

# California

WOMEN IN PRISON: 10,573 (06/05)<sup>1</sup>

## Custodial Sexual Misconduct

### *Custodial Sexual Misconduct – Statute*

**Penal § 289.6<sup>i</sup>** – *Employee or officer of detention facility; engaging in sexual activity with consenting adult confined in detention facility<sup>ii</sup>*;

**Penal § 288a** – *Oral Copulation<sup>iii</sup>*

California’s law is part of the sexual offenses listed in the Penal Code. In California’s Penal Code under the heading of Oral Copulation, there is a specific penalty assessed to inmates.

**Penal § 286** – *Sodomy<sup>iv</sup>*

California’s law is part of the sexual offenses listed in the Penal Code. In California’s Penal Code under the heading of Sodomy, there is a specific penalty assessed to inmates.

**Penal § 2635-2643** – *Sexual Abuse in Detention*

The newly enacted law requires the relevant correctional agency to adopt specific policies and practices regarding: distribution of informational handbooks regarding sexual abuse, tracking of sexual abuse incidents, the creation of a sexual abuse in detention ombudsperson office, the physical and mental health care of inmate victims of sexual abused, and investigations of sexual abuse, and other issues.

Does the law impose a criminal penalty on the inmate?	Yes	In the specific cases of “oral copulation” and sodomy, inmates would be criminally culpable. <sup>v</sup>
Does the statute cover all relevant forms of sexual abuse?	Yes	The law was amended in 1999 to include all forms of sexual contact.
Does the law allow an officer to claim an inmate consented to the sexual act(s) to avoid prosecution?	No	The law states the consent of an inmate is implied in the charge and cannot be used as a defense. A nonconsensual act would be charged under the criminal sexual abuse chapter.
Does the statute cover all custodians and staff in contact with inmates?	Yes	The law specifies that state, local, as well as private contractors are prohibited from engaging in custodial sexual misconduct.
Does the statute cover all places where an inmate might be abused?	No	The law specifies all locations, including a room that is used for interviews or interrogation, a vehicle used for transport and a court holding facility. However, it does not apply to those on parole, probation or other supervised release.
Is the penalty a felony?	No	No, the penalty is a misdemeanor. A second conviction of this offense would be a felony.

### *Custodial Sexual Misconduct – Allegations and Incidents*

<sup>i</sup> §289.6 was amended by the 2000 enactment of SB 1955, which changed the definition of sexual penetration to reference the specific section of the criminal code concerned with sexual penetration.

<sup>ii</sup> The text of California’s statute is reprinted at the end of this section.

<sup>iii</sup> The relevant text from this portion of the California Penal Code is reprinted at the end of this section.

<sup>iv</sup> The relevant text from this portion of the California Penal Code is reprinted at the end of this section.

<sup>v</sup> The California DOC states that it does not refer confirmed victims of forcible or coerced acts for prosecution under subsection (e). ( Source: Letter from California Department of Corrections, Office of Investigative Services, Thomas Moore, Assistant Director, 7/15/02) Nevertheless, Amnesty International considers correction of this problem to be of paramount importance. The retaliation against inmates who report being victims of custodial sexual misconduct has been reported by AI as well as Human Rights Watch and the US Federal Government. The imposition of criminal liability against an inmate for sexual conduct with a custodian creates an official avenue for such retaliation.

<p>Indictments/Convictions (answer to AI letter requesting information) <sup>2</sup></p>	<p>The California Attorney General’s Office does not keep statistics on prosecutions. Convictions:</p> <ul style="list-style-type: none"> <li>1 arrest and one conviction for 289.6 Pen. Code in 2000;<sup>3</sup></li> <li>1 arrest and one conviction for 289.6 Pen. Code in 1999;<sup>4</sup></li> <li>1 conviction for misdemeanor 289.6 Pen. Code in 1998;<sup>5</sup></li> <li>1 conviction for felony 289.6 Pen. Code in 1997.<sup>6</sup></li> </ul> <p>In 2002, the California Department of Corrections reported that the CDC-OIS identified 61 cases with at least one allegation related to staff sexual misconduct:<sup>7</sup></p> <ul style="list-style-type: none"> <li>23 resulted in district attorney referrals or sustained administrative violations;</li> <li>16 not sustained;</li> <li>22 unfounded, exonerated or closed.</li> </ul> <p>In 2005, The California Department of Justice Criminal Justice Statistics Center reported the following information:<sup>8</sup></p> <p>In 2002:<sup>vi</sup></p> <ul style="list-style-type: none"> <li>1 arrest for felony 289.6 (a) Pen. Code;</li> <li>1 arrest for felony 289.6 (a)(2) Pen. Code;</li> <li>1 arrest for felony 288a(e) Pen. Code;</li> <li>2 arrests for felony 288a(k) Pen. Code;</li> <li>4 arrests for felony 286(e) Pen. Code.</li> </ul> <p>In 2003:</p> <ul style="list-style-type: none"> <li>1 arrest and one conviction for felony 289.6(a) Pen. Code;</li> <li>1 conviction for misdemeanor 289.6(a) Pen. Code;</li> <li>3 arrests and no convictions for felony 288(a(e) Pen. Code;</li> <li>3 arrests and 3 convictions for felony 286(e) Pen. Code;</li> <li>1 conviction for felony 286(k) Pen. Code.</li> </ul>
<p>Incidents reported in select media since January 2000</p>	<ul style="list-style-type: none"> <li>- Orange County: A supervisor in a community work program was arrested and accused of having sex with four female inmates. He faces three felony counts of having sex with an inmate and four misdemeanor counts of sexual battery. Sherriff’s officials learned of the allegations when one woman complained in December 2005, and tracked down three additional alleged victims. (LA Times, 01/27/06)</li> <li>- Indio Jail: Two Riverside County corrections deputies face charges of sexual misconduct. The alleged violations took place in December, 2003 with nine victims, all female, making comp laints. (<i>KESQ NewsChannel 3, 2/9/05</i>)</li> <li>- Tehama County Jail: A former inmate who accused a correctional officer of forcing her into sexual acts filed a federal lawsuit against the former officer, the sheriff and the county. The suit, filed Feb. 12 in Eastern District Court in Sacramento, claims that between November 2003 and May 2004 Officer Pattison “frequently fondled and penetrated” the woman while she was locked in her cell and on occasion in the jail’s library. The suit also claims that Pattison committed sexual acts with other inmates as well and that the sheriff knew of prior claims of sexual abuse. (<i>MediaNews Group, 2/23/05</i>).</li> </ul>

<sup>vi</sup> Conviction counts are not available for 2002 due to procedural changes that allowed a large percentage of convictions to be incorrectly recorded as “all other offenses”

