



January 19, 2010

Mr. Timothy Lockwood
Chief, Regulation and Policy Management Branch
California Department of Corrections and Rehabilitation
P.O. Box 942883
9838 Old Placerville Road
Sacramento, CA 95827
Email: rpmb@cdcr.ca.gov

DELIVERED VIA EMAIL

Re: Comment on Proposed Amendments to Lethal Injection Regulations, Number 09-09,
Section 3349 and Subchapter 4, Article 7.5 of the California Code of Regulations

--To Be Included in Rulemaking File--

Dear Mr. Lockwood:

The American Civil Liberties Union is a nationwide, nonprofit, nonpartisan membership organization dedicated to the defense and promotion of the guarantees of privacy, liberty, and other individual rights embodied in the state and federal constitutions and statutes. The American Civil Liberties Union of Northern California (ACLU-NC), founded in 1934, is the largest ACLU affiliate in the country, with more than 55,000 members in Northern California.

The ACLU-NC has a substantial interest in the proposed regulations, and we have expressed our concerns regarding the method and means of executions to you in the past. We appreciate the opportunity to comment on the amended proposals for lethal injection. The ACLU-NC has identified a number of problems with the procedures as modified, and on behalf of our 55,000 members, we object to the modified regulations. In addition, the American Civil Liberties Union of Imperial and San Diego Counties joins this comment and objects to the modified regulations on behalf of its 8,000 members.

Pursuant to the Administrative Procedures Act (APA), the ACLU-NC presents these comments objecting to the content of the proposed regulations and to the procedures followed by the California Department of Corrections and Rehabilitation (CDCR) in proposing the regulations. We incorporate by reference all other comments submitted that object to the proposed regulations. In addition, the CDCR failed to address nearly all of the objections made in our

NANCY PEMBERTON, CHAIRPERSON | M. QUINN DELANEY, LINDA LYE, PHILIP MONRAD, VICE CHAIRPERSONS | DICK GROSBOLL, SECRETARY/TREASURER
ABDI SOLTANI, EXECUTIVE DIRECTOR | CHERI BRYANT, DEVELOPMENT DIRECTOR | LAURA SAPONARA, COMMUNICATIONS DIRECTOR | ALAN SCHLOSSER, LEGAL DIRECTOR
SHAYNA GELENDER, ORGANIZING & COMMUNITY AFFAIRS DIRECTOR | NATASHA MINSKER, NICOLE A. OZER, DIANA TATE VERMEIRE, POLICY DIRECTORS
FRANCISCO LOBACO, LEGISLATIVE DIRECTOR | VALERIE SMALL NAVARRO, SENIOR LEGISLATIVE ADVOCATE | TIFFANY MOK, LEGISLATIVE ADVOCATE | STEPHEN V. BOMSE, GENERAL COUNSEL

comments regarding the original proposed regulations, submitted on June 30, 2009. We continue to raise all of those previously stated objections.

Should the CDCR fail to address the substantial civil liberties and civil rights problems created by the proposed regulations and the many procedural defects with the comment process, the Office of the Administrative Law (OAL) should disapprove of the proposed regulations.

I. Failure to Provide Notice to Individuals who Requested Notice and to Directly Affected Individuals

The APA requires the CDCR to provide notice of proposed rules and amendments to anyone who requests such notice. Gov. Code § 11136.4(a)(1). The APA also states that “any person or group of persons whom the agency believes to be interested in the proposed action” should be given notice of that action when appropriate. Gov. Code § 11136.4(a)(4). When changes are made to proposed regulations previously released for public comment, the agency is required to notify every person who submitted a comment to the first proposal and to provide each of those individuals a meaningful opportunity to be heard on the changes. Gov. Code § 11346.8(c); Cal. Code Regs. tit. 1, § 44 (a). The CDCR has violated the requirements of the APA by failing to provide notice to some interested individuals and individuals who submitted comments regarding the proposed lethal injection regulations as originally proposed, and by providing inadequate notice to others.

A. Inmates at San Quentin Have Not Received Proper Notice

The inmates on death row are clearly affected by proposed lethal injection regulations, yet there has been a remarkable lack of information made available to them regarding the modified proposal. In our comment submitted on June 30, 2009, we objected to the failure to provide notice of the proposed regulation to every person on death row, both male and female. In response to this comment, the CDCR should have taken steps to ensure that every person on death row received actual notice of the amendments to the proposed regulation.

As far as we can ascertain, of the inmates at San Quentin, only those who commented on the procedures in the first comment period received notice of the January 4 changes; there has not been any general notice at San Quentin to our knowledge. All death row inmates are interested parties when it comes to lethal injection procedures, and all of them should have received notice of the new changes. Particularly given the failure of the CDCR to provide adequate notice to men on death row of the original proposed lethal injection regulations, the CDCR should be required to provide actual and effective notice to every man on death row of the proposed changes.

Furthermore, some of the inmates currently on death row were not there when the first proposal was issued in May 2009. Ten people have been sentenced to death since June 30, 2009, when the last comment period closed, and these interested individuals have not had a meaningful chance to comment on the proposed regulations.

We are informed that the CDCR hand delivered the proposed changes to every woman on death row. There is no reason why the CDCR could not have provided the same prompt notice to the men on death row. Yet, we are informed that those inmates at San Quentin who were notified of the changes received them by mail rather than by hand delivery. Because this comment period was only fifteen days long and delivery by mail reduced amount of time inmates had to read and comment on the latest amendments even further, these interested individuals have not received meaningful notice and opportunity to comment. For example, one inmate informed us that he received the notification late in the day on Friday, January 8, 2010, and thus had fewer than twelve days to comment on the proposed changes. By providing notice via mail, and cutting into an already-short comment period, the CDCR unduly limited the ability of the male inmates at San Quentin to voice their concerns regarding the proposed changes to the regulations.

B. Individuals who Submitted Comments Have Not Received Notice

Some members of the ACLU-NC who submitted comments during the first comment period have reported to us that they did not receive notice by email or by mail of the new proposal issued on January 4, 2010. This failure to provide notice to individuals who submitted comments violates the APA. The CDCR is required by law to provide notice directly to these individuals of the changes. While we have recently provided information to those members who contacted us to complain that they did not receive notice, we have no way to verify that every one of our members who submitted a comment has in fact been notified. Further, even individuals who now are aware of the changes received this notice much later than the law demands. The failure of the CDCR to provide prompt and direct notice to every individual who submitted a comment previously has reduced the amount of time these people have to comment and prevented them from having a meaningful opportunity to be heard on the new amendments.

