

<b>ALAMEDA COUNTY</b>  <b>SHERIFF'S OFFICE</b>  <b>GENERAL ORDER</b>	<b>NUMBER:</b> 1.23
	<b>RELATED ORDERS:</b> Welfare & Institutions Code § 210.6 and 625.6 G.O. 1.18, 1.27, 3.07, 4.02, 4.11, 5.24, 5.64, 6.04, 8.17, 8.21 L.E.S P&P 14.03 DC P&P 1.14, 8.04, 8.12-8.15, 9.05, 10.08, 10.23, 11.40, 12.01-12.04, 13.07, 13.16, 16.03, 18.05, 18.10 PREA 115.11-115.18, 115.22, 115.31-115.35 115.51-115.54, 115.61-115.68, 115.71-115.78, 115.81-115.89, 115.93, 115.401-405
	<b>ISSUED DATE:</b> July 31, 2013
	<b>REVISION DATE:</b> <i>May 15, 2019</i>
<b>CHAPTER:</b> Law Enforcement Role, Responsibilities, and Relationships	<b>SUBJECT:</b> Prison Rape Elimination Act (PREA)

I. **PURPOSE:** To establish policy to comply with the Prison Rape Elimination Act of 2003 (PREA), preventing sexual harassment and assault of those in the custody of the Alameda County Sheriff's Office.

II. **POLICY:** It is the policy of the Alameda County Sheriff's Office to ensure there is a zero tolerance policy in effect at all times toward sexual assault, sexual abuse, sexual harassment *and the Agency's approach to preventing, detecting, and responding to such conduct.* Furthermore, there shall be no tolerance for retaliation of any sort, against those who report or cooperate with the investigations of these acts.

It shall be the policy of the Sheriff's Office to promptly and thoroughly investigate and immediately address all allegations of sexual assault, sexual abuse, sexual harassment of those in our custody and in our employment, to include criminal and administrative sanctions as appropriate.

Those contracted, employed by, or volunteering for the Agency are subject to disciplinary actions up to and including termination for violation of this policy. All staff have an affirmative duty to report all allegations or knowledge of sexual abuse, harassment, or any sexual misconduct that takes place within any Sheriff's Office facility. Failure to report is akin to committing the act and punishable as such.

*When a staff member suspects the sexual assault, harassment, abuse, or substantial risk of imminent sexual abuse of an inmate, the staff member shall take immediate action to protect the inmate and notify a supervisor.* This notification may be made in private, but shall occur immediately upon obtaining the knowledge.

III. **DEFINITIONS:** For the purpose of this order, the following definitions are provided:

A. **PRISON RAPE ELIMINATION ACT (PREA):** The Prison Rape Elimination Act of 2003 was signed into law by President George W. Bush. The purpose of this law is to protect inmates at all levels from sexual assault from other inmates and facility staff. These standards became effective August 20, 2012 and all agencies must be in compliance by August 20, 2013.

B. **PREA COORDINATOR:** *A Lieutenant assigned to oversee the PREA Managers and facilitate the Agency's compliance with PREA standards in jails and facilities with a lockup.*

C. **PREA MANAGER:** *A Sergeant assigned to coordinate the facility's efforts to comply with PREA standards.*

- D. **JAIL:** A confinement facility of a federal, state, or local law enforcement agency whose primary use is to hold persons pending adjudication of criminal charges, persons committed to confinement after adjudication of criminal charges, or persons adjudicated guilty who are awaiting transfer to a correctional facility.
- E. **LOCKUP:** A facility that contains holding cells, cell blocks, or other secure enclosures that are (1) Under the control of a local law enforcement, court, or custodial officer; and (2) Primarily used for temporary confinement of individuals who have recently been arrested, detained, or are being transferred to or from a court, jail, prison, or other agency.
- F. **CRISIS INTERVENTION:** *Immediate delivery of services related to a specific acute need. The services provided include assessment, treatment, referral, follow-up and evaluation.*
- G. **SEXUAL ABUSE:** Sexual abuse, *as defined by PREA standard 115.6*, can be committed by inmates or detainees, staff, contractors, volunteers and civilian employees.
1. *Sexual abuse of an inmate by another inmate includes any of the following acts if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:*
    - a. *Contact or penetration between the genitals, anus, or mouth.*
    - b. *Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument.*
    - c. *Any other intentional touching, either directly or through the clothing, of the genitals, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.*
  2. *Sexual abuse of an inmate by a staff member, contractor, or volunteer includes any of the following acts, with or without the consent of the inmate:*
    - a. *Any of the conduct listed above, including any physical contact that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.*
    - b. *Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described above.*
    - c. *Any display by a staff member, contractor, or volunteer of his or her genitalia, buttocks, or breast in the presence of an inmate.*
    - d. *Voyeurism by a staff member, contractor, or volunteer.*
- H. **SEXUAL HARASSMENT:** Repeated and unwelcome sexual advances, verbal comments or gestures of a sexual nature, or requests for sexual favors to an inmate or detainee, demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures by another inmate or detainee, staff member, contractor, or volunteer.
- I. **VOYEURISM:** An invasion of privacy of an inmate, detainee, or resident by staff for reasons unrelated to official duties, such as peering at an inmate who is using a toilet in his or her cell to perform bodily

functions; requiring an inmate to expose his or her buttocks, genitals, or breasts; or taking images of all or part of an inmate's naked body or performing bodily function.