- Los Angeles County: A sheriff's deputy was indicted on federal civil rights violations alleging he used his authority for forcing 3 women in his custody to have sex with him and to fondle a fourth woman. (*Daily News of Los Angeles*, 8/26/04, *Press-Enterprise*, 9/7/04).
  - California Institution for Women: Lieutenant Jasper Ayala, who has worked as a prison guard for 21 years, faced charges for allegedly coercing a female inmate to perform a sex act on him. The victim alleged that Ayala fondled, kissed and sexually harassed her for nearly a year, and that the harassment culminated when he pressured her to perform a sex act on him in a prison closet. The inmate claimed to have complied with Ayala's demands in order to obtain evidence, fearing retaliatory action by Ayala if she weren't believed. She retained physical evidence from the sex act, which she gave to a prison official the next day, and it was later determined to match Ayala's DNA. Ayala was placed on paid administrative leave after the allegations surfaced. In September 2002 he retired with full benefits before an internal investigation was completed. (*San Bernardino Sun*, 09/20/02) Reports indicate that another female inmate made a prior sexual assault complaint about Ayala. (*The Inland Valley Voice*, 10/26/02) He pleaded no contest to two felony charges in The West Valley Superior Court and was sentenced to 270 days in a San Bernardino County Jail facility.<sup>9</sup> He was to serve his sentence on weekends. (*San Bernardino Sun*, 07/29/05)
  - Kelly McAllister, a transgender woman, was ordered out of her parked truck on 16 August 2002 by deputies from the Sacramento County Sheriff's Department (SCSD). When she refused she was reportedly beaten, pepper-sprayed, hog-tied, dragged across the pavement face down and eventually put in a patrol car. She says her repeated requests to use a toilet were refused and, while she was still in the car, she defecated in her clothing. Kelly McAllister was charged with assaulting the police and taken to Sacramento County Main Jail. Sheriff's deputies, jail personnel and other inmates reportedly subjected her to humiliating and threatening treatment, including transphobic verbal abuse, such as calling her a "she-male". She says she was strip searched by male guards.
- Following a separate incident on 6 September she was returned to Sacramento County Main Jail for three days, during which time she was put in a bare, cold basement cell. When she complained, guards reportedly threatened to strip her naked and put her into a metal restraint chair. Kelly McAllister states that she suffered more transphobic verbal abuse. Later, guards put her in a cell with a male inmate, who was much taller, heavier and stronger than her. She alleges that the inmate repeatedly struck, choked, bit and then raped her. Hospital medical staff who treated her injuries confirmed that she had been sexually assaulted.
- Kelly McAllister filed a complaint about the rape, which the SCSD investigated. The accused inmate accepted a plea of "unlawful intercourse in jail" and was sentenced to three months' imprisonment. However, the SCSD did not investigate the alleged abuses by its own deputies and corrections officers. (*Amnesty International, California: Transgender woman ill-treated and raped in jai*, 9/22/05)
- Twin Towers Correctional Facility: A Los Angeles Superior Court jury found Meko Goodley guilty of one count of oral copulation with a female inmate in a correctional facility. (*AP*, 08/16/02) *See below for discussion of case*

- Valley State Prison for Women: Robert Bowman, a former doctor at the facility, was acquitted of felony charges of unlawful sexual penetration and of misdemeanor charges of sexual battery and indecent exposure. Bowman allegedly sexually assaulted two female prisoners during medical exams. Bowman still faces civil litigation over the alleged assaults. (*Fresno Bee*, 11/14/01)
- Valley State Prison for Women: A guard at the facility was charged with sexual misconduct for an incident that occurred outside the prison and involved a parolee. (*The Fresno Bee*, 06/28/01)
- Valley State Prison for Women: A correctional officer was convicted of having sex with an inmate in 1999. He faces a maximum of six months in county jail for the misdemeanor offense. (*The Fresno Bee*, 06/08/02)
- Valley State Prison for Women: Corrections officer Carlos Castro was charged with one count of rape under color of authority and two counts of sex with an inmate. (*The Fresno Bee*, 05/05/01)
- Howard Washington, a former corrections officer, was sentenced to three years of supervised probation for a misdemeanor count of engaging in a sexual act with a female inmate. Mark Hagan, another former officer, pleaded guilty to the same count in connection with the same inmate and was to be sentenced in June. The sentencing is the result of a three-year investigation by federal corrections officials. (*San Diego Union-Tribune*, 4/25/01)
- Valley State Prison for Women: Officer Willie Street was charged with felony counts of sexual penetration and misdemeanor counts of unlawful touching of a female inmate. Five incidents were recorded on surveillance tapes. Street contested the felony charges which were later dropped after he agreed not to contest the lesser misdemeanor counts and subsequent to the lawyers for both parties agreeing that the videotape evidence was not strong enough to support the felony allegations due to the angle of the camera. Street was sentenced to a 60-day jail sentence in March 2002, (*The Fresno Bee*, 02/17/01 and 03/09/02)
- Central California Women's Facility at Chowchilla: Sergeant Andre Davis was sentenced in October 2000 to seven years for sexually abusing a female prisoner. (*The Fresno Bee*, 01/30/01)
- Central California Women's Facility: Two allegations of misconduct by Chowchilla prison workers against female inmates are under investigation. One of the employees involved is a correctional officer, the other is a medical assistant. Four cases were filed for court action last year, three involving medical personnel. Ossie Shelton, a Central California Women's Facility staff nurse, was charged with felony rape and with misdemeanor for consensual sex with another inmate. Brandon Change, a medical technical assistant at Valley State Prison, was charged with a misdemeanor for fondling a female inmate during a physical examination. (*The Fresno Bee*, 01/30/01)
- Lerdo Jail: Former officer Brian Eddy was sentenced to 16 months in prison and five years probation for sexual assault of two inmates. (*AP*, 11/03/00)

- Clark County Detention Center: Officer Mark Bennish was accused of having sexual contact with two female inmates. He had been suspended earlier in the year and had had faced previous allegations. In May 2002 he was tried on three charges of voluntary sexual contact with a prisoner and was convicted of one. He was sentenced to 12-30 months in jail but was permitted by the Judge to remain out of custody on bail while his conviction was being appealed. In April 2005 his conviction was reversed by the Nevada Supreme Court on the grounds that three public defenders were permitted to testify during Bennish's trial which was prejudicial against him. It is unclear whether Bennish will be retried. (*Las Vegas Review, 10/21/00 and 04/22/05*)
- Clark County Detention Center: Former Officer Harts was sentenced to one year in prison for sexually assaulting a female inmate. (*Las Vegas Review, 10/21/00*)
- California Institution for Women: An inmate filed complaints with prison officials after reporting that she was raped by a prison officer at another facility. Her complaint is one of several that have launched a California DOC investigation into allegations of sexual misconduct by staff and officers at the state's four women's prisons. The investigation has found 79 cases of alleged wrongdoing at the California Institution for women. (*The Press-Enterprise (Riverside CA), 10/13/00*)
- Fairfield (Solano County): An employee of Gold Star Community Alliance Inc was charged with coercing female inmates into performing sexual acts in exchange for getting out of house arrest early. (*AP and Local Wire, 10/11/00*)
- Solano County Sheriff's Dept: Deputy Scott Dolan was fired for letting female inmates out of their electronic shackles in exchange for sex. (*The San Francisco Chronicle, 09/27/00*)
- Lancaster State Prison: Officer Tessier accused of raping a female inmate and sexually assaulting another. Charged with two counts of assault & battery and one count of rape. (*Telegram & Gazette, 07/29/00*)
- California Institution for Women in Chino: Two officers were accused of having sexual relations with female inmates. (*The Press Enterprise (Riverside, CA), 07/16/00*)
- Oxnard Parole Division: Parole agent Roger Webster was arrested and accused of sexually abusing a female parolee. Webster was released on bond and put on paid leave. (*Ventura County Star, 05/26/00*)
- Santa Clara County Jail: Santa Clara County agreed to pay \$1.03 million to settle a long-running lawsuit involving sexual abuse and alleged rape of 56 female prisoners by male corrections officers. The settlement brought the totally county cost to \$.18 million, including an earlier payment made in 1996. (*San Francisco Chronicle, 3/22/00*)
- California Institution for Women: A retired correctional officer and another officer on paid administrative leave were arraigned on one count each of the misdemeanor charge of engaging in sexual activity with a confined adult. (*The Press-Enterprise (Riverside CA), 02/25/00*)
- Northern California Women's Facility: Veteran state prison guard Dennis Leroy Armstrong was charged with having sex with female prisoners at the facility, and pleaded no contest to two misdemeanors. By entering a plea agreement he avoided the maximum penalty of one year in jail. He was sentenced to probation and 160 days of community service. (*Prison Legal News, 02/00*)

