

**PREVENTION, DETECTION, REPORTING AND RESPONSE TO  
INCIDENTS OF SEXUAL ABUSE, HARASSMENT AND MISCONDUCT  
IN JUVENILE FACILITIES (PREA)**

- AUTHORITY:** Administrative Directive  
28 CFR Part 115, National Standards to Prevent, Detect, and Respond to  
Prison Rape  
California Code of Regulations, Title 15  
California Code of Regulations, Title 24  
California Penal Code Section 11166
- RESCINDS:** Procedure Manual Item 1-4-123, dated 06/20/16 (Major Revision)
- FORMS:** Report of Sexual Abuse / Harassment / Misconduct (F057-6317)
- PURPOSE:** To establish guidelines for Department compliance with the Prison Rape Elimination Act (PREA) of 2003. To assist in the prevention, detection, reporting and response to incidents of sexual abuse and sexual harassment in Probation facilities that involve Probation staff, contractors, vendors, volunteers, collaborative partners, and youth housed in Probation facilities.

**I. GENERAL INFORMATION**

- A. The Prison Rape Elimination Act (PREA) was created to eliminate sexual abuse in confinement. The Orange County Probation Department has a zero-tolerance policy regarding sexual abuse and sexual harassment.
- B. Youth housed in Probation facilities, Probation staff, contractors, vendors, volunteers, and collaborative partners have a right to be in an environment that is free from sexual abuse and sexual harassment.
- C. Probation staff, collaborative partners, contractors, vendors and volunteers are prohibited from showing partiality toward, or becoming emotionally or sexually involved with, youth. There are no authorized sexual acts involving staff, collaborative partners, contractors, vendors or volunteers and individuals in Probation custody. A youth housed in a Probation facility cannot grant consent to be involved in a sexual act. Sexual contact between youth housed in a Probation facility is also prohibited.
- D. The Department will fully investigate and immediately address all allegations of sexual abuse and sexual harassment, to include criminal and administrative sanctions, as appropriate.
- E. Probation staff, collaborative partners, contractors, vendors and volunteers are required to report any instance of suspected or observed sexual abuse or sexual harassment to a supervisor or administrator immediately, and then submit written documentation within 24 hours.

- F. Probation staff are required to intervene immediately when they suspect or observe incidents of sexual abuse or sexual harassment.
- G. No Probation staff, contractor, vendor, volunteer, collaborative partner, facility youth, or individual under probation supervision will be subject to retaliation for reporting an incident of sexual abuse or sexual harassment, or for cooperating with investigations of sexual abuse or harassment.
- H. Probation staff, collaborative partners, contractors, vendors and volunteers shall engage and interact with youth in a respectful and humane manner, taking into consideration a youth's potential trauma history, culture, language and literacy needs.

## II. DEFINITIONS

- A. Cisgender: A person whose gender identity corresponds with the gender they were assigned at birth.
- B. Collaborative Partner: Staff from allied organizations in different fields who supplement one another's expertise, such as but not limited to, the Department of Education, Health Care Agency (HCA), HCA correctional medical services and HCA Clinical Evaluation and Guidance Unit (CEGU), who share resources and work to accomplish a mutual goal.
- C. Contractor / vendor: A person who provides service on a recurring basis pursuant to a contractual agreement with the Department. The difference between a contractor and a vendor lies in the degree to which they may access confidential information, potentially interact with Probation Department clients, etc.
- D. Exigent Circumstances: Any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of the facility. An urgent and unanticipated event requiring immediate action.
- E. Gender Expression: The manner in which gender is expressed through clothing, appearance, behavior, speech, etc.
- F. Gender-Fluidity: a gender identity that can vary over time. A gender fluid person may at any time identify as male, female, neutrois, any other non-binary identity, or some combination of identities. Their gender can also vary at random or vary in response to different circumstances. Gender fluid people may also identify as multi-gender, non-binary, and/or transgender.
- G. Gender Identity: A person's sense of being male, female, some combination of male or female, or either male or female.
- H. Gender Nonconforming: A person whose appearance or manner does not conform to traditional masculine and feminine gender norms.
- I. Intersex: A person whose sexual reproductive anatomy or chromosomal pattern does not fit typical definitions of male or female.