- J. RETALIATION: Any negative act by any person toward or against another for reporting or cooperating with an investigation involving sexual abuse or harassment.
- K. DEPENDENT ADULT: *(15610.23(a) W&I)* Any person between the ages of 18 and 64 who has physical or mental limitations that restrict his/her ability to carry out normal activities or protect his/her rights, including persons who have physical or developmental disabilities.
- L. ***ELDER ADULT: (15610.27 W&I) Any person 65 years of age or older.***
- M. INTERSEX: A person who's sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female. Intersex medical conditions are sometimes referred to as disorders of sexual development.
- N. LGBTI: An acronym that refers to lesbian, gay, bisexual, transgender and intersex individuals.
- O. TRANSGENDER: A person whose gender identity and/or gender expression (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
- P. VOLUNTEER: An individual donating their time and effort to the Agency for the benefit of the Agency's activities and programs for inmates.

IV. **ORDER:** The Alameda County Sheriff's Office shall appoint an Agency PREA Coordinator, with sufficient time and authority to coordinate, develop, implement and oversee Agency efforts to comply with PREA standards. Each facility within the Sheriff's Office that meets the PREA definition for "Jail" or "Lockup" shall have a staff member assigned to ensure that facility is maintaining its' compliance. This staff member shall be referred to as the PREA Manager for that facility.

**A. CONTRACTING FOR THE CONFINEMENTS OF INMATES: (PREA 115.12)**

- 1. ***Any existing contract, new contract, or contract renewal the Agency is obligated to adopt shall comply with the PREA standards.***
- 2. ***Any new contract or contract renewal shall provide for Agency contract monitoring to ensure PREA compliance.***

**B. STAFFING OF FACILITIES: (PREA 115.13)**

- 1. Each facility will have a staffing plan in place to ensure adequate staffing levels to protect inmates from sexual abuse. Facility administrators will consider the following as well as other factors in establishing staffing levels.
  - a. Santa Rita Jail and Glenn E. Dyer Detention Facility shall assign one deputy per housing unit to visually check inmates housed in two person cells at a minimum of once per hour. Inmates in special handling units who are in two person cells shall be visually checked every 30 minutes. Video monitoring, where available, shall be used to supplement the visual checks.
  - b. ***Inmate Services Deputies that transition through security housing to provide inmate service program assistance and are not assigned to a bid security housing unit position shall not count***

*as staffing.*

- c. Courts will assign at least one deputy to perform hourly or 30 minute observations on inmates in holding areas with more than one inmate. Video monitoring, where available may be used to supplement the visual checks.
  - d. The arresting officer or his/her designee shall be responsible for performing observations of arrestees held at Eden Township Substation when there is more than one person per cell.
  - e. All staff of the opposite **gender** performing observation checks shall announce their presence within a reasonable time prior to making the observation, to allow the inmate or detainee ample time to cover themselves should they be in the process of using the toilet, shower, or are at some level of undress.
2. Annually, the PREA Coordinator and the facility commander will re-evaluate staffing levels and the use of video monitoring to determine and document adequacy of the staffing plan and use of video monitoring technologies to protect inmates from sexual abuse. This re-evaluation shall be documented in a memorandum to the Sheriff via the chain of command.
  3. Any deviations from the staffing plan shall be documented and justified *in a memorandum to the facility commander, via chain of command, and included with the End of Shift report.*
  4. *Each facility shall implement a practice of having intermediate-level or higher-level supervisors conduct unannounced rounds for dayshift and nightshift, which Housing Control Technicians will document in Redbooks.*

**C. JUVENILES/MINORS IN AGENCY CUSTODY: (PREA 115.14)**

1. *A juvenile is anyone who has not reached the age of 18 on or before the date of incarceration.*
2. *An arrestee that is a juvenile/minor shall not be placed in a holding area or housing unit, which the juvenile/minor inmate will have sight, sound, or physical contact with any adult inmate.*
3. *In areas outside of housing units, the Agency shall either:*
  - a. *Maintain sight and sound separation between the juvenile/minor arrestee and adult inmates, or*
  - b. *Shall provide direct staff supervision when the juvenile/minor arrestee and adult inmates have sight, sound, or physical contact.*
4. *The Agency shall make its best effort to avoid placing a juvenile/minor arrestee in isolation to comply with this provision.*
5. *A juvenile/minor arrestee shall be released to the juvenile/minor's parent (legal guardian) on a "Notice to Appear" citation or taken without unnecessary delay before a Probation Officer of the County.*
6. *Mechanical restraints, such as handcuffs, waist chains and leg chains may be used on juvenile detainees, when;*
  - a. *The juvenile is committed to a local secure juvenile facility*