	<p><i>The People v. Sam Caldwell, 2005 Cal. App. Unpub. LEXIS 4048, May 6, 2005 filed</i></p> <p><i>Central California Women’s Facility in Chowchilla:</i> It was found that, while purportedly attempting to take the blood pressure of a female inmate, Sam Caldwell, a registered nurse working in the facility, unzipped his pants and pulled out his penis, which was covered by a condom. The inmate, Tara W. grabbed his penis, pulling off pieces of the condom, which she turned over to another prison staff member. The criminologist who conducted tests on the samples testified that sperm and public hair found in the condom were consistent with Caldwell’s DNA, and not with Tara W’s DNA.</p>
	<p><i>People v. Goodley, 2003 Cal. App. Unpub. LEXIS 7032, July 23, 2003 filed</i></p> <p><i>Los Angeles County Jail:</i> Meko Goodley, a custody assistant at the medical services building of the jail, was convicted of aiding and abetting an unlawful oral copulation by an inmate. It was found that, after escorting inmate Lisa W. to the visiting area and instructing her to sit in a corner, “Goodley said he ‘bet’ Lisa really wanted to see her mother and asked what she was ‘going to do for him’ and asked her to show him her breasts. Lisa lifted up her jail shirt and bra and Goodley touched her breasts one at a time Goodley then told Lisa he wanted her to orally copulate him. Lisa was frightened and looked around for a camera or another person to ‘save’ her, but saw nothing. Goodley sat on a ledge in the corner and forced his penis into Lisa’s mouth, holding her head in place until her ejaculated.”</p> <p>Based on section 288a, although Lisa W. was apparently not prosecuted, the case against Meko Goodley was tried on the theory that Lisa, while confined in jail, committed an act of oral copulation on Goodley, and that Goodley aided and abetted her commission of the act. In 2003 he was convicted of aiding and abetting an unlawful oral copulation by an inmate in a local detention facility and sentenced to state prison for a term of three years. He appealed the decision but the judgment was affirmed.</p> <p>Amnesty International considers that although Lisa W. was apparently not prosecuted, it is highly problematic that Goodley was tried for aiding and abetting, which, according to the appeals judge, entailed a jury finding that Lisa was an accomplice.</p>
	<p><u><i>General Accounting Office (June 1999)</i></u></p> <p>During calendar years 1995-1998, 117 allegations of custodial sexual misconduct were made, of which 22 were sustained. As a result, there were 12 staff resignations, four employment terminations, and six other types of administrative sanctions imposed. No criminal prosecutions reported.<sup>10</sup></p> <p>During calendar years 1995-1998, the California Department of Corrections was involved in two civil lawsuits related to staff sexual misconduct. One case settled when the DOC agreed to pay \$73,000 to end the lawsuit that alleged forced sexual intercourse (i.e. rape).<sup>11</sup></p> <p><u><i>Hearings at California Institution for Women – October 2000</i></u><sup>12</sup></p> <p><i>Human Rights Watch</i><sup>13</sup></p> <p>Human Rights Watch testified that they had documented accounts of ongoing sexual abuse. These accounts include:</p> <ul style="list-style-type: none"> <li>- An inmate in her late 20s, currently in the general population at Valley State Prison, related an incident that occurred while was serving time in the Secure Housing Unit (SHU). As she walked across the SHU, a guard groped her. She reported the incident, and she experienced retaliation in the</li> </ul>

	<p>form of her cell being “trashed.” The guard later was promoted.</p> <ul style="list-style-type: none"> <li>- An inmate in her late 30s witnessed harassment and abuse and experienced harassment while at Valley State Prison. There an officer verbally harassed her and sexually assaulted her. She reported the incident, suffered retaliation, tried to commit suicide, and then was transferred to another facility.</li> <li>- An inmate in her late 30s was recovering from a “gynecological condition” when she received an abusive pelvic exam from a male doctor at Valley State Prison. She experienced pain during the exam and asked the doctor to stop the examination, but he refused without explanation, stating “no one told you to come to prison.” She believed the doctor was sexually aroused during the exam, and she filed a complaint.</li> <li>- An inmate in her late 50s, at Valley State Prison, experienced sexual abuse by a male doctor during a routine breast exam. The doctor conducted the exam while the inmate sat upright, commented that she was in prison to be punished, and then squeezed her breasts so severely that she was left with bruises. Several days later, she attempted to have another doctor look at her bruises, and only after she agreed not to file a complaint did another doctor see her. The doctor who committed the abuse has since been dismissed.</li> </ul> <p><i>Dr. Nancy Stoller</i><sup>14</sup></p> <ul style="list-style-type: none"> <li>- Dr. Stoller, a medical sociologist from the University of California, testified that she authored a report for the California Policy Research Center that set forth 77 narrative accounts of individual cases. According to Dr Stoller, the number one complaint was that of harassment and 14 percent of all complaints were of sexual harassment.</li> </ul> <p><i>Sister Susan Stefan – Catholic Conference of Bishops</i><sup>15</sup></p> <ul style="list-style-type: none"> <li>- Sister Stefan testified that inmates related stories of sexual harassment and abuse at the hands of prison guards, including threats by one guard that he could influence parole hearings.</li> </ul> <p><i>Kathleen Hallbach – Former Inmate California Institution for Women(CIW)</i><sup>16</sup></p> <ul style="list-style-type: none"> <li>- Ms. Hallbach testified about sexual abuse she experienced at CIW in which the chaplain would masturbate while gazing at her and requiring her to sit near him while doing so. She stated that the abuse lasted for two weeks, he then left or was transferred, and he later returned and resumed these acts. She had complained about the abuse, and when he had returned and resumed it, he was caught in the act.</li> </ul> <p><i>Nicole Garza – Current Inmate California Institution for Women</i><sup>17</sup></p> <ul style="list-style-type: none"> <li>- Ms. Garza testified that when she was incarcerated at Central California Women’s Facility (CCWF) she was sexually assaulted and raped by prison staff six or seven times. The prison employee was transferred. A year later the employee returned, and she filed complaints with the prison’s investigative services. Her complaint regarding sexual assault and rape was returned to her four times for rewording, and prison staff told her to give up. Investigators interrogated her for four hours in a locked room and told her the investigation was difficult because it involved “one of their own.” Ms. Garza stated that she suffered retaliation in several forms including being transferred to Valley State Prison; she was not permitted to bring half of her personal property, most of which were hygiene products; her husband was forced to reapply for visitation rights at the new facility which required a six-to-eight week wait; and she was assigned to a job sitting for eight hours each day in an empty office with no other staff and no work to do. The office was the twin — in layout and location — to the office where she had been repeatedly raped at CCWF. Several months after she filed her complaints, the employee was questioned; today he works at CCWF.</li> </ul>
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	<p><u>Ellen Barry, Co-Chair – National Network for Women in Prisons</u></p> <p>- According to a telephone conversation with Ellen Barry, the investigation of sexual misconduct in women’s prisons in California initiated by the former DOC, has resulted in hundreds of allegations of sexual misconduct. There are at least 400 separate incidents, 200 of these are serious and prosecutable. The abuse reported ranges from inappropriate pat searches and strip searches, to assault by medical personnel and rape.</p> <p>- One concerned two doctors in the Valley State Prison Dr. Bowman and Dr. Corvallis, who were indicted on sexual assaults. There were 83 separate complaints ranging from soliciting sexual favors in exchange for medical attention to unnecessary and unwanted pelvic examinations and pap smears. One of the doctors has been indicted on four counts of sexual assault, but the District Attorney indicated a few weeks ago that charges will not be brought against the other doctor.<sup>18</sup></p>
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## ***Custodial Sexual Misconduct –Policies, Procedures and Practices of Guarding Specific to Women***

