

POLICY AND PROCEDURE

SUBJECT: Sexual Abuse Prevention, Detection and Response

REFERENCE: Prison Rape Elimination Act 28 C.F. R. Part 115

POLICY:

The Contra Costa County Probation Department has a zero tolerance towards all forms of sexual abuse and sexual harassment. The Probation Department recognizes that prevention of youth sexual assault and abuse is a core component of facility security operations. The purpose of this policy is to outline Juvenile Hall's approach to prevention, detection, reporting and responding to such conduct. The Department will immediately respond to allegations, fully investigate reported incidents, pursue disciplinary action and refer for investigation and prosecution those who perpetrate such conduct.

PROCEDURES:

I. Definitions/Abbreviations

A. Prison Rape Elimination Act (PREA) of 2003 (42 U.S.C. 147): Prison Rape Elimination Act of 2003 supports the elimination, reduction and prevention of nonconsensual sex, abusive sexual contact and staff sexual misconduct within corrections systems; mandates national data collection efforts; applies to all federal, state and local prisons, jails, police lockups, juvenile facilities, and community setting such as residential facilities.

B. Sexual Abuse includes sexually abusive contact, sexually abusive penetration, indecent exposure, voyeurism, and sexual harassment as defined below:

1. **Sexually Abusive Contact**-touching without penetration of the genitalia, anus, groin, breast, inner thigh, or buttocks, either directly or through clothing, of another person.
2. **Sexually Abusive Penetration**-contact between the penis and vagina or the penis and anus; contact between the mouth and the penis, vagina, or anus; or penetration of the anal or genital opening of another person by hand, finger or other object.
3. **Indecent Exposure**-the display by a staff member of his/her genitalia, buttocks, or breast in the presence of a youth.
4. **Voyeurism**-an invasion of a youth's privacy by a staff member unrelated to official duties such as peering at a youth who is showering, or undressing in his/her room, or requiring a youth to expose him/herself for reasons unrelated to official duties.
5. **Sexual Harassment**- repeated verbal statements, comments, or behaviors of a sexual nature to a youth by any individual including threats, extortion, bribery, demeaning

references to gender, derogatory comments about body or clothing, or profane or obscene language, gestures, or written comments.

- C. Juvenile Sexual Misconduct:** Any behavior or act of a sexual nature, either consensual or nonconsensual between juveniles. Completed, attempted, threatened, or requested sexual acts are included.
- D. Staff Sexual Misconduct:** Any Behavior or act of a sexual nature, either consensual or nonconsensual, directed toward a juvenile by an employee, volunteer, official visitor, or agency representative. Such acts include intentional touching of the genitalia, groin, anus, breast, inner thigh or buttocks with the intent to abuse, arouse, or gratify sexual desire and occurrences of indecent exposure, invasion of privacy, or voyeurism for sexual gratification. Completed, attempted, threatened, or requested sexual acts are included.
- E. Zero Tolerance Policy:** Consensual sex between juveniles is not allowed in Juvenile Hall and will be addressed by the facility's disciplinary processes. All allegations of nonconsensual sex, abusive sexual contact, staff sexual misconduct and juvenile sexual misconduct shall be investigated, and if applicable, criminal charges may be filed.

II. General Provisions

- A. It is the policy of Contra Costa Juvenile Hall to ensure that any form of sexual activity between youth or between youth and staff/volunteers/contract employees, regardless of consensual status, is strictly prohibited. Such conduct is subject to administrative disciplinary sanction and may result in criminal prosecution.
- B. Staff sexual misconduct is any behavior or act of a sexual nature directed towards a resident by an employee, volunteer, contract employee or visitor. Romantic relationships between staff and residents are included. Sexual acts consist of:
 - 1. Intentional touching of the genitalia, anus, groin, breast, inner thigh, or buttocks with the intent to arouse or gratify sexual desire.
 - 2. Completed, attempted, threatened, or requested sexual acts.
 - 3. Occurrence of indecent exposure, invasion of privacy, or staff voyeurism for sexual gratification.
- C. Youth detained in Contra Costa Juvenile Hall cannot give consent to engage in behavior as sexual abuse under this policy regardless of the youth's age.
- D. Retaliation against any youth or employee who reports or assists in the investigation of alleged sexual abuse is strictly prohibited and is grounds for disciplinary action up to and including termination of employment.

