
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

Bill No: SB 1069 **Hearing Date:** April 2, 2024
Author: Menjivar
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Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *State prisons: Office of the Inspector General*

HISTORY

Source: California Coalition for Women Prisoners; Sister Warriors Freedom Coalition; ValorUS

Prior Legislation: AB 102 (Ting), Ch. 38, Stats. 2023

Support: Alliance for Boys and Men of Color; California Immigrant Policy Center; California Public Defenders Association; Californians for Safety and Justice; Californians United for A Responsible Budget; Catalyst; Center on Juvenile and Criminal Justice; Communities United for Restorative Youth Justice; Ella Baker Center for Human Rights; Families Against Mandatory Minimums; Family Services of Tulare County; Felony Murder Elimination Project; Free to Thrive; GRIP Training Institute; Haywood Burns Institute; Healthy Alternatives to Violent Environments; Hollywood Now; Initiate Justice; Initiate Justice Action; Just Detention International; Justice First; Lawyers' Committee for Civil Rights of the San Francisco Bay Area; Legal Services for Prisoners With Children; Modoc Crisis Center; Mountain Crisis Services; North County Rape Crisis and Child Protection Center; Oakland Privacy; Partners Against Violence; Peace Over Violence; PREVAIL; Project Sister Family Services; Rape Counseling Services of Fresno; Rape Trauma Services: a Center for Healing and Violence Prevention; Riverside Area Rape Crisis Center; Root & Rebound; Rubicon Programs; San Francisco Public Defender; San Francisco Women Against Rape; Smart Justice California; Stand Up Placer, Inc.; Strength United; The Amelia Ann Adams Whole Life Center; Transformative In-Prison Workgroup; Transitions Clinic Network; Wild Iris Family Counseling & Crisis Center; Women's Center-High Desert, Inc.; YWCA Golden Gate Silicon Valley

Opposition: None known

PURPOSE

The purpose of this bill is to: 1) authorize the Office of the Inspector General (OIG) to monitor and investigate all staff misconduct cases and complaints that involve sexual misconduct with an incarcerated person; 2) give the OIG joint decision-making authority along with the prison wardens regarding the determination of whether a sexual misconduct complaint is substantiated and the prison's response to a substantiated sexual misconduct complaint; 3) require the OIG, in cases in which the OIG and warden disagree on whether a

sexual misconduct complaint is substantiated, to prepare and submit a report to the Secretary of the Department of Corrections and Rehabilitation (CDCR) for review and final determination and to the Attorney General (AG) for consideration; and 4) authorize the AG to investigate a sexual misconduct complaint referred to it and respond to the Secretary of CDCR with their recommendation regarding that complaint.

Existing law establishes the independent Office of the Inspector General (OIG). (Pen. Code, § 6125.)

Existing law provides that the Inspector General (IG) is responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process of the Department of Corrections and Rehabilitation (CDCR) under policies to be developed by the IG. (Pen. Code, § 6126, subd. (a).)

Existing law authorizes the IG to initiate an audit or review of policies, practices, and procedures of CDCR when requested by the Governor, the Senate Committee on Rules, or the Speaker of the Assembly. Requires the IG to, during the course of an audit or review, identify areas of full and partial compliance, or noncompliance, with departmental policies and procedures, specify deficiencies in the completion and documentation of processes, and recommend corrective actions, including, but not limited to, additional training, additional policies, or changes in policy, as well as any other findings or recommendations that the Inspector General deems appropriate. Requires the IG to prepare a written public report upon completion of an audit or review. (Pen. Code, § 6126, subds. (b)-(d).)

Existing law requires the IG to provide contemporaneous oversight of grievances that fall within the department's process for reviewing and investigating inmate allegations of staff misconduct and other specialty grievances, examining compliance with regulations, department policy, and best practices. Specifies that the contemporaneous oversight be completed in a way that does not unnecessarily slow the department's review and investigation of inmate allegations of staff misconduct and other specialty grievances. Requires the IG to issue reports annually, beginning in 2021. (Pen. Code, § 6126, subd. (i).)