II. Failure to Address Necessary Procedures and Safeguards for Women Sentenced to Die

Change Made:

The CDCR added subsection 3349.3.6(e) to the proposed regulations stating: "Female inmates shall be transported to San Quentin no sooner than 72 hours prior to the scheduled execution and no later than 6 hours prior to the scheduled execution. The inmate will be secured in the Lethal Injection Facility Holding Area."

CDCR Rationale for the Change:

According to the CDCR, "[t]he public comments indicated that there were no specific provisions for female inmates. This change is made to clarify when a female inmate will be transferred to San Quentin and where she will be housed until the time of her execution."

The Problem:

The only mention of female inmates in all of the proposed regulations on lethal injection is in subsection 3349.3.6(e), added in response to public comments addressing concerns about how women on death row will be treated. Originally, the proposed regulations made no mention of female inmates at all. Women sentenced to die are housed at Central California Women's Facility (CCWF) in Chowchilla, located more than 150 miles from San Quentin. The driving time for a normal passenger car from Chowchilla to San Quentin is three hours; the time necessary to transport a high security prisoner is likely to be much longer. The proposed regulations do not explain how the inmates' constitutional rights will be protected during this lengthy transfer in the critical last hours before the execution. This is particularly distressing since the regulations do not even make clear whether the woman prisoner must *arrive* at San Quentin six hours prior to the execution or merely *leave* CCWF six hours before, creating the possibility that a woman could be in transit until an hour or two before the execution.

By adding subsection 3349.3.6(e), without any further clarification or explanation, the CDCR has only created more confusion about how condemned women will be treated. As written, the regulations now create the substantial risk that these women's rights will be violated. The proposed regulations are unclear, they are insufficient to protect female inmates' rights to access to their attorneys, they treat male and female inmates unequally, and they fail to ensure that procedures for transferring women to San Quentin are consistent, thorough, and safe.

A. There is a Substantial Likelihood that Women Will be Deprived of Access to Their Attorneys

i. Access to Attorneys During Transportation

According to § 3349.3(f)(4) of the proposed regulations, the Visiting Lieutenant is "to give priority accommodations to the attorney for the inmate." Additionally, the Visiting Lieutenant must "[e]nsure that the attorney(s) for the inmate is afforded assistance in expeditiously having access to the inmate." § 3349.3(i)(4). However, it takes at least three hours, most likely longer, to transfer an inmate from CCWF to San Quentin. Under the proposed regulations, the transfer can take place anywhere between seventy-two hours and six hours before a scheduled execution. Attorney access is essential for all inmates scheduled to die, but it is particularly critical in the days and hours immediately prior to an execution, during the period when emergency appeals and actions are considered. Depriving an inmate of access to her attorney during the critical time while she is in transport would create a substantial threat to her constitutional rights.

ii. Notice of Transfer

The proposed regulations make no provision for giving notice to the attorney of a female inmate when she is to be transferred to San Quentin for execution. The only provision in the proposed regulations states that women are to be transported sometime between seventy-two and six hours before the execution. § 3349.3.6(e). This creates a number of problems. If an inmate's attorney needs to contact her in an emergency, as is likely in the last days and hours before an execution, it is crucial for the attorney to know where to find her.

Currently, the CDCR regularly transports individuals on death row without advising their counsel, even when these individuals are days away from execution. For example, Clarence Ray Allen was removed from San Quentin and transported to a medical facility hundreds of miles away—without any notice to counsel—shortly before his execution.

Under the current proposed regulation, an attorney could drive hours from his or her office to Chowchilla, only to arrive and find his or her client is gone. Members of the legal team frequently need to speak to their client in person in the days before an execution to discuss sensitive matters including the filing of legal documents. It is unfair and unduly burdensome for attorneys representing someone facing imminent execution to spend hours driving around the state only to discover that their client has been moved.

iii. *Phone Access in Holding Cell*

Six hours before a scheduled execution, male inmates are transferred to the Lethal Injection Facility holding cell. § 3349.4.2(a)(2). During this time, inmates are allowed to have telephone access to their attorneys. § 3349.3.4(c)(9). The regulations do not make clear if a woman facing execution will actually be placed in the holding cell six hours prior or could still be en route to San Quentin from CCWF. The regulations are also silent on what type of communications are available to women while they are being transferred to San Quentin. Female inmates must also be provided with phone access to their attorneys during this six hour window, whether they are en route to San Quentin or already in the holding cell.

B. The Regulations Fail to Screen for Pregnancy as Required by State Law and International Human Rights Standards

The proposed regulations fail to take any steps to ensure that the woman to be executed is not pregnant, and to delay the execution if she is, as required by California law (Penal Code §§ 3705, 3706). If the woman is pregnant, California law requires the warden to suspend the execution (Penal Code § 3706). The proposed regulations include a detailed explanation of the procedures that will be used to determine the sanity of the person to be executed, also required by law (see § 3349.3.2). Yet the proposed regulations completely fail to address the possibility that the woman might be pregnant. By contrast, the Arkansas Procedure for Execution, which the CDCR claimed in its January 4, 2010 filing to have reviewed in preparing these proposed regulations, contains a pregnancy screening procedure. The CDCR should explain why it rejected this alternative.

Some may dismiss the possibility that a woman who has been housed on death row for many years could be pregnant. We have attached a recent article from Bakersfield, California that details the sexual relationship between a female guard in county jail and a man sentenced to death. (Appendix A.) As the Sheriff emphatically states in the article, a locked facility can never completely eliminate the possibility of sexual relationships between guards and inmates. This is equally true at CCWF. Indeed, this is presumably why the Arkansas protocol—upon which the CDCR claims to have relied—and California law require a test for pregnancy.

Executing a pregnant woman would be a violation of international human rights laws and an affront to the People of California. The International Covenant on Civil and Political Rights prohibits the execution of a pregnant woman. While the United States lodged reservations to this treaty—allowing it to opt out of some provisions—it specifically did not lodge a reservation to the prohibition against executing pregnant women. See Kristina Ash, U.S. Reservations to the International Covenant on Civil and Political Rights: Credibility Maximization and Global Influence, 3 Northwestern J. Int'l Human Rights (Spring 2005). Failure to explain in the regulations how the CDCR will screen for pregnancy is unreasonable. The regulations must be modified to explain how the CDCR will ensure that the condemned woman is not pregnant and what actions they will take if she is pregnant, as required by California law. At the very least, the CDCR must explain why it rejected the alternative of providing for a pregnancy screen.