E. Staff Sexual Harassment is any repeated verbal statement or comment of a sexual nature to a resident by an employee, volunteer, contractor worker or official visitor. Behaviors may include:

1. Demeaning reference to gender or derogatory comments about body or clothing.
2. Repeated profanity or obscene gestures.

III. PREA Management Requirements

A. The Department PREA Coordinator is responsible for oversight of all Prison Rape Elimination Act related activities. The Juvenile Hall Manager is the designated PREA Coordinator for the Department and will have sufficient time and authority to oversee compliance efforts. Duties include:

1. Coordinate and develop procedures to identify, monitor, and track sexual misconduct incidents occurring in Department facilities and programs;
2. Maintain related statistics;
3. Conduct audits to ensure compliance with Department policy and PREA standards;
4. Ensure that all Probation facilities have a PREA Compliance Manager assigned to oversee site compliance efforts;
5. Make certain that any private agencies or others who operate facilities, who have new or renewed contracts with the Department, are in compliance with PREA standards.

B. Juvenile Hall Administration has identified, and will maintain an Institutional Supervisor II (IS II), to carry out the facility responsibilities and function as the facility PREA Compliance Manager:

1. This designee will work with the Department's PREA Coordinator to develop, implement and oversee facility efforts to comply with Federal standards as specified in the Prison Rape Elimination Act.
2. Sufficient time will be allotted to this assignment to make every effort to protect youth against sexual abuse and harassment.

IV. Prevention

A. In conjunction with the Department's Zero Tolerance mandate, Juvenile Hall Administration will provide for adequate levels of direct supervision to protect youth against sexual abuse or sexual harassment. See **Bulletin No. 211 Staffing**:

1. The staffing level will comply or exceed staffing ratios as determined by State of California's Title 15 regulations.

2. The staffing plan will be strictly complied to except during limited and discrete exigent circumstance and any deviation will be fully documented.
3. Exigent circumstance is defined as *any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the security or institutional order of Juvenile Hall.*
4. Staffing plans and staffing patterns will be evaluated as needed, but no less frequently than once each year, to assess and document whether staffing adjustments are necessary.

B. As possible, video surveillance systems will enhance but not replace face-to-face direct supervision and monitoring by Child Supervision Staff:

1. Video records may be assessed and reviewed by supervisors/administration to validate compliance with policies and procedure.
2. Any expansion of video surveillance systems and/or modification of existing facilities will take into account PREA concerns, and as possible, make design decisions to further protect residents against sexual abuse.

C. Building Supervisor and Shift Supervisors will conduct and document unannounced rounds to ensure staff is in compliance with policies, procedures and expectations:

1. Rounds will be conducted at least once during each AM Shift (7am-3pm), PM Shift (3pm-11pm) and Graveyard Shift (11pm-7am).
2. Staff are prohibited from alerting other staff that supervisory rounds are occurring unless related to the legitimate operations of the facility.

D. Housing Units will identify, assess, and take reasonable steps to ensure that residents with special needs (i.e. residents with disabilities and residents who are limited English proficient) are able to access all aspects of the Department's efforts to prevent, detect and respond to sexual abuse and harassment.

E. Resident searches will be conducted by staff of the same sex, except in exigent circumstances. For more information and exceptions to this guiding principle, see **Bulletin No. 508**, *Strip Searches, Visual Body Cavity Searches, Physical Body Cavity Searches, and Other Searches*, and **Bulletin No.420**, *Transgender Youth in Juvenile Hall*.