Existing law requires the IG to monitor the department's process for reviewing uses of force and to issue reports annually. (Pen. Code, § 6126, subd. (j).)

Existing law requires the OIG to be responsible for contemporaneous public oversight of CDCR investigations and staff grievance inquiries conducted by the department's Office of Internal Affairs (OIA). Provides that the OIG have staff physically co-located with CDCR's OIA to facilitate oversight of the department's internal affairs investigations. Requires the OIG to be responsible for advising the public regarding the adequacy of each investigation, and whether discipline of the subject of the investigation is warranted. Provides that the OIG has discretion to provide public oversight of other CDCR personnel investigations as needed. (Pen. Code, § 6133, subd. (a).)

Existing law requires the OIG to issue regular reports, no less than annually, to the Governor and the Legislature summarizing its recommendations concerning its oversight of CDCR allegations of internal misconduct and use of force. (Pen. Code, § 6133, subd. (b)(1).)

Existing law requires the OIG to also issue regular reports, no less than semiannually, summarizing its oversight of OIA investigations. Requires the report to include, but not be limited to, all of the following:

- Data on the number, type, and disposition of complaints made against correctional officers and staff.
- A synopsis of each matter reviewed by the OIG.
- An assessment of the quality of the investigation, the appropriateness of any disciplinary charges, the OIG's recommendations regarding the disposition in the case and when founded, the level of discipline afforded, and the degree to which the agency's authorities agreed with the OIG recommendations regarding disposition and level of discipline.
- The report of any settlement and whether the OIG concurred with the settlement.
- The extent to which any discipline was modified after imposition.
(Pen. Code, § 6133, subd. (b)(1).)

Existing law requires the reports to be in a form that does not identify the agency employees involved in the alleged misconduct. Requires the reports be posted on the IG's website and otherwise made available to the public upon their release to the Governor and the Legislature. (Pen. Code, § 6133, subds. (b)(2), (b)(3).)

This bill requires the OIG to monitor and have investigatory authority over all staff misconduct cases and complaints that involve sexual misconduct with an incarcerated person.

This bill provides that the OIG has joint decision making authority, along with the wardens of the various state prisons, regarding both of the following:

- The determination of whether a sexual misconduct case or complaint is substantiated.
- How a prison responds to a substantiated sexual misconduct case or complaint.

This bill requires the OIG, if the OIG and the warden of a state prison do not agree on whether a sexual misconduct case or complaint is substantiated, to prepare a report documenting the disagreement and submit that report to both of the following:

- The Secretary of CDCR, or their designee, for their review and final determination.
- The AG, or their designee, for their consideration.

This bill authorizes the AG, or their designee, to do the following:

- Investigate a sexual misconduct case or complaint referred to them.
- If they deem it appropriate, respond to the Secretary of CDCR with their recommendation regarding a sexual misconduct case or complaint referred to them.

COMMENTS

1. Need For This Bill

According to the author:

SB 1069 will work to protect incarcerated survivors of sexual misconduct involving staff within the California Department of Corrections and Rehabilitation (CDCR). Decades of sexual misconduct, including recent horrific events documented at the Central California Women's Facility (CCWF) and the

California Institution for Women (CIW) have demonstrated that a new process for sexual misconduct cases and complaints is necessary. Wardens at both institutions were relieved of duty as recently as 2023 following scandals, including rampant sexual abuse and suicides.

