may look like escorting survivors separate from victim advocates. RCC staff must be allowed to travel to confidential meetings rooms using a brown card.

The terms of these protections should be outlined in any memorandum of understanding (MOU) with the outside service provider.

INCREASED PROGRAM FUNDING FOR RCC

Increase statewide funding allocations for local RCCs to collaborate with and provide tailored services to the incarcerated population. A tiered approach should be implemented, whereby RCC's qualify to receive an increased amount of funding, the amount of which depends on the extent to which they engage with their local facility as set out below. Requirements for receiving this funding should include:

4.

- › Providing support to survivors via hotline and letter, and accompaniment during investigatory interviews and forensic exams
- › Providing in-person staff support to survivors at CDCR facilities regularly (at least bi-weekly)
- › Providing other programming and support opportunities for incarcerated people
- › Providing support to facility staff in developing resource and care provider lists for survivors
- › Maintaining regular and timely communication with facility PREA staff to ensure updated knowledge of relevant policies
- › Providing support in developing training opportunities to peer educators and other victim advocates within the facility
- › Developing and providing training opportunities for staff on addressing sexual abuse, promoting a trauma-informed environment, working professionally with LGBTQ people and other groups at heightened risk of abuse, and trauma-informed response to sexual abuse, including survivor-centered investigatory practices
- › Serving on the facility's coordinated response team and incident review team

Funding should be prioritized for local RCCs to reduce travel costs and advocates' time associated with in-person visits. A review of the CDCR budget should be conducted to ensure that current CDCR budget allocations are correctly prioritized to fund this work with local RCCs on a facility-level before any additional statewide funding streams are created.

4.4.4 Access to Community Resources

ENSURE ACCESS TO COMMUNITY-BASED ORGANIZATIONS AS A SUPPORT AND PREVENTION MEASURE

Incarcerated populations at both women-designated facilities expressed the need for an increased, on-site presence of community-based

organizations (CBOs), including Rape Crisis Centers. Specifically, participants in the town halls on sexual misconduct stressed the need for safer reporting and/or service-seeking options, including the option to report to community-based support organizations at regular events throughout the year. Despite heroic efforts from leaders inside and out, community-based organizations have struggled for decades to achieve regular access to CDCR facilities, including CCWF and CIW.

To prevent more sexual abuse in California prisons, CDCR must ensure consistent access for community-based organizations.

To attend to ongoing access issues for CBOs, CDCR should identify a mechanism for CBOs to submit concerns when access is denied, and a process to expedite access. Doing so will ensure that incarcerated people have access to organizational staff and volunteers, creating an additional safety valve for people navigating, and working to prevent, a culture of sexual violence. Facilitating increased access to CBOs will also help ensure that incarcerated people, including survivors of sexual violence, are adequately resourced as they manage both their experiences of abuse and the grievance process.

EMPOWER INCARCERATED LEADERS TO EXPAND ACCESS TO CBOS THEY IDENTIFY AS SUPPORTIVE

Incarcerated leaders should be empowered to connect with community-based organizations and resources, and supported in their efforts to seek clearance for individuals and organizations. Typically, these leaders do most of the (unpaid) work to make and build these connections only to face insurmountable barriers, including failures to facilitate these connections by the Community Resource Managers (CRMs) or other staff.

4.

While increasing access for community-based organizations, CDCR must institute policies and/or practices that protect community members and organizations from retaliatory denials of access. CBOs who have managed to gain access in the past have reported being denied access for a range of reasons. Some were denied based on “over-familiarity” with incarcerated populations, when the threat seemed to be that they treated incarcerated people as peers and with respect. Because the practice of dehumanizing incarcerated people continues in CDCR facilities, a system of oversight of community-based access issues will be essential.

ENSURE EXPEDITED ACCESS TO LEGAL SUPPORT FOR SURVIVORS OF SEXUAL MISCONDUCT

Survivors of CDCR sexual abuse also stressed the importance of access to legal support. CDCR must ensure that local facilities complete clearance and scheduling processes in a more timely manner for legal advocates, including attorneys, paralegals, and legal staff. Legal visits should be done by video, when requested, to ensure more immediate access. The video visits should be conducted in confidential settings where survivors are ensured that their communications are private and confidential. When incarcerated people are in crisis in the wake of sexual harassment and/or assault, CDCR should ensure their expedited access to legal support. In emergency situations, video visits should be scheduled with less than one week’s notice. Access to legal support should include access to independent mental health clinicians supervised by the attorney on record.

Attorneys, paralegals, and legal assistants should be ensured that their communications with survivors are confidential. All communications including confidential phone calls, emails sent through tablets, video visits, letters, and in-person visits should be unmonitored and not recorded. Any staff who violate the confidentiality of legal communications should be subject to a staff

misconduct complaint that is investigated by the Office of Internal Affairs.

INCREASED PROGRAM FUNDING FOR COMMUNITY-BASED ORGANIZATIONS

Increase statewide funding allocations for community-based organizations led by formerly incarcerated individuals to collaborate with and provide tailored services to the incarcerated population. Requirements for receiving this funding should include:

- › Providing regular in-person support for incarcerated individuals at CDCR facilities to facilitate programming or events
- › Providing support to facility staff in developing resource and services provider lists for survivors
- › Provide support in developing training opportunities to peer educators and other victim advocates within the facility

A review of the CDCR budget should be conducted to ensure that current CDCR budget allocations are correctly prioritized to fund this work with community-based organizations on a facility-level before any additional statewide funding streams are created.

CREATING ADVOCATE ACCESS CHANNEL SIMILAR TO LEGAL ACCESS

In order to build trust in the confidentiality of communications with victim advocates (from RCCs and designated third party organizations), confidential access should be built out similar to those modes of communication currently available to legal advocates. This will allow survivors to better access services without fear of retaliation. Confidential communication pathways should include phone calls (by landline and tablet), messaging, letters, and video calls.

Further, many incarcerated individuals expressed distrust even of supposedly confidential lines of

4.

communication, citing incidents that indicated that confidentiality had likely been violated.

Technological solutions, such as third layer authentication, would increase confidence in the safety of these lines of communication and allow for tracking of interference or recording.

Additionally, adequately private spaces must be provided for individuals to make video or in-person reports.

4.5 Investigation and Reporting Process

4.5.1 Reporting Methods

There are many different factors that make the current reporting process unsafe and inaccessible for individuals who have experienced or witnessed staff misconduct. A recurring theme is that the reporting process will immediately open up reporters to retaliation from local staff before an investigation can be concluded (or in many cases, even begun). Because the reporting process is not always accessible or adequately private, anonymous, or confidential, individuals reporting staff misconduct are vulnerable to immediate negative attention and retaliation.

ENSURING PRIVACY IN REPORTING

It is important to ensure that reports of abuse or staff misconduct can be made privately, without being watched or identified by staff or other individuals. Policies around each method of reporting should be reviewed to ensure that reporting is adequately private and accessible. Some recommendations from the working group include:

- › *Written reporting:* Boxes to submit written reports should be placed next to other submission boxes unrelated to reports (e.g., medical or commissary request boxes). These boxes should be in public areas in common use, away from stations used by custody staff, and not in direct view of the other people using the space. People using the box should be able to do so without observation by incarcerated individuals or staff (including via surveillance cameras).
- › *Email reporting:* Individuals should be able to report abuse or misconduct to a private, non-surveilled (non-monitored and non-recorded) email using their tablet. Accessibility of reporting via tablet is important as it allows individuals to report abuse in their own, private areas, rather than in shared spaces.
- › *Phone reporting:* Phone reporting should be available to all individuals on any phone or tablet using private, non-surveilled lines. Accessibility of reporting via unmonitored phone lines on individual tablets is crucial, as it allows individuals to report in their own, private areas, rather than in shared spaces.
- › *In-person reporting:* While the primary purpose of community support people inside



4.

facilities is to provide support, services, and accompaniment, opportunities for individuals to report to a support person or mental health professional, should also be safeguarded. These supporters and professionals should be regularly accessible within facilities and on the yard. There should also be private, non-surveilled spaces made available to these individuals to allow these conversations to occur privately. Townhall participants requested monthly in-person sessions with community-based support organizations to create consistent opportunities for individuals to report misconduct in an anonymized group setting.

For all methods of reporting, the reports should go directly to an appropriate office independent from the local facility (see more below about independent investigations). Currently incarcerated individuals described this as a key factor in building a safe and accessible reporting process.

ALLOWING FOR INCREASED ANONYMITY AND CONFIDENTIALITY IN REPORTING

Truly anonymous reporting options would significantly reduce fears of retaliation and thus increase rates of reporting. Anonymous reporting options should be offered to incarcerated individuals (i.e. through written forms or via third party reporting) to report abuse that they have experienced or witnessed. Lack of identifying information or details should not deter an investigation. Individuals making third party reports should be informed of their right to anonymity and third parties making reports should be reminded of that at the time of reporting.

For reports that are not fully anonymous, keeping the source of the report unknown within the local facility is an important factor in protecting the person making the report from retaliation by staff. Reports of sexual abuse or serious staff misconduct should not be accessible to staff within local facilities. They should only be accessible to an

independent investigating body or appropriate central CDCR offices. This helps to maintain the anonymity of individuals connected to the report.

Moving forward in the investigation, the investigating body should keep any identifying information confidential from local staff and protect the anonymity of all incarcerated individuals connected to the report, including the individual who made the report, to the greatest extent possible. Along these lines, reports and in-progress investigations should not be viewable to local staff on SOMs. As referenced earlier, PREA Standard §115.61 requires that CDCR staff take steps to protect the confidentiality of sexual abuse information by sharing internally with only those who need to know.

4.5.2 Independent Reporting Process

In addition to making the initial reporting process more safe, the reports must also be processed in a way that prioritizes the protection of individuals who are reporting and promotes confidence in the process.

During our outreach, the incarcerated population reported very low confidence in the reporting process, citing that forms to report staff misconduct are frequently made unavailable, rejected or ignored, that they have little insight into how their reports are being handled, and that they are afraid to make serious reports because of the lack of protection from retaliation by facility staff.

Some ways to achieve greater confidence and ensure protection of impacted individuals are to bring more external oversight into the process by having an independent external body handle the reports as well as an independent regulatory system to track the processing of reports. To bring more transparency to the process, we also recommend creating an accessible tracking system for reports

4.

of abuse or misconduct and expanding and creating a formal role for external, independent support persons who can oversee individual investigations, as well as victim advocates to provide support to the survivors or reporters of violence.

INITIAL HANDLING OF REPORTS BY AN INDEPENDENT, EXTERNAL BODY

As discussed earlier, reports of abuse or serious staff misconduct should go directly to an independent, external body, outside of the local facility. Currently incarcerated individuals emphasize the importance of this, giving the example that drop boxes for written reports should be locked and only accessible to representatives of an outside agency that will process the report without divulging confidential identifying information to local facility staff. The choice of an appropriate independent agency for this type of role is discussed in more depth in the “Independent Investigations” section of this report. Generally, incarcerated individuals indicated that confidence in the safety and efficacy of reporting would be increased if reports went to an agency that was far removed from the local facility, CDCR, and CDCR leadership (including the Governor). The initial handling of reports by an independent, external body would lessen concerns about potential conflict of interest in the handling of reports and decrease the initial risk of retaliation before an investigation is even opened. To comply with PREA standards, information about reports must immediately be shared with local facilities so they can ensure the safety of the individuals involved. However, the independent, external body should then continue monitoring and oversight of the investigation moving forward.

Education of all people incarcerated in CDCR will be needed to ensure that there is a baseline understanding that 1) there are multiple reporting pathways, 2) regardless of the reporting method, the local facility will have to respond to the initial safety assessment in order to comply with PREA

standards, and 3) the expected time lapse between submitting a report and the initial response (depending on reporting method).

One of the largest concerns of incarcerated individuals related to the reporting process was the initial response to reporting by the local facility’s Investigative Services Unit (ISU), which also handles investigations of rules violations by incarcerated individuals and thus typically has a negative, punitive relationship with people incarcerated in CDCR. We recommend that ISU staff are not involved in the reporting process, including in conducting the initial safety assessments required by PREA. We also recommend that CDCR review training and staffing policies for the Local Designated Investigators (LDIs) role, which responds to allegations. This role is frequently filled by custody staff, which may decrease the likelihood that incarcerated individuals feel safe or willing to participate in investigations. We recommend that CDCR train and select staff from different categories (other than custody staff) so that non-custody staff are available to respond to reports. This would require that these staff members receive training in the investigatory process in order to be eligible to serve in the LDI role.

ACCOUNTABILITY AND OVERSIGHT BY AN INDEPENDENT REGULATORY SYSTEM

Lingering concerns about the fairness of a reporting and investigation process could be further allayed by the creation of an independent regulatory system. This is especially important while investigations are still being conducted by offices internal to CDCR or under the leadership of the Governor, due to concerns about conflict of interest. Roles of this regulatory system could include monitoring compliance with new policies, assessing data on the number and outcomes of reports, ensuring that survivors and other individuals impacted by the investigation are receiving adequate resources, and overseeing individual investigations if concerns arise.