The following is based on data provided by the California Department of Corrections in response to AI’s survey in 2002. AI did not receive data from the California Department of Corrections in 2000 and 2005. Additional information from other sources is included where available.

Is the current Department of Corrections policy on custodial sexual misconduct language explicit?	<b>Yes</b>	Policy includes direct and specific language about the nature of the sexual behaviors prohibited. <sup>19</sup>
Allow cross-gender pat-down searches?	<b>Yes</b>	According to the California Department of Corrections, staff receive specialized training specific to pat down searches for female inmates. <sup>20</sup>  A directive adopted in early 2005 calls for an end to male searches of female inmates. However, as of February 2005, the state did not have a timeline for implementation of the policy. A representative of the DOC indicated that there were many details, including the potential need to recruit more female officers, which needed to be worked through before full implementation could be achieved. <sup>21</sup>
What is the percentage of female officers in relation to male officers?	<b>33%</b>	Approximately thirty-three percent of the custody staff members at the five female prisons are female. <sup>22</sup>
Restrictions on the duties of male guards?	<b>Yes</b>	According to the California DOC, institutions housing female inmates have identified posts that require same gender supervision. No further details provided. <sup>23</sup>
Staff training on sexual misconduct?	<b>Yes</b>	According to the DOC, all staff members received training relative to sexual misconduct. Training options consisted of policy and regulatory language, video presentations, printed training materials, and discussion. <sup>24</sup>
Inform inmates of agency policies and reporting procedures on sexual misconduct?	<b>Yes</b>	According to the California DOC, inmates receive a handbook regarding sexual misconduct and are given instructions for reporting alleged violations. Information and reporting hotline numbers are posted at facilities. <sup>25</sup>

## ***Custodial Sexual Misconduct - Policies and Procedures***

## Guiding Official Response

The following is based on the California Department of Corrections response to AI's survey in 2002, please see above.

Is medical help available for the victim of alleged sexual abuse?	<b>Yes</b>	According to the California DOC medical services are available for victims of alleged sexual abuse. <sup>26</sup>
Are immediate mental health services available for the victim of alleged sexual abuse?	<b>Yes</b>	According to the California DOC crisis intervention services are available for victims of alleged sexual abuse. <sup>27</sup>
Is counseling available for the victim of alleged sexual abuse?	<b>Yes</b>	According to the California DOC counseling services are available for victims of alleged sexual abuse. <sup>28</sup>
Is a rape kit taken?	<b>Yes</b>	According to the California DOC, this is undertaken "in circumstances as required." No further details provided. <sup>29</sup>
Are there special procedures for investigating allegations of sexual misconduct?	<b>Yes</b>	According to the California DOC in 2002, the DOC has an internal investigative policy and has trained sexual assault investigators. The DOC reports that the California DOC-OIA is an independent investigative body and investigates allegations of staff sexual misconduct. The California DOC actively refers staff sexual misconduct cases to local jurisdictions for criminal prosecution. <sup>30</sup>
Is there a system for reporting allegations of custodial sexual misconduct within the DOC?	<b>Yes</b>	An inmate/parolee can report directly to the OIS via dedicated telephone lines, report locally at the facility, or via the legal mail procedures. <sup>31</sup>
Is there a system for reporting allegations of custodial sexual misconduct directly to a body external to the DOC?		No information provided.
Is the investigation external?	<b>No</b>	The California DOC's Office of Internal Affairs ("OIA") has regional offices and investigates all serious allegations of staff misconduct separate and apart from the facility of occurrence. <sup>32</sup> However, Amnesty International does not consider investigations undertaken by an agency operating within the DOC to constitute an external investigation and urges procedures for external investigations of such allegations to be introduced.
If there is an external investigation, how is it triggered?		No information provided
Are special measures taken to shield alleged victims from retaliation?	<b>Yes</b>	According to the California DOC, regulatory language addresses retaliation and sanctions for participation in retaliatory acts. <sup>33</sup> Staff members are required to report such events and the Director has a "Zero Tolerance" policy. <sup>34</sup>
If so, do the measures include solitary confinement or lock-down of the inmate?		In 2000, Human Rights Watch reported concerns of retaliation and about the administrative segregation of complaining inmates, a practice that the organization labeled "clearly punitive". <sup>35</sup> No information provided by the California DOC.
Is there an independent body, such as a Corrections Ombudsman, with independent oversight of correctional facilities and the DOC?		The 2005 Sexual Abuse in Detention Elimination Act created the Office of the Sexual Abuse in Detention Elimination Ombudsperson. The office is intended to ensure the impartial resolution of inmate and ward sexual abuse complaints and has the authority to inspect California DOC institutions and interview all inmates and wards, as well as to investigate reports of mishandling of incidents of CSM. The California DOC must allow inmates to write confidential letters regarding sexual abuse to the ombudsperson and information about how to confidentially contact the ombudsperson is to be clearly posted in all California DOC institutions. <sup>36</sup>
Is there a system in place to track investigations, indictments and	<b>Yes</b>	According to the California DOC, there is a system in place. No details provided. <sup>37</sup>

convictions for custodial sexual misconduct?		
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## ***Custodial Sexual Misconduct – Pending Legislative Proposals***

<i>None</i>
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## **Pregnancy in Custody**

### ***Pregnancy – Statute***

Legislation banning shackling in the third trimester or during labor	<b>Yes</b>	Inmates may not be shackled by the wrists, ankles, or both during labor, including during transport to a hospital, during delivery and while in recovery after giving birth “unless deemed necessary for the safety and security of the inmate, the staff, and the public.” <sup>38</sup>
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### ***Pregnancy - Policies, Procedures and Practices***

The following is based on the California Department of Corrections response to AI’s survey in 2002, please see above.