According to the National Resource Center on Domestic Violence, approximately 60-70% of incarcerated women or girls have reported experiencing physical or sexual violence in childhood, and 70-80% of incarcerated women have reported adulthood intimate partner violence. Incarcerated people deserve to have confidence in the Department, processes and entities in place to protect them while in state custody. SB 1069 will create a meaningful pathway for victims of sexual misconduct by CDCR staff to report instances of sexual misconduct with the assurance that multiple stakeholders, including one independent of CDCR, will determine the outcome of investigations. Specifically, this bill will give the Office of the Inspector General (OIG) responsibility to monitor and authority to investigate sexual misconduct cases and complaints involving staff and require that the outcome of an employee sexual misconduct investigation is a shared responsibility between the Warden and OIG. It will also promote transparency by requiring information-sharing with the Department of Justice.

2. OIG Oversight Authority

The OIG is an independent office that provides oversight of CDCR's internal affairs investigations and the disciplinary process as well as oversight of grievances that fall within CDCR's process for reviewing and investigating allegations of staff misconduct. The OIG additionally monitors CDCR's process for reviewing uses of force, conducts periodic medical inspections to review the delivery of medical care in the state's prisons, and reviews delivery of the reforms contained in "The Blueprint," a document that identifies specific goals and reforms designed to save the state money, end federal court oversight, and improve the prison system. Finally, the OIG is authorized to initiate an audit or review of CDCR policies, practices, and procedures when requested by the Governor or Legislature.

As stated above, the OIG provides oversight to CDCR's OIA investigations and staff grievance inquiries. Current law requires the OIG to determine the adequacy of each investigation and whether discipline of the subject of the investigation is warranted. The OIG is statutorily required to issue regular reports, no less than annually, to the Governor and the Legislature summarizing its recommendations concerning its oversight of CDCR allegations of internal misconduct and use of force, and regular reports, no less than semiannually, summarizing its oversight of OIA investigations. The report summarizing oversight of OIA investigations must include:

- Data on the number, type, and disposition of complaints made against correctional officers and staff.
- A synopsis of each matter reviewed by the OIG.
- An assessment of the quality of the investigation, the appropriateness of any disciplinary charges, the OIG's recommendations regarding the disposition in the case and when founded, the level of discipline afforded, and the degree to which the agency's authorities agreed with the OIG recommendations regarding disposition and level of discipline.

- The report of any settlement and whether the Office of the Inspector General concurred with the settlement.
- The extent to which any discipline was modified after imposition.

All reports are required to be posted on the IG's website and otherwise made publicly available.

3. Ongoing Concerns Regarding Sexual Abuse of Incarcerated Individuals

Sexual violence, sexual misconduct, and sexual harassment in the nation's correctional facilities is prevalent. (See Char Adams, *Hundreds of lawsuits allege decades of sexual abuse at Rikers Island* (Dec. 5, 2023) available at <<https://www.nbcnews.com/news/nbcblk/sexual-abuse-lawsuits-rikers-island-new-york-adult-survivors-act-rcna126898>>; Lisa Fernandez, *More than 60 sex abuse, retaliation lawsuits filed against officers at FCI Dublin* (Mar. 8, 2024) available at <<https://www.ktvu.com/news/more-than-60-sex-abuse-retaliation-lawsuits-filed-against-officers-at-fci-dublin>>; Stacey Barchenger, *NJ to pay \$21M for assaults at women's prison, federal oversight coming* (Apr. 8, 2021) available at <<https://www.northjersey.com/story/news/new-jersey/2021/04/08/nj-settlement-edna-mahan-million-assaults-womens-prison-federal-consent-decree/7140814002/>>; Alysia Santo, *Preying on prisoners: When Texas guards demand sex* (Jun. 17, 2015) available at <<https://www.texastribune.org/2015/06/17/preying-texas-prisoners-when-guards-demand-sex/>>.) The Bureau of Justice Statistics conducts an annual Survey of Sexual Victimization which is administered to all federal and state prisons, all facilities operated by the military and U.S. Immigration and Customs Enforcement, and representative samples of public and private jails, private prisons, and jails holding adults on Native American territory. (U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Special Report: Sexual Victimization Reported By Adult Correctional Authorities, 2016-2018* (Jun. 2021), pp. 1-2 available at <<https://bjs.ojp.gov/content/pub/pdf/svraca1618.pdf>>.) As part of the survey, correctional administrators provide annual totals of allegations of five types of sexual victimization which are determined by the type of incident (e.g., nonconsensual sexual acts, abusive sexual conduct, and sexual harassment) and perpetrator (e.g., incarcerated individual or staff). (*Id.* at p. 2.) Between 2016 and 2018, there were 45,581 allegations of sexual victimization reported by the nation's prisons and jails in which a staff member was the perpetrator. (*Id.* at p. 6.)