C. The Regulations Treat Men and Women on Death Row Unequally for No Articulated Reason

i. Unequal Access to Attorneys

Proposed regulation § 3349.3(f)(4) gives “priority accommodations” to an inmate’s attorney upon receipt of the execution order. Subsection 3349.3.4(d)(4)(C) also states, “[t]he inmate shall have 24-hour access to a telephone for attorney contact.” While male inmates will have uninterrupted access to their attorneys from the moment the execution order is received, female inmates must be transferred from CCWF to San Quentin. This may take several hours. The regulations do not explain how or even whether female inmates will be given access to their attorneys during this period.

As noted above, subsection 3349.3.4(c)(9) provides inmates with telephone access to their attorneys once they are moved to their holding cell, six hours before the execution. If a female inmate is still en route to San Quentin six hours before the execution, she is deprived of not only her constitutional right to counsel, but also her right to receive equal treatment as male inmates.

ii. Unequal Access to Religious Accommodations

The proposed regulations allow state-employed chaplains to perform “spiritual functions” in front of the inmate’s cell on the “second or third watch.” § 3349.3.4(e)(1). The regulations do not specify what time the second and third watch take place and therefore violate the APA’s clarity requirement. The regulations further provide that, in the five days prior to execution, a non-state employed spiritual advisor may perform spiritual functions for the person to be executed in the visiting area. Once in the holding cell, the inmate may be visited by a spiritual advisor at cell front for six hours prior to the execution. § 3349.4.2(b)(1).

The proposed regulations do not provide for access to a spiritual advisor during the period that a female inmate is being transferred from CCWF to San Quentin, and, as a result, there is a substantial likelihood that the female inmate will be deprived of her right to religious accommodations during this time. Male inmates face no threat of such deprivation. This could be very significant: a five hour period or longer on the day of the execution in which the woman is denied access to her spiritual advisor is an unreasonable burden.

Further, there is no provision for giving the spiritual advisors notice prior to relocating the condemned woman. As with attorneys, this could result in spiritual advisors spending hours driving around the state trying to locate the condemned woman on the very day of the execution. This is unreasonable and unfair.

iii. *Unequal Access to Visiting*

Visitors for male inmates at San Quentin are given “priority” status for a full 30 days prior to the execution (3349.3(i)(1)). The proposed regulations contain no similar provision for providing priority status for visitors for a condemned woman at CCWF in the 30 days prior to the execution. The proposed regulations also make no provision about whether and how a female inmate will have access to visitors during the period she is in transit from CCWF to San Quentin. Because she can be moved without notice, friends and family may also find themselves suddenly separated from their loved one by 150 miles only hours before the execution. This is unreasonable, unfair and simply inhumane.

According to the proposed regulations, after the inmate is moved to the holding cell in the lethal injection facility, no visitors are allowed except chaplains and spiritual advisors. § 3349.3.4(c)(9). This provision is unclear and suggests that a woman inmate who may arrive at San Quentin any time within seventy-two hours of her execution will not be allowed to have any visitors, while a male inmate in security housing would have greater visiting rights until six hours before his execution. The regulations do not explain what procedures will be used to move a woman in and out of the lethal injection housing area in order to transport her back and forth to other areas of the prison—such as the visiting area—while also maintaining the security of the lethal injection facility.

iv. *Unequal Housing Arrangements*

Female inmates are transported to San Quentin between seventy-two and six hours before the scheduled execution. When they arrive at San Quentin, they are immediately housed in the lethal injection holding area. § 3349.3.6(e). Male inmates are not transferred to the holding area until six hours before the execution. § 3349.4.2(a)(2). As a result, female inmates may be housed in the lethal injection facility almost three days longer than men. Living next to the room in which one is to be executed would exert an unnecessary emotional and psychological toll on almost anyone. Furthermore, physical conditions in the holding cell are different than those in security housing, where men are held until only six hours before the execution.

For example, the lethal injection holding area does not appear to have access to a shower. If a female inmate is moved to the lethal injection holding cell three days prior to the execution, it appears that she will be unable to shower for the entire time prior to the execution. Notably, the Arkansas Execution Protocol—which the CDCR now claims to have relied on—explicitly states that the condemned person will be allowed to shower the day of the execution. It is unfair and unreasonable to prohibit condemned women from showering for three days prior to the execution.

In the event of a stay of execution, the regulations state that the inmate is returned to his or her former housing status. § 3349.3.4(b)(4). This is not complicated for male inmates as the lethal injection holding facility is in the same place as their former housing, but female inmates' former housing is located several hours away. The regulations do not specify when and how female inmates are to return to Chowchilla. If the stay of execution is a short one, for example, prison officials might decide that it is not worth the hours-long drive to return the female inmate to CCWF. This uncertainty and inconsistent treatment could result in women being housed for unnecessarily long periods of time in the lethal injection holding cell and is yet another way in which men and women are treated unequally with regard to housing. Housing a woman for days next to the room in which she is supposed to be killed is an unreasonable burden and unfair.

v. *Unequal Access to Personal Property*

Five days before a scheduled execution, the inmate's personal property is removed from his or her cell, to be held by an officer stationed outside the cell. The inmate is allowed access to the items as needed. § 3349.3.4(b)(3). But the regulations do not provide for what happens to the property of female inmates who must be transferred from CCWF. Will the female inmate's property be transferred to San Quentin? If so, will the property be transported in advance of the inmate's arrival at San Quentin? The regulations leave these questions unanswered. In whatever manner a female inmate's property is transferred to San Quentin from CCWF, if at all, it is likely that she will be deprived of access to her property for at the very least some period of time. Men, on the other hand, will have access to their property at all times prior to execution.

The regulations direct the Team Administrator to "confirm that all items (including but not limited to clothing, personal hygiene items, television, radio) needed to re-house the inmate in the Lethal Injection Facility Secured Holding Area are present prior to re-housing the inmate." § 3349.2.1(e)(5). It is unclear whether these items include the inmate's personal property, but if they do, this means female inmates will lose access to their property while male inmates will have constant access. If a woman inmate would have been in the holding area but for the time it takes to drive from CCWF to San Quentin, she is deprived of items that might offer physical and emotional comfort in the last few hours of her life.