4.

This regulatory system could be one avenue for increasing the role of community-based support organizations in the process, which was one of the requests of incarcerated individuals consulted on this report.

This type of regulatory body could consist of a committee with membership appointed by a combination of the State Senate, Assembly, and Governor's Office. Membership of the committee should include organizations whose work already involves oversight of CDCR facilities, community-based organizations with experience advocating for incarcerated individuals and survivors of violence, and experts who have been formerly incarcerated in CDCR facilities.

CREATION OF ROLE FOR INDEPENDENT SURVIVOR ADVOCATES

While there is an existing role for external anti-violence victim advocates under current policies, we observed that this role was both limited in authority as well as misunderstood and underutilized by the incarcerated population. We also observed that there have been lapses in contracts with victim services organizations, as well as a lack of capacity by contracted organizations. The majority of incarcerated individuals we spoke with were unaware that victims services provided by an external organization existed at either of the women's facilities. Those who were aware and sought these services reported that they struggled to receive services in a timely manner due to capacity issues (e.g., a limited number of advocates available, especially in relation to large facility populations within a culture of sexual misconduct).

We have seen that survivors would also benefit from support in navigating CDCR processes related to reporting. Effective support of this kind would mean support persons should be consistently available to survivors or reporters of assault. Supporters should also have access to the status of the investigations and any changes affecting

impacted individuals (e.g., housing, staffing, access to resources, reports of harassment), training in confidentiality and trauma-informed care for survivors, and connections to additional resources for impacted individuals (e.g., services from local rape crisis centers and community-based support organizations).

Again, one of the recurring requests of incarcerated individuals consulted on this report was increasing the role of community-based support organizations in the process. Creating a formalized support program that is independent of CDCR would be another powerful way to embed community-based support organizations in the process and improve support for individuals as they report and wait for investigation and response.

When discussing what this kind of support program could look like, we considered both the models of advocates at local rape crisis centers as well as other confidential advocacy programs like the Court Appointed Special Advocate (CASA) program in which volunteers are appointed by judges to advocate for the best interests of vulnerable youth in the foster care system.

TRACKING SYSTEM OF REPORTS TO INCREASE TRANSPARENCY AND ACCOUNTABILITY

Tracking system recommendations:

- › Create a system for all parties involved to track any sexual misconduct report.
- › The system needs to be electronic. It needs to be accessible to the person making the report, the accused, and appropriate legal advocates. The data needs to be automatically shared with an independent, external agency that can monitor the progress on these types of reports. The information should be saved in a database for later referral.
- › The system should be accessible via the tablets. The system should provide the date and type of all actions related to the report, as well as

4.

the individuals involved in performing each action. It should also provide information on mandated timelines, next steps available to the incarcerated individual, and referral to supportive resources for all parties.

- › Once a report is filed, there needs to be an alert to appropriate offices within and outside of the facility (e.g., the warden of that facility, the local RCC).

4.5.3 Independent Investigations and Determinations

INDEPENDENT REVIEW OF STAFF MISCONDUCT INVESTIGATIONS

The new Office of Internal Affairs (OIA) Allegation Investigation Unit (AIU) process for investigating staff misconduct allegations is a first step in the right direction because it removes the investigation function away from each prison's Investigative Services Unit (ISU). ISU has a poor track record of showing unfair bias towards other staff by concluding that allegations against staff were unsustainable or unfounded in obvious cases with clear evidence. Further, some ISU officers have sexually harassed and assaulted incarcerated individuals while conducting investigations into sexual misconduct. Although the working group agrees that staff misconduct complaints should no longer be investigated by ISU, we have concerns that putting the investigative role entirely in the hands of OIA is only a slight improvement because OIA is a CDCR agency. As a long-term solution, the working group believes that investigations should be conducted by those who are not employed by CDCR to ensure that the investigation process is entirely independent and free from bias. Oversight of the investigation process is also needed by an independent body that is not controlled by CDCR.

When considering which body should be investigating and making the determination of findings on serious staff misconduct allegations,

we need to prioritize agencies that will have the confidence and trust of the incarcerated population.

This ongoing crisis has demonstrated that CDCR's existing structure of investigations and accountability has failed to deliver on its responsibilities to protect the incarcerated population, leading these individuals to mistrust the process and not report many instances of misconduct.

Establishing and maintaining trust in the investigation and discipline process is the first step that will allow incarcerated individuals to more confidently report staff abuse.

Based on the outreach of our working group to both formerly and currently incarcerated individuals, we can say confidently that there is very little faith in CDCR's grievance, investigation and accountability process. This is especially true of staff local to the facility, including local investigatory bodies and wardens, but it was also true of central CDCR staff in Sacramento, including the Office of Internal Affairs (OIA) and the Ombudsperson. There was also some concern about the lack of authority and independence of the Office of the Inspector General (OIG), which is a position appointed by the Governor, but external to CDCR. Working group members and incarcerated individuals agreed that there is a conflict of interest inherent in CDCR monitoring its own staff misconduct that could affect agency standing and funding.

Incarcerated individuals expressed a desire to have community-based support organizations more involved in the process to ensure fairness and accountability in the investigations and disciplinary action.

4.

The group would recommend that the Legislature identify or create an investigatory and oversight body that prioritizes the following: 1) independence from CDCR, 2) no conflict of interest related to findings of serious staff misconduct, and 3) increased involvement of community-based support organizations. Any body identified for this purpose would need to be adequately funded to provide sufficient staff capacity for investigations. They would also need to have investigators assigned to local facilities to ensure quick responses to reports. They would also need to collaborate with CDCR and local facilities to ensure that responses to reports are in compliance with PREA standards.

As a short-term solution, the working group believes that the AIU process is flawed because it gives Wardens the exclusive authority to review completed investigation reports and determine the disposition of the investigation including findings and corrective or disciplinary action.

Various lawsuits and recent events at CCWF have demonstrated that prison wardens should not be given exclusive discretion to decide the outcome of allegations against the Warden's own staff. As a temporary fix to the current AIU process, the working group believes that the outcome of staff investigations should be decided as a shared responsibility between the Warden, the Office of Inspector General (OIG), and the Employment Advocacy and Prosecution Team (EAPT). This shared decision making on all allegations of staff misconduct is the process that existed in the early 2000's before OIG was significantly downsized. This recommendation will require expansion of the OIG, as it previously existed. If there is disagreement among the shared decision makers, the OIG should prepare a report documenting the disagreement which should then be submitted to an independent body for final decision.

The subcommittee should also consider whether amendments are warranted to the Investigation

Assignment Index (IAI) to specify that the Lieutenants and Sergeants authorized to investigate allegations identified in the IAI are AIU Lieutenants and AIU Sergeants. Such clarification may help to avoid confusion with the longstanding practice of having Lieutenants and Sergeants from a prison's Investigative Services Unit conduct staff misconduct investigations.

COMPLIANCE WITH THE NEW PROCESS FOR STAFF MISCONDUCT INVESTIGATIONS

The new process for staff misconduct investigations went into effect on December 28, 2022 and all prisons were mandated to be in compliance as of August 2023. Based on information collected from the Town Halls in November 2023, CIW and CCWF remain out of compliance and continue to rely on their ISU to conduct staff misconduct investigations. Both prisons should be monitored by FOPS and the OIG for compliance with the new AIU process and subject to random audits. CDCR should implement a complaint and disciplinary process that responds to continued violations by staff of the AIU process to ensure more speedy implementation of the new process.

STAFF TRAINING ON NEW POLICIES RE: STAFF MISCONDUCT REPORTS

Training on the new AIU process is necessary to ensure that prison staff are educated about the change in policy that requires the AIU to investigate all allegations of staff misconduct. Training on the AIU process should be mandatory at each prison for all staff. Immediate training should be required for the Warden's Office, the ISU, all Locally Designated Investigators (LDIs), supervisors, and managers. As of December 2023, the Acting Warden at CIW was unaware of the new AIU process and was misinforming the incarcerated population that all allegations of staff misconduct are initially screened by ISU.

4.

INCREASED STAFFING FOR THE AIU

The new process has imposed great demands on the AIU by requiring it to screen and investigate all allegations of staff misconduct. To ensure manageable caseloads and timely investigations, staffing in the AIU must be significantly increased. This should be funded by reprioritizing existing CDCR funding.

4.6 Accountability

4.6.1 Whistleblower Protections

Without safeguards and preventive policies to address retaliation, we can expect reporting rates of staff abuse to remain very low. Common forms of retaliation include:

- › Strip and pat-down searches
- › Transfer to Restricted Housing Unit (formerly known as ad-seg)
- › Prison transfers (away from existing support networks and potentially disruptive to programming, job assignments, and privileges)
- › Rules Violation Reports (RVRs)
- › Extra duty (labor duties assigned as a form of discipline)
- › Cell searches (which often result in loss of property and a form of collective punishment in multi-person cells)
- › Loss of job assignments (especially sought-after jobs with PIA, IDL, and in laundry/canteen)

Many forms of retaliation also impact an individual's access to basic needs, including visitation with family and loved ones.

Whistleblower protections should address retaliation at multiple stages. First, policies that are frequently abused for retaliatory purposes should be modified to lessen the opportunities for retaliation. We will include specific recommendations around transfers and strip searches, as well as some

general recommendations. Increased access to and oversight by peer advocates and supporters would also help to prevent retaliation. Finally, the existing policy and practice of monitoring for retaliation should be improved to effectively identify and deter the more common methods of retaliation.

PREVENTATIVE POLICIES TO END RETALIATORY TRANSFERS

One of the policies that is frequently used against people who report abuse or misconduct is the use of housing transfers for the purpose of "safety." However, in practice, these transfers are often retaliatory and almost always harmful, because they remove victims from their network of support and place them in more restrictive housing units or transfer them to other facilities.

When someone incarcerated in CDCR reports sexual abuse, one of the first steps is to assess that person's safety and to make arrangements to ensure that the victim and related parties are safe. However, what happens most frequently is that survivors of abuse are moved into restricted housing or to other facilities. We need to rethink policies around "safe" housing for survivors. If a survivor is unsafe in a housing unit because of abuse, the accused abuser should be removed, not the victim. This is especially true when the abusers are staff. If, for some reason, there is no way that the victim can safely stay within their housing unit, staff need to identify options other than restricted housing units, which limit the incarcerated person's access to resources, programming, communication, and their support network. Survivors should have more access to their support networks and should not be punished by a denial of access (PREA Standard § 115.43).

One of the reasons that survivors so often end up in restricted housing units (casually referred to as "ad-seg," "SHU," or "jail") is because, with only two women's prisons in California, the possibility of having "enemy concerns" may limit options for



“safe” housing in the general population. This results in many survivors being transferred to the other women’s prison with no options for safe housing but restricted housing. Many survivors stay silent about staff sexual abuse out of fear of being “shipped” to another prison where they have enemy concerns. Recent policy changes have been enacted that clarify that restricted housing should only be used as a last resort for survivors whose report of abuse is under investigation (PREA Standard § 115.43; DOM § 54040.6). While the number of survivors in restricted housing during investigations has decreased, it is still common practice. We are also concerned that retaliatory transfers have been disguised as legitimate transfers (i.e., officers “putting a hit” on a survivor by encouraging another incarcerated person to file a complaint on the survivor that results in their transfer to restricted housing).

Despite these recent policy changes, being “sent to jail” is still a known consequence of reporting abuse. Numerous incarcerated individuals we spoke with reported that staff had threatened them with “going to jail” if they complained about staff behavior.

While this practice may not be reflective of the intent of current CDCR policy, it has historically

been a very common practice and was the expected punishment for reporting abuse for most of the incarcerated people that we consulted.

To ensure that the survivor’s best interests are being reflected in their housing options, we recommend that they be allowed to make self-determined choices about what is “safe” for them. Everyone living at the facility should be informed of the current policy that restricted housing should not be used for survivors during investigations. We also recommend that survivors are fully informed and consulted in any decision-making about their safety, and that their consent is obtained for housing transfers. If the reported abuser is a staff member, we recommend that the default response is removal of the staff member from contact with any incarcerated person, while allowing the survivor to remain in place. If the survivor must be moved because of additional safety concerns, housing transfers that are the least disruptive to their existing support networks and programming should be prioritized (PREA Standard § 115.43(b)).

We also recommend that transfers that occur within 90 days of the filing of a PREA report against staff should be referred to and reviewed by the Departmental Review Board (DRB) on an expedited basis. If the DRB decides that the transfer was improper, the PREA victim should be transferred back to the original prison within 48 hours after the DRB decision.