Between 2016 and 2018, correctional authorities reported 2,229 substantiated incidents of sexual victimization perpetrated by staff on an incarcerated person. (U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Special Report: Substantiated Incidents of Sexual Victimization Reported By Adult Correctional Authorities, 2016-2018* (Jan. 2023), p. 1 available at <<https://bjs.ojp.gov/document/sisvraca1618.pdf>>.) Of those 2,229 substantiated incidents, 1,549 were sexual misconduct incidents and 680 were sexual harassment incidents. (*Id.* at p. 10.) The overwhelming majority of sexual harassment or sexual misconduct incidents perpetrated by staff were perpetrated by correctional officers or other custodial staff although maintenance staff, medical staff, administrative staff, program staff, and other staff were also found to have victimized incarcerated individuals. (*Id.* at p. 13.)

California's prisons—and the women's prisons in particular—have been plagued with allegations of staff sexual assault and sexual misconduct for years. (See Richard Winton, *'Every woman's worst nightmare': Lawsuit alleges widespread sexual abuse at California prisons for women* (Jan. 18, 2024) available at <<https://www.latimes.com/california/story/2024-01-18/every-womans-worst-nightmare-lawsuit-alleges-widespread-sexual-abuse-at-californias-womens-prisons>>.) Earlier this year, 130 individuals formerly incarcerated at the California Institution for

Women (CIW) and Central California Women's Facility (CCWF) filed a lawsuit against CDCR and 30 current and former correctional officers alleging that they were sexually abused while in prison. (*Id.*) The lawsuit alleges that the sexual abuse occurred throughout the prisons, including in cells, closets, and storage rooms, and alleges a variety of sexual abuse, including groping, forced oral copulation, and rape. (*Id.*) In 2023, a former correctional officer at CCWF was arrested for sexually assaulting 13 incarcerated individuals over nine years and was charged with 96 counts of rape, sodomy, sexual battery, and rape under color of authority. (Jeremy Childs, *Ex-corrections officer accused of raping 13 inmates in California women's prison* (May 25, 2023) available at <<https://www.latimes.com/california/story/2023-05-25/ex-corrections-officer-accused-of-raping-inmates-at-california-womens-prison>>.)

4. Prison Rape Elimination Act (PREA)

PREA was passed by Congress in 2003. It applies to all correctional facilities, including prisons, jails, and juvenile facilities. Among the many stated purposes for PREA are: to establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States; to develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape; to increase of the available data and information on the incidence of prison rape to improve the management and administration of correctional facilities; and to increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape. (34 U.S.C. § 30301 et seq.) The act also created the National Prison Rape Elimination Commission and charged it with developing standards for the elimination of prison rape.

PREA Standards

The PREA standards developed by the National Prison Rape Elimination Commission were issued as a final rule by the U.S. Department of Justice in 2012. (77 Fed.Reg. 37106 (Jun. 20, 2012).) Among other things, the standards require each agency and facility to: designate a PREA point person to coordinate compliance efforts; develop and document a staffing plan, taking into account a set of specified factors, that provides for adequate levels of staffing, and, where applicable, video monitoring, to protect inmates against sexual abuse; and train staff on key topics related to preventing, detecting, and responding to sexual abuse. In addition, the standards provide requirements regarding the avenues for reporting sexual abuse, investigation of sexual abuse, and access to medical and mental health care for inmate victims of sexual abuse.