Subsection 3349.3.4(d)(1) requires the Condemned Row Correctional Counselor to speak with the inmate five days before the execution to determine whether he or she has any special requests regarding the disposition of his or her property. The inmate must package and label any property to be sent out of the institution. The regulations provide no guidance as to how this will be applied to female inmates. If women must prepare the packages before being transferred to San Quentin, they will be deprived of access to personal items earlier than men (as the property is not distributed until after the execution and inmates presumably have access to their property until the time of execution).

vi. *Unequal Protection for End-of-Life Needs*

As noted above, the proposed regulations create the substantial possibility that the woman to be executed will be denied access to legal counsel, spiritual advisors, and family members in the hours and days before the execution.

In addition, on the day of execution, the San Quentin Warden must meet with the inmate and advise him or her of the right to prepare a written last statement. § 3349.4.4(a)(2)(A). Because the regulations allow female inmates to be transferred so close in time to the execution, it is very likely that male inmates will have more time to compose and prepare their last statement. This does not comport with the insurance of the “dignified end of life” to which the CDCR clams it strives.

Under proposed regulation § 3349.3.4(b)(5), the Food Manager and Team Administrator are directed to interview the inmate about his or her requests for a last meal. The Food Manager refers specifically to the manager responsible for “all food service within San Quentin State Prison.” § 3349.1.1(g). The interview for the last meal is supposed to occur five days before the execution; the earliest a female inmate may be transferred to San Quentin is three days before the execution. If a woman’s last meal requests are received three days rather than five days before the execution, necessary materials for the meal may not be available in time (especially if the prison stops accepting goods from vendors two days before the execution, § 3349.3.5). The regulations need to be clearer about how the Food Manager will ascertain last-meal requests for female inmates who are not housed at San Quentin.

In the last six hours before the execution, the inmate may request drinks, radio or television programs, phone calls, or mailing of letters. § 3349.4.2(d). However, if a female inmate is still being transferred from CCWF to San Quentin six hours prior to execution, she will be deprived of the assistance that she would have received if she were a male inmate housed at San Quentin.

D. Because the Regulations are Written for Someone Housed at San Quentin, They are Vague and Unclear with Respect to Female Inmates, Who are Not Housed at San Quentin

Because the proposed regulations only mention female inmates one time, many logistical problems and inconsistent results will arise if the procedures are not modified and clarified. For example, many of the definitions and lethal injection team members are specific to San Quentin (see generally § 3349.1.1). “Warden” refers to the San Quentin Warden. § 3349.1.1(hh). “Food Manager” refers to the manager at San Quentin. § 3349.1.1(g). Lethal Injection Team Members are chosen first from San Quentin employees; only if the Warden is “unable [to] recruit and select a sufficient number” of team members from San Quentin will employees from other prisons be considered. §§ 3349.1.2(a)(1), (3).

In addition, many of the individuals involved in the execution process are required to meet with the inmate in person. The Warden, Condemned Unit Counselor, and various team members are required to interview the inmate, serve the warrant of execution, and document the interview. § 3349.3(a)(1)(B). The Intravenous Sub-Team must make an assessment of the inmate’s veins. § 3349.3(c)(3). The Condemned Unit Counselor must “[m]aintain close daily contact with the inmate.” §§ 3349.3(e)(2), 3349.3.1(f)(3). It is impractical and unlikely that team members or the Warden himself will travel between CCWF and San Quentin with the frequency required by these provisions.

The uncertainties created by the proposed regulations are starkest in the last three days before the execution, when women are to be transferred from CCWF to San Quentin. For example, the proposed regulations state that inmates are to be continuously monitored starting five days from the execution with detailed recording keeping and reporting requirements (see, e.g., §§ 3349.3.2(a)(6), 3349.3.4(a)) but they are silent as to how female inmates will be monitored during the several-hour drive from Chowchilla to San Quentin. On the day of execution, there must be dedicated phone contact between San Quentin and the Governor's Office, the Attorney General, and the California Supreme Court. § 3349.4.4(a)(5). This is to ensure that any last-minute actions are communicated to the Lethal Injection Team in time. However, there is no provision for contact between CCWF and the state authorities, nor is there any mention of contact between San Quentin and CCWF, or between San Quentin and the team transporting the woman. It is crucial that officials, prisons, inmates, and their attorneys are notified immediately of any developments on the day of the execution.

Other references specific to San Quentin cannot be meaningfully applied to female inmates. These sections need to be modified so they make sense when the person to be executed is a woman. For example, approximately forty-five days before a scheduled execution, the Associate Warden is directed to move the inmate to a designated area. The designated areas depend on where the inmate is currently housed in San Quentin. § 3349.3.1(b)(1). Because female inmates are not housed at San Quentin, these provisions regarding housing changes have no meaning when applied to women. Thirty days before an execution, "all psychiatric information pertaining to the inmate known to San Quentin's psychiatric staff" is made available for review. § 3349.3.2(a)(3). San Quentin psychiatric staff would be unlikely to have any psychiatric information on a female inmate housed in CCWF who will not even be transferred to San Quentin until nearly a month later. If there is a substantial showing of insanity of the inmate, the Warden is directed to notify the Marin County District Attorney. § 3349.3.2(a)(4). CCWF is located in Chowchilla, which is located in Madera County. The insanity of a prisoner in Madera County is probably more of a concern for the Madera County District Attorney than the Marin County District Attorney.

These are just a few of the many inconsistencies that riddle the new regulations. The attached chart (Appendix B) identifies many other aspects of the proposed regulations that, as written, do not make sense when applied to a woman housed 150 miles away from San Quentin. The regulations must be modified to ensure that women sentenced to die will be provided with all the necessary safeguards and procedural rights. The attached chart is incorporated by reference and is therefore a part of this comment. The CDCR must respond to and address each of the inequities listed in the attached chart.

The CDCR acknowledged in its January 4, 2010 notice that the original regulations contained no provisions for female inmates. Yet it is clear that adding just a single subsection for transferring female inmates to San Quentin provides sorely insufficient guidance to inmates, attorneys, visitors, and prison officials when it comes to women sentenced to die. The new regulations should include a concrete timeline for transferring women from CCWF to San Quentin and detailed guidelines to protect their constitutional rights and ensure equal treatment with men. Instead of simply referring to San Quentin employees and facilities, the regulations should specifically provide for female inmates housed outside of San Quentin. Additional changes that

should be considered include: placing women in security housing equivalent to men's housing (rather than in the lethal injection holding area), moving the woman to a suitable secure facility near San Quentin at an earlier time, and preparing the CCWF prison facility for demonstrations (as § 3349.3.5(a)(1) does for San Quentin). Unless these wide-ranging problems are addressed, the new regulations will be wholly inadequate with respect to women who are sentenced to die.

