



Woman II Woman, Inc

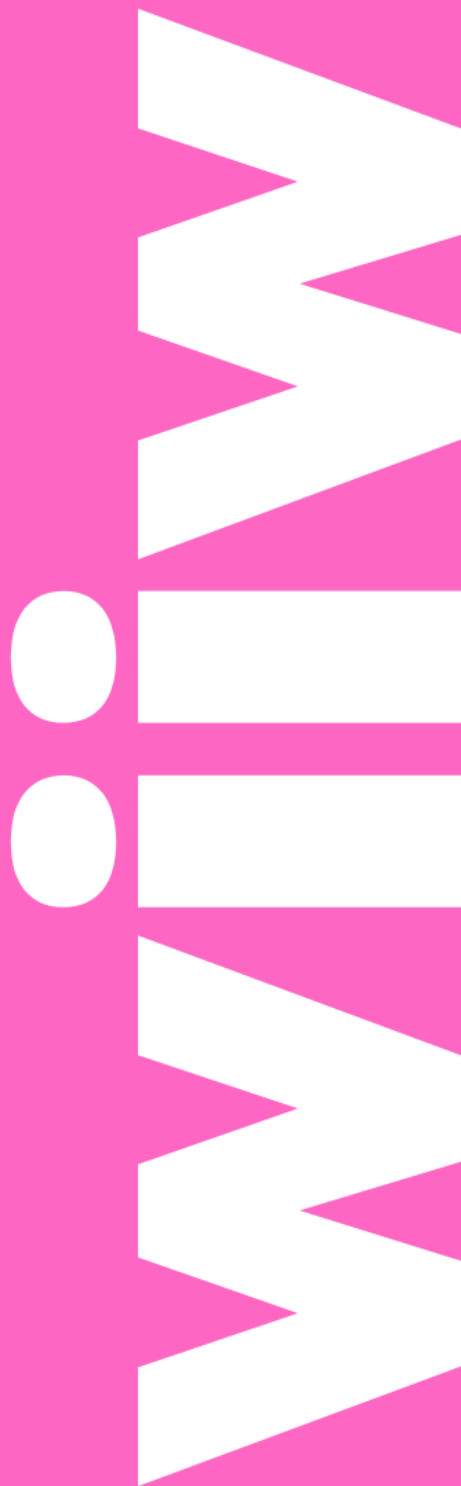
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SUGGESTIONS FOR AMENDMENTS TO CURRENT PREA STANDARDS

For the

SENATE JUDICIARY: SUBCOMMITTEE ON CRIMINAL JUSTICE AND COUNTERTERRORISM

“Sexual Assault in U.S. Prisons Two Decades After the
Prison Rape Elimination Act”



OPENING

In reviewing the following suggestions for amendments to current PREA standards, we want to note some important facts about CCWF and CIW women's prisons in California, which are under the care of the California Department of Corrections and Rehabilitation (CDCR).

- In 2023, the Madera County District Attorney charged former correctional officer, Gregory Rodriguez, with nearly 100 counts of sexual harassment, assault, and rape. He is currently being held in the Madera County Jail.¹
- Over 100 plaintiffs incarcerated in both CCWF and CIW have filed lawsuits alleging sexual harassment, misconduct, abuse, and rape against correctional staff.² Though these were not reported as PREA violations, they are evidence that current PREA standards have FAILED to protect incarcerated women. These staff members are still in their positions, which has led to retaliation, a more volatile atmosphere, and a mental health department that cannot keep up with the influx of requests for services.
- In February 2024, condom dispensers were installed in all dayrooms in CCWF. They are stocked with colorful, flavored condoms and dental dams.³ Per 15 CCR § 3007, Sexual Behavior, it is illegal for incarcerated persons to have sex with other incarcerated persons.
- The Department of Justice is investigating CCWF and CIW prisons for civil rights violations under the Civil Rights for Institutionalized Persons Act (CRIPA) as a result of the above-mentioned staff lawsuits.⁴
- Tremaine Carroll, a trans-identified incarcerated person who was transferred to CCWF under California's SB132, the Transgender Respect, Agency, and Dignity Act, has been charged with two (2) counts of forcible rape and one (1) count of dissuading a witness in the Madera County Superior Court. Carroll has since been transferred back to a men's prison.⁵
- CCWF is under investigation for a use-of-force incident that occurred on August 2, 2024, by the Internal Affairs division of the California Department of Corrections and Rehabilitation (CDCR). This incident is unlike any that has ever occurred there.⁶