- b. During transportation outside of the facility*
  - c. Upon the determination of the Probation Department, in consultation with the transporting Agency*
  - d. The use of mechanical restraints are necessary to prevent physical harm to the juvenile, another person or due to a substantial risk of flight.*
- 7. If a determination is made that mechanical restraints are necessary, the least restrictive form of restraint shall be used consistent with the legitimate security needs of each juvenile.*
  - 8. Prior to a custodial interrogation, and before the waiver of any Miranda rights, a youth 15 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference.*
    - a. The consultation with legal council may not be waived.*
  - 9. This section does not apply to the admissibility of statements of a youth 15 years of age or younger if both of the following criteria are met:*
    - a. The deputy who questioned the youth, reasonably believed the information he/she sought was necessary to protect life or property from an imminent threat.*
    - b. The deputy's questions were limited to those questions and were reasonably necessary to obtain that information.*

#### D. SEARCHES OF INMATES: *(PREA 115.15)*

1. The Alameda County Sheriff's Office shall not conduct cross-gender strip searches or cross-gender visual body cavity searches.
2. Cross-gender pat down searches of those in Sheriff's Office custody shall not be conducted except in exigent circumstances. Exigent circumstances must be documented in a memorandum to the facility commander, via the chain of command and forwarded to the facility PREA manager for retention. This does not apply to detainees or arrestees in the field.
3. *The Agency shall enable inmates to shower, perform bodily functions, and change clothing without the viewing of their breasts, buttocks, or genitalia. Such viewing may be incidental to routine cell checks. It shall be Agency policy to require staff of the opposite gender to announce their presence when entering into an inmate housing unit (refer to Detention and Corrections Policy and Procedure 10.23).*
4. Searches or physical examinations of transgender or intersex detainees/inmates solely for the purpose of determining the detainee/inmate's genital status are forbidden. If the inmate's genital status is unknown, staff should use other means to determine the person's sex, such as reviewing arrest history, available databases, available medical records, or by speaking with the individual.
5. Sworn staff will receive training annually in the proper manner of performing cross-gender pat down searches and searches of transgender and intersex inmates/detainees. This training will emphasize performing the search in the most professional and respectful manner possible as prescribed by law and consistent with institutional security and officer safety needs.

**E. INMATES WITH DISABILITIES / LIMITED ENGLISH PROFICIENT: (PREA 115.16)**

- 1. The Agency shall take the appropriate steps to ensure inmates with disabilities (deaf, hard of hearing, blind, low vision, or those who have intellectual, psychiatric, or speech disabilities), have an equal opportunity to participate in the Agency's efforts to prevent, detect, and respond to sexual harassment and sexual abuse.**
- 2. Inmates who are hearing impaired shall be provided a Purple tablet or TDD machine and may dial the rape crisis center using the direct telephone number provided in the inmate handbook.**
- 3. The Agency shall take reasonable steps to ensure access to all aspects of the Agency's efforts to prevent, detect, and respond to sexual abuse and sexual harassment of inmates who are limited English proficient, including steps to provide interpreters who can interpret using any specialized vocabulary.**
- 4. The Agency shall not rely on inmate interpreters, inmate readers, or other types of inmate assistants except in limited circumstances where an extended delay in obtaining an effective interpreter could compromise the inmate's safety.**

**F. HIRING AND PROMOTIONAL PROCESS: (PREA 115.17)**

- 1. The Agency shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who:**
  - a. Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997).
  - 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 refused.
  - c. Has been civilly or administratively adjudicated to have engaged in the activity described above.
  - d. All incidents of sexual harassment shall be considered when determining whether to hire or promote anyone or enlist the services of any contractor, volunteer, or staff member who may have contact with an inmate.
  - e. Before hiring new employee(s), contractor(s), and volunteer(s), the Agency shall conduct a criminal background check prior to employment; and
  - f. Consistent with Federal, State, and local law, the Sheriff's Office **will** make its best effort to 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.
  - g. Current Employees: The Agency is notified by the Department of Justice anytime a staff member is fingerprinted as a result of any arrest.
  - h. The Agency shall either conduct criminal background records checks at least every five years of current employees and contractor(s) who may have contact with inmates or have in place a system for otherwise capturing such information for current employees.**

- i. *The Agency shall ask all applicants and employees who may have contact with inmates directly about previous misconduct described in (a), (b) or (c) of this section in written applications or interviews for hiring or promotions and in any interviews or written evaluations. The Agency shall also impose upon employees a continuing affirmative duty to disclose any such misconduct.*
- j. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination.
- k. *Unless prohibited by law, the Agency shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer.*
- l. Contractors or volunteers who have been found to have participated in any abuse or harassment of an inmate shall have their site clearance revoked and will not be allowed on the property in any capacity.