CDCR PREA Policy

AB 550 (Goldberg), Chapter 303, Statutes of 2005, established the Sexual Abuse in Detention Elimination Act. The Act made several legislative findings and declarations regarding sexual abuse at CDCR institutions and required CDCR to adopt specified policies, practices, and protocols related to the placement of incarcerated individuals, physical and mental health care of victims who are incarcerated individuals, and investigation of sexual abuse.

CDCR's PREA policy provides guidelines for the prevention, detection, response, investigation, and tracking of sexual violence, staff sexual misconduct, and sexual harassment against individuals incarcerated in CDCR facilities. (DOM §§ 54040.1-54040.22.) The policy applies to all incarcerated individuals and individuals employed by CDCR, including volunteers and independent contractors assigned to an institution, community correctional facility, conservation camp, or parole.

5. CDCR Regulations on Staff Sexual Misconduct and Sexual Harassment

CDCR regulations define staff sexual misconduct as “any sexual behavior by a departmental employee, volunteer, agent or individual working on behalf of the Department of Corrections and Rehabilitation, which involves or is directed toward an inmate or parolee.” (Cal. Code of Regs., tit. 15, § 3401.5, subd. (a).) Regulations specify that the legal concept of consent does not exist between CDCR staff and incarcerated individuals, and that any sexual behavior between them constitutes sexual misconduct and will subject the employee to disciplinary action and/or to prosecution. (*Ibid.*)

Section 3401.5 provides that sexual misconduct includes, but is not limited to: influencing or offering to influence an incarcerated individual’s safety, custody, housing, privileges, or programming, or offering goods or services, in exchange for sexual favors; threatening an incarcerated individual’s safety, custody, housing, privileges, work detail, or programming because the incarcerated individual has refused to engage in sexual behavior; engaging in a sexual act or contact, as defined; display by staff, in the presence of an incarcerated individual, of the staff person’s uncovered genitalia, buttocks, or breast; voyeurism, defined as an invasion of privacy of an incarcerated individual by staff for reasons unrelated to official duties, by a staff person, including volunteers or independent contractors.

An employee who observes, or who receives information from any source concerning staff sexual misconduct, is required to immediately report the information or incident directly to the hiring authority, unit supervisor, or highest-ranking official on duty. (Cal. Code of Regs., tit. 15, § 3401.5, subd. (c).) Failure to accurately and promptly report any incident, information, or facts which would lead a reasonable person to believe sexual misconduct has occurred may subject the employee who failed to report it to disciplinary action. (*Ibid.*) Retaliatory measures against an incarcerated individual who reports an incident of staff sexual misconduct, including coercion, threats of punishment, or any other activities intended to discourage or prevent the reporting of sexual misconduct shall result in disciplinary action and/or criminal prosecution. (Cal. Code of Regs., tit. 15, § 3401.5, subd. (f).)

Regulations define staff sexual harassment as “repeated verbal comments or gestures of a sexual nature to an offender by a staff member, volunteer, or contractor, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.” (Cal. Code of Regs., tit. 15, § 3401.6, subd. (a).) All allegations of staff sexual harassment are subject to review and investigation, and when appropriate, to disciplinary action and/or criminal prosecution. (Cal. Code of Regs., tit. 15, § 3401.6, subd. (b).) The employee reporting requirements and prohibition on retaliation for reporting that is applicable to staff sexual misconduct apply to staff sexual harassment. (Cal. Code of Regs., tit. 15, § 3401.6, subs. (c), (d).)

6. CDCR Policies Regarding Staff Misconduct Complaints

In general, complaints regarding staff misconduct are referred to the Centralized Screening Team (CST) which is part of CDCR’s OIA. However, allegations of staff misconduct toward an incarcerated person involving use of force and PREA complaints are referred to the Allegation Investigation Unit (AIU) for an investigation. (Cal. Code of Regs., tit. 15, § 3486, subd. (d)(1).) For complaints other than use of force or PREA complaints, the CST must determine whether to refer the complaint to the AIU or to the hiring authority. If the CST determines that the allegation is one that requires specialized investigative skills or resources, it is referred to the AIU. (Cal.