¹ *One prison guard, 96 abuse charges: women say 'serial rapist' targeted them over a decade*, The Guardian, 10/25/2023, <https://www.theguardian.com/us-news/2023/oct/25/gregory-rodriguez-california-correctional-officer-accused-sexual-assault-womens-prison>

² *Former inmates suing CA Department of Corrections alleging sexual abuse by prison staff*, ABC News 7 Los Angeles, 01/15/2024, <https://abc7.com/california-department-of-corrections-sexual-abuse-lawsuit-former-inmates/14328254/>

³ *Why are women's prisons in California passing out condoms*, The New York Post, 03/16/2024 <https://nypost.com/2024/03/16/opinion/why-are-womens-prisons-passing-out-condoms/>

⁴ <https://www.justice.gov/opa/pr/justice-department-announces-civil-rights-investigation-correctional-staff-sexual-abuse-two>

⁵ *3rd-strike 'trans' rape suspect prompts rebellion against CA law after attack in women's prison*, Fox News, 06-03-2024, <https://www.foxnews.com/us/third-strike-trans-rape-suspect-prompts-rebellion-against-ca-law-after-attack-womens-prison>

⁶ *California Investigates Attack by Guards at Scandal-Plagued Women's Prison*, The Appeal, 09/05/2024 <https://theappeal.org/central-california-womens-facility-guards-attack/>

SUGGESTIONS FOR AMENDMENTS TO CURRENT PREA STANDARDS

Woman II Woman strongly urges the committee make the following changes to the PREA:

- HOUSE INCARCERATED INMATES BY SEX, NOT GENDER IDENTITY
- ADD DEFINITIVE AND HARSHER CONSEQUENCES FOR PERPETRATORS OF SEXUAL ABUSE, WHETHER BY STAFF OR INMATE-ON-INMATE
- INCLUDE VOYEURISM IN THE LIST OF ACTS DEEMED AS SEXUAL ABUSE OF AN INMATE BY ANOTHER INMATE
- ADD MORE PROTECTIONS & TRAUMA INFORMED CARE FOR VICTIMS OF INSTITUTIONAL SEXUAL ABUSE
- CREATE LEGISLATION THAT PROVIDES SENTENCE REDUCTIONS FOR VICTIMS OF SUBSTANTIATED FEDERAL OR STATE INSTITUTIONAL SEXUAL ABUSE

HOUSE INCARCERATED INMATES BY SEX, NOT GENDER IDENTITY

Current PREA standards, as outlined in PREA Standards in Focus, state that housing and programming decisions for transgender and intersex inmates cannot be based solely on genital status.⁷ We believe that this is an extremely dangerous policy.

Housing reproductively compatible persons together is a recipe for disaster. In the 1800s we started housing males and females together because we didn't have dedicated women's prisons. We quickly realized that this was unsafe. There were illegitimate pregnancies, sexual abuse, and deplorable living conditions that came with these practices.

The book *Their Sisters' Keepers* by Estelle B. Freedman⁸, which is accessible on the PREA Resource website, describes the living standards of women prisoners prior to the 1900s:

The neglect of female prisoners, however, was rarely benevolent. Rather, a pattern of overcrowding, harsh treatment, and sexual abuse recurred throughout prison histories. (p.15, PDF p.11)

To put it in another context, the prison chaplain of the Auburn, NY penitentiary that housed both males and females stated:

“To be a male convict in this prison would be quite tolerable; but to be a female convict for any protracted period, would be worse than death.” (p.16, PDF p.12)

⁷ https://www.prearesourcecenter.org/sites/default/files/library/115.42%20SIF_0.pdf

⁸ <https://www.prearesourcecenter.org/sites/default/files/library/theirsisterskeeper.pdf>

Unfortunately, in light of the rampant sexual abuse of women prisoners by staff and other incarcerated persons, this statement still applies today. Women prisoners are being subjected to abuses from not just staff, but from intact trans-identified inmates as well. Many states have adopted policies similar to California's SB132, which allows incarcerated transgender, non-binary, and intersex people to request to be housed and searched in a manner consistent with their gender identity.⁹ Denial based on genitalia is considered discrimination. In California, 33% of transfers to the women's side are convicted of some sort of violence or sexual offenses against women or children. Women are being battered and beaten. In-custody pregnancies have occurred. Women are being sexually harassed, abused, and raped by predators taking advantage of dangerous legislation.

Some countries, including the United Kingdom, have reversed their policies on allowing intact males access to the women's side regardless of gender self-ID as a result of numerous incidents involving transgender women with male genitalia being accused of sexually assaulting, impregnating, and raping female inmates.