F. Residents will be allowed to shower, perform bodily functions, and change clothing without staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when incidental to routine room checks.

V. Hiring Probation Employees, Contract Workers and Volunteers

A. The Probation Department will not hire, promote, or contract with individuals who may have contact with youth if they have a history of certain sexual misconduct.

- B. After the initial application and interview process, the Probation Department will fingerprint and conduct criminal background record checks on all potential probation employees as part as the hiring process.
1. This includes making an effort to contact all prior institutional employers for information on substantiated misconduct investigations, or resignations during pending investigations.
 2. A Review of local or State child abuse registry will be conducted as part of the standard background process.
- C. The Probation Department prohibits hiring or promoting anyone who may have contact with residents who has:
1. Engaged in sexual abuse in confinement settings;
 2. Engaged in or attempted 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;
 3. Any incidents of sexual harassment will be closely evaluated and may disqualify candidates from employment/promotion opportunities.
 4. Been convicted of a felony offense in this or any other state/federal jurisdiction, or of any offense in any other state/federal jurisdiction which would have been a felony if committed in this state.
 5. Fingerprinting employment candidates/volunteers will generate automatic notification from Department of Justice should an active employee, volunteer or contact worker be arrested/cited for criminal activity. This notice will allow the Department to keep record checks current and address any criminal contact.
- D. Criminal background checks with fingerprints will be conducted on Juvenile Hall volunteers/contract employees who will have contact on a recurring basis with Juvenile Hall residents:
1. Juvenile Hall will apply the above hiring standards to volunteers (*See Section V. C. above*). Any exceptions to the felony conviction standard must be approved by the Chief Probation Officer. No exceptions to *Section V.C. item 1 or V.C. item 2* will be made.
 2. Guest speakers, and one-time visitors who are under direct and constant supervision by Juvenile Hall Staff do not need to have criminal background checks completed, but must be escorted and under supervision anytime they are in the secure detention facility. Staff must remain in the same room with, and within reasonable hearing distance of, the guest speaker/visitor.

VI. Intake Screening and Housing Assignment

- A. Upon each resident's arrival at Juvenile Hall, and periodically throughout a resident's confinement, staff shall obtain and use information about the resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident.
- B. Admission Staff will use the *Vulnerability Assessment Instrument* to attempt to gauge the risk of victimization and/or sexually aggressive behavior. The overall risk score will be used to place residents with the probability for victimization or sexually aggressive behavior on *Single Room Only (SRO) Status*:
1. SRO Status is a classification for juveniles signifying they are not to be housed in the same sleeping room with other juveniles.
 2. Reasons to separate juveniles may include vulnerability to victimization, sexually aggressive behaviors, other specific information about individual residents that may indicate heightened needs for supervision/safety precautions, or to ensure privacy for transgender youth to dress and perform bodily functions without residents of the opposite gender viewing them.
 3. A review of the minor's file and any other available information will be considered when completing the vulnerability assessment.
 4. If staff completing the *Vulnerability Assessment Instrument* has grounds to override the roommate status, as determined by the survey tool, staff may specify the reasons in the "Override Documentation" area and obtain approval by the Admission's Lead Counselor to modify the SRO status.
 5. If staff determines that the resident has experienced prior victimization, or has previously perpetrated sexual abuse, staff shall make a referral to mental health for follow-up. The follow-up meeting must occur within 14 days of intake screening.
- C. During the admission process each minor will be classified according to established Classification criteria. See **Bulletin No. 250, Resident Classification and Living Unit Assignment**.
1. The classification process and information that is obtained by completing the vulnerability assessment will be used to establish housing unit assignment and to increase staff awareness of potential safety concerns.
 2. The housing assignment shall be made with the intent of separating victims and aggressors by unit and/or room.
 3. Under no circumstances shall those identified or confirmed as sexually aggressive be housed in the same room as individuals that have been identified as sexually vulnerable.