Code of Regs., tit. 15, § 3486, subd. (d)(2).) If it does not require specialized investigative skills or resources, it is referred to the hiring authority for assignment to a locally designated investigator (LDI), a CDCR staff member trained by the OIA to collect evidence concerning the complaint, unless CST refers it to AIU. (Cal. Code of Regs., tit. 15, § 3486, subd. (d)(3).)

Section 3486.2 lays out the procedures for complaints that are referred to the AIU and those that are referred to the warden. If the LDI finds evidence of staff misconduct which may not require specialized investigative skills or resources but which may result in the staff member being disciplined, the LDI must document the evidence and refer it to the hiring authority for review. (Cal. Code of Regs., tit. 15, § 3486.2, subd. (c)(3)(A).) If the hiring authority agrees with the LDI, the complaint is referred to AIU for investigation or request for direct adverse action. (*Ibid.*) If the hiring authority does not believe adverse action may result, the matter is returned to the LDI for completion of the inquiry. (*Ibid.*) If the LDI discovers evidence of staff misconduct which requires investigative skills or resources, the LDI is required to summarize the facts and evidence gathered during the inquiry and refer the matter to AIU for an investigation with notification to the hiring authority. (*Ibid.*)

Upon completion of an investigation, the LDI must prepare a confidential draft report and submit it to the AIU manager for review and approval. (Cal. Code of Regs., tit. 15, § 3486.2, subd. (c)(3)(B).) During the review, the AIU manager must determine whether the investigation is sufficient, complete, and unbiased. (Cal. Code of Regs., tit. 15, § 3486.2, subd. (c)(4)(A).) Once approved, the report is provided to the hiring authority. (*Ibid.*) If the hiring authority finds the investigation insufficient to determine a finding for each allegation, the hiring authority must request additional fact gathering. (*Ibid.*) If the hiring authority finds the investigation sufficient to determine a finding for each allegation, they must do so in accordance with section 3392.1 which specifies the types of findings (i.e., no finding, not sustained, unfounded, exonerated, and sustained). (*Ibid.*) When a hiring authority finds that an allegation of misconduct is sustained, only corrective action can be imposed unless a request for direct adverse action is approved by OIA. (Cal. Code of Regs., tit. 15, § 3392.1, subd. (c).)

When taking adverse action, the penalty must be imposed consistent with the Employee Disciplinary Matrix. (Cal. Code of Regs., tit. 15, § 3392.3, subd. (b).) Adverse action may only be taken after finding that the allegation of staff misconduct is sustained by a preponderance of the evidence. (Cal. Code of Regs., tit. 15, § 3392.3, subd. (c).) The adverse action penalties are provided in section 3392.4 and include the lowest level of adverse action, a letter of reprimand, to the most serious adverse action, dismissal. Finally, section 3392.5 includes the Employee Disciplinary Matrix that must be followed when imposing an adverse action penalty.

Notices of adverse action and letters of intent must be served on employees prior to the expiration of the applicable statute of limitations as defined in state law. (Cal. Code of Regs., tit. 15, § 3392.6, subd. (a).) A department employee is entitled to contest an adverse action prior to its effective date. (Cal. Code of Regs., tit. 15, § 3392.8, subd. (a).) After the adverse action takes effect, the individual can file an appeal with the State Personnel Board.

7. Sexual Assault Response and Prevention Working Group

The 2023-2024 Budget Act established “a sexual assault response and prevention working group and ambassador program” and allocated funds to CDCR as well as the Sister Warriors Freedom Coalition to support the working group in identifying best practices for whistleblower protections and trauma-informed care and support to survivors. The working group consisted of CDCR

leadership and staff, correctional officers, community-based organizations led by formerly incarcerated people, representatives from the Sister Warriors Freedom Coalition, and individuals who have survived sexual assault while in custody. The working group met over a six-month period. Two reports were produced as a result of the working group: one authored by CDCR required by the Budget Act and one authored by the community-based organizations that were members of the working group.