Also important to note is that false reports of sexual violence are sometimes used by incarcerated individuals against each other to force housing

4.

transfers, including bed moves and prison transfers. Currently and formerly incarcerated people consulted on this report shared that the difficulty in obtaining housing transfers without these false reports is the largest factor in this misuse of PREA reports. We recommend a review of policies around bed moves and prison transfer requests to identify changes that would increase safety and allow for more voluntary transfers. Our understanding is that “convenience” bed moves are beginning to be regularly offered in at least some facilities. We hope that this process is expanded upon and believe that Peer Educators could potentially play a supportive role in helping to expedite moves, if needed.

PREVENTATIVE POLICIES TO END RETALIATORY BODY SEARCHES

Strip searches are commonly used as a form of abuse or retaliation for people incarcerated in CDCR facilities, often on a daily basis. For those in restrictive housing, strip searches occur multiple times a day for any movement outside of their cell.

Strip searches are traumatizing for incarcerated people, especially because the large majority of incarcerated women and trans people experienced sexual trauma prior to their incarceration.

We have a series of recommendations around strip search policies, both to ensure that strip searches are being performed only when necessary, and to monitor and track all strip searches to more easily identify staff who may be using strip searches in a retaliatory way.

First, we recommend that a review of prison local policies (the supplemental DOMs) are reviewed to ensure that strip searches are performed only when absolutely necessary.³¹ Body scanners are already being used inside of facilities to detect contraband,

and these scanners should be the default method for searches whenever possible (unless requested otherwise by the incarcerated person). Strip searches should not be performed in addition to use of the body scanner. We also recommend that incarcerated individuals are allowed to choose which search method they prefer (i.e., strip search, body scanner, or pat search, when possible).

We expect that this may require facilities to acquire additional body scanners to prevent long wait times during busy periods, such as after visiting. CDCR should continue tracking the use of the body scanner for incarcerated individuals. If someone is being scanned at rates that bring them in danger of approaching maximum radiation exposure limits, an audit should be conducted to ascertain why so many scans are being requested. We also recommend that CDCR review policies for individuals with mobility limitations that make the body scanner less accessible, making appropriate accommodations for these individuals and ensuring that they are not subjected to more frequent strip or pat searches because of these limitations. We also recommend that CDCR review policies around the training of staff who can access these body scanner images, as we have heard reports from incarcerated individuals about staff harassing them based on those images. Staff in this role should receive sensitivity training, and any inappropriate comments about an incarcerated individual’s body should trigger the staff disciplinary process.

We also recommend a review of the strip search, body examination, and related policies that directly impact survivors of sexual abuse. Survivors who are transferred to restricted housing will undergo frequent strip searches as standard procedure in those units, which is incredibly harmful and retraumatizing for those who have experienced sexual abuse. Survivors are also retraumatized by the 7219 medical exam (which is part of the investigation process for reports of violence), where they may be stripped and examined. Many were

4.

not aware that they have the right to refuse a 7219 exam. We recommend training for the incarcerated population on their rights regarding 7219 exams, training of staff on trauma-informed care and self-determination for victims, and the exclusion of custody staff from the 7219 exam process, including the collection of samples from the survivor for evidence. All 7219 exams should be performed by medical staff only unless otherwise requested by the incarcerated person.

The manner and process for conducting strip searches can also be very harmful and traumatizing to survivors. Typically, survivors are escorted to their strip search in a very public and humiliating manner, and they are left unclothed, without blankets or water, while waiting for staff to conduct the search. Strip searches commonly occur in very public areas that are visible to others, including staff. We recommend that:

1. Staff be required to conduct escorts to strip searches in a discreet and private manner;
2. Staff give individuals the opportunity to fully dress before they are escorted;
3. Policies require that strip searches be done with minimal wait time;
4. Staff provide individuals with blankets, water, lavatory facilities, feminine hygiene products as needed, and any other basic needs, while waiting to be strip searched;
5. Strip searches be limited to areas that are fully private and not visible to other officers or incarcerated individuals;
6. Group strip searches, often used as a form of retaliation, be prohibited; and
7. Staff are trained on CDCR policies requiring that individuals being strip searched should be treated with dignity, respect, and care at all times before, during, and after the search.

We further recommend that CDCR create a mandatory logging system for all strip searches that includes information on the start and end time of searches, the location of the search, who is requesting the search, and the purpose of the search.³² A copy of this information should be made available to the person who is being searched. This would allow CDCR to track the use of strip searches in the facility and identify potential abuse by staff or against certain incarcerated individuals. A log of strip searches would assist in staff misconduct investigations, along with footage from body worn cameras. We also recommend the mandatory, sensitive use of body worn cameras for all strip searches, with cameras aimed at the staff performing the strip search and not the person being searched. These recommendations serve the purpose of monitoring strip searches and providing oversight to discourage the frequent use of strip searches against incarcerated individuals as both a form of abuse by staff, as well as a method of seeking retaliation for reported abuse.

We also recommend that before conducting a strip search, medical staff be offered as optional support for the incarcerated person. Strip searches should be conducted with the same sensitivity that medical staff perform the 7219 full body exams and cavity searches due to the potentially triggering and traumatizing nature of these searches. This would provide additional oversight to the strip search process, and provide the opportunity for the incarcerated person to request a more neutral party in the room.

Pat-down (or clothed) body searches are also used as a method of abuse and retaliation against individuals incarcerated in CDCR facilities. Many of the same considerations described above for strip searches should also be considered for pat searches.³³

4.

DISSENTING OPINION ON STRIP SEARCHES (SURVIVED & PUNISHED)

We understand strip searches to be state-sanctioned sexual violence. Therefore, as a form of sexual violence, we believe strip searches cannot be reformed and must end.

MEANINGFUL MONITORING FOR RETALIATION AGAINST PREA VICTIMS

PREA requires a monitoring period of 90 days for retaliation against PREA victims for PREA claims against staff and other prisoners. Staff are required to document red flags for retaliation on a Protection Against Retaliation (PAR) form (CDCR Forms 2303/2304), which include boxes to check for (1) disciplinary reports, (2) program/job changes, (3) housing changes, (4) interview of the victim, and (5) other. One recommendation is to add boxes for categories of retaliation that are commonly used against PREA victims.

Although the prisons are finally complying with PREA by checking the boxes on PAR forms, there is no follow-up that happens when any boxes are checked on the PAR form. Assuming that the PREA Compliance Manager role (PCM) becomes a full-time and more meaningful position, monitoring and follow-up of completed PAR forms should be the responsibility of the PCM. When completed PAR forms indicate possible retaliation against a PREA victim for staff misconduct, the PCM should be required to refer the matter to the Allegation Investigation Unit (AIU) of the Office of Internal Affairs (OIA) for investigation into retaliation by staff.

We recommend the following:

1. The PAR forms should be updated to include additional boxes for common forms of retaliation used against PREA victims such as (a) prison transfers, (b) denial of mental health care, (c) cell searches, (d) strip searches, (e) extra duty, (f) denial of access to basic needs, and

(g) denial of access to support from family, community supporters, and legal advocates.

2. The PREA Compliance Manager should be required to monitor, track, and follow-up on all completed PAR forms by (a) ensuring that PAR monitoring is conducted by locally designated investigators (who are not assigned to the Investigative Services Unit), (b) checked boxes on PAR forms are tracked and reported to the PREA Coordinator, and (c) that checked boxes on PAR forms are referred to the AIU of the Office of Internal Affairs for investigation into retaliation by staff.

Patterns of abuse in CDCR are often hidden by staff through standard policy and procedures. Incarcerated people have often been silenced when speaking out against patterns of abuse by staff, including unnecessary and long periods of time in segregation as a “form of protection” from abuse.

In order to assess whether incarcerated people are experiencing unfair treatment, we suggest the creation of a historical tracker or early warning system to identify possible abuse by staff who, following a PREA report, repeatedly request segregated housing, rule violations reports, or are the subject of 602s complaints. An early warning system would help to identify problem staff who repeatedly use segregated housing or rule violation reports as an abuse of power and any trends in the race, gender, sexuality, and disability of those placed in segregation and charged with RVRs.

4.

ROLE OF ADVOCATES AND SUPPORTERS IN DISCOURAGING RETALIATION

We firmly believe that the presence of additional support people, both from the community and from incarcerated peers, will provide additional oversight and help deter the use of retaliation against victims and individuals who report or are otherwise connected with sexual abuse.

Improved access to independent, non-CDCR support persons would also be a helpful tool in combating retaliation. These supporters provide emotional support, resources on the rights and protections for incarcerated people, as well as an independent line of communication to investigators in order to report retaliation. We recommend the increased presence of supporters from community-based organizations or rape crisis centers, as well as legal advocates, inside CDCR facilities to inform the incarcerated population (including through collaboration with the Peer Educator program) of various resources and support available to them. We recommend that CDCR develop a process where these designated supporters can share concerns about possible retaliation to the PREA Compliance Manager and to investigators.



As part of the Peer Educator program, a diverse group of trusted people should be trained to ensure that individuals have continued access, without interference, to their preferred representative. Peer educators should have ongoing access and ability to advocate on behalf of the impacted person, with the support of CDCR staff including mental health clinicians and chaplains.

4.6.2. Body-Worn Cameras

Incarcerated people report that custody staff sometimes improperly deactivate their body worn cameras (“BWC”) during officer-involved assaults or other staff misconduct. Incarcerated individuals have noted that relevant footage has been missing when they have needed to use videos as evidence to challenge falsified, retaliatory, or inappropriate RVRs. They have also reported difficulty being able to access and view BWC footage following incidents of staff misconduct. The existing body-worn camera policies are inadequate and inconsistent across all facilities and custody staff roles.

We recommend revisions to CCWF’s local BWC policy, including removal of provision VII(B)(11) (v), which applies to CCWF and states that “BWCs may be deactivated when there are no inmates present or when there is no inmate interaction.” This provision is overbroad and can be wrongfully interpreted by staff to inappropriately deactivate their BWCs. This provision is not part of CIW’s BWC policies and it is not clear why it is included in the CCWF policy.

We also recommend removal of provision VII(B) (14) which states that “BWC usage audits shall not be conducted at CCWF.” This provision prevents meaningful oversight. Further, we recommend that CDCR develop policies for an audit process that would identify when officers are inappropriately and incorrectly deactivating their BWCs. Incarcerated people consistently report that officers routinely turn off their BWCs before committing misconduct.

4.

CDCR should develop accountability systems that can identify these occurrences and implement a progressive discipline process for officers who repeatedly shut off their cameras.

ACROSS BOTH OF THE FACILITIES:

The policy needs to lay out more opportunities and processes for incarcerated people to have access to the BWC footage. It's only mentioned when someone has a Rules Violation Report (RVR) against them.

We recommend that CDCR craft new guidelines that spell out ways the incarcerated person can view, take notes, and reference incident footage. At a minimum, access to footage should be made available from within 24-72 hours of the incident (as soon as possible) until all options for reporting and investigation have been exhausted. This should extend to all the instances named for this purpose in existing policy,³⁴ including all PREA allegations, use of force by staff, and allegations of staff misconduct. All individuals in prison should be educated about their rights to access this footage and to postpone related hearings if more time is needed to thoroughly review the materials.

We recommend that CDCR policy should specify viewing access options for incarcerated people. Private areas for viewing as well as tablet access should be established to be accessible for incarcerated people to utilize as needed. This needs to be true for all incarcerated people, regardless of housing unit or restricted status. We also recommend that individuals be allowed to have their RCC victim advocate with them during viewing, if confidentiality laws allow.

We also recommend overhauling the body worn camera deactivation policy, which is too broad. Body worn cameras should be on at all times unless there is a legal requirement for confidentiality (visual and audio).

Reports that officers turned off their cameras and left them off were incredibly common, meaning that a significant amount of abusive behavior by staff was not recorded and incarcerated individuals were left without evidence of the abuse they experienced.

We recommend that the list of authorized deactivations³⁵ be reviewed to remove unnecessary deactivations (e.g., “After completing the transportation of an inmate(s), and the vehicle is empty of all inmate passengers;” or outside of medical exams) and instead modify body worn camera use to provide adequate privacy without completely deactivating the camera (e.g., pointing the camera directly at the staff member performing a strip search and maintaining the privacy of the person being stripped). The deactivation policy should also clearly specify that the officer is liable to disciplinary action if they do not immediately reactivate their camera at the end of these deactivation triggers.

4.6.3. Institutional Accountability

ENFORCEMENT OF OFFICE OF THE INSPECTOR GENERAL RECOMMENDATIONS

The Office of the Inspector General (OIG) is responsible for providing oversight and transparency through monitoring, reporting, and recommending improvements regarding the policies and procedures of the California Department of Corrections and Rehabilitation. This has included multiple reports that have spoken to the ongoing failures to address staff abuse. Because of a lack of enforcement power, the concerns raised in these reports have not been adequately addressed.

4.

