


COUNTY OF SANTA CLARA

Department of Correction Office of the Sheriff Custody Bureau Policy and Procedure Manual	Policy Number 14.15 No. of Pages: 9 Date of Origin: 29 Oct 2013 Date of Revision: New
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Signature of Issuing Authority  <hr style="width: 100%;"/> John Hirokawa, Chief of Correction	Current Policy Review Date of Review: New Revisions Made: <input type="checkbox"/> Yes <input type="checkbox"/> No

POLICY: It is the policy of the Office of the Sheriff Custody Bureau/Department of Correction to establish a zero tolerance policy related to the sexual assault or rape of offenders/inmates, or sexual misconduct toward any offender/inmate by any person and to recognize these offenders/inmates as crime victims.

PURPOSE: To establish a zero tolerance standard for the incidence of detention rape or sexual assaults and attempts thereof within custodial facilities.

DEFINITIONS: PREA: Prison Rape Elimination Act

PREA Rape: Engaging in oral/vaginal/anal intercourse with another by force, or the threat of force, without the consent of the other; and employing or displaying a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon, threatens, or places the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping.

Sexual Offense: Engaging in a sexual act with another by force, or threat of force, without the consent of the other; and employing or displaying a dangerous weapon, or physical object that the victim reasonably believes is a dangerous weapon; threatens, or places the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping.

Sexual Assault: Forceful or intimidating behavior by one or more person(s) that causes another person to unwillingly engage in a partial or complete sexual act. This includes pressure, threats, or other actions and

communications by one or more person(s) to force another to engage in a partial or complete sexual act.

Inmate Sexual Misconduct: Sexual behavior directed toward inmates, including sexual abuse, sexual assault, and sexual harassment, physical conduct of a sexual nature, sexual obscenity and conversations or correspondence of a romantic or intimate nature.

Staff Sexual Misconduct: Any behavior or act of sexual nature, either consensual or nonconsensual, directed toward an inmate 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.

Sexual Conduct Zero-Tolerance Policy: Consensual sex between inmates is not allowed in any Sheriff's Office/Department of Correction Facility and will be addressed by the Department's disciplinary process. All allegations of nonconsensual sex, abusive sexual contact, staff sexual misconduct and inmate sexual misconduct shall be investigated. If applicable, criminal charges may be filed.

Inmate/Offender: Any person, whether in pretrial, un-sentenced, or sentenced status, who is confined in a correctional facility or who is serving a sentence though not confined in a correctional facility such as an Out-of-Custody Program.

Officer: A Santa Clara County Correctional Deputy or Correctional Officer.

Sergeant: A Santa Clara County Correctional Sergeant or Sheriff Sergeant temporarily assigned to custody.

Lieutenant: A Santa Clara County Correctional Lieutenant.

Crime Report: A written document reporting a violation of law considered to be a crime.

Out-of Custody Programs: Public Service Program (PSP), Weekend Work Program (WWP), Custody Alternative Supervising Unit (CASU), RCP Phase II, Re-Entry Corrections Program.

PROCEDURE:

I. PREA Compliance

A. The Sheriff's Office/Department of Correction will strictly enforce all Federal, State and local laws regarding inmate sexual misconduct and threats of sexual assault or intimidation by:

1. Providing clear definitions of prohibited conduct
2. Establishing uniform methods for the prompt reporting and investigation of allegations of sex-related offenses or threats
3. Identifying sexual predators
4. Protecting victims
5. Prescribing and administering sanctions for substantiated sexual offenses as well as false allegations
6. Informing and educating inmates (verbally and/or in writing) of the information contained in this policy
7. Providing applicable training to staff

Note: Speed dial numbers for Internal Affairs, Human Relations Commission, and the Rape Crisis Hot Line will be posted in various locations throughout the custody facilities including; Intake Booking, Processing, inmate housing units, inmate chow halls, visiting rooms, medical units and staff dining rooms.

B. The Office of the Sheriff/Department of Correction will immediately respond to allegations, fully investigate reported incidents, pursue disciplinary action, and refer for criminal investigation and prosecution of those inmates who perpetrate sexual misconduct and threats of sexual assault or intimidation.

II. Inmate Orientation and Education

A. During the intake/booking process, inmates shall receive information related to their rights and responsibilities, facility and/or out-of-custody program procedures, and should be advised of acts prohibited in the facility/program and types of disciplinary action, which may be taken if they violate the facility/program rules.

1. This information will be disseminated via the Inmate Orientation/Rule Book, "Sexual Awareness" pamphlet, Inmate Orientation Video and posted signs.
 - a. The Inmate Orientation/Rule Book and the "Sexual Awareness" pamphlet explain the Department's "zero-tolerance" policies on both Sexual Harassment and acts of sexual violence. Both documents outline reporting options for victims of sexual harassment or assault, and the right to grieve any condition of their confinement.
 - b. Inmates will be required to sign an acknowledgement form confirming that they have received an Inmate Orientation/Rule Book.
 - c. The signed acknowledgement forms shall be filed and maintained in the inmates Booking File.