- J. Juvenile Facility: As defined in Title 15, a juvenile hall ranch or camp, forestry camp, regional youth education facility, boot camp or special purpose juvenile hall.
- K. Lesbian, Gay, Bisexual, Questioning, Transgender, Intersex (LGBTQI): a diversity of sexuality and gender identity-based cultures. It may be used to refer to anyone who is non-heterosexual or non-cisgender, instead of exclusively to people who are lesbian, gay, bisexual, or transgender. To recognize this inclusion, the letter Q is for those who identify as queer or are questioning their sexual identity. The letter I stands for “intersex.”
- L. Mandated Child Abuse Reporter: “Pursuant to Penal Code Section 11166, a mandated reporter shall make a report to a department specified in Section 11166.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes child abuse or neglect. The mandated reporter shall make an initial report to the department immediately or as soon as possible by telephone. The mandated reporter shall prepare and send, fax, or electronically transmit a written follow-up report thereof within 36 hours of receiving the information.”
- M. Prison Rape Elimination Act of 2003: Federal statute enacted in 2003 to “provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape.”
- N. PREA Coordinator: A manager responsible for the development, oversight and implementation of Department efforts to comply with the PREA Standards in all of its facilities.
- O. PREA Facility Compliance Liaison: The facility manager who is responsible for their facility’s efforts to comply with the PREA Standards.
- P. Secure Juvenile Facility: A juvenile facility in which movement and activities of individual youth may be restricted or subject to control through the use of physical barriers or intensive staff supervision. A facility that allows youth access to the community to achieve treatment or correctional objectives, such as through educational or employment programs, would not typically be considered a secure juvenile facility.
- Q. Security Staff: Facility staff that are primarily responsible for the supervision and control of youth in housing units, recreational areas, and other program areas of the facility. As per Title 15, Section 1321, “personnel with primary responsibility for other duties such as administration, supervision of personnel, academic or trade instruction, clerical, kitchen or maintenance shall not be classified as youth supervision staff.”
- R. Sexual Orientation: A person’s emotional, romantic and sexual attraction for members of the same, opposite or both genders.
- S. Transgender: A person whose gender identity is different from the youth’s assigned sex at birth.

- T. Substantiated Allegation: An allegation that was investigated and determined to have occurred.
- U. Unfounded Allegation: An allegation that was investigated and determined not to have occurred.
- V. Unsubstantiated Allegation: An allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred.
- W. Visitor: A person such as a parent, guardian, attorney, investigator, law enforcement official or therapist who is granted access to spend time with a youth in an official/professional or unofficial capacity.
- X. Volunteer: An individual who donates time and effort on a recurring basis to enhance departmental activities and programs.
- Y. Voyeurism: An invasion of the privacy of a youth by another individual during private activities such as using the toilet or undressing, or by staff for reasons unrelated to official duties, such as peering at a youth who is using a toilet in his or her room to perform bodily functions; requiring the youth to expose his or her buttocks, genitals or breasts; or taking images of all or part of a youth's naked body or of a youth performing bodily functions. Exceptions would include exigent circumstances or when such viewing is incidental to routine room safety checks.
- Z. Youth: A person who is in the custody of the juvenile facility. This person may be a minor under the age of 18 or a person over 18 years of age. This includes persons whose cases are under the jurisdiction of the juvenile court and persons whose cases are under the jurisdiction of the adult court."

### III. DEFINITIONS OF SEXUAL MISCONDUCT, ABUSE, AND HARASSMENT

#### A. Sexual Misconduct

A range of behavior used to obtain sexual gratification, power or control against another's will or at the expense of another. Acts including but not limited to any conduct of a sexual nature that is without consent, or has the effect of threatening or intimidating the person against whom such conduct is directed, including: sexual harassment, threats, requests for sexual acts, attempts to commit acts of a sexual nature, invasion of privacy for sexual gratification, inappropriate touching of a sexual nature, use of force, coercion, intimidation, and threats to manipulate another person for control or sexual gratification.

1. Sexual misconduct also consists of behaviors that are mutually and/or willingly engaged in by youths and would be addressed through the administrative disciplinary process (i.e., non-illegal sexual behaviors that violate facility rules of conduct).
2. Sexual misconduct includes youth-on-staff sexual misconduct, both illegal and non-illegal behaviors. Such incidents may be handled criminally and/or administratively.

B. Sexual Abuse

1. Sexual Abuse: Youth on Youth

Sexual abuse of a youth by another youth includes any of the following acts if the victim is unwilling, is coerced into such an act by overt or implied threats of violence, or is unable to express willingness or refuse:

- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- b. Contact between the mouth and the penis, vulva, or anus
- c. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument
- d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation

2. Sexual Abuse: Staff on Youth

Sexual abuse of a youth by a staff, contractor, vendor, volunteer or collaborative partner includes any of the following acts, regardless of whether the youth is willing or unwilling:

- a. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- b. Contact between the mouth and the penis, vulva, or anus
- c. Contact between the mouth and any body part where the staff, contractor, vendor or volunteer has the intent to abuse, arouse, or gratify sexual desire
- d. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff, contractor, vendor, volunteer or collaborative partner has the intent to abuse, arouse, or gratify sexual desire
- e. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff, contractor, vendor, volunteer or collaborative partner has the intent to abuse, arouse, or gratify sexual desire
- f. Any attempt, threat, or request by a staff, contractor, vendor, volunteer or collaborative partner to engage in the activities described in this section