**G. FACILITY TECHNOLOGY UPGRADES: (PREA 115.18)**

1. *When designing any new facility and in planning any substantial expansion or modification of existing facilities, the Agency shall consider the effect of the design, expansion, or modification upon the Agency's ability to protect inmates from sexual abuse.*
2. *When installing or updating a video monitoring system, electronic surveillance system, or other monitoring technology, the Agency shall consider how such technology may enhance the Agency's ability to protect inmates from sexual abuse.*

**H. EVIDENCE / FORENSIC EVIDENCE & MEDICAL EXAMINATIONS: (PREA 115.21 & 115.34)**

1. *All evidence, forensic evidence, collected from a sexual abuse investigation shall be collected and preserved per General Order (GO) 5.24 and Law Enforcement Services (LES) P&P 14.03.*
2. *Staff conducting these investigations shall be trained in conducting these types of investigations as outlined in PREA Standards 115.31 and 115.34 and documented in LES P&P 14.03.*
3. *The Agency shall attempt to make available to the victim, a victim advocate from a rape crisis center. The Agency shall document its effort to secure services from a rape crisis center.*
4. *When requested by the victim, the victim advocate, qualified Agency staff member, or qualified community-based organization staff member shall accompany and support the victim through the forensic medical examination process/investigatory interviews and shall provide emotional support, crisis intervention, information, and referrals.*

**I. REFERRALS OF ALLEGATIONS: (PREA 115.22)**

1. *The Agency shall ensure an administrative or criminal investigation is completed for all allegations of sexual harassment, sexual assault or sexual abuse.*
2. *The Agency shall have in place a policy to ensure all allegations are referred for investigation. The Agency shall publish such policy on its website and the Agency shall document all such referrals.*

3. *All substantiated allegations of suspected sexual assault/sexual abuse shall be referred to an investigator assigned to Eden Township Substation (ETS).*

J. **TRAINING: (PREA 115.31, 115.32 and 115.35)**

1. All staff members, including contractors, volunteers and civilian employees who may have inmate contact, shall receive PREA training in the following topics *during new employee orientation*.
2. Sworn staff shall have PREA training included in the 80 hour Core Corrections Course.
  - a. All sworn staff within one year of employment, shall complete the “PREA: Investigating Sexual Abuse in a Confinement Setting,” course located on the NIC Learn Center website at <https://nic.learn.com>. Upon successful completion of the course, NIC will email a PDF certificate. Print the certificate and forward to the PREA Manager at the Santa Rita Jail.
  - b. Refresher training shall occur for all staff at least every two years and documented via DMS or manual sign off sheets.
3. In addition, sworn staff will receive training in cross gender pat searches.
4. Minimally, all staff shall have the following training covered:
  - a. The Agency’s zero tolerance policy for sexual misconduct, sexual abuse, and sexual harassment.
  - b. *How to fulfill their responsibilities under the Agency’s prevention, detection, reporting, and response guidelines.*
  - c. The rights of inmates, staff members, contractors, volunteers and civilian employees to be free from all sexual misconduct, sexual abuse and sexual harassment.
  - d. The rights of inmates, staff members, contractors, volunteers and *civilian employees* to be free from retaliation for good faith reporting of suspected or observed instances of sexual misconduct, sexual abuse or sexual harassment.
  - e. The dynamics of sexual misconduct, sexual abuse and sexual harassment in confinement.
  - f. The common reactions of sexual misconduct, sexual abuse and sexual harassment in confinement settings.
  - g. How to detect, *assess* and respond to signs of threatened and actual sexual misconduct, sexual abuse or sexual harassment.
  - h. *How to preserve physical evidence of sexual abuse.*
  - i. *How to respond effectively and professionally to victims of sexual abuse and sexual harassment.*
  - j. *How and to whom to report allegations or suspicions of sexual abuse and sexual harassment.*
  - k. How to avoid inappropriate relationships with detainees and inmates.
  - l. How to communicate effectively and professionally with inmates, including lesbian, gay, bisexual,

transgender, intersex and gender nonconforming inmates.

m. How to comply with mandated reporting requirements of sexual abuse to outside agencies.

5. *Staff members shall receive training tailored to the gender of the inmates at the employee's facility and if the employee is reassigned from one jail to the other, the staff member shall receive training tailored to the gender of the inmates at the new facility.*
6. *Staff members, contractors, volunteers and civilian employees will understand their reporting responsibilities under Agency sexual abuse and harassment prevention, detection, reporting and response policies.*
7. *Staff members, contractors, volunteers and civilian employees that receive a report of a suspected sexual abuse, shall request the alleged victim not take any actions that could destroy any physical evidence, and notify an Agency staff member.*
8. *The Agency shall coordinate the actions taken in response to an incident of sexual abuse, among staff members, medical/mental health practitioners, investigators, and facility leadership.*
9. *The Agency shall document, through employee signature or electronic verification that employees understand the training they have received.*

**K. INMATE ORIENTATION: (PREA 115.33)** *During the intake process, and within thirty (30) days of intake, all inmates shall receive information explaining the Agency's zero-tolerance policy toward sexual harassment, sexual assault and sexual abuse, and how to report incidents or suspicions of sexual abuse or sexual harassment as outlined in DC P&P 11.40.*

**L. INMATE CLASSIFICATION:** *PREA Standards 115.41, 115.42, 115.43 and 115.68 shall be documented in DC P&P 11.40 and DC P&P 12.01, available for Sheriff's Office employee review in PowerDMS.*

1. *The use of segregated housing to protect an inmate who has alleged he/she is the victim of sexual abuse shall be reviewed for placement in protective custody by a classification deputy.*
2. *Inmates who identify as lesbian, gay, bisexual, transgender or intersex shall not be housed in a dedicated unit based solely on such designation.*

**M. INMATE REPORTING, THIRD PARTY REPORTING AND PROTECTION AGAINST SEXUAL HARASSMENT, SEXUAL ASSAULT OR SEXUAL ABUSE: (PREA 115.51, 115.54 and 115.67)**

1. *The Agency shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.*
2. *Inmates can make confidential, anonymous, toll free calls to outside rape crisis centers using inmate telephones by dialing \*89 at either the Santa Rita Jail or the Glenn E. Dyer Detention Facility. Any complaint received by an outside agency shall be immediately forwarded to the Sheriff's Office and investigated.*
3. *Reports can be made using the Sheriff's Office website at [www.alamedacountysheriff.org](http://www.alamedacountysheriff.org) and can be*

made anonymously through this portal as well.