III. Other Civil Rights and Civil Liberties Issues are Raised by the Changes Made to the Proposed Regulations

A. Despite the Changes, the Regulations Continue to Treat Unfairly the Family Members of the Person to be Executed

Change Made:

The CDCR changed subsection 3349.2.3(i)(1) as follows (bolded added, strike out deleted):

(1) After the announcement of death, the official witnesses, **the inmate's witnesses**, and victim's witnesses shall be escorted back to their designated staging area. ~~The inmate's~~ witnesses shall be transported to the West Gate and processed out of the institution.

The CDCR also changed subsections 3349.4.4(e) through 3349.4.4(e)(2) to provide that witnesses for both the person to be executed and the victim's family will be escorted to and from the execution by correctional guards.

CDCR Rationale for the Change:

According to the CDCR the first change was made because, "[t]he public comments indicated that there were concerns that the inmate's witnesses were treated differently than the victim's witnesses. This change will clarify that these witnesses will be processed and transported in the same manner." Similarly, the second changes were made "to clarify that the inmate's witnesses and the victim's witnesses will be escorted to their designated witness areas in the same manner. The public comments indicated that there were concerns that the inmate's witnesses were treated differently than the victim's witnesses."

The Problem:

It is a step forward that the CDCR now recognizes that all witnesses should be treated equally—with the same dignity and respect—regardless of whether they are family of the person being executed or family of the victim. But the changes fail to achieve this important goal. The victim's family is allowed an unlimited number of witnesses at the execution, while the person being executed is limited to five individuals other than her or his spiritual adviser. The regulations also do not clarify whether the attorneys for the person being executed "count against" the five witnesses permitted. If three members of the legal team need to witness the execution, and the family of the person to be executed includes his or her father, mother and three adult children, will the CDCR make the person being executed choose among his or her loved ones? The regulations are unclear and do not answer this question.

Similarly, in the event of limited space, the victim's family is provided with the option of remote viewing of the execution, while the same option is not extended to the family of the person being executed. If this technology is available, it is unfair and unreasonable to limit its use to only witnesses for the victim's family. The regulations should clearly state that accommodations will be made for every immediate family member of the person being executed to witness the execution, including via remote viewing if space is needed. The regulations should also provide that legal observers are allowed to witness the execution regardless of the number of other witnesses for the person being executed.

B. Despite the Changes, the Regulations Still Unduly Limit the Religious Rights of the Person to be Executed

Change Made:

The CDCR changed subsection 3349.1.1(f) to add a definition for Chaplain: "an individual duly designated by a religious denomination to discharge specified religious duties, including a Native American Indian spiritual leader."

The CDCR also changed subsection 3349.1.1(dd) to add a definition for Spiritual Advisor: "a person who, by profession or practice, provides spiritual advice, assistance, or guidance."

The CDCR changed subsection 3349.3.4(c)(9) to add the phrase "with the exception of Chaplains and approved Spiritual Advisors" to the first sentence, and changed subsection 3349.3.4(e)(3), related to the privileges of Spiritual Advisors, to add the words "state-employed and pre-approved" and "non-state."

CDCR Rationale for the Change:

According to the CDCR, these definitions were added to clarify the meaning of "Chaplain" and "Spiritual Advisor" so as to distinguish them from one another. The other changes were made to "clarify that both state and pre-approved non-state Spiritual Advisors have access to the inmate's cell front to perform spiritual functions. The public comments indicated confusion and that the original language did not adequately explain this fact."

The Problem:

It is a positive step that the CDCR now acknowledges that state-employed Chaplains and non-state-employed Spiritual Advisors should have the same access to the person to be executed in order to perform spiritual functions. But the changes made by the CDCR fail to achieve this goal. A state-employed Chaplain may perform religious ceremonies at the cell front for five days prior to the execution. § 3349.3.4(e)(1). A non-state employed Spiritual Advisor is still prohibited from performing cell front religious rituals until six hours prior to the execution. § 3349.3.4(e)(2). Some religious rights, such as fasting, may require days to complete. If a Spiritual Advisor is needed to perform related functions like prayers or religious offerings, it is inappropriate to require that this take place in the crowded public visiting area.

Six hours is simply an insufficient time to accommodate the wide range of end-of-life rituals and religious practices that exist. This is an unfair burden on the religious rights of the person to be executed. Further, given that state-employed Chaplains are typically from mainstream faiths, while non-state-employed Spiritual Advisors are often from minority religions, this distinction amounts to an unfair and unconstitutional restriction on the rights of persons practicing non-traditional religious faiths in particular.

In addition, the added definitions indicate that non-state employed Spiritual advisors must be “pre-approved.” But nothing in the regulations explains how this approval is done. The regulations should clearly explain the process for approving Spiritual Advisors and the standards that will govern who is approved, and provide that the approval process must be done in an unbiased manner, regardless of the faith of the Spiritual Advisor proposed.

C. Failure to Fully Address First Amendment Rights of the Media

Change Made:

The CDCR added subsection 3349.4.4(a)(6) which states that the Warden’s duties now include “[e]nsur[ing] that the curtain is open on the viewing windows prior to the witnesses’ arrival. The curtain will remain open throughout the execution process until the inmate is pronounced dead.”

Rationale for the Change:

According to the CDCR, “[t]he public comments indicated that there was confusion as to whether the curtains in the respective areas are open from the time that the inmate enters the execution chamber until the inmate is pronounced dead. This addition is intended to clarify that the curtain is open throughout the entire execution process until the inmate is declared dead.”

The Problem:

The First Amendment protects the media’s right to witness the execution and the CDCR has acknowledged this right by ensuring that the curtain to the execution chamber remains open during the entire execution. § 3349.4.4(a)(6). However, the proposed regulations continue to unduly restrict and infringe the rights of the press and therefore violate the First Amendment. For example, the proposed regulations still state that the public address system is to be turned off after the inmate makes a final statement. § 3349.4.5(f)(5). This places an undue burden on the media’s and the public’s First Amendment right to witness, by sight and sound, what is happening in the lethal injection chamber—for example, if the inmate cries out in pain during the execution. For the same reasons the curtain is open, the public address system should be on throughout the execution until the inmate’s body is removed from the chamber.