- g. Any display by a staff, contractor, vendor, volunteer or collaborative partner of his or her uncovered genitalia, buttocks, or breast in the presence of a youth
- h. Voyeurism by a staff, contractor, vendor, volunteer or collaborative partner

C. Sexual Harassment

1. Sexual Harassment: Youth on Youth

Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one youth directed toward another

2. Sexual Harassment: Staff on Youth

Repeated verbal comments or gestures of a sexual nature to a youth by a staff, contractor, vendor, volunteer or collaborative partner, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures

IV. PROCEDURE

A. Management Responsibilities

1. PREA Coordinator

- a. The Department PREA Coordinator is designated by the Chief Probation Officer or an executive level designee.
- b. The PREA Coordinator is responsible for oversight of all PREA related activities. They will have sufficient time and authority to develop, implement and oversee Department efforts to comply with PREA Standards in all facilities, including:
  - 1) Development and implementation of PREA procedures
  - 2) Development and coordination of staff and youth PREA training and education
  - 3) Monitoring and tracking of incidents of sexual abuse, harassment and misconduct
  - 4) Collection, evaluation and reporting of data associated with Department PREA related incidents, events and activities

2. PREA Facility Compliance Liaison

The PREA Facility Compliance Liaisons are the facility managers responsible for coordinating their respective facility's efforts to comply with the PREA Standards.

B. Intake and Screening

1. During the intake process and periodic case reviews by the assigned DJCO, information about each youth's personal history and behavior shall be obtained to reduce the risk of sexual abuse by or upon the youth.
2. Information obtained includes but may not be limited to:
  - a. Prior sexual victimization or abusiveness
  - b. Any gender nonconforming appearance or manner or identification as lesbian, gay, bisexual, transgender, or intersex, and whether the resident may therefore be vulnerable to sexual abuse
  - c. Current charges and offense history
  - d. Age
  - e. Level of emotional and cognitive development
  - f. Physical size and stature
  - g. Mental illness or mental disabilities
  - h. Intellectual or developmental disabilities
  - i. Physical disabilities
  - j. The youth's own perception of vulnerability
  - k. Any other specific information about individual youth that may indicate heightened needs for supervision, additional safety precautions, or separation from certain other youth
3. Such information will be obtained within 72 hours through methods such as the Juvenile Hall PREA Assessment, the medical screening process, mental health evaluations, the classification process, and during periodic case reviews by the assigned DJCO.
4. Any information obtained during these steps of the intake shall remain confidential and shall only be accessed by those deemed necessary.

C. Supervision and Monitoring

1. Staffing and Video Monitoring
  - a. Each facility will ensure adequate staffing levels to protect youth from sexual abuse. Facility administrators will consider the following in establishing staffing levels:
    - 1) Components of the facility's physical plant, including blind spots and isolated areas

- 2) The composition of the youth population (e.g., gender, criminogenic risk and needs factors, age, prior history of delinquency, history of abuse or abusive behavior, etc.)
  - 3) Facility programs and prosocial activities anticipated during a particular shift
  - 4) Any other relevant factors
- b. The facility may make use of video monitoring to enhance supervision and protect youth from sexual abuse.

When designing or acquiring any new facility and in planning substantial expansion or modification of an existing facility, the Department shall consider the use of a video monitoring system, electronic surveillance system, or other monitoring technology, and the benefits and impact of such use on the protection of youth in the Department's custody.

- c. In conjunction with the annual Institutional Security Review (refer to PMI 3-1-G), the facility administrator will reevaluate staffing levels and use of video monitoring to determine and document adequacy of the staffing plan and use of video monitoring technologies to protect youth from sexual abuse.

## 2. Unannounced Rounds

- a. The Duty Officer (DO), Acting Duty Officer (ADO), facility administrator, or Administrator in Charge (AIC) will conduct supervisory unannounced rounds of all living units during every shift to identify and deter staff sexual abuse or harassment. Rounds will be documented in the Duty Officer notes and in the Integrated Case Management System (ICMS).
- b. Staff in units that have been visited during unannounced rounds by a supervisor or administrator shall not alert or notify staff in adjacent units or other on-duty staff that supervisory and administrative rounds are occurring, unless such an announcement is related to a legitimate operational function within the facility.

## 3. Staff of Opposite Gender (refer to PMIs 3-1-021 and 3-2-034)

- a. Opposite gender staff and collaborative staff must announce their presence in a unit, unless an opposite gender staff is currently working in the unit.
- b. Except in exigent circumstances or incidental to a routine safety check, youth will shower, perform bodily functions and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks or genitalia.