Per the GOV.UK website,¹⁰ transgender women with male genitalia or who have been convicted of a violent or sexual offense, will no longer be held in women's prisons, with the former Deputy Prime Minister, Dominic Raab, stating:

"Safety has to come first in our prisons and this new policy sets out a clear, common-sense approach to the housing of transgender prisoners."

"With these sensible new measures in place, transgender offenders who have committed sexual or violent crimes or retain male genitalia will not serve their sentence in a women's prison, unless explicitly approved at the highest level."

California only has two women's prisons. Women are statistically less violent than men and do not have or form prison gangs, therefore all security levels are housed together. There are Level I security women (these are most often non-violent convictions) housed with Level IV security women (often people with crimes like murder or kidnapping). There is no issue with housing women in this manner.

On the men's side however, they are separated by level, with some exceptions made on a case-by-case basis. Though it doesn't specifically state that it's applied to men only, male Level IV inmates are split into two categories based on unit design, Level IV-180 and Level IV-270, with the 180-design providing the most security.¹¹ Placement into a Level IV-180 design facility is determined by factors such as violence or behavior associated with a Security Threat Group, a term used by CDCR for prison or street gangs. These design designated levels are not something that most female inmates have even heard of due to lack of need from lower violence levels and that there are no Level IV-180 design prisons designated for women. CCWF and CIW prisons are not Level IV-180 designed facilities.

⁹ <https://legiscan.com/CA/text/SB132/id/2210293>

¹⁰ <https://www.gov.uk/government/news/new-transgender-prisoner-policy-comes-into-force>

¹¹ Cal. Code Regs. tit. 15 § 3377 – Facility Security Levels

Per the most recent PREA audit of CCWF, this prison holds both females and males along with custody Levels I-IV. While it is possible for a level IV to be placed in a Level II prison, it is a rare instance. It is highly unlikely that a Level IV male inmate would ever be placed in a Level I prison. This is troubling and problematic as it is questionable why some transfers are allowed into the women's side, a prison with Level I inmates, based on their custody and history alone. For example, SB132 transfer Eva Reeves, is serving time for murder, has a history of violence in prison, and is a former member of the Mexican Mafia - a notorious and extremely violent California prison gang.¹² It's important to note that most male prison gangs do not accept transgenderism in their ranks. A validated gang member coming out as transgender would almost always end up with a "green light" on them or are "put on a list" - aka a death sentence. Tremaine Carroll, who is charged with two counts of forcible rape in CCWF and attempting to dissuade a witness, has a history of sexual abuse against women and no history of transgenderism until SB132 was passed. This individual does not present as a woman and the witness dissuasion is the prison equivalent of violence. Carroll offered money to anyone in CIW to "march up on this white bitch." In any prison - male or female - that is slang and is interpreted as either using violence or, on the men's side, it could extend even further to murder. Fortunately, Carroll was transferred back to a men's prison.

Neither one of these individuals belong in a women's prison, much less a Level I prison, and there are more with histories similar to theirs living among female prisoners today. This practice needs to be stopped and reversed. High level male offenders should never be placed in a prison that houses low level offenders, whether male or female.

These suggestions are being shared from a place of deep concern for the entire incarcerated population. Under the current circumstances, no one is being afforded the opportunity to rehabilitate or heal. People are in a state of permanent hyper-vigilance or actively in their criminal behaviors and thinking patterns. Maintaining complicity is facilitating the continued degradation and abuse of all incarcerated people; with the female population taking the hardest hit. At the end of the day, it will never be safe for reproductively compatible people to be housed together.

ADD DEFINITIVE AND HARSHER CONSEQUENCES FOR PERPETRATORS OF SEXUAL ABUSE, WHETHER BY STAFF OR INMATE-ON-INMATE

Real consequences are a necessary element of a zero-tolerance policy towards sexual abuse and sexual harassment in our country's federal and state prisons, jails, and other detention/lockup facilities. In California, a rape conviction will result in a sentence from 3-8 years or longer dependent on the criminal history of the defendant or circumstances of the crime. The federal sentencing regulations range from being fined to being sentenced to prison for life, or both. The current PREA discipline policy is not enough. Bonnie Hernandez's testimony attests to this.

Ms. Hernandez's attacker received only THREE MONTHS in prison for *repeatedly* raping her. This officer took advantage of his position by repeatedly raping an incarcerated person in his care, using violence in an effort to ensure her silence. The definition of a serial rapist is someone who commits multiple rapes, whether with multiple victims or a single victim repeatedly over a period of time.