4. ***The Agency shall protect all inmates and staff members who report sexual abuse or sexual harassment, or cooperate with sexual abuse or sexual harassment investigations, from retaliation by other inmates or staff, and shall require the PREA Manager to monitor for signs of retaliation.***
5. ***The Agency shall employ multiple protection measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged staff members or inmate abusers from contact with victims, and emotional support services for inmates or staff members who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with investigations.***
6. ***For at least 90 days following the report of sexual abuse, the PREA Coordinator / Manager shall monitor the conduct and treatment of inmates or staff members who reported the sexual abuse and of an inmate(s) who were reported to have suffered sexual abuse to see if there are any changes that may suggest possible retaliation. Items the PREA Manager should monitor include any inmate disciplinary reports, housing or program changes, negative performance reviews, or reassignments of staff members. The PREA Manager shall continue such monitoring beyond 90 days if the initial monitoring indicates continuing need.***
7. ***In the case of an inmate(s), such monitoring shall also include periodic status checks by the PREA Manager.***
8. ***If any staff member, contractor, volunteer or civilian employee that has cooperated with an investigation expresses fear of retaliation, the Agency shall take appropriate measures to protect that individual against retaliation.***
9. ***The Agency's obligation to monitor shall terminate when the Agency determines the allegation is unfounded.***

**N. EXHAUSTION OF ADMINISTRATIVE REMEDIES: (PREA 115.52)**

1. No time limit shall be imposed upon an inmate, for the report of an incident, regarding the allegation of sexual abuse.
2. Deputies shall not attempt to informally resolve complaints/reports pertaining to inmate sexual harassment, sexual assault or sexual abuse.
3. ***Reports can be made verbally, in writing, anonymously and from third parties, such as advocates or family members, by staff members, contractors, volunteers or civilian employees, through message requests, grievances, letters, or any other medium. Additionally, these reports can be made by third parties on behalf of the inmate.***
4. Third parties, including fellow inmates, staff members, family members, attorneys, and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of inmates.
5. ***Emergency grievances regarding abuse or harassment shall be addressed in accordance with DC P&P 16.03.***
  - a. ***A time limit shall not be imposed for an inmate to submit a grievance.***

- b. Grievances may be submitted anonymously using the Grievance mailbox located in housing units/floors. This box will be checked during supervisory rounds once each on dayshift and nightshift.***

**O. INMATE ACCESS TO OUTSIDE CONFIDENTIAL SUPPORT SERVICES: (*PREA 115.53*)**

1. Each facility shall provide inmates with access to outside victim advocates for emotional support services related to sexual abuse by giving inmates mailing addresses and telephone numbers, including toll-free hotline numbers where available, of local, State, or national victim advocacy or rape crisis organizations.
2. The facility shall inform inmates, prior to giving them access, of the extent to which such communications will be monitored and the extent to which reports of sexual abuse will be forwarded to authorities in accordance with mandatory reporting laws.
3. Rape crisis counselors, medical and mental health staff are considered mandated reporters. Subsequently, they shall, as required by law, report all of the following disclosures made by inmates.
  - a. Any threat to kill or injure themselves.
  - b. Any threat to kill or injure another.
  - c. Any threat of sexual violence toward another.
4. The Agency shall maintain or attempt to enter into memoranda of understanding or other agreements with community service providers that are able to provide inmates with confidential emotional support services related to sexual abuse. The Agency shall maintain copies of these agreements or documentation showing attempts to enter into such agreements.

**P. STAFF AND AGENCY REPORTING DUTIES: (*PREA 115.61, 115.62 and 115.63*)**

1. ***All staff members, including contractors, volunteers and civilian employees shall be required to report immediately any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that has occurred.***
2. ***Whether or not the Agency it is party to;***
  - a. ***Retaliation against inmates or staff who reported such an incident; and***
  - b. ***Any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.***
3. ***Apart from reporting an alleged incident to his/her supervisor, staff shall not reveal any information related to a sexual abuse report, to anyone other than to the extent necessary in making treatment, investigation and other security/management decisions.***
4. ***If the alleged victim is under the age of 18 or considered an elder or dependent adult as per GO 5.47 Elder and Dependent Adult Abuse, the Agency shall report the allegation to the Alameda County Adult Protective Services.***
5. When an Agency staff member learns an inmate is subject to a substantial risk of imminent sexual

abuse, he/she shall take immediate action to protect the inmate.