D. Searches

1. Except in exigent circumstances, the following types of searches are not permitted:
  - a. Cross-gender strip searches
  - b. Cross-gender visual body cavity searches
  - c. Cross-gender pat-down searches
2. Staff will receive training on appropriate techniques for cross gender pat-down searches in the event of exigent circumstances during Juvenile Correctional Officer Core Course (JCOCC) and during annual facility safety training updates. Staff will conduct cross-gender pat-down searches and searches of transgender and intersex youth in a professional and respectful manner, in the least intrusive manner possible, consistent with facility security needs.
3. Exigent circumstances must be documented in a Special Incident Report (SIR), reviewed, and approved by a supervisor and an administrator as soon as practicable.
4. Staff will not search or examine a transgender or intersex youth for the sole purpose of determining their genital status. If the genital status is unknown, it may be determined through avenues such as in the course of a broader medical examination conducted by a medical practitioner.

E. Selection, Promotion and Background Screening of Department Staff, Contractors, Vendors and Volunteers

1. The Department shall not hire, promote or enlist the services of any Department staff, contractor, vendor or volunteer who may have contact with youth, who:
  - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution
  - b. Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse
  - c. Has been civilly or administratively adjudicated to have engaged in the conduct described above
2. The Department shall consider any incidents of sexual harassment in determining whether to hire, promote, or enlist the services of any staff, contractor, vendor or volunteer who may have contact with youth.
3. Before hiring new employees who may have contact with youth, the Department shall:

- a. Perform a criminal background records check
  - b. Consult any child abuse registry maintained by the State or locality in which the employee would work
  - c. Contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse
4. Before enlisting the services of any contractor, vendor or volunteer who may have contact with youth, the Department shall:
- a. Perform a criminal background records check
  - b. Consult applicable child abuse registries
5. The Department may consider conducting criminal background record checks at least every five years on current employees, contractors, vendors, and volunteers who may have contact with youth.
6. The Department shall directly ask all applicants and employees who may have contact with youth about previous misconduct referenced in paragraphs D.1. and D.2., in written applications, interviews for hiring or promotions; in any interviews; or in written self-evaluations conducted as part of reviews of current employees.
7. All Department employees, contractors, vendors and volunteers have a continuing affirmative duty to disclose any sexual abuse or harassment.
8. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for disciplinary action up to and including termination of employment.
9. The Department shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work.

F. Training and Education

1. Employee and Collaborative Partner Training
  - a. All staff and collaborative partners who have routine, regular or incidental direct contact with youth in custody will be trained on the following topics:
    - 1) The Department's zero tolerance policy regarding sexual abuse and sexual harassment
    - 2) How to fulfill their responsibilities under departmental sexual abuse and sexual harassment prevention, detection, reporting, and response policies and procedures

- 3) The right of youth to be free from sexual abuse and sexual harassment
- 4) The right of youth, staff, contractors, vendors, volunteers and collaborative partners to be free from retaliation for good faith reporting of suspected or observed instances of sexual abuse and sexual harassment
- 5) The dynamics of sexual abuse and harassment in confinement
- 6) The common reactions of victims of sexual abuse and harassment
- 7) How to detect and respond to signs of threatened and actual sexual abuse or harassment, and how to distinguish between willing sexual activity and sexual abuse between youths
- 8) How to avoid inappropriate relationships with youth
- 9) How to communicate effectively and professionally with youth, including lesbian, gay, bisexual, transgender, intersex and gender nonconforming youth
- 10) How to comply with mandatory reporting requirements

b. Initial, Update and Refresher Training

- 1) Initial Training: To be completed during Juvenile Core or Basic Probation Officer Core training, before the staff may have unsupervised contact with youth in custody. Training for newly hired or transferring non-sworn staff will be completed during new employee orientation. Training will be documented by the training coordinator.
- 2) Refresher Training: Staff will complete refresher training every two years after initial training. Refresher training will review the topics noted in section E.1.a. Training will be documented by the training coordinator.
- 3) Updates: In the off year between refresher trainings, the Department will make pertinent updates available to staff regarding PREA Standards, procedures, and the topics listed in section E.1.a. These updates may be completed via training bulletins, training videos, unit staff meetings or other methods. Training will be documented by the staff's supervisor.
- 4) Collaborative partners will receive refresher training and updates from the PREA Coordinator or designee.

c. Specialized Training: Investigations

- 1) Unless there are no clear indications of a criminal act, incidents of suspected or observed sexual abuse involving staff and/or youth will be reported to the Orange County Sheriff's Department's Special Victim's Detail for investigation. It is the responsibility of the investigating agency to ensure that assigned investigators are fully trained and qualified to conduct investigations of sexual abuse.
- 2) Training for Probation staff assigned to investigate incidents of suspected sexual abuse or harassment will include:
  - a) How to conduct investigations of sexual abuse in confinement settings
  - b) Techniques for interviewing youthful sexual abuse victims
  - c) Proper use and documentation of the Miranda advisement
  - d) Sexual abuse evidence collection in confinement settings
- 3) The training coordinator will maintain documentation that staff assigned to investigate incidents of sexual abuse and harassment received specialized training in conducting sexual abuse investigations.

d. Specialized Training: Medical and Mental Health

- 1) The Medical Director and Director of Mental Health Services for the Orange County Health Care Agency (HCA) shall ensure that medical and mental health staff who work in Probation facilities are trained in:
  - a) How to detect and assess signs of sexual abuse and sexual harassment
  - b) How to preserve physical evidence of sexual abuse
  - c) How to respond effectively and professionally to juvenile victims of sexual abuse and sexual harassment
  - d) How and whom to report allegations or suspicions of sexual abuse and harassment

- 2) Refresher and update training shall be conducted by the HCA at intervals consistent with the community standards of care.
- 3) The Medical Director and the Director of Mental Health Services shall maintain and provide, upon request, the Department documentation that medical and mental health staff received the above training.