- D. Each minor admitted to CCC Juvenile Hall shall have a medical screening completed. This includes both a medical history and an evaluation of mental health status. See **Bulletin No. 600**, Medical-Dental Care.
1. At the initiation of medical services, Medical practitioners are required to inform the resident of their duty to report, and the limitation of confidentiality unless precluded by Federal, State or local law.
 2. Medical and Mental Health practitioners are mandated to report any knowledge, suspicion or information they receive regarding an incident of sexual abuse or sexual harassment that occurred in the facility. They must also report retaliation and/or any incidents of staff neglect that may have contributed to an incident or retaliation.
 3. Medical and Mental Health practitioners are also required to complete mandatory child abuse reporting as specified by law.
- E. All intakes without a MAYSI Questionnaire on file will complete this questionnaire with mental health staff as soon as feasible, but at least within 72 hours of admission into the facility.
- F. Should the medical or mental health evaluation indicate that the juvenile has been sexually assaulted, is a potential victim or potential victimizer, the health professional will take appropriate steps to ensure that:
1. Proper documentation is completed, including Suspected *Child Abuse Report* if warranted;
 2. The resident receives needed medical treatment/psychological services;
 3. If fitting, make a recommendation for any special housing needs;
 4. Provide follow up care or services as suitable.
- G. Room assignment shall be made to provide an environment for youth that is safe and secure. An Admission staff member will speak with the youth, and review all known information to determine if any special housing considerations are needed. The staff will communicate this information to the Housing Unit verbally and via the first page of the Child's Adjustment Record. See **Bulletin No. 304**, *Resident Room Assignments and Changes*.
- H. Housing Unit staff will review all information, and use room assignment criteria to effect the best possible combination of residents assigned to a room. Should a resident at any time display behavior(s) that poses a threat to harm their roommate, the Lead Counselor will initiate a room change and place the resident on the appropriate special housing program.

VII. Resident Orientation and Education

- A. During the resident's initial orientation, see **Bulletin No. 308**, *Housing Unit Operational Standards*, and **Bulletin No. 312**, *Staff Duties*. In addition to all other topics covered in those policies, staff are to provide age appropriate information to the intake regarding sexual misconduct. This information should be provided both verbally and in a written format in a language that is clearly understood by the juvenile.
- B. Information provided shall include, but not be limited to:
1. Department's zero tolerance stance
 2. Overview of what constitutes sexual abuse and harassment
 3. Prevention and Intervention
 4. Reporting incidents of misconduct
 5. Treatment and counseling
 6. Protection against retaliation
 7. Consequence of false allegation
- C. Staff will document verification of the resident orientation and education of PREA by completing the Sexual Abuse Resident Orientation Acknowledgement Form:
1. Staff will maintain the original signed acknowledgment form in the resident file.
 2. Key information will also be available to residents through posters, residents' handbooks or other written formats.
- D. For residents detained prior to the implementation of PREA Education Program, the training materials will be provided, within 60 days of establishment of the program, by the counselor assigned to each resident in custody. The assigned counselee will sign the Sexual Abuse Resident Orientation Acknowledgement Form demonstrating that they have been provided the materials and confirm that they understand the training received.
- E. Staff shall provide residents' education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as to residents who have limited reading skills:
1. Steps shall include providing interpreters as necessary and appropriate.
 2. Resident interpreters will not be used to conduct orientations, assist in investigating misconduct allegations, or communicate other *non-emergency* information to residents who are limited in English.

VIII. Staff Training and Education

- A. Juvenile Hall shall train all employees who may have contact with residents on:

1. Its zero-tolerance policy for sexual abuse and sexual harassment;
2. How to fulfill their responsibilities under agency sexual abuse and sexual harassment prevention, detection, reporting, and response;
3. Resident's right to be free from sexual abuse and sexual harassment;
4. Resident's/employee's rights to be free from retaliation for reporting sexual abuse and sexual harassment;
5. The dynamics of sexual abuse and sexual harassment in juvenile facilities;
6. The common reactions of juvenile victims of sexual abuse and sexual harassment;
7. How to detect and respond to signs of threatened and actual sexual abuse;
8. How to avoid inappropriate relationships with residents;
9. How to communicate effectively and professionally with residents; and
10. How to comply with relevant laws related to mandatory reporting of sexual abuse to outside authorities.