Use of restraints in third trimester	<b>Yes</b>	According to the California DOC, the use of shackles and waist chains on pregnant women is prohibited. However, handcuffs in front are used “during required transition.” <sup>39</sup>
Restraints during transport	<b>Yes</b>	See above. The California DOC notes that female inmates are not restrained during transportation associated to labor. <sup>40</sup>
Restraints during labor	<b>No</b>	According to the California DOC, inmates are not restrained while in labor. <sup>41</sup> According to the UN Special Rapporteur on Violence against Women, the warden at the VSPW institution confirmed that the state policy was to shackle the women to beds before and after birth. <sup>42</sup>
Officer in delivery room	<b>No</b>	According to the California DOC, staff remain outside the labor delivery room. In some instances staff confirm the location of the inmate. <sup>43</sup>

### ***Use of Restraints during Pregnancy – Allegations and Incidents***

<p>Reportedly, Desiree Callahan, a detainee at the San Joaquin Valley prison, was rushed to the hospital with one ankle chained to a gurney, with contractions every three minutes. She had an emergency C-section, but her baby girl died. When she awoke from general anesthesia, and for most of the four days she spent in recovery, she was reportedly shackled to the bed and under the watch of an armed guard. Callahan stated, “... it’s humiliating. And it’s just ridiculous. If I had really wanted to, even if I had a ride and everything, I couldn’t make it out the front door.” She noted that the shackles were not just emotionally traumatic; they also made physical recovery more difficult. “You have to be stuck to a bed even though the doctors say you need to get up and walk because your stomach was cut open.”<sup>44</sup></p> <p>According to news reports, approximately 185 women give birth while in custody every year in California, and between 1998 and 2004, California inmates gave birth to 1,300 babies.<sup>45</sup></p>
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# Contact information

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## CALIFORNIA DEPARTMENT OF CORRECTIONS FACILITIES FOR WOMEN

<b>Central California Women's Facility (CCWF)</b> <i>Female inmates: 3693<sup>46</sup></i> Warden Gwendolyn Mitchell 23370 Road 22 P.O. Box 1501 Chowchilla, CA 93610-1501 Phone: (559) 665-5531	<b>California Institution for Women (CIW)</b> <i>Female inmates: 1,975<sup>47</sup></i> Warden John Dovey 16756 Chino-Corona Road Frontera, CA 91720 P.O. Box 6000 Corona, CA 92878-6000 Phone: (909) 597-1771	<b>California Rehabilitation Center (CRC)</b> <i>Female inmates : 439<sup>48</sup></i> Warden JoAnn Gordon 5th Street & Western P.O. Box 1841 Norco, CA 91760 Phone: (909) 737-2683
<b>Valley State Prison for Women (VSPW)</b> <i>Female inmates: 3,672<sup>49</sup></i> Warden Gloria A. Henry 21633 Avenue 24 P.O. Box 99 Chowchilla, CA 93610 Phone: (559) 665-6100	<b>Sierra Conservation Center (SCC)</b> <i>Female inmates: 291<sup>50</sup></i> Warden Matthew C. Kramer 5100 O'Byrnes Ferry Road P.O. Box 497 Jamestown, CA 95327 Phone: (209) 984-5291	

## CALIFORNIA EXECUTIVE

<b>Governor</b> <b>Arnold Schwarzenegger [R]</b> State Capitol Building Sacramento, CA 95814 Phone: (916) 445-2841 Fax: (916) 445-4633 Email: Go to <a href="http://www.govmail.ca.gov">www.govmail.ca.gov</a>	Homepage: <a href="http://www.governor.ca.gov/state/govsite/gov_homepage.jsp">http://www.governor.ca.gov/state/govsite/gov_homepage.jsp</a>  Elected: November 2003
<b>Attorney General Bill Lockyer [D]</b> Office of the Attorney General Department of Justice P.O. Box 944255 Sacramento, CA 94244-2550 Phone: (916) 322-3360; Toll Free in CA: (800) 952-5225 Fax: (916) 323-5341	Homepage: <a href="http://caag.state.ca.us/">http://caag.state.ca.us/</a>  Contact page: <a href="http://caag.state.ca.us/contact/index.htm">http://caag.state.ca.us/contact/index.htm</a>  Elected: 1998, re-elected 2002

## CALIFORNIA LEGISLATIVE INFORMATION

<p><b>Legislative Session:</b> Two-year continuous session, starting with first Monday of December in even-numbered year until November 30 of the next even numbered year.</p> <p><b>Assembly:</b> 80 members, 2 year term (6 yr max)</p> <p><b>Senate:</b> 40 members, 4 year terms (8 yr max)</p>	<p>Legislative Analyst Office</p> <p><a href="http://www.lao.ca.gov/">Http://www.lao.ca.gov/</a></p> <p>Bill Search</p> <p><a href="http://www.assembly.ca.gov/acs/acsframeset2text.htm">http://www.assembly.ca.gov/acs/acsframeset2text.htm</a></p> <p>Phone: (916) 327 6189</p>
<p><b>Senate</b></p> <p>State Capitol</p> <p>Sacramento, CA 95814</p>	<p>Senate Home Page</p> <p><a href="http://www.sen.ca.gov/">Http://www.sen.ca.gov/</a></p>
<p><b>Assembly</b></p> <p>State Capitol</p> <p>P.O. Box 942849</p> <p>Sacramento, CA 94249-0045</p>	<p>Assembly Home Page</p> <p><a href="http://www.assembly.ca.gov/acs/defaulttext.asp">Http://www.assembly.ca.gov/acs/defaulttext.asp</a></p>

## WOMEN IN PRISON - NGO RESOURCES

The organizations listed are not endorsed by or affiliated with Amnesty International.