2. Volunteer, Contractor and Vendor Training

- a. Contractors, vendors and volunteers (Volunteers in Probation [VIPs] and Volunteer Probation Officers [VPOs]) will receive training based on the frequency and proximity of access to youth in the facility setting.
  - 1) Contractors and Vendors – Training, which is provided by the PSD Background Unit, may be satisfied by the individual receiving an informational brochure and briefing that informs the individual of the following:
    - a) The Department's zero tolerance policy regarding sexual abuse and sexual harassment
    - b) The right of youth to be free from sexual abuse and sexual harassment
    - c) The right of youth, staff, contractors, vendors, volunteers and collaborative partners to be free from retaliation for good faith reporting of suspected or observed instances of sexual abuse and sexual harassment
    - d) How to comply with mandatory reporting requirements
  - 2) Volunteers
    - a) Volunteers receive training through the Employee Development and Support Division.
    - b) VIPs undergo a PREA briefing and view a short informational video.
    - c) PREA training for VPOs is incorporated into the VPO academy curriculum.
- b. All contractors, vendors and volunteers will sign an acknowledgement form indicating that they have received the briefing or training, and/or informational brochure, as indicated above.

3. Youth Education and Accessibility

- a. During the intake process, youth shall receive information explaining, in an age appropriate fashion, the Department's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicion thereof.
- b. Within ten days of intake, the Department shall provide education to youth, in person or through video presentation, on their rights to be free from sexual abuse and sexual harassment, to be free from retaliation for reporting such incidents, and the Department's policies and procedures for reporting such incidents. The education session shall be documented in the youth's institutional file and in ICMS.
- c. After a youth is transferred to a different facility, the youth will receive an orientation on how the policies and procedures differ from those of the previous facility, within 48 hours of arrival. The orientation session shall be documented in the youth's institutional file and in ICMS.
- d. Written materials and informational posters will be continuously and readily available to youth.
- e. The Department will take appropriate steps to ensure that youth with disabilities have an equal opportunity to participate in or benefit from all aspects of the Department's efforts to prevent, detect and respond to sexual abuse and harassment.
- f. The Department will make PREA education available in formats accessible to all youth, including those who are hearing or visually impaired, mentally ill, or otherwise disabled, as well as to youth with limited English proficiency or limited reading skills.

Youth who are visually or hearing impaired, or whose proficiency in English is limited, will receive access to interpreters. In-custody youth shall not be used as interpreters, nor will they provide other forms of assistance in this regard.

G. Responding to Suspected or Observed Incidents of Sexual Abuse or Sexual Harassment (refer to PMIs 3-1-112 and 3-1-309)

1. All Department staff responsible for the care and supervision of youth under Probation supervision are mandated reporters. Staff shall accept reports of incidents of sexual abuse and harassment made verbally, in writing, anonymously, and from third parties. All reports received by staff must be acted upon immediately (refer to PMI 2-1-004).
2. Youth Reporting
  - a. The avenues through which youth may report sexual abuse, sexual harassment, and retaliation by staff or other youth include but are not limited to the following:

- 1) Staff (including supervisors, administrators, teachers, etc.)
  - 2) Grievance (refer to PMI 3-1-012)
  - 3) Mental health professional
  - 4) Medical Unit staff
  - 5) Parent or legal guardian
  - 6) Member of chaplaincy program
  - 7) Probation Hotline
  - 8) PREA Coordinator or Facility Compliance Liaison
  - 9) Waymakers Rape Crisis Hotline
  - 10) Any other third party
- b. If a report of sexual abuse, harassment, or retaliation is received by non-facility staff, they must request that the alleged victim not take any actions that could destroy evidence, and then notify facility staff.
- c. Youth Access to Outside Support Services and Legal Representation
- 1) Youth reporting sexual abuse or harassment shall have access to outside victim advocates for emotional support services related to sexual abuse. Communication between youth and an outside victim advocate will be confidential to the greatest extent possible.
  - 2) The mailing addresses and toll free hot line numbers of victim advocacy or rape crisis organizations will be clearly posted in facility living units in areas frequented by youth.
  - 3) Youth shall have reasonable and confidential access to their attorneys or other legal representation, and reasonable access to parents or legal guardians.
3. Third-Party Reporting
- Each facility shall post the phone numbers to all Department facilities with instructions on how to report sexual abuse and sexual harassment in an area where the public has access, including the Department web page, in order for third parties to report sexual abuse, sexual harassment or retaliation on behalf of in-custody youth.