B. After the initial PREA Training, refresher training will be provided every two years for Juvenile Hall employees who have contact with youth.

C. PREA Training shall be documented and records retained by the Department's Training Unit.

IX. Volunteer and Contractor Training

- A. All Juvenile Hall volunteers and contractors who have contact with residents will receive training on their responsibilities under the agency's sexual abuse and sexual harassment policy.
- B. The level and type of training provided to volunteers and contractors shall be based on the services they provide and level of contact they have with residents, but all volunteers and contractors who have contact with residents shall be notified of the CCC Probation Department's zero-tolerance policy regarding sexual abuse and sexual harassment and informed how to report such incidents.
- C. Should a volunteer and/or contractor be the first to receive a report that a resident has allegedly been sexually abused, they shall be directed to:
 1. Request that the alleged victim not take any actions that could destroy physical evidence.
 2. Immediately notify a Probation Counselor or Juvenile Hall Supervisor.
- C. Documentation of training will be maintained by the Volunteer's in Probation Coordinator.

X. Reporting

A. The Probation Department will provide multiple ways for residents to privately report sexual misconduct, retaliation for reporting misconduct, and staff neglect of responsibilities contributing to misconduct:

1. Residents who are victims of, or have knowledge of, sexual misconduct should immediately report the incident either verbally or in writing to staff (Probation Counselor, Probation Officer, supervisor, teacher, mental health therapist, psychologist, nurse, chaplain, or any other adult in the building).
2. Residents may tell a parent/guardian, their attorney/legal representative, or other trusted adult during a visit, phone call or via written correspondence so that the responsible adult may initiate the report on behalf of the youth by contacting a Department employee. Residents have reasonable and confidential access to their attorney and parent/legal guardians. **See Bulletin No. 290, Resident Visiting.**
3. Residents may utilize the “locked box” grievance procedure to report sexual misconduct. This allows the resident a method to submit a report without alerting staff, and permits the report to be submitted anonymously.
 - a. Grievance forms, pencils, and lock boxes are readily available in each of the housing units;
 - b. No time limit is imposed on submission of a grievance;
 - c. Youth are not required to attempt to resolve issue with staff;
 - d. Ensures that a grievance is not referred to staff who is the subject of the complaint;
 - e. Designated supervisory staff will process such a grievance as a high priority in accordance with established facility procedures regarding allegation of misconduct, and notify the Probation Director and PREA Coordinator;
 - f. If a resident is at substantial risk of imminent sexual abuse, staff will take immediate action to protect the youth and ensure the report is forwarded to a Juvenile Hall Administrator without delay and;
 - g. Residents may not be disciplined for filing a grievance unless it was filed in “bad faith,” or deliberately false. A report of sexual abuse made in good faith based upon a reasonable belief that 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. Staff should accept reports made verbally, in writing, anonymously, and from third parties:

1. Promptly document any verbal report.
2. Citizen Complaint Forms are available at the Building Supervisor’s Desk, but are not required to be used. Written complaints will be accepted on other formats as well.