6. Upon receiving an allegation that an inmate was sexually abused while confined at another facility, the Facility Commanding Officer at the facility where the inmate is housed shall notify the head of the facility or appropriate office of the agency where the alleged abuse occurred.
  - a. The notification shall be provided as soon as possible, but no later than 72 hours after receiving the allegation and the Agency shall document that notification has been made.
  - b. The Agency shall ensure that any allegation received from an outside agency/facility is investigated in accordance with PREA standards.

**Q. PRELIMINARY INVESTIGATIONS: (PREA 115.64)**

1. *The Agency shall conduct preliminary investigations regarding sexual abuse allegations, promptly, thoroughly, and objectively for all allegations, including third-party and anonymous reports.*
2. *Civilian staff members, contractors, volunteers and civilian employees that receive a report of a suspected sexual abuse, shall be required to request the alleged victim not take any actions that could destroy any physical evidence, and then notify security staff.*
3. *Sworn staff members that learn of an allegation that an inmate was sexually assaulted/abused, the first Agency staff member to respond to the report shall:*
  - a. *Separate the alleged victim and abuser;*
  - b. *Preserve and protect the crime scene until appropriate steps can be taken to collect any evidence;*
  - c. *If the abuse occurred within a time period that allows for the collection of physical evidence, request the alleged victim not take any actions that could destroy any physical evidence, to include, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating;*
  - d. *If the abuse occurred within a time period that allows for the collection of physical evidence, ensure the alleged abuser does not take any actions that could destroy physical evidence, to include, as appropriate, washing, brushing teeth, changing clothes, urinating, defecating, drinking, or eating.*
  - e. *Gather and preserve direct and circumstantial evidence, including physical and DNA evidence, electronic monitoring data, interview alleged victims, suspected perpetrators, and witnesses and review prior complaints and reports of sexual abuse involving the suspected perpetrator.*
  - f. *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 inmate or staff. The Agency shall not require an inmate who alleges sexual abuse to submit to a polygraph examination or other truth-telling device as a condition for proceeding with the investigation.*
  - g. *If, during the investigation, the quality of evidence appears to support criminal prosecution, a compelled interview may be conducted after consulting with the District Attorney's Office as to whether the interview may be an obstacle for subsequent prosecution.*
4. *The Agency shall impose no standard higher than a preponderance of the evidence in determining*

*whether allegations of sexual abuse or sexual harassment are substantiated.*

5. *The deputy initially notified shall draw a PREA incident tracking number from Control Point (CP) I / Central and complete a report in I/Leads for incidents involving inmates.*
  - a. *Pursuant to 293 P.C., victims of sexual assault have the right to prevent their name from becoming a matter of public record. When applicable, deputies shall inform the victim of their right to confidentiality and notate the victim's response in the report. Refer to General Order 1.27, "Victim Confidentiality".*
  - b. *The deputy will provide appropriate assistance to victims/witnesses who have been threatened or who express specific, credible reasons for fearing intimidation or further victimization, as per General Order 6.04, "Victim/Witness Assistance."*
6. *Supervisors will complete a memorandum with a PREA tracking number to the facility Commanding Officer to document the findings for incidents involving staff.*

**R. CRIMINAL AND ADMINISTRATIVE INVESTIGATIONS: (PREA 115.71)**

1. *After the initial investigation is complete and it is determined a crime has occurred, the Watch Commander or designee shall notify the ETS Watch Commander of the sexual assault and determination will be made whether Investigators will be called out.*
2. Substantiated criminal allegations shall be referred to the District Attorney of Alameda County for criminal prosecution.
  - a. The Agency shall not provide a basis for terminating an investigation if/when the alleged abuser or victim has been released as an inmate or resigned their position as an employee of the Agency.
3. The Agency shall retain all written reports/memorandums as long as the alleged abuser is incarcerated or the staff member is employed by the Agency, plus five years.
4. Upon completion of an investigation involving an inmate's allegation that they were sexually abused in an agency facility, the inmate shall be informed as to the final determination of the investigation (*Substantiated, Unsubstantiated*, or Unfounded).
5. Following an inmate's allegation that a staff member has committed sexual abuse against the inmate, the Agency shall subsequently inform the inmate (unless the Agency has determined the allegation is Unfounded) whenever:
  - a. The staff member is no longer posted within the inmate's housing unit;
  - b. The staff member is no longer employed at the facility;
  - c. The Agency learns the staff member has been indicted on a charge related to sexual abuse within the facility; or
  - d. The Agency has learned the staff member has been convicted on a charge related to sexual abuse within the facility.
6. Following an inmate's allegation that he/she has been sexually abused by another inmate, the Agency

shall subsequently inform the alleged victim whenever:

- a. The Agency learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
- b. The Agency learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.
- c. All such notifications or attempted notifications shall be documented.
- d. In the event the inmate victim has been released from custody, none of the above notifications are required.