4. Staff Response

When any Department staff knows or has reason to suspect that: (1) sexual abuse or harassment is occurring or has occurred; (2) youth or staff are experiencing retaliation for reporting an incident of sexual abuse or harassment; or (3) staff neglect or violation of responsibilities may have contributed to an incident of sexual abuse, harassment or retaliation, the primary response of the staff will be to intervene immediately in order to prevent victimization from occurring or continuing to occur. Refer to PMI 3-1-309 for specific investigation procedures.

a. Youth on Youth Incidents

- 1) Discreetly separate the youths involved and move them to a safe and secure location
- 2) Secure the scene to preserve evidence by following Department protocols for investigation of sexual abuse
- 3) Report the incident via the chain of command. Include the department PREA Coordinator and PREA Facility Compliance Liaison in your communications. Do not discuss the incident with other staff.
- 4) Coordinate immediate medical and mental health services.
- 5) Document the incident in an SIR and Report of Sexual Abuse / Harassment / Misconduct.

b. Staff on Youth Incidents

- 1) Discreetly separate the youths involved and move them to a safe and secure location.
- 2) Secure the scene to preserve evidence by following Department protocols for investigation of sexual abuse
- 3) Report the incident via the chain of command. Include the departmental PREA Coordinator and PREA Facility Compliance Liaison in your communications. Do not discuss the incident with other staff.
- 4) Coordinate immediate medical and mental health services.
- 5) Contact the Professional Standards Division (PSD) immediately, via the chain of command.
- 6) Document the incident in an SIR. The Supervising Juvenile Correctional Officer (SJCO) will complete a Report of Sexual Abuse / Harassment / Misconduct and submit it to their facility manager for review.



5. Confidential Staff Reporting

Staff, volunteers, contractors and vendors may also choose to privately and confidentially report suspected sexual abuse and harassment by contacting the Department's PREA Coordinator, any facility administrator or PSD.

6. Referral of Allegations for Investigation (refer to PMI 3-1-309)

- a. An administrative and/or criminal investigation shall be completed for all allegations of sexual abuse and sexual harassment.
  - 1) The investigation shall be thorough and objective for all allegations, including third party and anonymous reports.
  - 2) The investigation shall not be terminated solely because the source of the allegation recants the allegation.
  - 3) Investigations involving staff, contractors, vendors or volunteers shall be not be terminated solely because the subject of the investigation has terminated employment or their association with the Department.
  - 4) The credibility of an alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as youth or staff.
- b. A report of sexual abuse or harassment that is made in good faith and based upon a reasonable belief that the alleged conduct occurred shall not be construed as a false report if the investigation does not establish sufficient evidence to substantiate the allegation.
- c. The facility Division Director or Assistant Division Director shall refer allegations of sexual abuse or harassment that potentially involve criminal behavior by staff or youth to the Orange County Sheriff's Department and/or the Orange County District Attorney for investigation. Prior to doing so, the matter shall be referred to the PSD Division Director for guidance.
- d. If the initial criminal investigation of an allegation of sexual abuse or sexual harassment involving a staff yields insufficient evidence for prosecution, it will be referred back to PSD for an administrative investigation.
- e. Allegations of youth-on-youth sexual abuse or sexual harassment that clearly do not involve criminal behavior will be referred for investigation to the PREA Facility Compliance Liaison. The Facility Liaison will designate a qualified investigator as described in section E.1.c.

7. Supervisor/Administrator Responsibilities when Referring Investigations to an Outside Agency
  - a. If one of the parties involved is a staff, volunteer, vendor or collaborative partner, the supervisor/administrator will contact PSD for direction and guidance.
  - b. Contact the Orange County Sheriff's Department's (OCSD) Special Victims Detail to initiate a criminal investigation.
  - c. Coordinate with the OCSD investigator to initiate a forensic examination of the involved parties by a Sexual Assault Forensic Examiner (SAFE) or Sexual Assault Nurse Examiner (SANE). If a SAFE or SANE is unavailable, the examination can be performed by another qualified medical practitioner.
  - d. If the victim elects to use the assistance of a victim advocate, provide them with contact information as well as access to contact a rape crisis center (or other private crisis assistance) in a confidential manner. Currently, the Department has an agreement with Waymakers to provide such support services. They can be reached at (949) 250-0488.
    - 1) Permit the victim advocate responding to the youth's request for crisis services access to the youth.
    - 2) The advocate may be present during the forensic medical examination to provide victim support.
  - e. Notify the PREA Coordinator and forward documentation of the incident as requested.
  - f. The facility administrator will make the following notifications:
    - 1) The Chief Probation Officer via the CDPO of the Juvenile Facilities Bureau
    - 2) The parent/guardian of the youth (for youth under the age of 18)
    - 3) The Presiding Judge of the Juvenile Court or the on-call Juvenile Court Bench Officer
  - g. At the victim's request, permit the youth to speak to their parent/guardian or attorney confidentially.
8. Forensic Medical Evaluations and Victim Support Services
  - a. When appropriate, any youth who experiences sexual abuse shall be offered access to a forensic medical examination, performed by a qualified medical practitioner, without financial cost to the victim and within a timely manner.