C. Staff who suspects a resident is being sexually abused or sexually harassed, should contact their supervisor or manager to submit a verbal and/or written report:

1. The Department will take all reasonable steps to protect all residents and staff who report sexual abuse or sexual harassment, or who cooperate with sexual abuse or sexual harassment investigation, from retaliation by other resident or staff.
2. If an individual who cooperates with an investigation expresses fear of retaliation, measures will be taken to protect the individual against retaliation. Protection measures may include, but are not limited to, housing changes/transfers, removal of alleged staff or resident abusers from contact with victim(s), and emotional support services.
3. Following a report of sexual abuse, Juvenile Hall Supervisors shall monitor the conduct or treatment of residents/staff who reported the sexual abuse, and of residents who were reported to have suffered sexual abuse to see if there are changes that may suggest possible retaliation by residents or staff:
 - a. Monitoring shall be conducted for at least 90 days following a report of sexual abuse, and will continue beyond 90 days if the initial monitoring indicates a continuing need. *Monitoring may terminate if allegation is determined to be unfounded.*
 - b. Monitoring includes:
 1. Periodic status checks
 2. Review of any resident disciplinary reports
 3. Housing changes
 4. Resident program changes
 5. Negative staff performance reviews
 6. Staff reassignments/changes in duties
 - c. If the supervisor detects changes that may suggest possible retaliation by resident or staff, Administration shall be promptly notified and steps taken to remedy any such retaliation.
4. Retaliation against juveniles who refuse to submit to sexual activity, intimidation of a witness or intimidation against reporting a sexual complaint is prohibited and shall be referred for Administrative Investigation and/or to local law enforcement for criminal prosecution.
5. Employees who fail to report incidents of abusive sexual contact, and/or staff or juvenile sexual misconduct, shall be held accountable and disciplined accordingly if found negligent for not reporting.

XI. Official Response Following a Resident Report

- A. In accord to Department Policy, staff must immediately report knowledge, suspicion, or information regarding sexual misconduct that occurs in the facility, and/or staff neglect or violation of responsibilities that may have contributed to sexual misconduct.

B. If any nonconsensual sexual activity/contact is reported to an employee, or is observed by an employee, the employee shall:

1. Immediately separate the alleged victim and the perpetrator;
2. Notify the Juvenile Hall Building Supervisor;
3. Preserve and secure any crime scene until released by law enforcement;
4. Notify Medical and Mental Health staff to provide services to the victim;
5. If the abuse occurred within a time period that still allows for the collection of physical evidence, staff should request the alleged victim not to take any actions that could destroy physical evidence, including washing, brushing teeth, changing clothes, urinating, defecating, drinking or eating;
6. If the abuse occurred within a time period that still allows for the collection of physical evidence, staff should ensure as possible, that the alleged abuser not take any actions that could destroy physical evidence (same actions as described in *Section XI-B, item 5*);
7. Collect any physical evidence not contained in the crime scene in coordination with, and at the direction of local law enforcement and;
8. Document the incident on a Special Incident Report.

C. Staff must comply with mandatory child abuse reporting laws. **See Bulletin No. 416, *Mandatory Child Abuse Reporting*.**

D. All investigation shall be kept confidential. Staff are not to discuss information related to sexual abuse investigations apart from mandatory reporting obligation and disclosures to supervisors or others pursuant to Departmental policy and instructions received from persons involved conducting the criminal or administrative investigation.

XII. Investigation and Evidence Collection

A. All allegations of sexual abuse or sexual harassment will be administratively and/or criminally investigated:

1. All allegations of sexual abuse or sexual harassment will be reviewed by the Juvenile Hall Director.
2. In situations that require further actions, (e.g. an internal investigation or referral to a local law enforcement agency) the matter will be addressed in a timely manner.
3. The Juvenile Hall Director, or designee, will promptly report the allegation of sexual abuse to:
 - a. The County Probation Officer, Chief Deputy Probation Officer, and assigned Deputy Probation Officer;
 - b. The victim's parents/legal guardian;