<p>P.O. Box 32627</p> <p>San Jose, CA 95152-2627</p> <p>408-251-1776</p> <p>Email: <a href="mailto:info@curecalifornia.org">info@curecalifornia.org</a></p> <p>Web: <a href="http://www.curecalifornia.org">www.curecalifornia.org</a></p>
<p>Children of Incarcerated Parents</p> <p>P.O. Box 41-286</p> <p>Eagle Rock, California 90041</p> <p>Phone: (626)449-2470</p> <p>Website: <a href="http://www.e-ccip.org">www.e-ccip.org</a></p> <p>Email: <a href="mailto:ccip@earthlink.net">ccip@earthlink.net</a></p> <p>Services: Parent education for prisoners; Parent empowerment; Parent education for substance-dependent parents in treatment; Parent education for elementary school children; family life education; health education for incarcerated mothers; Women's issues; the effects of trauma and violence on children; Mentor training; Parent advocacy for prisoners.</p>
<p>California Coalition for Women Prisoners</p> <p>1540 Market St., Suite 490</p> <p>San Francisco, CA 94102</p> <p>Phone (415) 255-7036 ext. 4; Fax (415) 552-3150</p> <p>Email <a href="mailto:info@womenprisoners.org">info@womenprisoners.org</a></p> <p>Website: <a href="http://www.womenprisoners.org">www.womenprisoners.org</a></p> <p>Services: Visiting women in prison, <i>The Fire Inside</i> newsletter, annual protests, advocacy, education and outreach, and support for former prisoners.</p>
<p>Stop Prisoner Rape</p> <p>3325 Wilshire Blvd., Ste. 340</p> <p>Los Angeles, CA 90010</p> <p>Phone: (213) 384-1400</p> <p>Website: <a href="http://www.spr.org">www.spr.org</a></p> <p>Services: Works for policies that ensure institutional accountability, to change society's attitudes toward prisoner rape, and to promote access to resources for survivors of sexual assault behind bars.</p>
<p>FireWorx!</p> <p>P.O. Box 14422</p> <p>San Francisco CA 94114</p> <p>Phone: (415) 330-5310</p> <p>Email: <a href="mailto:pfoc@igc.org">pfoc@igc.org</a></p>

<p>Human Rights and the Drug War  P.O. Box 1716  El Cerrito CA 94530  Phone: (510) 215-8326  Fax: (510) 215-8326  Web page: <a href="http://www.hr95.org">www.hr95.org</a></p>
<p>Legal Services for Prisoners with Children  1540 Market St., Suite 490  San Francisco, CA 94102  (415) 255-7036 Fax: (415) 552-3150  Email: <a href="mailto:info@prisonerswithchildren.org">info@prisonerswithchildren.org</a>  Website: <a href="http://www.prisonerswithchildren.org">www.prisonerswithchildren.org</a>  Services: Advocate for the human rights and empowerment of incarcerated parents, children, family members and people at risk for incarceration through trainings, technical assistance, litigation, community activism and the development of more advocates.</p>
<p>California Prison Focus  2940 16th Street #B-5  San Francisco, CA 94103  Phone: (415)252-9211; Fax: (415)252-9311  Email: <a href="mailto:info@prisons.org">info@prisons.org</a>  Website: <a href="http://www.prisons.org">www.prisons.org</a>  Services: Visiting prisoners, monitoring conditions, educating the public and policymakers, providing a voice for and working with prisoners, and encouraging legal advocacy.</p>
<p>Centerforce  2955 Kerner Blvd., 2nd Floor  San Rafael, CA 94901  Tel: (415) 456-9980 ext. 116  Email: <a href="mailto:info@centerforce.org">info@centerforce.org</a>  Website: <a href="http://www.centerforce.org">www.centerforce.org</a>  Services: Centerforce provides services for prisoners, ex-prisoners, and family members of prisoners through direct services, its annual conference and, through consultation and training for government agencies, community-based organizations and correctional facilities across the country and internationally. Direct services for clients are provided by in four service areas: Children and Families Services, Transitional Services, Prisoner Service, and Informational Services.</p>
<p>Prison Law Office  Main Office  2173 E. Francisco Blvd, Suite M,  San Rafael, CA 94901  Fax (415) 457-9151.  Website: <a href="http://www.prisonlaw.com">www.prisonlaw.com</a>  Services: Provides free legal services to California state prisoners, and occasionally to California state parolees. Assistance is generally limited to cases regarding conditions of confinement.</p>
<p>National Lawyer's Guild Prison Law Project  558 Cap Street  San Francisco, CA 94110</p>
<p>ACLU of Northern California  1663 Mission Street, Suite 460  San Francisco, CA 94103  Phone: (415) 621-2493; Fax: (415)255-1478  Web site: <a href="http://www.aclunc.org">www.aclunc.org</a></p>
<p>ACLU of Southern California  1616 Beverly Boulevard  Los Angeles, CA 90026  Phone: (213) 977-9500; Fax: (213) 250-3919  Web site: <a href="http://www.aclu-sc.org">www.aclu-sc.org</a></p>

## California's Custodial Sexual Misconduct Statute

### **§ 289.6. Employee or officer of detention facility; Engaging in sexual activity with consenting adult confined in detention facility**

(a)... (2) An employee or officer of a public entity detention facility, or an employee, officer, or agent of a private person or entity that provides a detention facility or staff for a detention facility, or person or agent of a public or private entity under contract with a detention facility, or a volunteer of a private or public entity detention facility, who engages in sexual activity with a consenting adult who is confined in a detention facility, is guilty of a public offense.

(3) An employee with a department, board, or authority under the Youth and Adult Correctional Agency or a facility under contract with a department, board, or authority under the Youth and Adult Correctional Agency, who, during the course of his or her employment directly provides treatment, care, control, or supervision of inmates, wards, or parolees, and who engages in sexual activity with a consenting adult who is an inmate, ward, or parolee, is guilty of a public offense.

(b) As used in this section, the term "public entity" means the state, federal government, a city, a county, a city and county, a joint county jail district, or any entity created as a result of a joint powers agreement between two or more public entities.

(c) As used in this section, the term "detention facility" means:

- (1) A prison, jail, camp, or other correctional facility used for the confinement of adults or both adults and minors.
- (2) A building or facility used for the confinement of adults or adults and minors pursuant to a contract with a public entity.
- (3) A room that is used for holding persons for interviews, interrogations, or investigations and that is separate from a jail or located in the administrative area of a law enforcement facility.
- (4) A vehicle used to transport confined persons during their period of confinement.
- (5) A court holding facility located within or adjacent to a court building that is used for the confinement of persons for the purpose of court appearances.

(d) As used in this section, "sexual activity" means:

- (1) Sexual intercourse.
- (2) Sodomy, as defined in subdivision (a) of Section 286.
- (3) Oral copulation, as defined in subdivision (a) of Section 288a.
- (4) Sexual penetration, as defined in subdivision (k) of Section 289.
- (5) The rubbing or touching of the breasts or sexual organs of another, or of oneself in the presence of and with knowledge of another, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of oneself or another.

(e) Consent by a confined person or parolee to sexual activity proscribed by this section is not a defense to a criminal prosecution for violation of this section.

(f) This section does not apply to sexual activity between consenting adults that occurs during an overnight conjugal visit that takes place pursuant to a court order or with the written approval of an authorized representative of the public entity that operates or contracts for the operation of the detention facility where the conjugal visit takes place, to physical contact or penetration made pursuant to a lawful search, or bona fide medical examinations or treatments, including clinical treatments.

(g) Any violation of paragraph (1) of subdivision (a), or a violation of paragraph (2) or (3) of subdivision (a) as described in paragraph (5) of subdivision (d), is a misdemeanor.