The forensic medical examination will be conducted at an appropriate facility and will be coordinated by the OCSD investigative personnel, or other appropriate investigator.

- b. The victim will be provided access to a victim advocate from a rape crisis center or community-based victim advocacy service, or a qualified staff if an advocate from a rape crisis center or community-based victim advocate service is not available. Currently, the Department has an agreement with Waymakers to provide such support services. They can be reached at (949) 250-0488.

At the victim's request, an advocate may accompany and support the victim through the forensic medical examination process and investigatory interviews, as well as provide emotional support, crisis intervention, and referrals for service.

#### H. Post Incident Disposition

##### 1. Discipline

- a. Staff shall be subject to disciplinary sanctions up to and including termination for the violation of Department sexual abuse and/or sexual harassment policies, County sexual harassment policies, and violation of the law.
- b. Any collaborative partner, contractor, vendor or volunteer who is found to have engaged in sexual abuse or criminal level sexual harassment shall be prohibited from having contact with youth; further, they shall be reported to law enforcement agencies and relevant licensing bodies. The Department will consider whether to prohibit further contact with youth in the case of any other violation of Department or County sexual abuse and/or sexual harassment policies by a collaborative partner, contractor, vendor, or volunteer.
- c. A youth found to have engaged in sexual abuse will be subject to disciplinary sanctions consistent with the Department's disciplinary process (refer to PMI 3-1-043).

##### 2. Access to Medical Care and Mental Health Services

- a. Youth who are victims of sexual abuse shall receive timely, unimpeded, and ongoing access to emergency medical treatment and crisis intervention services.
- b. Emergency medical services may include:
  - 1) Emergency contraception
  - 2) Sexually transmitted infection prophylaxis

- 3) Tests for sexually transmitted infections, as medically appropriate
- 4) Pregnancy test
- c. Treatment services shall be provided to the victim without financial cost and consistent with professionally accepted standards of care.
- d. The facility shall offer medical and mental health evaluation and, as appropriate, treatment to all youth who are victims of sexual abuse including follow-up services, treatment plans, referrals for continued care following their placement in other facilities, or their release from custody.
- e. The facility shall attempt to conduct a mental health evaluation of all known youth-on-youth abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

#### I. Incident Review and Data Collection

##### 1. Sexual Abuse Incident Reviews

- a. The PREA Coordinator, at the direction of the CDPO of the Juvenile Facilities Bureau (or designee), shall convene a sexual abuse incident review within 30 days of the conclusion of every sexual abuse investigation when an allegation was substantiated or unsubstantiated. A review will not be held if the allegation was determined to be unfounded.
- b. The review team will include the CDPO of the Juvenile Facilities Bureau (or designee), facility Division Director or designee, PREA Coordinator, PREA Facility Compliance Liaison, investigators, medical or mental health practitioners, and Division Director of PSD or designee, as appropriate.
- c. The review team shall:
  - 1) Consider whether the allegation or investigation indicates a need to change policy or practice to better prevent, detect, or respond to sexual abuse
  - 2) Consider whether the incident or allegation was motivated by race; ethnicity; gender identity; lesbian, gay, bisexual, transgender, or intersex identification, status, or perceived status; or, gang affiliation; or was motivated or otherwise caused by other group dynamics at the facility
  - 3) Examine the area in the facility where the incident allegedly occurred to assess whether physical barriers in the area may enable abuse

- 4) Assess the adequacy of staffing levels in that area during different shifts
- 5) Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff
- 6) Prepare a report of its findings, and any recommendations for improvement and submit such report to the Chief Probation Officer

The PREA Coordinator and PREA Facility Compliance Liaison shall retain copies of the report and action plan for follow-up and statistical reporting purposes.

- d. The facility shall implement any recommendations made by the review team within 90 days, and if not, document the reasons for not doing so.

## 2. Data Collection, Review, Corrective Action and Reporting

- a. The PREA Coordinator will collect and review incident-based data for every allegation of sexual abuse at Department facilities and every private facility with which it contracts for the confinement of its youth.
  - 1) Incident-based sexual abuse data will be aggregated annually and include:
    - a) The data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice
    - b) Data from all available incident-based documents, reports, investigation files, and sexual abuse incident reviews
- b. The PREA Coordinator will review data collected and aggregated in order to assess and make recommendations to improve the effectiveness of the Department's policies, procedures and practices to prevent, detect and respond to sexual abuse.
- c. The Department will review data collected in order to assess and improve the effectiveness of its policies, practices and training, including:
  - 1) Identification of problem areas
  - 2) Corrective action taken for each facility
- d. Data will be retained for at least 10 years after the date of its initial collection unless federal, state or local law requires otherwise.