The community report on the working group primarily focused on the women's prisons, CIW and CCWF. (Sister Warriors Freedom Coalition et al., *California Women's Prisons—Sexual Abuse Response and Prevention Working Group, Community Report to the Legislature* (Mar. 2024) available at <https://sisterwarriors.org/prison_sexualassault_report>.) The report made several recommendations fitting into five categories: expedited release of survivors, culture shifting, services for survivors, the investigation and reporting process, and accountability. (*Id.* at p. 6.) With respect to the investigation and reporting process, the group recommended the following:

- Ensuring privacy in reporting by using locked submission boxes placed next to other existing submission boxes in public areas in common use, away from stations used by custody staff; allowing reporting using non-surveilled email; allowing reporting via private, non-surveilled phone lines; and providing private, non-surveilled spaces where in-person reporting to support professionals can occur.
- Allowing for increased anonymity and confidentiality in reporting.
- Creating an independent reporting process by authorizing the initial handling of reports by an independent, external body; oversight by an independent regulatory system; the creation of a role for independent survivor advocates; the creation of a tracking system of reports; and independent review of staff misconduct investigations by an entity other than CDCR.
(*Id.* at pp. 37-42.)

The recommendations were designed to increase confidence in reporting misconduct, ensure protection of those reporting from retaliation, and increase staff and department accountability. This bill adopts elements of some of the recommendations related to the investigation and reporting process. Specifically, this bill authorizes the OIG to monitor and investigate all staff misconduct cases and complaints that involve sexual misconduct with an incarcerated person, gives the OIG joint decision-making authority regarding the determination of whether a sexual misconduct complaint is substantiated and the prison's response to a substantiated sexual misconduct complaint, allows for the submission of a case to the AG's office for review when the OIG and warden disagree on whether a sexual misconduct complaint is substantiated, and authorizes the AG to investigate a sexual misconduct complaint referred to it and share a recommendation regarding that complaint with CDCR.

8. Argument in Support

A coalition of organizations, including the co-sponsors of the bill, write:

Currently, following internal investigations of employee sexual misconduct, prison wardens have the sole authority to review completed investigation reports, determine the findings of the investigation, and decide on appropriate disciplinary action. This process is fundamentally flawed due to a lack of oversight and an

inherent conflict of interest in purely internal investigations. Oversight by the OIG has consistently shown that investigations are frequently lacking or incomplete and that the warden determinations are often inadequate. Decades of sexual misconduct, including recent events at the Central California Women's Facility (CCWF) and the California Women's Institute (CIW), have demonstrated that a new process is necessary.

As anti-sexual violence organizations we recognize how pervasive sexual violence is within California detention centers and how urgently survivors need support to recover from their trauma. As advocates for survivors, we want to ensure that they have ample access to options in the aftermath of experiencing violence and this includes security in knowing that multiple parties will be involved in reviewing and investigating employee sexual misconduct cases.

SB 1069 will serve as a short-term fix to CDCR's current staff sexual misconduct investigation process. It will require CDCR to share decision-making responsibility with the OIG when determining appropriate outcomes for all staff sexual misconduct investigations. If there is disagreement among the shared decision makers, the OIG would prepare a report documenting the disagreement to be submitted to the Secretary of CDCR for final decision and to the Department of Justice for consideration. Granting the OIG investigatory authority will allow for a more meaningful oversight over CDCR's investigation process.

This bill will build trust in the investigation process, increasing the likelihood that victims will report staff abuse. By ensuring that independent stakeholders are involved in CDCR's employee sexual misconduct investigations, SB 1069 would address concerns about conflict of interest and increase survivor safety.

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