S. DISCIPLINE: (*PREA 115.76, 115.77 and 115.78*)

1. All staff are subject to disciplinary action for violations of the Agency Sexual Harassment policy and/or the Prison Rape Elimination Act, up to and including termination.
2. In a substantiated case of sexual abuse by staff upon inmates, termination shall be the presumptive disciplinary action.
3. *Disciplinary action taken by the Agency for a violation of the Sexual Harassment policy and/or the Prison Rape Elimination Act relating to sexual abuse or sexual harassment, other than actually engaging in sexual abuse, discipline shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other personnel with similar histories.*
4. In the event a staff member, contractor, volunteer and civilian employee is terminated due to violation of this policy, or the employee resigns in lieu of termination, the information pertaining to the termination/resignation, shall be reported to appropriate law enforcement agencies and appropriate licensing bodies, unless the activity was not criminal.
5. The Agency shall take appropriate remedial measures, and shall consider whether to prohibit further contact with inmates, in the case of any other violation of Agency policy by a contractor, volunteer or civilian employee.
6. Inmates shall be subject to disciplinary sanctions pursuant to the formal disciplinary process following an administrative finding the inmate engaged in inmate-on-inmate sexual abuse or following a criminal finding of guilt for inmate-on-inmate sexual abuse.
7. Sanctions shall be commensurate with the nature and circumstances of the sexual abuse committed, the inmate's disciplinary history, and the sanctions imposed for comparable offenses by other inmates with similar histories.
8. The disciplinary process shall consider whether an inmate's mental disability contributed to their behavior when determining what type of sanction, if any, should be imposed.
9. If the Agency offers therapy, counseling, or other interventions designed to address and correct underlying reasons or motivations for the sexual abuse, the Agency shall consider whether to require the offending inmate to participate in such interventions as a condition of access to programming or other benefits.

10. The Agency may discipline inmates for sexual contact with staff members only upon finding the staff member did not consent to such contact.
  - a. For the purpose of disciplinary action, a report of sexual abuse made in good faith based upon a reasonable belief the alleged conduct occurred shall not constitute falsely reporting an incident or lying, even if an investigation does not establish evidence sufficient to substantiate the allegation.
  - b. The Agency may, in its discretion, prohibit all sexual activity between inmates and may discipline inmates for such activity. The Agency may not, however, deem such activity to constitute sexual abuse if it determines the activity was not coerced.

T. MEDICAL / MENTAL HEALTH FOLLOW UP AND CARE: (PREA 115.81, 115.82 and 115.83)

1. If the intake screening indicates an inmate has experienced prior sexual victimization, perpetrated sexual abuse, whether it occurred in an institutional setting or in the community, staff shall ensure the inmate is offered a follow-up meeting with a medical or mental health practitioner within 14 days of the intake screening.
2. Any information related to sexual victimization or abusiveness that occurred in an institutional setting shall be strictly limited to medical and mental health practitioners and other staff, as necessary, to inform treatment plans, security or management, regarding housing, bed, work, education, and program assignments, or as otherwise required by Federal, State, or local law.
3. Medical and mental health practitioners shall obtain informed consent from inmates before reporting information about prior sexual victimization that did not occur in an institutional setting, unless the inmate is under the age of 18.
4. Inmate victims of sexual abuse shall receive timely, unimpeded access to emergency medical treatment and crisis intervention services, the nature and scope of which are determined by medical and mental health practitioners according to their professional judgment.
5. If no qualified medical or mental health practitioners is on duty at the time a report of recent sexual abuse is made, staff members shall take preliminary steps to protect the victim and shall immediately notify the appropriate medical and mental health practitioners.
6. Inmate victims of sexual abuse while incarcerated shall be offered timely information about, and timely access, to emergency contraception and sexually transmitted infections prophylaxis, in accordance with professionally accepted standards of care, where medically appropriate.
7. The Agency shall provide treatment services to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
8. The Agency shall offer medical and mental health evaluation and, as appropriate, treatment to all inmates who have been victimized by sexual abuse in any prison, jail, lockup, or juvenile facility.
9. The evaluation and treatment of such victims shall include, follow-up services, treatment plans, and, when necessary, referrals for continued care following their transfer to, or placement in, other facilities, or their release from custody.
10. The Agency shall provide such victims with medical and mental health services consistent with the community level of care.

11. Inmate victims of sexually abusive vaginal penetration while incarcerated shall be offered pregnancy tests.
  - a. If pregnancy results from the conduct described above, such victims shall receive timely and comprehensive information about and timely access to all lawful pregnancy-related medical services.
12. Inmate victims of sexual abuse while incarcerated shall be offered tests for sexually transmitted infections as medically appropriate.
  - a. Treatment services shall be provided to the victim without financial cost and regardless of whether the victim names the abuser or cooperates with any investigation arising out of the incident.
13. All prisons shall attempt to conduct a mental health evaluation of all known inmate-on-inmate abusers within 60 days of learning of such abuse history and offer treatment when deemed appropriate by mental health practitioners.