- c. If the juvenile is under the guardianship of the child welfare system, the agency will report the incident to the minor's welfare worker instead of the parent/legal guardian and;
 - d. If the victim is under the juvenile court jurisdiction, the juvenile's attorney/legal representative will be notified within 14 days.
- B. If the allegation does not appear to involve criminal conduct, the Department will complete an objective investigation, following the Department's protocol for conducting Administrative Investigations. See *Probation Department Administrative Policy on Complaints Regarding Employee Misconduct*.
- C. Administrative investigation will include an effort to determine whether staff actions or failures to act contributed to the abuse.
- D. Allegations which involve criminal conduct will be forwarded to Martinez Police Department or other appropriate law enforcement agency with legal authority to conduct a criminal investigation.
- E. All such law enforcement referrals will be documented.
- F. The Department will cooperate fully within our legal limits, with any law enforcement agency's criminal investigation.
- G. Investigations regarding sexual abuse/misconduct will not be terminated solely based on:
 - 1. The source of the allegation recants the allegation
 - 2. The alleged victim or juvenile abuser is released from the facility
 - 3. The alleged staff abuser resigns/departs the facility
- H. If the alleged incident did not occur at Juvenile Hall, but while the resident was confined at another facility, the Juvenile Hall Director (or designee) will contact the Administrator of the facility where the abuse occurred within 72 hours of discovery, and notify the appropriate investigating agency of the alleged sexual abuse incident. All such contacts will be documented.
- I. Should another agency contact CCC Juvenile Hall to notify the Department of an allegation of sexual abuse/misconduct which occurred while the youth was detained in our facility, the standard investigative procedures will be followed (as applicable) to ensure the incident is fully and thoroughly investigated.
- J. Following a resident's allegation that a **staff** has committed sexual abuse against the resident, the Department shall subsequently inform the resident (unless allegation is determined to be unfounded) whenever:

1. The staff is no longer posted within the resident's unit;
2. The staff is no longer employed at the facility;
3. The Department learns that the staff has been indicted on a charge related to sexual abuse within the facility;
4. The Department learns that the staff has been convicted on a charge related to sexual abuse within the facility.

K. Following a resident's allegation that he or she has been sexually abused by **another resident**, the Department shall subsequently inform the alleged victim whenever:

1. The Department learns that the alleged abuser has been indicted on a charge related to sexual abuse within the facility; or
2. The Department learns that the alleged abuser has been convicted on a charge related to sexual abuse within the facility.

L. The above reporting or attempted notification to resident(s) shall be documented. The Department's obligation to report shall terminate if the resident is released from the Department's custody.

M. Following the completion of an Administrative or Criminal investigation involving sexual misconduct/abuse, the resident will be informed as to whether the allegation has been determined to be substantiated, unsubstantiated or unfounded. If the Department did not conduct the investigation, the Probation Director (or designee) will request the relevant information from the investigative agency in order to inform the resident of the outcome (substantiated, unsubstantiated or unfounded).

N. The Probation Department will retain all written sexual abuse/sexual misconduct investigations or documents for as long as the alleged abuser is incarcerated or employed by the agency, plus five years (unless the abuse was committed by a juvenile resident and applicable law requires a shorter period of retention).

XIII. Discipline

A. Staff shall be subject to disciplinary sanctions up to and including termination for violation of agency sexual abuse or sexual harassment policies:

1. The standard of evidence required in determining whether an allegation of sexual abuse or sexual harassment is substantiated is a *preponderance of the evidence*.
2. Termination shall be the presumptive disciplinary sanction for staff who has engaged in sexual abuse.
3. Disciplinary sanctions for violation of Department policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, staff's

disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories.

4. All violations of sexual abuse or sexual harassment policies which appear to rise to the level of criminal conduct will be reported to law enforcement agencies.