Notably, the Arkansas Execution Protocol—upon which the CDCR now claims to have relied—does not impose many of the severe restrictions on media access still contained in the CDCR proposed regulation. These include:

- The Arkansas Execution Protocol explicitly provides for release of the execution log to the media within 24 hours after the execution. AR Protocol, p. 9. On the other hand, the CDCR proposed regulation do not specifically provide for release of the execution log to the media. The CDCR should modify the proposed regulation to provide access to the official execution log for media in California, or explain why it has failed to do so.
- The Arkansas execution log—which is released to the media—includes the names and addresses of the official witnesses. AR Protocol, Attachment E. On the other hand, the CDCR proposal keeps the names of the official witnesses secret. § 3349.2.3(f). The CDCR should modify the proposed regulation to provide media access to the names of the official witnesses, or explain why it has failed to do so.
- The Arkansas Execution Protocol explicitly provides for access to the media by the attorney for the person to be executed, allowing the attorney to speak to the media in the media center. AR Protocol, Media Policy, p. 2. The CDCR should modify the proposed regulation to similarly provide media access to the attorney for the person to be executed, or explain why it has failed to do so.
- The Arkansas Execution Protocol allows media witnesses to use their own notepads and pens when witnessing the execution. AR Protocol, Media Policy, p. 2. The CDCR proposed regulation only permits media witnesses to use state issues pencils and paper. § 3349.2.3(g)(3). The CDCR should modify the proposed regulation to allow media witnesses to use pens and their own notebooks, or explain why it has failed to do so.

The proposed regulations continue to infringe on the First Amendment rights of the media and the public, even when less burdensome alternatives are readily available, as the Arkansas Execution Protocol demonstrates. The CDCR must modify the regulations to ensure that all First Amendment guarantees are protected.

IV. The CDCR Failed to Update the Execution Procedures, Even Though This Update is Recommended in an Article Upon Which CDCR Claims to Have Relied

Change Made:

The CDCR is required to disclose to the public all documents it upon which it relied in drafting the lethal injection procedures. In the materials released January 4, 2010, the CDCR indicated for the first time that one of the materials reviewed and considered was a 2007 article from the *Santa Rosa Press Democrat*. The article is about Dr. Jay Chapman, the person who first suggested a three drug execution procedure.

The Problem:

In the article, Dr. Chapman suggests several ways the execution procedure could be updated and improved. Here are some relevant excerpts from the article:

- “We were much more humane to animals than people,” [Chapman] said of the earlier methods.
- Chapman said the lethal injection procedures “could be altered to keep up with changing drugs and science.”
- “Drugs could be increased in quantity. Drugs might be substituted. (You) could use a simple, single-drug protocol. It just needs to be implemented properly,” Chapman said.
- “[Chapman] said states that adopted the procedure should have established policies and procedures for how it would be done, including proper dosage, the order of drug delivery and training for those involved.”
- “It's beyond belief how anybody could take a simple process and make such a mess of it,” Chapman said.

Despite these comments, the CDCR continues to use the same execution procedure first suggested by Dr. Chapman decades ago. In particular, the CDCR's proposed regulations continue to be less humane to people than the law requires we be to animals: the proposed execution protocol uses a paralytic drug that is widely prohibited in animal euthanasia because it is considered inhumane. The use of the paralytic drug creates a substantial risk that the person being executed will suffer a torturous death and violates the First Amendment rights of the press and the public. Given that, as Dr. Chapman suggests, there are other alternatives, continued use of the paralytic drug is unreasonable, unnecessary and unduly burdensome to the rights of the public and the individuals being executed.

V. Conclusion: Fatal Flaws in Notice, Treatment of Women Sentenced to Die, and the Civil Rights and Civil Liberties Issues Raised Require Substantial Changes to the Proposed Regulations

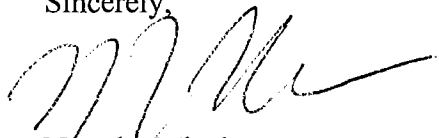
In issuing the modified proposal, the CDCR failed to satisfy the requirements of the APA, leaving those most directly affected in the dark about the new regulations. The passing mention of female inmates creates logistical inconsistencies, raises many problems of unequal treatment, and deprives women of their constitutional rights to counsel and to spiritual advisors. The new provisions also continue to infringe on protected civil rights, including the media's and public's First Amendment right to witness the execution—a right that the CDCR has acknowledged by leaving the curtain open so the public can view, but not hear, the events in the execution chamber. For these reasons, the CDCR must amend the proposed regulations to address these problems, publish revisions, and provide the public sufficient notice and time to submit further

Mr. Timothy Lockwood
January 19, 2010
Page 16

comments. If the CDCR does not address these serious deficiencies, the OAL should not approve these regulations.

We renew our request for notice from the CDCR of any changes made to the proposed regulations in the future.

Sincerely,



Natasha Minsker
Death Penalty Policy Director
ACLU of Northern California



Stephanie Tang
Legal Fellow/ Volunteer Attorney
ACLU of San Diego

Documents detail sexual relationship between death row inmate and deputy

<http://www.ksdk.com/news/national/story.aspx?storyid=193764>

KSDK Channel 5

January 15, 2010

NBC -- New details are surfacing in the alleged sexual relationship between a California death row inmate and a Kern County Detention Deputy.

NBC affiliate KGET obtained court documents that spell out the lurid sexual details of inmate Timothy Rodriguez's relationship with Detentions Deputy Margarita Young.

Rodriguez says he had sex with Young five times at the pre-trial facility in Lerdo jail since their relationship began in October.

Rodriguez landed in Lerdo Jail on death row after brutally beating a 90-year-old woman to death with a baseball bat and injuring her 60-year-old daughter.

Rodriguez told investigators he had sex with Young in the attorney visiting booth, the bathroom, laundry room, mop bucket room and the control booth.

Rodriguez described in detail how Young spread a sheet on the floor of the bathroom at Lerdo's pre-trial facility and had sex with him on that sheet.

There are 380 deputies and nearly 2,450 inmates at Lerdo jail and Kern County Sheriff Donny Youngblood says this could happen again.

"There's ample opportunity when the officer goes to the restroom," Youngblood said. "We don't go with them to see that they're going by themselves and not taking an inmate. You trust that they're not going to do that, and when they violate that trust you do what you have to do to eliminate that person."

However, it isn't the first time Young has been under investigation.

Her husband, Former Detention Deputy Brian Young, caused a 12-hour SWAT team standoff at his home four years ago.

Police were called to the home after the couple had an argument and Brian Young barricaded himself inside with a gun.

Neighbors say the Youngs were going to church, trying to heal the relationship for the sake of their young son.

Sheriff Youngblood says the relationship between Young and Rodriguez seemed mutual.

"I have no indication he was threatening her," Sheriff Youngblood said of Rodriguez and Young. "I have every indication he was a consummate conman."