**U. *SEXUAL ABUSE INCIDENT REVIEWS: (PREA 115.86)***

1. The Agency shall conduct a sexual abuse incident review following every sexual abuse incident involving those in the Sheriff's Office custody, unless the allegation has been determined to be unfounded.
2. Every attempt will be made to insure a review of a reported incident occurs within 30 days of the conclusion of the investigation.
3. The review team shall consist of a member at/or above the rank of Lieutenant, a Supervisor not involved in the investigation, one of the investigators from the case, and a representative from Medical Health and/or Mental Health.
4. The review team shall:
  - a. Consider whether a change to policy or practice is necessary to better prevent, detect, or respond to sexual abuse.
  - b. Consider if the event was motivated by race, ethnicity, gender identity, lesbian, gay, bisexual, transgender, or intersex identification, status or perceived status, gang affiliation, or was motivated by other group dynamics at the facility.
  - c. Examine the area where the incident allegedly occurred to assess whether physical barriers may enable the abuse.
  - d. Assess the staffing levels in the area during different shifts
  - e. Assess whether video monitoring should be deployed or augmented in the area.
  - f. Prepare a report of its findings, including at a minimum, the team's findings in the previously mentioned areas and any recommendations for improvement. The report shall be submitted to the facility commander and forwarded to the facility PREA Compliance Manager. Copies of all reviews shall be forwarded to the PREA Coordinator as well.

- g. The facility shall implement the recommendations or document its reasons for not doing so.

**V. DATA COLLECTION: (PREA 115.87, 115.88 and 115.89)**

1. The Agency shall collect accurate, uniform data for every allegation of sexual abuse at facilities under its direct control using a standardized instrument and set of definitions.
2. Upon receipt of a completed investigation, the Agency PREA Coordinator shall document the incident using a U.S. Department of Justice Bureau of Justice Statistics (USDOJ BJS) form [SSV-1A](#) and maintain the copy for use in the annual report submitted to USDOJ BJS.
3. The Agency PREA Coordinator shall compile sexual abuse data for the incidents reported on an annual basis using form SSV-3.
4. The incident-based data collected shall include, at a minimum, the data necessary to answer all questions from the most recent version of the Survey of Sexual Violence conducted by the Department of Justice.
5. The Agency shall maintain, review, and collect data as needed from all available incident-based documents, including reports, investigation files, and sexual abuse incident reviews.
6. The Agency also shall obtain incident-based and aggregated data from every private facility with which it contracts for the confinement of its inmates.
7. Upon request, the Agency shall provide all such data from the previous calendar year to the Department of Justice no later than June 30.
8. The Agency shall review the sexual abuse data collected and compiled to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:
  - a. Identifying problem areas;
  - b. Taking corrective action on an ongoing basis; and
  - c. Preparing an annual report of its findings and corrective actions for each facility, as well as the Agency as a whole.
  - d. The Agency report shall include a comparison of the current year's sexual abuse data and corrective actions with those from prior years and shall provide an assessment of the Agency's progress in addressing sexual abuse.
9. The Agency report regarding sexual abuse, from Agency facilities and/or facilities with which it contracts, shall be approved by the Sheriff and made readily available to the public through the Agency website annually.
  - a. The Agency may redact specific material from the report when the publication would present a clear and specific threat to the safety and security of a facility. The Agency report must indicate the nature of the material redacted.
  - b. PREA managers shall forward all sexual abuse information to the Agency PREA Coordinator,

while maintaining a copy for their files. This data shall be securely retained.

- c. Before making aggregated sexual abuse data publicly available, the Agency shall remove all personal identifiers.
- d. All documents pertaining to investigations shall be securely retained by the Agency PREA Coordinator for no less than ten (10) years.

**W. AUDITS: (PREA 115.401)**

- 1. The Agency shall ensure that each facility operated by the Agency, or by a private organization on behalf of the Agency, is audited at least once during each three-year period beginning August 20, 2013.**
2. All jails and lockup facilities (Santa Rita Jail, Glenn E. Dyer Detention Facility, Courts and ETS) shall be audited annually by an **Agency PREA Manager** and PREA Coordinator to ensure the facility is maintaining compliance with all PREA standards.
  - a. The Department of Justice shall develop and issue an audit instrument that will provide guidance on the conduct of and contents of the audit.
  - b. The Agency shall bear the burden of demonstrating compliance with the standards.
3. All Agency jail/lockup facilities shall be individually audited by an outside auditor who has been certified by the Department of Justice, once every three years.
  - a. The auditor shall be provided all relevant policies and procedures, reports, internal and external audits and accreditations for the facility being audited.
  - b. The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.**
  - c. The auditor shall have access to, and shall observe, all areas of the audited facilities.**
  - d. During the audit, the auditor shall have access to all areas of the facility and supplied any relevant documentation requested.
  - e. The auditor shall retain and preserve all documentation (including, e.g., video tapes and interview notes) relied upon in making audit determinations. Such documentation shall be provided to the Department of Justice upon request.**
  - f. The auditor shall interview a representative sample of inmates, residents, and detainees, and of staff, supervisors, and administrators.**
  - g. The auditor shall review a sampling of any available videotapes and other electronically available data that may be relevant to the provisions being audited.**
  - h. The auditor shall be permitted to conduct private interviews with inmates, residents, and detainees.**
  - i. Inmates, residents, and detainees shall be permitted to send confidential information or**

*correspondence to the auditor in the same manner as if they were communicating with legal counsel.*

- j. Auditors shall attempt to communicate with community-based or victim advocates who may have insight into relevant conditions in the facility.*
- k. The results of the Agency *annual* audit will be documented via memorandum to the Sheriff via the chain of command.