



# Defending Against Sexual & Gender- Based Violence

## **KNOW YOUR RIGHTS:**

*A resource guide for queer, transgender, and gender expansive people in prisons and jails experiencing sexual harassment, assault and/or discrimination*

***This Know Your Rights presentation was put together by #MeTooBehindBars to provide queer, transgender and gender expansive people in prison and jail with information on their rights when they experience sexual harassment, assault and discrimination, including homophobia and transphobia.***

The presentation includes what you and/or your loved ones can do to report incidences and conditions of sexual and gender-based violence. It also offers routes for seeking healing, justice, and accountability.

The intention of this presentation is to affirm and validate people's experiences and give you information needed to document, file complaints, and defend against further harm and/or retaliation.

# GENDER & SEXUALITY

There are many definitions and expressions of queerness; some include people whose sexual and intimate relationships are with people of the same gender, between people of many different genders, and/or in non-traditional relationships with people of a different gender than themselves.

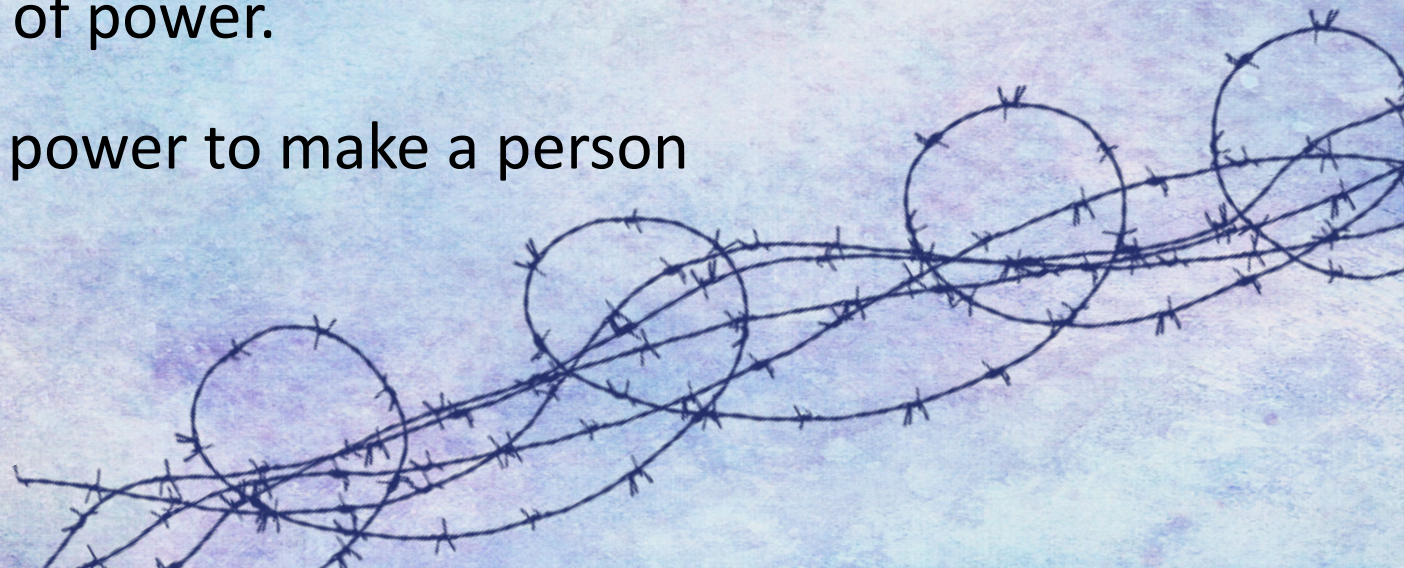
- **Transgender** means all gender identities different from the gender assigned at birth.
- **Two Spirit** names an Indigenous experience, orientation, and/or claim to gender that draws on long cultural traditions and also challenges binary (two) gender categories
- **Nonbinary** people are people who experience a gender identity that is not limited to male or female. It could be in between or beyond male and female. It can include people who are gender non-conforming.
- **Intersex** is a broad term that refers to people with anatomy, hormones or chromosomes that doctors consider to fall outside of the male and female binary.
- **Cis-Gender** means your gender identity is the same as the one assigned at birth.