The Sheriff said red flags reported by Lerdo employees regarding long visits between the inmate and deputy spurred the investigation.

The department is reviewing supervision protocols at the jail, but Sheriff Youngblood said the situation may never be 100% preventable even with technology today.

"You could have cameras every place but if these two people decided they were going to do what they wanted to do, they would find where the cameras aren't," Youngblood said. "Cameras are not foolproof, they're not going to see everything that occurs in the facility."

Youngblood says cameras will be installed in the downtown jail "very soon."

However, due to costs, cameras are not expected to be in Lerdo Jail any time soon.

Margarita Young is set to be arraigned at the end of the month at the Kern County Superior Court.

Police report details locations of alleged sex with inmate in jail

<http://www.bakersfield.com/news/local/x113239650/Police-report-details-locations-of-alleged-sex-with-inmate-in-jail>

Bakerfield.com

BY STEVE E. SWENSON, Californian staff writer
sswenson@bakersfield.com | Tuesday, Jan 12 2010 05:23 PM

Last Updated Tuesday, Jan 12 2010 05:50 PM

A brief police report filed in Kern County Superior Court lists five different locations in Lerdo Jail where Death Row inmate Timothy Titus Rodriguez allegedly had sexual encounters with a detentions deputy.

Margarita Young, 48, was arrested Monday on a felony charge of unlawful sexual activity with an inmate by a jail employee. She posted \$10,000 bail and is scheduled to be arraigned Jan. 25.

The one-page report says the 41-year-old Rodriguez told of five sexual encounters with Young.

A woman who answered a telephone number of Young's hung up Tuesday afternoon when a reporter announced his identity.

The report says the first incident happened in an E-Pod attorney visiting booth on Oct. 17. Next was in a bathroom of the E-Pod control booth. The third was in a bathroom below the control booth and two other incidents happened in a mop bucket room and the E-Pod control booth, according to the report filed in court.

Rodriguez said he had intercourse with her three times and oral sex twice.

The incidents are alleged to have occurred while Rodriguez was on trial in the 2007 robbery-murder of 90-year-old Thelma Long. The defendant was convicted of killing her and attempting to kill her daughter, 59-year-old Cathryn Reeves, with a baseball bat. Reeves died a year later from unrelated health issues.

Sheriff's spokesman Michael Whorf said he could not comment on how the relationship between Rodriguez and Young started and developed.

The Californian has requested to review more extensive investigation reports in the court file, but some identifying information in the reports has to be redacted before they are released. That typically can take a week or more.

Rodriguez, who was described by a prosecutor as a manipulator of people, was sentenced to death earlier this month.

Appendix B

Time	Section	Procedure	Issues for woman inmates
<i>Receipt of execution order</i>	3349.3(a)(1)(B)	Warden, Condemned Unit Counselor, et al interview inmate to be executed	Who travels to whom--will Warden et al go to CCWF to interview inmate?
	3349.3(c)(3)	Associate Warden refers inmate to IV Sub-Team for vein assessment	Will team go to CCWF?
	3349.3(e)(2)	Condemned Unit Counselor maintains close daily contact with inmate	Is Counselor at CCWF? If not, who will perform this task?
	3349.3(e)(3)	Interpreter to facilitate communication between Counselor and inmate	Will interpreter travel with inmate during transfer from CCWF to San Quentin?
	3349.3(f)(4)	Visiting Lieutenant instructed to give priority accommodations to inmate's attorney	1. Visiting Lieutenant needs to be defined - officer at San Quentin or at CCWF? 2. No notice of transportation - what if attorney schedules visit and inmate is being transported?
	3349.3(i)(4)	Inmate's attorney ensured assistance in expeditious access to inmate	1. There will be no access while inmate is being transferred 2. If the attorney is not given notice of inmate transfer, there could be long delays in access
<i>45 days before execution</i>	3349.3.1(a)(2)(C)	Warden initiates 20-day pre-execution report to include summary of inmate conduct submitted by Correctional Counselor	Is Counselor at CCWF? If not, how will data be collected?
	3349.3.1(b)(1)	Associate Warden moves inmate to designated area (based on current housing location in San Quentin)	Designated areas all refer to where prisoners are housed in San Quentin, no references to CCWF
	3349.3.1(b)(2)	Associate Warden implements hourly checks and logs	Do hourly checks continue during transfer to San Quentin? Will these be implemented at CCWF?
	3349.3.1(b)(3)(A)	Inmate behavior form forwarded daily to Litigation Coordinator via Associate Warden	Litigation Coordinator, Associate Warden are at San Quentin
	3349.3.1(b)(3)(B)	Report unusual behavior to Warden	Why would unusual behavior of woman be reported to San Quentin Warden?

Time	Section	Procedure	Issues for woman inmates
	3349.3.1(b)(4)	Associate Worden visits unit daily to ensure procedures are followed, signs in each time	Associate Warden is at San Quentin
	3349.3.1(d)(1)	Alienists interview and examine inmate, evaluate findings, give written reports to San Quentin Warden for 20-day pre-execution report	1. Penal Code § 3700.5 requires alienists to report results to Warden of CCWF when inmate is a woman 2. Are Alienists at San Quentin or CCWF?
	3349.3.1(f)(3)	Condemned Unit Counselor maintains close daily contact with inmate	Is Counselor at CCWF?
<i>30 days before execution</i>			
	3349.3.2(a)(3)	All psychiatric information pertaining to inmate known to San Quentin's psychiatric staff available for review	Woman inmate not at San Quentin; San Quentin psychiatric staff will not know anything about her psychiatric status
	3349.3.2(a)(4)	Upon substantial showing of insanity, Warden notifies Marin County DA under Penal Code § 3701	CCWF is located in Madera County, should Warden notify Madera County DA for woman inmates?
<i>10 days before execution</i>			
	3349.3.3(e)	Alienists interview and evaluate inmate, submit findings to Warden in writing	Are Alienists at CCWF? Regulations require them to submit findings to San Quentin Warden, why?
	3349.3.3(g)	Correctional Counselor reports any change in conduct to Warden	Is Counselor at CCWF?
<i>1 week before execution</i>			
	3349.3.2(a)(5)	Warden gets daily information on inmate's behavior and psychiatric condition	Refers to San Quentin Warden
<i>5 days before execution</i>			
	3349.3.2(a)(6); 3349.3.4(a)(2)	Inmate behavior continuously monitored by unit staff, documentation every 15 min	Will monitoring and documentation occur during transfer from CCWF to San Quentin?
	3349.3.2(a)(6)(A); 3349.3.4(a)(2)(A)	Warden notified immediately of any unusual behavior by inmate	Why notify San Quentin Warden about inmate at CCWF / in transport?