(h) Any violation of paragraph (2) or (3) of subdivision (a), as described in paragraph (1), (2), (3), or (4) of subdivision (d), shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison, or by a fine of not more than ten thousand dollars (\$ 10,000) or by both that fine and imprisonment.

(i) Any person previously convicted of a violation of this section shall, upon a subsequent violation, be guilty of a felony.

(j) Anyone who is convicted of a felony violation of this section who is employed by a department, board, or authority within the Youth and Adult Correctional Agency shall be terminated in accordance with the State Civil Service Act (Part 2 (commencing with [Section 18500](#)) of [Title 2 of Division 5 of the Government Code](#)). Anyone who has been convicted of a felony violation of this section shall not be eligible to be hired or reinstated by a department, board, or authority within the Youth and Adult Correctional Agency.

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**Penal § 288a. Oral Copulation**

*Excerpted – emphasis added*

(a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.

...

**(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.**

...

(k) Any person who commits an act of oral copulation, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

...

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

**Penal § 286 Sodomy**

*Excerpted – emphasis added*

(a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however, slight, is sufficient to complete the crime of sodomy.

.....

**(e) Any person who participates in an act of sodomy with any person of any age while confined in a state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.**

.....

(k) Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in the subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

.....

(m) In addition to any punishment imposed under this section, the judge may assess a fine not to exceed seventy dollars (\$70) against any person who violates this section, with the proceeds of this fine to be used in accordance with Section 1463.23. The court shall, however, take into consideration of the defendant's ability to pay, and no defendant shall be denied probation because of his or her ability to pay the fine permitted under this subdivision.

**Penal § 2635 -2643 Sexual Abuse in Detention**

*Excerpted – emphasis added*

**2635. Review and provision of informational handbooks for inmates and wards**

The Department of Corrections and Rehabilitation shall review informational handbooks regarding sexual abuse in detention published by outside organizations. Upon approving the content thereof, handbooks provided by one or more outside organizations shall be made available to inmates and wards.

**2636. . References to classification of wards; Practices to be instituted**

The following practices shall be instituted to prevent sexual violence and promote inmate and ward safety in the Department of Corrections and Rehabilitation:

(a) The Department of Corrections and Rehabilitation inmate classification and housing assignment procedures shall take into account risk factors that can lead to inmates and wards becoming the target of sexual victimization or of being sexually aggressive toward others. Relevant considerations include:

- (1) Age of the inmate or ward.
- (2) Whether the offender is a violent or nonviolent offender.
- (3) Whether the inmate or ward has served a prior term of commitment.
- (4) Whether the inmate or ward has a history of mental illness.

(b) The Department of Corrections and Rehabilitation shall ensure that staff members intervene when an inmate or ward appears to be the target of sexual harassment or intimidation.

**2637. Requirements for protocols for responding to sexual abuse**

The Department of Corrections and Rehabilitation shall ensure that its protocols for responding to sexual abuse include all of the following:

(a) The safety of an inmate or ward who alleges that he or she has been the victim of sexual abuse shall be immediately and discreetly ensured. Staff shall provide the safest possible housing options to inmates and wards who have experienced repeated abuse. Housing options may include discreet institution transfers.

(b) Inmates and wards who file complaints of sexual abuse shall not be punished, either directly or indirectly, for doing so. If a person is segregated for his or her own protection, segregation must be nondisciplinary.

(c) Any person who knowingly or willfully submits inaccurate or untruthful information in regards to sexual abuse is punishable pursuant to department regulations.

(d) Under no circumstances is it appropriate to suggest that an inmate should fight to avoid sexual violence or to suggest that the reported sexual abuse is not significant enough to be addressed by staff.

(e) Staff shall not discriminate in their response to inmates and wards who are gay, bisexual, or transgender who experience sexual aggression, or report that they have experienced sexual abuse.

(f) Retaliation against an inmate or ward for making an allegation of sexual abuse shall be strictly prohibited.

**2638. Implementation of standards of physical and mental health care**

**2638. Implementation of standards of physical and mental health care**

Thoughtful, confidential standards of physical and mental health care shall be implemented to reduce the impact of sexual abuse on inmates and wards in the Department of Corrections and Rehabilitation that include all of the following:

(a) Victims shall receive appropriate acute-trauma care for rape victims, including, but not limited to, treatment of injuries, HIV/AIDS prophylactic measures, and, later, testing for sexually transmittable diseases.

(b) Health practitioners who conduct or encounter an inmate or ward suffering from problems that might indicate sexual abuse, such as trauma, sexually transmissible diseases, pregnancy, or chronic pain symptoms, shall ask whether the patient has experienced sexual abuse.

(c) Practitioners should strive to ask frank, straightforward questions about sexual incidents without shaming inmates or displaying embarrassment about the subject matter.

(d) Confidential mental health counseling intended to help the victim to cope with the aftermath of abuse shall be offered to those who report sexual abuse. Victims shall be monitored for suicidal impulses, posttraumatic stress disorder, depression, and other mental health consequences.

(e) Any adult inmate in mental health counseling for any reason shall be entitled to speak confidentially about sexual abuse.

**2639. Procedures for the investigation and prosecution of sexual abuse incidents**

The Department of Corrections and Rehabilitation shall ensure that the following procedures are performed in the investigation and prosecution of sexual abuse incidents:

(a) The provision of safe housing options, medical care, and the like shall not be contingent upon the victim's willingness to press charges.

(b) Investigations into allegations of sexual abuse shall include, when deemed appropriate by the investigating agency, the use of forensic rape kits, questioning of suspects and witnesses, and gathering of other relevant evidence.

(c) Physical and testimonial evidence shall be carefully preserved or use in any future proceedings.

(d) Staff attitudes that inmates and wards cannot provide reliable information shall be discouraged.

(e) If an investigation confirms that any employee has sexually abused an inmate or ward, that employee shall be terminated. Administrators shall report criminal sexual abuse by staff to law enforcement authorities.

(f) Consensual sodomy and oral copulation among inmates is prohibited by subdivision (e) of Section 286 and subdivision (e) of Section 288a, respectively. Without repealing those provisions, the increased scrutiny provided by this article shall apply only to

nonconsensual sexual contact among inmates and custodial sexual misconduct.

**2640. Collection of data required**

The Department of Corrections and Rehabilitation shall collect data as follows:

(a) The Department of Corrections and Rehabilitation shall keep statistics on the sexual abuse of inmates and wards. Sexual abuse incidents shall not be classified as "other" nor simply included in a broader category of general assaults.

(b) Statistics shall include whether the abuse was perpetrated by a staff member or other inmate, the results of the investigation and any resolution of the complaint by department officials and prosecution authorities.

The data shall be made available to the Office of the Sexual Abuse in Detention Elimination Ombudsperson.

**2641. Office of the Sexual Abuse in Detention Elimination Ombudsperson created; Duty and authority; Contacting ombudsperson; Investigation of mishandling of incidents**

(a) The Office of the Sexual Abuse in Detention Elimination Ombudsperson is hereby created in state government to ensure the impartial resolution of inmate and ward sexual abuse complaints. The office shall be based within the Office of the Inspector General. The duties of this office may be contracted to outside nongovernmental experts.