# WHAT IS SEXUAL AND GENDER-BASED VIOLENCE?

## *What is sexual harassment & assault?*

**Sexual harassment** is any unwanted, inappropriate sexual advances, including suggestive or threatening gestures, language, touching, or requests for sexual favors. Often, it's used as a way to humiliate, insult, or degrade someone, and/or is done by someone in a position of power.

**Sexual assault** is the use of force or power to make a person engage in sexual activity.



## *Examples include any Correction Officers, Medical Staff, Counselors, or other Staff:*

- Forcing or coercing you to have sexual activity of any kind
- Taking advantage of someone during a medical exam
- Repeatedly cornering you and forcing you to rub against them or rubbing their genitals against your genitals or buttocks
- Putting their crotch in your face
- Setting people up or creating vulnerabilities in ways that lead to sexual violence
- Forcing someone to expose their genitals
- Humiliation tactics during searches, exposing people's personal belongings and/or relationship status
- Exposing their own genitals, clothed or unclothed
- Forcing you to wear clothes that expose you or no clothes at all
- Watching while you shower or dress
- Drawing attention to your genitals, breasts, and/or buttocks
- Verbal abuse
- Sexual innuendos, being sexually suggestive, or referencing sexual acts
- Sexually suggestive gestures
- Comments about your body
- Body language or comments that are sexual in nature, such as grabbing/holding/rubbing one's own crotch while they are looking or speaking to you, tongue gestures, raising eyebrows, winking, gestures that indicate a desire for sexual contact.
- Any sexually provocative acts that happen repeatedly by the same or a group of actors

# *What is gender-based violence? What does it include?*

**Gender-based violence** is harm that happens to you because of your gender, gender identity and sexual preference. This includes the targeting of cis- and transgender women, transgender men, gender non-conforming and intersex people, genderqueer and queer people, and femmes based on their gender identity.

## **Examples include:**

- Repeated strip searches
- Derogatory and dismissive comments about your gender or gender presentation
- Sexually explicit language or threats during cavity or strip search: i.e. “you need a real man”
- Calling out gendered roles: i.e. comments on your style, calling you a “maflora” or “an aggressive”
- Forcing someone to wear clothes other than their gender preference
- Intentionally misgendering someone: i.e. using the wrong pronoun for you on purpose

**If you are unsure, ask yourself:** Are you being specifically targeted? Is everyone getting patted down in line or specifically you?

*Sexual and gender-based violence are also often race-based and people are targeted based on their race or ethnicity. They use intimidation, bullying, retaliation, and/or information they have about you against you to provoke you into actions that will result in a longer sentence.*

# KNOW YOUR RIGHTS

*As queer, trans, gender non-conforming, two-spirit and/or intersex people who are incarcerated you have the rights to:*

- Have your gender and sexuality respected
- Be addressed with your correct pronouns (i.e. they, she, he) and honorifics (i.e. maam, sir)
- Conditions that do not make you vulnerable to sexual and/or physical assault
- Safe Housing: you have the right to be placed in a facility designated for men or women based on your preference.
- Have your health and safety given serious consideration in any bed assignment, placement, or programming decision including, but not limited to, granting single-cell status, housing with another incarcerated person of your choice, or removing those who pose a threat from any location where they may have access to you.
- Consent in how cavity searches are conducted:
  - If touching or insertion, a doctor needs to be present
  - Searches need to be private
  - Men cannot search women, women can search men
  - As of January 2021 SB132: Allows trans, non-binary people to choose the gender of the person searching
- SB132 Requires Department of Corrections to allow prisoners to identify themselves as transgender, nonbinary, or intersex, and request proper use of their gender pronoun and honorific during the intake process. If any of these identifications change during the duration of incarceration, you have the right to request that they are updated. For transgender, nonbinary, or intersex people, officers may only conduct a search according to the search policy for your gender identity or according to the gender designation of the facility where they are housed, based on the individual's search preference.
- Protections against discrimination including the fourth amendment which protects against humiliation, degradation, difference of treatment based on gender
- **If any protections are denied, you have a right to a specific and detailed explanation for why the department is unable to accommodate your health and safety needs in writing.**