¹² Eva Reeves, formerly Michael "Oso" Contreras, from Kelsey Bolar's testimony to this committee; <https://www.policemag.com/blogs/gangs/blog/15318051/florence-13-the-other-transnational-gang>

This officer is a serial rapist and should have been punished as such. Most non-law enforcement citizens who are prosecuted as a serial rapist would receive an extremely high or maximum penalty, not a three-month slap-on-the wrist sentence.

PREA standards state that the only definite consequence for staff is termination of employment. If the behavior is found to be criminal in nature, then authorities will be notified. There is no guarantee that an officer will face criminal prosecution. We believe this to be one of the reasons that current PREA standards have FAILED to protect women from all forms of sexual harassment, abuse, and rape.

Our small organization is staffed by formerly incarcerated women, two of which are considered subject matter experts in women's prison culture and reentry after long-term incarceration. We know what can happen if definitive parameters are not set. We find it appalling that determinative punishments for staff, with specific sentencing, are not included in the PREA standards. Oftentimes, these staff are continuously sexually abusing the same person or multiple people. All of these crimes would be considered "serial" in nature. If anything, a crime committed by a correctional staff while performing their duties, whether in a federal or state facility, should be punished harsher based upon being law enforcement and therefore the ones who are considered the "upholders of the law," not the "law breakers." Furthermore, these crimes are often committed in areas that the staff member knows is not monitored, which takes planning (premeditation) and displays multiple levels of criminal thinking including entitlement and power orientation.

DISCIPLINE STRUCTURE RECOMMENDATIONS FOR STAFF:

- Immediate placement on a no-pay leave. If the conclusion of the investigation comes up with unsubstantiated allegations, the staff member will receive compensation for any missed pay/time and will be placed back in their original post.
- If the allegations are substantiated the staff will be permanently removed from his/her employment. They will not receive any retirement, pension, or any other benefits they would have otherwise received.
- Substantiated allegations of sexual harassment of an incarcerated person will include a mandatory minimum penalty of one (1) year in prison.
- Substantiated allegations of sexual abuse of an incarcerated person will include a mandatory minimum penalty of three (3) years in prison.
- Substantiated allegations of rape of an incarcerated person will include a mandatory minimum of seven (7) years in a state or federal prison.
- Substantiated allegations of ongoing sexual abuse or rape of an incarcerated person will result in a penalty of twenty-five (25) years in prison.
- Substantiated allegations of sexual abuse or rape of multiple incarcerated persons will result in a penalty of twenty-five (25) years in prison.

INMATE-ON-INMATE DISCIPLINE STRUCTURE RECOMMENDATIONS

- Immediate placement of the accused in restrictive housing/administrative segregation until the investigation is complete.
- If allegations are substantiated, the perpetrator will be placed in a separate prison/facility from the victim.
- For state prisons, substantiated allegations of sexual abuse or rape will result in DA referrals for prosecution in accordance with the laws of the state the crime occurred in. If in federal custody, a DA referral for prosecution will be based on federal sex offense laws.

INCLUDE VOYEURISM IN THE LIST OF ACTS DEEMED AS SEXUAL ABUSE OF AN INMATE BY ANOTHER INMATE

Per § 115.6, definitions related to sexual abuse, voyeurism by a staff member, contractor, or volunteer is an invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily functions. We feel voyeurism should be included in the PREA standards for INMATE-ON-INMATE sexual abuse.

In the testimony of Kesley Bolar, she shared about Cathleen Quinn, a woman who had lost her parole suitability due to objecting to California's SB132 and reporting that a transfer was repeatedly peeping on her while she used the bathroom. It's important to note that the peeping incidents occurred while using the inmate restroom located in her unit's dayroom. Though not all allegations will be easy to substantiate, Ms. Quinn's report could have easily been observed via the video footage from the dayroom camera. In other words, Ms. Quinn would be free today if she had the same protection from voyeurism by another incarcerated person as she does from staff.

ADD MORE PROTECTIONS & TRAUMA INFORMED CARE FOR VICTIMS OF INSTITUTIONAL SEXUAL ABUSE

NO RESTRICTIVE OR SEGREGATED HOUSING FOR VICTIMS OF INSTITUTIONAL SEXUAL ABUSE:

In our experience and work with women in California's prisons, we have found that the procedure taken when a PREA report is made is for the victim to be placed into restrictive housing units or some type of segregated housing, with limited to no out-of-cell movement. This compounds the trauma that was unjustly placed on them. In Ms. Hernandez's words, "I was cut off from the support systems and outlets at a time when I needed them the most."