We recommend that some body external to CDCR and OIG be responsible for following up on OIG audits to ensure that CDCR is held accountable for addressing the concerns of this oversight office and that corrective action plans are appropriate and adequately implemented. This body could be a committee appointed by the Legislature and Governor's Office that should include formerly incarcerated survivors and representatives of community support organizations led by formerly incarcerated individuals.

**“We received
overwhelming
feedback from
survivors at the
community town
halls that release to
their families and
communities is the
only path to safety
after experiencing
sexual violence by
CDCR staff.”**

5.

Feedback from Incarcerated People

5.1 In-reach Efforts

When the working group was convened, a subcommittee of members met regularly to discuss in-reach methods to contact individuals currently incarcerated in CDCR facilities to obtain more information about the current crisis of sexual violence and get suggestions for addressing or preventing it. A primary consideration was obtaining feedback confidentially so that individuals would have less fear of retaliation. To this end, the subcommittee planned to solicit feedback primarily in-person at town hall meetings inside both CCWF and CIW (the two women’s designated CDCR facilities) and also via confidential legal mail pathways to members of the working group.

TOWN HALLS

Town halls were organized with the assistance of CDCR, including FOPS and the local facilities. Town halls were held in the gyms at both facilities. To create an environment that was safer for incarcerated individuals to share sensitive information about staff abuse, no CDCR staff members were present in the rooms or directly outside of them, and staff agreed not to surveil the gyms via cameras during the town hall. Town halls were advertised to the incarcerated people living at Central California Women’s Facility (CCWF) and California Institution for Women (CIW) beforehand via flyers and announcements.

Town halls were facilitated by individuals associated with working group member organizations and partner organizations. All working group member organizations were represented, and facilitators included formerly incarcerated individuals, community volunteers, rape crisis center staff, and a mental health professional. At the larger facility,

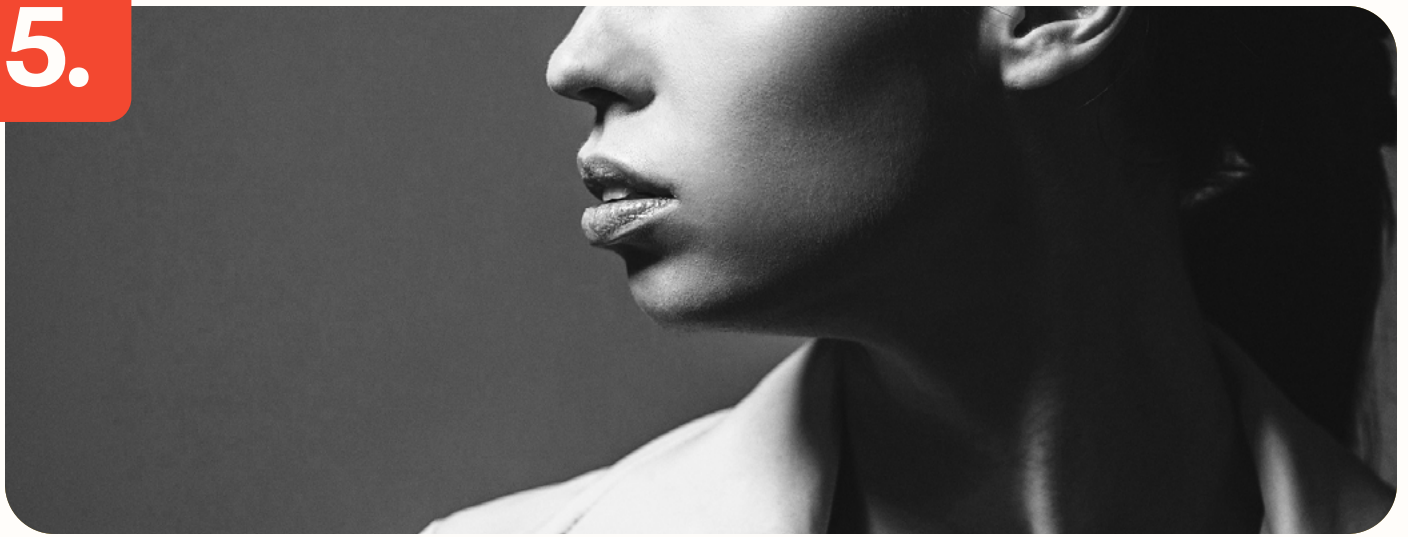
CCWF, there were four 1.5-hour town halls held over the course of two days. At CIW, there were two 1.5-hour town halls held on one day.

The town halls consisted of an introduction of the working group and its goals, information about available resources, and a breakout into small discussion groups facilitated by formerly incarcerated individuals. Attendees were encouraged to follow up with working group members after the town halls via letter, phone, or in-person, as needed and possible.

A small group of facilitators also endeavored to visit individuals who were unable to attend the larger town halls because the units they were housed in did not allow for free movement. These visits occurred either in one-on-one meetings or in small groups. In each format, facilitators shared information about the working group and related resources, and initiated conversations about sexual violence and possible solutions.

Discussions were guided by, but not limited to, the following topics:

- › General landscape
 - How does this problem play out? How are you talking about it?
- › Causes and prevention of sexual violence
 - What do you see as a major contributor to sexual violence in the CDCR facility?
 - What CDCR culture/practices are most important to change to create more safety for incarcerated people?
 - How do we support a culture change among incarcerated people (regarding “snitching,” not being believed, etc.)



- What do you want the legislature to know about this problem?
- › Reporting staff misconduct
 - What do folks see as obstacles to reporting?
 - What are you most afraid of happening if you report?
 - What is the fear, reservation, or concern?
 - What kind of retaliation have people experienced?
- › What would create enough safety for you to report?
- › Services for survivors
 - What services are missing to support survivors? What is being done in a harmful way?
 - What would you need to heal?

We estimate an overall town hall attendance of around 700. Attendees were generally enthusiastic about the opportunity to discuss the above issues with their peers and have access to community support organizations who can help facilitate difficult conversations and connect them with resources.

Several difficulties limited the effectiveness of the town halls. Those difficulties included:

- › Inadequate privacy for town hall attendees: Attendees still feared retaliation for attending the town halls due to venue layouts that allowed attendees to be in line-of-sight from custody staff; potential surveillance from a distance and via camera; and aggressive or threatening

- behavior of some staff.
- › Limited attendance:
 - Though we hoped to maximize attendance by making the town halls available to everyone, we heard from attendees that there were some groups that were unable to attend either because of job assignments or difficulty with custody staff (either allowing them through gates or not announcing their ability to depart from job assignments).
 - There were also difficulties in accessing individuals in more restricted housing placements, including in Mental Health Crisis Beds (MHCB). Because of constraints in the procedure, time-consuming practices (including strip-searching individuals in the Restricted Housing Unit), and limitations of one-on-one conversations, we were unable to reach some of the restricted or alternative housing units. Staff in the crisis beds unit were opposed to advocates speaking with incarcerated people, even when those individuals expressed a clear desire to speak with us (through locked doors).
- › Retaliation by staff: After the town halls, multiple facilitators heard from incarcerated individuals that they experienced retaliation for their participation in ways that negatively affected their daily lives.

Individuals who participated in these conversations were offered methods for reaching out to the working group, including addressed and stamped envelopes, along with information about community

5.

resources.

Finally, the information provided and themes gathered by attendees at each town hall were shared among the town hall facilitators, discussed more broadly within the working group, and incorporated in the creation of the working group recommendations.

We want to uplift and highlight the bravery of those who participated in the town halls, who were willing to share their thoughts and experiences with this working group. Speaking on sexual abuse while incarcerated is always risky, and we know that fears of retaliation are well-founded. The town hall participants demonstrated strength and bravery in being honest and vulnerable with the working group. This report would not be possible without them.

Some key themes of the conversations that took place at the town hall are summarized in Section 5.3.

WRITTEN FEEDBACK

The incarcerated individuals at CCWF and CIW were provided with multiple addresses they could use to share confidential written information or feedback with the working group. Mail could be sent via legal mail, a process for confidential and unmonitored communication with legal advocates. As mentioned previously, 1500 pre-stamped and addressed envelopes also were shared with town hall attendees, to remove costly stamp purchases as a barrier to communication. However, the working group received very little written feedback, fewer than 15 letters in total.

We believe that the success of written feedback was limited by several factors:

- › Distrust of the legal mail process: Many incarcerated individuals are not confident that legal mail is actually safe and are fearful of confidential mail tampering. This is especially understandable given the staff awareness of the

mailing addresses that were publicly shared by the working group and the obvious appearance of the envelopes prepared by the working group. Additionally, all legal mail is logged, so individuals writing to the working group could be tracked by staff.

- › Limited confidence in the working group and process: The working group is new and was met with some skepticism. People may be hesitant to share with strangers given the risk of retaliation.
- › Retaliation against town hall participants: Retaliation by staff against attendees following the town hall may have further discouraged written comments afterward.

ADDITIONAL EFFORTS

After the initial drafting of the report, we shared our recommendations with a small number of currently incarcerated individuals at both CCWF and CIW. At the time of the report publication, we had received feedback on those recommendations from a small group at CCWF. Their feedback is summarized in Section 5.2 below.

While not complete at the time of this report, this group intends to continue outreach to individuals incarcerated in CDCR facilities. Current plans include:

- › Ongoing efforts to solicit feedback from incarcerated individuals on the contents of this report and the working group's recommendations
- › Ongoing events at CCWF and CIW to allow for continued discussion of this topic and implementation of the working group's recommendations
- › Sharing flyers at all CDCR facilities soliciting written feedback
- › Outreach videos by formerly incarcerated individuals sharing information about the working group efforts

5.2 Feedback on Report Recommendations

In general, the people we spoke with at CCWF agreed with the recommendations included in this report and wanted to see them implemented in their facility (with one exception regarding staffing, described below). However, they emphasized that, practically speaking, even if all of the recommendations were implemented, many incarcerated people would likely still not be comfortable reporting staff abuse. There is a high level of distrust in the institution and fear of retaliation that can not be easily or quickly fixed.

Their feedback included the following:

Recommendation for safe spaces: Expanding on recommendations already within the report, the group recommended that a private space be made available on each yard where individuals can access support without staff present. They suggested that this space be staffed by peer educators and peer advocates and that representatives from community support organizations should also regularly be present. This would contribute to building community within the yard, increasing access to community resources, and creating a designated space for accessing peer support.

In addition to being a safe space for more open conversation with a lower risk of retaliation, it could also be a more private location for someone to make an in-person or written report of staff abuse without being observed by staff.

They also hoped that the consistent presence of community support organizations on-site in that

unmonitored space could also naturally increase staff accountability.

Concerns about limitations of recommendations:

They had several general concerns about the limitations of some of the recommendations in this report –

While they agreed that access to safe reporting via the tablet is a very important option, they thought it was likely that many people would not feel safe engaging in any confidential conversations via the tablet. There is a high amount of skepticism about the security of those digital communications, especially on the tablets which are associated with an individual and thus easily traced back to them.

They reiterated concerns that were expressed at the town hall about retaliatory housing transfers (to other facilities or other units) for people who speak up about their abuse. They shared that these transfers could be the result of “hits” by staff, and that often safety is cited as an excuse for this retaliatory or malicious behavior. They shared concerns that the recommendation requiring a DRB review of institutional transfers within 48 hours is an insufficient protection, since the damage of isolation and removal from support networks would already be done by that point.

They expressed concerns about the current Educator program, which was the subject of one of our recommendations. In the current structure of the program, peer educators are seen as extensions of staff, which hinders the building of trust between individuals and the peer educators. They also had concerns about the peer educator and peer advocates’ ability to be an effective facilitator in getting an individual’s needs met during a crisis. Some members of this group had experiences with similar job assignments where they tried to draw staff attention to someone in crisis and were ignored.

There were also concerns about the efficacy of external sources of accountability, especially if those sources do not have a consistent presence at the facility. They shared that incarcerated people are rarely willing to speak openly and honestly with external representatives. They are conditioned by staff not to speak to people who come to visit the prison (e.g., individuals are often sent to their cells when visitors come to the facility). Others may speak, but will only speak about small concerns because of fear of retaliation. They also called attention to the significant shift in staff behavior during visits from outside organizations, where staff are pleasant and attentive during visits only to shift back to the typical hostility when visits ended. They recommended that external supporters, either from state agencies or from community support organizations, should be regularly present on site.

Imperative for greater education and communication regarding prison policy: The incarcerated people who provided feedback on this report were surprised to learn about some recent policy changes (e.g., convenience bed moves and confidential hotline access) that they were not seeing implemented consistently or at all within CCWF. They suggested that policy changes should be clearly communicated to all incarcerated people and that written documentation should be available on all tablets. They requested that tablets provide all local DOMs (Operations Manuals), documentation of all recently updated policies, the inmate handbook, and other relevant resources for navigating facility policies (i.e. how to properly fill out a grievance form). They also asked that the IAC regularly receive updates from staff about policy changes or other important facility information. IAC and Peer Educators could play a key role in making sure that incarcerated individuals understand current procedures and their rights under evolving facility policy.