III. Staff Training

- A. All staff, including contractors and volunteers responsible for supervising inmates or whom may come in contact with inmates, in custody facilities and in all out-of-custody programs such as PSP, WWP, RCP Phase II and CASU, will receive PREA training. PREA training shall include the following components:
 1. PREA compliance requirements
 2. Recognition of the signs of sexual assault
 3. Process for identification and referral process when an allegation of sexual assault is made.
 4. Sexual assault prevention and response techniques
- B. Training Unit staff shall maintain PREA training documentation in accordance with applicable Department Policy.

IV. Inmate Screening

- A. The Prison Rape Elimination Act (PREA) requires that all those detained or incarcerated (for citable or non-citable offenses) in any prison, jail or lock up, be screened for a history of sexual assault or rape at intake. History of sexual assault or rape includes events both in and out of a custody setting. It is Not Exclusive to custody environments.
 1. Proper steps shall be taken to identify and document any history of sexually assaultive behavior among the inmate population. As part of the Classification Assessment, all inmates who are to be housed in a

Department custody facility or who participate in our out-of-custody program, will be screened for potential vulnerabilities or tendencies of acting out with sexually aggressive behavior.

- a. Classification Staff shall review the inmate's history for any documentation showing the inmate has a history of sexually aggressive behavior. If the results from the screening indicate a probability of victimization or sexually aggressive behavior, and an overall high level of risk, appropriate housing shall be implemented to ensure the safety of the inmate and others.
 - b. Appropriate classification and housing assignments shall be made based on the information received/discovered during the screening and file review.
- B. Proper steps shall be taken to identify those inmates who have been victims of sexual assault. During the Intake Booking process the Receiving Officer will ask each arrestee if he/she has ever been the victim of sexual assault or rape and stamp the top of each Pre-booking Form with the PREA stamp.
1. If the arrestee's answer is no, then the "NO" box will be checked and the officer will proceed with the booking process.
 2. If the arrestee's answer is yes, then the Receiving Officer shall ask the arrestee if the event has ever been reported to a Law Enforcement Agency.
 - a. If the event was reported to an LEA, the Receiving Officer will check the "YES" box and write the name of the LEA in the PREA Stamp Box.
 - b. The Receiving Officer will then refer the arrestee to Mental Health staff for an evaluation and check the Mental Health Referral box.
 - c. The Receiving Officer will then refer the matter to the Intake Booking Sergeant for follow-up.
 - d. The Intake Booking Sergeant will confirm that the matter has been reported to an LEA and then enter the event into the JIS PREA Tracking System. No further reporting is required.
 - e. Intake Staff will place a copy of the Pre-Booking Form inside the Classification File, if the arrestee remains in custody.
 - f. The PREA information will be considered during the Classification Risk assessment process.

3. If the arrestee's answer is yes, and the event has never been reported to an LEA, then the Receiving Officer will determine when the event occurred and in which agency's jurisdiction.
 - a. The Receiving Officer will check the "YES" box and write, "Not Reported", the name of the LEA and the date of the event in the PREA Stamp Box.
 - b. The Receiving Officer will then refer the arrestee to Mental Health Staff for an evaluation and check the Mental Health Referral box.
 - c. If the event occurred within the last 72 hours, then the Receiving Officer will refer the arrestee back to the Intake Nurse and check the Medical Referral box. If it has been more than 72 hours, only a Mental Health Referral is required.
 1. The Intake Nurse will re-evaluate the arrestee for clearance (booking acceptance) in accordance with Custody Health Services Policy.
 - d. The Receiving Officer will also refer the matter to the Intake Booking Sergeant for follow-up.

V. Sergeant Responsibilities

- A. If the arrestee's answer is yes and the event has been reported to a Law Enforcement Agency
 1. The Intake Booking Sergeant will confirm that the matter has been reported to an LEA
 2. The Intake Booking Sergeant will then enter the event into the JIS PREA Tracking System.
 3. No further reporting is required.
- B. If the arrestee's answer is yes and the event has not been reported to a Law Enforcement Agency
 1. The Intake Booking Sergeant will contact the agency of jurisdiction and advise that agency of the allegation.
 2. If the agency of jurisdiction is willing to take a report, then the Intake Booking Sergeant will coordinate the process with the agency.