This practice also tells inmate-on-inmate perpetrators that their behavior is ok. In the case of Tremaine Carroll, the woman who made the PREA report was placed in restrictive housing, while Carroll was allowed to remain in a general population room. Instead of placing the accused in restrictive housing, the prison placed the *victim* in restrictive housing. Carroll then reportedly raped

another woman less than 24-hours later. If the perpetrator had been removed instead of the victim, the second rape would not have occurred.

Ultimately, the health and safety of a victim of sexual abuse should be the number one priority when working with them. If it is not possible to retain original housing, then the victim should be given the option to choose their housing placement. Every effort should be made to ensure that the incarcerated victim has access to methods of communicating with family/outside support and maintains regular programming, including access to jobs and outdoor recreation time. AT NO TIME should a victim of sexual abuse be placed in any restrictive housing.

TRAUMA INFORMED CARE:

Trauma-informed care should begin as soon as a PREA report is filed. Currently, most prevention and care inside California's women's prisons is made up of educational handouts, signs on the walls with hotline numbers, and referrals to outside organizations. From the amount of sexual abuse going on inside these prisons, it's clear that prevention and care isn't happening through their limited efforts.

Multiple class action lawsuits have been filed by former and current incarcerated women in CCWF, CIW, and FCI Dublin on multiple staff members for sexual misconduct, abuse, and rape. Though we are unsure of the women from FCI Dublin, we do know that many victims of sexual abuse in California's state prisons are sentenced to long-term and life sentences. They need trauma informed care, such as on-site rape crisis support teams and peer supportive groups while in custody. It has been reported to us by multiple plaintiffs of the state cases that no trauma-informed care has been provided or even offered. This is unacceptable.

MORE PROTECTION FROM STAFF RETALIATION:

Retaliation is not always easy to spot. In California, retaliation in the women's prisons often comes in the form of "enforcing the rules." For example, it's against regulations to wash state issued clothing in the inmate washers/dryers. Most staff allow us to wash all of our clothing on a regular basis. However, if there is an incident in the unit or a staff member gets upset with someone, then they often use "enforcing the rules" as punishment. They announce, "No state blues in the washers/dryers. If we find them, we will confiscate them." Another example is writing people up for contraband, such as jewelry that's not on your property or altered clothing (altered clothing can include a pair of state jeans that have a patch sewn on the knee). Most staff, on the women's side, will generally not bother someone over clothing or question if a ring someone has on is on their property unless they are directly targeting that person. Unfortunately, this is exactly what is happening in both CCWF and CIW prisons. In CCWF, a woman who filed a sexual abuse lawsuit has been written up for twice since the allegations were filed for contraband clothing and jewelry. This woman has been incarcerated for over fifteen years with no write-up history until she filed her lawsuit.

Victim advocates need to be in constant communication with the incarcerated person to ensure that these hard to spot retaliations are not occurring.

ADD SERVICES TO THE VICTIM ADVOCATES:

- Ensure victims are in a safe housing placement
- Facilitate connection with family/outside support
- Ensure that victims are not being retaliated against

STAFF PRISONS BY SEX & INCREASE STAFFING**STAFF PRISONS BY SEX:**

Women's prisons should be staffed with female staff in all housing areas and places where sexual misconduct/abuse often happens. The same for male prisons.

In California, most correctional staff in the women's prisons are male. Just as housing reproductively compatible people together has proven problematic, so is staffing female prisons with a majority male correctional staff. Ensuring that sex-based staffing is accomplished in housing areas and other places where abuse occurs will cut down on staff-on-inmate sexual misconduct/abuse. It would also alleviate or even eliminate issues of inmate-on-staff sexual harassment, as addressed by Brandy Moore White in her testimony to this committee.

INCREASE STAFFING:

We believe that increased staffing will alleviate some incidents of sexual harassment/abuse simply by having more people on the job. For example, in CCWF prison during a 2nd watch shift, there should be a minimum of three staff in any given housing unit, and one of the three assigned staff must be female. More people on the job means having decreased opportunity to be alone with incarcerated persons and more chances of getting caught.

We would like to note that in our communications with the women in CCWF, they are often locked down or on modified program due to constant lack of staff. Whether more staff hires need to take place or more accountabilities be required by current staff when calling out, this has been a constant issue for a few years now.

CREATE LEGISLATION THAT PROVIDES SENTENCE REDUCTIONS FOR VICTIMS OF SUBSTANTIATED FEDERAL OR STATE INSTITUTIONAL SEXUAL ABUSE

We believe that federal protections should be established for anyone in federal or state custody that will provide sentence reductions for substantiated claims of sexual abuse.

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