Retaliation: While expressing that retaliation takes many forms, they reiterated that housing moves or

institutional transfers are still the biggest concern for people considering reporting abuse. These transfers remove survivors from their support network and the community they have spent years building.

They also shared that retaliation often comes from staff other than the reported abuser, because of the strong ties between staff. They pointed out that many staff members are family or members of what could be considered to be gangs (i.e., with gang names and visual markers of group membership on staff uniforms).

Culture-shifting: The feedback group elaborated on many different aspects of the abusive culture within prisons, as detailed –

- › People are unable to access basic policies put in place as safety protections (e.g., bed moves) because staff are often only helpful when there is a crisis, and they ignore proactive attempts to avoid an escalated situation. Relatedly, many staff will only respond when there is someone to blame who they can then discipline.
- › It requires extreme persistence and self-control to deal with abusive staff all day, every day without responding negatively (which could result in a rules violation). Many incarcerated people also learn to go to extreme lengths to avoid or prepare for abusive behavior throughout the day.
- › Staff training is not treated as a serious matter by staff. Incarcerated people know a staff training is happening when they smell barbeque

5.

on the yard or see staff with catered food. Training appears to be a treat for them that gives them a break from their regular post. Meanwhile, the removal of staff from their posts for training means that the yard is shut down and people are locked in their cells all day.

- › Many older custody staff seemed to hold the view that they “didn’t sign up to help [people], they signed up to lock [people] up”. Newer staff are recruited and trained by older staff who may give them false impressions of the expectations of their job. This likely contributes to the culture of bullying and lack of accountability for staff.
- › Staff who are respectful and compassionate appear to experience pressure from their colleagues to conform to the dominant culture of violence and disrespect. This is consistent with the apparent presence of officer gangs.
- › Staff have historically responded to policy changes like these recommendations with defiance. To break that cycle, staff will need to be given motivation to adapt to these changes.
- › There has not been a meaningful response to the staff sexual abuse crisis, and the institutional focus has instead been on the CA Model, which isn’t resulting in meaningful change and appears to be more of a distraction from the deeper problems.
 - Discussion of the ideas of the CA Model are not new and were historically better implemented (less staff violence, more humanization of incarcerated individuals).
 - Current conditions do not reflect the CA Model or a meaningful change. An example was given of a housing unit that was held in the gym for an entire day without food or necessary medication during a search, resulting in stress, agitation, and trauma.
 - Some incarcerated individuals perceived the current focus on the CA Model as strategic distraction from the scrutiny of the staff sexual abuse cases. They suggested that

a more helpful response to the abuse crisis would be for staff and the institution to tell the incarcerated population that “you all are important.” Instead, they feel that the problem has been swept under the rug.

The feedback group made several suggestions about what else could be done to help shift the culture in a positive way, including the following –

- › Incarcerated people need to be in training with staff. New officers will be highly influenced by their initial training and the attitude of their training officers. (Note: The feedback group said that their recommendation is specific for women’s designated facilities. They don’t know if this would work well for men’s designated facilities.)
- › Training should emphasize the humanization of incarcerated people. Training should also focus on incarcerated people and staff getting to know each other as individuals so that everyone will learn how best to approach and communicate with each other respectfully.
- › Staff witnessing incarcerated people interacting more with representatives of community support organizations could also help to humanize incarcerated people in the eyes of staff. It could also positively impact staff accountability.
- › There should be more opportunities for casual interaction and community-building between incarcerated people and staff. These should include fun activities (e.g., softball games).
- › There should be more involvement of officers in the rehabilitative work happening in the facilities. Previously, officers would be involved in rehabilitative work on a volunteer basis as staff sponsors. This was incredibly valuable to the environment within the facility, and it was unclear to this group why it stopped.
- › **Discussions about staff abuse should be happening with staff and incarcerated people together.**

5.

Limitations of leadership: This group was very appreciative of the leadership of Acting Warden De la Cruz at CCWF. However, they said her influence was limited by negative staff attitudes. They said that they frequently overheard staff speaking disrespectfully of the warden. When confronted about not following policies enacted by the warden, staff were overheard saying that they “don’t care who signed the memo” and that they wouldn’t follow it. The group said that overhearing staff perceptions of the warden may also impact some incarcerated people’s view of facility leadership.

The group also shared leadership receives an inaccurate representation of staff interactions. Again, the group notes that while staff behavior and tone may be respectful and pleasant while in the presence of leadership and visitors, staff returns to being typically disrespectful and abusive after visitors leave.

Staffing needs (including dissenting opinion on recommendation): The group of incarcerated people we spoke with disagreed with the working group’s recommendation to set a goal of a majority female staff at women’s designated institutions. They believed that the gender of the staff was not an important factor in the culture of the institution. They thought the only meaningful positive impact of that recommendation would be to alleviate some concerns around the use of excessive force by staff (since male staff are often significantly larger than the incarcerated people). They also expressed concerns about the likely increase of other forms of abuse that they have experienced specifically from female staff (e.g., pettiness, jealousy, and competitiveness).

Instead, they stressed that it would be more valuable to the culture of the institution and to the safety of incarcerated individuals for the staff to

be ethnically balanced and reflective of the incarcerated people of the facility.

Currently, CCWF staff are largely white and Hispanic; incarcerated individuals noted the meaningful impact of the recent hiring of more Asian custody staff. An ethnically balanced staff would increase the likelihood that incarcerated individuals would feel like they have a staff member they can go to. They recommended working towards this goal of ethnic balance by recruiting staff from the same neighborhoods that the incarcerated population comes (e.g., at festivals, Heritage Month celebrations, and resource fairs in underresourced communities). The group believes that these careers would likely be appealing to people from these communities because of their stability and benefits.

The feedback group also believed that the hiring process for custody staff should take into consideration their experience working with people of different racial backgrounds. They emphasized that education level isn’t an important or relevant factor in establishing a positive culture. The most important qualities that should be considered in hiring are whether the applicants are respectful, humble, and open-minded.



5.

Community-building: The group shared that it would be important to decrease segregation inside the facility. The entire facility should return to the practice of having shared access to the main yard at designated times (all yards simultaneously), which ended several years ago. They also noted an increasingly common practice of denying individuals access to programming because of concerns that two individuals do not get along. These “safety-based” denials are inconsistently applied and frequently appear to be a farce. It is another example of how “security” is used as an excuse to exercise more control over incarcerated individuals.

Peer support: The feedback group shared that many individuals are not able to meaningfully participate in the staff grievance process because they don’t have the skills or knowledge needed to effectively fill out the 602 grievance form. They recommended that peers should be able to support each other with writing 602s. The group also asked that relevant resources and education about how best to file a 602 form be made available on the tablet and shared with IAC and Peer Educators.

The group also suggested that Peer Educators and Peer Advocates (or other designated mediators on each yard) be able to maintain contact with local Rape Crisis Centers to help connect individuals who would like to utilize RCC support.

Cameras: The primary concern of this feedback group was that when complaints are filed against staff, oftentimes no body-worn camera footage of the incident is found because the officer’s camera was turned off at the time. The group recommended that if a complaint is filed about an incident, and the body-worn camera is found to have been off, this should be considered evidence to substantiate the complaint, and it should also be followed with disciplinary action. They emphasized that there needs to be follow-through, or this behavior will continue to happen.

The group experience of the many cameras throughout the facility (including body-worn cameras) is that they are failing in their original purpose to watch staff. The cameras are instead used to surveil incarcerated people and provide evidence for rules violations.

Finally, there were multiple experiences among the feedback group where only still shots from camera footage was provided during investigations, rather than actual videos. Without the entire video as evidence, much of the incidents in question were obscured, and incarcerated individuals didn’t have access to the evidence to back up their claims. The group recommended that full video footage be made available for review during all investigations.

The group agreed with the recommended policies relating to body-worn camera policy needing to be consistent across facilities, including the ability for supervisors to audit footage. The group also agreed with the recommendation to use body-worn cameras to record staff during strip searches.

Strip searches: Regarding frequency of strip searches, the feedback group shared that searches often seem to happen for no reason; staff simply claim they have probable cause, saying “I got a call” or that they “can do what they want.” They also shared the concern that staff are not consistently following existing policies around strip searches (e.g. searches occurring with men in the room).

The group liked the recommendation that gives incarcerated people the option to choose the body scanner instead of the strip search, but they also expressed some concerns about implementation. The group shared that they are frequently told that the scanner “didn’t work” and that they still needed to get strip searched after they were scanned. They also said that they expect that some incarcerated people will likely have concerns about radiation exposure from the use of the scanner.

5.3 Town Hall Themes

Some key themes of the conversations that took place at the town halls inside CIW and CCWF are summarized here:

Body-worn Cameras (BWCs): Many concerns were raised at the town hall regarding body-worn cameras and their operational use (or lack thereof). Incarcerated people say that they see staff have not been thoroughly and consistently adhering to guidelines about when the cameras should be on and recording. They expressed that the cameras always seem to be on when there is an opportunity to surveil or punish incarcerated people, but are off when officers are acting inappropriately or abusively. Staff are turning cameras off and on as desired.

Further issues related to the accuracy of BWC footage and the review process were also mentioned. Footage is often inaccurate due to only capturing half the incident, usually only after the incarcerated person is in restraints. Additionally, footage is only reviewed by internal CDCR staff. Incarcerated individuals also expressed that they don't have access to the footage promptly when it is being used against them before a rules violation hearing. In fact, footage is only available for viewing for 90 days, and staff have often waited until after that 90-day period, when the footage is no longer available, before investigating the incident.

Excessive Force: While CDCR staff's role is to provide safety for the institutions, there have been ongoing concerns about the excessive use of force by staff against incarcerated individuals. There have been multiple situations where the staff has used excessive force while the incarcerated person has already been placed in restraints or already on the ground with staff having already established control of the "situation." As a result of this excessive force, incarcerated individuals have been subjected

to unwarranted bodily injuries (sometimes very serious).

Incarcerated individuals expressed that staff use of force is an ongoing issue; often staff are physically assaulting incarcerated individuals, then claiming that they were the ones assaulted, with no repercussion to the staff for initiating the incident.

A major concern related to this violence was the fact that, since a majority of staff are cisgender men, the staff's body weight, size, and stature is often drastically different to that of the people incarcerated in these facilities.

Obstetrics and Gynecology (ob-gyn) medical care: Incarcerated people reported experiencing sexual and physical violence during their ob-gyn appointments. They have expressed the need for a female doctor for all their reproductive health appointments. Multiple folks reported overhearing staff saying that the ob-gyn doctor "has the best job in the prison".

Mental health and medical housing units: People with serious physical illness and disabilities and mental health diagnoses expressed being especially vulnerable to abuse while unconscious, medicated, in transport, etc. Incarcerated people are often significantly more isolated when receiving medical care, which contributes to this vulnerability.

Fear of reporting due to retaliation: Retaliation is one of the primary fears throughout the incarcerated population when it comes to speaking up about abuse. While incarcerated, people have very little control over their environment, meaning they are incredibly vulnerable to abusive, retaliatory behavior. When reporting any forms of abuse,

5.

violence, or harm that is committed by CDCR staff, there has been a history of incarcerated people experiencing retaliation in many forms, including: rule violation reports (administrative and/or serious), unwarranted bed moves, institutional transfers, loss of work assignments (which can also result in not receiving pay), excessive cell searches and body searches, and being labeled a snitch by the officers. These can seriously impact a person's safety (such as bed moves and "snitch" labels) as well as the amount of time they will be incarcerated (rules violations negatively impact parole, resentencing, credit earning, etc). Some staff have even threatened individual's family members, referencing family members outside of the prison and where they live or go to school. Individuals may not report because they fear for the safety of their families outside the institution.

This is compounded by the fact that incarcerated individuals have no confidence in the reporting process for staff abuse or retaliation.

Issues with the grievance process: The current grievance process for incarcerated individuals (referred to as a 602) has been ineffective. There were numerous reports from incarcerated individuals that the 602 forms were not even being processed due to staff claiming that the paperwork had been "contaminated" by an "unidentified substance" and could not be processed. Individuals reported that such 602s rejected due to this "contamination" are not being considered within the grievance process and are often not able to meet the timelines that are mandated per Title 15. These issues were raised on many occasions throughout the town hall meetings and greatly contributed to the perception that there is little to no accountability for CDCR staff.

Some individuals reporting staff sexual abuse were also referred to the 602 process when they called the PREA reporting line. This brought up a concern about the lack of confidentiality for victims because reports may be shared with the perpetrator (staff

or peer). It was also mentioned that filing a 602 can count against individuals going before the parole board, further discouraging reporting.

Lack of Staff Accountability: The volume of violence and harm happening inside these institutions indicates a need for increased accountability and consequences for the staff that are causing harm and creating an unsafe environment for incarcerated people.