(b) The ombudsperson shall have the authority to inspect all of the Department of Corrections and Rehabilitation institutions and to interview all inmates and wards.

(c) The Department of Corrections and Rehabilitation shall allow all inmates and wards to write confidential letters regarding sexual abuse to the ombudsperson.

(d) Information about how to confidentially contact the ombudsperson shall be clearly posted in all of the Department of Corrections and Rehabilitation institutions.

(e) The Office of the Inspector General shall investigate reports of the mishandling of incidents of sexual abuse, while maintaining the confidentiality of the victims of sexual abuse, if requested by the victim.

**2642. Guidelines for allowing outside organizations and services to offer resources to inmates and wards**

The Department of Corrections and Rehabilitation shall:

Develop guidelines for allowing outside organizations and service agencies to offer resources to inmates and wards, including, but not limited to, the following:

- (1) Rape crisis agencies.
- (2) Hospitals.
- (3) Gay rights organizations.
- (4) HIV/AIDS service providers.
- (5) Civil rights organizations.
- (6) Human rights organizations.

## California's Pregnancy in Custody Statute

Penal §§ 3423, 5007.7

**3423. Inmate taken to hospital outside of prison for childbirth; Payment of costs**

Any woman inmate who would give birth to a child during her term of imprisonment may be temporarily taken to a hospital outside the prison for the purposes of childbirth, and the charge for hospital and medical care shall be charged against the funds allocated to the institution. The inmate shall not be shackled by the wrists, ankles, or both during labor, including during transport to a hospital, during delivery, and while in recovery after giving birth, except as provided in Section 5007.7.

**5007.7. Inmates transported to hospitals for childbirth**

Pregnant inmates temporarily taken to a hospital outside the prison for the purposes of childbirth shall be transported in the least restrictive way possible, consistent with the legitimate security needs of each inmate. Upon arrival at the hospital, once the inmate has been declared by the attending physician to be in active labor, the inmate shall not be shackled by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, and the public.

<sup>1</sup> California Department of Corrections (DOC), *Monthly Report of Population*, June 2005, available at <http://www.corr.ca.gov/ReportsResearch/WeeklyWedTpop1aArchive.html>, as per 02/01/06.

<sup>2</sup> The information does not reflect prosecutions or convictions under rape statutes.

<sup>3</sup> Letter from Bill Lockyer, Attorney General, State of California Office of the Attorney General, 06/28/02.

<sup>4</sup> Letter from Bill Lockyer, Attorney General, State of California Office of the Attorney General, 06/28/02.

<sup>5</sup> Letter from Bill Lockyer, Attorney General, State of California Office of the Attorney General, 07/07/00.

<sup>6</sup> Letter from Bill Lockyer, Attorney General, State of California Office of the Attorney General, 07/07/00.

<sup>7</sup> As defined by the CDC, staff sexual misconduct can range from over familiar behavior to sexual abuse or harassment. No time range was given by the CDC. Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California Department of Corrections (DOC), 07/15/02.

<sup>8</sup> Email from Bonnie Collins, Criminal Statistics Center, Special Request Section, California Department of Justice, 08/09/05.

<sup>9</sup> <http://www.co.san-bernardino.ca.us/Courts> as per 31/01/06

<sup>10</sup> US General Accounting Office, "Women in Prison. Sexual Misconduct by Correctional Staff," 06/1999.

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- <sup>11</sup> US General Accounting Office, “Women in Prison. Sexual Misconduct by Correctional Staff,” 06/1999.
- <sup>12</sup> Testimony before California State’s Joint Legislative Committee on Prison Construction and Operations, 10/2000.
- <sup>13</sup> Testimony before California State’s Joint Legislative Committee on Prison Construction and Operations, 10/2000.
- <sup>14</sup> Testimony before California State’s Joint Legislative Committee on Prison Construction and Operations, 10/2000.
- <sup>15</sup> Testimony before California State’s Joint Legislative Committee on Prison Construction and Operations, 10/2000.
- <sup>16</sup> Testimony before California State’s Joint Legislative Committee on Prison Construction and Operations, 10/2000.
- <sup>17</sup> Testimony before California State’s Joint Legislative Committee on Prison Construction and Operations, 10/2000.
- <sup>18</sup> Telephone call between Amnesty International USA and Ellen Barry, 02/06/01.
- <sup>19</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>20</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>21</sup> *Prison Inmates; Searches of Women by Men to End*, Press Enterprise, 02/15/05.
- <sup>22</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>23</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>24</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>25</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>26</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>27</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>28</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>29</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>30</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>31</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>32</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>33</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>34</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 7/15/02.
- <sup>35</sup> Testimony before California State’s Joint Legislative Committee on Prison Construction and Operations, 10/2000.
- <sup>36</sup> California Penal §2641. Office of the Sexual Abuse in Detention Elimination Ombudsperson created; Duty and authority; Contacting ombudsperson; Investigation of mishandling of incidents
- <sup>37</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>38</sup> §§ 3423, 5007.7 as amended by CA A.B. 478
- <sup>39</sup> Letter Thomas Moore, Assistant Director, Office of Investigative Services, from California DOC, 7/15/02.
- <sup>40</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 7/15/02.
- <sup>41</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>42</sup> U.N. Special Rapporteur on Violence Against Women, *Report of the mission to the United States of America on the issue of Violence against Women in State and Federal Prisons*, U.N. DOC. E/CN.4/1999/68/Ad.2 (Jan. 1999).
- <sup>43</sup> Letter from Thomas Moore, Assistant Director, Office of Investigative Services, California DOC, 07/15/02.
- <sup>44</sup> Karen de Sa, Shackles on inmates giving birth criticized, *Contra Costa Times*, 07/29/05.
- <sup>45</sup> Karen de Sa, Shackles on inmates giving birth criticized, *Contra Costa Times*, 07/29/05.
- <sup>46</sup> California DOC, *Weekly Population Reports*, June 2005, available at <http://www.corr.ca.gov/ReportsResearch/WeeklyWedTpoplaArchive.html>, as per 02/01/06.
- <sup>47</sup> California DOC, *Weekly Population Reports*, June 2005, available at <http://www.corr.ca.gov/ReportsResearch/WeeklyWedTpoplaArchive.html>, as per 02/01/06.
- <sup>48</sup> California DOC, *Weekly Population Reports*, June 2005, available at <http://www.corr.ca.gov/ReportsResearch/WeeklyWedTpoplaArchive.html>, as per 02/01/06.
- <sup>49</sup> California DOC, *Weekly Population Reports*, June 2005, available at <http://www.corr.ca.gov/ReportsResearch/WeeklyWedTpoplaArchive.html>, as per 02/01/06.
- <sup>50</sup> California DOC, *Weekly Population Reports*, June 2005, available at <http://www.corr.ca.gov/ReportsResearch/WeeklyWedTpoplaArchive.html>, as per 02/01/06.