Time	Section	Procedure	Issues for woman inmates
	3349.3.4(a)(1)	Inmate moved to security housing, 24-hr observation Warden can move inmate any time after receipt of death warrant or to maintain safety of public / institution / inmate	1. Do women at CCWF get moved? Within CCWF or to San Quentin? 2. Is there equivalent security housing at CCWF? If not, what happens if it's necessary to move woman inmate for safety reasons?
	3349.3.4(b)(1)	Team Administrator confirms inmate is moved to security housing, 24-hr observation	Do women at CCWF get moved? Same concerns as 3349.3.4(a)(1)
	3349.3.4(b)(3)	Inmate's personal property removed from cell, placed in care of officer stationed outside cell. Inmate can use items as needed.	Will woman inmate's property be brought to San Quentin? Will they have access during transport?
	3349.3.4(b)(4)	Stay of execution--personal property returned, initiate return of inmate back to former housing status	Is woman immediately transferred back to CCWF? Does it matter how long the stay is (e.g. 24 hours vs. indefinite)?
	3349.3.4(b)(5)	Team Administrator and Food Manager interview inmate for last meal requests	Food Manager refers to San Quentin Food Manager
	3349.3.4(d)(1)	Condemned Unit Counselor asks inmate for special requests regarding disposition of property, inmate packages and labels	Does Counselor do this before transfer from CCWF? Women may have to dispose of property earlier than men if they have to prepare for transfer
	3349.3.4(d)(4)(C)	Inmate has 24-hr access to phone for attorney contact	Will women have access to a phone during transfer?
	3349.3.4(d)(6)	Condemned Unit counselor gives daily briefings to Warden et al. about inmate's needs, requests, behavior	The officials mentioned are at San Quentin
	3349.3.4(e)(1)	State Chaplain allowed to perform spiritual functions at inmate's cell on 2d or 3d watch	When is 2d / 3d watch? What if woman is being transferred at that time?

4 days before execution

Time	Section	Procedure	Issues for woman inmates
<i>3 days before execution</i>	3349.3.5	Prepare prison for demonstrations, TV monitors; notify vendors prison won't accept any goods or services starting 2 days before execution	<ol style="list-style-type: none"> 1. Does San Quentin need to start preparing earlier if woman inmate is to be transferred? 2. Similar precautions for CCWF prior to transfer?
	3349.3.6(e)	Female inmates transported to San Quentin between 72 and 6 hours before execution, put in lethal injection holding area	<ol style="list-style-type: none"> 1. Only mention of woman inmates in entire protocol 2. Men aren't transferred to holding area until 6 hours before scheduled execution (3349.4.2(a)(2)). Women should have equivalent housing--not lethal injection holding area--if transferred more than 6 hours before execution
<i>Day of execution</i>	3349.4.4(a)(2)	Warden meets with inmate in lethal injection holding area	Will there be enough time for women who are transferred up to only 6 hours before execution?
	3349.4.4(a)(2)(A)	Warden advises inmate they can prepare a written last statement	Women being transferred close to execution time will have less time to prepare a statement
	3349.4.4(a)(5)	Ensure open phone contact with Governor's Office, AG, CA Supreme Court	Don't know what time woman inmate will be transferred. Will the lines be open at both CCWF and San Quentin day of? What about contact between CCWF and San Quentin?
	3349.4.4(b)(1)	Institution on lockdown at "appropriate time"	Does "appropriate time" change if have to wait for woman to be transferred from CCWF on day of execution?
<i>6 hours before execution</i>	3349.1.3(c)(1)(B); 3349.4.2(e)(1)	Security Sub-Team provides direct and constant supervision of inmate	Does team travel with woman inmate from CCWF to San Quentin?
	3349.4.2(a)(1)	Team Leader discusses Security Watch Staff with inmate	Does Security Watch Staff accompany woman inmate from CCWF? If so, does Team Leader discuss with inmate before transport?

Time	Section	Procedure	Issues for woman inmates
	3349.4.2(a)(2)	Team Leader supervises as inmate is moved to Lethal Injection Facility holding cell	<ol style="list-style-type: none"> 1. Women are held in holding cell up to 72 hours prior to execution, men only 6 hours 2. Does Team Leader supervise move from CCWF?
	3349.3.4(c)(9)	All visiting, except for spiritual advisors, ceases once inmate is placed in secured holding cell. Attorneys have access to inmates by phone after inmate is moved to holding cell.	<ol style="list-style-type: none"> 1. Will women be allowed to have visitors if they are transferred more than 6 hours in advance? 2. Will women have phone access during transfer?
	3349.4.2(a)(3)	Team Leader assigns officers to direct and constant supervision of inmate in holding area	Are women under direct supervision during transfer from CCWF (especially if transfer occurs close to 6 hours before execution)?
	3349.4.2(a)(4); 3349.4.2(e)(1)	Team Leader ensures security watch log is maintained with entries every 15 min	Does security watch log for women start with transfer from CCWF or after arrival at San Quentin?
	3349.4.2(b)(1)	Inmate can be visited by spiritual advisor and Warden	When can women get visits? Only at 6 hours, or the entire time they're in the holding cell?
	3349.4.2(d)	Items inmate may request while in holding cell	If women are still being transferred from CCWF during the last 6 hours before execution, they have less time for these requests than men
<i>Miscellaneous notes</i>			
	3349.1.1	Definitions	Definitions refer to San Quentin employees, no mention of CCWF. E.g. Warden, Food Managers are at San Quentin, but both have to talk to inmate at CCWF
	3349.1.2(a)(1)	Selection of Lethal Injection Team members from employees of San Quentin	Many of the Team members must be in frequent or constant contact with inmate. Doesn't work if inmate is at CCWF and Team is at San Quentin. Also affects familiarity of Team members with facilities, procedures at CCWF / San Quentin

Time	Section	Procedure	Issues for woman inmates
	3349.2.1(e)(5)	Team Administrator confirms all items (clothing, personal hygiene, television, radio etc) needed to re-house inmate in lethal injection holding area are present before re-housing the inmate	Does this include personal effects? If so, are they transported from CCWF before inmate? Women are deprived of these items at some point because they have to be transferred, while men are not.
	Not in regs		There is nothing in the regs about the procedure for transferring a woman inmate from CCWF to San Quentin. What procedures, safety precautions, counseling, etc will occur?