3. The Intake Booking Sergeant will then enter the event into the JIS PREA Tracking System.
 4. An Employee's Report documenting the event shall be completed.
- C. If the agency of jurisdiction is not willing to take a crime report, or is geographically unable to take the crime report
1. The Intake booking Sergeant shall ensure our agency takes the initial Incident Report following the standard procedures of documenting a sexual assault/rape and forward the report to the Sexual Assault Unit. The Sexual Assault Unit will forward the initial Incident Report along with the SART results (if applicable) to the agency of jurisdiction.
 2. The Intake Booking Sergeant will then enter the event into the JIS PREA Tracking System.
 3. An Employee's Report documenting the event shall be completed.
- D. If the agency of jurisdiction is the Santa Clara county Office of the Sheriff:
1. The intake Booking Sergeant shall ensure our agency takes the initial Incident Report following the standard procedures for documenting a sexual assault/rape. The initial Crime Report shall be immediately forwarded to the Sheriff's Office Sexual Assault Crime Unit for appropriate follow-up.
 2. SART Examinations shall be conducted in accordance with the Sheriff's Office Sexual Assault procedures and Custody Health Services Policy.
 3. The Intake Booking Sergeant will then enter the event into the JIS PREA Tracking System.
 4. An Employee's Report documenting the event shall be completed.
- E. If another Law Enforcement Agency's staff is being accused of the sexual assault/rape, then that agency's on-duty Watch Commander shall be notified as soon as possible.
- F. JIS PREA Tracking System:
1. When logging an event into the JIS PREA Tracking System, sergeants must first query the name and PFN of the victim to ensure the event has not already been reported

2. If the event has already been reported, then the sergeant shall create a new entry in the "Event Note" section listing the new CEN and that the event was already reported. *Note: For previously reported events, only a Mental Health Referral will be required. No further documentation or reporting will be necessary.*

VI. Victim Mandated Reporters

- A. Any badge or civilian staff, volunteers, or any person providing services in the facility/out-of-custody program who receive any information, regardless of its source, concerning nonconsensual sex, abusive sexual contact, staff sexual misconduct or inmate sexual misconduct, or who have reason to suspect, or who observe an incident, are required to immediately report the incident to a supervisor.

VII. Verifying Suspected Sexual Misconduct

- A. Line staff should be aware of the signs of possible sexual abuse. Some victims of rape, sexual assault, or sexual misconduct may be identified because of unexplained injuries, changes in physical behavior such as difficulty walking, or abrupt personality changes such as withdrawal and suicidal behavior.
 1. When there is an indication of sexual assault or an allegation is received:
 - a. Line staff will remove the victim from the immediate area; and
 - b. Immediately refer the matter to the on-duty Supervisor.
 - c. The on-duty Supervisor will then refer the incident to the Sexual Assault Unit.
 2. If the inmate has been a victim of rape, sexual misconduct, sexual abuse or sexual assault; the staff member that is made aware of the allegations will consider the following:
 - a. Advise the inmate that staff can provide help
 - b. If the inmate is scared of being labeled an informer (snitch), advise the inmate that identifying the aggressor or perpetrator is not a precondition to receiving help or protection.
 - c. If the inmate was sexually abused, sexually assaulted or was threatened by any sexual misconduct, mention the importance of getting help to deal with the sexual offense and inform them that trained staff are available to assist.

- B. If an investigation concludes that the sexual assault was fabricated or that the inmate inflicted or attempted self-injury, custody staff may recommend disciplinary action against the inmate. (*For Disciplinary Action refer to Inmate Discipline Process Policy 15.01*). Custody staff may also recommend a Mental Health Referral assessment to make sure the inmate is not a mental health patient or one who may need mental health.

VIII. Investigating Suspected Sexual Misconduct

- A. Where sexual abuse is alleged, the investigation shall be conducted by trained staff that has received special training in sexual abuse investigations in confinement settings. (*Refer to PREA Standard 115.34. and Department Policy 9.29-Criminal Investigations*)

- 1. All allegations will be referred to the Sheriff's Sexual Assault Unit.

IX. Administrative Responsibilities

- A. PREA regulations require tracking of incidents of sexual offenses, sexual assaults or sexual misconduct involving inmate-on-inmate or staff-on-inmate events. In addition to investigating the allegations, staff will notify their immediate supervisor and complete the appropriate documentation.

X. Data Retention/Collection:

- A. Retention of data and records of any claims associated with any sexual offense, sexual assault, including but not limited to rape, and sexual misconduct will be maintained at the Criminal Investigations Unit per Departmental Policy.
- B. Records and data will be collected, maintained and tracked via JIS PREA Tracking System by the following categories:
 - 1. The number of reported incidents of inmate-on-inmate sexual violence
 - 2. Staff-on-inmate sexual misconduct
 - 3. Allegations
 - 4. Confirmed incidents involving serious bodily harm, or threats
 - 5. Locations where incidents occurred (i.e. victim's cell, common area, or outside of facility)

XI. Policy Revision

- A. As staffing allows, all Department Policies will be reviewed not less than once a year.