B. Residents who engage in sexual abuse are subject to disciplinary sanctions pursuant to criminal proceeding or through the Juvenile Hall formal disciplinary process:

1. Any disciplinary sanctions commensurate with the nature and circumstance of the abuse committed, the resident's disciplinary history, and the sanctions imposed for comparable offenses by other residents with similar histories.
2. Resident discipline will comply with applicable Bulletin governing disciplinary sanctions. See **Bulletins No. 404, Discipline, Bulletin No. 405, Resident Room Confinement, and Bulletin No. 502, Security Programs.**

XIV. Medical and Mental Care

A. In-Custody sexual abuse victims shall receive, without financial cost, timely, unimpeded access to emergency medical treatment and crisis intervention services as directed by medical and mental health practitioners:

1. A resident who experiences sexual abuse will be allowed access to forensic medical examination where evidentiary or medically appropriate.
2. Such examination shall be performed by Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) when possible:
 - a. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners.
 - b. Efforts to provide SAFEs or SANEs examination shall be documented.
3. Medical treatment includes information about, and access to, emergency contraception and sexually transmitted infections prophylaxis where medically appropriate.
4. If no qualified medical or mental health practitioners are on duty at the time a report of recent abuse is made, staff should take preliminary steps to protect the victim and immediately notify the appropriate medical and mental health practitioners.

B. Probation staff shall attempt to make available to the victim, a victim advocate, from a rape crisis center or other qualified community based organization:

1. Reasonable communication, in as confidential a manner as possible, between the resident and these organizations will be permitted.
2. Local, State, or national victim advocacy or rape crisis toll-free hotlines and mailing addresses will be made available to residents.

- C. As requested by the victim, the victim advocate shall be permitted to accompany and support the victim through the forensic medical examination process and investigator interviews and can provide emotional support, crisis intervention, information and referrals.
- D. Victims of in-custody sexual abuse will be provided follow-up services, treatment plans, and (when necessary) referrals for continued care following transfer or release as deemed appropriate by medical personnel:
 - 1. These services, at no cost to the victim, will be provided in a manner that is consistent with the level of care the resident would receive in the community.
 - 2. Victims of sexual abuse will not be denied treatment for failure to name the abuser, or cooperate in the investigation arising out of the incident.

XV. Data Collection and Review

- A. Any Special Incident Reports that allege nonconsensual sex, abusive sexual contact or staff misconduct, shall be collected by the Juvenile Hall Director, or his/her designee.
- B. The Department will collect accurate data, using a uniform collection tool.
- C. The data collection will contain all the data required to complete the Survey of Sexual Violence conducted by the Department of Justice's Bureau of Juvenile Statistics.
- D. Juvenile Hall Director (or designee) shall be responsible for compiling records and annually reporting statistical data to the Federal Bureau of Justice as required by PREA of 2003.
- E. Upon request, the Department can provide such data from the previous year to the Department of Justice no later than June 30.
- F. The purpose of the annual data collection is to identify problem areas, and to take corrective action on an ongoing basis.
- G. All data collected will be securely retained for at least ten years, after the date of its initial collection.

XVI. Sexual Abuse Incident Review Team

- A. A Sexual Abuse Incident Review will be conducted at the conclusion of every sexual investigation (except those investigations determined to be unfounded).

B. The Review Team will conduct the review within 30 days of the conclusion of the investigation.

C. The Review Team will include:

1. The Department PREA Coordinator;
2. The Juvenile Hall Compliance Manager;
3. The Department Investigator;
4. Medical and/or Mental Health Administrator as deemed appropriate;
5. Other Department Administrator or line supervisor as needed based on the individual circumstance of the incident.

D. The Review Team will consider if:

1. Policy or procedure changes are warranted;
2. Individual or group dynamics motivated or caused the situation to develop;
3. After review of the physical layout where the abuse occurred, consider possible modifications to physical barriers which may have enabled the abuse;
4. Assess the adequacy of staffing levels and;
5. Assess whether monitoring technology should be deployed or augmented to supplement supervision by staff.

E. The Review Team will prepare a report for the Juvenile Hall Director of their findings, with any recommendations:

1. PREA Coordinator will retain a copy of the report
2. The PREA Coordinator will document recommendations that were implemented, and reason why others recommendations were not followed.

APPROVED BY:

Bruce Pelle
Bruce Pelle, Juvenile Hall Probation Director

12-1-12
Date