After an altercation or incident involving an incarcerated person, regardless of the outcome, staff still have access to the individual that they harmed.

Incarcerated individuals expressed the need for staff to be removed from the yard where an incident occurs or where the impacted incarcerated person lives.

Participants stated that staff should be suspended during any investigation process. Staff can invoke fear and retaliate against incarcerated individuals. Staff often work with their family members in the same facilities, and there have been incidents where the family of a staff member retaliated against incarcerated individuals. There is no reprieve for the incarcerated individual from abuse from staff and their family members.

They also noted that there is no process for filing a grievance against civilian staff members (e.g. PIA, PLANT OP, etc) and that favoritism runs rampant throughout the institution. There isn't a lot of visibility or oversight on worksites, nor is staff being held accountable for the abuse that is occurring behind work changes.

Progressive discipline (as described in CDCR policy) needs to be enforced; staff are not being held to any appropriate standards when they perpetuate acts

5.

of physical and or psychological violence. Again, staff are creating unsafe chaotic environments and facing no repercussions.

Privacy in cells: People have expressed concerns with staff opening cell doors while people are in their rooms undressing or using the bathroom. ADA-compliant cells offer significantly less privacy because of the lack of a barrier wall, meaning that individuals have little privacy when using the bathroom or showering. Town hall facilitators also noticed that in restricted housing, there was a staff sign-out sheet directly outside of the shower area where strip searches were occurring, meaning that officers signing the sheet could see the people who were undressing or taking showers.

No confidentiality when accessing support: Multiple individuals reported mental health staff breaking patient confidentiality and sharing information with other facility staff. The individuals also expressed that mental health care has been used as a form of punishment or withheld as a form of punishment. Folks have reported a lack of trust in the confidential hotline, both because the hotline isn't always available and because they can't trust the confidentiality of the line or the responsiveness of staff answering the phone. Consistency in access could be improved by providing an easily identifiable ID/PIN for hotlines.

Terrible conditions in restricted housing: Town hall facilitators witnessed that people in restricted housing often didn't have access to their tablets (which allow them to access communication, including hotlines). Restricted communication also means that often people have to pick between calling family vs a Rape Crisis Center or other advocacy organization. People in restricted housing need access to more frequent phone calls. Calls to advocates should not cut into time for family phone calls.

Facilitators also witnessed people in restricted housing not receiving basic rights, including yard

time, and being subjected to frequent strip searches. The conditions for people under COVID quarantine or in restricted housing are poor and inadequate for maintaining mental and physical health.

Lack of access to advocacy in units: Numerous individuals expressed a need for independent advocates to regularly visit their housing unit to see the conditions they are experiencing. They said this needs to be on-site advocates, not CDCR staff. They also shared a need for support groups, peer advocates, and peer-led classes as well as access to college and other forms of education on tablets. Town hall participants said they would like to know how to advocate for themselves and how to build community with each other to support each other.

Strip searches: Participants stressed that strip searches are used in excess. They suggested that scanning machines be used for the general population and restricted housing instead of strip searches. When strip searches are used, town hall participants recommended a monitoring and tracking policy to ensure these searches are not used in a retaliatory way. Participants recommended that individuals have the right to choose the type of search used, and recommended the mandatory, sensitive use of body-worn cameras for all strip searches.

Hygiene issues: Numerous incarcerated people reported insufficient access to basic hygiene items. In some cases, the desperation for these items was reported to have led to violent incidents. "Indigent" hygiene kits for those who can't afford to buy hygiene products are not adequate to sustain individuals for a month. These items also are of poor quality and tend to cause breakouts and rashes. Not having access to enough quality products can lead to desperation and cause indigent individuals to be vulnerable to staff sexual exploitation (see "Lack of access to basic needs and susceptibility to abuse" below).

Lack of access to basic needs and susceptibility to abuse: Deprivation and desperation can lead people to exchange sex with officers to get basic needs met. In addition to inadequate hygiene products, participants described insufficient and poor quality food. Many people are also denied consistent access to communication with family and other outside support. Participants described a lack of access to wash slots when clothes are soiled or during a time slot that fits their work schedules. People serving longer sentences shared frustration with their limited job assignments; they are often overlooked or placed at the bottom of lists due to the length of their sentences. Participants shared that clothing items are not adequate for the inclement weather and that many would prefer more feminine, gender-affirming items.

Compounding this, wages are incredibly low, which greatly restricts people's ability to better care of themselves and their families.

Town hall participants also struggled to obtain safety from violence and abuse, including housing changes (frequently a safety concern), protection from retaliation (including against outside family members), and their freedom (since retaliation and violence often contribute to rules violations that limit their ability to obtain parole, resentencing, or commutation).

Participants shared how their lack of access to basic needs creates a more tense and sometimes desperate environment which can make people more vulnerable to abuse. Survivors shared that they have experienced being groomed and coerced to have sexual encounters. They described feeling no choice but to go along with these encounters because of fear of retaliation or continued abuse. Survivors expressed that the whole environment is not safe and does not support refusing the advances or threats of officers.

People also expressed a need for trauma-informed care, many stating that they are constantly being labeled as attention seekers. Many believe positive interactions with staff are needed for them to obtain safety. Past trauma has taught those incarcerated to stay in the good graces of staff even while abuse is present so they do not endure more or harsher abuse.

Folks expressed coming into prison already traumatized and being afraid of the retraumatization of incarceration.

Blaming incarcerated people for staff misconduct:

Participants expressed that there needs to be a culture shift in the attitudes of staff about the incarcerated population. In particular, people named the implication by staff that incarcerated women are sexually deprived – that they should be grateful for sexual attention. Participants expressed being deprived of femininity and simultaneously shamed for being women. Town hall participants have been told that they “entice” the staff, so feminizing items are removed to reduce the ‘temptation’ for the officers. Staff were heard commenting about women’s breasts and “unmarried” officers. Participants expressed the need for more awareness among incarcerated people about what constitutes abuse or harassment. Many incarcerated individuals have experienced decades of abuse and trauma; many are also desensitized to the mistreatment. Abuse is normalized within carceral institutions.

Right to protection and gender expression:

Participants described tensions related to who they believe has the right to access safe and

secure housing within the institution (CCWF). Some perceived that trans people have more housing protections due to recent changes in the law. Some cisgender participants expressed related frustration and recommended that they have the same access to safe and secure housing as their trans peers. Trans and gender non-conforming town hall participants, many of whom were in restricted housing, shared that they did not experience safe and secure housing, but instead were being held in restricted housing for long terms with little to no due process. Participants agreed that adequate protections should apply to all people incarcerated by CDCR. They described how incarcerated people are often portrayed as being manipulative, and that officers deny them their basic rights and protections (including denying bed moves, etc.). Across institutions, there were overwhelming accounts of misogyny, homophobia, and transphobia.

Animosity leads to fear of reporting: Historically, there is an us vs. them mentality within CDCR institutions. Staff see the incarcerated population as an enemy and less than them. Incarcerated people reported experiencing physical and verbal abuse by staff. They shared that staff are constantly yelling at individuals and using harmful language when engaging with incarcerated individuals. Often, staff take anger at an individual out on a whole room using room searches, which frequently results in the loss of personal property. People expressed not advocating for themselves for fear of retaliation, loss of privileges, or loss of access to phones and the yard.

Staff targeting of trans people and fear-mongering: Fear and profiling have led to transgender people being disproportionately placed in restricted housing, often without any substantiated claims against them. CDCR policy failed in the implementation of SB 132 and the integration of transgender and gender non-conforming individuals placed in these institutions. Staff used transphobic fear tactics to divide

the population, causing fear and distrust of the trans population. Participants expressed the need for mediation between transgender and cisgender populations, especially to alleviate these fears. Education and healing practices need to be introduced to build community within the incarcerated community.

Need for community: Town hall participants expressed the need for more spaces like the town halls where they can build community with each other in a safe environment away from staff. They also expressed the importance of events like the town hall where there was no yard segregation dividing people. The town hall participants expressed a desire to be able to stand up for each other when they are experiencing mistreatment, but noted they have been held back by the lack of a sense of community.

Participants expressed how they were constantly being pitted against each other by officers, which they referred to as “psychological warfare.” Participants gave examples of officers playing individuals against each other, putting hits on other people they were upset with, and granting favors for doing the officers’ bidding.

Individuals expressed wanting the main yard open for all yards to access as a way to increase community within the facilities.

False allegations/misuse of PREA: Both cisgender women and the transgender population have stated that PREA is used against incarcerated peers as a means to change housing assignments. This happens when people who are incarcerated

5.

have expressed safety concerns to staff and the need for a housing move, but they are ignored and their needs are not met. In the past, people have experienced severe and fatal violence that could have been prevented if people had been able to get the bed moves they requested. Sometimes when an individual is denied a bed move, they resort to using a PREA report to speed up the relocation process to move to a safer environment. PREA has also been used against a sexual or intimate partner to gain control of that person's living arrangement. They expressed a need for a better, more efficient bed move policy to avoid this misuse of PREA (which ultimately harms survivors when PREA is not taken seriously).

Training for officers: Staff have repeatedly shown behavior that lacks self-control and abuse of power. Town hall participants expressed a lot of skepticism about existing CDCR staff training and the need for new training. To shift the culture in prison, staff should be mandated to complete trauma-informed training led by system-impacted survivors of violence and sexual abuse. The goal should be to educate staff and bridge the gap between both staff and incarcerated individuals. Staff should be urged to take mental health days and seek the support they need to maintain a healthy environment. Incarcerated individuals also noted that often, staff are recruited fresh out of school without acclimation to the world as an adult or having developed a mature emotional response. Several suggested that staff should be required to pursue higher education before becoming CDCR staff.

Lack of services for incarcerated folks: The population has expressed the need for peer-led programming. Peer grief counselors and rape crisis counselors/advocates could help to educate others and help individuals navigate sensitive situations. They could also aid in the advocacy and education of incarcerated people as a whole.

Many also expressed the need for better support services after reporting harm from either staff or a fellow incarcerated person. Incarcerated people should receive the same response to reporting as people who report assault outside of prison: Sexual Assault Response Team (SART) response, counseling, advocacy, and support.

Many also recommended that, upon entering the institution, there should be better screening of incarcerated people for PTSD, mental health issues, and histories of sexual or domestic violence; this could improve the mental health care for each individual.

The population expressed they don't know or fully understand their rights related to reporting. They wanted better education, posted information, and access to advocates to ensure that individuals understand their rights.

They also want to see an improvement in investigations after reporting sexual abuse, including a review of camera footage and a thorough investigation for staff as well as accused incarcerated people.

Compassionate release for survivors: The overwhelming feedback on how to protect survivors who have been abused by officers is to create pathways for their release. Participants named the numerous current pathways through which individuals could be released, including resentencing, parole, and commutation. They expressed that removal from the traumatizing environment where they experience sexual violence by CDCR staff is the best way to protect them from further abuse and retaliation.

5.

Racism and anti-blackness: These CDCR institutions have an underrepresentation of Black staff and an overrepresentation of Black incarcerated individuals. The Black incarcerated population is also being disproportionately targeted with violence from staff.

“The context of the prison environment, the factors that bring women and trans people into prison, and the broader impacts of patriarchal society are all significant factors in the prevalence of staff sexual assault. To end sexual assault and abuse in prisons, we must address all of these.”

6.

Technical References and Glossary

CDCR Offices/Units

BOARD OF PAROLE HEARINGS (BPH)

The Board of Parole Hearings conducts parole suitability hearings and nonviolent offender parole reviews for incarcerated adults under the jurisdiction of the California Department of Corrections and Rehabilitation.

FEMALE OFFENDERS PROGRAMS AND SERVICES (FOPS)

FOPS is tasked with providing safe and secure housing for “female offenders” with opportunities such as vocational and academic programs, substance abuse treatment, self-help programs, Career Technical Education, pre-release guidance, and community betterment projects. CDCR established the office of FOPS/Special Housing (FOPS/SH) in July 2005, within the Division of Adult Institutions. This office manages and provides oversight to all female programs, fire camps, and community programs.

HIRING AUTHORITY

The Undersecretary, General Counsel, Chief Information Officer, any Assistant Secretary, Executive Officer, Chief Deputy Secretary, Director, Deputy Director, Associate Director, Warden, Parole Administrator, Superintendent, Superintendent of Education, Assistant Superintendent of Education, Health Care Manager, Regional Healthcare Administrator, or any other person authorized by the appointing power to hire, discipline, and dismiss staff under his/her signature authority. The Administrator at the Richard A. McGee Correctional Training Center shall serve as the Hiring Authority for Correctional Officer Cadets.