*Any differences in treatment of cis (people who identify with their gender assigned at birth) versus trans/non binary people should be documented.*

## *If you experience sexual or gender-based violence, you have the right to:*

- File a Complaint using Prison Rape Elimination Act (PREA): Hotline Number (866) 568-5425
- You need medical documentation after experiences of sexual and/or physical violence
- It is also important to keep your own documentation with as much detail as possible (time, names, events etc.)
- You have a right to victim advocate and victim support person during PREA investigation
- PREA Hotline doesn't always answer and this can be stressful
- File a Grievance using CDCR 602 Form
- There are no time limits for grievances about sexual violence
- Anyone can submit a grievance for someone else if the grievance is about sexual assault or harassment, including family members or loved ones inside or outside
- Access to medical and mental health support
- File a housing (Dept. of Fair Employment and Housing, DFEH) complaint and request for transfer per SB132
- A victim advocate or victim support person
- Documentation by medical professional of how you were impacted
  - If you do not receive this documentation in a timely manner or the medical provider refuses or minimizes the impact, you can also document it yourself by having someone take down notes on what happened and writing down their observation of the physical impact including their name and signatures.
  - Even if you do receive medical documentation, it can be helpful to document on your own in the likely case there is anything missing.
- Be kept out of situations that make you vulnerable to the person(s) that harmed you
  - You can request a different officer to accompany you (for a search, transfer or otherwise) if you are uncomfortable, or request a job change.
- Defend against retaliation
  - File a 602 (important for the 602 to be filed soon after the original complaint to prove that it is a case of retaliation). Write on the top of the 602: *"I fear retaliation for submitting this 602."*
  - Loved ones can file the complaint in Sacramento
  - Loved ones, organizations, and attorneys can write letters of concern around retaliation (see organizing section).



# WHAT ELSE CAN WE DO? ORGANIZING FROM THE INSIDE-OUT

*Often your greatest avenue to pressure CDCR is through advocacy and organizing both inside and outside of prisons and jails. We cannot rely only on systems within CDCR to hold prisons accountable for abuse and harassment or to defend our human rights.*

We need the voices and leadership of those inside to direct those of us on the outside to support you and apply pressure on public officials and CDCR; to uphold basic human rights, seek accountability when these rights are violated, and prevent future violations.

An example of this comes from the #MeTooBehindBars campaign and lawsuit created in response to the courage of queer, transgender and gender expansive people in prison to document and organize against sexual violence and harassment, including homophobia and transphobia.

# #METOOEBHINDBARS

*#MeTooBehindBars was launched in response to assaults in late 2015 and early 2016, where correctional officers harassed queer, transgender and gender expansive (QTGE) people inside of the Central California Women's Facility using physical force, sexual harassment, and homophobic and transphobic insults.*

Then, on November 9, 2017, a lawsuit was filed against CDCR by four plaintiffs who are (or were) incarcerated at CCWF. #MeTooBehindBars is a campaign led by QTGE who are currently or formerly incarcerated to support the lawsuit, expose the pervasive gender-based violence that is inherent to prisons and jails that QTGE people are often targeted by, and hold CDCR accountable for this violence.

Moreover, the campaign, supported by loved ones and advocates, will educate and mobilize the public to demand an end to abusive and discriminatory behavior behind prison walls and free people who are being punished for surviving.

To share your story, provide testimony and/or get involved in #MeTooBehindBars, email us at:

[info@metoobehindbars.org](mailto:info@metoobehindbars.org).

# RESOURCES

*You can also reach out to the following organizations if you or someone you love is experiencing gender-based violence, particularly homophobic and transphobic attacks, inside of California prisons and jails.*

**Sister Warriors Freedom Coalition**

[info@sisterwarriorsfreedomcoalition.org](mailto:info@sisterwarriorsfreedomcoalition.org)

**California Coalition for Women Prisoners**

4400 Market St., Oakland, CA 94608

(415) 255-7036 ext. 314

[info@womenprisoners.org](mailto:info@womenprisoners.org)

**Survived & Punished**

[survivedandpunished@gmail.com](mailto:survivedandpunished@gmail.com)

**Transgender, Gender Variant, Intersex Justice Project**

(415) 554-8491

[info@tgijp.org](mailto:info@tgijp.org)