- e. The Coordinator will prepare an annual report to the Chief Probation Officer of findings and corrective actions for each facility and the Department as a whole.
  - 1) The report will include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the Department's progress in addressing sexual abuse.
  - 2) The report shall be approved by the Chief Probation Officer and made available to the public through the Department's public website.

J. Compliance Audits

- 1. PREA compliance audits shall be conducted by an auditor meeting the qualifications described in 28 CFR Part 115 and certified by the United States Department of Justice.
- 2. Frequency and Scope of Audits
  - a. During the three-year cycle, the Department will ensure that each facility operated by the Department, or by a private organization on behalf of the Department, is audited at least once.
  - b. During each one-year period, the Department will ensure that at least one-third of each facility type operated by the Department, or by a private organization on behalf of the Department, will be audited.
  - c. The audit shall use the audit instrument approved and provided by the US Department of Justice and shall include:
    - 1) Review of all relevant policies, procedures, reports, internal and external audits, and accreditations for each facility type for the most recent one-year period
    - 2) Access to and observation of all areas of the audited facilities
    - 3) Provision of copies of any relevant documents
    - 4) Private interviews with a representative sample of youth, staff, supervisors, and administrators
    - 5) Review of a sampling of any available videotapes and other electronically available data that may be relevant to the provisions being audited
    - 6) Youth shall be permitted to send confidential information or correspondence to the auditor in the same manner as if they were communicating with legal counsel

3. Audit Content and Findings
  - a. Audit reports shall be prepared pursuant to 28 CFR Part 115 and state whether department-wide policies and procedures comply with relevant PREA standards.
  - b. Audit reports shall include recommendations for any required corrective action.
  - c. Auditors shall redact any personally identifiable youth or staff information from their reports, but shall provide such information to the Department upon request, and may provide such information to the Department of Justice.
  - d. The Department shall ensure that the auditor's final report is published on the Department's website.
  - e. A finding of "Does Not Meet Standard" with one or more standards shall trigger a 180-day corrective action period.
    - 1) The auditor and the agency shall jointly develop a corrective action plan to achieve compliance.
    - 2) The auditor shall take necessary and appropriate steps to verify implementation of the corrective action plan, such as reviewing updated policies and procedures or re-inspecting portions of a facility.
    - 3) After the 180-day corrective action period ends, the auditor shall issue a final determination as to whether the facility has achieved compliance with those standards requiring corrective action.
    - 4) If the agency does not achieve compliance with each standard, it may (at its discretion and cost) request a subsequent audit once it believes that it has achieved compliance.

**REFERENCES:**

Procedures:	2-1-004	Child Abuse Reporting Responsibilities of Deputized Probation Staff
	3-1-G	Annual Facility Security Review
	3-1-H	Non-Discrimination and Zero Tolerance Guidelines
	3-1-003	Deterrence of Unacceptable Behavior
	3-1-012	Residents' Grievance Procedure
	3-1-013	Facility Searches
	3-1-015	Use of Force – Physical, Mechanical and Chemical
	3-1-021	Supervising Minors of the Opposite Sex
	3-1-022	Minors' Rights
	3-1-023	Rules of Conduct
	3-1-043	Behavior Management and Disciplinary Due Process

- 3-1-054 Personal Searches and Control of Contraband
- 3-1-055 LGBTQI Youth – Intake, Housing, and PREA Considerations
- 3-1-106 Deaths, Serious Suicide Attempts and other Serious Incidents Related to Youths in Custody
- 3-1-112 Child Abuse Reporting and Investigation Responsibilities of Deputized Probation Staff
- 3-1-303 Special Incident Reports
- 3-1-309 Sexual Abuse Investigations

OCPD Institutional Rules Handbook

Policies:

- A-1 Policy, Procedure and the Law
- A-2 Upholding Departmental Philosophy and Principles
- A-7 Employees as Departmental Representatives
- A-18 Staff Relationships with Clients
- A-21 Liability
- C-14 Citizen Complaints, Compliments and Complaints against Peace Officers
- C-16 Employee Conduct - On Duty
- C-17 Employee Conduct - Off Duty - Law Violations
- C-18 Investigations: Departmental Response to Allegations of Employee Misconduct
- C-21 Prevention of Sexual Harassment
- C-26 Background Investigations/Employment Reference

Requests

- D-2 Use of Physical Restraint/Corporal Punishment
- D-3 Peace Officer
- D-4 Handcuffs
- D-6 Transportation of Probationers and Custody Transportation
- D-7 Search and Seizure
- E-8 Volunteers
- F-10 Medical Examination and Treatment for Juveniles

C. Lopez

**APPROVED BY:**