INVESTIGATIVE SERVICES UNIT (ISU)

A unit of trained investigators at local facilities who are mandated to respond to a variety of reports and incidents including misconduct and use of force by staff and rules violations by incarcerated people. They have also historically participated in the initial response to reports of staff sexual misconduct, including in escorting the victim to interviews

Example tasks:

- › Upon notification of potential criminalized or improper activity in a particular location may review information obtained from the Audio-Visual Surveillance System in conjunction with its review of such activity
- › Conducting investigative operations in emergency and non-emergency situations
- › For incidents occurring in an institutional setting, involving the use of deadly force and any use of force resulting in death or GBI, the ISU shall take preliminary charge of the investigation.
- › If upon arrival the incarcerated person refuses to list a next of kin and death, serious injury, or serious illness occurs Investigative Services Unit (ISU) staff is assigned to help locate contact information.
- › Conduct urinalysis tests
- › Contraband Surveillance Watch tracking
- › Direct supervision of Canine Units rests with the Investigative Services Unit (ISU) Lieutenant at the institution housing that canine team, and is responsible for daily Fair Labor Standards Act and staff accountability
- › The storage and retrieval of criminal intelligence file information in the Critical Case Management System

6.

- › Sexual violence or staff sexual misconduct allegation monitoring for at least 90 days following a report
- › Handling of evidence

LOCALLY-DESIGNATED INVESTIGATOR (LDI)

LDIs shall be responsible for the following:

- › Conducting investigations, as assigned by OIA regional offices, in a manner that provides a complete and thorough presentation of all facts regarding the allegation or complaint;
- › Maintaining integrity and the confidentiality of the investigative process, unless prior approval to discuss a case with the Hiring Authority is obtained through the SAC;
- › Cooperating with and providing continual real-time consultation among OIA, the Vertical Advocate for designated cases, and the BIR for cases the BIR is monitoring;
- › Identifying issues related to allegations of employee misconduct and assisting the Hiring Authority, Vertical Advocate for designated cases, and the SAIG for cases monitored by the BIR;
- › Updating case activity in CMS.

OFFICE OF INTERNAL AFFAIRS (OIA)

The OIA is responsible for determining which allegations of staff misconduct warrant an Internal Affairs investigation and for completing all investigations in a timely and thorough manner. This office consists of:

- › **Allegation Investigation Unit (AIU)** - The unit within the OIA that conducts investigations into complaints alleging misconduct toward inmates and parolees as set forth in Title 15, section 3486.2, and reviews Allegation Inquiry Reports completed by LDIs. (CDCR DOM)
- › **Centralized Screening Team (CST)** - The entity within OIA that reviews complaints to determine if the documentation contains a routine issue,

alleges staff misconduct toward an inmate or parolee, or alleges staff misconduct not toward an inmate or parolee. (CDCR DOM)

- › **Employment Advocacy and Prosecution Team (EAPT)** - The team in the Department's OIA responsible for the operation of the Vertical Advocacy Program, a system that is supposed to ensure legal representation for the Department during the investigative and employee disciplinary process to hold staff accountable for misconduct by way of thorough and complete internal investigations, principled decision-making, assessment of the investigations, and consistent and appropriate discipline. Vertical Advocates are EAPT attorneys assigned to one or more specific Hiring Authority locations to consult with investigators and Hiring Authorities concerning investigative findings, disciplinary decisions, and to prosecute designated cases.

OFFICE OF THE INSPECTOR GENERAL (OIG)

- › OIG is mandated to provide oversight and transparency through monitoring, reporting, and recommending improvements to the California Department of Corrections and Rehabilitation.
- › California Penal Code section 6125 establishes the Office of the Inspector General as an independent governmental entity and provides for the Inspector General to be appointed by the Governor, subject to Senate confirmation. Penal Code section 6126 assigns the Inspector General responsibility for reviewing departmental policy, practices, and procedures when requested by the Governor, Secretary of the California Department of Corrections and Rehabilitation, or by a member of the Legislature. Penal Code section 6126.5 provides the Inspector General with access to and authority to examine records of the entities under the Inspector General's jurisdiction. Penal Code section 6128, subdivision (b) requires the Inspector General to establish a toll-free public telephone number

6.

for the purpose of identifying any alleged wrongdoing by an employee of the California Department of Corrections and Rehabilitation.

PREA STAFF ROLES

- › **PREA Compliance Manager (PCM):** Institutional employee with sufficient time and authority to coordinate the institution's efforts to comply with the CDCR Prison Rape Elimination Policy
- › **PREA Coordinator:** Agency-wide Coordinator with sufficient time and authority to develop, implement, and oversee agency efforts to comply with the PREA standards in all institutions

CDCR Housing Units

GENERAL POPULATION (GP)

The common body of inmates not assigned to a restricted or specialized housing unit.

ENHANCED OUTPATIENT PROGRAM (EOP)

The Enhanced Outpatient Program (EOP) is considered CDCR's highest level of outpatient mental health care. EOP is for people who are deemed acutely ill or decompensating with a serious mental disorder and/or are unable to function or care for themselves in a regular general population or segregation setting. As of June 2018, there were approximately 7,300 EOP patients in the CDCR. ([Prison Law Handbook](#))

RESTRICTIVE HOUSING UNIT (RHU)

- › Formerly known as Administrative-Segregation Unit (Ad-Seg)
- › A person may be placed in an Restrictive Housing Unit (RHU) if their presence in the general population is deemed to present a threat to their own safety or the safety of others, endangers institution security, or jeopardizes the integrity of an investigation into alleged serious misconduct, criminalized activity, or safety

concerns. Although administrative segregation is meant to be a temporary placement and should be for as little time as possible, people can end up spending months or more in a Restrictive Housing Unit before they are either returned to the general population, transferred to another facility, or placed in long-term segregation.

([Prison Law Handbook, 2019](#))

- › Types of Restrictive Housing include:

- **Secure Housing Unit (SHU):**

- When a person in prison is found guilty of some types of serious rule violations, the ICC can impose a determinate term in segregation ("a SHU term") as part of the punishment if the person poses a threat to safety and security. The CDCR's SHU Term Assessment Chart lists the types of rule violations for which SHU terms may be imposed and the range of terms (low, expected, and high) for each type of violation. If a SHU term is imposed, the person will receive the expected mid-range SHU term unless mitigating or aggravating factors tip the balance in favor of a lower or higher term. ([Prison Law Handbook, 2019](#))

- **Psychiatric Services Unit (PSU)**

- Psychiatric Services Units (PSUs) house people who are considered to need placement in SHU-level housing, but need mental health treatment at the Enhanced Outpatient (EOP) level of services or accommodations for a developmental disability at the DD3 level. These units were created partly as a result of a court decision finding that placing people who are labeled as mentally ill or developmentally disabled in the restrictive environment of the Pelican Bay State Prison SHU was unconstitutional cruel and unusual punishment. PSUs are segregation units similar to SHUs or administrative

segregation housing, but they are supposed to provide additional activities and mental health treatment. CDCR currently operates PSUs at California State Prison–Sacramento (SAC), and California Institution for Women (CIW). (**Prison Law Handbook, 2019**)

- **Psychiatric Inpatient Program (PIP)**

- If a person is deemed as needing inpatient mental health care at an “intermediate” or “acute” level, CDCR should place them in either a CDCR-operated Psychiatric Inpatient Program (PIP) or a Department of State Hospitals (DSH) mental health facility. Both placements restrict programming, access to visits, etc. As of June 2018, there are approximately 1,200 people in PIPs and DSH facilities. CDCR operates Psychiatric Inpatient Programs (PIPs) at Salinas Valley State Prison (SVSP), California Health Care Facility (CHCF), California Medical Facility (CMF), California Institution for Women (CIW), and San Quentin State Prison (SQ). Some of these PIPs were previously operated by the Department of State Hospitals (DSH). (**Prison Law Handbook**)

SKILLED NURSING FACILITY (SNF)

A housing unit that has Specialized Medical Beds, where people can receive more intensive medical care (**Prison Law Handbook**)

CORRECTIONAL TREATMENT CENTERS (CTC)

Another housing unit that has Specialized Medical Beds, where people can receive more intensive medical care (**Prison Law Handbook**)

MENTAL HEALTH CRISIS BEDS (MHCB)

People deemed to require 24-hour nursing due to impairment in most areas of functioning and/or being dangerous to themselves or others are

placed in Mental Health Crisis Beds (MHCBs). Crisis beds should be provided in a CDCR Correctional Treatment Center (CTC), or Skilled Nursing Facility (SNF). If an MHCB is not available at the prison where the person is housed, CDCR is required to transfer them to an MHCB within 24 hours. The person should be monitored daily by their treating psychiatrist or psychologist. Crisis beds are segregated and people are deprived of property and restricted from programming, visiting, etc. Any person who is deemed to need crisis bed placement beyond 10 days should be transferred to in-patient care in a CDCR or DSH facility, unless a Chief Psychiatrist (or a clinician designated by the Chief Psychiatrist) grants an exception to authorize a longer stay. A person who is released from a MHCB back to general population or an EOP should be seen once a day by mental health staff for the first five days after release. (**Prison Law Handbook**)

OUTPATIENT HOUSING UNIT (OHU OR OPHU)

A housing unit that has Specialized Medical Beds, where people can receive more intensive medical care. (**Prison Law Handbook**)

Laws/Policies

DEPARTMENT OPERATIONS MANUAL (CDCR DOM)

A statewide operations manual that applies to all CDCR facilities and offices. Local DOMs exist for individual facilities and must comply with the statewide DOM.

PROTECTION AGAINST RETALIATION (PAR) MONITORING

For at least 90 days following a report of sexual violence or staff sexual misconduct, the institutional PCM shall monitor the conduct and treatment of inmates or employees who reported the sexual violence or staff sexual misconduct and of the victim to ensure there are no changes that may suggest retaliation. The PCM may delegate these

6.

monitoring functions to staff assigned to the Investigative Services Unit or to a supervisory staff member. If the reported conduct is sexual harassment, when a volunteer or independent contractor made the report of sexual violence, staff sexual misconduct, or sexual harassment, or if any person fears retaliation for cooperating with an investigation. The assigned supervisor shall notify the institutional PCM of any such changes. The PCM shall act promptly (in accordance with DOM Article 14, Section 31140.22) to remedy any such retaliation and ensure a CDCR Form 2304 or 2305, Protection Against Retaliation, is initiated. Items to be monitored on the CDCR Form 2304 or 2305 include periodic inmate status checks, inmate disciplinary reports, housing or program changes, or negative performance reviews or reassignments of staff. The monitoring shall continue beyond 90 days if the initial monitoring indicates a continuing need. The PCM shall ensure all Protection Against Retaliation forms are maintained as required in the Records Retention Schedule. The obligation to monitor shall terminate if the investigation determines that the allegation is unfounded or proven false.³⁶

THE PRISON RAPE ELIMINATION ACT (PREA)

- › The Prison Rape Elimination Act (PREA) was enacted in 2003, requiring the states to comply with provisions and regulations to prevent sexual assault in the prison system, both prisoner on prisoner assault, and prison staff on prisoner assault.³⁷ A key feature of the Act was educating and training correctional staff on responding to sexual assaults and requiring partnerships between correctional facilities and outside advocates. Federal funding was provided to the states which complied with the Act's requirements. PREA was a response to the 2001 publication of a Human Rights Watch review of sexual assault in male prisons.³⁸
- › All the covered correctional facilities have adopted a zero tolerance standard of sexual abuse and harassment. (Standard §115.11.)

Similarly, all facilities must comply with standards for prevention planning, contracting, terms for staffing, video monitoring, policy planning, and limits to cross-gender viewing and searches. (Standards §§ 115.12-115.15.) All must adhere to standards for third party and victim reporting. (Standard §§ 115.51, 115.54.) Additionally, special terms for housing, placement and segregation are required for youth placed in lockup facilities, prisons and jails. (Standard § 115.14.)

- › All facilities have evidence protocols that apply to forensic exams, policies to ensure referral of abuse allegations, for criminal and administrative investigations, training and education of employees, staff, volunteers and contractors, and training for specialized investigations. (Standards §§ 115.21, 115.22, 115.31, 115.32, 115.34.) All require screening for risk of victimization, including considering risk for LGBTI and transgender prisoners. (Standard § 115.41.) Medical and mental health screening for history of sexual assault is required in prisons. (Standard § 115.81.)
- › Victim Support Person: Any person of the alleged victim's choosing which could include another offender, personal friend, or family member including registered domestic partner. Victims have the right to a Victim Advocate and Victim Support Person for both forensic medical examination (where evidentiary or medically appropriate) and for the investigatory interview. (Standard §115.21)

RIGHT TO CONFIDENTIAL SUPPORT SERVICES

Prisons are required to provide victims who file PREA reports with access to outside victim advocates for emotional support services and shall enable reasonable communications in as confidential a manner as possible. (PREA Standard § 115.53)

TITLE 15

Title 15 is the section of the California Code of Regulations, titled “Crime Prevention and Correction” that governs adult prison and parole operations and regulates various aspects of CDCR.

“A copy of the rules and regulations prescribing the duties and obligations of prisoners shall be furnished to each prisoner in a state prison or other facility under the jurisdiction of the Department of Corrections.” (CDCR DOM, pg 19)

Other Important Terms/Roles

ALLEGATION DECISION INDEX (ADI)

The list of criteria used by the AIU CST (see above) to determine whether an allegation of staff misconduct should be referred to the AIU for investigation, or to the Hiring Authority for an allegation inquiry. (CDCR DOM)

BROWN CARD

Volunteers and Program Providers may obtain an unescorted gate clearance and Volunteer Identification Card (brown card) upon approval and regular service to the inmate population. The Warden or designee will determine the Volunteer Identification Card Status.

CA MODEL

- › See the **CDCR website**
- › As **announced** by Governor Newsom in 2023: “California is transforming San Quentin – the state’s most notorious prison with a dark past – into the nation’s most innovative rehabilitation facility focused on building a brighter and safer future. [...] Today, we take the next step in our pursuit of true rehabilitation, justice, and safer communities through this evidenced-backed investment, creating a new model for safety and

justice – the California Model – that will lead the nation.”

CCCMS (TRIPLE-CMS) CLASSIFICATION

The Correctional Clinical Case Management System (Triple-CMS) is CDCR’s lowest level of mental health care and is the level of care provided to most people with mental health conditions. People in the Triple-CMS program are deemed able to function in a general population and have symptoms that are controlled or partially in remission due to treatment. As of June 2018, there were approximately 28,700 CCCMS patients in CDCR. CCCMS consists of outpatient services, generally provided in a regular general population setting. CCCMS care is provided at all prisons except California Conservation Center (CCC), Calipatria State Prison (CAL), Centinela State Prison (CEN), Chuckawalla Valley State Prison (CVSP), and Ironwood State Prison (ISP). (**Prison Law Handbook**)

INSTITUTION ADVISORY COUNSEL (IAC)

- › Formerly known as “Inmate Advisory Council”
- › Incarcerated individuals employed by CDCR to advocate for the incarcerated people living in the facility and facilitate communication between them and the administration.

INVESTIGATION ASSIGNMENT INDEX (IAI)

The index used by an AIU manager to decide the level of AIU investigator to be assigned to conduct an investigation (CDCR DOM)

RAPE CRISIS CENTERS (RCCS)

Victim Advocates, also referred to as a “Sexual Assault Victim Counselor,” refers to someone who works/volunteers at an office, hospital, institution or center that qualifies as a Rape Crisis Center (RCC) and meets certain professional or training qualifications.³⁹ Thus, a Sexual Assault Victim Counselor is required under California law to keep the confidentiality of disclosures by a victim

6.

and even the identity of the victim must remain confidential, absent a court order compelling disclosure. (Cal. Evid. Code, § 1035.8.)

RULE VIOLATION REPORT (RVRs)

If the misbehavior [of an incarcerated person] appears to be a violation of law or is not deemed to be minor, it will be documented on a Rules Violation Report (RVR); the RVR will state the type of rule violation, the basic information about what happened, and the name of the staff person who is reporting the misconduct.⁴ The charge will be classified as “administrative” or “serious,” depending on the degree of misbehavior.⁵ (**Prison Law Handbook**)

STC-CERTIFIED (STANDARDS AND TRAINING FOR CORRECTIONS)

Core training consisting of entry-level or basic training for newly appointed entry-level, supervisory, and management corrections staff employed in local jails and probation departments. Training shall be completed within the first year of job assignment (**BSCC**).

STRATEGIC OFFENDER MANAGEMENT SYSTEM (SOMS):

An electronic data management system that holds information files for each incarcerated person in CDCR. It makes up half of an incarcerated person’s Central File alongside ERMS (Electronic Records Management System, paper records digitally scanned). (**CDCR Enterprise Information Services**)

602s

602s are the standard forms for submitting most types of administrative grievances and appeals. They can be used to challenge any action or decision taken by CDCR staff. Special rules exist for grievances concerning staff misconduct and sexual assault (i.e. there is no time limit for filing a grievance about staff sexual abuse or sexual abuse by another incarcerated person) and special forms

exist for submitting complaints concerning health care staff. (**Prison Law Handbook**)

7219 EXAM

When it is reported that a patient is the alleged victim of sexual abuse, California Department of Corrections and Rehabilitation (CDCR) and CCHCS staff shall immediately report the allegation to the local watch commander and Investigative Services Unit (ISU) for investigation. (CDCR Health Care Department Operations Manual)

For incidents reported within 72 hours of the event, Licensed Health Care Staff shall:

- a. Assess and identify any urgent/emergent injuries sustained by the alleged victim and alleged abuser(s).
- b. Provide necessary and immediate emergency medical care to the alleged victim and alleged abuser(s).
- c. Document any injuries sustained by the alleged victim and alleged abuser(s) on a CDCR 7219, Medical Report of Injury or Unusual Occurrence, in addition to documenting the assessment and care provided in the health record.
- d. Provide a copy of the CDCR 7219 to custody staff.
- e. Ensure the alleged victim and alleged abuser(s) do not shower, remove clothing, use restroom facilities, or consume any liquids prior to providing emergency treatment.
- f. To the extent possible, maintain physical separation (visual and auditory) between the alleged victim and alleged abuser(s).
- g. Notify the alleged victim of health care staff’s duty to report all allegations of sexual abuse, and sexual harassment and the limitations of confidentiality at the initiation of services.
- h. Notify the Watch Commander of the incident.
- i. Notify the ISU staff of the incident. The ISU shall collect any clothing and relevant evidentiary

6.

materials that are discarded in the course of providing emergency treatment.

References

- › **2023 CDCR Operations Manual (DOM)**
- › **PREA standards**
- › **Title 15 regulations**
- › **The California Prison and Parole Law Handbook**

Endnotes

1. Flesher, F., Note, *Current Developments In Gender and The Workplace: Note: Cross-Gender Supervision in Prisons and the Constitutional Right of Prisoners To Remain Free From Rape*, 13 Wm. & Mary J. of Women & L. 841, 844 (Spring 2007). These figures are not necessarily inclusive of transgender women and men, intersex people and gender non-binary people, but instead depend on gender as classified by prison systems. Typically, prisons classify people in women's prison as women and people in men's prisons as men, which is inaccurate.
2. Swavola, E., Riley, K., and Subramanian, R. "Overlooked: Women and Jails in an Era of Reform", Vera Institute of Justice, page 11. <https://www.vera.org/downloads/publications/overlooked-women-and-jails-report-updated.pdf>
3. Beck, Allen, et al, *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12*, Bureau of Justice Statistics (May 2013) <https://bjs.ojp.gov/library/publications/sexual-victimization-prisons-and-jails-reported-inmates-2011-12-update>
4. At CCWF, a former officer is facing 96 criminal charges of abuse for sexually assaulting more than 22 women. *People v. Rodriguez*, Case No. MCR077701 (Madera Cty Sup Ct). At CIW, sexual misconduct by staff has been rampant and unchecked. (*Aldrich v. Sanches*, et al., Case No. 2:21-cv-02864 (C.D.Cal.); *Aldrich v. Romo*, et al., Case No. 5:20-cv-00974 (C.D.Cal.); *Ramos v. Swatzell*, et al., Case No. 5:12-cv-01089 (C.D.Cal.).
5. Mariner, Joanne. "No Escape: Male Rape in U.S. Prisons", Human Rights Watch (2001). <https://www.hrw.org/reports/2001/prison/report.html>
6. Condon, J., *#MeToo In Prison*, 98 Wash. L. Rev. 363, 396 (2023).
7. www.oig.ca.gov/about-us/, accessed January 31, 2024.
8. "OIG Fact Sheet", <https://www.oig.ca.gov/wp-content/uploads/2022/11/OIG%20Fact%20Sheet.pdf>, accessed January 31, 2024.
9. See. e.g., *Caruso v. Hill*, Case No. 1:20-cv-00084 (E.D.Cal.) (CDCR settled case for retaliatory transfer to CCWF and AdSeg confinement for 1½ years).
10. *Caruso v. Solorio et al.*, Case No. 2019 U.S. Dist. LEXIS 70202 at *4-11 (E.D.Cal. Apr. 24, 2019) (prisoner rights attorney improperly accused by CIW of bringing contraband to client in prison).
11. "Your Abuser Has the Key to Your Cell: Systemic Sexual Violence in California Prisons", August 2023. <https://docs.google.com/document/d/1mFmNMVLLpfXr4nQKnWQizQzJYTsMewh9-u-6T69b7Ds>
12. Recording available at <https://www.youtube.com/watch?v=PLTpTYCHQiY>
13. "Sexual assault and harassment in CA's women's prisons - briefing with the CA Women's Caucus", California Senate Democrats. Timestamp = 56:57. <https://www.youtube.com/watch?v=PLTpTYCHQiY>
14. Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization – National Intimate Partner and Sexual Violence Survey", Center for Disease Control and Prevention (2011). <https://www.cdc.gov/mmwr/pdf/ss/ss6308.pdf>, accessed February 6, 2024.
15. Vera Institute of Justice, "Overlooked: Women and Jails in an Era of Reform". August 2016. <https://www.vera.org/downloads/publications/overlooked-women-and-jails-fact-sheet.pdf>
16. https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2021/11/201912_DataPoints.pdf
17. Based on 2022 population estimates from the US Census, <https://www.census.gov/quickfacts/fact/dashboard/CA>
18. Jaime M. Grant et al., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, Washington: National Center for Transgender Equality, 163 (2011).
19. Sandy E. James et al., Nat'l Ctr. for Transgender Equality, *The Report of the 2015 Transgender Survey 73* (2016), supra note vi, at 192-193.
20. James et al., supra note vi, at 191.
21. "Sexual Victimization in Prisons and Jails Reported by Inmates, 2011-12", US Department of Justice (2014). https://bjs.ojp.gov/content/pub/pdf/svpjri1112_st.pdf

Endnotes (Continued)

22. Title 15 § 3401.5; DOM § 33070.7
23. Office of the Inspector General, “The Department Violated Its Regulations by Redirecting Backlogged Allegations of Staff Misconduct to Be Processed as Routine Grievances”, January 29, 2024, pg 4. <https://www.oig.ca.gov/wp-content/uploads/2024/01/OIG-Special-Review-No-SR-23-01.pdf>
24. PREA Audit for CIW, 2019 (published January 2020) & PREA Audit for CCWF, 2019. <https://www.cdcr.ca.gov/prea/archived-prea-final-reports-2/>
25. See, e.g. *Aldrich v. Sanches*, Case No. 21-cv-02864 (C.D.Cal.).
26. <https://lao.ca.gov/reports/2023/4686/CDCR-Budget-021623.pdf>, accessed February 7, 2024.
27. Memo: Positive Programming Credits”, CDCR, July 9 2020. <https://www.cdcr.ca.gov/covid19/memo-positive-programming-credits/>
28. 2023 CDCR Operations Manual, <https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2023/05/2023-DOM.pdf>, pg 230-1
29. There are existing efforts by CDCR to recruit more women as correctional officers. See: <https://www.cdcr.ca.gov/insidecdcr/2023/10/05/cdcr-launches-women-recruitment-initiative/>
30. *Aldrich v. Sanches*, Case No. 21-cv-02864 (C.D.Cal.) (deposition of Capt. J. Spinney).
31. PREA Standard 115.15(a) (cross-gender strip searches shall not be conducted except in exigent circumstances or when performed by medical practitioners).
32. PREA Standard 115.15(c) (requiring documentation of all cross-gender pat-down and strip searches).
33. PREA Standard 115.15 (including protections for strip searches and pat-down searches).
34. CCWF Operational Procedure B-036: Body-Worn Camera Technology, VIII.C. January 2023.; CIW Operational Procedure 944: Body-Worn Camera Technology, Requirements: C. January 2023, pg 3.
35. CCWF Operational Procedure B-036: Body-Worn Camera Technology, VII.B.11. January 2023.; CIW Operational Procedure 944: Body-Worn Camera Technology, Procedure: B.12. January 2023, pg 2.
36. DOM § 54040.13; see also, PREA Standard § 115.67(c).
37. 34 U.S.C. § 30301-3039.
38. Mariner, Joanne. “No Escape: Male Rape in U.S. Prisons”, Human Rights Watch (2001). <https://www.hrw.org/reports/2001/prison/report.html>
39. Penal Code section 13837 states that a person qualifies as a “Sexual Assault Victim Counselor” if he or she is working in or with a Rape Crisis Center and is a psychotherapist, or has a master’s degree in counseling or a related field, or has one year of counseling experience or at least six months of which is in rape crisis counseling, or has had 40 hours of rape crisis training and is supervised by one who qualifies as a counselor under the statute. (See Evid. Code, § 1035.2.)

